

RESUBSCRIPTION ISSUE

OREGON BULLETIN

Supplements the 2004 *Oregon Administrative Rules Compilation*

Volume 43, No. 10
October 1, 2004

For August 16, 2004–September 15, 2004

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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 CERTIFICATION OF COMPLETION FOR REMEDIAL ACTION FOR HOYT STREET PROPERTIES BLOCKS 13, 16, 18, AND 21 PORTLAND, OREGON

COMMENTS DUE: November 1, 2004

PROJECT LOCATION: Former Hoyt Street Railyard Site, Portland, Oregon Blocks 13, 16, 18, and 21, and Street Right of Ways. Block 13 is located between NW 9th Ave. and NW 10th Ave., and NW Marshall St. and NW Northrup St. Block 16 is located between NW 9th Ave. and NW 10th Ave., and NW Northrup St. and NW Overton St. Block 18 is located between NW 10th Ave. and NW 11th Ave., and NW Overton St. and NW Pettygrove St. Block 21 is located between NW 10th Ave. and NW 11th Ave., and NW Pettygrove St. and NW Quimby St.

Street right of ways included under this proposed Certification of Completion include: NW 10th Ave. from the north edge of NW Northrup St. to the south edge of NW Overton St.; NW 11th Ave. from the north edge of NW Northrup St. to the south edge of NW Quimby St.; NW Overton St. from the east edge of NW 12th Ave. to the west edge of NW 9th Ave.; and NW Quimby St. from the east edge of NW 12th Ave. to the east edge of NW 11th Ave.

PROPOSAL: Pursuant to Oregon Revised Statutes, ORS 465.320 and 465.325(10)(b), the Department of Environmental Quality (DEQ) requests public comment on its proposal to issue a Certification of Completion to Hoyt Street Properties, LLC, (HSP) for satisfactory completion of remedial actions to address contaminated soils on Blocks 13, 16, 18, and 21, and the street right of ways identified above at the former Hoyt Street Railyard site. These remedial actions were required under Consent Decree No. 0202-01288, filed with the Circuit Court of the State of Oregon for Multnomah County on February 8, 2002.

HIGHLIGHTS: The former 26-acre Hoyt Street Railyard was owned and operated by Burlington Northern Santa Fe Railway Company (BNSF) for railyard operations, such as fueling and maintenance, from about 1911 to 1998. These railyard operations had resulted in the contamination of soils and groundwater at the site with total petroleum hydrocarbons, polynuclear aromatic hydrocarbons, volatile organic compounds, and lead. The site is currently owned by HSP and is undergoing redevelopment as an urban residential neighborhood to include high-density residential units, commercial at-grade uses, roads, parks, and a streetcar.

DEQ issued a Record of Decision (ROD) on December 15, 2000, specifying the required cleanup actions for the site. DEQ then entered into a Consent Decree with BNSF and HSP, requiring BNSF to perform remedial actions to address contaminated groundwater and HSP to perform remedial actions to address contaminated soils at the site.

Hoyt Street Properties conducted remedial actions for contaminated soils on Blocks 13, 16, 18, and 21, and the street right of ways from May 2003 through February 2004 which included contaminated soil excavation and disposal, capping of residual soil contamination with clean soil, buildings, or pavement, and filing of deed restrictions to protect and maintain the cap. The remedial actions were performed in accordance the requirements of the ROD, Consent Decree, and subsequent work plans approved by DEQ. HSP has also submitted a Construction Completion Report and Closeout Report, which have been approved by DEQ.

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

Written comments must be received by 5:00 PM on November 1, 2004. Please send written comments by mail or fax to:

Jill Kiernan, P.E.

Senior Project Engineer
DEQ Northwest Region
2020 SW Fourth Avenue, Suite 400
Portland, OR 97201-4987
Fax: 503-229-6945

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

THE NEXT STEP: DEQ will consider all public comments received by the November 1, 2004, deadline. DEQ intends to issue the final Certification of Completion if no adverse comments are received.

ACCESSIBILITY: Please notify DEQ of any special physical or other accommodations you may need due to a disability, language accommodations, or if you need copies of written materials in an alternative format (e.g., Braille, large print, etc.). To make these arrangements, contact DEQ's Office of Communications and Outreach at (503) 229-5317.

A CHANCE TO COMMENT ON... PROPOSED SOIL CLEANUP AT TRIANGLE PARK PROPERTY (FORMER RIEDEL SITE)

COMMENTS DUE: November 1, 2004

PROJECT LOCATION: Between the base of N McCosh Road and N Van Houten Place along the Willamette River between river miles 6 and 7 in Portland, Oregon.

PROPOSAL: As required by ORS 465.320, the Oregon Department of Environmental Quality (DEQ) invites public comment on the proposed cleanup action for the Triangle Park property. The proposed action includes three main elements. First, hot spots of soil contamination (those areas with particularly high levels of contamination) will be excavated and disposed at a permitted off-site landfill. Second, areas of soil contamination exceeding cleanup standards, but less than hot spot concentrations will be capped to eliminate direct contact. The caps will be designed and constructed so that they will be protective of human health and the environment. Third, development and implementation of institutional controls, in the form of a deed restriction and DEQ-approved Soils Management Plan, that will: 1) notify site workers of the presence of residual soil contamination; 2) prescribe appropriate methods to characterize, manage, and dispose of contaminated excavation spoils; and 3) define health and safety requirements regarding currently existing contaminated soil for any future site redevelopment activities.

HIGHLIGHTS: The Triangle Park property was developed in the early 1900s. Numerous operations have been conducted at the Triangle Park property including: lumber mills, marine services, electrical power generation, manufacturing, storage, and regulated hazardous waste storage. Historically, up to 35 structures were located on the site. The property is nearly 35 acres in size with approximately 2,250 lineal feet of river frontage. The property is located below the University of Portland and upstream (south) of the McCormick & Baxter site. Surface and subsurface soils are contaminated with metals, volatile organic compounds, polychlorinated biphenyls, polynuclear aromatic hydrocarbons, and petroleum hydrocarbons.

Triangle Park, LLC (Triangle) purchased the property in early 1997 from the bankruptcy trustee of the former owner. Triangle signed a Prospective Purchaser Agreement (PPA) with DEQ in May 1997. The PPA requires Triangle to investigate and cleanup soil contamination. The PPA limits Triangle's obligation to the soil investigation and cleanup to a maximum of \$750,000. The PPA also excludes Triangle from State liability regarding groundwater and sediment contamination existing prior to the PPA. DEQ is currently conducting a separate groundwater investigation at the site.

OTHER NOTICES

DEQ's proposed final remedy for site soil contamination is protective of human health and the environment; treats hot spots of contamination; and is based on balancing of remedy selection factors such as: effectiveness, long-term reliability, implementability, implementation risk, and reasonableness of cost.

HOW TO COMMENT: You may review the project file, by appointment, at the DEQ Northwest Region Office, 2020 SW 4th Ave, Suite 400 in Portland beginning October 1, 2004. To schedule an appointment, contact Dawn Weinberger at (503) 229-6729. Send written comments to Jim Anderson, Project Manager, DEQ Northwest Region, 2020 SW 4th Ave, Suite 400, Portland, Oregon 97201, by November 1, 2004. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more. Additional information is also available at <http://www.deq.state.or.us/wmc/cleanup/cupnmain.htm>.

THE NEXT STEP: DEQ will consider all public comments received. DEQ will then make a final selection of an action to cleanup the contaminated site.

NOTICE OF CHANCE TO COMMENT ON... PROPOSED CLEANUP APPROVAL

COMMENTS DUE: November 15, 2004

PROJECT: Willamette Industries — Former Railroad Loading Yard
LOCATION: Row River Road, Culp Creek, Oregon, Lane County
PROPOSAL: The Oregon Department of Environmental Quality (DEQ) is proposing an institutional control (i.e., Easement and Equitable Servitude) as the remedial action alternative for the Willamette Industries — Former Railroad Loading Yard (Site). The Easement and Equitable Servitude (E&ES) will prohibit consumption and other beneficial uses of groundwater beneath the Site. Public notification is required by ORS 465.320.

The Site was impacted in the areas of former drum storage, as well as treated lumber and railroad tie storage. Initial soil and groundwater sampling at the Site showed elevated petroleum hydrocarbon, lead and arsenic concentrations in soils, and elevated petroleum hydrocarbon and arsenic concentrations in groundwater. Between May 1994 and July 1994, several removal actions targeted soils impacted with petroleum hydrocarbon, lead and arsenic contamination. Subsequent testing showed significant decreases in contaminant concentrations.

Based on the following considerations which evidence protection of human health and the environment, DEQ considers the recording of an E&ES, prohibiting consumption and other beneficial uses of groundwater beneath the Site, a satisfactory remedy for the Site under ORS 465.200, et. seq., and recommends that no further investigation be required unless new or previously undisclosed information becomes available which warrants further investigation.

1. Groundwater beneath the Site is impacted with elevated arsenic concentrations but there are no current exposures to on-site groundwater and an E&ES will ensure no future exposures to on-site groundwater.

2. Post-removal closure soil samples associated with the Site confirm contaminant concentrations at or below relevant PRGs or the site specific 'background' cleanup level (arsenic).

3. The topography of the Site is flat and off-site runoff is negligible. Stormwater water infiltrates into the ground surface and discharges via shallow groundwater.

4. On-site monitoring wells located downgradient of areas of on-site concern have not shown any detectable groundwater contaminants.

The Cleanup file and Staff Report, which describe in detail the work completed and the site issues, may be reviewed during the public comment period (October 15 to November 15) at DEQ's Eugene office.

HOW TO COMMENT: Submit written comments on the proposed cleanup approval to Steve Nichols at DEQ's Roseburg office, 725 SE

Main Street, Roseburg, Oregon, 97470 by November 15, 2004. Questions may also be directed to Mr. Nichols at the above address or by calling (541)440-3338, ext. 234. The TTY number for the hearing impaired is (541) 687-5603. The Site Summary Report can be made available in alternate format (Braille, large print) upon request.
THE NEXT STEP: DEQ will consider all public comments before making a final decision. DEQ will publish the final decision after considering public comments.

CHANCE TO COMMENT ON... RECOMMENDED REMEDIAL ACTION FOR THE WILLAMETTE OAKS BUILDING SITE PORTLAND, OREGON

COMMENTS DUE: November 1, 2004

PROJECT LOCATION: 6720 S.W. Macadam Avenue, 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 the "Recommended Remedial Action" for the Willamette Oaks Building Site in Portland, Oregon.

HIGHLIGHTS: DEQ has completed an evaluation of the remedial investigation and feasibility study for the Willamette Oaks Building site completed by the property owner under DEQ oversight. Soil and groundwater contamination, attributed to past use of solvent cleaners in dry cleaning operations, was found at the site during site investigations. In 1989, most of the soil contamination was either removed from the property or aerated and managed on the property. Following completion of the required soil removal and management, the site was developed and the property has been actively used since that time. The investigation into groundwater contamination continued. In 1997 an interim action, including pumping and treating groundwater contamination, was implemented on the property and remains operational. The investigation into the extent of groundwater contamination has been completed. Contamination has migrated off-site under Willamette Park primarily in deeper groundwater but there is no evidence that it has reached the Willamette River. The primary risk identified for the site is the risk due to future potential use of groundwater for irrigation. Other potential risks include future migration to surface water and potential migration of contaminants to indoor air. The recommended remedy addresses the risks identified for the site. The recommended remedial action includes the following: groundwater extraction and treatment of extracted groundwater with air stripping, hydraulic containment of groundwater contamination, monitored natural attenuation, institutional and engineering controls, groundwater monitoring, periodic remedy review, and contingency measures.

HOW TO COMMENT: DEQ's Staff Report, dated September 2004, and other project file information is available for public review (by appointment) at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201. To schedule a file review appointment, call: 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471. Please send written comments to Deborah Bailey, Project Manager, at the address listed above or via email at bailey.deborah.a@deq.state.or.us by 5 p.m., November 1, 2004. DEQ will hold a public meeting to receive verbal comments if requested by ten or more people or by a group with 10 or more members.

Please notify DEQ of any special physical or other accommodations you may need due to a disability, language accommodations, or if you need copies of written materials in an alternative format (e.g. Braille, large print, etc). To make these arrangements, contact DEQ's Office of Communications and Outreach at 503-229-5317.

THE NEXT STEP: DEQ will consider all public comments received by the November 1, 2004 and the Regional Adminis-

OTHER NOTICES

trator will make a final decision after consideration of these public comments.

CHANCE TO COMMENT AND PUBLIC HEARING ON... PROPOSED CONSENT JUDGMENT REGARDING THE MILWAUKIE INTERNATIONAL WAY SITE MILWAUKIE, OREGON

COMMENTS DUE: November 1, 2004 (in writing) or on October 18, 2004 (at public hearing)

PROJECT LOCATION: 4252 and 4288 Southeast International Way, Milwaukie, Oregon

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) invites public comment on a proposed settlement that would provide funding for continued implementation of an interim remedial measure addressing soil and groundwater contamination at the Milwaukie International Way Site. DEQ is providing this opportunity pursuant to Oregon Revised Statutes, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-0100.

HIGHLIGHTS: DEQ is overseeing investigation of soil and groundwater contamination at the Milwaukie International Way Site, pursuant to an administrative order issued by DEQ on December 17, 1999. Contamination includes trichlorethene and other volatile organic compounds, with contaminant plumes in shallow and deep groundwater zones reaching to the southeast, south, southwest, west, and northwest of properties at 4252 and 4288 Southeast International Way. While the groundwater contaminant plumes have been characterized to a great degree, their full extent has not been determined. On May 6, 2002, DEQ selected an interim remedial measure (IRM), which requires, among other things, the pumping and treatment of groundwater to reduce contaminant concentrations and control contaminant migration in the shallow and deep groundwater zones. The IRM has been commenced by one or more respondents to the administrative order issued by DEQ in December 1999. The settlement proposed by DEQ would be in the form of a consent judgment entered pursuant to ORS 465.325, would be with potentially liable parties other than respondents to the DEQ administrative order, and would require payment of \$2.175 million into a DEQ account dedicated to the IRM work. In return for this payment, DEQ would covenant not to sue the settling parties, and those parties would receive contribution protection against third parties regarding the contamination. DEQ proposes to enter this consent judgment with the following parties: Dennis F. Todd, David R. Thomas, James O. White, Peter V. Yazzolino, International Way Investment Co., P.P.I. Holding Co., and Production Parts, Inc.

HOW TO COMMENT: Copies of the proposed consent judgment are available for public review (by appointment) at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201. To schedule a file review appointment, call: 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471. The document is also available for review at the following website: <http://www.deq.state.or.us/news/publicnotices/index.asp>. At this website click on Northwest Regional Office and Land Quality Program to narrow the search. Please send written comments to Deborah Bailey, Project Manager, at the address listed above, or via email at bailey.deborah.a@deq.state.or.us. Written comments must be received no later than 5:00 p.m., November 1, 2004.

In addition to this opportunity to comment in writing, DEQ will hold a public meeting to receive verbal comments on the proposed consent judgment. **The public meeting will be held on Monday, October 18, 2004, from 7:00 to 9:00 p.m., in the Milwaukie Center, 5440 SE Kellogg Creek Drive, Milwaukie, 97222.**

Please notify DEQ of any special physical or other accommodations you may need due to a disability, of any desired language accommodations, or if you need copies of written materials in an alternative format (e.g., Braille, large print). To make these

arrangements, contact DEQ's Office of Communications and Outreach at 503-229-5317.

THE NEXT STEP: DEQ will consider all public comments received by November 1, 2004 before determining to enter the consent judgment. If DEQ determines to enter the consent judgment, it will be executed by the parties and then filed with the Clackamas County Circuit Court. The court must approve the consent judgment for it to take effect.

A CHANCE TO COMMENT ON... THE STAFF REPORT FOR THE CASCADE WOOD PRODUCTS, INC. (ECSI #20)

The Department of Environmental Quality has issued a Staff Report for the site located at 14th and H Streets in White City, Oregon. The Cascade Facility has operated since 1952. From 1953 to 1985, Cascade applied pentachlorophenol (penta) to finished wood products in a mineral spirit-based carrier.

Based on data from the Phase I remedial investigation, there is no complete groundwater exposure pathway for human or ecological receptors. Because there is no groundwater beneficial use in the facility's locality, there is no complete groundwater exposure pathway. Future land use and beneficial water uses are not likely to change within the locality of the facility.

The recommended remedial action for Cascade Wood Products, Inc. site consists of the following elements:

- Implement institutional controls to protect future excavation workers from exposure to residual contamination.
- Discontinue operation of the groundwater extraction and treatment system.
- Continued monitoring of sentinal wells;
- Institutional controls to restrict groundwater usage and assure that the remedy remains protective for future land use;
- Contingency measures.

Corrective actions completed for soil at the site are protective of human health and the environment. There are no complete exposure pathways to soil at the facility. Procedures outlined in the Environmental Evaluation and Soil Management Plan will serve to protect future excavation workers from potential exposures to residual soil contamination, if any, in excess of levels protective of human health.

A more detailed description of the proposed action is presented in DEQ's Staff Report prepared for the site. The Staff Report will be available for review during the public comment period at DEQ's Eugene office, and at the Jackson County Public Library in Medford. Written comments on the proposed cleanup may be submitted to Norman Read at DEQ's Eugene office, 1102 Lincoln St., Suite 210, Eugene, OR 97401 beginning October 1, 2004. Comments must be received by October 31, 2004. Questions may also be directed to Mr. Read at that address or by calling him at 541-686-7838 x 240 or 800-844-8467.

A public meeting to answer questions and receive verbal comment on the proposed cleanup will be held if requested by 10 or more or a group of ten or more members. DEQ will consider all public comments prior to making a final decision on the cleanup. DEQ will publish the final decision after consideration of public comments.

PROPOSED REMEDIAL ACTION FOR JELD-WEN OF OREGON/PELICAN BAY FACILITY KLAMATH FALLS, OR

COMMENTS DUE: November 1, 2004

PROJECT LOCATION: 3922 Lakeport Blvd, Klamath Falls, OR

PROPOSAL: The Department of Environmental Quality is proposing to issue a decision regarding cleanup activities at the above referenced site based on approval of an investigation conducted to date and a proposed remedy. Public notification is required by ORS 465.320.

OTHER NOTICES

HIGHLIGHTS: The subject property consists of two contiguous facilities that have been operated for various raw lumber milling wood products for the past 90 years. The JELD-WEN of Oregon (JWO) facility currently operates as a window and door wood products manufacturer. The Pelican Bay (PB) facility is currently used for office and product storage space. A release of pentachlorophenol (PCP) solution was reported at the JWO facility in 1986. A groundwater treatment system was installed in 1987 to recover PCP product. Over 13,000 gallons of product was recovered and over 21 million gallons of water were treated by the system. In 1995 the system was shut down due to a lack of product being recovered by the system. PCP contamination was also discovered on the PB facility during the cleanup of USTs at the site. Residual PCP, a suspected human carcinogen, is present at the site in soil and groundwater. Dioxins and furans have also been detected in the soils on the facility. These compounds are impurities resulting from the production of PCP.

A risk assessment showed that the on-site industrial worker receptor and the trench worker receptor scenario were above the acceptable risk level. A potential hot spot of contamination exists for the outdoor trench worker exposed directly to impacted groundwater. A Ecological Risk Assessment was performed and did not exceed the screening benchmark values. The beneficial use of groundwater was determined to be recharge to surface water and potentially deeper water bearing zones.

Based on the remedial action objectives a feasibility study (FS) was conducted to determine the least costly protective remedy for the site, considering a higher cost threshold for the hot spot of contamination. The proposed remedial actions to address the remedial action objectives are: excavation and off-site disposal of shallow soils containing dioxins and furans, expand and update the existing groundwater extraction system to treat groundwater exceeding the acceptable risk level at both JWO and PB sites, institutional controls to control land and water use within the locality of the facility and ongoing groundwater monitoring.

If implemented as proposed this alternative will achieve protective conditions at the site as defined in OAR-340-122-040.

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

Written comments should be sent by November 1, 2004 to Mr. Scott at the address listed above. Questions may also be directed to Mr. Scott by calling him directly.

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

PROPOSED REMEDIAL ACTION AT THE FORMER CHEVRON BULK PLANT NO. 100-1915 AND PIPELINE TERMINAL, ADAMS, OREGON

COMMENTS DUE: October 31, 2004

PROJECT LOCATION: Rothrock Road and State Highway 11, near Adams, OR

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to approve a remedial action for the Former Chevron Bulk Plant #100-1915 and Chevron Pipeline Terminal located at southeast corner of the intersection Rothrock Road and State Highway 11 near Adams, Oregon.

HIGHLIGHTS: The DEQ Voluntary Cleanup Program has reviewed the information gathered during the site been providing oversight of investigation and groundwater monitoring activities performed at the site. The site consists of two distinct operations; 1) the bulk plant; and 2) the unmanned pipeline terminal. Surrounding property use is primarily agricultural. The bulk plant and pipeline facilities were constructed in early 1950s. The bulk plant closed in 1990 and has not been operational since. The pipeline terminal

remains active. All of the bulk plant facilities remain at the site including seven large capacity aboveground storage tanks.

Petroleum seeps were discovered along Wildhorse Creek, located approximately 1,100 feet north of the facility, in November 1976. A leak was discovered in a manifold off of the main pipeline. The cause of the leak was an unwelded section of the manifold line which results in the pipeline leaking during every product delivery. The volume and length of time that petroleum products were released is unknown. Following the identification of this leak substantial contamination was discovered on the groundwater.

The groundwater at the site generally fluctuates between 50 feet and 60 feet bgs. The groundwater at Wildhorse Creek fluctuates between 10 feet and 14 feet bgs. The product recovery systems installed at the site were operational, with periods of shut down for winter weather and equipment failures from September 1987 until around 1996 when they were replaced with absorbent socks. Approximately 3,000 gallons of product were recovered during the operation life of the recovery systems. The active product recovery system ceased when light, non-aqueous phase liquid (LNAPL) thicknesses decreased to the point the system was no longer an effective means of recovery. Although active LNAPL has ceased passive recovery through absorbent socks within the monitoring wells has been performed on a long term basis.

The ecological evaluation of Wildhorse Creek concluded that while concentrations of chemicals of potential ecological concern (CPECs) were present in groundwater and pore water samples at concentrations exceeding some aquatic Level II Screening Level Values, the concentrations dissipated upon entering the creek water environment. Aquatic habitat within the locality of the facility is not currently being affected by the CPECs in groundwater.

Remedial action objectives (ROA) identified for the site are 1) prevent migration and reduce LNAPL and dissolved phase hydrocarbons in groundwater to a level that reduces the risk to 1E-06 for an individual carcinogen or 1E-05 for multiple carcinogens; and 2) prevent future discharges of contaminants of concern to seeps along Wildhorse Creek that would adversely affect surface water or sediment. The presence of contamination in fractured basalt at depth limits the number of potentially effective remedial technologies.

The Groundwater Monitoring and Passive LNAPL recovery alternative was selected for the site. This alternative relies on monitoring the status of the groundwater plume given the identification of few potential receptors for current and future site uses. Groundwater would be monitored on an annual basis at the facility and on a semi-annual basis at Wildhorse Creek. An annual evaluation of land use is also required.

The deep, on-site water well will be evaluated to determine if LNAPL is present on the groundwater within the well. In the event LNAPL is present, the water well will be either properly abandoned or reconstructed in a manner that will prevent contamination from impacting the deeper water bearing zone. An institutional control will be placed on the bulk plant and pipeline property to restrict land use and to insure the on-site water well is properly tested prior to use for potable water in the event the property is restored to active use or sold.

In order to address the potential for the future events which may lead to increased dissolved concentrations or LNAPL discharges into Wildhorse Creek, the Phytoremediation at Historical Seeps alternative was also selected. A contingency plan will also be developed to address possible product mobilization and will consist of regular visual inspections of the creek and the storage of spill kits on the facility. The site will remain listed on the Confirmed Release List and Inventory of Hazardous Substances.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be sent by October 31, 2004 to Katie Robertson at the address listed above.

OTHER NOTICES

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

THE NEXT STEP: DEQ will consider all public comments received before issuing a record of decision for the site.

PROPOSED NO FURTHER ACTION FOR FORMER KORPINE FACILITY, BEND, OR

COMMENTS DUE: October 31, 2004

PROJECT LOCATION: 175 SW Industrial Way, Bend, OR

PROPOSAL: The Department of Environmental Quality is proposing to issue a decision regarding cleanup activities at the above referenced site based on approval of an investigation and removal actions conducted to date. Public notification is required by ORS 465.320.

HIGHLIGHTS: The subject property was operated as a particle-board manufacturing facility from 1966 until 2002. All of the machinery and equipment have been removed from the property. Based on site history an initial assessment of the site further investigation was conducted at 14 areas located across the site. The compounds detected include, various petroleum products used at the site, including gasoline, diesel, and heavy oils and their hazardous constituents, including poly-nuclear aromatic hydrocarbons (PAHs). In addition, pentachlorophenol, formaldehyde, and methyl ethyl ketone (MEK) were suspected constituents based on prior site use. As a result of the investigation 7 areas were identified to have primarily petroleum hydrocarbons and related constituents present at levels exceeding preliminary screening levels, considering current and likely future uses. Removal actions were conducted at these areas and included the excavation and off-site disposal of approximately 140 cubic yards of impacted soil and disposal of about 3000 gallons of water from a concrete basin. Confirmation samples indicate that the remaining soil meets applicable risk-based screening levels.

Based on the findings to date DEQ is proposing a No Further Action determination at the site and believes that this determination is protective as defined in OAR-340-122-040.

COMMENT: The staff report recommending the proposed action may be reviewed by appointment at DEQ's Office in Bend, 2146 NE Fourth Street, Suite 104, Bend, OR 97701. To schedule an appointment, contact Toby Scott at (541) 388-6146, ext. 246. Written comments should be sent by October 31, 2004 to Mr. Scott at the address listed above. Questions may also be directed to Mr. Scott by calling him directly.

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

PROPOSED NO FURTHER ACTION DETERMINATION ODOT PROPERTY AT SE 62ND AVE. AND POWELL BLVD., PORTLAND, OREGON

COMMENTS DUE: November 1, 2004

PROJECT LOCATION: Southwest corner of SE 62nd Avenue and Powell Blvd.

PROPOSAL: The Department of Environmental Quality is proposing to issue a No Further Action determination following excavation and removal of lead-contaminated soil at a property owned by the Oregon Department of Transportation. This determination is based on approval of investigation and remedial measures conducted to date. Public notification is required by ORS 465.320.

HIGHLIGHTS: The Oregon Department of Transportation conducted an environmental investigation of this 0.14-acre property, which had been used as a service station from 1930 until 1982. Soil in the northwest portion of the site was found to have excessive concentrations of lead. ODOT excavated approximately 13 tons of soil from the surface of this portion of the site and disposed of it at the

Hillsboro Landfill. Sampling of the excavated area indicates that residual lead concentrations are well below safe levels. Groundwater is estimated to be about 100 feet below the ground surface at this location. Based on contaminant concentrations in soil and the depth to groundwater, DEQ has concluded that groundwater has not been impacted. Based on this information, DEQ proposes to issue a No Further Action determination for this site.

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

Bob Schwarz, Project Manager

Phone: 541-298-7255, ext. 30

Fax: 541-298-7330

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

Please contact Mr. Schwarz if you would like to schedule an appointment or to obtain a copy of the staff report that documents the reasons for the proposed No Further Action determination. Written comments should be received by Monday, November 1, 2004.

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

PROPOSED SOIL CLEANUP APPROVAL AND NO FURTHER ACTION DETERMINATION FORMER MOLDED CONTAINER FACILITY PORTLAND, OREGON

COMMENTS DUE: November 1, 2004

PROJECT LOCATION: 8227 SE 13th Avenue, Portland, Oregon

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) proposes approval of an investigation and soil cleanup, and issuance of a No Further Action (NFA) determination for the Molded Container Corporation Site.

HIGHLIGHTS: The Molded Container Corporation Site consists of two parcels covering a total area of approximately 3 acres in the Sellwood District of Portland, Oregon. Trolley cars were manufactured at the site from about 1910 to 1940. Molded Container Corporation produced plastic products from about 1960 to 2002 using a plastic molding injection process. Long-term releases of hydraulic oils from the injection machines resulted in significant heavy-oil range total petroleum hydrocarbons (TPH) soil contamination that extended up to about 40 feet below ground surface (bgs). The earlier trolley car operation also released significant TPH concentrations to soil. Paint eroded from a former water tower located on a smaller parcel resulted in elevated concentrations of lead in soil within its footprint.

A series of investigations conducted from 1998 through 2003 showed oil-range TPH to be the primary contaminant of concern, with the highest levels of contamination occurring beneath the northern portion of the building. Grayco Resources, Inc. entered DEQ's Voluntary Cleanup Program on September 22, 2003 for DEQ oversight during completion of a soil removal and risk assessment.

The soil removal was conducted from December through June, 2004. A total of 13,805 tons of contaminated soil was removed from the property and transported for disposal to the Allied Waste Coffin Butte Landfill in Corvallis, Oregon. The remedial action was successful in removing most of the soils with concentrations above the conservative target cleanup level of 500 mg/kg. A risk assessment demonstrated that residual contamination at the property does not pose an unacceptable risk for urban residential use, which includes multi-family dwellings. In addition, no unacceptable risks were identified for on-site construction or excavation workers. Residual low-level petroleum-impacted soils will require special management in the event they are removed or disturbed during site development. Because the site does not present a significant risk to human health or the environment, DEQ is proposing to approve the remedial action, and issue a No Further Action (NFA) determination for the site.

OTHER NOTICES

HOW TO COMMENT: The staff memorandum and other files will be available for public review beginning Friday, October 1, 2004. To schedule an appointment to review the site files call Dawn Weinberger at (503) 229-6729. A copy of the final report and related information will be available at the Sellwood Moreland Library located at 7860 S.E. 13th Avenue in Sellwood. The DEQ project manager is Mark Pugh (503) 229-5587. Written comments concerning DEQ's proposed decision should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, OR 97201, or via e-mail to Pugh.Mark@deq.state.or.us, by Monday, November 1, 2004. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more. **THE NEXT STEP:** DEQ will consider all public comments and DEQ's Northwest Region Cleanup Manager will make and publish the final decision after consideration of these comments.

PROPOSED SOIL CLEANUP APPROVAL AND NO FURTHER ACTION DETERMINATION FRONTIER LEATHER SITE, SHERWOOD, OREGON

COMMENTS DUE: November 1, 2004

PROJECT LOCATION: 1210 NE Oregon Street, Sherwood, Oregon

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) proposes approval of an investigation and soil cleanup, issuance of a No Further Action (NFA) determination for Tax Lot 500 of the Frontier Leather site, and removal of this property from the Confirmed Release List (CRL) and Inventory of Hazardous Substance Sites (Inventory).

HIGHLIGHTS: The Frontier Leather Company operated a leather tannery on the site between 1947 and 1998. They produced finished leather from animal hides using a tanning solution with 5% trivalent chromium oxide. The process generated large volumes of wastewater that was treated on-site in a primary and secondary clarifier.

The Frontier Leather Site consists of tax lots (TL) 400 and 500. The tannery building and associated primary water treatment area is located on TL 400, which covers about 5 acres; TL 500 formerly contained the hide house and covers 4 acres. A portion of TL 500 parcel was leased to a lead-battery manufacturing operation from 1956 to 1972. Related operations included lead ingot melting and battery assembly operations. High concentrations of lead and antimony were found in dust samples from the hide house duct work, furnace room, and assembly area. Excess lead and sulfuric acid pastes were discharged to an unlined recovery sump adjacent to the building.

Empty battery casings generated from the spent batteries used to manufacture new batteries were stockpiled northeast of the hide house building. The pile eventually included up to 300,000 casings. Around 1961 a fire consumed the casings. High concentrations of lead subsequently were detected in the residual ash and underlying soil, and in dust within the hide house.

On January 31, 2002, DEQ entered into a Prospective Purchaser Agreement (PPA) with Pacific III LLC (Pacific) for investigation and cleanup of Tls 400 and 500, which comprise the main operational areas of the Frontier Leather Site. Major elements of the PPA specific to TL 500 included: 1) Remediation of lead contaminated soil associated with the former hide house, where lead-acid battery manufacturing, in addition to leather hide storage, had been conducted; 2) Evaluation of arsenic distribution in site soils, and remediation as appropriate; 3) Monitoring well sampling, which includes two wells on TL 500. Appropriate abandonment of the wells also is required under terms of the PPA; and 4) A building material survey to include a lead and asbestos survey, and a demolition plan for the hide house.

Pacific removed approximately 3,000 tons of lead contaminated soil and 1,300 tons of arsenic contaminated soil from TL 500. In addition, concrete, brick, paint chip, wood and potential asbestos containing material (ACM). Sampling was conducted in the hide

house to identify appropriate disposal and reuse options for the hide house building materials. No ACM was identified, but elevated levels of lead in paint and wood rafters required disposal of this material at a solid waste landfill. Concrete and brick were found to be suitable for use as fill at the site. Monitoring well sampling showed that the site was not a significant source of contamination to groundwater. Based on the confirmation sampling results following the soil removal, and protocols followed during demolition of the hide house, DEQ has determined that the remedial actions conducted by Pacific are protective of human health for the proposed site use as a mini-storage facility with a manager apartment. Because TL 500 does not present a significant risk to human health or the environment, DEQ is proposing to approve the remedial action and issue a No Further Action (NFA) determination, and remove the property from the CRL and Inventory. Additional work to address contamination on TL 400 will continue under terms of the PPA.

HOW TO COMMENT: The staff report and other files will be available for public review beginning Friday, October 1, 2004. To schedule an appointment to review the site files call Dawn Weinberger at (503) 229-6729. The DEQ project manager is Mark Pugh (503) 229-5587. Written comments concerning DEQ's proposed decision should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, OR 97201, or via e-mail to Pugh.Mark@deq.state.or.us, by Monday, November 1, 2004. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more.

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

PROPOSED CERTIFICATION OF COMPLETION OF CLEANUP AT FORMER UNION PACIFIC RAILROAD FACILITY IN CLACKAMAS COUNTY

COMMENTS DUE: November 1, 2004

PROJECT LOCATION: West of SE Harmony Road and SE 82nd Ave.; Milwaukie, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the proposal to Certify Completion and to terminate the Consent Agreement No. ECSR-NWR-92-06 between UPRR and DEQ, which was issued in 1992, and the Consent Decree that was issued in 1998.

HIGHLIGHTS: UPRR conducted a Remedial Investigation that indicated volatile organic compounds (VOCs) were present in soils and shallow groundwater beneath the site. The VOCs consist primarily of tetrachloroethene, trichloroethene, and related chemical breakdown products. UPRR is required to undertake remedial design and remedial action in accordance with requirements contained in the Consent Decree.

In June 2004, UPRR submitted a Closeout Report to request that DEQ issue a Certificate of Completion, which indicates that UPRR has met the requirements of the Consent Decree. These requirements include provisions that the area of groundwater contamination is stable or reducing in size, that there are no significant impacts to Mt. Scott Creek, natural attenuation (reduction) is occurring at an acceptable rate, institutional controls are in place to prevent groundwater usage and to assure that the remedy remains protective for future land use, and the soil containment facility (SCF) has been decommissioned.

Cleanup actions, including natural attenuation, reduced the concentration of contamination in soils and groundwater and helped to prevent the contamination from spreading to Mt. Scott Creek. A deed restriction, consisting of an Equitable Easement and Servitude (EE&S), was placed as an institutional control on the property to prevent groundwater usage. Contaminated soils at the site were excavated and placed in a soil containment facility for onsite treatment. Soil

OTHER NOTICES

sampling taken from the SCF in 2002 indicted no significant residual contamination. From October through December 2003 the SCF was decommissioned by constructing a wildlife viewing platform in the footprint of the SCF and then planted with native grasses and trees. In 1992 the property was transferred to Clackamas County. Clackamas County intends to use the property for drainage and flood control facilities and wetland mitigation.

Analytical results from groundwater monitoring conducted at the site in 2003 and 2004 indicate the area of contamination is stable and concentrations have decreased in most wells. Subsurface investigations were conducted to further assess the nature and extent of contamination beneath the site and to evaluate the effectiveness of cleanup measures. The investigations indicated that residual contamination will not adversely impact soils or groundwater beneath the site and; therefore, does not pose an unacceptable level of risk to human health or the environment. Based on these findings, DEQ proposes to certify the satisfactory completion of work required under the Consent Decree and to terminate the Consent Order and Consent Decree.

HOW TO COMMENT: Documents describing the investigation and cleanup are on file at the DEQ's NW Region Office. To schedule an appointment to view the documents, contact Bill Robertson, the project manager, at 503-229-6843. Send written comments by November 1, 2004, to Bill Robertson at DEQ-NW Region, 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201 or e-mailed to robertson.bill@deq.state.or.us. A public meeting will be held to receive verbal comments, if a public meeting is requested by 10 or more people or by a group with membership of 10 or more people.

THE NEXT STEP: DEQ will consider all public comments received by November 1, 2004, before taking final action on this matter. In the absence of any comments, DEQ will issue a final certification decision, which certification shall be submitted to the Clackamas County Circuit Court. Subject to the jurisdiction of this court under ORS 465.325(10)(c), the Consent Decree shall be deemed satisfied and terminated upon filing of DEQ's certification of completion and payment by UPRR of any and all outstanding costs and penalties.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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Board of Nursing
Chapter 851

Date: 11-18-04 **Time:** 9 a.m. **Location:** Portland State Office Bldg.
800 NE Oregon St.
Rm. 120-C
Portland, OR 97232

Hearing Officer: Marguerite Gutierrez, Board President

Stat. Auth.: ORS 678.385

Stats. Implemented: ORS 678.375 & 678.385

Proposed Amendments: 851-050-0131

Last Date for Comment: 11-16-04, 5 p.m.

Summary: The Board is authorized by ORS 678.385 to determine by rule and revise periodically the drugs and medicines to be included in the formulary that may be prescribed by a nurse practitioner acting under ORS 678.375, including controlled substances listed in Schedules II, III, III N, IV and V. This amendment adds the September, October and November 2004 updates to Drugs Facts and Comparisons to the formulary, with specific drugs proposed for inclusion or deletion. The Board may also petition to add currently excluded drugs to the Nurse Practitioner formulary.

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

Rules Coordinator: KC Cotton

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

Telephone: (503) 731-4754

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Board of Parole and Post-Prison Supervision
Chapter 255

Date: 10-15-04 **Time:** 8:30 a.m. **Location:** Department of Corrections
(Brentwood Bldg.)
Birch Conf. Rm.
1793 13th St. SE
Salem, OR 97302

Hearing Officer: Michael R. Washington

Stat. Auth.: ORS 144, 123 & 144.120(7)

Stats. Implemented: ORS 144.123 & 144.120(7)

Proposed Adoptions: 255-030-0026

Proposed Amendments: 255-030-0025

Last Date for Comment: 10-22-04

Summary: Amendments to the Board's rule are necessary to ensure that the Board's and the Department of Corrections policies and procedures governing who may accompany an inmate at a hearing before the Board are promulgated jointly as required by ORS 144.123.

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

Rules Coordinator: Michael R. Washington

Address: Board of Parole & Post-Prison Supervision, 2575 Center St. NE - Suite 100, Salem, OR 97301

Telephone: (503) 945-8978

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Stat. Auth.: ORS 144.050, 144.140 & 144.335; Other Auth.: Ayers v. BOP (A121588), Walz v. BOP (A120892), Walters v. BOP (A119796), Al_wadud v. BOP (A120823) & Bird v. BOP (A122454)

Stats. Implemented:

Proposed Amendments: 255-080-0005, 255-080-0011

Last Date for Comment: 10-22-04

Summary: The amendment of these rules is necessary to bring the rules into conformity with the Oregon Court of Appeals consolidated decision in the above entitled cases.

Rules Coordinator: Michael R. Washington

Address: Board of Parole & Post-Prison Supervision, 2575 Center St. NE - Suite 100, Salem, OR 97301

Telephone: (503) 945-8978

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Board of Pharmacy
Chapter 855

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.205
Proposed Amendments: 855-050-0070
Last Date for Comment: 10-21-04

Summary: Oregon Administrative Rule 855-050-0070 designates products containing ephedrine as pharmacy drugs. It also provides a list of ephedrine products exempt from this designation. This rule change will add Bronch-eze and Bronch-eze Max to the list of ephedrine products exempt from the designation as prescription drugs.

Rules Coordinator: Karen Maclean

Address: Board of Pharmacy, 800 NE Oregon St. - Suite 425, Portland, OR 97232

Telephone: (503) 731-4032, ext. 223

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Board of Tax Practitioners
Chapter 800

Date: 11-9-04 **Time:** 9 a.m. **Location:** 3218 Pringle Rd. SE, #120
Salem, OR 97302

Hearing Officer: Monica J. Leisten

Stat. Auth.: ORS 673.605 - 673.740 & 673.990

Stats. Implemented: ORS 673.605 - 673.740 & 673.990

Proposed Amendments: 800-020-0015

Last Date for Comment: 11-9-04, 5 p.m.

Summary: The amendment(s) to OAR 800-020-0015 will better prepare applicants for the consultant examination as well as increase their chances of successful passage of the examination. The consultant's examination tests an individual's ability to provide advanced services to consumers concerning their personal income taxes. This proposal would require additional study and knowledge in taxation.

In addition, the proposed changes will ensure that Oregon tax professionals are competent in their professional activities as stated in the agency's mission.

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

Rules Coordinator: Monica J. Leisten

NOTICES OF PROPOSED RULEMAKING

Address: Board of Tax Practitioners, 3218 Pringle Rd. SE, # 120,
Salem, OR 97302
Telephone: (503) 378-4034

Bureau of Labor and Industries
Chapter 839

Stat. Auth.: ORS 183 & 651.060
Stats. Implemented: ORS 183, 279, 652, 653, 658 & 659A
Proposed Amendments: 839-050-0000 - 839-050-0440
Last Date for Comment: 10-28-04
Summary: The proposed amendments correct technical errors, improve grammar and clarity and conform the Division 50 Contested Case Rules with the Oregon Administrative Procedures Act.
Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232
Telephone: (503) 731-4212

Department of Administrative Services
Chapter 125

Date:	Time:	Location:
10-15-04	1-4 p.m.	800 Summer St. NE Archives Bldg. Conf. Rm. 2nd Fl. Salem, OR

Hearing Officer: Karen Hartley
Stat. Auth.: ORS 279A.065, 279A.070 & OL 2003, Ch. 794, Sec. 335 (HB 2341)
Stats. Implemented: ORS 200.035, 200.065, 200.075, 279A.015, 279A.020, 279A.025, 279A.030, 279A.050, 279A.055, 279A.065, 279A.070, 279A.075, 279A.100, 279A.105, 279A.110, 279A.120, 279A.125, 279A.140, 279A.145, 279A.150, 279A.155, 279A.180, 279A.200, 279A.205, 279A.210, 279A.215, 279A.220, 279A.225, 279A.260, 279A.280, 279A.990, 279B.005, 279B.010, 279B.015, 279B.025, 279B.050, 279B.055, 279B.060, 279B.065, 279B.070, 279B.075, 279B.080, 279B.085, 279B.090, 279B.145, 279B.215, 279B.270, 279B.280, 279B.400, 279B.405, 279B.410, 270B.415, 279B.420, 279B.425, 279C.110, 279C.115, 279C.125, 279C.300, 279C.305, 279C.315, 279C.320, 279C.326, 279C.335, 279C.340, 279C.345, 279C.360, 279C.365, 279C.370, 279C.375, 279C.380, 279C.385, 279C.390, 279C.395, 279C.400, 279C.405, 279C.410, 279C.430, 279C.435, 279C.440, 279C.445, 279C.450, 279C.460, 279C.505, 279C.510, 279C.515, 279C.520, 279C.530, 279C.535, 279C.540, 279C.545, 279C.560, 279C.570, 279C.580, 279C.585, 279C.590, 279C.605, 279C.650, 279C.655, 279C.660, 279C.665, 279C.670, 279C.800, 279C.805, 279C.810, 279C.815, 279C.820, 279C.825, 279C.830, 279C.835, 279C.840, 279C.845, 279C.850, 279C.855, 279C.860, 279C.865, 279C.870, 305.385, 351.086, 459A.480, 468A.720, 671.530, 701.005, 701.055 & 701.420
Proposed Adoptions: 125-246-0100, 125-246-0110, 125-246-0120, 125-246-0130, 125-246-0140, 125-246-0150, 125-246-0170, 125-246-0200, 125-246-0210, 125-246-0220, 125-246-0225, 125-246-0300, 125-246-0310, 125-246-0320, 125-246-0321, 125-246-0322, 125-246-0323, 125-246-0324, 125-246-0330, 125-246-0335, 125-246-0340, 125-246-0345, 125-246-0350, 125-246-0351, 125-246-0352, 125-246-0353, 125-246-0355, 125-246-0360, 125-246-0400, 125-246-0410, 125-246-0420, 125-246-0430, 125-246-0440, 125-246-0450, 125-246-0460, 125-246-0470, 125-246-0500, 125-246-0550, 125-246-0555, 125-246-0560, 125-246-0564, 125-246-0565, 125-246-0570, 125-246-0575, 125-246-0580, 125-246-0600, 125-246-0605, 125-246-0610, 125-246-0615, 125-246-0620, 125-246-0625, 125-246-0630, 125-246-0635, 125-246-0640, 125-246-0700, 125-246-0710, 125-246-0720, 125-246-0730, 125-246-0800, 125-246-0900, 125-247-0005, 125-247-0010, 125-247-0100, 125-247-0150, 125-247-0155, 125-247-0160, 125-247-0165, 125-247-0170, 125-247-0250, 125-247-0255, 125-247-0256, 125-247-0260, 125-247-0261, 125-247-0265, 125-247-0270, 125-247-0275, 125-

247-0280, 125-247-0285, 125-247-0286, 125-247-0287, 125-247-0288, 125-247-0295, 125-247-0296, 125-247-0300, 125-247-0305, 125-247-0310, 125-247-0320, 125-247-0330, 125-247-0400, 125-247-0410, 125-247-0420, 125-247-0430, 125-247-0440, 125-247-0450, 125-247-0460, 125-247-0470, 125-247-0480, 125-247-0490, 125-247-0500, 125-247-0525, 125-247-0550, 125-247-0575, 125-247-0600, 125-247-0610, 125-247-0620, 125-247-0630, 125-247-0640, 125-247-0650, 125-247-0660, 125-247-0670, 125-247-0680, 125-247-0700, 125-247-0710, 125-247-0720, 125-247-0730, 125-247-0740, 125-247-0750, 125-247-0760, 125-247-0770, 125-247-0800, 125-247-0900, 125-248-0100, 125-248-0110, 125-248-0120, 125-248-0130, 125-248-0200, 125-248-0210, 125-248-0220, 125-248-0230, 125-248-0240, 125-248-0250, 125-248-0260, 125-248-0300, 125-248-0310, 125-248-0320, 125-249-0100, 125-249-0110, 125-249-0120, 125-249-0130, 125-249-0140, 125-249-0150, 125-249-0160, 125-249-0200, 125-249-0210, 125-249-0220, 125-249-0230, 125-249-0240, 125-249-0250, 125-249-0260, 125-249-0270, 125-249-0280, 125-249-0290, 125-249-0300, 125-249-0310, 125-249-0320, 125-249-0330, 125-249-0340, 125-249-0350, 125-249-0360, 125-249-0370, 125-249-0380, 125-249-0390, 125-249-0400, 125-249-0410, 125-249-0420, 125-249-0430, 125-249-0440, 125-249-0450, 125-249-0460, 125-249-0470, 125-249-0480, 125-249-0600, 125-249-0610, 125-249-0620, 125-249-0630, 125-249-0640, 125-249-0650, 125-249-0660, 125-249-0670, 125-249-0680, 125-249-0690, 125-249-0800, 125-249-0810, 125-249-0820, 125-249-0830, 125-249-0840, 125-249-0850, 125-249-0860, 125-249-0870, 125-249-0880, 125-249-0890, 125-249-0900, 125-249-0910
Proposed Repeals: 125-020-0100, 125-020-0110, 125-020-0120, 125-020-0130, 125-020-0140, 125-020-0200, 125-020-0210, 125-020-0220, 125-020-0225, 125-020-0300, 125-020-0310, 125-020-0320, 125-020-0330, 125-020-0335, 125-020-0340, 125-020-0350, 125-020-0360, 125-020-0400, 125-020-0410, 125-020-0430, 125-020-0440, 125-020-0500, 125-020-0510, 125-020-0520, 125-020-0530, 125-020-0540, 125-020-0550, 125-020-0600, 125-020-0610, 125-020-0620, 125-020-0700, 125-025-0000, 125-025-0010, 125-025-0030, 125-025-0040, 125-025-0050, 125-025-0060, 125-025-0070, 125-025-0080, 125-025-0082, 125-025-0085, 125-025-0087, 125-025-0090, 125-025-0100, 125-025-0110, 125-030-0000, 125-030-0001, 125-030-0002, 125-030-0003, 125-030-0004, 125-030-0005, 125-030-0007, 125-030-0009, 125-030-0014, 125-030-0028, 125-030-0029, 125-030-0030, 125-030-0033, 125-030-0060, 125-030-0070, 125-030-0080, 125-030-0081, 125-030-0082, 125-030-0100, 125-031-0000, 125-031-0005, 125-031-0006, 125-031-0010, 125-050-0000, 125-050-0020, 125-050-0040, 125-050-0060, 125-085-0000, 125-300-0000, 125-300-0010, 125-300-0050, 125-300-0100, 125-310-0005, 125-310-0010, 125-310-0012, 125-310-0030, 125-310-0035, 125-310-0040, 125-310-0044, 125-310-0060, 125-310-0090, 125-310-0135, 125-310-0180, 125-310-0200, 125-310-0220, 125-310-0300, 125-310-0400, 125-310-0500, 125-320-0010, 125-320-0020, 125-320-0025, 125-330-0030, 125-330-0140, 125-330-0200, 125-330-0260, 125-330-0330, 125-330-0340, 125-330-0450, 125-330-0500, 125-330-0600, 125-330-0700, 125-360-0010, 125-360-0020, 125-360-0030
Last Date for Comment: 10-15-04, 5 p.m.
Summary: The Department of Administrative Services is mandated by HB 2341 to develop rules for state agencies subject to DAS purchasing authority (Agencies). These new procurement rules will replace the current public contracting rules in Chapter 125, divisions 20, 25, 30, 300, 310, 320, 330 and 360. The current rules will be repealed by HB 2341 on March 1, 2005. The new rules are written to implement the Public Contracting Code, ORS 279A, 279B, and 279C for Agencies within Oregon and apply to public contracts first advertised, but if not advertised then entered into, on or after March 1, 2005. The effective date of the new rules is March 1, 2005.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Kristin Keith

NOTICES OF PROPOSED RULEMAKING

Address: Department of Administrative Services, 155 Cottage St. NE, Salem, OR 97301
Telephone: (503) 378-2349, ext. 325

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**Department of Agriculture,
Oregon Trawl Commission
Chapter 656**

Stat. Auth.: ORS 576.304.14; Other Auth.: OAR 656-001-0000
Stats. Implemented: ORS 576
Proposed Amendments: 656-030-0020
Last Date for Comment: 10-21-04
Summary: These rules relate to the qualifications for commodity commissioner appointments. Omitting OAR 656-030-0020(3) and OAR 656-030-0020(4) removes the geographic qualifications for a commissioner. A commissioner may reside anywhere in the State of Oregon.

Rules Coordinator: Brad Pettinger
Address: Department of Agriculture, Oregon Trawl Commission, PO Box 569, Astoria, OR 97103
Telephone: (503) 325-3384

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

Date:	Time:	Location:
10-25-04	9 a.m.	Conference Rm. F 350 Winter St. NE Salem, OR 97301-3878

Hearing Officer: Pat Locnikar
Stat. Auth.: ORS 725.185
Stats. Implemented: ORS 725.185
Proposed Amendments: 441-730-0030
Last Date for Comment: 10-25-04
Summary: This amendment increases the annual license fee from \$375 to \$520.

**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, Salem, OR 97301-3878
Telephone: (503) 947-7478

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Date:	Time:	Location:
11-4-04	2 p.m.	Conference Rm. F 350 Winter St. NE Salem, OR 97301-3878

Hearing Officer: Pat Locnikar
Stat. Auth.: ORS 723.102
Stats. Implemented: ORS 723.682
Proposed Adoptions: 441-710-0045
Last Date for Comment: 11-4-04
Summary: This rule specifies the minimum amount of information to be provided to members of a merging credit union, to enable the members to cast an informed vote. The rule also specifies how this information may be made available for inspection by the director.
**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, Salem, OR 97301-3878
Telephone: (503) 947-7478

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

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295

Proposed Amendments: 437-002-0120
Last Date for Comment: 10-29-04
Summary: Federal OSHA published, in the August 4, 2004 Federal Register, changes to Appendix A to 1910.134, the Respiratory Protection standard. Oregon OSHA's standards must be at least as effective as federal OSHA, therefore, we are proposing to adopt the changes as published. These changes are in OR-OSHA's Division 2/I, Personal Protective Equipment.

Federal OSHA approved an additional quantitative fit testing protocol, the controlled negative pressure (CNP) REDON fit testing protocol, for inclusion in Appendix A of its Respiratory Protection Standard. The protocol affects, in addition to general industry, OSHA respiratory standards for shipyard employment and construction.

The CNP REDON protocol requires the performance of three different test exercises followed by two redonnings of the respirator, while the CNP protocol approved previously by OSHA specifies eight test exercises, including one redonning of the respirator. In addition to amending the standard to include the CNP REDON protocol, this rulemaking makes several editorial and nonsubstantive technical revisions to the standard associated with the CNP REDON protocol and the previously approved CNP protocol.

Please visit OR-OSHA's web site: www.orosha.org

Rules Coordinator: Sue C. Joye
Address: Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE, Salem, OR 97301-3882
Telephone: (503) 947-7449

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**Department of Corrections
Chapter 291**

Date:	Time:	Location:
10-15-04	8:30 a.m.	Department of Corrections Brentwood Bldg. Birch Conf. Rm. 1793 13th St. SE Salem, OR 97302

Hearing Officer: Birdie Worley
Stat. Auth.: ORS 144.123, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Proposed Adoptions: 291-153-0020
Proposed Amendments: 291-153-0005
Proposed Repeals: 291-153-0010
Last Date for Comment: 10-22-04

Summary: Amendments to these rules are necessary to ensure that the department's and the Board of Parole and Post-Prison Supervision's policies and procedures governing who may accompany an inmate at a hearing before the Board are promulgated jointly as required by ORS 144.123.

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

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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Stat. Auth.: ORS 137, 144, 161.610, 179.040, 421, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137, 144, 161.610, 179.040, 421, 423.020, 423.030 & 423.075

Proposed Adoptions: 291-100-0085, 291-100-0105, 291-100-0115, 291-100-0160

Proposed Amendments: 291-100-0005 - 291-100-0080, 291-100-0090, 291-100-0100, 291-100-0110, 291-100-0120 - 291-100-0150

Last Date for Comment: 11-1-04
Summary: These rule amendments are necessary to clarify and update the policy and procedures computation of sentences, and the admission and release of inmates consistent with applicable law.

NOTICES OF PROPOSED RULEMAKING

Additional amendments are necessary to reflect operational and organizational changes within the department.

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 Environmental Quality
Chapter 340

Date:	Time:	Location:
10-20-04	2 p.m.	DEQ 811 SW 6th Ave., Rm. 3A Portland, OR 97225

Hearing Officer: DEQ Staff

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Proposed Amendments: 340-200-0040, 340-204-0090, 340-242-0440

Last Date for Comment: 10-25-04, 5 p.m.

Summary: This rulemaking adopts the Portland Area Carbon Monoxide Maintenance Plan as a revision to the State Implementation Plan under the federal Clean Air Act. The proposed changes will discontinue the wintertime oxygenated fuel requirement for Clackamas, Multnomah, Washington and Yamhill Counties (as of October 31, 2005), amend Motor Vehicle Emissions Budgets, modify current Transportation Control Measures and prepare for potential future changes to the way DEQ tests emissions of 1981 through 1995 vehicles.

To submit comments or request additional information, please contact Dave Nordberg at the Department of Environmental Quality (DEQ), 811 SW 6th Avenue, 11 Floor, Portland, OR 97204, toll free in Oregon at 800-452-4011 or (503) 229-5519, nordberg.dave@deq.state.or.us, (503) 229-5675, or visit DEQ's website <http://www.deq.state.or.us/news/index.asp>

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

Rules Coordinator: Roberta Young

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

Telephone: (503) 229-6408

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Department of Fish and Wildlife
Chapter 635

Date:	Time:	Location:
11-12-04	8 a.m.	3406 Cherry Ave. NE ODFW Commission Rm. Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 496.138

Stats. Implemented: ORS 509.585 & 509.645

Proposed Amendments: 635-412-0030

Last Date for Comment: 11-12-04

Summary: The rule is amended to eliminate the mandatory requirement of negotiation on the part of the owner or operator prior to filing a fish passage protest. Lastly, housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

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

Rules Coordinator: Katie Thiel

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

Telephone: (503) 947-6033

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Date: 11-12-04
Time: 8 a.m.
Location: 3406 Cherry Ave., NE
ODFW Commission Rm.
Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 308A.383, 496.012, 496.138, 496.146, 496.162 & 506.119

Stats. Implemented: ORS 308A.383, 496.012, 496.138, 496.146, 496.162 & 506.119

Proposed Amendments: Rules in 635-430

Last Date for Comment: 11-12-04

Summary: The administrative rules for the Wildlife Habitat Conservation and Management Program and Riparian Lands Tax Incentive Program will be amended to address legislative changes to the programs in 2001 and 2003.

Lastly, housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

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

Rules Coordinator: Katie Thiel

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

Telephone: (503) 947-6033

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Department of Forestry
Chapter 629

Date:	Time:	Location:
10-27-04	6 p.m.	Dept. of Forestry Headquarters 2600 State St., Bldg. C Salem, OR
10-28-04	6 p.m.	Community Auditorium 1915 Main St. Forest Grove, OR

Hearing Officer: Darrel Spiesschaert

Stat. Auth.: ORS 526.016(4); Other Auth.: ORS 526.041

Stats. Implemented: ORS 530.010-050

Proposed Adoptions: 629-025-0080

Proposed Amendments: 629-025-0040, 629-025-0070

Last Date for Comment: 10-29-04, 9 a.m.

Summary: This rule amendment will allow ODF staff and law enforcement personnel to respond to recreational use concerns on State Forests: extended stay of campers, shooting of firearms, trail management, and unattended personal property. Contact John Barnes at 503-945-7387 if there are questions about the proposed action. Written comments should be submitted to John Barnes at 2600 State St., Bldg. D, Salem, OR 97310 and will be accepted until 9 a.m., October 29, 2004.

**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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Stat. Auth.: ORS 526.016(4); Other Auth.: ORS 526.041

Stats. Implemented: ORS 477.068 & 477.085

Proposed Adoptions: 629-041-0200

Last Date for Comment: 12-1-04

Summary: Mediation communications shall be confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

Send written comments to Rick Gibson - Protection Division, Department of Forestry, 2600 State Street, Salem, OR 97310. Questions specific to the rule may be directed to Rick Gibson at 503-945-7440.

Rules Coordinator: Gayle Birch

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

Telephone: (503) 945-7210

NOTICES OF PROPOSED RULEMAKING

Department of Geology and Mineral Industries Chapter 632

Stat. Auth.: ORS 516.090 & 195.260(4)(a)

Stats. Implemented: ORS 195.260(4)(a)

Proposed Amendments: 632-007-0000, 632-007-0010, 632-007-0020

Last Date for Comment: 10-21-04

Summary: The rule amends earlier version of rule that specified a certain Oregon Department of Geology and Mineral Industries publication as the map to use for identifying "Further Review Areas" of "Rapidly Moving Landslides." Amended rule defines that maps will be produced in cooperation with state and local jurisdictions as mandated and adopted by agency Governing Board.

Rules Coordinator: Gary Lynch

Address: Department of Geology and Mineral Industries, 800 NE Oregon St. #28, Portland, OR 97232

Telephone: (541) 967-2039

Department of Human Services, Child Welfare Programs Chapter 413

Date:	Time:	Location:
10-22-04	8:30 a.m.	500 Summer St. NE Rm. 257 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.279

Proposed Amendments: 413-055-0100, 413-055-0105, 413-055-0110, 413-055-0120, 413-055-0140, 413-055-0145, 413-055-0150, 413-055-0160, 413-055-0165

Proposed Repeals: 413-055-0115, 413-055-0125, 413-055-0130, 413-055-0135, 413-055-0155

Last Date for Comment: 10-31-04

Summary: The Department is amending and repealing rules in the Sexual Assault Victims Fund set of rules. The original set was done in 2000 when the Department issued the first Request for Proposal. The Department is getting ready to issue another RFP next fall or winter and wants to use this opportunity to streamline the rules. These rules will 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, Child Welfare Programs, 550 Summer St. NE, E48, Salem, OR 97301-1066

Telephone: (503) 945-6067

Date:	Time:	Location:
10-22-04	8:30 a.m.	500 Summer St. NE Rm. 257 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.620

Proposed Amendments: 413-050-0500, 413-050-0510, 413-050-0515, 413-050-0525, 413-050-0530, 413-050-0535, 413-050-0555, 413-050-0560, 413-050-0565, 413-050-0570, 413-050-0575, 413-050-0585

Proposed Repeals: 413-050-0540, 413-050-0545, 413-050-0550, 413-050-0580

Last Date for Comment: 10-31-04

Summary: Rules in the Domestic Violence Fund set of rules are being amended and repealed to streamline the rules. Contract requirements will instead be listed in the RFPs and grant contracts. The revised grant process language clarifies we are doing grants, not contracts and allows DHS flexibility to do joint proposals with other

funding agencies. This will reduce workload for service providers. These rules will 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, Child Welfare Programs, 550 Summer St. NE, E48, Salem, OR 97301-1066

Telephone: (503) 945-6067

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

Date:	Time:	Location:
10-14-04	10:30 a.m.-12 p.m.	500 Summer St. NE Rm. 137A Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-125-0047

Last Date for Comment: 10-14-04, 12 p.m.

Summary: The Hospital Services Program administrative rules govern Office of Medical Assistance Programs' (OMAP) payment for services provided to clients. OMAP temporarily amended rule 410-125-0047, effective September 1, 2004, to clarify the language and to assist hospitals and managed care organizations in the administration of the limited hospital benefit for clients who are eligible for OMAP's Standard Benefit package. This is the Notice to permanently amend this rule.

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

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

Date:	Time:	Location:
10-14-04	10:30 a.m.-12 p.m.	500 Summer St. NE Rm. 137 A Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-121-0030

Last Date for Comment: 10-14-04, 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 410-121-0030 (Table 121-0030-1) to update the Angiotensin-Converting Enzyme (ACE) Inhibitors and the Non-Steroidal Anti-Inflammatory Drugs (NSAID) classes.

**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

Date:	Time:	Location:
10-14-04	10:30 a.m.-12 p.m.	500 Summer St. NE Rm. 137B Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.065

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 410-124-0000, 410-141-0520

Last Date for Comment: 10-14-04, 12 p.m.

Summary: The Oregon Health Plan (OHP) administrative rules and Transplant Services program rules govern Office of Medical Assistance Programs' (OMAP) payment for services provided to clients. Rule 410-141-0520 in the OHP, temporarily amended to adopt the October 1, 2004 technical changes to the Prioritized List of Health Services as approved by Centers for Medicare and Medicaid Services (CMS), will be permanently amended. Rule 410-124-0000, in the Transplant Services program, temporarily amended to limit second solid organ transplants only for acute graft failure that occurs during the original hospitalization for transplantation, implementing a technical change to the Prioritized List as approved by the Health Services Commission and recently approved by Centers for Medicare and Medicaid (CMS), will be permanently amended with this filing.

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

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

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Date:	Time:	Location:
10-26-04	10 a.m.	500 Summer St. NE Rm. 137D Salem, OR

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 179.040; Other Auth.: SB 18 (2003 Legislative Session)

Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460 & 443.705 - 443.825

Proposed Adoptions: 410-009-0080, 410-009-0150

Proposed Ren. & Amends: 309-040-0200 to 410-009-0050, 309-040-0210 to 410-009-0060, 309-040-0220 to 410-009-0070, 309-040-0230 to 410-009-0090, 309-040-0240 to 410-009-0100, 309-040-0250 to 410-009-0110, 309-040-0260 to 410-009-0120, 309-040-0270 to 410-009-0130, 309-040-0280 to 410-009-0140, 309-040-0290 to 410-009-0160.

Last Date for Comment: 10-26-04, 5 p.m.

Summary: Chapter 410, Division 040, Abuse Reporting and Protective Services in Community Programs and Community Facilities rules are proposed to incorporate the following changes permanently:

A. Updates the rule to include statutory changes effective January 1, 2004 by: adding neglect to the definition of abuse; requiring training of designees so that they conduct a thorough and unbiased investigation and determination; and requiring that the training addresses the cultural and social diversity of the people of Oregon.

B. Conforms rule language to be consistent with HIPAA confidentiality requirements.

C. Adds definitions for brokerage, care provider, substantiated, inconclusive, not substantiated and unbiased investigation.

D. Clarifies requirements for after hours reporting system.

E. Describes the investigation process in the event designee has conflict of interest.

F. Adds statutory language on immunity of persons making reports of abuse in good faith.

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

Rules Coordinator: Christina Hartman

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

Telephone: (503) 731-4405

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Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-121-0157

Last Date for Comment: 10-14-04, 12 p.m.

Summary: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0157, temporary amended September 2004, to reference the updated information regarding participating pharmaceutical companies to the Medicaid Drug Rebate Program, in compliance with federal regulations, will be permanently amended with this filing. Updates include information from CMS Release #132, dated June 22, 2004 and Release #133, dated August 13, 2004.

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

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

Stat. Auth.: ORS 431.310 & 433.285; Other Auth.: HB 2268 (2001 Legislative Assembly)

Stats. Implemented: ORS 431.310 & 433.285

Proposed Adoptions: 333-024-0241

Proposed Amendments: 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

Last Date for Comment: 10-22-04

Summary: 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.

A public rulemaking hearing was held on July 22, 2002 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

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

Date:	Time:	Location:
10-28-04	3 p.m.	500 Summer St. Rm. 137D Salem, OR

Hearing Officer: Lynda Dyer

Stat. Auth.: ORS 409.050, 410.070, 427.005 - 427.007 & 430.215

Stats. Implemented: ORS 430.021(4), 430.610 - 430.670

Proposed Adoptions: Rules in 411-335

Last Date for Comment: 10-28-04

Summary: Chapter 411, Division 335, Proctor Care Residential Services for Individuals with Developmental Disabilities is being proposed for permanent adoption. These rulemaking actions are being taken to:

a) Adopt rules governing Proctor Care Residential Services for Individuals with Developmental Disabilities;

b) Implement system to provide consistent guidelines for practice and monitoring of Proctor Care.

NOTICES OF PROPOSED RULEMAKING

c) Strengthen the Departments ability to take sanctioning activities.

**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

Date:	Time:	Location:
10-22-04	9 a.m.	500 Summer St. Rm. 162 Salem, OR

Hearing Officer: Lynda Dyer

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610 - 430.670, 427.005 - 427.007 & 417.340 - 417.348

Proposed Amendments: 411-340-0110, 411-340-0130, 411-340-0150

Last Date for Comment: 10-22-04

Summary: The proposed amendments to the Support Services for Adults with Developmental Disabilities will allow for the following changes:

a) 411-340-0110: - Per modifications to the Staley lawsuit settlement agreement, this amendment, changes the year from 2005 to 2009 in 411-340-0110 (2)(a); changes the year from 2005-2009 in 411-340-0110 (2)(a)(B), and changes the year from 2005 to 2007 in 411-340-0110 (2)(a)(D).

b) 411-340-0130: Makes permanent Temporary Rule 411-340-0130 (4)(f) to include provision for the enrollment of Support Brokerages for people transferring to the SPD Support Service Waiver from the SPD Aging and People with Physical Disability waiver.

c) 411-340-0150: Provides for consistency with Chapter 411, Division 320, CDDP rule. This change allows for additional qualification to Personal Agent qualifications and adds an alternative plan to meet qualifications for Personal Agent.

**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

Date:	Time:	Location:
10-28-04	1 p.m.	500 Summer St. Rm. 137D Salem, OR

Hearing Officer: Lynda Dyer

Stat. Auth.: ORS 443.830 & 430.215

Stats. Implemented: ORS 443.835

Proposed Adoptions: 411-346-0165

Proposed Repeals: 309-046-0230

Proposed Ren. & Amends: 309-046-0100 to 411-346-0100, 309-046-0110 to 411-346-0110, 309-046-0120 to 411-346-0120, 309-046-0130 to 411-346-0130, 309-046-0140 to 411-346-0140, 309-046-0150 to 411-346-0150, 309-046-0160 to 411-346-0160, 309-046-0170 to 411-346-0170, 309-046-0180 to 411-346-0180, 309-046-0190 to 411-346-0190, 309-046-0200 to 411-346-0200, 309-046-0210 to 411-346-0210, 309-046-0220 to 411-346-0220, 309-046-0240 to 411-346-0240

Last Date for Comment: 10-28-04

Summary: These proposed rulemaking actions will move rules governing Child Foster Care from Chapter 309 to Chapter 411, reflecting the current DHS structure. They will also:

(a) Reorganize the rule to improve readability; and update definitions to make them consistent with current practice and application.

(b) Implement system improvements by updating rule language to be consistent with current practices and Oregon's response to the

CMS Regional Protocol for Review of Home and Community Based Waiver Services;

(c) Clarify rule requirements for applicants of a foster care certificate, (currently certified foster care providers), reducing the need to submit variance requests for exceptions to common practices;

(d) Update financial reporting requirements to meet the 2000 DHS Audit recommendations for children's trust fund accounts.

(f) Update behavior support and physical intervention requirements to be consistent with current Practices;

(g) Reduce language differences between DHS-CW, DHS-SPD 24 hour residential and the CDDP administrative rules whenever applicable;

(e) Strengthen the Department's ability to take sanctioning activity.

**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

Department of Justice Chapter 137

Date:	Time:	Location:
10-27-04	9 a.m.	4035 12th St. SE Salem, OR 97302

Hearing Officer: Nancy Greenman

Stat. Auth.: ORS 147.465(3) & 2001 (OL Ch. 870 (House Bill 2918))

Stats. Implemented: ORS 147.450 - 147.471 & 2001 (OL Ch. 870 (House Bill 2918))

Proposed Adoptions: Rules in 137-086

Last Date for Comment: 11-5-04

Summary: The proposed rulemaking sets out guidelines for the operation of the Oregon Domestic & Sexual Violence Services Fund. The proposed rules create a Division (86) within the Department of Justice Chapter 137.

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

Rules Coordinator: Carol Riches

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

Telephone: (503) 378-6313

Date:	Time:	Location:
10-27-04	9 a.m.	4035 12th St. SE Salem, OR 97302

Hearing Officer: Jason Barber

Stat. Auth.: ORS 147.205(1)(c); Other Auth.: Ch. 789, OL 2003

Stats. Implemented: ORS 147.005, 147.025, 147.035, 147.105 & Ch. 789, OL 2003

Proposed Adoptions: 137-076-0016, 137-076-0018

Proposed Amendments: 137-076-0010, 137-076-0020, 137-076-0025, 137-084-0001

Last Date for Comment: 11-5-04

Summary: OAR 137-076-0016 is adopted to establish rules that clarify which statutory eligibility criteria need to be met when filing for crime victim compensation awards.

OAR 137-076-0018 is adopted to establish rules that clarify individual award amounts to victims and indirect victims of crime.

OAR 137-076-0010 is amended to implement legislative changes to ORS 147.005, 147.025 and 147.035 relating to crime victims compensation as well as to clarify and further define terms associated with claim eligibility.

OAR 137-076-0020 is amended to further define "medical practitioner."

OAR 137-076-0025 is amended to implement legislative changes to loss of earnings and loss of support benefits.

NOTICES OF PROPOSED RULEMAKING

OAR 137-084-0001 is amended to define "application form" as used in reference to the Sexual Assault Victims' Emergency Medical Response Fund.

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

Rules Coordinator: Carol Riches

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

Telephone: (503) 378-6313

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**Department of Oregon State Police,
Office of State Fire Marshal
Chapter 837**

Stat. Auth.: ORS 476.030 & 480.28

Stats. Implemented: ORS 480.200 - 480.290 & 480.990(6)

Proposed Amendments: 837-012-1230, 837-012-1320

Last Date for Comment: 10-21-04

Summary: The need for these permanent rules is to make three corrections discovered upon reviewing the existing permanent rules. The following changes are for housekeeping and clarification purposes:

The first correction is to 837-012-1230, to revise the acronym for the Bureau of Alcohol, Tobacco and Firearms, formerly known as BATF. This federal agency is now known as the Bureau of Alcohol, Tobacco, Firearms and Explosives; therefore, the acronym should be changed to BATFE.

The second revision is to 837-012-1320, which pertains to the requirement that an inspection shall be completed not more than six months prior to the date of the application for a Certificate of Registration. For clarification purposes to the explosives industry, this time period should be changed to not more than 180 days.

The third revision is a minor housekeeping change of 837-012-1230(4)(d), in which a hyphen is added after the fee of \$50. The other fees listed in 837-012-1230(4)(a), (b), and (c) already have hyphens after the amount.

Rules Coordinator: Pat Carroll

Address: Oregon State Police, Office of State Fire Marshal, 4760 Portland Rd. NE, Salem, OR 97305

Telephone: (503) 373-1540, ext. 276

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**Department of Transportation
Chapter 731**

Stat. Auth.: ORS 184.616, 184.619, 367.015 & 367.020

Stats. Implemented: ORS 367.010 - 367.060 & United State Code, Public Law 104-59, Section 350

Proposed Amendments: 731-030-0010 - 731-030-0050, 731-030-0080 - 731-030-0130, 731-030-0150, 731-030-0160

Proposed Repeals: 731-030-0060, 731-030-0070, 731-030-0140

Last Date for Comment: 10-21-04

Summary: These administrative rules establish standards and operating procedures for the Oregon Transportation Infrastructure Fund (OTIF) and the Oregon Transportation Infrastructure Bank (OTIB). Funds held in the OTIF are held solely for the use of the OTIB, which makes transportation-related loans in Oregon. The OTIB has been operating for approximately nine years under its original administrative rules. As a fully operating bank, the rules need to be updated to eliminate references to startup processes, to ensure adequate protections for both the OTIF and potential borrowers by clarifying and improving rules relating to standard lending practices, to enhance flexibility and responsiveness within the law, and to update the rules as a result of changes in the law from House Bill 2213.

Chapter 201, Oregon Laws 2003 (House Bill 2213) updated portions of the authorization for the Oregon Transportation Investment Infrastructure Fund. In addition to updating some definitions, the law clarified and added to the OTIF's funding uses.

Other updates to the rules include addition of a process for protest if an application for assistance is not funded. The amendments to the rules are generally included to protect the OTIF's financial solven-

cy, to clarify and provide additional detail about processes for application to the OTIF for assistance and for staff evaluation of applications, and to provide the OTIF with greater flexibility in making timely response to applications for assistance. The addition of standard evaluation procedures will ensure fairness to applicants and conservation of the OTIF's capital.

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, 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**

Date:	Time:	Location:
10-19-04	2 p.m.	ODOT HQ Bldg. Rm. 122 355 Capitol St. NE Salem, OR

Hearing Officer: Liz Woods

Stat. Auth.: ORS 183.415, 184.616, 184.619, 802.010 & 809.440; Other Auth.: 49 CFR Part 1572

Stats. Implemented: ORS 807.170, 807.350, 807.370, 807.310 & 49 USC § 5103a

Proposed Adoptions: 735-062-0190

Proposed Amendments: 735-070-0020

Last Date for Comment: 10-21-04

Summary: Federal law, specifically 49 USC 5103a (Section 1012 of the USA Patriot Act of 2003) and the Federal Motor Carrier Safety Administration regulations implementing this law, prohibit states from issuing, renewing, upgrading or transferring a hazardous materials endorsement for a commercial driver license (CDL) unless the driver obtains a security clearance from the Transportation Security Administration (TSA). The deadline for state compliance with this federal law is January 31, 2005. OAR 735-062-0190 is being proposed for adoption to implement the federal requirements. OAR 735-070-0020 is being amended to clarify that DMV will not rescind a cancellation pending the outcome of a hearing for a driver with a hazardous materials endorsement who does not pass a TSA security clearance.

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

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

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Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.400

Stats. Implemented: ORS 809.400

Proposed Amendments: 735-070-0030

Last Date for Comment: 10-21-04

Summary: ORS 809.400(2) gives DMV the authority to suspend or revoke the driving privileges of an Oregon resident upon notification from another jurisdiction that the person's driving privileges have been suspended or revoked by that jurisdiction. DMV has not used this authority in the past. The proposed amendments are necessary to implement changes to federal requirements for commercial driving privileges. DMV intends to now use the authority granted by ORS 809.400(2). The proposed changes to OAR 735-070-0030 require DMV to suspend the driving privileges under circumstances that would be grounds for suspension under ORS 813.410(1) if the conduct had occurred in Oregon. The proposed changes also specify acceptable evidence the person must submit to DMV in order to be eligible for reinstatement of driving privileges.

NOTICES OF PROPOSED RULEMAKING

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

Stat. Auth.: ORS 183.415, 183.341, 184.616, 184.619, 802.010, 809.440, 813.100, 813.120, 813.410, 813.440, 822.115, 822.125, 822.130 & 825.412

Stats. Implemented: ORS 183.470, 809.310, 809.440, 813.100, 813.120, 813.130, 813.131, 813.132, 813.404 - 813.460, 822.125, 825.410 & 825.412

Proposed Adoptions: 735-090-0051, 735-090-0101, 735-090-0130

Proposed Amendments: 735-001-0020, 735-001-0050, 735-070-0020, 735-070-0054, 735-070-0060, 735-070-0110, 735-070-0190, 735-074-0220, 735-090-0000, 735-090-0020, 735-090-0040, 735-152-0020, 735-152-0050

Last Date for Comment: 10-21-04

Summary: HB 2526 (Ch. 75, Oregon Laws 2003) changes the term hearing officer to administrative law judge (ALJ) and the Hearings Officer Panel to the Office of Administrative Hearings. The amendments to these rules are necessary to update these rules to reflect the current statutory language. Also, references to session laws that are now codified are being amended to include the correct statutory reference and some language is being changed for clarity. Those rules that contain other changes are discussed below.

- The proposed amendments to OAR 735-001-0020 specify the authority of an ALJ to issue a final order on behalf of DMV and the time frames and response for exceptions when a proposed order is issued.

- The proposed amendments to OAR 735-001-0050 describe when DMV is authorized by law to offer an administrative review other than those actions specified in ORS 809.140. Section (2), which refers to a program that no longer exists (Zebra stickers), is being repealed.

- OAR 735-090-0000(6) is being amended to include a definition for the term "offense" which is necessary due to the adoption of proposed rule 735-090-0101. OAR 735-090-0020 is being amended to require a petitioner to request an interpreter in the hearing request. Under proposed new rule OAR 735-090-0051 the Department will not compel a witness to attend and testify at a hearing unless the witness is served with a subpoena at least 72 hours prior to the time of a hearing. Proposed new rule OAR 735-090-0101 clarifies the location of an implied consent hearing and that an implied consent hearing may be conducted by telephone. Proposed new rule 735-090-0130 requires the continuance of an implied consent contested case hearing to secure the personal appearance of a necessary witness when hearsay evidence is challenged by the petitioner. This rule is the result of an Oregon Supreme Court opinion, *Cole v. DMV and Dinsmore v. DMV*, holding that hearsay evidence from a necessary witness constitutes substantial evidence in an administrative hearing, except when the petitioning party introduces countervailing evidence.

- The proposed amendments to OAR 735-152-0050(9) correctly identify who is authorized to request a contested case hearing.

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

Department of Transportation, Highway Division Chapter 734

Stat. Auth.: ORS 184.616, 184.619, 810.050, 810.060 & 818.200

Stats. Implemented: ORS 810.060 & 818.220

Proposed Adoptions: 734-071-0060

Proposed Amendments: 734-071-0005, 734-071-0010, 734-071-0030

Last Date for Comment: 10-21-04

Summary: These proposed amendments relate to allowable vehicle lengths without need for a special variance permit. The amendments clarify vehicle definitions for the purpose of Division 71, state Department policy regarding a pickup truck towing oversized trailers or a combination of two truck trailers, create a new table that identifies routes where a variance permit is not required and limits vehicles utilizing a tow dolly to the vehicle's maximum towing capacity. Proposed changes to definitions and adoption of a rule related to pickup trucks are needed to address the evolving increase in pickup truck size and current industry needs, such as a pickup truck capable of safely towing two empty horse trailers from an out-of-state manufacturer for delivery in Oregon.

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Stat. Auth.: ORS 823.011, 825.232, 825.555 & 826.007

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

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

Last Date for Comment: 10-21-04

Summary: Provisions of the International Fuel Tax Agreement (IFTA) and associated material are applicable to Oregon-based motor carriers who participate in IFTA as a way to report and pay fuel tax to other jurisdictions. The revision to OAR 740-200-0040 adopts the most recent version of IFTA and associated material as the procedures and guidelines for Oregon-based IFTA participants to ensure Oregon remains current with national and international IFTA standards. The International Registration Plan (IRP) and 26 CFR Part 41 (Heavy Vehicle Use Tax - HVUT) relate to commercial motor vehicle registration and heavy vehicle taxation respectively. Amendments to OAR 740-200-0010 and 740-200-0020 adopt IRP and HVUT and amendments thereto in effect as of January 1, 2005, and ensure Oregon remains current with national and international commercial motor vehicle registration standards.

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

Department of Transportation, Public Transit Division Chapter 732

Date:
10-15-04

Time:
3:30 p.m.*

Location:
ODOT Bldg.
355 Capitol St. NE
Rm. 122
Salem, OR

NOTICES OF PROPOSED RULEMAKING

10-18-04 3:30 p.m.* ODOT Reg. 3 Bldg.
Training Rm.
3500 Stewart Parkway
Roseburg, OR

10-20-04 3:30 p.m.* ODOT Reg. 4 Annex Bldg.
Upstairs Training Rm.
63085 N. Hwy 97
Bend, OR

10-22-04 3:30 p.m.* ODOT Reg. 5 HQ Bldg.
Lge. Training Rm.
3012 Island Ave.
La Grande, OR

10-25-04 3:30 p.m.* ODOT Reg. 1 HQ Bldg.
Rm. A-B
123 NW Flanders
Portland, OR

11-8-04 4 p.m.* ODOT HR Training Ctr.
2775 19th St. SE
Suite C
Salem, OR

Health Licensing Office Chapter 331

Stat. Auth.: ORS 676.605, 676.615 & 690.415; Other Auth.: ORS 183
Stats. Implemented: ORS 676.605, 676.615 & 690.415
Proposed Amendments: 331-505-0010
Last Date for Comment: 10-28-04
Summary: The proposed rule reinstates a "duplicate fee" and is necessary to correct a discrepancy in filing the permanent rule changes effective July 1, 2004. There was an inadvertent omission of the duplicate fee required to replace a license that has been misplaced, lost, destroyed or damaged. The omission occurred as a result of reformatting the fee schedule and overlooking inclusion of the duplicate fee in the section.
Rules Coordinator: Patricia C. Allbritton
Address: Health Licensing Office, 700 Summer St. NE, Ste. 320, Salem, OR 97301-1287
Telephone: (503) 378-8667, ext. 4322

Health Licensing Office, Board of Cosmetology Chapter 817

Date:	Time:	Location:
10-25-04	9 a.m.	700 Summer St. Rhoades Conf. Rm. Salem, OR

Hearing Officer: Bert Krages
Stat. Auth.: ORS 676.615, 690.046, 690.048 & 690.165; Other Auth.: ORS 676.605
Stats. Implemented: ORS 676.615, 690.046, 690.048 & 690.165
Proposed Amendments: 817-005-0005, 817-030-0018, 817-035-0010, 817-035-0030, 817-040-0003
Last Date for Comment: 10-25-04

Summary: Passage of HB 2325 during the 2003 Legislative Session corrected conflicting provisions in ORS Chapter 690 governing cosmetology and the practice of barbering, hair design, facial technology and nail technology - ORS 690.005 Definitions and ORS 690.048 Certificate Prima Facie Evidence of Right to Practice. The law separates certification according to the field of practice for which an applicant receives training/education, passes competency testing, and is issued authorization to practice. Oregon Laws 2003, Chapter 547 became effective January 1, 2004. The revised fee schedule will convert the \$50 practitioner two-year certificate with bundled fields of practice to a \$33 fee for each certificate issued in a field of practice.

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

Rules Coordinator: Patricia C. Allbritton
Address: Health Licensing Office, Board of Cosmetology, 700 Summer St. NE, Ste. 320, Salem, OR 97301-1287
Telephone: (503) 378-8667, ext. 4322

Insurance Pool Governing Board Chapter 442

Date:	Time:	Location:
10-21-04	9-11 a.m.	525 Trade St. SE Salem, OR 97301

Hearing Officer: Wanda Davis
Stat. Auth.: ORS 735.734
Stats. Implemented: ORS 735.720 - 735.740
Proposed Adoptions: 442-001-0010, 442-001-0015, 442-004-0085, 442-004-0117
Proposed Amendments: 442-001-0000, 442-001-0005, 442-004-0010, 442-004-0020, 442-004-0050, 442-004-0070, 442-004-0080, 442-004-0090, 442-004-0110, 442-004-0115, 442-004-0120, 442-004-0130, 442-004-0140, 442-004-0150, 442-004-0160

Hearing Officer: Jean Palmateer
Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830
Proposed Adoptions: 732-005-0061, 732-005-0066, 732-005-0071, 732-005-0076, 732-005-0081
Proposed Amendments: 732-005-0000 - 732-005-0056, 732-010-0005 - 732-010-0035, 732-010-0045, 732-020-0005, 732-020-0020 - 732-020-0045
Proposed Repeals: 732-010-0040, 732-020-0010, 732-020-0015
Last Date for Comment: 11-8-04

Summary: The rules in Chapter 732, Divisions 5, 10 and 20 need to be amended to conform with two laws passed by the 2003 Oregon Legislature. Senate Bill 180 added Indian tribes in Oregon as eligible to receive STF moneys and the rules must be amended accordingly. A temporary rule was adopted effective July 15, 2004 to allow for distribution of funds to the Indian tribes. These proposed amendments will make the changes permanent. House Bill 3522 requires ODOT to write rules to develop a program that includes contracts with fund recipients and requires funds to be withheld or paid back in case of misuse of funds.

Proposed new rules and amendments will increase the requirements for management of the Special Transportation Fund Program. The changes require the districts, counties and Indian tribes receiving the Special Transportation Funds to have a program for fund distribution that includes planning for distribution of funds and contract management. The rules also establish qualifications for eligibility of recipients, as providers of transportation services.

Other non-substantive changes are made to clarify language and reorganize the rule text into a more logical sequence.

* All public hearings will be preceded by a workshop open to the public. The workshops begin at 1:00 p.m. A complete schedule for the workshops and the text of these proposed rules can be found at web site <http://www.odot.state.or.us/rules/>. The first five hearings will begin at 3:30 p.m. and will be open until everyone in attendance by 3:45 p.m. has had an opportunity to provide comments or until 5:00 p.m., whichever comes sooner. The last hearing will begin at 4:00 p.m. and will be open until everyone in attendance by 4:15 p.m. has had an opportunity to provide comments or until 5:00 p.m., whichever comes sooner.

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

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

NOTICES OF PROPOSED RULEMAKING

Proposed Repeals: 442-003-0000, 442-003-0010, 442-003-0020, 442-003-0030, 442-003-0040, 442-003-0050, 442-003-0060, 442-003-0070, 442-003-0080, 442-003-0090, 442-004-0005

Last Date for Comment: 10-21-04

Summary: 442-001-0010 - Adopting section in place of current section 442-004-0005, which requires an answer to charges as part of Notices to Parties in Contested Cases.

442-001-0015 - Adopting section to implement consequences for failure to answer. Explains that when an applicant requests a hearing, they must admit or deny each factual matter alleged in the notice. Failure to deny factual matters shall be presumed admitted, and failure to raise a particular defense in the answer will be considered a waiver of such defense.

442-004-0085 - Adopting this section to allow for certain extenuating circumstances.

442-004-0117 - Adopting this section to allow the agency to audit current and past program members and to enforce penalties when appropriate.

Rule 442-001-0000 is being amended to give notice in the Secretary of State's Bulletin at least 21 days prior to the effective date of rule changes instead of the current 15-day notice requirement. Also updating the list of organizations who will be mailed copies of the notice.

Rule 442-001-0005 is being amended to adopt the Attorney General's Model Rules of Procedure effective 01/15/2004.

Rule 442-004-0010 is being amended to clarify the definition of investments and savings.

Rule 442-004-0020 is being amended to update the applicable dates and legislative sessions.

Rule 442-004-0050 is being amended to include new language that allows applicants who enrolled in their employer-sponsored health insurance plan within 90 days of applying to FHIAP be considered to have met the period of uninsurance, to not count the Kaiser Child Health Program or any benefit plan authorized by ORS 735.700 - 735.714 against the period of uninsurance, to take out the requirement that applicants must comply with the Department of Revenue in regard to filing their taxes, and to clarify what date a person must meet the definition of "family" or "dependent" for consideration on an application.

Rule 442-004-0070 is being amended to increase the amount of time an applicant has to submit an application to the program from 60 days to 75 days.

Rule 442-004-0080 is being amended to increase the amount of time an applicant has to submit additional information when requested by FHIAP from 30 days to 45 days, and to require information relating to an applicant's access to employer sponsored health insurance when submitting an application for group subsidy.

Rule 442-004-0090 is being amended to enforce enrollment into the group market under certain circumstances.

Rule 442-004-0110 is being amended to increase the amount of time an existing FHIAP member has to return their redetermination application from 30 days to 45 days, and to increase the amount of time an existing FHIAP member has to return additional information requested during the redetermination application process from 30 to 45 days.

Rule 442-004-0115 to further clarify program reporting requirements.

Rule 442-004-0120 is being amended to clarify reasons that a member may be terminated from the program.

Rule 442-004-0130 is being amended to change "fraudulent misrepresentation" to "misrepresentation."

Rule 442-004-0140 is being renamed from "fraudulent misrepresentation" to "misrepresentation," and is amended to remove all citations of the word "fraudulent."

Rule 442-004-0150 is being amended to allow 21 days to request an appeal instead of 15 days.

Rule 442-004-0160 is being amended to allow 21 days to request a hearing instead of 15 days.

Repealing Division 3 in its entirety because this program no longer exists but, due to an oversight, the rules were never repealed.

Rule 442-004-0005 is being repealed and adopted as rule 442-001-0010.

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

Rules Coordinator: Nicole Shuba

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

Telephone: (503) 378-4676

Landscape Contractors Board Chapter 808

Date:	Time:	Location:
11-19-04	10 a.m.	Roth's Santiam Rm. West Salem, OR

Hearing Officer: Paul Ries

Stat. Auth.: ORS 671.670

Stats. Implemented: ORS 671

Proposed Amendments: 808-002-0340, 808-003-0018, 808-003-0050

Last Date for Comment: 11-19-04

Summary: 808-002-0340 Correct Cite Reference

808-003-0018 Clarifies employment of a landscape contractor by a landscape contracting business

808-003-0050 Clarifies supervisory responsibilities of landscape contractor

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

Rules Coordinator: Kim Gladwill-Rowley

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

Telephone: (503) 986-6570

Oregon Board of Dentistry Chapter 818

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.025 & 680.250

Proposed Amendments: 818-042-0050, 818-042-0060, 818-042-0120, 818-042-0130

Last Date for Comment: 11-1-04

Summary: OAR 818-042-0050, 818-042-0060, 818-042-0120, and 818-042-0130 are amended to conform the Board of Dentistry's rules with the rules promulgated by the Department of Human Services, Radiation Protection Services, under the authority of ORS 453.775 regarding x-ray machine operator training.

A Certificate and Order for Filing Permanent Administrative Rules to amend these rules was filed with the Secretary of State on July 14, 2003, with an effective date of July 18, 2003. It is necessary to again provide Notice of Proposed Rulemaking because the amended rule was not filed with the Legislative Counsel Committee within the ten-day period required by ORS 183.715.

Copies of the full text of proposed changes can be found on the Board's Web site (www.oregondentistry.org) under What's New or by calling the Board of Dentistry at (503) 229-5520.

Rules Coordinator: Sharon Ingram

Address: Oregon Board of Dentistry, 1600 SW 4th Ave., Ste. 770, Portland, OR 97201

Telephone: (503) 229-5520

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.250

Proposed Adoptions: 818-026-0055

Proposed Amendments: 818-026-0000, 818-026-0010, 818-026-0020, 818-026-0030, 818-026-0035, 818-026-0040, 818-026-0050, 818-026-0060, 818-026-0070, 818-026-0080, 818-026-0100, 818-

NOTICES OF PROPOSED RULEMAKING

026-0110, 818-026-0120, 818-026-0130

Last Date for Comment: 11-1-04

Summary: Rule changes bring the Board's anesthesia rules in line with the recommendations of the American Dental Association, "Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists." Specifically, Class 2 permit requirements are changed to cover any combination of sedative agents that produce conscious sedation and Class 3 permit is amended to require a higher level of life support training and certification (ACLS or PALS). A new rule is added to allow dental hygienists and dental assistants to provide care within the scope of their license/certification for patients under Conscious Sedation. Clarification is made in the rules that Health Care Provider BLS/CPR certification may be "or equivalent" and that the certification must be kept current. Changes are also made regarding the continuing education requirements for maintaining an anesthesia permit. Other minor changes are made to add definitions, to clarify the Board's position that no anesthesia permit is required when a single sedative is provided for anxiety only, and to further conform the Board's rules with the ADA "Guidelines" referred to above.

A Certificate and Order for Filing Permanent Administrative Rules to adopt and amend these rules was filed with the Secretary of State on September 15, 2003, with an effective date of October 1, 2003. It is necessary to again provide Notice of Proposed Rulemaking because the amended rule was not filed with the Legislative Counsel Committee within the ten-day period required by ORS 183.715.

Copies of the full text of proposed changes can be found on the Board's Web site (www.oregondentistry.org) under What's New or by calling the Board of Dentistry at (503) 229-5520.

Rules Coordinator: Sharon Ingram

Address: Oregon Board of Dentistry, 1600 SW 4th Ave., Ste. 770, Portland, OR 97201

Telephone: (503) 229-5520

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Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.060, 679.065, 679.070, 680.040, 680.050 & 680.060

Proposed Amendments: 818-021-0011, 818-021-0025

Last Date for Comment: 11-1-04

Summary: OAR 818-021-0011 and 818-021-0025 are permanently amended to remove the requirement that applicants for licensure by this pathway have passed the written National Board examinations. This is the permanent adoption of temporary rules that were effective in July 2002.

A Certificate and Order for Filing Permanent Administrative Rules to adopt and amend these rules was filed with the Secretary of State on April 18, 2003, with an effective date of April 18, 2003. It is necessary to again provide Notice of Proposed Rulemaking because the amended rule was not filed with the Legislative Counsel Committee within the ten-day period required by ORS 183.715.

Copies of the full text of proposed changes can be found on the Board's Web site (www.oregondentistry.org) under What's New or by calling the Board of Dentistry at (503) 229-5520.

Rules Coordinator: Sharon Ingram

Address: Oregon Board of Dentistry, 1600 SW 4th Ave., Ste. 770, Portland, OR 97201

Telephone: (503) 229-5520

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Oregon Economic and Community Development Department Chapter 123

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)

Stats. Implemented: ORS 285A.654 - 285A.660

Proposed Amendments: 123-027-0070, 123-027-0106, 123-027-0166

Last Date for Comment: 10-21-04

Summary: This filing is intended to address administrative errors and to clarify conditions of eligibility. The Department is amending

this division to clean up the text, and rearrange the format to make it easier to read and understand.

The Marine Navigation Fund rules provide procedures, standards and criteria for Oregon ports to receive Federal funding for dredging and dredging-related projects and for non-federal projects that may not qualify for federal funding but qualify under an expanded set of criteria. The 2003 legislature provided funds for non-federal projects for the first time and with that funding provided more detailed requirements. Grants become available after September 1, 2004 if funds are available and a loan is not feasible and if certain condition(s) exist.

A copy of the rules is available on the Department website at http://www.econ.state.or.us/rules_review.htm

Rules Coordinator: Del Little

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

Telephone: (503) 986-0261

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Oregon Liquor Control Commission Chapter 845

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

Stats. Implemented: ORS 471.750(2)

Proposed Amendments: 845-015-0175

Last Date for Comment: 11-1-04

Summary: This rule regulates advertising, including signs and displays that are allowed in retail liquor stores. Current rule language limits the size of "on-packs" to one 50 ml per 750 ml bottle of distilled spirits. Current marketing practices include promotions for slightly larger sizes of on-packs, and for multiple on-packs. Staff proposes to amend the rule - we would leave the current limitations in rule, but allow staff to approve exceptions to size and quantity of on-pack approved.

Rules Coordinator: Katie Hilton

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

Telephone: (503) 872-5004

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Stat. Auth.: ORS 471, 471.030, 471.040, 471.346 & 471.730(1) & (5)

Stats. Implemented: ORS 30.960, 162.247, 165.805, 471.346 & 471.430

Proposed Amendments: 845-009-0200

Last Date for Comment: 11-1-04

Summary: This rule governs standards which must be used in OLCC and law enforcement minor decoy programs. We need to make minor housekeeping-type amendments to the rule to remove the word "business" from the definitions in section (5) of the rule.

Rules Coordinator: Katie Hilton

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

Telephone: (503) 872-5004

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Oregon Public Employees Retirement System Chapter 459

Date:	Time:	Location:
10-18-04	10 a.m.	800 Summer St., NE Archives Bldg. Conference Rm. Salem, OR
10-27-04	2 p.m.	11410 SW 68th Parkway PERS Headquarters Boardroom Tigard, OR

Hearing Officer: David K. Martin

Stat. Auth.: ORS 183.310 - 183.550 & 238.650

Stats. Implemented: ORS 238.320, 238.335, 238.330 & 238.715

NOTICES OF PROPOSED RULEMAKING

Proposed Adoptions: 459-015-0000, 459-015-0001
Proposed Amendments: 459-015-0005, 459-015-0010, 459-015-0020, 459-015-0025, 459-015-0045, 459-015-0050, 459-015-0055, 459-015-0060

Proposed Repeals: 459-015-0015
Last Date for Comment: 11-19-04

Summary: The statutory framework for PERS Chapter 238 plan members applying for a disability retirement allowance does not adequately set out major administrative and policy issues. While the program has generally been administered in a respected and efficient manner, some gray areas regarding the program have arisen over time. These rule changes would articulate the standards by which the disability program is administered, so members have consistent information.

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

Date:	Time:	Location:
10-21-04	10:30 a.m.	800 Summer St., NE Archives Bldg. Conference Rm. Salem, OR

Hearing Officer: David K. Martin
Stat. Auth.: ORS 183.470 - 183.550 & 238.650
Stats. Implemented: ORS 243.401 - 243.507
Proposed Adoptions: 459-050-0072
Last Date for Comment: 10-25-04

Summary: The Uniformed Services Employment and Reemployment Rights Act ("USERRA") significantly strengthened and expanded uniformed service members' reemployment rights. One provision allows eligible participants to catch-up on contributions to a deferred compensation plan like the Oregon Savings Growth Plan (OSGP) that would have been permitted had the employee remained employed. Currently, OSGP rules don't address these rights. This rule defines "military service" as well as explaining the procedure for eligible USERRA participants to make catch-up contributions.

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

Date:	Time:	Location:
10-21-04	10:30 a.m.	800 Summer St., NE Archives Bldg. Conference Rm. Salem, OR

Hearing Officer: David K. Martin
Stat. Auth.: ORS 183.470 - 183.550 & 238.650
Stats. Implemented: ORS 243.401 - 243.507
Proposed Amendments: 459-050-0070
Last Date for Comment: 10-25-04

Summary: The current rule does not allow participation in the 50-Plus Catch-Up program unless the participant has been deferring the maximum allowable regular contribution to the Deferred Compensation plan or unless the participant is a new enrollee in the plan who

is maximizing their annual allowable regular contributions. This prohibits a participant from deciding some time after the beginning of the year to participate in the 50-Plus Catch-Up Program. Internal Revenue Code §457 allows catch-up provisions without these types of restrictions. The proposed modifications to OAR 459-050-0070 would revise the rule to allow participants who have not been deferring the maximum amount to the plan in any given year to choose to participate in the 50-Plus Catch-Up Program.

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

Date:	Time:	Location:
10-18-04	11 a.m.	800 Summer St., NE Archives Bldg. Conference Rm. Salem, OR
10-27-04	3 p.m.	11410 SW 68th Parkway PERS Headquarters Boardroom Tigard, OR

Hearing Officer: David K. Martin
Stat. Auth.: ORS 183.310 - 183.550 & 238A.450
Stats. Implemented: ORS 238A.235
Proposed Adoptions: 459-076-0000, 459-076-0001, 459-076-0005, 459-076-0010, 459-076-0020, 459-076-0025, 459-076-0045, 459-076-0050, 459-076-0055, 459-076-0060
Last Date for Comment: 11-19-04

Summary: House Bill 2020, the legislation that established the Oregon Public Service Retirement Plan (OPSRP), requires new administrative rules to clarify and implement its provisions; in this case related to disability benefits under ORS 238A.235

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

Date:	Time:	Location:
10-20-04	2 p.m.	11410 SW 68th Parkway PERS Headquarters Boardroom Tigard, OR

Hearing Officer: David K. Martin
Stat. Auth.: ORS 183.310 - 183.550, 238A.400 & 238A.450
Stats. Implemented: ORS 238A.400
Proposed Adoptions: 459-080-0250
Last Date for Comment: 10-25-04

Summary: Retired members can direct that their Individual Account Program (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.

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

Rules Coordinator: David K. Martin

NOTICES OF PROPOSED RULEMAKING

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

Date:	Time:	Location:
10-21-04	10:30 a.m.	800 Summer St., NE Archives Bldg. Conference Rm. Salem, OR

Hearing Officer: David K. Martin
Stat. Auth.: ORS 183.470 - 183.550 & 238.650
Stats. Implemented: ORS 243.401 - 243.507
Proposed Amendments: 459-050-0150
Last Date for Comment: 10-25-04

Summary: This rule further defines and explains the criteria and process for a distribution of deferred compensation funds prior to separation from employment due to an unforeseeable emergency. The rule proposed rule modifications: Clarify who may apply for emergency withdrawals, describe withdrawal eligibility in more detail, adopt parallel terminology with Internal Revenue Code §457, increase the number of days by which an "immediate need" for financial obligation can precede a withdrawal from 90 to 180 days and change the procedure for canceling future contributions.

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

Date:	Time:	Location:
10-21-04	10:30 a.m.	800 Summer St., NE Archives Bldg. Conference Rm. Salem, OR

Hearing Officer: David K. Martin
Stat. Auth.: ORS 183.470 - 183.550 & 238.650
Stats. Implemented: ORS 243.401 - 243.507
Proposed Amendments: 459-050-0080
Last Date for Comment: 10-25-04

Summary: The proposed modifications to OAR 459-050-0080 would revise the rule to allow an optional way to liquidate the funds when taking installment options from the plan. This change would give participants the option of choosing to have their distributions liquidated from the Stable Value Option rather than pro-rata across all funds. A participant would have to actively manage his/her account to ensure that they have adequate funds in Stable Value Option at time of distribution. If the participant does not, the distribution would default to the pro-rata option.

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

Date:	Time:	Location:
10-21-04	10:30 a.m.	800 Summer St., NE Archives Bldg. Conference Rm. Salem, OR

Hearing Officer: David K. Martin
Stat. Auth.: ORS 183.470 - 183.550 & 238.650
Stats. Implemented: ORS 243.401 - 243.507
Proposed Amendments: 459-050-0040
Last Date for Comment: 10-25-04

Summary: Terminology in the current rule is not parallel with Internal Revenue Code §457 and the current rule does not explain the process for participants to appeal a denial of their withdrawal request. The proposed modifications to OAR 459-050-0040 would substitute the term "unforeseeable emergency withdrawal" for "financial hardship" to conform to the IRS Code and industry standards. Updated terminology consistent with industry standards is preferable to avoid confusion and inconsistency. The proposed amendments also specify the appeal process for participants denied a withdrawal request. This change would contain a more accurate description of the withdrawal procedure and would better explain the appeal process. Participants requesting an appeal of their denial would have ready access to the process description.

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

Stat. Auth.: ORS 183.310 - 183.550 & 238.650
Stats. Implemented: ORS 183.341
Proposed Amendments: 459-001-0005
Last Date for Comment: 10-25-04

Summary: OAR 459-001-0005 adopted the Attorney General's Model Rules of Procedure that became effective on October 3, 2001 as the PERS Board's rules of procedure. The Model Rules were updated on January 1, 2004; the proposed rule modification adopts this new version as the Board's rules of procedure.

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

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

Stat. Auth.: ORS 183.310 - 183.550 & 238A.450
Stats. Implemented: ORS 238A.050 & 238.705
Proposed Amendments: 459-070-0100, 459-070-0110
Last Date for Comment: 10-25-04

Summary: These rules direct employers to submit required information and contributions to PERS on the pay date of each pay period and specify penalties for incomplete or late reporting. OAR 459-070-0100 and -0110, as adopted, gave the Executive Director discretion to waive penalties for the first six months of OPSRP implementation, and set the process for requesting a waiver after that period.

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

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

NOTICES OF PROPOSED RULEMAKING

Oregon Student Assistance Commission, Office of Degree Authorization Chapter 583

Date: 10-15-04 **Time:** 10:30 a.m. **Location:** 1500 Valley River Dr.
Suite 100
Eugene, OR 97401

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: 10-15-04

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

Date: 10-15-04 **Time:** 11 a.m. **Location:** 1500 Valley River Dr.
Suite 100
Eugene, OR 97401

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: 10-15-04

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

Oregon University System Chapter 580

Date: 10-18-04 **Time:** 9-11 a.m. **Location:** 1431 Johnson Ln.
3rd Flr. Conference Rm.
Eugene, OR

Hearing Officer: Marcia Stuart

Stat. Auth.: ORS 240 & 351.070

Stats. Implemented: ORS 240 & 351.070

Proposed Adoptions: 580-050-0000, 580-050-0110, 580-050-0120, 580-050-0130, 580-050-0140, 580-050-0150, 580-050-0160, 580-050-0170, 580-050-0180, 580-050-0190, 580-050-0200, 580-050-0210, 580-050-0220, 580-050-0230, 580-050-0240, 580-050-0250, 580-050-0260, 580-050-0270, 580-050-0280, 580-050-0290, 580-050-0300, 580-050-0310, 580-050-0320, 580-050-0330, 580-050-0340

Proposed Amendments: 580-050-0001, 580-050-0005, 580-050-0010, 580-050-0015, 580-050-0020, 580-050-0025, 580-050-0032, 580-050-0033, 580-050-0040, 580-050-0041, 580-050-0042, 580-050-0100, 580-050-0105

Last Date for Comment: 10-21-04

Summary: 1. OAR 580-050-0010: Added traffic signals, sidewalks, streetcars, and other items similar to utilities to the types of easements that can be approved by the Board President and Secretary without Board action. Removed the requirement that only easements for underground utilities could be approved by the Board President and Secretary. This reflects present practice.

2. OAR 580-050-0015: Added leases to the authority to purchase certain types of property delegated to the Vice Chancellor for Finance and Administration. Increased the cost of property that the Vice Chancellor can approve from \$100,000 to \$500,000 to reflect the increase in property values over the past ten years. Limit lease approval to those leases where the total value over the term of the lease does not exceed \$500,000. Rules still need to be developed and adopted for the process to be used to purchase and lease property.

3. OAR 580-050-0020: The definition of Consultants for design, evaluation and management of construction projects or real property is expanded to include materials testing, hazardous materials evaluation and abatement, engineering, cost estimating, land surveying, appraisal, commissioning and special inspections.

Subsection (1): Clearly states that Consultants will be chosen on the basis of qualifications, not price. This tracks ORS 279.057 which requires that price only be negotiated after the Consultant is selected and as part of the process for determining the scope of work. Although OUS is not subject to ORS 279.057, at the Legislative hearings on this statute OUS represented that it chose its professional consultants on the basis of qualifications.

Subsection (2): The advertising process for Consultants wishing to enter into Retainer Agreements may be done electronically. The proposal may also be submitted electronically. The maximum term of a Retainer Agreement is extended from three years to four, the same maximum term as used for construction contractor Retainer Agreements.

Subsection (3): The maximum payable to a Consultant on a single project under a Retainer Agreement is increased from \$100,000 to \$200,000. The formal procurement process used for contracts in excess of \$200,001 only requires a minimum of three proposals. This reflects the reality that often five Consultants did not submit a proposal. Added specific authority to continue with the procurement process even if fewer than three Consultants submitted proposals if the purpose of the rule is still met.

Subsection (5): This new subsection permits sole source contracts in the following situations: (a) if the Institution stopped a project and decides to restart it and wants to use the same Consultant to continue professional liability insurance coverage on the project, or because a different Consultant will likely not want to do the work, or because the cost will be greater if a different Consultant finishes the work, (b) if the project is a phased project, (c) if the work is an addition or remodel to a project the Consultant has already worked on and there is likely to be a cost saving if the same Consultant does the new work, or (d) if the Consultant is the only person able to do the work.

4. OAR 580-050-0032(1): Distinguish between Construction Trade Services (those services not performed by a construction contractor, usually associated with maintenance or repair) and Public Improvement contracts (construction, reconstruction, major renovation costing more than \$25,000 that does not include emergencies, repair, maintenance or minor alterations).

Subsection (2): Delegates authority from the Vice Chancellor for Finance and Administration to individual campuses.

Subsection (4): The maximum amount payable to a contractor for a single project under a Retainer Agreement is increased from \$200,000 to \$500,000.

Subsection (6): This new subsection permits sole source contracts in the following limited situations: (a) if there is only one firm that can reasonably do the work, (b) if the work must be done by a particular firm so as not to void a warranty, (c) if the firm is the only one authorized by a supplier to install a certain item, (d) if the contract will not encourage favoritism or substantially diminish competition.

Subsection (8): Added requirements prohibiting contracts with a firm that is not properly licensed or which has been determined ineligible by the Bureau of Labor and Industries or OUS.

Subsection (9): Added a requirement for a 100% performance and payment bond on all contracts in excess of \$100,000. This protects OUS in the event the contractor does not pay its subcontractors or

NOTICES OF PROPOSED RULEMAKING

suppliers or fails to complete the work and OUS has to have another contractor finish the work.

Subsection (11): Retainage (the withholding of 5% of each payment draw until the contract is completed) is not applicable to projects performed under Retainer Agreements.

Subsection (13): Omitted the incorporation by reference of certain 1995 AG Model Rules regarding the contracting process. These are replaced by the new rules the Board will be temporarily adopting. This further distances OUS from DAS control in accordance with the Higher Education Efficiency Acts.

Subsection (15): This new subsection creates exemptions from the competitive procurement process for the following types of contracts: (a) contracts with the federal government or another public agency, (b) emergency contracts, and (c) if the IFPO finds that an exemption will not encourage favoritism or substantially diminish competition and will result in cost savings. These exemptions track those in ORS 279.015.

5. Retainage Rule: Five percent retainage is required on all projects except those less than \$500,000, where it is permissive. Retainage may be released on phased projects as each phase is completed.

6. Negotiation When Bids Exceed Cost Estimates Rule: This rule permits institutions to negotiate with the lowest bidder or best proposer when their bid or proposal exceeds the institution's cost estimate. This saves an institution from having to go through the solicitation process all over again.

The following minor changes were made in the rules:

1. Changed references from OSSHE to OUS throughout the rules.

2. OAR 580-050-0005: This rule requires all conveyances of interests in real property to be approved by DOJ and executed by the President and Secretary of the Board. The change brings the rule into conformity with ORS 351.150. Interests in real property include purchases, sales, leases, and easements.

3. OAR 580-050-0020(2): Changed the rule to conform to the process actually used.

4. OAR 580-050-0032: In general distinguished between Invitations to Bid, Requests for Proposals and design-build processes.

5. OAR 580-050-0033: Changed the title to refer to amendments because the body of the rule refers to amendments.

6. OAR 580-050-0041(11) and 580-050-0042(10): Removed the requirement for the Board to review the effect of the rules regarding Emerging Small Businesses and Minority/Women Business Enterprises participation in OUS contracts because this review has not been occurring.

7. Definitions Rule: This rule defines terms used throughout OAR Chapter 580, Division 50. It will be placed at the beginning of the Division.

8. Deleted the rule incorporated by reference in OAR 580-050-0032(14) that referred to electronic data interchange because it has never been used. Instead, added references to electronic advertisement and submission of bids or proposals electronically to the rule regarding facsimile submissions.

Amending OAR 580-050-0001 through 580-050-0100, as described above and temporarily adopt the rules titled: Retainage; Negotiation When Offers Exceed Cost Estimate; Definitions; Bids or Proposals Are Offers; Facsimile and Electronic Offers; Offeror Submissions; Pre-Offer Conferences; Solicitation Protest, Request for Change, Request for Clarification; Addenda to a Solicitation Document; Pre-Closing Modification or Withdrawal of Offers; Receipt, Opening, and Recording of Offers; Late Offers, Late Withdrawals and Late Modifications; Time for Institution Acceptance; Extension of Time for Acceptance of Offer; Low Tie Offers; Rejection of an Offer; Rejection of All Offers; Protest of Contractor Selection, Contract Award; Disqualification of an Entity; Cancellation of Solicitation; Disposition of Offers if Solicitation Canceled; Foreign Contractor; Contract Suspension, Termination Procedures; Institution Payment for Unpaid Labor or Supplies.

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

Rules Coordinator: Marcia M. Stuart

Address: Oregon University System, PO Box 3175, Eugene, OR 97403-0175

Telephone: (541) 346-5795

**Oregon University System,
Oregon State University
Chapter 576**

Date:
11-10-04

Time:
2 p.m.

Location:
206 Memorial Union
Oregon State University
Corvallis, OR

Hearing Officer: Bonnie Dasenko

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 576-020-0010

Last Date for Comment: 11-11-04

Summary: The current rule lists status as a graduate teaching assistant or graduate research assistant as directory information. The proposed change would add as directory information the hours of service for a graduate teaching assistant or graduate research assistant.

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

Rules Coordinator: Bonnie Dasenko

Address: Oregon State System of Higher Education, Oregon State University, 600 Kerr Administration Building, Corvallis, OR 97331-2128

Telephone: (541) 737-2474

**Oregon Youth Authority
Chapter 416**

Stat. Auth.: ORS 420A.025

Stats. Implemented:

Proposed Repeals: 416-520

Last Date for Comment: 11-8-04

Summary: These rules will be repealed in their entirety. Relevant rule language has been moved to OAR Chapter 416, Division 530. Interested persons may request a copy of the current rule from Kimberly Walker, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

Rules Coordinator: Kimberly Walker

Address: Oregon Youth Authority, 530 Center St. NE, Suite 200, Salem, OR 97301-3765

Telephone: (503) 378-3864

Stat. Auth.: ORS 420A.025

Stats. Implemented:

Proposed Repeals: Rules in 416-510

Last Date for Comment: 11-8-04

Summary: These rules will be repealed in their entirety. Relevant rule language has been moved to OAR Chapter 416, Division 530. Interested persons may request a copy of the current rule from Kimberly Walker, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

Rules Coordinator: Kimberly Walker

Address: Oregon Youth Authority, 530 Center St. NE, Suite 200, Salem, OR 97301-3765

Telephone: (503) 378-3864

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Proposed Adoptions: 416-530-0130, 416-530-0140, 416-530-0150, 416-530-0160, 416-530-0170

Proposed Amendments: 416-530-0000, 416-530-0010, 416-530-0020, 416-530-0030, 416-530-0040, 416-530-0050, 416-530-0060,

NOTICES OF PROPOSED RULEMAKING

416-530-0070, 416-530-0080, 416-530-0090, 416-530-0100, 416-530-0110

Last Date for Comment: 11-8-04

Summary: Division 530 has been extensively revised as part of our administrative review process. OARs 416-530-0000 through 416-530-0120 have been amended and reordered to better define the foster home certification process. References to group homes, the Indian Child Welfare Act, and residential treatment programs have all been deleted. OAR 416-530-0130 through 416-530-0170 have been added to include language concerning certification standards for private youth care agencies' proctor homes. This language is from Division 510 that is concurrently scheduled for repeal. Interested persons may request a copy of the current rule from Kimberly Walker, OYA Rules/Policy Coordinator, 530 Center Street, Suite 200, Salem, OR 97301; 503-378-3864.

Rules Coordinator: Kimberly Walker

Address: Oregon Youth Authority, 530 Center St. NE, Suite 200, Salem, OR 97301-3765

Telephone: (503) 378-3864

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Physical Therapist Licensing Board
Chapter 848

Date:	Time:	Location:
10-22-04	12 p.m.	800 NE Oregon St. Rm. 120-C Portland, OR

Hearing Officer: James D. Heider

Stat. Auth.: ORS 183 & 688.160

Stats. Implemented: ORS 688.145, 688.160 & 183

Proposed Amendments: 848-001-0000, 848-001-0005

Proposed Renumberings: 848-010-0115 to 848-001-0010

Proposed Ren. & Amends: 848-010-0120 to 848-001-0020

Last Date for Comment: 10-22-04

Summary: • Moved and renumbered existing Rules 848-010-0115 and 848-010-0120 from Division 10 to Division 1, Procedural Rules where they are better classified and easier to find.

- Rule 848-001-0000, amended the wording to give the Board the ability to make temporary rules.

- Rule 848-001-0020, amended the wording to remove the requirement for the Board to allow a licensee to appear before the Board to present arguments to a Board proposed order, following a contested case hearing.

A full copy of Division 1 proposed rule text changes can be found on the Boards website at www.PTBoard.state.or.us, or may be requested from the Board's office by calling, (503) 731-4047 Ext. 220.

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

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (503) 731-4047, ext. 222

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Date:	Time:	Location:
10-22-04	12 p.m.	800 NE Oregon St. Rm. 120-C Portland, OR

Hearing Officer: James C. Heider

Stat. Auth.: ORS 688.210 & 182.466(4)

Stats. Implemented: ORS 688.160(5)(c), 182.466(4), 688.070 (1)&(2), 688.080, 688.100, 688.110 & 688.180(2)

Proposed Adoptions: 848-005-0030

Proposed Renumberings: 848-010-0105 to 848-005-0010

Proposed Ren. & Amends: 848-010-0110 to 848-005-0020

Last Date for Comment: 10-22-04

Summary: • The new Division 5 is designed to house all the Board rules pertaining to administrative processes and policies.

- Moved and renumbered existing Rules 848-010-0105 Board Budget, and 848-010-0110 Board Fees, from Division 10 to new Division 5 where they are better classified and easier to find.

- New Subsections, 005-0020(1)(a) and (2)(a), assesses the cost of an existing national background screening onto the applicant.

- New Subsections, 005-0020(3)(a) and (4)(a), assesses the cost of a newly required Board statewide law enforcement screening onto the licensee.

- Subsection, 005-0020(5), increase in renewal fee for practice without referral.

- New Subsection, 005-0020(6), adds a delinquent processing fee for renewal applications postmarked after March 15th.

- Subsection 005-0020(13)(a), reduced the fee for a licensee mailing list.

- New Subsection, 005-0020(14), requires refund of overpayments to the Board be requested in writing.

- New Rule 005-0030, requires licensee to maintain a current name, mailing address, home address, and place of employment and telephone numbers of record on file with the Board.

A full copy of Division 5 proposed rule text changes can be found on the Boards website at www.PTBoard.state.or.us, or may be requested from the Board's office by calling, (503) 731-4047 Ext. 220.

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

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (503) 731-4047, ext. 222

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Date:	Time:	Location:
10-22-04	12 p.m.	800 NE Oregon St. Rm. 120-C Portland, OR

Hearing Officer: James D. Heider

Stat. Auth.: ORS 688.160, 688.100 & 688.110

Stats. Implemented: ORS 688.020, 688.040, 688.050, 688.055, 688.070, 688.080, 688.090, 688.100 & 688.110

Proposed Adoptions: 848-010-0033, 848-010-0044

Proposed Amendments: 848-010-0010, 848-010-0015, 848-010-0020, 848-010-0026, 848-010-0035

Proposed Repeals: 848-010-0045, 848-010-0050, 848-010-0060, 848-010-0070, 848-010-0080, 848-010-0090, 848-010-0105, 848-010-0125

Proposed Renumberings: 848-010-0105 to 848-005-0010, 848-010-0115 to 848-001-0010

Proposed Ren. & Amends: 848-010-0110 to 848-005-0020, 848-010-0120 to 848-001-0020

Last Date for Comment: 10-22-04

Summary: • Division 10 was renamed, Licensing of Physical Therapists, Physical Therapist Assistants and Temporary Permit Holders.

- It was reorganized so it contains rules relative to licensing only.
- Moved from Division 10 to new, or existing divisions are the following Rules; 010-0045 Physical Therapist Assistants (now in Div. 15); 010-0050 Grounds for Refusal, Suspension, or Revocation of License or Permit (now in Div. 45); 010-0105 Board Budget; 010-0110 Board Fees (now in Div. 5); 010-0115 Time of Requesting a Contested Case Hearing; 010-0120 Filing Exceptions and Arguments to the Board (now in Div. 1).

- Added to Division 10 is a new rule 010-0044 Grounds for Refusal of a License.
- Section 010-0015(1), changed maximum number of times allowed to take the national exam.
- Subsections 010-0015(3)(a)(A) and (B), foreign educated physical therapist criteria have been updated.
- Subsection 010-0015(3)(a)(B)(ii), wording changed to allow the Board to approve an internship.

NOTICES OF PROPOSED RULEMAKING

- Rule 010-0026 has been completely rewritten to clarify the terms for applying for a temporary permit, the supervision of a temporary permit holder, and the revocation of a temporary permit.

- New Rule 010-0033, added to address Board policy and procedures for annual license renewal, changes the renewal filing due date from March 31st to March 15th.

- New Rule 010-0044, added to further clarify the Board's authority and the conditions in which the Board may refuse initial licensure to an applicant.

- Repealed as unnecessary 848-010-0060 through 848-010-0090 Board policy on selection of personal service contractors.

A full copy of Division 10 proposed rule text changes can be found on the Boards website at www.PTBoard.state.or.us, or may be requested from the Board's office by calling, (503) 731-4047 Ext. 220.

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

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (503) 731-4047, ext. 222

Date:	Time:	Location:
10-22-04	12 p.m.	800 NE Oregon St. Rm. 120-C Portland, OR

Hearing Officer: James D. Heider

Stat. Auth.: ORS 688.160 & 688.055

Stats. Implemented: ORS 688.020, 688.040, 688.055, 688.070, 688.080 & 688.090

Proposed Adoptions: 848-015-0010, 848-015-0020, 848-015-0030

Last Date for Comment: 10-22-04

Summary: • This is a new Division containing Board Rules relative to Physical Therapist Assistants. The content for Division 15 was transferred from Division 10.

- Although there has not been substantial content change, the entire Rule needed to be rewritten, focusing directly on the Physical Therapy Assistant, adding organization, clarity and definition to the rule.

- New Section 848-015-0010(2), adds definition to the term "supervising physical therapist."

A full copy of Division 15 proposed rule text changes can be found on the Boards website at www.PTBoard.state.or.us, or may be requested from the Board's office by calling, (503) 731-4047 Ext. 220.

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

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (503) 731-4047, ext. 222

Date:	Time:	Location:
10-22-04	12 p.m.	800 NE Oregon St. Rm. 120-C Portland, OR

Hearing Officer: James D. Heider

Stat. Auth.: ORS 688.160 & 688.210

Stats. Implemented: ORS 688.160 & 688.210

Proposed Amendments: 848-020-0000, 848-020-0010, 848-020-0030, 848-020-0040, 848-020-0050, 848-020-0060

Proposed Repeals: 848-020-0020

Last Date for Comment: 10-22-04

Summary: • Rule 020-0020 Practice Standards has been repealed as unneeded and confusing.

- Section 020-0000(1), added wording clarifying non-aide related tasks.

- Subsection 020-0000(5)(a), added wording to clarify supervision requirements and criteria for Aides, by PTs and PTAs.

- Section 020-0000(6), added definition of "Authentication."

- Section 020-0010(3), deleted requirement for an Aide to maintain a Healthcare Provider CPR certification.

- New Section 020-0030(3), wording has been added to distinguish the supervision of Aides performing treatment related tasks verses Aides performing non treatment related tasks.

- New Subsection 020-0040(1)(d), allows graduate from a CAPTE program to work as an Aide with minimal training.

- Sections 020-0060(2), (3), (5), (7), and (10) have been changed or rewritten to add clarity, definition and exception criteria to those practices an Aide is prohibited from performing.

A full copy of Division 20 proposed rule text changes can be found on the Boards website at www.PTBoard.state.or.us, or may be requested from the Board's office by calling, (503) 731-4047 Ext. 220.

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

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (503) 731-4047, ext. 222

Date:	Time:	Location:
10-22-04	12 p.m.	800 NE Oregon St. Rm. 120-C Portland, OR

Hearing Officer: James D. Heider

Stat. Auth.: ORS 688.160

Stats. Implemented: ORS 688.134, 688.132 & 688.210

Proposed Amendments: 848-030-0000, 848-030-0010

Last Date for Comment: 10-22-04

Summary: • No substantial changes to note. Housekeeping, grammatical and reference errors to correct and update.

A full copy of Division 30 proposed rule text changes can be found on the Boards website at www.PTBoard.state.or.us, or may be requested from the Board's office by calling, (503) 731-4047 Ext. 220.

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

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (503) 731-4047, ext. 222

Date:	Time:	Location:
10-22-04	12 p.m.	800 NE Oregon St. Rm. 120-C Portland, OR

Hearing Officer: James D. Heider

Stat. Auth.: ORS 688.160

Stats. Implemented: ORS 688.160, 688.010 & 688.210

Proposed Adoptions: 848-040-0100, 848-040-0105, 848-040-0110, 848-040-0115, 848-040-0120, 848-040-0125, 848-040-0130, 848-040-0135, 848-040-0140, 848-040-0145, 848-040-0150, 848-040-0155, 848-040-0160, 848-040-0165, 848-040-0170

Proposed Repeals: 848-040-0000, 848-040-0010, 848-040-0020, 848-040-0030, 848-040-0040, 848-040-0050

Last Date for Comment: 10-22-04

Summary: • The entire Rule was rewritten, adding organization, clarity and definition to the rule.

- New Section 040-0100(2), adds definition of "Authentication."

- New Section 040-0110(3), clarifies requirement that patient record shall be prepared on the date of service.

- New Section 040-0110(5), eliminates the use of initials and rubber stamp for authentication.

NOTICES OF PROPOSED RULEMAKING

- New Section 040-0110(6), adds rule defining criteria to use non-licensees and aides for preparation of treatment-related entries in a patient record.
- New Section 040-0110(7), defines requirement for accessibility of treatment related records to licensees providing subsequent treatment.
- New Section 040-0110(9), clarifies use of abbreviations.
- New Sections 040-0110(14)(15), clarifies record authentication requirements for temporary permit holders and supervisors.
- New Section 040-0110(16), defines Board rule on retention of patient records.
- New Subsections 040-0115(3)(a) through (e), clarifies parameters of a referral.
- New Section 040-0120(3), requires an oral referral be confirmed in writing by referring source.
- New Rule 040-0165, defines the standards for discharging a patient from therapy.

A full copy of Division 40 proposed rule text changes can be found on the Boards website at www.PTBoard.state.or.us, or may be requested from the Board's office by calling, (503) 731-4047 Ext. 220.

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

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (503) 731-4047, ext. 222

.....

Date:	Time:	Location:
10-22-04	12 p.m.	800 NE Oregon St. Rm. 120-C Portland, OR

Hearing Officer: James D. Heider

Stat. Auth.: ORS 688.140, 688.160 & 688.210

Stats. Implemented: ORS 688.140, 688.145, 688.220 & 688.235

Proposed Adoptions: 848-045-0010, 848-045-0020

Last Date for Comment: 10-22-04

Summary: • This topic was important enough to stand alone in its own division. The majority of the content for Division 45 was transferred from Division 10. Although there has not been substantial content change, the entire Rule needed to be rewritten, to add clarity and definition to the rules.

- Sections 045-0010(1)(2) and (3), have been redefined to clarify the Board's authority to sanction licensees.

- New Section 045-0010(5), added to allow the Board, in lieu of discipline, to divert a substance impaired licensee to treatment.

- New Section 045-0010(6), added to allow the Board to take action against a license holder who may no longer be able to practice safely because of mental, emotional or physical impairment.

- New Subsections 045-0020(k) and (l), rules added that further protect patient privacy and dignity with regard to unnecessary body exposure and personally intrusive conversation.

- Subsections 045-0020(2)(m) and (n), condensed from original rule to omit specific and explicit sexual wording. These subsections have been worded to encompass all previously listed offenses, defines the term "patient."

- New Subsections 045-0020(2)(p)(A), (B), (C) and (D), this entire subsection is new, adding authority to Board to take action against a licensee who, by definition, is exploiting a patient.

- Subsection 045-0020(2)(q), wording changed from "inaccurately" to "knowingly" makes...

- New Subsection 045-0020(2)(r)(D), wording added to clarify the use of the term "doctor" as associated with the PT designation.

- Subsection 045-0020(s), wording changed to include definition of responsible supervisor who aids, or permits unlicensed practice.

- New Subsections 045-0020(2)(t) and (u), adds wording that requires licensee who has practiced without a valid license to self

report to third party payors and show evidence of self reporting to the Board.

- New Subsections 045-0020(2)(v)(A) through (E) have been added to detail the definition of failure to cooperate with the Board.

- New Subsection 045-0020(2)(z), this is a new subsection allowing Board to discipline a licensee who fails to maintain current addresses and phone numbers on file with the Board.

A full copy of Division 45 proposed rule text changes can be found on the Boards website at www.PTBoard.state.or.us, or may be requested from the Board's office by calling, (503) 731-4047 Ext. 220.

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

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (503) 731-4047, ext. 222

.....

Date:	Time:	Location:
10-22-04	12 p.m.	800 NE Oregon St. Rm. 120-C Portland, OR

Hearing Officer: James D. Heider

Stat. Auth.: ORS 688.160 & 688.210

Stats. Implemented: ORS 688.140

Proposed Adoptions: 848-050-0100, 848-050-0110, 848-050-0120

Proposed Repeals: 848-050-0000, 848-050-0010, 848-050-0020, 848-050-0030

Last Date for Comment: 10-22-04

Summary: • Although there has not been substantial content change, the entire Rule has been rewritten and streamlined from its original version. The focus was on organization, clarity and definition.

A full copy of Division 50 proposed rule text changes can be found on the Boards website at www.PTBoard.state.or.us, or may be requested from the Board's office by calling, (503) 731-4047 Ext. 220.

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

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (503) 731-4047, ext. 222

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Public Utility Commission Chapter 860

Date:	Time:	Location:
10-26-04	9:30 a.m.	Public Utility Commission 550 Capitol St. NE Main Hearing Rm. (1st Fl.) Salem, OR

Hearing Officer: Kathryn Logan

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Proposed Amendments: 860-038-0005, 860-038-0500, 860-038-0520, 860-038-0560, 860-038-0580, 860-038-0600, 860-038-0620, 860-038-0640

Last Date for Comment: 10-29-04

Summary: The code of conduct rules (OAR 860-038-0500 through 860-038-0640) are summarized in OAR 860-038-0500, Code of Conduct Purpose:

The provisions of this section, addressing code of conduct, establish the safeguards to govern the interactions/transactions between electric companies and their affiliates engaged in competitive operations, both during the transition to and after the introduction of competition, to avoid potential market power abuses and cross-subsidization between regulated and unregulated activities. All transactions between utilities and their affiliates shall be at arm's

NOTICES OF PROPOSED RULEMAKING

length. These rules also address activities conducted within the electric company that are subject to competition and other electric company practices in the competitive market.

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

Rules Coordinator: Ruth Eyerly

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

Telephone: (503) 378-8287

Date:	Time:	Location:
10-22-04	9:30 a.m.	550 Capitol St. NE Public Utility Commission Main Hearing Rm. (1st Flr.) Salem, OR
11-17-04	9:30 a.m.	550 Capitol St. NE Public Utility Commission Main Hearing Rm. (1st Flr.) Salem, OR

Hearing Officer: Michael Grant

Stat. Auth.: ORS 183, 192, 756, 757, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 756.310, 756.320, 756.350, 756.500 - 756.575, 757.005, 757.007, 757.061, 757.205, 757.220, 757.230, 759.015, 759.030, 759.045, 759.135, 759.175, 759.190, 759.210, 759.220, 759.225, 759.425, 759.500 - 759.675 & Ch. 290, OL 1987.

Proposed Adoptions: 860-011-0011, 860-011-0012, 860-013-0036, 860-013-0037

Proposed Amendments: 860-011-0001, 860-011-0010, 860-011-0015, 860-011-0035, 860-011-0080, 860-013-0065, 860-013-0070, 860-013-0071, 860-013-0075, 860-014-0005, 860-014-0010, 860-014-0023, 860-014-0060, 860-014-0065, 860-014-0070, 860-014-0090, 860-014-0092, 860-021-0034, 860-021-0036, 860-021-0037, 860-022-0005, 860-022-0015, 860-022-0020, 860-022-0038, 860-032-0095, 860-032-0097, 860-032-0610, 860-033-0006, 860-034-0095, 860-034-0097, 860-034-0300, 860-034-0320, 860-034-0440, 860-034-0600, 860-036-0095, 860-036-0097, 860-036-0605, 860-036-0615, 860-036-0625, 860-036-0645, 860-037-0095, 860-037-0097, 860-037-0410, 860-037-0420, 860-037-0430, 860-037-0450

Proposed Repeals: 860-011-0020, 860-011-0023, 860-011-0024, 860-011-0025, 860-011-0030, 860-013-0040, 860-013-0060

Proposed Ren. & Amends: 860-011-0022 to 860-021-0033, 860-013-0021 to 860-012-0001

Last Date for Comment: 12-21-04

Summary: This rulemaking will allow the electronic filing and retrieval of most documents filed in Commission proceedings. The proposed rulemaking adopts new rules and makes numerous changes to existing procedural rules to require parties to supplement paper filings with exact electronic copies via e-mail or computer disk. These

electronic copies will be placed on the Commission's website and can be accessed via eDockets on the agency's Internet website.

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

Rules Coordinator: Ruth Eyerly

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

Telephone: (503) 378-8287

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: 47 USC 252

Proposed Adoptions: 860-016-0021

Proposed Amendments: 860-016-0020

Last Date for Comment: 10-21-04

Summary: Telecommunications carriers are unable to offer promotional discounts to competitive telecommunications providers in a manner consistent with filing requirements set forth in Section 252(e) of the Telecommunications Act of 1996. These requirements may place a telecommunications carrier in an untenable position and, ironically, may adversely affect the development of competitive markets - a key goal of the 1996 Telecommunications Act. This rulemaking will establish a process to allow carriers the ability to provide promotional discounts following an expedited review by the Commission.

Rules Coordinator: Ruth Eyerly

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

Telephone: (503) 378-8287

Secretary of State, Elections Division Chapter 165

Date:	Time:	Location:
10-20-04	9-9:30 a.m.	900 Capitol St. SE Rm. 257 Salem, OR 97301

Hearing Officer: Brenda Bayes

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 258.150

Proposed Adoptions: 165-007-0270

Last Date for Comment: 10-27-04

Summary: This proposed rule establishes a procedure for the conduct of administrative recounts of selected ballots following an election conducted in this state.

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

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

ADMINISTRATIVE RULES

Board of Medical Examiners Chapter 847

Adm. Order No.: BME 17-2004

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

Certified to be Effective: 9-9-04

Notice Publication Date: 8-1-04

Rules Amended: 847-005-0005

Subject: The adopted rules adjust selected fees for initial applications, licensee registrations, and limited licenses, effective September 10, 2004 through September 9, 2006.

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

847-005-0005

Fees

(1) The fees for the following license applications, licensee registrations and limited licenses will be effective September 10, 2004 through September 9, 2006 upon adoption:

(a) Doctor of Medicine/Doctor of Osteopathy (MD/DO) Initial License Application — \$350

(b) MD/DO Registration: Active (in-state), Inactive (out-of-state), and Locum Tenens — \$210/year.**

(c) Limited License, Institutional Practice, Public Health, SPEX, Visiting,

Professor, Fellow, Medical Faculty, Postgraduate, Special — \$175.

(d) Acupuncture Initial License Application — \$230.

(e) Acupuncture Registration: Active (in-state), Inactive (out-of-state), and

Locum Tenens — \$135/year.**

(f) Acupuncture Limited License, Special, Visiting Professor, Postgraduate — \$70

(g) Physician Assistant Initial License Application — \$230.

(h) Physician Assistant Registration: Active (in-state), Inactive (out-of-state), and Locum Tenens — \$160/year.**

(i) Physician Assistant Limited License, Special, Postgraduate — \$70

(j) Podiatrist Initial Application — \$320.

(k) Podiatrist Registration: Active (in-state), Inactive (out-of-state), and Locum Tenens — \$210/year.**

(l) Podiatrist Limited License, Special, Postgraduate — \$175.

(2) Effective September 10, 2006 the fees in section (1) to revert to the original fees as shown below:

(a) Doctor of Medicine/Doctor of Osteopathy (MD/DO) Initial License Application — \$375.

(b) MD/DO Registration: Active (in-state), Inactive (out-of-state), and Locum Tenens — \$219/year.**

(c) MD/DO Emeritus Registration — \$50/year.

(d) Limited License, Institutional Practice, Public Health, SPEX, Visiting Professor, Fellow, Medical Faculty, Postgraduate, Special — \$185.

(e) Acupuncture Initial License Application — \$245.

(f) Acupuncture Registration: Active (in-state), Inactive (out-of-state), and Locum Tenens — \$140/year.**

(g) Acupuncture Limited License, Special, Visiting Professor, Postgraduate — \$75.

(h) Physician Assistant Initial License Application — \$245.

(i) Physician Assistant Registration: Active (in-state), Inactive (out-of-state), and Locum Tenens — \$165/year.**

(j) Physician Assistant Limited License, Special, Postgraduate — \$75.

(k) Podiatrist Initial Application — \$340.

(l) Podiatrist Registration: Active (in-state), Inactive (out-of-state), and Locum Tenens — \$219/year.**

(m) Podiatrist Emeritus Registration — \$50/year.

(n) Podiatrist Limited License, Special, Postgraduate — \$185.

(o) Miscellaneous: All Fines and Late Fees:

(A) MD/DO Registration Renewal Late Fee — \$150.

(B) Acupuncture Registration Renewal Late Fee — \$75.

(C) Physician Assistant Registration Renewal Late Fee — \$75.

(D) Podiatrist Registration Renewal Late Fee — \$150.

(p) Dispensing MD/DO/DPM Failure to Register — \$150.

(q) Certification of Grades and Licensure Standing — \$50.

(r) Oral Specialty or Competency Examination (\$1,000 deposit required) Actual costs.

(s) Affidavit Processing Fee for Reactivation — \$50.

(t) Reissue Certificate of Registration — \$10.

(u) Duplicate License — \$25.

(v) Name Change for Licensee (includes new license and amended Certificate of Registration) — \$50.

(w) Name Change for Applicant with a Limited License (includes amended Certificate of Registration) — \$25.

(x) Duplicate of Wallet Size Card for License — \$10.

(y)(A) Verification of Licensure-Individual Requests (1-4 Licenses) — \$10 per license.

(B) Verification of Licensure-Multiple (5 or more) — \$7.50 per license.

(C) Malpractice Report — Individual Requests — \$10 per license/report.

(D) Malpractice Report — Multiple (monthly report) — \$15 per report.

(E) Disciplinary — Individual Requests — \$10 per license.

(F) Disciplinary Report — Multiple (quarterly report) — \$15 per report.

(z) Base Service Charge for Copying — \$5 + .20/page.

(aa) Record Search Fee (+ copy charges see section (z) of this rule):

(A) Clerical — \$20 per hour.*

(B) Administrative — \$30 per hour.*

(C) Executive — \$50 per hour.*

(D) Medical Consultant — \$75 per hour.*

(bb) Data Processing Labels:

(A) Oregon only — \$300.

(B) Complete (Oregon & out-of-state) — \$300.

(C) MD/DO Registration Renewal — \$150.

(cc) Data Processing Lists:

(A) Oregon only — \$150.

(B) Complete (Oregon & out-of-state) — \$150.

(C) MD/DO Registration Renewal — \$150/year.

(dd) Data Order:

(A) Standard Data License Order — \$300.

(B) Custom Data License Order — \$400.

(C) Address Label Disk — \$100.

(ee) Quarterly Lists:

(A) Active MD's/DO's, including MD's/DO's licensed at quarterly Board meeting — 75 Each.

(B) New Physician List (MD's/DO's Licensed at Quarterly Board Meeting) — \$10.

(C) Active DPM's, PA's and AC's Lists, including DPM's, PA's, and AC's licensed at quarterly Board meeting — \$10 per list.

(ff) Physician Handbook — \$15.

(3) All Board fees and fines are non-refundable, and non-transferable.

*Plus photocopying charge above, if applicable.

**Collected biennially except where noted in the Administrative Rules.

***All active registration fees include annual assessments of \$33.00 for the Diversion Program for Health Professionals and \$10.00 for the Oregon Health Sciences University Library, and are collected biennially.

† Effective the 2004-2005 biennial registration renewal period.

†† Effective February 1, 2004, delete \$50 physician assistant supervising physician change or practice change fee.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 7-1984, f. & ef. 1-26-84; ME 17-1984, f. & ef. 11-5-84; ME 6-1985, f. & ef. 7-30-85; ME 3-1986(Temp), f. & ef. 4-23-86; ME 4-1986, f. & ef. 4-23-86; ME 9-1986, f. & ef. 7-31-86; ME 2-1987, f. & ef. 1-10-87; ME 7-1987(Temp), f. & ef. 1-26-87; ME 9-1987, f. & ef. 4-28-87; ME 25-1987, f. & ef. 11-5-87; ME 9-1988, f. & cert. ef. 8-5-88; ME 14-1988, f. & cert. ef. 10-20-88; ME 1-1989, f. & cert. ef. 1-25-89; ME 5-1989 (Temp), f. & cert. ef. 2-16-89; ME 6-1989, f. & cert. ef. 4-27-89; ME 9-1989(Temp), f. & cert. ef. 8-1-89; ME 17-1989, f. & cert. ef. 10-20-89; ME 4-1990, f. & cert. ef. 4-25-90; ME 9-1990, f. & cert. ef. 8-2-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1991(Temp), f. & cert. ef. 10-21-91; ME 6-1992, f. & cert. ef. 5-26-92; ME 1-1993, f. & cert. ef. 1-29-93; ME 13-1993, f. & cert. ef. 11-1-93; ME 14-1993(Temp), f. & cert. ef. 11-1-93; ME 1-1994, f. & cert. ef. 1-24-94; ME 6-1995, f. & cert. ef. 7-28-95; ME 7-1996, f. & cert. ef. 10-29-96; ME 3-1997, f. & cert. ef. 11-3-97; BME 7-1998, f. & cert. ef. 7-22-98; BME 7-1999, f. & cert. ef. 4-22-99; BME 10-1999, f. 7-8-99, cert. ef. 8-3-99; BME 14-1999, f. & cert. ef. 10-28-99; BME 4-2000, f. & cert. ef. 2-22-00; BME 6-2001(Temp), f. & cert. ef. 7-18-01 thru 11-30-01; BME 10-2001, f. & cert. ef. 10-30-01; BME 8-2003, f. & cert. ef. 4-24-03; BME 16-2003, f. & cert. ef. 10-23-03; BME 17-2004, f. & cert. ef. 9-9-04

Board of Naturopathic Examiners Chapter 850

Adm. Order No.: BNE 7-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 9-10-04

Notice Publication Date: 7-1-04

Rules Adopted: 850-010-0175

ADMINISTRATIVE RULES

Subject: Assures that no more than three members have terms that expire in one year.

Rules Coordinator: Anne Walsh—(503) 731-4045

850-010-0175

Board Terms

The term for each member of the Board will be three years, with no more than three Board member terms expiring in the same year.

Stat. Auth.: 685.125

Stats. Implemented: 685.160

Hist.: BNE 7-2004, f. & cert. ef. 9-10-04

Board of Parole and Post-Prison Supervision Chapter 255

Adm. Order No.: PAR 9-2004(Temp)

Filed with Sec. of State: 9-3-2004

Certified to be Effective: 9-3-04 thru 3-1-05

Notice Publication Date:

Rules Amended: 255-080-0005, 255-080-0011

Subject: The amendment of these rules is necessary to bring the rules into conformity with the Oregon Court of Appeals consolidated decision in the above entitled cases.

Rules Coordinator: Michael R. Washington—(503) 945-8978

255-080-0005

Procedure for Administrative Review

(1) An inmate/offender may request an administrative review by sending **Exhibit O**, Administrative Review Request Form, to the Board concisely explaining how his or her case fits the criteria for review listed in rule 255-080-0010.

(2) An inmate/offender must request administrative review within forty-five (45) days after the mailing date on the Board's final action on the reviewed issue. The Board will reject a request for administrative review as untimely unless:

(a) It is physically received by the Board on or before the 45th day after the mailing date on the Board's final action on the reviewed issue; or

(b) It is delivered to the Board by mail in an envelope bearing a United States Postal Service (USPS) cancellation stamp dated on or before the 45th day after the mailing date on the Board's final action on the reviewed issue; or

(c) In the case of an inmate, and in the absence of a legible USPS cancellation stamp, the inmate signed and dated the request and deposited it in the institutional mailing system in compliance with all applicable Department of Corrections rules on or before the 45th day after the mailing date on the Board's final action on the reviewed issue.

(3) Regarding Orders of Supervision, an offender must request administrative review within forty-five (45) days after the date the offender signed the order or acknowledgement by the supervisory authority of the offender's receipt thereof. The Board will reject a request for administrative review of an order as untimely unless:

(a) It is physically received by the Board on or before the 45th day after the date the offender signed the order or acknowledgement by the supervisory authority of the offender's receipt thereof; or

(b) It is delivered to the Board by mail in an envelope bearing a United States Postal Service (USPS) cancellation stamp dated on or before the 45th day after the date the offender signed the order or acknowledgement by the supervisory authority of the offender's receipt thereof.

(4) If the Board or its designee determines that the request is consistent with the criteria as defined in rules 255-080-0010 and 255-080-0011, and meets the deadline requirements, the Board will resolve the matter using the procedures outlined in OAR 255-080-0012.

(5) When the Board or its designee denies review, the Board shall send the inmate/offender written notice of the specific reasons for denial.

(6) When review is denied, the prior decision is re-affirmed.

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

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: 2PB 1979, f. & ef. 2-1-79; 2PB 11-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 17-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 7-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 7-2000, f. & cert. ef. 6-9-00; PAR 8-2004, f. & cert. ef. 6-14-04; PAR 9-2004(Temp), f. & cert. ef. 9-3-04 thru 3-1-05

255-080-0011

Limitations on Requests for Administrative Review

All administrative review requests will be screened by a Board member or a Board designee who may deny further review of the following matters:

(1) Findings of aggravation when the Board has set the prison term within or below the matrix range;

(2) Findings of aggravation when the Board has not overridden a judicial minimum and the prison term has been set equal to the judicial minimum;

(3) Matters which have previously been appealed and decided on the merits by either the Board or the appellate court(s);

(4) Administrative review requests considered untimely pursuant to rule 255-080-0005;

(5) Subject matter of a hearing or review and/or Board order other than the Board order being appealed;

(6) Matters that will not change the parole release date or conditions or length of supervision;

(7) Board orders that are not final;

(8) Errors previously corrected;

(9) Order which sustains a minimum term and the inmate/offender does not contest the crime severity rating and history risk score;

(10) Order which denies, grants or grants in part an inmate/offender's request for a prison term reduction based upon outstanding reformation under ORS 144.122;

(11) Order which refers an inmate/offender for psychological evaluation;

(12) Order which postpones an inmate/offender's release date because of:

(a) A Board finding of dangerousness under ORS 144.125(3) and OAR 255-060-0012

(b) An inmate/offender's refusal to submit to a psychological evaluation;

(13) Order which postpones an inmate/offender's release date because of serious misconduct during confinement; or

(14) Order which denies an inmate/offender's request under ORS 144.228(1) for an early parole consideration hearing.

(15) Order which sets an initial release date under ORS 144.120, except if inmate/offender contests the crime severity rating, the history risk score or aggravating factors found by the Board under Board rules;

(16) Order which sets a date for a parole consideration hearing under ORS 144.228;

(17) Order which sets a release date or declines to set a release date after a parole consideration hearing under ORS 144.228.

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: PAR 2-1991, f. & cert. ef. 2-20-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 7-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 7-2000, f. & cert. ef. 6-9-00; PAR 9-2004(Temp), f. & cert. ef. 9-3-04 thru 3-1-05

Board of Psychologist Examiners Chapter 858

Adm. Order No.: BPE 2-2004

Filed with Sec. of State: 8-30-2004

Certified to be Effective: 8-30-04

Notice Publication Date: 8-1-04

Rules Adopted: 858-010-0002

Rules Amended: 858-010-0001, 858-010-0005, 858-010-0007, 858-010-0015, 858-010-0020, 858-010-0030, 858-010-0041, 858-010-0050, 858-010-0055, 858-010-0065, 858-010-0075, 858-020-0015, 858-020-0045, 858-020-0055, 858-020-0085, 858-030-0005, 858-040-0015, 858-040-0095, 858-050-0105, 858-050-0125

Subject: Further defines practice of psychology definitions by including supervision of testing technicians. Establishes guidelines for supervision of testing technicians, implementing SB155 (2003). Prepares for biennial licensure renewal beginning January 2006, as authorized by SB155 (2003). Implements Board authority to grant hardship exemptions with respect to fee renewal, delinquency fees, and continuing education requirements and deadlines. Allows the Board more flexibility in the content areas of oral exam Domain I (Psychological Principles and Techniques). Updates complaint reporting and investigative rules. Eliminates Oregon Code of Conduct for Psychologists and updates Code of Professional Conduct to

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adopt the American Psychological Association's (APA) "Ethical Principles of Psychologists and Code of Conduct" (2002), and the APA's "Standards for Educational and Psychological Tests" (1999). Implements professional mobility options authorized by SB154 (2003). Allows issuance of limited permits to practice to out-of-state applicants under certain conditions. Eliminates language allowing non-psychologist supervisors for psychologist associates. Various housekeeping changes.

Rules Coordinator: Martin Pittioni—(503) 378-4154, ext. 21

858-010-0001

Definitions

The practice of psychology is defined to include:

(1) Supervision: overseeing a professional's work on the diagnosis or treatment of mental disorders;

(2) Consultation: conferring or giving expert advice on the diagnosis or treatment of mental disorders;

(3) Evaluation: assessing mental disorders or mental functioning, including administering, scoring, and interpreting tests of mental abilities or personality;

(4) Therapy: remedial treatment of a mental disorder.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.110

Hist.: BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0002

Guidelines for Supervising Technicians

A licensee may delegate administration and scoring of tests to technicians as provided in ORS 675.010(4) and OAR 858-010-0001, if the licensee ensures the technicians are adequately trained to administer and score the specific test being used; and ensures that the technicians maintain standards for the testing environment and testing administration as set forth in the American Psychological Association Standards for Educational and Psychological Tests (1999) and Ethical Principles for Psychologists (2002).

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.010

Hist.: BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0005

Board Duties and Procedure

(1) Board Meetings. The State Board of Psychologist Examiners shall meet as necessary at a time and place specified by the Board and at such other times and places as specified by the Chair of the Board, a majority of members of the Board or by the Governor. The Associated Press and United Press International shall be notified of the time and place of all meetings.

(2) Internal Organization. At the last meeting in each fiscal year, the first order of business shall be organizational matters, including election of Board Chair and Vice-Chair and the assignment of standing responsibilities to Board members. The term of the Chair, Vice Chair or any standing assigned responsibility can be changed or terminated at any meeting where the proposal has been placed on the agenda and sent to the members one week in advance of the meeting, or by unanimous consent of the Board.

(3) Chair and Vice Chair Responsibilities:

(a) The Chair is authorized to take emergency action between Board meetings, subject to ratification by the Board. However, in the case of actions significant enough to normally require Board decisions, the Chair shall first attempt to get authorization for such decisions from the Board members through telephone communication. All emergency actions of any kind shall be noted in the agenda for the next meeting and shall become the first order of business at that next meeting;

(b) The Vice-Chair shall perform the duties of the Chair when the Chair is unable to do so.

(4) Board Communications. Only the Board Chair shall write other than routine or form letters in the name of the Board unless members are specifically authorized in a Board meeting to do so. The Board should approve in advance any correspondence which may materially affect Board policies and procedures. When a delay might render the Board's functioning ineffective, the Chair may be required to take immediate action which shall be reviewed at the next meeting of the Board.

(5) Board Files. All Board files shall be assembled in the Board's official office. The Board Administrator shall maintain the Board's files under the direction of the Chair. The Board Administrator shall maintain a master record of any files which are checked out of the Board office by Board members. The Board Administrator shall be notified whenever any Board file is transferred from the possession of one person to another, and shall so note in the Board's records. Individuals who have in their possession doc-

uments or files pertaining to Board affairs are responsible for their protection and privacy.

(6) Minutes and Agendas:

(a) The minutes of a meeting shall be distributed to all Board members at least one week in advance of the next meeting;

(b) The agenda shall be prepared by the Board Chair or Board Administrator and distributed to all Board members at least one week before each meeting. The agenda items shall include reports by the Board Administrator, the Chair and each Board member who has received a specific assignment at the previous meeting or has a report to make regarding standing assignments. If there is insufficient time to inform the Board Chair, the Board Administrator may make additional scheduling at the direct request of Board members. The Board may at its discretion, revise the agenda or limit it to a particular topic under special circumstances. Undiscussed reports may be added to the typed minutes of any meeting.

(7) The Attorney General's Model Rules of Procedure under the Administrative Procedure Act, printed and promulgated by the Attorney General, effective January 15, 2004, shall be the rules of procedure before the Board under ORS 183.310 to 183.500.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.110 & 675.130

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 8, f. 12-5-74, ef. 12-25-74; PE 12, f. & ef. 3-5-76; PE 13, f. & ef. 9-15-76; PE 1-1979, f. & ef. 9-5-79; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 1-1987(Temp), f. & ef. 3-6-87; PE 1-1988, f. & cert. ef. 7-25-88; PE 1-1991, f. & cert. ef. 4-3-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0007

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of a permanent rule, the Board of Psychologist Examiners shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360, at least twenty-one (21) days prior to the effective date;

(2) By mailing a copy of the notice to persons on the Board's mailing list established pursuant to ORS 183.335(6);

(3) By mailing a copy of the notice to the following persons, organizations, or publications;

(a) United Press International and Associated Press;

(b) All licensees of the Board;

(c) Oregon Psychological Association; and

(d) All applicants for licensure; and

(4) Prior to the adoption, amendment, or repeal of any rule of the Board relating to continuing education, the Board shall additionally mail a copy of the notice to the State Board of Higher Education.

Stat. Auth.: ORS 675.010 - ORS 675.150

Stats. Implemented: ORS 675.110

Hist.: PE 13, f. & ef. 9-15-76; PE 1-1990, f. & cert. ef. 2-16-90; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0015

Licensing Requirements — Doctoral Degrees

(1) To meet the education requirement of ORS 675.030(1), an applicant must possess either:

(a) A doctoral degree in psychology from a program accredited by the American Psychological Association as of the date the degree was awarded and a minimum of one credit graduate level course in ethics posted on a transcript; or

(b) A doctoral degree in psychology from a program at a college or university that is regionally accredited at the doctoral level by any one of the following regional accrediting associations: Northwest, North Central, Western, New England, Middle States or Southern.

(2) The program under sections (1)(a) or (b) must be defined as follows:

(a) Organizational Structure. The organizational structure of the graduate program must be defined as follows:

(A) The program must be identified and labeled as a program in psychology;

(B) The program must stand as a recognized entity within the institution;

(C) There must be an authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines;

(D) There must be a sequence of study planned by those responsible for the program to provide an appropriate, integrated experience covering the field;

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(E) There must be a faculty and a person administratively responsible for the program;

(F) There must be a body of students selected on the basis of high ability and appropriate educational preparation.

(b) Curriculum. The curriculum of the program must require applicant's successful completion of the following:

(A) 40 semester hours (60 quarter hours) of graduate courses identified by title and course content as psychology which may include clinical, counseling, industrial/ organizational and school psychology, excluding thesis and practica;

(B) An original dissertation which was psychological in nature;

(C) Three or more graduate semester hours (five or more graduate quarter hours) each in biological basis of behavior (including, but not limited to physiological psychology, comparative psychology, neuropsychology, psychopharmacology, sensation and perception, biological basis of development); cognitive-affective basis of behavior (including, but not limited to learning, thinking, motivation, emotion, cognitive development); social basis of behavior (including, but not limited to social psychology, organization theory, community psychology, social development); individual differences (including, but not limited to human development, personality theory, psychopathology);

(D) At least one graduate course each in research design and methodology; statistics and psychometrics; and scientific and professional ethics.

(E) A minimum of three academic years of full-time graduate study or their equivalent including at least one year which is in residence at the institution from which the degree is granted, or its equivalent. Residence requires interaction with psychology faculty and other matriculated psychology students; one year's residence or its equivalent are defined as follows:

(i) Thirty semester hours or 45 quarter hours; or

(ii) A minimum of 500 hours of student-faculty contact involving face-to-face individual or group educational meetings. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90 percent of the time, be documented by the applicant and the institution, and relate substantially to the program components specified.

(3) Supervised Employment. A minimum of one year of the required supervised experience must be post-doctoral.

(4) Licensing by Certificate of Professional Qualification (CPQ). Effective January 31, 2002, if an applicant holds a valid Certificate of Professional Qualification (CPQ) issued by the Association of State and Provincial Psychology Board (ASPPB), the Board shall issue a license if the applicant:

(a) Has a doctoral degree in psychology;

(b) Completes and submits the Board's brief application for licensure for CPQ holders;

(c) Requests ASPPB to send copies of the applicant's CPQ file directly to the Oregon Board;

(d) Successfully passes an Oregon oral examination; and

(e) Pays required fees.

(5) Licensing for those credentialed by the National Register. Effective January 1, 2004, if an applicant holds a valid credential as a Health Service Provider in Psychology (HSPP) by the National Register in Psychology, the Board may issue a license if the applicant:

(a) Has a doctoral degree in psychology;

(b) Completes and submits the Board's brief application for licensure for credentialed HSPP holders;

(c) Requests the National Register to send copies of the applicant's HSPP file directly to the Oregon Board;

(d) Successfully passes an Oregon oral examination; and

(e) Pays required fees.

(6) Licensing for Senior Psychologists. Effective January 1, 2004, the Board may issue a license if the applicant:

(a) Qualifies under the provisions of ORS675.050(1)(e)(A);

(b) Completes and submits the Board's brief application for licensure for Senior Psychologists;

(c) Requests the state(s) in which the applicant is licensed to send copies of the applicant's licensure file directly to the Oregon Board;

(d) Successfully passes an Oregon oral examination; and

(e) Pays required fees.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030(1)(b)(c)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 1-1989(Temp), f. & cert. ef. 2-24-89; PE 2-1989, f. & cert. ef. 5-24-89; PE 3-1989(Temp), f. & cert. ef. 9-7-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1993(Temp), f. & cert. ef. 2-12-93; PE 3-1993, f. & cert. ef. 4-13-93; PE 5-1993, f. & cert. ef. 10-6-93; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-

31-01 thru 2-27-02; BPE 1-2002(Temp), f. 1-28-02, cert. ef. 1-31-02 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0020

Process and Disposition of Application for License

(1) Following a decision as to disposition, Board staff shall send out letters notifying the applicant of the approval to proceed. If the application is found unacceptable, Board staff shall send the applicant a letter so stating and noting the deficiency.

(2) Waiver of Examination. In the event that a qualified applicant has already passed the written examination at the Board's requirement and has met the experience requirement, the applicant shall be informed of the steps to proceed to the oral examination.

(3) Investigatory Powers. The Board shall not be limited in its investigation of an applicant's qualifications for licensure to the information supplied in and pursuant to the licensure application form and may direct additional investigation with respect to an applicant's qualifications prior to deciding whether or not the applicant may proceed to take the written or oral examination.

(4) Record of Complaints. Board staff shall review the Board's records of complaints and insert any reference to an applicant in the applicant's file. Board staff shall also make inquiry, if appropriate, of other state, national or foreign certification or licensure boards for material relevant to each applicant.

Stat. Auth.: ORS 675.040, 675.045 & 675.050

Stats. Implementation: ORS 675.040(1)(2)(3), 675.045(1)(2)(a)(b) & 675.050(1)(a)(b)(2)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 2-1989, f. & cert. ef. 5-24-89; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0030

Procedures for Oral Examination

(1) Oral Examination for Licensure as a Psychologist. Standard Examination.

(a) Candidates who have successfully completed the written examination for licensure and two years of approved supervised work experience shall be eligible to sit for the oral examination. An application for licensure must be complete as defined in OAR 858-010-0010 at least 60 days prior to an oral examination to be considered eligible. Board staff shall have discretion in extending this deadline for up to 5 business days.

(b) The purpose of the oral examination is to determine the competency of each candidate in knowledge of psychological principles and techniques; applicable laws and regulations; and ethical principles.

(c) Special Accommodations. Notice for request for special accommodations for verified disability or for English as a second language must be made at the time of application for licensure. If a disability occurs subsequent to application, a request for accommodation must be made in writing within 120 days of the onset of the disability. The request must include:

(A) Verified Disability: Written verification of disability from a qualified care provider (i.e. a person certified or licensed by the state to provide such services) detailing:

(i) Nature, extent and duration of disability;

(ii) Recommendation(s) for accommodation.

(B) English as a Second Language: Written request for reasonable accommodation detailing:

(i) Level of proficiency in English including, but not limited to, number of years speaking and/or writing English; list of all written or oral examinations, academic coursework, and dissertation in English language;

(ii) History of special accommodations granted in similar testing circumstances, for example, interpreter or extra time granted in oral examination process in other licensing jurisdictions or degree granting institution;

(iii) Statement documenting extent that English will or will not be the language in which professional services are provided;

(iv) Other information to support request for special accommodation;

(v) Recommendation(s) for accommodation.

(2) Oral Examination for Licensure as a Psychologist. Special Examination. Except for an applicant who has failed the oral examination prior to September 1, 2004, persons who qualify under one of subsections (2)(a) through (e) may be licensed by the Board upon passing only the oral examination for Domains II and III described in subsection (6) of this section if the person:

(a) Possessed an Oregon Psychologist license that lapsed for nonpayment of fees or for failure to meet continuing education requirements by the deadline and who submits an application for licensure within 90 days after the license has lapsed; or

(b) Meets Oregon's licensing requirements as defined in OAR 858-010-0015(4) through (6) and has no disciplinary record; or

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(c) Has been licensed as a psychologist and has been engaged in active practice in a US state, Canadian province or US territory, or combination thereof for a period of at least five years with no disciplinary record; or

(d) Is a Diplomate of the American Board of Professional Psychology and is licensed in another state, Canadian province or US territory with no disciplinary record; or

(e) Has been inactive in Oregon under OAR 858-040-0085 for more than five years, and has satisfactorily completed the continuing education required rule and wishes to return to active status.

(f) For those applying under subsections (2)(a) through (e), failure to report to the Board, prior to sitting for the Special Examination, disciplinary actions imposed by other jurisdictions shall be grounds for disciplinary action including, but not limited to, revocation of a license to practice psychology in Oregon.

(3) Oral Examination Committees. The Board shall appoint oral examination committees for the purpose of conducting the examination. Each committee shall be comprised of two oral examiners. Each committee member shall be a psychologist who has been licensed and engaged in active practice for at least two years in Oregon and has not been sanctioned within three years. Oral examiners shall be given continuing education credit for their participation.

(4) Schedule of Oral Examinations. Oral examinations shall be given at least once a year. A candidate must request in writing to sit for an oral examination. The Board shall approve candidates to sit for the oral examination during its regularly scheduled meeting held prior to the month of the examination. The candidate must pay the oral examination fee at the time the examination is requested. The supervisor's final written evaluation of the supervision must accompany the written request. The evaluation must describe the candidate's areas of proficiency and skills the candidate possesses, and a summary of the candidate's training and experience which have led to competence areas. The evaluation must document the number of hours which the candidate has completed under the supervision of a psychologist. It is the candidate's responsibility to provide the Board a complete summary of all training experiences which are intended to fulfill the supervisory work requirement. When the Board has determined that the application is in order, the candidate shall be approved to sit for an oral examination. Once a candidate has been approved to sit for the examination, the fee is not refundable. At least thirty days prior to the oral examination date, written notification shall be given to candidates who have been approved to take the oral examination. Written notification shall include time, date, and location of the oral examination and a copy of Oregon law and administrative rules regarding psychologist and psychologist associate licensure. Appearances at the scheduled oral examination shall constitute a waiver of the prior written notice.

(5) Oral Examination Committee Procedures. Each oral examination committee shall score each candidate's performance on the oral examination and submit the committee's score to the Board. No later than at its next meeting, the Board shall review the scores and make a final decision whether the candidate has passed or failed the oral examination. Board staff shall notify each candidate in writing regarding the result of the oral examination in each subject area.

(6) Content of the Oral Examinations. The oral examination shall consist of three domains: Psychological Principles and Techniques, Professional Ethics, and Legal Mandates. The composition of the domains shall be as follows:

(a) Domain I. Psychological Principles and Techniques. This domain may include the following areas: Assessment; Diagnosis; Treatment Planning and Implementation; Knowledge of Personal and Professional Competencies and Limitations; Knowledge of Human Diversity; and Quality Assurance.

(b) Domain II. Legal Mandates. This domain shall be designed to measure the examinee's knowledge and application of federal, state and local laws and regulations related to the professional practice of psychology.

(c) Domain III. Professional Ethics. This domain shall be designed to measure the examinee's knowledge and application of the prescribed ethical principles of the profession.

(7) Oral Examination Scoring System. Examinees shall be given a rating of 0 to 4 by each examination committee for each question of an administered Domain: 0 Incompetent; 1 Highly ineffective; 2 Ineffective; 3 Effective; 4 Highly Effective. In order to pass each Domain, an examinee must receive a score of at least 9. A maximum score of 12 is possible.

(8) Administration of the Oral Examination.

(a) In advance of each oral examination, the Board, on its own motion or upon the recommendation of its delegates, shall determine the questions on which an applicant may be examined and shall agree upon the acceptable range of responses to each question and follow-up question.

(b) The Board or its delegates shall compile an orientation handbook which shall include a copy of the Board's oral examination rules and an explanation of Board requirements related to scheduling and the conduct of the examination. The handbook shall include the procedures for reconsideration and reexamination. The handbook shall be reviewed annually and may be revised, as deemed appropriate, and shall be provided to each applicant for examination at least thirty days prior to the examination.

(c) In addition to the examination committee, a Board member or Board staff may be present during an oral examination.

(9) Examination Decision. Reconsideration, Review and Reexamination.

(a) Reconsideration. Applicants shall be informed in writing of examination results for each domain. Within thirty days after notice of the examination decision, an applicant who fails the oral examination may petition the Board in writing for reconsideration of the results of the entire examination or the results with respect to a particular domain. The Board may conduct the oral examination review or delegate this responsibility to particular Board members. All exam review findings must be approved by the Board.

(b) Review. Any person desiring to inspect the electronic recording of his or her oral examination may, within a period of ninety days following the date of the examination and upon written request to the Board, obtain a copy of the record of the oral examination and inspect such examination materials at the Board's office in Salem during regular office hours. To maintain test security, the applicant shall sign a confidentiality agreement. No more than one inspection shall be allowed. At the time of inspection, no one other than the person inspecting his or her examination, the examinee's supervisor, and a representative of the Board may be present; nor may any notes be made at the time of inspection. Applicants inspecting their exam who do not have a current supervisor may substitute an Oregon licensed psychologist of their choosing who must have been licensed in Oregon for at least three years. Applicants must send a written notice of their choice to the Board's office, received no later than 3 business days prior to exam inspection.

(c) Reexamination. An applicant who fails to pass all required domains shall be reexamined only on those domains which were failed. If a candidate does not pass the second oral examination and wishes to take a third oral examination, the candidate shall be examined by the Full Board at the candidate's written request. The Board shall conduct Full Board Oral Examinations at regularly scheduled Board meetings. If a candidate fails to pass the Full Board Oral Examination, the candidate's application for licensure shall be denied. The Board's decision based on the Full Board Oral Examination shall be final.

(10) Disqualification. A candidate sitting for the oral examination may be disqualified during or after the examination for conduct which affects the integrity of the candidate's performance or the examination including, but not limited to, giving or receiving aid, directly or indirectly, during the examination process, recording the examination, or removing or attempting to remove any examination related information from the premises. Disqualification shall invalidate the examination, result in forfeiture of the examination fee and denial of the application.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 1-1981(Temp), f. & ef. 12-9-81; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 1-1985(Temp), f. & ef. 12-20-85; PE 1-1986, f. & ef. 7-1-86; PE 1-1988, f. & cert. ef. 7-25-88; PE 3-1988(Temp), f. & cert. ef. 11-30-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 3-1992(Temp), f. & cert. ef. 12-10-91; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2000(Temp), f. 3-8-00, cert. ef. 3-8-00 thru 9-4-00; BPE 3-2000, f. & cert. ef. 9-7-00; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2004(Temp), f. & cert. ef. 3-2-04 thru 8-29-04; BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0041

License Renewals

(1) Before the Board will issue a license or approve a request for inactive status, licensee must submit:

(a) A signed renewal application that includes licensee's current mailing address, phone number, and the license number issued by the Board of Psychologist Examiners;

(b) A request for approval of a change in license status, if requested;

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(c) A satisfactory continuing education report, if it is the licensee's reporting year; and

(d) Payment of the correct fee amount and any delinquent renewal fees.

(2) A renewal request and fee must be postmarked by December 31 of the year in which the licensure period ends. Burden of proof of mailing is on the licensee.

(3) A delinquent license renewal fee must be paid for licenses renewed after January 1 but before February 1 immediately following the due date defined in section (2). The Board shall have discretion to waive this fee for licensees on inactive status, or licensees with documented hardship cases.

(4) If license renewal fees are not paid within the time prescribed in this rule, the license shall lapse.

(5) To renew a license that has lapsed for nonpayment of the renewal fee, an individual must:

(a) Submit a completed application for reinstatement and pay the reinstatement fee, to be postmarked by the last day in the month of February immediately following the due date defined in section (2); and

(b) Attest that the individual has not engaged in the unlicensed practice of psychology.

(c) The Board shall have authority, at its discretion, to waive in whole or part the requirements of Section 5 in documented hardship cases.

(6) Failure to receive a courtesy license renewal reminder from the Board shall not relieve a licensee of renewal requirements and consequences.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.110

Hist.: BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0050

Inactive Status

Persons holding valid Oregon licenses who have made written request to the Board and have demonstrated to the Board's satisfaction that they are not and will not engage in active practice in Oregon may be granted inactive status. Violation of claimed inactive status shall be considered sufficient grounds for revocation of licensure by the Board:

(1) To reactivate a license from inactive status the licensee shall formally notify the Board of that intent in writing and, on a form provided by the Board, report the licensee's professional and continuing education activities since the inactive license was granted:

(a) If notification of intent to reactivate a licensee from inactive status occurs within five years of granting that status the Board may, at its discretion, reactivate the license status upon receipt of that notice of intent;

(b) If the Board concludes that since the granting of the status the inactive licensee has not engaged in professional and continuing education activities that would maintain a satisfactory level of current professional competence, or if notification of intent to reactivate the license with inactive status is not received within five years of the granting of that status, reactivation of the license from inactive status shall depend upon successfully passing an oral examination before the Board. The content of that examination shall be the same as described in OAR 858-010-0030(2);

(c) In the case of a licensee who does not successfully pass the oral examination, the Board can require the submission of a study plan designed to correct deficiencies in the licensee's oral examination performance and/or require that the licensee establish a Board approved supervised employment relationship as described in OAR 858-010-0036, the minimum and maximum duration of which may be specified by the Board. In no case shall an inactive licensee function in supervised employment relationships for more than one year;

(d) The Board may reactivate the license from inactive status upon receipt of documentation that the proposed study plan and/or period of supervised employment has been successfully completed and the deficiencies in preparation rectified, or at its discretion, may require the successful passing of an oral examination as described in OAR 858-010-0030(2).

(2) The requirements for psychologist associates shall be the same as for psychologists.

Stat. Auth.: ORS 675.110

Stats. Implemented: ORS 675.110

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 3-1980, f. & ef. 12-12-80; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 2-1988, f. & cert. ef. 10-7-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 3-1993, f. & cert. ef. 4-13-93; Renumbered to 858-040-0010; PE 1-1996, f. & cert. ef. 6-25-96; BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0055

Limited Permits

(1) The Board may grant a limited permit to practice psychology in the State of Oregon to individuals licensed in another jurisdiction. Such permits may be issued for a period not to exceed 120 calendar days, and expire no later than 6 months after the date the permit is granted. Individuals shall make written request to the Board, and:

(a) Submit an Application for a Limited Permit, and proof of licensure and good standing in other jurisdictions;

(b) Pay the limited permit fee set by the Board;

(c) Submit a notarized statement certifying that the applicant has read and understands Oregon laws relating to the practice of psychology; and avails himself/herself to the laws of Oregon.

(2) Limited Permit Types.

(a) Visitor's Permit. A visitor's permit may be issued to psychologists that do not intend to seek full licensure in Oregon, and are providing psychological services for a limited, time-specific period only. A statement of work must be submitted with the application with a complete description of the work to be performed, including location of the activity, the specific dates of the activity, and the names of the parties requesting the activity to the extent permissible under confidentiality laws.

(b) Temporary Permit. The Board may grant a temporary permit to an applicant for full licensure in Oregon who is already licensed in another state and meets the licensing requirements as defined in OAR 858-010-0015 (4) or (5) or (6). Applicants who are granted a temporary permit must take the first oral examination for which they would be eligible to sit. Failure to pass the oral examination shall result in cancellation of the temporary permit. The Board has discretion to extend the temporary permit cancellation date for an additional 30 days in order to allow the applicant time to transition clients to another provider. Applicants whose temporary permit is cancelled may submit a resident supervision contract for approval to continue providing services after the cancellation date.

Stat. Auth.: ORS 675.063

Stats. Implemented: ORS 675.063

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 2-1989, f. & cert. ef. 5-24-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-1999(Temp), f. & cert. ef. 3-2-99 thru 7-1-99; BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0065

Resignation of License Holder

(1)(a) A person holding a valid Oregon license to practice psychology may voluntarily resign the license by filing with the Board's Administrator a written resignation. The resignation shall be effective only upon subsequent acceptance by the Board.

(b) Submission of a voluntary resignation shall not affect investigations or disciplinary actions proceedings for professional misconduct pending against the individual.

(2) On acceptance of the resignation by the Board, the name of the resigning individual shall be stricken from the roll of licensed psychologists.

Stat. Auth.: ORS 675.070

Stats. Implemented: ORS 675.070(2)(d)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-1999(Temp), f. & cert. ef. 3-2-99 thru 7-1-99; BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2004, f. & cert. ef. 8-30-04

858-010-0075

Code of Professional Conduct

The Board adopts for the code of professional conduct of psychologists in Oregon the *American Psychological Association's "Ethical Principles of Psychologists and Code of Conduct"* effective June 1, 2002. The Board also adopts the *"Ethical Principles in the Conduct of Research with Human Participants,"* copyrighted in 1982 by the American Psychological Association, and the *American Psychological Association Standards for Educational and Psychological Tests (1999)*.

[Publications referenced are available at <http://www.apa.org/ethics/>.

The 1992 APA "Ethical Principles of Psychologists and Code of Conduct" is also available from the agency.]

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 4-1989(Temp), f. & cert. ef. 11-28-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 3-1992, f. & cert. ef. 7-14-92; PE 5-1993, f. & cert. ef. 10-5-93; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 3-2002(Temp), f. & cert. ef. 4-15-02 thru 10-12-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 2-2004, f. & cert. ef. 8-30-04

ADMINISTRATIVE RULES

858-020-0015

Management of Complaints

(1) The Board Chair may appoint a Consumer Protection Committee which shall provide direction and consultation to the Board's investigator assigned to investigate complaints under ORS 676.160 to 676.180.

(2) Any Board member who has a conflict of interest with respect to any complaint shall declare the conflict and shall not participate in the investigation, disposition, or any other activity concerning the complaint.

Stat. Auth.: ORS 675.020 & 675.110

Stats. Implemented: ORS 675.110(8)

Hist.: BPE 2-1999, f. & cert. ef. 7-16-99; BPE 2-2004, f. & cert. ef. 8-30-04

858-020-0045

Notice and Investigation Process

(1) **Notice to Respondent.** The Board's Administrator shall notify the respondent by letter when a complaint is filed in its office. The letter shall state that a complaint has been filed; that an investigator will proceed in an investigation; and any general information regarding the scope of the investigation as allowed by ORS 676.160 to 676.180. The Board Administrator may delegate this notification procedure to the Board's investigator.

(2) **Notice to Supervisors.** When a complaint is filed against a person acting under the supervision of a licensed psychologist, the supervisor shall be notified that any investigation with respect to the conduct of the supervisee also may affect the licensure of the supervisor.

(3) **Purpose of Investigation.** The purpose of the investigation shall be to determine whether sufficient credible evidence exists of violation of rules or laws administered by the Board to justify issuance of a Notice of Intent to Impose sanctions against a person licensed by the Board or such other action as the circumstances may warrant.

(4) **Duties of the Consumer Protection Committee.** The Consumer Protection Committee shall:

(a) Advise the person or persons assigned to each investigation;

(b) Review proposed investigation reports and decide when the reports should be presented to the Board for consideration.

(5) **Summary of Allegations.**

(a) Unless the report recommends dismissal of the complaint, the investigator shall notify the respondent of the specific allegations of the complaint by certified letter prior to submission of an investigation report to the Board for its consideration. The letter shall require a response from the respondent within 30 days from the date of mailing and provide warning that failure to respond may result in Board disposition of the complaint without the response.

(b) If the assigned investigator is not a Board Member, the Summary of Allegations shall be approved by the Consumer Protection Committee before being served upon the respondent.

Stat. Auth.: ORS 675.020 & 675.110

Stats. Implemented: ORS 675.110

Hist.: BPE 3-1999, f. & cert. ef. 7-6-99; BPE 2-2004, f. & cert. ef. 8-30-04

858-020-0055

Presentation to the Board

When the investigation is complete, the Board investigator will make the presentation to the Board, in accordance with the timeline and procedures outlined in ORS 183.310 to 183.500 and 676.160 to 676.180, and shall clearly set forth the issues on which the Board should consider possible action. The investigator shall seek guidance as appropriate and necessary from individual Board members, the full Board, agency counsel, and the Board's administrator as to the conduct of complex investigations. Should the Board decide to operate with a Consumer Protection Committee structure, that committee shall serve as the primary source of guidance for the investigator.

Stats. Auth.: ORS 675.110

Stats. Implemented: ORS 675.110

Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2004, f. & cert. ef. 8-30-04

858-020-0085

Board Records

If the Board determines to take disciplinary action in accordance with ORS 675.070 to restrict, suspend, or revoke a license, notice to this effect will be published in a Board publication. Final disciplinary actions will also be reported to the Association of State and Provincial Psychology Boards, and to any federal health regulatory entity entitled to disciplinary information by law. Thereafter, inquiries about the respondent's status shall be answered routinely by the Board's office in accordance with ORS 676.160 to 676.185.

Stat. Auth.: ORS 675.110

Stats. Implemented: ORS 675.110

Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2004, f. & cert. ef. 8-30-04

858-030-0005

Application, Examination and Licensing Fees

(1) Application and Examination Fees:

(a) The application fee for licensure as a psychologist or psychologist associate shall be \$300.

(b) The fee for each oral examination shall be \$150.

(2) Renewal Fees:

(a) The license renewal fee for a psychologist and psychologist associate shall be calculated on an annual base amount of \$255. Effective for the renewal periods beginning January 1, 2006, the Board will phase in implementation of 2-year licenses and corresponding 2-year renewal charge of \$510.

(b) The license renewal fee for persons granted inactive status shall be \$25; effective with renewal periods beginning January 1, 2006, the Board will phase in 2-year renewals reflecting two assessments of the annual fee amount.

(c) The Board shall impose a delinquent license fee of \$200 for licensures renewed after January 1 but before February 1 of the first calendar year in the renewal period. The Board shall have discretion to waive the delinquency fee in hardship cases.

(3) Limited Permit Fee. The fee for a limited permit to practice in the state shall be \$100.

(4) Miscellaneous Fees. Materials and services are available to the public and licensees through the Board and may be purchased in accordance with ORS 192.440(2). The Board shall charge reasonable and actual costs for the following activities:

(a) Verification of Licensure — \$5.00 each written request;

(b) Transfer of Application/Licensure Information — \$20;

(c) Deferment Requests — \$10;

(d) Duplicating requests, including copying and mailing — \$2.50 for the first five copies; \$.25 for each copy thereafter;

(e) Laws and Administrative Rules — \$5;

(f) Computer diskette of licensees — \$35;

(g) Application packet, including laws and administrative rules — \$10.00;

(h) Duplicate wall display certificate of licensure — \$12.00; and

(i) Cumulative disciplinary report — \$7.50.

Stat. Auth.: ORS 675.110 & 675.115

Stats. Implemented: ORS 675.110 & 675.115

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 7, f. 10-21-74, ef. 11-11-74; PE 9, f. 2-3-75, ef. 2-25-75; PE 1-1978, f. & ef. 9-5-78; PE 1-1979, f. & ef. 9-5-79; PE 2-1980, f. & ef. 9-23-80; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 1-1983, f. & ef. 11-1-83; PE 2-1989, f. & cert. ef. 5-24-89; PE 3-1992, f. & cert. ef. 7-14-92; PE 2-1993(Temp), f. & cert. ef. 3-18-93; PE 4-1993, f. & cert. ef. 7-19-93; Renumbered from 858-010-0060; PE 5-1993, f. & cert. ef. 10-6-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-1999(Temp), f. & cert. ef. 3-2-99 thru 7-1-99; BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2000, f. 9-7-00, cert. ef. 10-15-00; BPE 2-2001(Temp), f. 8-31-01, cert. ef. 10-12-01 thru 2-27-02; BPE 3-2001(Temp), f. & cert. ef. 10-12-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04

858-040-0015

Basic Requirements

(1) A licensee must earn at least 50 continuing education credits during two consecutive calendar years. Continuing education credit must be reported as follows:

(a) Licensees with even-numbered licenses must submit continuing education credit on or before December 31 of each even-numbered calendar year; and

(b) Licensees with odd-numbered licenses must submit continuing education credit on or before December 31 of each odd-numbered year.

(2) No continuing education report is required for licensees licensed less than one full calendar year on their first reporting year date. Licensees licensed less than two full calendar years on the reporting date must submit 25 hours of continuing education with a minimum of four hours in ethics.

(3) To be eligible for credit, hours must be completed during the two-year period immediately preceding the renewal date.

(4) All active licensees must complete a minimum of four hours of continuing education dedicated to the topic of the professional ethics of licensed psychologists in each reporting period.

(5) No continuing education report is required for licensees requesting approval of change from active to inactive status. A licensee seeking inactive status may file a continuing education report with the Board.

(6) The Board may grant exemptions in whole or part from continuing education requirements, including extension of deadlines, in documented hardship cases.

Stat. Auth.: ORS 675.110

Stats. Implemented: ORS 675.110(14)

Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04

ADMINISTRATIVE RULES

858-040-0095

Failure to Comply

(1) A CE report shall be deemed timely if it is postmarked by December 31 of the reporting year and if it is acceptable.

(2) A licensee whose CE report is untimely shall pay a delinquent fee of \$200.

(3) A licensee who submits an unacceptable CE report by December 31 shall have until January 31 of the year immediately following the reporting year to submit an acceptable report to avoid suspension or revocation of the license.

(4) CE reports must be postmarked by the date specified in this rule. Burden of proof of mailing is on licensee.

(5) To be licensed again, an individual whose license has been revoked for noncompliance of CE requirements must submit a standard application for licensure, pay the application fee, and meet all current licensure requirements.

Stat. Auth.: ORS 675.110

Stats. Implemented: ORS 675.110(14)

Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04

858-050-0105

Internship Requirements

Pursuant to ORS 675.065(4)(d) the applicant shall have completed a full-time internship of one year in a Board-approved training setting or one year of other supervised learning practicum deemed equivalent by the Board. The intern position and the internship setting must be oriented to application of psychological skills and knowledge. Every supervisor of an intern shall be a psychologist licensed in Oregon, or a psychologist licensed in another state with standards comparable to those in Oregon. While obtaining the requisite one-year supervised internship experience, the applicant shall be an employee or staff member of an institution or agency which provides day-to-day supervised experience in the intern's area(s) of specialization.

Stat. Auth.: ORS 675.065

Stats. Implemented: ORS 675.065(4)(d)

Hist.: PE 10, f. 4-10-75, ef. 5-11-75; PE 1-1991, f. & cert. ef. 4-3-91; Renumbered from 858-010-0105; PE 1-1996, f. & cert. ef. 6-25-96; BPE 2-2004, f. & cert. ef. 8-30-04

858-050-0125

Procedures for Oral Examination

(1) Oral Examination for Licensure as a Psychologist Associate (Masters Level).

(a) Candidates who have successfully complete the written examination and the requisite 36 months of fulltime supervised experience for licensure shall be eligible to sit for the oral examination. An application for licensure must be complete as defined in OAR 858-010-0010(1) at least 60 days prior to an oral examination to be considered eligible. Board staff shall have discretion in extending this deadline for up to 5 business days.

(b) The purpose of the oral examination is to determine the competency of each candidate in knowledge of psychological principles and techniques, applicable laws and regulations, and ethical principles.

(c) Special Accommodations. Notice for request for special accommodations for verified disability or for English as a second language must be made at the time of application for licensure. If a disability occurs subsequent to application, a request for accommodation must be made in writing within 120 days of the onset of the disability. The request must include:

(A) Verified Disability: Written verification of disability from a qualified care provider (i.e. a person certified or licensed by the state to provide such services) detailing:

(i) Nature, extent and duration of disability;

(ii) Recommendation(s) for accommodation.

(B) English as a Second Language: Written request for reasonable accommodation detailing:

(i) Level of proficiency in English including, but not limited to, number of years speaking and/or writing English; list of all written or oral examinations, academic coursework, and dissertation in English language;

(ii) History of special accommodations granted in similar testing circumstances, for example, interpreter or extra time granted in oral examination process in other licensing jurisdictions or degree granting institution;

(iii) Statement documenting extent that English will or will not be the language in which professional services are provided;

(iv) Other information to support request for special accommodation;

(v) Recommendation(s) for accommodation.

(2) Oral Examination Committees. The Board shall appoint oral examination committees for the purpose of conducting the examination. Each committee shall be comprised of two oral examiners. Each committee

member shall be a psychologist who has been licensed and engaged in active practice for at least two years in Oregon and has not been sanctioned within three years. Oral examiners shall be given continuing education credit for their participation.

(3) Schedule of Oral Examinations. Oral examinations shall be given at least once a year. A candidate must request in writing to sit for an oral examination. The Board shall approve candidates to sit for the oral examination during its regularly scheduled meeting held prior to the month of the examination. The supervisor's final written evaluation of the supervision must accompany the written request. The evaluation must describe the candidate's areas of proficiency and skills the candidate possesses, and a summary of the candidate's training and experience which have led to competence areas. The evaluation must document the number of hours which the candidate has completed under the supervision of a psychologist. It is the candidate's responsibility to provide the Board a complete summary of all training experiences which are intended to fulfill the supervisory work requirement. When the Board has determined that the application is in order, the candidate shall be approved to sit for an oral examination. Once a candidate has been approved to sit for the examination, the fee is not refundable. At least thirty days prior to the oral examination date, written notification shall be given to candidates who have been approved to take the oral examination. Written notification shall include time, date, and location of the oral examination and a copy of Oregon law and administrative rules regarding psychologist and psychologist associate licensure. Appearances at the scheduled oral examination shall constitute a waiver of the prior written notice.

(4) Oral Examination Committee Procedures. Each oral examination committee shall score each candidate's performance on the oral examination and submit the committee's score to the Board. No later than at its next meeting, the Board shall review the scores and make a final decision whether the candidate has passed or failed the oral examination. Board staff shall notify each candidate in writing regarding the result of the oral examination in each subject area.

(5) Content of the Oral Examinations. The oral examination shall consist of three domains: Psychological Principles and Techniques, Professional Ethics, and Legal Mandates. The composition of the domains shall be as follows:

(a) Domain I. Psychological Principles and Techniques. This domain may include the following areas:

Assessment; Diagnosis; Treatment Planning and Implementation; Knowledge of Personal and Professional Competencies and Limitations; Knowledge of Human Diversity; Quality Assurance.

(b) Domain II. Legal Mandates. This domain shall be designed to measure the examinee's knowledge and application of federal, state and local laws and regulations related to the professional practice of psychology.

(c) Domain III. Professional Ethics. This domain shall be designed to measure the examinee's knowledge and application of the prescribed ethical principles of the profession.

(6) Oral Examination Scoring System. Examinees shall be given a rating of 0 to 4 by each examination committee for each question of an administered Domain: 0 Incompetent; 1 Highly ineffective; 2 Ineffective; 3 Effective; 4 Highly Effective. In order to pass each Domain, an examinee must receive a score of at least 9. A maximum score of 12 is possible.

(7) Administration of the Oral Examination.

(a) In advance of each oral examination, the Board, on its own motion or upon the recommendation of its delegates, shall determine the questions on which an applicant may be examined and shall agree upon the acceptable range of responses to each question and follow-up question.

(b) The Board or its delegates shall compile an orientation handbook which shall include a copy of the Board's oral examination rules and an explanation of board requirements related to scheduling and the conduct of the examination. The handbook shall include the procedures for reconsideration and reexamination. The handbook shall be reviewed annually and may be revised, as deemed appropriate, and shall be provided to each applicant for examination at least thirty days prior to the examination.

(c) In addition to the examination committee, a Board member or Board staff may be present during an oral examination.

(8) Examination Decision. Reconsideration, Review and Reexamination.

(a) Reconsideration. Applicants shall be informed in writing of examination results for each domain. Within thirty days after notice of the examination decision, an applicant who fails the oral examination may petition the Board in writing for reconsideration of the results of the entire examination or the results with respect to a particular domain. The Board may

ADMINISTRATIVE RULES

conduct the oral examination review or delegate this responsibility to particular Board members. All examination review findings must be approved by the Board.

(b) Review. Any person desiring to inspect the electronic recording of his or her oral examination may, within a period of ninety days following the date of the examination and upon written request to the Board, obtain a copy of the record of the oral examination and inspect such examination materials at the Board's office in Salem during regular office hours. To maintain test security, the applicant shall sign a confidentiality agreement. No more than one inspection shall be allowed. At the time of inspection, no one other than the person inspecting his or her examination and a representative of the Board may be present; nor may any notes be made at the time of inspection.

(c) Reexamination. An applicant who fails to pass all required domains must be reexamined only on those domains which were failed. If a candidate does not pass the second oral examination, the candidate shall be examined by the Full Board at the candidate's written request. The Board shall conduct Full Board Oral Examinations at regularly scheduled Board meetings. If a candidate fails to pass the Full Board Oral Examination, the candidate's application for licensure shall be denied. The Board's decision based on the Full Board Oral Examination is final.

(9) Disqualification. A candidate sitting for the oral examination may be disqualified during or after the examination for conduct which affects the integrity of the candidate's performance or the examination including, but not limited to, giving or receiving aid, directly or indirectly, during the examination process, recording the examination, or removing or attempting to remove any examination related information from the premises. Disqualification will invalidate the examination, result in forfeiture of the examination fee and denial of the application.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Hist.: PE 10, f. 4-10-75, ef. 5-11-75; PE 1-1979, f. & ef. 9-5-79; PE 1-1981(Temp), f. & ef. 12-9-81; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 2-1990(Temp), f. & cert. ef. 10-11-90; PE 1-1991, f. & cert. ef. 4-3-91; Renumbered from 858-010-0125 & 858-010-0130; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2000(Temp), f. 3-8-00, cert. ef. 3-8-00 thru 9-4-00; BPE 3-2000, f. & cert. ef. 9-7-00; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2004(Temp), f. & cert. ef. 3-2-04 thru 8-29-04; BPE 2-2004, f. & cert. ef. 8-30-04

Construction Contractors Board Chapter 812

Adm. Order No.: CCB 7-2004

Filed with Sec. of State: 8-26-2004

Certified to be Effective: 9-1-04

Notice Publication Date: 8-1-04

Rules Amended: 812-001-0015, 812-001-0020, 812-006-0050

Rules Repealed: 812-001-0020(T)

Subject: • OAR 812-001-0015 is amended to include the category "Licensed Developer" to the list of categories of license.

• OAR 812-001-0020(1) is amended to remove the automated 24-hour inquiry line phone number from the form, as the phone number is no longer in service. OAR 812-001-0020(2) is amended to correct the phone number to obtain information regarding federal employer identification (EIN) numbers.

• OAR 812-006-0050 is amended to replace the name "Training Board" with "Training and Education Committee" and to eliminate the specific time set for each subject area of the 16-hour education course since the implementation of the test, the specified times are no longer necessary.

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

812-001-0015

Information Requests

(1) The agency will provide the following information in response to telephone and web site requests for license information relating to a specific entity:

- (a) Whether or not the entity is or has ever been licensed.
- (b) The license number(s).
- (c) The business names used by the entity of record with the agency.
- (d) Type of business organization (sole proprietorship, partnership, limited liability partnership, limited liability company, or corporation).
- (e) Personal names of owners, partners, members or corporate officers.
- (f) Last known address.

(g) Category of license (General Contractor — All-Structures, Specialty Contractor--All-Structures, General Contractor — Residential-Only, Specialty Contractor — Residential-Only, Limited Contractor, Inspector, and Licensed Developer).

(h) Employer status (exempt or nonexempt).

(i) Expiration date or date upon which the license became inactive or lapsed and the reason it became inactive or lapsed.

(j) The date the entity first became licensed.

(k) The number and type of inquiries and pending claims and claims closed during the past three years where the agency issued Final Orders requiring the contractor to pay the claimant.

(2) If more information is required than that listed in section (1) of this rule, the request for information should be made in writing.

(3) The agency shall provide certification of license or non-license relating to a specific entity upon written request and payment of required fee. This certification will include the following information:

(a) License number(s).

(b) Name of licensed entity and any assumed business names on file with the agency.

(c) Type of business (sole proprietorship, partnership, limited liability partnership, limited liability company, or corporation).

(d) Category of license (General Contractor — All-Structures, Specialty Contractor — All-Structures, General Contractor — Residential-Only, Specialty Contractor — Residential-Only, Limited Contractor, Inspector, and Licensed Developer).

(e) Employer status (exempt or nonexempt).

(f) Personal names of owner, partners, members, or corporate officers.

(g) The important dates in the license history and the action that took place on those dates.

(4) In response to telephone requests from consumers for claims information relating to a specific licensee, the agency will provide by mail a brief explanation of the claims process and the following information for each claim filed in the previous seven years:

(a) Type of each claim.

(b) Date on which the claim was filed.

(c) The status of the claim filed.

(d) Alleged amount of the claim, if known, or amount awarded.

(5) If more information is required than that listed in section (4) of this rule, the request for information should be specified in writing.

(6) The agency may make the following charges for records:

(a) \$20 for each certification that an entity has or has not been licensed with the Construction Contractors Board.

(b) \$20 for certified copies of documents.

(c) \$5 for the first 20 copies made and 25 cents per page thereafter.

(d) \$20 for duplicate tape recordings of, Board meetings and Appeal Committee meetings.

(e) \$20 for duplicate tape recordings of a three hour agency hearing or arbitration and \$10 for duplicate tape recordings of each additional 90 minutes or fraction thereof of the hearing or arbitration.

(f) Charge as determined by preparation time and production cost for mailing labels of licensees.

(g) \$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.

(7) Refunds:

(a) The agency shall not refund fees or civil penalties overpaid by an amount of \$20 or less unless requested by the payer in writing within three years after the date payment is received by the agency, as provided by ORS 293.445.

(b) Except as set forth in subsection (c) and (d) of this section, licensing fees are non-refundable and nontransferable.

(c) When an applicant withdraws their application for a new license prior to issuance or fails to complete the licensing process, the agency may refund the licensing fee, but will retain a processing fee of \$40. When an applicant withdraws their application for renewal prior to issuance or fails to complete a renewal, the agency may refund the licensing fee, but will retain a processing fee of \$40.

(d) If a licensee paid for a four-year license at their own discretion as authorized by ORS 701.115(1) and voluntarily terminates their license within the first two-year license period, the agency may refund the unused two-year renewal fee only if the following conditions are met:

(A) The licensee will submit a written request for a voluntary termination of the license and a refund of the unused two-year fee;

(B) The licensee will return the original license card(s) to the agency; and

ADMINISTRATIVE RULES

(C) The agency will retain a \$40 processing fee.

(e) If the agency receives payment of any fees or penalty by check and the check is returned to the agency as an NSF check, the payer of the fees will be assessed an NSF charge of \$25 in addition to the required payment of the fees or penalty.

Stat. Auth.: ORS 293.445

Stats. Implemented: ORS 183.310, 183.500, 192.430, 701.235, 701.250, 701.252

Hist.: 1BB 1-1983, f. & ef. 3-1-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 3-1985, f. & ef. 4-25-85; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; BB 2-1989, f. 6-29-89, cert. ef. 7-1-89; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 1-1995, f. & cert. ef. 2-2-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 1-1996, f. 4-26-96, cert. ef. 5-1-96; CCB 1-1997, f. & cert. ef. 5-15-97; CCB 4-1998, f. & cert. ef. 4-30-98; Administrative correction 7-28-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 14-2000, f. & cert. ef. 12-4-00; 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 2-2004, f. 2-27-04, cert. ef. 3-1-04; CCB 7-2004, f. 8-26-04, cert. ef. 9-1-04

812-001-0020

Information Notice to Owners

(1) The Construction Contractors Board adopts the form entitled "Information Notice to Owner," as revised June 1, 2004. This form may be obtained from the agency. Previously adopted versions of the Information Notice may also be used.

(2) The Construction Contractors Board adopts the form "Information Notice to Property Owners About Construction Responsibilities" as revised June 1, 2004.

(3) The Construction Contractors Board adopts the form "Notice of Compliance with Homebuyer Protection Act (HPA) as revised December 16, 2003.

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

Stat. Auth.: ORS 87.093, 670.310, 701.055 & 701.235

Stats. Implemented: ORS 87.093, 701.055 & 701.235

Hist.: 1BB 4-1981, f. 11-24-81, ef. 1-1-82; 1BB 3-1982, f. 6-4-82, ef. 1-1-83; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0076; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; BB 2-1987, f. & ef. 7-2-87; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 6-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-17-00; CCB 9-2000, f. & cert. ef. 9-24-00; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 11-2002, f. 12-20-02, cert. ef. 12-23-02; CCB 3-2003(Temp), f. & cert. ef. 3-11-03 thru 9-6-03; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 12-2003(Temp), f. & cert. ef. 12-9-03 thru 6-6-04; CCB 13-2003(Temp), f. 12-19-03, cert. ef. 1-1-04 thru 6-14-04; CCB 2-2004, f. 2-27-04, cert. ef. 3-1-04; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 5-2004(Temp), f. & cert. ef. 6-1-04 thru 11-28-04; CCB 7-2004, f. 8-26-04, cert. ef. 9-1-04

812-006-0050

Education Subjects

(1) The agency may evaluate and approve courses based on written evaluation criteria approved by the Training and Education Committee and made available to providers. The agency may revoke a provider's right to offer classes if a provider's courses do not meet the approved criteria.

(2) The 16 hours of education shall consist of the following topics:

(a) Construction Contractors Board: role and authority, licensing requirements, application procedures, major divisions and functions; dispute resolution processes; business entities; mandatory consumer notices; rights and responsibilities of consumers and contractors; address change notification; enforcement program, and statutes and rules that govern contractors;

(b) Employer requirements and employee's rights: state agencies that regulate workplace issues; information and resources on employer requirements, employee's rights, workers' compensation insurance, and required workplace postings; civil rights; Title VII, child labor, and important state and federal wage and hour laws; current minimum wage rate requirements; prevailing wage rate law; employees and independent contractors;

(c) Taxes, record keeping and business practices: required employment forms; identification numbers; cost of employees; importance of good record keeping; ways to organize records; required tax forms and reporting times; professional help; profit and cash flow; requirements for business licenses;

(d) Building codes: applicable codes; building codes books; code revisions; specialty licenses and inspections; required and exempt permit work; permit applications permit violation penalties; required inspections; inspection procedures; final inspections and occupancy permits; red tag/stop work orders;

(e) Oregon Occupational Safety and Health Division: OR-OSHA regulations, job site inspections and resources; equipment basics and maintenance; job site record keeping; general safety practices, responsibilities and relationships among contractors and subcontractors on a job site;

(f) Sound environmental practices and laws: environmental friendly materials; good recycling, reduction and reuse methods; hazardous waste and special waste found in new and old construction; laws and regulations

governing environmental hazards, proper handling and disposal methods of environmental hazards and job site debris; governmental agencies that regulate environmental conditions at a job site; environmental violation penalties; site preparation including construction activities that impact rivers; recycling methods; soil erosion; wetlands, water quality, sewage and underground storage/heating oil tanks;

(g) Contract law: clear and concise contracts; four elements of contract law; three elements of a construction contract; breach of contract; minor and major breach of contract; written and verbal contracts and change orders; contractor responsibilities for work of self and others; partnering, negotiation, mediation, arbitration and litigation; Buyer's Right to Cancel;

(h) Oregon construction lien law: purpose; required notices; lien law procedures; steps and timelines to perfect a lien and foreclose; important lien law differences of other states; and

(i) Project management, estimating and scheduling: importance of project management and consequences for failing to do so; simple written budgets that include cost, overhead and profit; simple project schedules and consequences of improper job scheduling.

Stat. Auth.: ORS 670.310, 701.235

Stats. Implemented: ORS 701.280

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 1-1993, f. & cert. ef. 2-1-93; CCB 4-1993, f. 8-17-93, cert. ef. 8-18-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 2-1995, f. 6-6-95, cert. ef. 6-15-95; CCB 3-1997, f. & cert. ef. 10-3-97; CCB 3-1998, f. & cert. ef. 2-26-98; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2004, f. 8-26-04, cert. ef. 9-1-04

Department of Agriculture Chapter 603

Adm. Order No.: DOA 23-2004(Temp)

Filed with Sec. of State: 9-3-2004

Certified to be Effective: 9-3-04 thru 2-21-05

Notice Publication Date:

Rules Adopted: 603-052-1239

Subject: This temporary rule creates a voluntary *Phytophthora ramorum* certification program for holiday greens. Manufacturers of wreaths, garlands, etc. may choose to participate in the program. Participants must sign a compliance agreement stipulating they will maintain certain records for at least 12 months, not purchase boughs from quarantined areas, and either purchase boughs from blocks that have been sampled and tested for *P. ramorum* or have boughs sampled and tested weekly at the manufacturing facility. Forty samples per block, are required. Testing must be done at an official laboratory. ODA will charge \$10 per sample for testing done by the Department Plant Health Laboratory.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-1239

Phytophthora ramorum Certification of Holiday Greens

(1) A certification program is established as authorized under ORS 632.940 to facilitate marketing of Oregon holiday greens. This program is available to manufacturers of holiday greens on a voluntary basis. Manufacturers desiring official certification for some or all of their products must follow these rules in order to receive shipping labels indicating that qualifying products comply with Oregon's *Phytophthora ramorum* certification program. *Phytophthora ramorum* (sudden oak death, ramorum canker and blight) causes wilting and twig dieback in certain trees and shrubs including Douglas fir (*Pseudotsuga menziesii*), which is sometimes used in holiday greens. Another species used in holiday greens, noble fir (*Abies procera*), is in the same genus as a *P. ramorum* associated host, grand fir (*Abies grandis*). Products made with noble fir may be impacted by quarantines in other states and countries that regulate susceptible plants at the genus level.

(2) The following definitions apply to OAR 603-052-1239:

(a) "Block" means a contiguous area where boughs are harvested.

(b) "Certified forester" means foresters certified by the Society of American Foresters, foresters accredited by the Association of Consulting Foresters of America, or arborists certified by the International Society of Arboriculture.

Note: lists of qualified individuals from these organizations are available online:

www.safnet.org/certifiedforester/directory-return.cfm; www.acf-foresters.com/

MemberListResults2.cfm; www.isa-arbor.com/findArborist/locateresultCity.asp

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(c) "Holiday greens" are defined as cuttings or boughs of plants used to make wreaths, garlands and other decorative products for the holiday season.

(d) "Hosts and associated hosts" means plants on USDA's official list of *P. ramorum* hosts and associated plants, last revised August 2, 2004.

Note: This list is available online at: <http://oda.state.or.us/plant/ppd/path/SOD/index.html> or from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.

(3) Persons manufacturing products made from holiday greens may enter into compliance agreements with the department as described in section (4). The Department will supply *P. ramorum* certified shipping labels to persons signing compliance agreements.

(4) Persons who enter compliance agreements shall:

(a) Maintain records of all incoming and outgoing shipments of holiday greens for a minimum of 12 months, including harvest location, date, supplier and buyers name and address;

(b) Not purchase or harvest holiday greens from *P. ramorum* quarantine areas such as the one established in Curry County, (OAR 603-052-1230); and

(c) Either:

(i) Purchase holiday greens from blocks sampled and tested for *P. ramorum* as prescribed in (6)(a), or

(ii) Have holiday greens sampled and tested weekly for *P. ramorum* at the manufacturing facility as prescribed in (6)(b).

(5) Failure to comply with all articles of a compliance agreement will result in revocation of the compliance agreement and confiscation of *P. ramorum* certification shipping permits.

(6) Inspections and sampling for *P. ramorum* will be done using either:

(a) Field sampling. Each block where boughs of hosts, associated hosts or related plants are cut must be inspected for symptoms of *P. ramorum* by a certified forester (Note: Field sampling should only be done with landowner permission). Samples must be taken from the perimeter and from a transect extending through the block.

(i) Each sample should consist of a branch tip approximately six inches long. A minimum of 40 samples must be collected per block. If symptoms that could be *P. ramorum*, such as wilted or dead branch tips are present, samples must consist of symptomatic material. Where no symptoms are visible, asymptomatic samples must be collected.

(ii) Collection information must accompany samples from each block, including: name, address and phone number of the certified forester collecting the samples; location of the block (map, legal description, or GPS coordinates); date of sampling; and plant species sampled. Samples from each block must be collected into a sealable plastic bag(s) and must be delivered or sent via express courier within 48 hours to either: Plant Health Laboratory, Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301; telephone 503-986-4636; or Plant Clinic, Oregon State University, 1089 Cordley Hall, Corvallis, OR 97331; telephone 541-737-3472.

(b) Shipping point sampling. A certified forester or an official inspector of the ODA must inspect boughs and take samples weekly from a manufacturing facility. A minimum of 40 samples must be collected per visit. If symptoms that could be *P. ramorum*, such as wilted or dead branch tips are present, samples must consist of symptomatic material. Where no symptoms are visible, asymptomatic samples must be collected. Samples must be labeled and submitted to an official laboratory as described in (6)(a)(ii).

(7) Testing. *P. ramorum* testing will be done by the Department's Plant Health Laboratory or Oregon State University's Plant Clinic using USDA-approved procedures. Samples from out-of-state should be sent to official laboratories in the state where they were collected. Results from official, out-of-state laboratories using USDA-approved testing methods will be recognized for certification under this program if the sampling protocol used meets or exceeds the rates in (6)(a) or (6)(b) of this rule.

(8) Cost. Oregon Department of Agriculture portions of this program will be run on a cost recovery basis. Laboratory testing at the Department Plant Health Laboratory will be billed at \$10.00 per sample (minimum \$400/block). Inspections and sampling by ODA inspectors will be billed at \$60.00 per hour (OAR 603-054-0030) including travel time. The cost of services performed by certified foresters or other official laboratories will be the responsibility of the person contracting for those services.

(9) A list of persons and/or businesses compliant with these rules will be maintained on the department's web site. The department will update the list as necessary to maintain an accurate accounting of participants in the program.

(10) Fraudulent use of certificates may subject violators to the penalties provided by ORS 632.990.

Stat. Auth.: ORS 632.900 - 632.990, 570.305, 561.190
Stats. Implemented: ORS 632.940
Hist.: DOA 23-2004(Temp), f. & cert. ef. 9-3-04 thru 2-21-05

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

Adm. Order No.: BCD 12-2004

Filed with Sec. of State: 8-20-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 4-1-04

Rules Adopted: 918-282-0017, 918-282-0185, 918-400-0333, 918-400-0380, 918-400-0385, 918-400-0390, 918-400-0395

Rules Amended: 918-282-0290, 918-400-0340, 918-400-0800

Rules Repealed: 918-400-0335, 918-400-0345, 918-400-0350, 918-400-0355, 918-400-0360, 918-400-0365, 918-400-0370, 918-400-0375

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

The original rulemaking implemented HB 3556 enacted by the 1999 Legislature and created new licensing requirements for persons installing, altering, maintaining or repairing elevators. Additional statutory requirements in ORS Chapter 479 were implemented. It also created an elevator contractor electrical license, a limited elevator journeyman license, an elevator contractor license, a limited elevator mechanic license and an elevator apprentice license.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-282-0017

Elevator Contractor Electrical License

An elevator contractor licensed under this section:

(1) Shall continuously employ at least one full-time general supervising electrician or limited elevator journeyman to act as a signing supervisor to obtain and sign elevator plan approval permits;

(2) Is limited to electrical work associated with the installation, alteration, repair and maintenance of elevators. This work is limited to the wiring from the load side of the main disconnecting means for the elevator; and

(3) Is authorized to make, supervise, direct or control the making of an electrical installation only if properly licensed.

Stat. Auth.: ORS 479.630 & 479.840

Stats. Implemented: ORS 479.630

Hist.: BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04

918-282-0185

Limited Elevator Journeyman License

(1) A limited elevator journeyman:

(a) Shall be employed by an appropriately licensed electrical contractor under ORS Chapter 479;

(b) Is limited to electrical and mechanical work on elevators. This work is limited to the wiring from the load side of the main disconnecting means for the elevator; and

(c) Shall not exceed the scope of work authorized by the employer's license.

(2) License Requirements. Applicants shall:

(a) Have a minimum of 8,000 aggregate hours of lawfully obtained on-the-job training in the elevator industry installing, repairing, altering and maintaining elevator mechanical and electrical equipment; and

(b) Complete a Board approved limited elevator journeyman apprenticeship program.

(3) Applicants are required to provide notarized documentation of work categories and minimum hours in:

(a) Basic construction and maintenance safety and tools – 250 hours;

(b) Blue print reading— 250 hours;

(c) Material handling — hoisting and rigging – 500 hours;

(d) Guide rail systems installation and maintenance – 400 hours;

(e) Drive machines and systems; overhead equipment including beams and sheaves — 800 hours;

(f) Hydraulic systems and control valves — 800 hours;

(g) Car frames, platforms and enclosures — 500 hours;

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- (h) Doors, entrances and operators — 500 hours;
 - (i) Construction wiring and practices — 800 hours; and
 - (j) Adjusting elevator systems — 200 hours;
 - (k) Maintenance, circuit tracing, trouble-shooting, test equipment, periodic testing requirements — 1,000 hours;
 - (l) Alteration of existing equipment — 1,000 hours;
 - (m) Structure and operation of escalators and moving walks — 500 hours; and
 - (n) Related industry equipment — 500 hours.
- (4) Additionally applicants shall submit transcripts with passing grade of 70-percent or better in graded classes and a “pass” in non-graded classes in the following related training classes;
- (a) Basic construction and maintenance safety;
 - (b) Blueprint reading;
 - (c) Code-related requirements;
 - (d) Equipment testing procedures;
 - (e) Guide rail systems installation and maintenance;
 - (f) Pit equipment and maintenance;
 - (g) Car frames, platforms and enclosures;
 - (h) Hoisting and rigging;
 - (i) Overhead equipment including beams and sheaves;
 - (j) Hoist ropes and roping procedures;
 - (k) Structure and operation of escalators and moving walks;
 - (l) Drive machines and components;
 - (m) Hydraulic systems and control valves;
 - (n) Traction machines and components;
 - (o) Basic electrical theory;
 - (p) Circuit tracing;
 - (q) Basic electronics and solid state theory;
 - (r) Construction wiring and practices; and
 - (s) Electrical code and safety training.
- Stat. Auth.: ORS 479.630
Stats. Implemented: ORS 479.630
Hist.: BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04

918-282-0290

Elevator Apprenticeship Program

The National Elevator Industry Educational Program (NEIEP) approved by the Elevator Safety Board, now the Electrical and Elevator Board, is approved as an elevator apprenticeship program referred to in ORS 479.630 as a prerequisite for a limited journeyman elevator license.

Stat. Auth.: ORS 460.085 & ORS 479.730
Stats. Implemented: ORS 460.085

Hist.: DC 13-1983, f. & ef. 6-17-83; Renumbered from 814-022-0030; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; Renumbered from 918-250-0040; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04

918-400-0333

Scope of Elevator Licensing

Persons not licensed under ORS 479.630(6) or authorized by ORS 460.047, who perform any mechanical work on elevator equipment, shall obtain one of the following licenses as required herein. Possession of one of these licenses does not waive the licensing requirements established under ORS Chapter 479 to perform electrical installations, maintenance and repairs on elevator equipment.

(1) Limited Elevator Mechanic. Pursuant to ORS 460.057 a person possessing this type of license is restricted to the installation, alteration, repair and maintenance of a specific type, or types, of elevator mechanical equipment, in accordance with OAR 918-400-0380.

(2) Elevator Apprentice. Pursuant to ORS 460.059 a person possessing this type of license assists a journey level elevator mechanic in performing mechanical work on elevators, in accordance with OAR 918-400-0390.

Stat. Auth.: ORS 460.047, 460.057 & 460.059

Stats. Implemented: ORS 460.005 - 460.175 & 479.630

Hist.: BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04

918-400-0340

Elevator Contractor License

A person seeking issuance or renewal of an elevator contractor license shall:

(1) Provide a list of the company’s employees and their license numbers issued under ORS 460.057, 460.059 or 479.630(6), who will be performing the installation, alteration, repair and maintenance of elevator mechanical equipment; or

(2) Provide a list of employees who have made application and qualify for licensure under ORS 460.057 or 479.630(6);

(3) Provide written documentation from the company’s insurance carrier that the applicant is insured as an elevator contractor. The certificate of insurance, or its equivalent, required by this section shall:

(a) Be a certified copy or original on the standard form issued by the insurance carrier;

(b) Include the insurance policy number, the insured’s name and the insurance company’s, name, address and telephone number;

(c) Have clear information that the insurance company recognizes the insured as an elevator contractor and that the policy will cover the scope of elevator-related work in which the contractor is engaged; and

(d) Show proof of authorization from the insurance carrier that the division will be given notice upon any change to or cancellation of the insurance policy.

(e) Provide verification of the State Construction Contractors Board registration as an elevator company; and

(f) Pay applicable fees as required by OAR 918-400-0800.

Stat. Auth. ORS 460.085

Stats. Implemented: ORS 460.005 - 460.175 & 479.630

Hist.: BCD 25-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04

918-400-0380

Limited Elevator Mechanic License

(1) Pursuant to ORS 460.057, any person installing, altering, repairing or maintaining elevator mechanical equipment prior to October 23, 1999, and who does not otherwise qualify for licensure herein, shall be issued a limited elevator mechanic’s license commensurate with their prior, verifiable work experience if they comply with the following:

(a) Makes appropriate application; and

(b) Pays applicable fees as prescribed under OAR 918-400-0800.

(2) The following shall not be used to determine prior experience;

(a) Work on equipment not regulated by the Elevator Safety Law unless such prior experience is considered to be transferable experience gained prior to October 23, 1999;

(b) The installation, alteration, repair or maintenance of equipment installed in Oregon that was not lawfully permitted as required by the Elevator Safety Law;

(c) Work in Oregon while employed by a company not lawfully licensed as an elevator contractor in Oregon, or not lawfully registered with the Construction Contractors Board; or

(d) Experience gained in violation of any other state law.

(3) Experience gained shall be considered based on the following. Applicants must have been regularly engaged in the installation, alteration, repair or maintenance on the type, or types, of equipment commensurate with the license being sought based on:

(a) Minimum of 4,000 hours “substantial experience” lawfully obtained on equipment covered by a limited elevator mechanic’s license;

(b) “Substantial experience,” for purposes of this rule, must be verified evidence in the form of two separate notarized affidavits. One from an Oregon business attesting the person has been involved in 40 or more elevator projects and one from a CPA attesting that the business had at least \$75,000 of gross business prior to October 23, 1999.

(4) A license under this rule shall be limited to the scope of work for which the person has provided work experience acceptable to the division.

(5) This license expires on October 1 no later than three years after the date of issuance.

Stat. Auth.: ORS 460.057 & 460.085

Stats. Implemented: ORS 460.005 - 460.175

Hist.: BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04

918-400-0385

Elevator Apprentice License

(1) Apprentices shall meet the following minimum requirements:

(a) Be 17 years of age to apply, 18 years of age to indenture;

(b) Have a high school diploma, GED or international equivalency; and

(c) Shall be licensed;

(2) Apprentice license:

(a) Shall be issued to individuals enrolled in registered apprenticeship programs approved by the board and the Oregon State Apprenticeship and Training Council under ORS chapter 660;

(b) Will be suspended upon completion or termination from an approved apprentice program.

Stat. Auth.: ORS 460.057 & 460.085

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Stats. Implemented: ORS 460.005 - 460.175
Hist.: BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04

918-400-0390

Apprentice Scope of Work

A person with an apprentice license issued under OAR 918-400-0385 shall:

(1) Work consistent with the committee's requirements under ORS chapter 660 and these rules; and

(2) Engage only in cleaning, lubrication, painting, relamping fixtures and replacing of comb plate teeth of existing installations with limited supervision after completing:

- (a) At least 2,000 hours (12 months) of work experience;
- (b) The appropriate related instruction for two periods; and
- (c) Is evaluated and authorized to do this type of work by the apprenticeship committee; or

(3) The apprentice engages only in installation, alteration, maintenance and repair with limited supervision after completing:

- (a) 4,000 hours of work experience;
- (b) The appropriate related classroom instruction; and
- (c) Is evaluated and authorized by the committee.

(4) As apprentices progress through each phase, they may be authorized to participate in work processes of the preceding phase provided they have been evaluated and authorized by the apprenticeship committee to do the specific type of work.

(5) A person enrolled in a board-approved apprenticeship program, who has been issued an apprentice card by BOLI, shall be considered licensed under ORS 460.059.

Stat. Auth.: ORS 460.059 & 660

Stats. Implemented: ORS 460.005 - 460.175 & 479.630

Hist.: BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04

918-400-0395

Apprenticeship Program Requirements

In order to obtain board approval of an individual elevator apprentice program, the following requirements must be met:

(1) On-the-job training installing, repairing, altering and maintaining elevator mechanical equipment in the following work categories and minimum hours:

- (a) Basic construction and maintenance safety and tools — 150 hours;
- (b) Blue print reading — 150 hours;
- (c) Material handling — hoisting and rigging — 150 hours;
- (d) Guide rail systems installation and maintenance — 150 hours;
- (e) Drive machines and systems; overhead equipment including beams and sheaves — 150 hours;
- (f) Hydraulic systems and control valves — 150 hours;
- (g) Car frames, platforms and enclosures — 150 hours;
- (h) Doors, entrances and operators — 150 hours;
- (i) Adjusting elevator systems — 150 hours;
- (j) Maintenance and periodic testing requirements — 150 hours;
- (k) Alteration of existing equipment — 150 hours;
- (l) Structure and operation of escalators and moving walks — 150

hours; and

(m) Installing related equipment such as dumbwaiters, wheelchair lifts and material lifts — 150 hours; and

(n) Total Hours Required. Total work experience shall be at least 4,000 hours. No more than 300 percent credit shall be allowed under subjects (a) through (m) for any one subject.

(2) Required Educational Training. 144 hours of classroom instruction must be provided each year covering the following subjects. Individuals are required to obtain grades of "C" or better in graded classes and a "pass" in non-graded classes.

- (a) Basic construction and maintenance safety;
- (b) Blueprint reading;
- (c) Code-related requirements;
- (d) Equipment testing procedures;
- (e) Guide rail systems installation and maintenance;
- (f) Pit equipment and maintenance;
- (g) Car frames, platforms and enclosures;
- (h) Hoisting and rigging;
- (i) Overhead equipment including beams and sheaves;
- (j) Hoist ropes and roping procedures;
- (k) Structure and operation of escalators and moving walks;
- (l) Drive machines and components;
- (m) Hydraulic systems and control valves; and

(n) Traction machines and components.

Stat. Auth.: ORS 460.059

Stats. Implemented: ORS 460.005 - ORS 460.175 & ORS 479.630

Hist.: BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04

918-400-0800

Fees

(1) Subject to section (2) of this rule, the following elevator fees are adopted under ORS 460.165:

(a) Elevator contractor's license, \$195;

(b) Plan reviews, \$78;

(c) Inspections of:

(A) Dumbwaiters, sidewalk elevators, residential elevators, residential inclinators or subveyors, \$52;

(B) Escalators, lowerators, manlifts, stagelifts, inclined elevators, platform hoists or moving walks, \$78;

(C) Power-driven elevators with a four-floor rise or under, \$78;

(D) Power-driven elevators with over a four-floor rise, but under a 10-floor rise, \$98;

(E) Power-driven elevators with over 10-floor rise, but under 20-floor rise, \$124;

(F) Power-driven elevators with a 20-floor rise or over, \$147;

(d) Call-back inspections on a mechanism in section (3)(a) through (f) of this rule made by request or in continued existence of a defect, \$52;

(e) Special inspections, \$55 per hour;

(f) Report processing fee, \$20;

(g) Installation or alteration of an elevator, if the total cost of the installation or alteration, other than the inspection fee, is:

(A) \$1,000 or under — \$98;

(B) \$1,001 to \$14,999 — \$98, plus \$13 for each \$1,000 or fraction of \$1,000 by which the cost exceeds \$1,000;

(C) \$15,000 to \$49,999 — \$280, plus \$8 for each \$1,000 or fraction of \$1,000 by which the cost exceeds \$15,000;

(D) \$50,000 or over — \$553, plus \$3 for each \$1,000 or fraction of \$1,000 by which the cost exceeds \$50,000.

(2) Elevator alterations.

(a) No fee shall be charged when an alteration is limited to fixture upgrades to meet state-adopted accessibility standards;

(b) No fee shall be charged where the alteration is limited to the car interior upgrades that do not alter the gross weight of the car more than five percent;

(c) When a group of elevators under common group control is proposed for an upgrade, and the same upgrade is proposed for all cars in the group, the inspection fee shall be the contract valuation for the entire elevator upgrade project rather than the higher separate inspection fee for each elevator in the group; and

(d) Where the upgrade for a group of elevators is not identical for each elevator, the fees shall be calculated separately based on the contract valuation for each elevator.

(3) Plan Review Fees. Where a complete set of drawings shows all elevators affected by the proposed installation or alteration, only one plan review fee shall be required rather than a separate fee for each elevator.

(4) The following fees shall apply to licenses issued under OAR 918-400-0333 and 918-400-0380:

(a) License application, \$15;

(b) Limited Elevator Mechanic's license, \$60;

(c) The fees for the licenses issued herein shall be prorated to the nearest \$20 amount based on the date of issue with respect to the date of expiration: 0-12 months \$20; 12-24 months \$40; 24-36 months \$60.

(5) All fees required by section (1) of this rule shall double if not paid within 90 days as provided for in ORS 460.165(7).

Stat. Auth.: ORS 460.085

Stats. Implemented: ORS 460.165

Hist.: DC 25-1982, f. & ef. 12-16-82; Renumbered from 814-030-0030; BCA 21-1991(Temp), f. 6-14-91, cert. ef. 7-1-91 thru 12-27-91; BCA 29-1991, f. & cert. ef. 8-30-91; BCD 18-1995, f. & cert. ef. 12-15-95; Renumbered from 918-400-0050; BCD 11-1996(Temp), f. & cert. ef. 7-1-96; BCD 27-1996, f. & cert. ef. 12-4-96; BCD 10-1998(Temp), f. 6-2-98, cert. ef. 7-1-98 thru 12-27-98; BCD 25-1998, f. 12-22-98, cert. ef. 12-27-98; BCD 13-1999, f. & cert. ef. 10-1-99; BCD 14-2000(Temp), f. 7-20-00, cert. ef. 8-1-00 thru 1-27-01; BCD 25-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04

ADMINISTRATIVE RULES

Adm. Order No.: BCD 13-2004
Filed with Sec. of State: 9-7-2004
Certified to be Effective: 10-1-04
Notice Publication Date: 3-1-04
Rules Amended: 918-695-0030, 918-780-0080

Subject: The Building Codes Division currently has a plumbing inspection fee schedule for the installation of plumbing, drainage, potable water supply and drainage in and adjacent to all buildings and structures for inspections made by the division. The current rule lists the division's plumbing permit fees and defines how the fees are calculated. The proposed rules are intended to streamline and simplify the method for calculating the plumbing permit fees charged by the division, without reducing current revenue levels.

Application for a journeyman plumber's license must be accompanied by proof satisfactory to the board that the applicant has had at least four years of general experience and training as an apprentice plumber or its equivalent as determined by the board. Division rule defines the qualifications to sit for the journeyman plumber licensing examination. The proposed rules eliminate a provision in rule, which allows acceptance of equivalent qualifications without determining how the license was acquired, and whether the license is valid based upon legal work experience and training.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-695-0030

Journeyman Plumber Qualifications

Qualifications. The minimum qualifications to take the journeyman plumber's certificate examination are:

(1) Satisfactory completion of a minimum four-year plumbing apprentice program in Oregon; or

(2) Equivalency requirements of at least four years academic training and on-the-job experience as an apprentice plumber, lawful journeyman plumber, or combination of both meeting the following minimum requirements:

(a) General items. 144 hours of academic training per year for each of at least four years generally in the following as it applies to plumbing:

- (A) Materials, Tools, Equipment;
- (B) Mathematics, Science;
- (C) Soldering and Brazing;
- (D) Plumbing and Related Codes;
- (E) Drainage (DWV) Installations;
- (F) Water Systems, Installations;
- (G) Safety and First Aid;
- (H) Blueprint Reading;
- (I) Seismic Restraints.

(b) Specific items: Subject — Hours:

(A) Sewerage: Sanitary and Storm Piping, Disposal:

(i) Residential — 300;

(ii) Commercial — 300.

(B) Drainage, Waste and Vent Piping (DWV):

(i) Residential — 1,300;

(ii) Commercial — 1,300.

(C) Soldering, Brazing, Welding:

(i) Residential — 200;

(ii) Commercial — 200.

(D) Water: Supply, Services, Mains, Appurtenances:

(i) Residential — 1,100;

(ii) Commercial — 1,100.

(E) Fixtures, Appliances, Trim and Supports:

(i) Residential — 700;

(ii) Commercial — 700.

(F) Miscellaneous Plumbing, Piping, Repair and Maintenance:

(i) Residential — 250;

(ii) Commercial — 250.

(G) Total Minimum Subject Hours:

(i) Residential — 3,850;

(ii) Commercial — 3,850.

(c) A person with more than the minimum hours in any one specific item category may substitute up to 20 percent of the excess hours to meet the related minimum residential or commercial experience requirements in the same category.

Stat. Auth.: ORS 693.100

Stats. Implemented: ORS 693.050

Hist.: BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98; BCD 22-2000, f. 9-19-00, cert. ef. 10-1-00; BCD 13-2004, f. 9-7-04, cert. ef. 10-1-04

918-780-0080

Plumbing Permit Fees

The following inspection fees are established by the board for the Building Codes Division plumbing inspections under ORS 447.020 and 447.095. This rule does not apply to municipalities administering a plumbing program:

(1) Notwithstanding any provision of this rule, which could result in a lower fee, the minimum inspection fee is \$46.

(2) One and Two Family Dwellings (Dwellings) Inspection Fees — Dwelling inspection fees for new construction, including drain, waste, vent and water distribution piping, and setting of plumbing fixtures and appliances, building sanitary, storm or combination sewer service piping, and potable water service piping. The plumbing permit fees for one and two family dwelling construction, remodeling or alterations are a flat fee based only on the square footage of the structure for new construction or the number of plumbing fixtures for remodeling or alterations, as follows:

(a) Base fee (new construction 1800 square feet or less) — \$210;

(b) Additional square feet exceeding 1800 @ \$.20 per square foot over 1800;

(c) Remodel/alteration (each 10 fixtures or less) — \$67.

(3) Manufactured Dwellings or Prefabricated Structures Inspection Fees — Manufactured dwelling or prefabricated structures inspection fees for connections to building sewer and water supply — \$64.

(4) Recreational Vehicle and Manufactured Dwelling Parks Inspection Fees:

(a) \$320 for the first ten or fewer spaces; and

(b) \$275 for each 10 additional spaces.

(5) Commercial, Industrial, and dwellings, other than one- and two-family: Inspection Fee:

(a) Base fee (includes up to 3 fixtures and the first 100' for each exterior, sanitary sewer, storm sewer or water supply building utility piping) — \$60;

(b) \$20 per each fixture over the first 3; and

(c) Site utilities exceeding the first 100' of each (water service, storm and sanitary sewer) \$20 each additional 100' of piping or part thereof.

(6) Miscellaneous Inspection Fees:

(a) Charges for inspections requested by a governmental agency under ORS 190.003 to 190.110 are negotiable and subject to revisions project-to-project.

(b) Include, but are not limited to, residential fire sprinkler systems (multi-purpose), indirect wastes, specialty fixtures and reinspection — \$46.

(c) Specially requested inspections — \$46 per hour or any portion of an hour.

(7) For the purposes of calculating the permit fees under this rule, "fixtures" includes but are not limited to the following:

(a) Bathtubs;

(b) Bidets;

(c) Clothes washers;

(d) Drinking fountains;

(e) Laundry tubs;

(f) Showers;

(g) Sinks;

(h) Urinals;

(i) Water closets; and

(j) Water heaters;

(8) Medical Gas System Inspection Fees — Inspection fees for medical gas systems are a combination of:

(a) A \$219 base fee; and

(b) \$1 per each inlet or outlet.

Stat. Auth.: ORS 447.020 & 447.095

Stats. Implemented: ORS 447.020 & 447.095

Hist.: DC 31, f. 4-19-74, ef. 5-11-74; DC 72, f. 4-19-76, ef. 6-1-76; DC 78 (Temp), f. & ef. 6-16-76 thru 10-13-76; DC 10-1978, f. & ef. 3-16-78; Renumbered from 814-029-0020; DC 13-1981, f. 10-30-81, ef. 11-1-81; DC 1-1983, f & ef. 1-3-83; DC 27-1984, f. 8-31-84, ef. 10-15-84; DC 16-1987(Temp), f. 6-25-87, ef. 6-26-87; BCA 12-1988, f. & ef. 9-8-88; Renumbered from 814-021-0610; BCA 15-1993(Temp), f. 6-30-93, cert. ef. 9-1-93; BCA 3-1994, f. 1-14-94, cert. ef. 2-27-94; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-780-0015; BCD 27-2000, f. 10BCD 13-2004, f. 9-7-04, cert. ef. 10-1-04-13-00 cert. ef. 10-01-01; BCD 13-2002, f. 6-28-02, cert. ef. 7-1-02; BCD 13-2004, f. 9-7-04, cert. ef. 10-1-04

Adm. Order No.: BCD 14-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 8-1-04

ADMINISTRATIVE RULES

Rules Repealed: 918-320-0315

Subject: This is a housekeeping rulemaking activity intended to eliminate a duplicative rule. OAR 918-320-0315 was mislabeled and originally was to be renumbered during a three-year rule review in 1996. The Archives Division of the Secretary of the State's Office notified the division that this rule was still in effect because there is no official record amending, renumbering or repealing it. This rule is now in conflict with the OAR 918-311-0030, which is the current rule for qualifications for persons performing electrical reviews. The appropriate course of action is to repeal 918-320-0315 to remove conflicts in the rules regarding qualifications for persons performing electrical reviews.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

Adm. Order No.: BCD 15-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 8-1-04

Rules Amended: 918-480-0005, 918-480-0010, 918-480-0020

Subject: This rulemaking activity addresses concerns regarding an administrative error in the original filing of these rules. This rulemaking is being filed retroactive to avoid any gaps in the application of the rules. There is no departure from the original language as it was filed and effective April 1, 2003.

The original rulemaking activity adopted the 2000 International Residential Code for One- and Two-Family Dwellings with Oregon amendments. This updated the One- and Two-Family Dwelling Specialty Code to reflect national changes to the model code. This update allowed the use of modern materials and techniques consistent with updated national standards and practices.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-480-0005

Minimum Safety Standards for the Design and Construction of One and Two Family Dwellings

(1) Effective April 1, 2003, the 2000 Edition of the International Residential Code for One- and Two-Family Dwellings, as published by the International Code Council, Inc. with errata through March 31, 2003, and as further amended by the Building Codes Division, is adopted as the Oregon 2003 One- and Two-Family Dwelling Specialty Code.

(2) Applicability of code changes to pending applications. Code requirements in effect at the time a plan review or permit application is filed shall control the construction under the application unless the applicant agrees to be controlled by subsequent changes.

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

Stat. Auth.: ORS 455.030, 455.525 & 455.380

Stats. Implemented: ORS 455.610

Hist.: DC 11-1986, f. 6-30-86, ef. 7-1-86; DC 6-1987(Temp), f. & ef. 4-3-87; Renumbered from 814-031-0005; BCA 3-1990, f. 1-30-90, cert. ef. 4-1-90; BCA 7-1990(Temp), f. 3-23-90, cert. ef. 4-1-90; BCA 21-1990, f. 8-28-90, cert. ef. 9-24-90; BCA 30-1990, f. 12-21-90, cert. ef. 1-1-92; BCA 8-1991, f. 4-10-91, cert. ef. 7-1-91; BCA 32-1991(Temp), f. & cert. ef. 9-30-91; BCA 1-1992, f. & cert. ef. 2-6-91; BCA 4-1992(Temp), f. 3-4-92, cert. ef. 3-5-92; BCA 6-1992, f. 3-24-92, cert. ef. 3-27-92; BCA 13-1992, f. 6-29-92, cert. ef. 7-1-92; BCA 28-1992(Temp), f. 12-30-92, cert. ef. 1-1-93; BCA 3-1993(Temp), f. & cert. ef. 3-3-93; BCA 7-1993, f. 4-28-93, cert. ef. 5-1-93; BCA 10-1993(Temp), f. & cert. ef. 6-11-93; BCD 3-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98, Renumbered from 918-480-0000; BCD 3-2000, f. 1-14-00 cert. ef. 4-1-00; BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04

918-480-0010

Amendments to the One and Two Family Dwelling Specialty Code

(1) The One- and Two-Family Dwelling Specialty Code is generally readopted every three years coinciding with the national adoption of a nationally recognized dwelling code and other referenced supporting nationally recognized codes pursuant to OAR chapter 918, division 8. Amendments adopted are placed in this rule, showing the division reference, a descriptive caption and a short description of the amendment. When the code is readopted, these amendments will be physically integrated into the new code and removed from rule.

(2) Effective April 1, 2003:

(a) The 1997 Edition of the Dwelling Requirements of the Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials and amended by the division are adopted as the plumbing provisions of the 2003 One- and Two-Family Dwelling Specialty Code; and

(b) The electrical provisions in Chapters 33 through 42 of the 2000 International Residential Code for One- and Two-Family Dwellings are amended to be consistent with the 2002 Electrical Specialty Code.

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

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

Stats. Implemented: ORS 455.610

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; BCA 29-1993, f. 11-24-93, cert. ef. 12-1-93; BCD 6-1995, f. 3-31-95, cert. ef. 4-1-95; BCD 3-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 22-1996(Temp), f. 10-1-96, cert. ef. 10-4-96; BCD 5-1997, f. 3-21-97, cert. ef. 4-1-97; Administrative Reformatting 1-19-98; BCD 3-1998, f. 1-29-98, cert. ef. 4-1-98; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 3-2000, f. 1-14-00 cert. ef. 4-1-00; BCD 19-2000(Temp), f. & cert. ef. 8-15-00 thru 2-10-01; BCD 32-2000, f. 12-27-00, cert. ef. 1-1-01; BCD 3-2001, f. 2-9-01, cert. ef. 3-1-01; BCD 2-2002, f. 3-5-02, cert. ef. 4-1-02; BCD 22-2002(Temp), f. 9-13-02 cert. ef. 10-1-02 thru 3-29-03; BCD 30-2002, f. 12-6-02, cert. ef. 1-1-03; BCD 1-2003(Temp), f. & cert. ef. 1-10-03 thru 3-31-03; BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04

918-480-0020

One- and Two-Family Dwelling Permit Fees

(1) Effective July 1, 1999, the Building Codes Division fees for administration of the Oregon One- and Two-Family Dwelling Specialty Code are found in Table 1-A of the Oregon Structural Specialty Code and Table 1-A of the Oregon Mechanical Specialty Code as reprinted in the One- and Two-Family Dwelling Specialty Code as adopted in OAR 918-480-0005. These fees are based on 130 percent of the Uniform Building Code and Uniform Mechanical Code as published by the International Conference of Building Officials, as authorized in ORS 455.210.

(2) Amend Table 1-A Structural Permit Fees as follows: [Table not included. See ED. NOTE.]

(3) Amend Table 1-A Mechanical Permit Fees as follows: [Table not included. See ED. NOTE.]

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

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

Stat. Auth.: ORS 455.020 & 455.210

Stats. Implemented: ORS 455.210

Hist.: BCD 8-1999(Temp), f. & cert. ef. 7-1-99 thru 12-27-99; BCD 11-1999, f. 9-7-99, cert. ef. 10-1-99; BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04

Department of Consumer and Business Services, Insurance Division Chapter 836

Adm. Order No.: ID 6-2004

Filed with Sec. of State: 8-26-2004

Certified to be Effective: 1-1-05

Notice Publication Date: 6-1-04

Rules Adopted: 836-080-0090

Subject: This rulemaking establishes a standard of suitability for sales and replacements of life insurance and annuities.

Rules Coordinator: Sue Munson—(503) 947-7272

836-080-0090

Suitability in the Sale of life Insurance and Annuities

A person may not recommend to a consumer the purchase, sale or replacement of a life insurance policy or annuity, or any rider, endorsement or amendment to the policy or annuity, without reasonable grounds to believe that the recommendation or transaction is not unsuitable for the consumer based upon reasonable inquiry concerning the consumer's insurance objectives, financial situation and needs, age and other relevant information known by the person. For the purpose of this rule, when a person recommends a group life insurance policy or annuity, "consumer" refers to the intended group policyholder.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.100, 746.110 and 746.240

Hist.: ID 6-2004, f. 8-26-04, cert. ef. 1-1-05

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

Adm. Order No.: OSHA 4-2004

Filed with Sec. of State: 9-15-2004

Certified to be Effective: 9-15-04

Notice Publication Date: 8-1-04

Rules Amended: 437-002-0100, 437-002-0240, 437-002-0300

Subject: Federal OSHA published, in the June 8, 2004 Federal Register, error corrections (typographical and reference) to four stan-

ADMINISTRATIVE RULES

dards. Oregon OSHA's standards must be at least as effective as federal OSHA, therefore, we are adopting the corrections.

The first correction deletes two references to a nonexistent table in the Mechanical Power-Transmission Apparatus Standard. The second is a correction of typographical errors in the Mechanical Power Presses Standard. The third correction is to a cross-reference in the Telecommunications Standard. The fourth correction is to a reference to a table contained in the Hazardous Materials Standard for Hydrogen.

These changes are in Oregon OSHA's Divisions 2/H, 2/O, and 2/R.

Please visit OR-OSHA's web site: www.orosha.org

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-002-0100

Adoption by Reference

In addition to and not in lieu of any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/03, and any subsequent amendments published in the Federal Register as listed below:

(1) 29 CFR 1910.101 Compressed gases (General requirements), published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, FR vol. 61, no. 46, p. 9236.

(2) 29 CFR 1910.102 Acetylene, published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, FR vol. 61, no. 46, p. 9236.

(3) 29 CFR 1910.103 Hydrogen, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49746; 4/12/88, FR vol. 53, p. 12121; 8/6/90, FR vol. 55, no. 151, p. 32015; 6/30/93, FR vol. 58, no. 124, p. 35309; 3/7/96, FR vol. 61, no. 46, p. 9236; amended 6/8/04, FR vol. 69, p. 31880-31882.

(4) 29 CFR 1910.104 Oxygen, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49746; 3/7/96, FR vol. 61, no. 46, p. 9237.

(5) 29 CFR 1910.105 Nitrous oxide, published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, FR vol. 61, no. 46, p. 9237.

(6) 29 CFR 1910.106 Flammable and combustible liquids, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 1/27/75, FR vol. 40, p. 3982; 6/2/75, FR vol. 40, p. 23743; 10/24/78, FR vol. 43, p. 49746; 11/7/78, FR vol. 43, p. 51759; 9/7/82, FR vol. 47, p. 39164; 9/12/86, FR vol. 51, p. 34560; 4/12/88, FR vol. 53, p. 12121; 8/6/90, FR vol. 55, no. 151, p. 32015; 3/7/96, FR vol. 61, no. 46, p. 9237.

(7) 29 CFR 1910.107 Spray finishing using flammable and combustible materials, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 9/12/80, FR vol. 45, p. 60704; 2/10/84, FR vol. 49, p. 5322; 4/12/88, FR vol. 53, p. 12121; 3/7/96, FR vol. 61, no. 46, p. 9237; amended with AO 3-2003, removed 1910.107, and Oregon note added, f. and ef. 4/21/03.

(8) 29 CFR 1910.108 Reserved. Published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(9) 29 CFR 1910.109 Explosives and blasting agents, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49747; 9/12/80, FR vol. 45, p. 60704; 4/12/88, FR vol. 53, p. 12122; 2/24/92, FR vol. 57, no. 36, p. 6403; 3/29/93, FR vol. 58, no. 58, p. 16496; 6/30/93, FR vol. 58, no. 124, p. 35309; 3/7/96, FR vol. 61, no. 46, p. 9237; 6/18/98, FR vol. 63, no. 117, p. 33466.

(10) 29 CFR 1910.110 Storage and handling of liquefied petroleum gases, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49747; 2/10/84, FR vol. 49, p. 5322; 4/12/88, FR vol. 53, p. 12122; 6/20/90, FR vol. 55, p. 25094; 8/6/90, FR vol. 55, no. 151, p. 32015; 3/19/93, FR vol. 58, no. 52, p. 15089; 6/30/93, FR vol. 58, no. 124, p. 35309; 3/7/96, FR vol. 61, no. 46, p. 9237; 6/18/98, FR vol. 63, no. 117, p. 33466.

(11) 29 CFR 1910.111 Storage and handling of anhydrous ammonia, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49748; 2/10/84, FR vol. 49, p. 5322; 4/12/88, FR vol. 53, p. 12122; 3/7/96, FR vol. 61, no. 46, p. 9238; 1/8/98, FR vol. 63, no. 5, p. 1269; 6/18/98, FR vol. 63, no. 117, p. 33466; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(12) Reserved for 29 CFR 1910.112 (Reserved).

(13) Reserved for 29 CFR 1910.113 (Reserved).

(14) 29 CFR 1910.114 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(15) 29 CFR 1910.115 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(16) 29 CFR 1910.116 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(17) 29 CFR 1910.119 Process safety management of highly hazardous chemicals, published 2/24/92, Federal Register, vol. 57, no. 36, pp. 6403-6417; amended 3/4/92, FR vol. 57, no. 43, p. 7847; 6/1/92, FR vol. 57, no. 105, pp. 23060-1. (NOTE: Excepted rules adopted by reference by OR-OSHA by Admin. Order 6-1994 on 9/30/94.) Amended 3/7/96, FR vol. 61, no. 46, p. 9238; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(18) 29 CFR 1910.120 Hazardous waste operations and emergency response, Interim Final Rules, published 12/19/86, Federal Register, vol. 51, no. 244, pp. 45663-45675; and amended 5/5/87, FR vol. 52, no. 85, pp. 16241-16243. Final Rules were published 3/6/89, FR vol. 54, no. 42, pp. 9294-9335; amended 4/13/90, FR vol. 55, no. 72, pp. 14072-14075; 4/18/91, FR vol. 56, no. 75, pp. 15832-15833; amended 8/22/94, FR vol. 59, no. 161, pp. 43270-43275; 3/7/96, FR vol. 61, no. 46, p. 9238; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(19) 29 CFR 1910.121 Reserved. Published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(20) 29 CFR 1910.122 Table of contents, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(21) 29 CFR 1910.123 Dipping and coating operations: Coverage and definitions, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(22) 29 CFR 1910.124 General requirements for dipping and coating operations, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909; amended with AO 4-2002, repeal (g)(2), and Oregon note added, f. and ef. 5/30/02.

(23) 29 CFR 1910.125 Additional requirements for dipping and coating operations that use flammable or combustible liquids, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13910.

(24) 29 CFR 1910.126 Additional requirements for special dipping and coating applications, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13911.

NOTE: These standards are on file with the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the **United States Government Printing Office**.

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

Stats. Implemented: ORS 654.001-654.295

Hist.: APD 19-1988, f. & ef. 11-17-88; APD 12-1989, f. & ef. 7-14-89; OSHA 22-1990, f. 9-28-90, cert. ef. 10-1-90; OSHA 3-1992, f. & cert. ef. 2-6-92; OSHA 3-1993, f. & cert. ef. 2-23-93; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 8-1999, f. & cert. ef. 8-6-99; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 4-2002, f. & cert. ef. 5-30-02; OSHA 3-2003, f. & cert. ef. 4-21-03; OSHA 4-2004, f. & cert. ef. 9-15-04

437-002-0240

Adoption by Reference

In addition to and not in lieu of any other health and safety codes contained in OAR Chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/03, and any subsequent amendments published in the Federal Register as listed below:

(1) 29 CFR 1910.211 Definitions; published 6/27/74, Federal Register, vol. 39, pp. 23709-23712; amended 12/3/74, FR vol. 39, pp. 41846-41848; 3/14/88, FR vol. 53, p. 8353.

(2) 29 CFR 1910.212 General requirements for all machines; published 6/27/74, Federal Register, vol. 39, p. 23712; amended 10/24/78, FR vol. 43, p. 49750.

(3) 29 CFR 1910.213 Woodworking machines; published 6/27/74, Federal Register, vol. 39, pp. 23712-23716; amended 10/24/78, FR vol. 43, p. 49750; 2/10/84, FR vol. 49, p. 5323.

(4) Reserved for 29 CFR 1910.214 Cooperage machinery.

(5) 29 CFR 1910.215 Abrasive wheel machinery; published 6/27/74, Federal Register, vol. 39, pp. 23717-23723; amended 10/24/78, FR vol. 43, p. 49750; 2/10/84, FR vol. 49, p. 5323; 3/7/96, FR vol. 49, p. 5323; 3/7/96, FR vol. 61, no. 46, p. 9240.

(6) 29 CFR 1910.216 Mills and calendars in the rubber and plastics industries; published 6/27/74, Federal Register, vol. 39, p. 23723; amended 2/10/84, FR vol. 49, p. 5323; 3/7/96, FR vol. 61, no. 46, p. 9240.

(7) 29 CFR 1910.217 Mechanical power presses; published 6/27/74, Federal Register, vol. 39, pp. 23723-23727; amended 12/23/74, FR vol. 39, p. 41846; 1/27/75, FR vol. 40, p. 3982; 10/24/78, FR vol. 43, p. 49750; 2/8/80, FR vol. 45, p. 8594; 4/30/84, FR vol. 49, p. 18295; 9/29/86, FR vol. 51, p. 34561; 3/14/88, FR vol. 53, pp. 8353-8365; 3/7/96, FR vol. 61, no. 46, p. 9240; amended 6/8/04, FR vol. 69, p. 31880-31882.

ADMINISTRATIVE RULES

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129
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

Adm. Order No.: DFW 84-2004

Filed with Sec. of State: 8-18-2004

Certified to be Effective: 8-18-04

Notice Publication Date: 7-1-04

Rules Amended: 635-045-0000, 635-051-0000, 635-051-0048, 635-052-0000, 635-053-0000, 635-054-0000, 635-060-0000

Subject: Rules were amended regarding the harvest of game birds, including 2004-05 season dates, open area, and bag limits, and proposed 2005-2010 Upland Game Bird Frameworks.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-045-0000

Purpose

(1) The purpose of these rules is to list definitions pursuant to hunting seasons for big game and game birds.

(2) The documents entitled "2004-2005 Oregon Game Bird Regulations", and "2004 Oregon Big Game Regulations", are incorporated by reference into these rules. These documents are available at hunting license vendors and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 36-1988, f. & cert. ef. 6-13-88; FWC 47-1989, f. & cert. ef. 7-25-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 91-1990, f. & cert. ef. 9-4-90; FWC 42-1996, f. & cert. ef. 8-12-96; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04

635-051-0000

Purpose

(1) The purpose of these rules is to establish dates, areas and other restrictions for hunting game birds pursuant to ORS Chapter 496.

(2) The document entitled "2004-2005 Oregon Game Bird Regulations," is incorporated by reference into these rules.

[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 8-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2003(Temp), f. & cert. ef. 8-26-03 thru 2-20-04; DFW 84-2004, f. & cert. ef. 8-18-04

635-051-0048

Other Restrictions

(1) Except as provided in section (1)(a), (b), (c), (2) and (3) of this rule, it is *unlawful*: To hunt within the corporate limits of any city or town, public park or cemetery, or on any campus or grounds of a public school, college, or university or from a public road, road right-of-way, or railroad right-of-way.

(1) Migratory game bird hunting is permitted within the city limits of Warrenton in the following described areas:

(a) Beginning at a point located at the west end of the Lewis and Clark Bridge (Alternate Highway 101) at the southern boundary of the Warrenton city limits and west bank of the Lewis and Clark River, then westerly along the common southern boundary of the Port of Astoria airport and the Warrenton City limits to the west bank of Adams Slough (formerly Adair's Slough), then northerly along the west tracks, then westerly along said railroad tracks to its intersection with Northeast King Avenue, then northerly

along Northeast King Avenue to the mouth of the Skipanon River, then generally northwesterly following a contour line 100 yards inland from the shoreline at mean high water of the Columbia River, and on the Columbia River side of the Burlington Northern Railroad tracks to its intersection with the Warrenton/Hammond city limits at Tansy Point, then in a generally southeasterly direction upstream along the Columbia River, Youngs Bay and Lewis and Clark River to the point of beginning.

(b) Beginning at a point of intersection with the low tide of the Pacific Ocean and the westerly extension of Delaura Beach Road (County Road #34), then easterly along Delaura Beach Road and Oceanview Cemetery Road (County Road #321) to the junction with Wild Ace Lake Drive to the Warrenton School Dump Road (County Road #286), then easterly along the Warrenton School Dump Road to the junction of Southwest Juniper Avenue, then northerly along Southwest Juniper Avenue to the road's end, then continuing northerly along the common boundary of Section 16 and 17 to the Warrenton/Hammond city limits, then westerly along the Warrenton/Hammond city limits to the low tide of the Pacific Ocean, then southerly to the point of beginning.

(c) Beginning at a point of intersection with the most southerly boundary of the Warrenton city limits and Oregon Coast Highway 101 and the west bank of the Skipanon River, then northerly along the west bank of the Skipanon River to the bridge on (Crab Pot Way) Alternate Highway 101 (Fort Stevens Highway #104), then in a generally easterly direction along Alternate Highway 101 to Southeast 14th Place, then in a generally southeasterly direction along Southeast 14th Place and its easterly extension, crossing the Oregon Coast Highway 101 to its intersection with the Warrenton city limits, then southerly and westerly along the line of the Warrenton city limits to the point of beginning.

(2) Game bird hunting is permitted within the city limits of Dunes City.

(3) Game bird hunting is permitted within the boundary limits of the Klamath Falls Airport.

(4) Waterfowl hunting is permitted in the following portion of Miami Cove lying within the city limits of Garibaldi: That land in the east one-half of the northwest quarter of Section 22, Township 1 North, Range 10 West, Willamette Meridian, lying south of Coast Highway 101, and in the east one-half of the southwest quarter of Section 22, Township 1 North, Range 10 West, lying north and west of Coast Highway 101, provided that no hunting be permitted within 100 yards of any residence or commercial structure.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 46-1983, f. & ef. 9-19-83; FWC 65-1983(Temp), f. & ef. 11-22-83; FWC 9-1984, f. & ef. 3-12-84; FWC 51-1984, f. & ef. 9-5-84; FWC 64-1985, f. & ef. 10-2-85; FWC 58-1986, f. & ef. 9-17-86; FWC 80-1988, f. & cert. ef. 9-2-88; FWC 105-1989, f. & cert. ef. 9-29-89; FWC 92-1990, f. & cert. ef. 9-4-90; FWC 80-1992, f. & cert. ef. 8-26-92; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 84-2004, f. & cert. ef. 8-18-04

635-052-0000

Purpose

(1) The purpose of these rules is to establish season dates, areas and bag limits for migratory upland game birds pursuant to ORS Chapter 496.

(2) The document entitled "2004-2005 Oregon Game Bird Regulations," is incorporated by reference into these rules.

[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 61-1988, f. & cert. ef. 7-28-88; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04

635-053-0000

Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting upland game birds pursuant to ORS Chapter 496.

(2) The document entitled "2004-2005 Oregon Game Bird Regulations," is incorporated by reference into these rules.

[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 81-1988, f. & cert. ef. 9-2-88; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 2-2004(Temp), f. 1-13-04, cert. ef. 1-16-04 thru 1-31-04; DFW 84-2004, f. & cert. ef. 8-18-04

ADMINISTRATIVE RULES

635-003-0076

US-Canada Border to Cape Falcon, May/June All Salmon-Except Coho Season and July-September All Species Season

(1) **US-Canada Border to Cape Falcon, May/June All Salmon – Except Coho Season and July-September All Species Season** Vessels must land their fish within the area or in Garibaldi, Oregon, and within 24 hours of any closure of this fishery. Oregon licensed limited fish sellers and fishers intending to transport and deliver their catch outside the area must notify ODFW one hour prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(2) The commercial troll fishery season, as described above in (1), is open effective Saturday, 12:01 a.m., June 26, 2004, through Wednesday, 11:59 p.m., June 30, 2004. Per vessel, there is a fifty (50) fish landing and possession limit for the entire five-day period.

(3) The commercial troll fishery season, as described above in (1), is open effective Thursday, 12:01 a.m., July 8, 2004, through Monday, 11:59 p.m., July 12, 2004. Per vessel, there is an one-hundred (100) chinook landing and possession limit for the entire five-day period.

(4) The commercial troll fishery season, as described above in (1), is open effective Friday, 12:01 a.m., July 16, 2004, through Monday, 11:59 p.m., July 19, 2004. Per vessel, there is an one-hundred twenty-five (125) chinook landing and possession limit for the entire four-day period.

(5) The commercial troll fishery season in the area from Queets River to Cape Falcon will open for a non-selective coho fishery (no fin-clip requirement) effective September 1, 2004.

(a) The fishery will be open during the following periods: September 1 - September 5, 2004; September 8 - September 12, 2004; and September 15, 2004; or until the quota of 10,000 coho is met.

(b) During the fishing periods identified above in (5)(a), vessels are limited to no more than 125 chinook per vessel and no more than 500 coho per vessel per open period.

(c) Fish must be landed and delivered in the area from the Queets River to Cape Falcon. Fish may be landed into Garibaldi (Note: special call-in requirements may apply if fish are landed into Garibaldi or delivered outside of the area in Oregon). All fish must be landed and delivered within 24 hours of any closure in the fishery.

(6) **Humbug Mountain to the Oregon/California Border, June-September All-Salmon Except-Coho Season.** Vessels must land their fish in Gold Beach, Port Orford, or Brookings, Oregon, and within 24 hours of any closure. Fishers intending to transport and deliver their catch to other locations after first landing in one of these ports must notify ODFW prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(7) The commercial troll fishery season, as described above in (6), is open effective September 1, 2004.

(a) The fishery will be open during the following periods: September 1 - September 3, 2004; September 8 - September 10, 2004; and September 15 - September 30, 2004; or until the quota of 3,000 chinook is met.

(b) During the fishing periods identified above in (7)(a), vessels are limited to a single daily landing and possession limit of fifty chinook.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: 506.129

Hist.: FWC 37-1990, f. & cert. ef. 5-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; DFW 34-2001, f. & cert. ef. 5-10-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 38-2004(Temp), f. & cert. ef. 5-5-04 thru 6-30-04; DFW 42-2004(Temp), f. 5-14-04, cert. ef. 5-15-04 thru 6-30-04; DFW 45-2004(Temp), f. 5-21-04, cert. ef. 5-24-04 thru 6-30-04; DFW 56-2004(Temp), f. 6-18-04, cert. ef. 6-19-04 thru 9-30-04; DFW 59-2004(Temp), f. 6-28-04, cert. ef. 7-1-04 thru 9-30-04; DFW 66-2004(Temp), f. 7-6-04, cert. ef. 7-8-04 thru 9-30-04; DFW 72-2004(Temp), f. 7-15-04, cert. ef. 7-16-04 thru 9-30-04; DFW 73-2004(Temp), f. & cert. ef. 7-19-04 thru 9-30-04; DFW 78-2004(Temp), f. & cert. ef. 8-4-04 thru 9-30-04; DFW 89-2004(Temp), f. 8-27-04, cert. ef. 9-1-04 thru 9-30-04

Adm. Order No.: DFW 90-2004(Temp)

Filed with Sec. of State: 8-30-2004

Certified to be Effective: 10-1-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-014-0090

Subject: Amend rules related to coho salmon seasons and bag and annual limits for specific coastal lake systems.

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 Leitel 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** apply.

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. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; 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

Adm. Order No.: DFW 91-2004(Temp)

Filed with Sec. of State: 8-31-2004

Certified to be Effective: 9-2-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-039-0090

Rules Suspended: 635-039-0090(T)

Subject: Amend rules to close sport harvest of all rockfishes, lingcod, and all greenling due to attainment of sport harvest limits for black rockfish and lingcod. Sport harvest of other rockfish species and greenlings is 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.

ADMINISTRATIVE RULES

fishers intending to transport and deliver their catch outside the area must notify ODFW one hour prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(2) The commercial troll fishery season, as described above in (1), is open effective Saturday, 12:01 a.m., June 26, 2004, through Wednesday, 11:59 p.m., June 30, 2004. Per vessel, there is a fifty (50) fish landing and possession limit for the entire five-day period.

(3) The commercial troll fishery season, as described above in (1), is open effective Thursday, 12:01 a.m., July 8, 2004, through Monday, 11:59 p.m., July 12, 2004. Per vessel, there is an one-hundred (100) chinook landing and possession limit for the entire five-day period.

(4) The commercial troll fishery season, as described above in (1), is open effective Friday, 12:01 a.m., July 16, 2004, through Monday, 11:59 p.m., July 19, 2004. Per vessel, there is an one-hundred twenty-five (125) chinook landing and possession limit for the entire four-day period.

(5) The commercial troll fishery season in the area from Queets River to Cape Falcon will open for a non-selective coho fishery (no fin-clip requirement) effective September 1, 2004.

(a) The fishery will be open during the following periods: September 1 – September 5, 2004; September 8 – September 12, 2004; and September 15, 2004; or until the quota of 10,000 coho is met.

(b) During the fishing periods identified above in (5)(a), vessels are limited to no more than 125 chinook per vessel and no more than 500 coho per vessel per open period.

(c) Fish must be landed and delivered in the area from the Queets River to Cape Falcon. Fish may be landed into Garibaldi (Note: special call-in requirements may apply if fish are landed into Garibaldi or delivered outside of the area in Oregon). All fish must be landed and delivered within 24 hours of any closure in the fishery.

(6) Effective Tuesday, September 7, 2004, 11:59 PM, the commercial troll fishery season as described in (5)(a) between Cape Falcon, OR and Queets River, WA is closed for the remainder of 2004.

(7) **Humbug Mountain to the Oregon/California Border, June-September All-Salmon Except-Coho Season.** Vessels must land their fish in Gold Beach, Port Orford, or Brookings, Oregon, and within 24 hours of any closure. Fishers intending to transport and deliver their catch to other locations after first landing in one of these ports must notify ODFW prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(8) The commercial troll fishery season, as described above in (7), is open effective September 1, 2004.

(a) The fishery will be open during the following periods: September 1 - September 3, 2004; September 8 - September 10, 2004; and September 15 - September 30, 2004; or until the quota of 3,000 chinook is met.

(b) During the fishing periods identified above in (8)(a), vessels are limited to a single daily landing and possession limit of fifty chinook.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: 506.129

Hist.: FWC 37-1990, f. & cert. ef. 5-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; DFW 34-2001, f. & cert. ef. 5-10-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 38-2004(Temp), f. & cert. ef. 5-5-04 thru 6-30-04; DFW 42-2004(Temp), f. 5-14-04, cert. ef. 5-15-04 thru 6-30-04; DFW 45-2004(Temp), f. 5-21-04, cert. ef. 5-24-04 thru 6-30-04; DFW 56-2004(Temp), f. 6-18-04, cert. ef. 6-19-04 thru 9-30-04; DFW 59-2004(Temp), f. 6-28-04, cert. ef. 7-1-04 thru 9-30-04; DFW 66-2004(Temp), f. 7-6-04, cert. ef. 7-8-04 thru 9-30-04; DFW 72-2004(Temp), f. 7-15-04, cert. ef. 7-16-04 thru 9-30-04; DFW 73-2004(Temp), f. & cert. ef. 7-19-04 thru 9-30-04; DFW 78-2004(Temp), f. & cert. ef. 8-4-04 thru 9-30-04; DFW 89-2004(Temp), f. 8-27-04, cert. ef. 9-1-04 thru 9-30-04; DFW 94-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04

Department of Forestry Chapter 629

Adm. Order No.: DOF 7-2004(Temp)

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 9-15-04 thru 3-13-05

Notice Publication Date:

Rules Adopted: 629-041-0200

Subject: Mediation communications shall be confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding. Ques-

tions specific to this rule may be directed to Rick Gibson, 503-945-7440.

Rules Coordinator: Gayle Birch—(503) 945-7210

629-041-0200

Confidentiality and Inadmissibility of Mediation Communications

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Exceptions to confidentiality and inadmissibility.

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

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence

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in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

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

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

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

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

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

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

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

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

(A) A request for mediation; or

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

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

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

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

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

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the medi-

ation or to persons as to whom disclosure of the communication would not waive the privilege; or

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

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

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

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

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

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

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

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

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 526.016(4), 526.041
Stats. Implemented: ORS 477.068, 477.085
Hist.: DOF 7-2004(Temp), f. 9-10-04, cert. ef. 9-15-04 thru 3-13-05

Adm. Order No.: DOF 8-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 9-10-04

Notice Publication Date: 5-1-04

Rules Amended: 629-041-0550

Subject: Describes the boundary of the Northeast Oregon Forest Protection District. Questions specific to this rule may be directed to Rick Gibson, 503-945-7440.

Rules Coordinator: Gayle Birch—(503) 945-7210

629-041-0550

Northeast Oregon Forest Protection District Boundary

The boundary of the Northeast Oregon Forest Protection District is as follows: Beginning at the point where the common line of township 36 east and township 37 east intersect with the northern boundary of the state of Oregon, as set forth in ORS 201.005, in or near section 18, township 6 north south, range 37 east, Umatilla County; thence easterly on the northern boundary of the state of Oregon, as set forth in ORS 201.005, to the eastern boundary of the state of Oregon, as set forth in ORS 201.005, in or near section 14, township 6 north, range 47 east; Wallowa County; thence southerly on the eastern boundary of the state of Oregon, as set forth in ORS 201.005, to the common line of section 19 and section 30, township 5 south, range 49 east, Wallowa County; thence west to the southeast corner of section 23, township 5 south, range 48 east, Wallowa County; thence south to the southeast corner of section 26, township 5 south, range 48 east, Wallowa County; thence west to the southeast corner of section 28, township 5 south, range 48 east, Wallowa County; thence south to the northeast corner of section 4, township 6 south, range 48 east, Baker County; thence east to the northeast corner of section 3, township 6 south, range 48 east, Baker County; thence south to the southeast corner of section 3, township 6 south, range 48 east, Baker County; thence west to the southeast corner of section 4, township 6 south, range 48 east, Baker County; thence south to the southeast corner of section 9, township 6 south, range 48 east, Baker County; thence west to the southeast corner of section 8, township 6 south, range 48 east, Baker County; thence south to the southeast corner of section 17, township 6 south, range 48 west, Baker County; thence west to the southeast corner of section 18, township 6 south, range 48 west, Baker

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24, township 2 south, range 37 east, Union County; thence south to the centerline of U.S. Highway 30, in or near the southeast quarter of the southeast quarter of section 36, township 2 north, range 37 east, Union County; thence southerly on the centerline of U.S. Highway 30 to the common line of the east half and the west half of section 6, township 3 south, range 38 east, in or near the northeast quarter of the southwest quarter of section 6, township 3 south, range 38 east, Union County; thence south to the northeast corner of the northwest quarter of section 18, township 3 south, range 38 east, Union County; thence east to the centerline of Twelfth Street, a city street, in or near the northeast quarter of the northwest quarter of section 17, township 3 south, range 38 east, Union County; thence southerly on the centerline of Twelfth Street, a city street, to the common line of the north half and the south half of the southeast quarter, in or near the southwest quarter of the southeast quarter, of section 17, township 3 south, range 38 east, Union County; thence east to the centerline of Foothill Road, a county road, in or near the southeast quarter of the southwest quarter of section 16, township 3 south, range 38 east, Union County; thence southerly on the centerline of Foothill Road, a county road, to the centerline of the eastbound lanes of Interstate 84, in or near the southwest quarter of the northeast quarter of section 2, township 4 south, range 38 east, Union County; thence southerly on the centerline of the eastbound lanes of Interstate 84 to the common line of section 2 and section 11, township 4 south, range 38 east, in or near the northeast quarter of the northeast quarter of section 11, township 4 south, range 38 east, Union County; thence east to the northeast corner of the northwest quarter of section 8, township 4 south, range 39 east, Union County; thence south to the northeast corner of the southwest quarter of section 17, township 4 south, range 39 east, Union County; thence east to the northeast corner of the southeast quarter of section 16, township 4 south, range 39 east, Union County; thence south to the northeast corner of section 21, township 4 south, range 39 east, Union County; thence east to the northeast corner of section 22, township 4 south, range 39 east, Union County; thence south to the northeast corner of section 27, township 4 south, range 39 east, Union County; thence east to the northeast corner of section 26, township 4 south, range 39 east, Union County; thence south to the southeast corner of the northeast quarter of section 2, township 5 south, range 39 east, Union County; thence west to the southeast corner of the northeast quarter of section 1, township 5 south, range 38 east, Union County; thence south to the northeast corner of section 13, township 5 south, range 38 east, Union County; thence east to the northeast corner of section 18, township 5 south, range 39 east, Union County; thence south to the southeast corner of section 19, township 5 south, range 39 east, Union County; thence west to the southeast corner of section 24, township 5 south, range 38 east, Union County; thence south to the southeast corner of the northeast quarter of section 36, township 5 south, range 38 east, Union County; thence west to the southeast corner of the northeast quarter of section 35, township 5 south, range 38 east, Union County; thence south to the southeast corner of section 11, township 6 south, range 38 east, Union County; thence west to the southeast corner of section 10, township 6 south, range 38 east, Union County; thence south to the southeast corner of section 15, township 6 south, range 38 east, Union County; thence west to the southeast corner of section 16, township 6 south, range 38 east, Union County; thence south to the centerline of Foothill Road, a county road, in or near the northeast quarter of the northeast quarter of section 4, township 7 south, range 38 east, Baker County; thence southerly on the centerline of Foothill Road, a county road, to the common line of section 22 and section 23, township 7 south, range 38 east, in or near the northeast quarter of the southeast quarter of section 22, township 7 south, range 38 east, Baker County; thence south to the common line of township 7 south and township 8 south, in or near the northeast quarter of the northeast quarter of section 3, township 8 south, range 38 east, Baker County; thence east to the northeast corner of section 1, township 8 south, range 38 east, Baker County; thence south to the northeast corner of the southeast quarter of section 25, township 8 south, range 38 east, Baker County; thence east to the northeast corner of the southeast quarter of section 30, township 8 south, range 39 east, Baker County; thence south to the northeast corner of section 6, township 9 south, range 39 east, Baker County; thence east to the northeast corner of the northwest quarter of section 5, township 9 south, range 39 east, Baker County; thence south to the northeast corner of the southeast quarter of the northwest quarter of section 5, township 9 south, range 39 east, Baker County; thence east to the northeast corner of the southeast quarter of the northwest quarter of section 3, township 9 south, range 39 east, Baker County; thence south to the northeast corner of the northwest quarter of section 15, township 9 south, range 39 east, Baker County; thence east to the northeast corner of section 14, township 9 south, range 39 east, Baker County; thence south to the northeast corner of the southeast quarter of sec-

tion 23, township 9 south, range 39 east, Baker County; thence east to the northeast corner of the southeast quarter of section 24, township 9 south, range 39 east, Baker County; thence south to the northeast corner of section 36, township 10 south, range 39 east, Baker County; thence east to the northwest corner of section 35, township 10 south, range 40 east, Baker County; thence north to the northwest corner of section 26, township 10 south, range 40 east, Baker County; thence east to the northeast corner of section 28, township 10 south, range 41 east, Baker County; thence south to the northeast corner of the southeast quarter of the northeast quarter of section 33, township 10 south, range 41 east, Baker County; thence east to the northeast corner of the southeast quarter of the northwest quarter of section 31, township 10 south, range 42 east, Baker County; thence south to the northeast corner of the northwest quarter of section 6, township 11 south, range 42 east, Baker County; thence east to the centerline of the eastbound lanes of Interstate 84, in or near the northeast quarter of the northeast quarter of section 3, township 11 south, range 42 east, Baker County; thence southeasterly on the centerline of the eastbound lanes of Interstate 84 to the common line of township 11 south, range 42 east and township 11 south, range 43 east, in or near the northeast quarter of the northeast quarter of section 12, township 11 south, range 42 east, Baker County; thence south to the common boundary of Baker County and Malheur County, as set forth in ORS 201.010 and 201.230, in or near the southeast quarter of the southeast quarter of section 25, township 13 south, range 42 east, Baker County; thence westerly, northerly and southerly on the common boundary of Baker County and Malheur County, as set forth in ORS 201.010 and 201.230, to the northeast corner of the southeast quarter of the southeast quarter of section 25, township 14 south, range 37 east, Baker County; thence east to the northeast corner of the southwest quarter of the southwest quarter of section 30, township 14 south, range 38 east, Malheur County; thence south to the northeast corner of the northwest quarter of the northwest quarter of section 31, township 14 south, range 38 east, Malheur County; thence east to the northeast corner of section 31, township 14 south, range 38 east, Malheur County; thence south to the northeast corner of the southeast quarter of section 31, township 14 south, range 38 east, Malheur County; thence east to the northeast corner of the northwest quarter of the southwest quarter of section 32, township 14 south, range 38 east, Malheur County; thence south to the northeast corner of the northwest quarter of the northwest quarter of section 5, township 15 south, range 38 east, Malheur County; thence east to the northeast corner of section 5, township 15 south, range 38 east, Malheur County; thence south to the southeast corner of section 20, township 15 south, range 38 east, Malheur County; thence west to the southeast corner of section 19, township 15 south, range 38 east, Malheur County; thence south to the southeast corner of section 30, township 15 south, range 38 east, Malheur County; thence west to the southeast corner of section 27, township 15 south, range 37 east, Malheur County; thence south to the southeast corner of section 34, township 15 south, range 37 east, Malheur County; thence west to the boundary of the John Day-Ochoco Unit of the Central Oregon Forest Protection District, as set forth in OAR 629-041-0515(3), in or near the southwest quarter of the southwest quarter of section 31, township 15 south, range 37 east, Malheur County; thence northerly on the boundary of the John Day-Ochoco Unit of the Central Oregon Forest Protection District, as set forth in OAR 629-041-0515(3), to the northwest corner of section 31, township 3 south, range 29 east, Morrow County; thence east to the northwest corner of section 35, township 3 south, range 30 east, Umatilla County; thence north to the northwest corner of section 23, township 3 south, range 30 east, Umatilla County; thence east to the northwest corner of section 19, township 3 south, range 31 east, Umatilla County; thence north to the northwest corner of section 18, township 3 south, range 31 east, Umatilla County; thence east to the northwest corner of section 15, township 3 south, range 31 east, Umatilla County; thence north to the northwest corner of section 3, township 3 south, range 31 east, Umatilla County; thence east to the southwest corner of section 33, township 2 south, range 32 east, Umatilla County; thence north to the northwest corner of section 28, township 2 south, range 32 east, Umatilla County; thence east to the northeast corner of section 25, township 2 south, range 32 east, Umatilla County; thence north to the northwest corner of section 30, township 1 south, range 33 east, Umatilla County; thence east to the northwest corner of section 28, township 1 south, range 33 east, Umatilla County; thence north to the southwest corner of section 9, township 1 south, range 33 east, Umatilla County; thence west to the southwest corner of section 7, township 1 south, range 33 east, Umatilla County; thence north to the northwest corner of section 6, township 1 south, range 33 east, Umatilla County; thence east to the southwest corner of the southeast quarter of section 33, township 1 north, range 33 east, Umatilla County; thence north to the northwest corner of the southwest quarter of the

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southeast quarter of section 28, township 1 north, range 33 east, Umatilla County; thence east to the northwest corner of the southwest quarter of the southwest quarter of section 27, township 1 north, range 33 east, Umatilla County; thence north to the northwest corner of section 27, township 1 north, range 33 east, Umatilla County; thence east to the northwest corner of the northeast quarter of the northwest quarter of section 27, township 1 north, range 33 east, Umatilla County; thence north to the northwest corner of the northeast quarter of the northwest quarter of section 22, township 1 north, range 33 east, Umatilla County; thence east to the northwest corner of the northeast quarter of section 22, township 1 north, range 33 east, Umatilla County; thence north to the northwest corner of the northeast quarter of section 15, township 1 north, range 33 east, Umatilla County; thence east to the northwest corner of the northeast quarter of section 14, township 1 north, range 33 east, Umatilla County; thence north to the northwest corner of the northeast quarter of section 2, township 1 north, range 33 east, Umatilla County; thence east to the northwest corner of section 1, township 1 north, range 33 east, Umatilla County; thence north to the northwest corner of section 36, township 2 north, range 33 east, Umatilla County; thence east to the northwest corner of section 31, township 2 north, range 34 east, Umatilla County; thence north to the northwest corner of section 30, township 2 north, range 34 east, Umatilla County; thence east to the northwest corner of section 29, township 2 north, range 34 east, Umatilla County; thence north to the northwest corner of the southwest quarter of section 20, township 2 north, range 34 east, Umatilla County; thence east to the northwest corner of the southeast quarter of section 20, township 2 north, range 34 east, Umatilla County; thence north to the northwest corner of the southwest quarter of the northeast quarter of section 20, township 2 north, range 34 east, Umatilla County; thence east to the northwest corner of the southwest quarter of the northwest quarter of section 21, township 2 north, range 34 east, Umatilla County; thence north to the northwest corner of section 21, township 2 north, range 34 east, Umatilla County; thence east to the northwest corner of section 23, township 2 north, range 34 east, Umatilla County; thence north to the southwest corner of the northwest quarter of section 14, township 2 north, range 34 east, Umatilla County; thence west to the southwest corner of the southeast quarter of the northeast quarter of section 15, township 2 north, range 34 east, Umatilla County; thence north to the northwest corner of the northeast quarter of the southeast quarter of section 10, township 2 north, range 34 east, Umatilla County; thence east to the northwest corner of the southwest quarter of section 7, township 2 north, range 35 east, Umatilla County; thence north to the northwest corner of section 6, township 2 north, range 35 east, Umatilla County; thence west to the southwest corner of section 31, township 3 north, range 35 east, Umatilla County; thence east to the northwest corner of the southwest quarter of section 31, township 3 north, range 35 east, Umatilla County; thence east to the northwest corner of the southwest quarter of section 33, township 3 north, range 35 east, Umatilla County; thence north to the northwest corner of section 33, township 3 north, range 35 east, Umatilla County; thence east to the northwest corner of the northeast quarter of the northwest quarter of section 35, township 3 north, range 35 east, Umatilla County; thence north to the northwest corner of the northeast quarter of the southwest quarter of section 26, township 3 north, range 35 east, Umatilla County; thence east to the northwest corner of the southeast quarter of section 26, township 3 north, range 35 east, Umatilla County; thence east to the northwest corner of the northeast quarter of section 26, township 3 north, range 35 east, Umatilla County; thence east to the northwest corner of the northeast quarter of section 26, township 3 north, range 35 east, Umatilla County; thence north to the northwest corner of the southeast quarter of the southeast quarter of section 23, township 3 north, range 35 east, Umatilla County; thence east to the northwest corner of the southwest quarter of the southwest quarter of section 24, township 3 north, range 35 east, Umatilla County; thence north to the southwest corner of the northwest quarter of section 13, township 3 north, range 35 east, Umatilla County; thence west to the southwest corner of the northeast quarter of section 14, township 3 north, range 35 east, Umatilla County; thence north to the southwest corner of the southeast quarter of section 11, township 3 north, range 35 east, Umatilla County; thence west to the southwest corner of section 11, township 3 north, range 35 east, Umatilla County; thence north to the northwest corner of section 26, township 4 north, range 35 east, Umatilla County; thence east to the northwest corner of section 25, township 4 north, range 35 east, Umatilla County; thence north to the northwest corner of section 24, township 4 north, range 35 east, Umatilla County; thence east to the northwest corner of section 19, township 4 north, range 36 east, Umatilla County; thence north to the northwest corner of section 18, township 4 north, range 36 east, Umatilla County; thence east to the northwest corner of section 15, township 4 north,

range 36 east, Umatilla County; thence north to the northwest corner of section 3, township 4 north, range 36 east, Umatilla County; thence east to the southwest corner of section 31, township 5 north, range 37 east, Umatilla County; thence north to the point of beginning.

Stat. Auth.: ORS 477.225

Stats. Implemented: ORS 477.225

Hist.: DOF 10-1998, f. & cert. ef. 8-13-98; DOF 8-2004, f. & cert. ef. 9-10-04

Department of Human Services, Child Welfare Programs Chapter 413

Adm. Order No.: CWP 15-2004

Filed with Sec. of State: 8-25-2004

Certified to be Effective: 8-25-04

Notice Publication Date: 5-1-04

Rules Adopted: 413-080-0040, 413-080-0045, 413-080-0050, 413-080-0055, 413-080-0060

Rules Repealed: 413-080-0040(T), 413-080-0045(T), 413-080-0050(T), 413-080-0055(T), 413-080-0060(T)

Subject: Department of Human Services is issuing permanent rules regarding the type and frequency of caseworker contact with children, parents and caregivers (foster parents, relative care givers, and residential treatment providers) while caseworkers perform child welfare services. Previously, child welfare policy identified the type and frequency of contact for workers only with children placed in substitute care. These new rules incorporate standards of contact for children who are being served by the department and who are not in a substitute care settings, and standards for caseworker contact with parents or caregivers. During the federal Child and Family Service Review (CFSR) in Oregon during 2001, the department was found not to be in compliance with the federal requirements for the type and frequency of caseworker contact. A Program Improvement Plan (PIP) was developed which included the state's agreement to adopt these rules regarding caseworker contact with children, parents and caregivers. These rules have also been changed to reflect new Department terminology and to correct formatting and punctuation.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-080-0040

Purpose

The purpose of these rules is to set the minimum requirements for casework staff to have contact with children, who are:

- (1) Placed in substitute care; or
- (2) Are being served with an open service plan in their own homes.
- (3) These rules also set the minimum requirements for casework staff contact with parent(s) or legal guardian(s) and caregiver(s) of children described above and for older youth and young adults.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04

413-080-0045

Values

(1) Child safety is the paramount concern guiding the minimum requirements for caseworker contact with children, their parents or legal guardians, caregivers, older youth and young adults. Having contact is one of the most important ways that the Department can: assess safety; ensure the well-being of children; provide support; assess, revise and implement service plans; and promote timely implementation of case plans for children and families served by the Department.

(2) The needs of children being served by the Department are varied and complex. To successfully meet these needs, a teamwork approach among the caseworker, families, and care providers is essential — each bringing a broad range of knowledge and skills to the helping process.

(3) Caseworkers who are assigned child welfare cases are trained to assess and review the children's safety and are considered the primary staff responsible for developing relationships with children.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04

ADMINISTRATIVE RULES

413-080-0050

Definitions

For purposes of OARs 413-080-0040 through 413-080-0055:

(1) "Caregiver" is the person providing foster, adoptive or relative care for a child or the residential treatment program in which a child is placed.

(2) "Child(ren)" is:

(a) A person under the age of 18 years for whom the Department has an open service plan and who is either placed in substitute care or is being provided services in his/her own home; or

(b) A person 18 years of age and older who remains in the legal custody of the Department.

(3) "Contact" is a face-to-face visit, a visit to the home or facility, participation in treatment reviews, court or CRB hearings, family meetings, telephone or electronic communication, written documents, or other means similarly defined.

(4) "Face-to-Face" is an in-person interaction between individuals that will allow for the caseworker to observe the child, parents, or caregivers.

(5) "FACIS" is the Family and Child Information System used by the Department.

(6) "ICPC" is the Interstate Compact for the Placement of Children. (Oregon Revised Statute 417.200)

(7) "Older youth" is a person under age 18 who is not in the care and custody of the Department but is accessing voluntary services through the Independent Living Program. (See OAR 413-030-0400 through 0455, Policy I-B.2.3.5)

(8) "Young adult" is a person over age 18 who is not in the care and custody of the Department but is accessing voluntary services through the Independent Living Program. (See OAR 413-030-0400 through 0455, Policy I-B.2.3.5)

(9) "Substitute care" is the out-of-home placement of a child who is in the legal or physical custody and care of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04

413-080-0055

Caseworker Contact

(1) Contact with Children:

(a) The child's assigned caseworker must have face-to-face visits with the child a minimum of once every 30 days. A caseworker assigned to supervise a child placed in Oregon through the ICPC must have face-to-face visits with that child a minimum of once every 30 days. Based on the child's needs and/or service plan, more frequent contact may be necessary for some children. The child's assigned caseworker and the caseworker's supervisor must determine whether additional contact between the child and the child's caseworker is necessary to meet the needs of the child. If additional contact is necessary, the type and frequency of the contact must be documented in the case record.

(b) During face-to-face visits between the child's assigned caseworker and the child, the caseworker must assess child safety and must:

(A) Develop and maintain a good working relationship with the child;

(B) Observe the child and gather information from the child and, when present, the child's parents, legal guardians or caregivers;

(C) Visit with the child in a setting comfortable and age appropriate for the child in order for the caseworker to perform the functions described above; and;

(D) If appropriate considering the child's age and level of maturity, discuss with the child the status of the current case plan, services involved, and any legal changes in the case and share with the child and gather information about the educational, medical or dental, mental health, or other pertinent information.

(2) Contact with Older Youth. The assigned caseworker must have face-to-face contact with an older youth a minimum of once every 30 days.

(3) Contact with Young Adults:

(a) The assigned caseworker must have face-to-face contact a minimum of once every 30 days with a young adult who is parenting a child.

(b) The assigned caseworker must have face-to-face contact a minimum of once every 60 days with a young adult who is not parenting a child.

(4) Contact with Parents or Legal Guardians:

(a) The child's assigned caseworker must have face-to-face contact a minimum of once every 30 days with the child's parents or legal guardians who have an open service plan and with whom the Department is working

toward a plan for reunification or maintaining a reunification plan that has been achieved.

(b) During the face-to-face contact the caseworker must observe the parents or legal guardians gather information and assess changes in parental functioning. The caseworker must discuss and review the progress of the current case plan, services involved, and any legal changes in the case.

(c) The child's assigned caseworker and the caseworker's supervisor must determine the type and frequency of contact between the child's caseworker and parents in cases where the Department is not working toward or maintaining a reunification plan. The type and level of contact determined appropriate for these parents must be documented in the case record.

(5) Contact with Caregivers:

(a) The child's assigned caseworker must have contact with the caregiver a minimum of every 30 days.

(b) The child's assigned caseworker must have face-to-face contact with the child's caregiver in the home or facility a minimum of every 60 days.

(c) The child's assigned caseworker and the caseworker's supervisor may determine that additional contact is necessary to meet the needs of the child. If additional contact is necessary, the type and frequency of that contact must be documented in the case record.

(d) Except as provided in (b), contact may be made through visits to the home or facility, during case planning meetings or reviews, by phone or by other means consistent with meeting the needs of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04

413-080-0060

Additional Contact Procedure and Requirements

(1) Scheduling Contact: Regularly scheduled visits with children, parents, legal guardians, caregivers, older youth, and young adults must occur in accordance with these rules. There may also be occasions in which advance scheduling is not necessary or is inappropriate. In these instances, the visit will occur in a manner that is consistent with the purpose of the visit and is respectful of the child and the parents or caregivers involved in the visit.

(2) Caseworker Back-Up: On rare occasion it may be necessary to meet the contact requirements with a staff person other than the child's caseworker. After consultation with and approval of the supervisor of the child's caseworker, any one of the following staff can be designated to provide the required contact: supervisor, child welfare manager, Consultant, Education, Trainer (CET), or another caseworker. The individual assigned must be familiar with the child and any special needs of the child and is responsible for the required documentation.

(3) Exceptions: After reviewing the safety and service plan for the child, the caseworker's supervisor or manager may approve an exception, on an individual case basis, to the requirement for a child's caseworker to have face-to-face contact with the child, parents, legal guardians, caregivers, older youth or young adult. The decision to approve an exception to the face-to-face contact requirement must be consistent with meeting the needs of the child. The supervisor or manager is responsible for ensuring that documentation of the reason for the exception to the face-to-face contact, including the criteria for approving an exception and the length of time the exception will be in effect, is in the client's case file. Reasons for granting an exception to the face-to-face contact requirements may include, but are not limited to:

(a) Unavailability of the child(ren). Examples include a child on vacation with the caregiver or a child on runaway status.

(b) Permanent foster care. An exception may be allowed, if appropriate, for up to 90 days between face-to-face caseworker contact with child and caregiver.

(c) Residential Care Placement. An exception may be allowed, if appropriate, for up to 60 days between face-to-face caseworker contact with child and caregiver.

(d) A Child Placed through ICPC. The child's caseworker must request that officials in the receiving state have face-to-face contact with the child a minimum of once every 30 days. If the receiving state declines the caseworker's request for 30 day contact, this will be documented in the case file along with the type and level of contact being provided.

(e) Unavailability of the Parent(s). Examples may include a parent: who is out-of-state; whose location is unknown; who is incarcerated or enrolled in an inpatient program where contact may be limited due to facility location or treatment plan; or who has had their contact with the Department restricted in some way

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(f) A documented safety risk to the caseworker or DHS staff person. In these rare circumstances, a request will be made to local law enforcement to accompany DHS staff in making contact with the child to assess safety.

(4) Contact Required Until Cases are Closed: As long as a case plan is open for services and the child's caseworker has not closed the case, the child's caseworker must continue to have contact with the children, parents, legal guardians, caregivers, older youth and young adult as required in these rules.

(5) Documentation: Face-to-face contact and unannounced visits must be documented in the electronic case file (FACIS) in the "Case Notes" section.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04

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

Adm. Order No.: OMAP 50-2004

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

Certified to be Effective: 10-1-04

Notice Publication Date: 8-1-04

Rules Amended: 410-138-0020, 410-138-0040, 410-138-0060, 410-138-0320, 410-138-0340, 410-138-0520, 410-138-0540

Subject: The Targeted Case Management Services program rules govern payment for the Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP amended the rules listed above to create a contractual relationship between providers and OMAP, by use of rules, and by using the Provider Enrollment Application as the authorizing document. This eliminates the need for multiple contracts. Other changes clarified the differences between the various targeted case management programs and updates the codes used for billing.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-138-0020

Definitions — Babies First/Cocoon Program

(1) "Assessment" — The systematic ongoing collection of data to determine current status and identify needs in physical, environmental, psychosocial, developmental, educational, behavioral, emotional, and mobility areas. Data sources include interviews, existing available records, needs assessment, the use of standardized assessment tools (i.e., NCAST and Regional X Screening Standards), and contacts with the primary care provider, other professionals, and other parties on behalf of the client.

(2) "Case Management" — Activities which will assist the client in gaining access to and effectively utilizing needed health, psychosocial, nutritional, and other services.

(3) "Intervention":

(a) Linkage — Establishing, maintaining, and documenting a referral process with pertinent individuals and agencies which avoids duplication of services to clients. Referral must include documentation of client authorization and follow-up;

(b) Planning — Identifying needs, writing goals and objectives, and determining resources to meet those needs in a coordinated, integrated fashion;

(c) Implementation — Putting the plan into action and monitoring its effectiveness;

(d) Support — Support is provided to assist the family reach the goals of the plan, especially, if resources are inadequate or service delivery system is non-responsive.

(4) "Screening" — Use of a single tool(s) or procedure(s) to identify a potential problem. Screening is not designed to diagnose the problem, but to sort the target population into two groups: Those at risk for a particular problem and those not at risk.

Stat. Auth.: ORS 409.010 & ORS 409.110
Stats. Implemented: ORS 409.010
Hist.: HR 20-1992, f. & cert. ef. 7-1-92; OMAP 50-2004, f. 9-9-04, cert. ef. 10-1-04

410-138-0040

Risk Criteria — Babies First/Cocoon Program

(1) Medical Risk Factors for infants and preschool children:

- (a) Drug exposed infant;
- (b) Infant HIV Positive;
- (c) Maternal PKU or HIV Positive;
- (d) Intracranial hemorrhage (excludes Very High Risk Factor B16);
- (e) Seizures (excludes VHR Factor B18);
- (f) Perinatal asphyxia;
- (g) Small for gestational age;
- (h) Birth weight 1500 grams or less;
- (i) Mechanical ventilation for 72 hours or more;
- (j) Neonatal hyperbilirubinemia;
- (k) Congenital infection (TORCH);
- (l) CNS infection (e.g., meningitis);
- (m) Head trauma or near drowning;
- (n) Failure to thrive;
- (o) Chronic illness;
- (p) Suspect vision impairment;
- (q) Vision impairment;
- (r) Family history of childhood onset hearing loss.

(2) Social Risk Factors:

- (a) Maternal age 16 years or less;
- (b) Parents with disabilities or limited resources;
- (c) Parental alcohol or substance abuse;
- (d) At-risk caregiver;
- (e) Concern of parent/provider;
- (f) Other evidence-based social risk factors.

(3) Very High Risk Medical Factors:

- (a) Intraventricular hemorrhage (grade III, IV) or cystic;
 - (b) Periventricular leukomalacia (PVL) or chronic subdurals;
 - (c) Perinatal asphyxia and seizures;
 - (d) Oromotor dysfunction requiring specialized feeding program (include infants with gastrostomies);
 - (e) Chronic lung disease on oxygen (includes infants with tracheostomies);
 - (f) Suspect neuromuscular disorder including abnormal neuromotor exam at NICU discharge.
- (4) Established Risk Categories:
- (a) Heart disease;
 - (b) Chronic orthopedic disorders;
 - (c) Neuromotor disorders including cerebral palsy and brachia nerve palsy;
 - (d) Cleft lip and palate and other congenital defects of the head and face;

(e) Genetic disorders including fetal alcohol syndrome;

(f) Multiple minor physical anomalies;

(g) Metabolic disorders;

(h) Spina bifida;

(i) Hydrocephalus or persistent ventriculomegaly;

(j) Microcephaly and other congenital defects of the CNS;

(k) Hemophilia;

(l) Organic speech disorders (dysarthria/ dyspraxia);

(m) Suspect hearing or hearing loss;

(n) Burns;

(o) Acquired spinal cord injury etc., paraplegia or quadriplegia.

(5) Developmental Risk Factors:

(a) Borderline developmental delay;

(b) Other evidence-based developmental risk.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 20-1992, f. & cert. ef. 7-1-92; HR 37-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 50-2004, f. 9-9-04, cert. ef. 10-1-04

410-138-0060

Provider Requirements — Babies First/Cocoon Program

(1) Babies First/Cocoon — Targeted Case Management (TCM) organizations must be a public health authority and must meet the following criteria:

(a) Demonstrated capacity (including sufficient number of staff) to provide all core elements of Case Management services including:

(A) Comprehensive client Assessment;

(B) Comprehensive care/service plan development;

(C) Linking/coordination of services;

(D) Monitoring and follow-up of services;

(E) Reassessment of the client's status and needs;

(F) Tracking the infant with follow-up across county lines to assure that no infant is lost to the case management system during the rapid growth and developmental period of the first 48 months of life.

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- (b) Demonstrated Case Management experience in coordinating and linking such community resources as required by the target population;
- (c) Demonstrated experience with the target population;
- (d) An administrative capacity to ensure quality of services in accordance with state and federal requirements;
- (e) A financial management capacity and system that provides documentation of services and costs;
- (f) Ability to link with the Title V Statewide MCH Data System or provide another statewide computerized tracking and monitoring system;
- (g) Capacity to document and maintain individual case records in accordance with state and federal requirements, including HIPAA Privacy requirements applicable to Case Management Services, ORS 192.518–192.524, 179.505, and 411.320;

(h) Demonstrated ability to meet all state and federal laws governing the participation of providers in the state Medicaid program.

(i) Enrolled as a TCM provider with the Office of Medical Assistance Programs.

(2) The case manager must be:

(a) A licensed registered nurse with one year of experience in community health, public health, child health nursing, or be a registered nurse or certified home visitor working under the direction of the above; and

(b) Working under the policies, procedures, and protocols of the State Title V MCH Program and Medicaid.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 20-1992, f. & cert. ef. 7-1-92; HR 37-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 50-2004, f. 9-9-04, cert. ef. 10-1-04

410-138-0320

Definitions — HIV Program

(1) “Assessment” — The systematic ongoing collection of data to determine current status and identify a client’s physical, psychosocial, and educational need. An HIV nursing assessment tool will measure ability of the client to manage care at home including pain control, medication management, nutritional needs, personal care needs, home safety assessment, coping with symptoms and disease process, as well as education and service needs that might enhance the client’s ability to maintain an independent lifestyle as long as possible. Data sources will include client and support person interviews, information from the referral source, communication with health care team members, and existing available records.

(2) “Case Management” — Activities which will assist the client in gaining access to and effectively utilizing needed physical, psychosocial, nutritional, and other services.

(3) “Comprehensive Care/Services Plan Development” — Identifying needs, writing goals and objectives, and determining resources to meet those needs in a coordinated, integrated fashion. Emphasis is placed on client independence and client participation in planning of his/her own care. Natural support systems include family members, partners, and friends.

(4) “Intervention/Implementation” — Putting the Case Management Plan into action and monitoring its status. When possible, intervention is provided in the home where client retention of information is improved, the cost of clinic space is saved, and support persons can be included. Intervention/implementation of the Case Management Plan include identifying, referring and arranging for needed support services such as:

(a) Medication management systems, including safe levels of pain control;

(b) Nutritional support programs (teaching, Meals on Wheels, arranging for a volunteer);

(c) Care plans for the coordination of volunteers;

(d) Disease specific education of clients and caregivers;

(e) Caregiver respite;

(f) Childcare;

(g) Grief and loss counseling;

(h) Personal care decisions;

(i) Benefits eligibility;

(j) Stress reduction;

(k) Mental health assessments;

(l) Substance abuse treatment;

(m) Spiritual counseling;

(n) Emotional support to clients, partners, and family members;

(o) Facilitating early hospital discharge by assuring that support systems are in place prior to patient discharge;

(p) Coordination of client care;

(q) Coordination of home health agency and hospice nursing services.

(5) “Coordination/Linking of Services” — Establishing and maintaining a referral process with pertinent individuals and agencies to avoid duplication of services to clients, to assist clients in accessing resources, and to solicit referrals from the community into the managed care system. Support and coordination is provided to assist the client and service providers to reach the goals of the plan; especially if resources are inadequate or service delivery system is non-responsive.

(6) “Evaluation” — Each visit will include a reassessment of the client’s status and needs, review and update of the care plan, appropriate action and referral, and accurate record keeping.

Stat. Auth.: ORS 409.010 & ORS 409.110

Stats. Implemented: ORS 409.010

Hist.: HR 42-1992, f. 12-31-92, cert. ef. 1-1-93; OMAP 50-2004, f. 9-9-04, cert. ef. 10-1-04

410-138-0340

Risk Criteria — HIV Program

Risk Factors:

(1) Advanced HIV-related dementia-confusion, severe memory loss, aggressive behavior;

(2) Need for assistance to ambulate and/or transfer between bed and chair;

(3) Suicidal ideation with plan for action;

(4) Need for assistance with activities of daily living based on severe fatigue and weakness;

(5) Care providers/family members overwhelmed by needs of the person with HIV disease;

(6) Uncontrolled pain;

(7) Loss of ability to manage medically prescribed care at home (medication, skin care, IVs);

(8) Significant weight loss associated with frequent diarrhea, nausea, vomiting and/or anorexia;

(9) Inability to maintain adequate nutrition;

(10) Decreased mobility — Potential for falls;

(11) Presence of substance abuse in conjunction with advanced HIV disease;

(12) Presence of chronic mental illness in conjunction with advanced HIV disease;

(13) Complex family situations (e.g., both spouses or partners infected);

(14) Families with children affected by HIV (parent or child infected);

(15) Homelessness or inadequate housing/heat/ sanitation;

(16) Inability to manage household activities due to advanced HIV disease.

Stat. Auth.: ORS 409.010 & ORS 409.110

Stats. Implemented: ORS 414.065

Hist.: HR 42-1992, f. 12-31-92, cert. ef. 1-1-93; OMAP 50-2004, f. 9-9-04, cert. ef. 10-1-04

410-138-0520

Definitions — Pregnant Substance Abusing Women and Women with Young Children Program

(1) “Screening and Assessment” — The gathering of information to assess the client’s need for various services, foremost being treatment for alcohol and drug abuse/addiction. Information will be gathered from the criminal justice system, the Housing Authority, and other sources as appropriate. A uniform assessment tool will be used for screening clients and identifying needed services.

(2) “Case Plan Development” — The development of an individualized case plan utilizing the input of a treatment team that will consist of the case manager, alcohol and drug treatment counselor, criminal justice system representatives, prenatal care provider, and others instrumental in the client’s life. The case plan will include components for alcohol and other drug abuse treatment, medical care, housing, education, child care, parenting, vocational, and mental health services. Goals and objectives will be written, and resources will be identified to meet the client’s needs in a coordinated, integrated fashion. The case plan will be refined, and the client’s progress in meeting goals and objectives will be assessed, in periodic meetings of the treatment team as treatment progresses.

(3) “Intervention/Implementation” — The linking of the client with appropriate community agencies and services identified in the case plan through calling or visiting these resources. The case manager will facilitate implementation of agreed-upon services through assisting the client, increasing the services and through assuring that the clients and providers fully understand how these services support the agreed-upon case plan.

Stat. Auth.: ORS 409.010 & ORS 409.110

Stats. Implemented: ORS 414.010

Hist.: HR 19-1993, f. & cert. ef. 8-13-93; OMAP 50-2004, f. 9-9-04, cert. ef. 10-1-04

ADMINISTRATIVE RULES

410-138-0540

Provider Requirements — Pregnant Substance Abusing Women and Women with Young Children Program

(1) (PWWC) — Targeted Case Management (TCM) organizations must be a public health authority and must meet the following criteria:

(a) Demonstrated capacity to provide all core elements of Case Management service activities described above;

(b) Understanding and knowledge of local and state resources/services which may be needed and available to the target population;

(c) Demonstrated case management experience in coordinating and linking the needed community resources with the client and their family as required by the target population;

(d) Demonstrated experience in working with the target population;

(e) Sufficient level of staffing to meet the Case Management service needs of the target population;

(f) An administrative capacity sufficient to monitor and ensure quality of services in accordance with state and federal requirements;

(g) Capacity to document and maintain individual case records in accordance with state and federal requirements, including HIPAA Privacy requirements applicable to Case Management Services, ORS 192.518–192.524, 179.505, and 411.320;

(h) Enrolled as a TCM provider with the Office of Medical Assistance Programs.

(i) Demonstrated ability to meet all state and federal laws governing the participation of providers in the state Medicaid Program; and

(j) Ability to link with the Title V statewide Maternal and Child Health Data System or provide another computerized tracing and monitoring system to assure adequate follow-up and to avoid duplication.

(2) The case manager must be:

(a) A licensed registered nurse or a licensed clinical social worker with one year of experience coordinating human services, or a licensed registered nurse or social worker without this experience who works under supervision of the above; and

(b) Working in compliance with the policies, procedures and protocols approved by state Title V MCH Program and Medicaid.

Stat. Auth.: ORS 409.010 & ORS 409.110

Stats. Implemented: ORS 414.065

Hist.: HR 19-1993, f. & cert. ef. 8-13-93; OMAP 50-2004, f. 9-9-04, cert. ef. 10-1-04

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Adm. Order No.: OMAP 51-2004

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

Certified to be Effective: 10-1-04

Notice Publication Date: 8-1-04

Rules Amended: 410-141-0480, 410-141-0520

Subject: The Oregon Health Plan (OHP) Services program rules govern Office of Medical Assistance Programs' payment for services provided to clients. Rule 410-141-0520 incorporates in rule by reference the Oregon Health Services Commission's Prioritized List of Health Services (Prioritized List), currently dated October 1, 2003. Oregon's 1115 demonstration waiver includes the Prioritized List of Health Services, which is operationalized through OHP program rules. OMAP amended 410-141-0480 and 410-141-0520 to clarify that Medical Assistance benefit packages follow practice guidelines adopted by the Health Services Commission in conjunction with the Prioritized List of Health Services, unless specified otherwise in rule.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0480

Oregon Health Plan Benefit Package of Covered Services

(1) OMAP Members are eligible to receive, subject to Section (11) of this rule, those treatments for the condition/treatment pairs funded on the Oregon Health Services Commission's Prioritized List of Health Services adopted under OAR 410-141-0520 when such treatments are Medically or Dentally appropriate, except that services must also meet the prudent layperson standard defined in OAR 410-141-0140. Refer to 410-141-0520 section (4) for funded line coverage information.

(2) Medical Assistance Benefit Packages follow practice guidelines adopted by the Health Services Commission (HSC) in conjunction with the Prioritized List of Health Services unless otherwise specified in rule.

(3) Diagnostic Services that are necessary and reasonable to diagnose the presenting condition of the OMAP Member are covered services, regardless of the placement of the condition on the Prioritized List of Health Services.

(4) Comfort care is a covered service for an OMAP Member with a Terminal Illness.

(5) Preventive Services promoting health and/or reducing the risk of disease or illness are covered services for OMAP Members. Such services include, but are not limited to, periodic medical and dental exams based on age, sex and other risk factors; screening tests; immunizations; and counseling regarding behavioral risk factors, (See Prioritized List of Health Services, adopted in OAR 410-141-0520).

(6) Ancillary Services are covered, subject to the service limitations of the Medical Assistance Program rules, when the services are Medically or Dentally Appropriate for the treatment of a covered condition-treatment pair, or the provision of ancillary services will enable the OMAP Member to retain or attain the capability for independence or self-care. A list of Ancillary Services is included in the Prioritized List of Health Services, adopted in OAR 410-141-0520.

(7) The provision of Chemical Dependency Services must be in compliance with the Office of Mental Health and Addiction Services (OMHAS) Administrative Rules, OAR 415-020-0000 to 0090 and 415-051-0000 to 0130 and the Chemical Dependency Prepaid Health Plan Standards in the Fully Capitated Health Plan Contract.

(8) In addition to the coverage available under section (1) of this rule, an OMAP Member may be eligible to receive, subject to section (12), services for treatments which are below the funded line or not otherwise excluded from coverage:

(a) Services can be provided if it can be shown that:

(A) The OHP Client has a funded condition for which documented clinical evidence shows that the funded treatments are not working or are contraindicated; and

(B) Concurrently has a medically related unfunded condition that is causing or exacerbating the funded condition; and

(C) Treating the unfunded medically related condition would significantly improve the outcome of treating the funded condition;

(D) Ancillary Services that are excluded and other services that are excluded are not subject to consideration under this rule;

(E) Any unfunded or funded co-morbid conditions or disabilities must be represented by an ICD-9-CM diagnosis code or when the condition is a mental disorder, represented by DSM-IV diagnosis coding to the highest level of axis specificity; and

(F) In order for the treatment to be covered, there must be a medical determination and finding by OMAP for fee-for-service OHP Clients or a finding by the Prepaid Health Plan (PHP) for OMAP Members that the terms of section (a)(A)-(C) of this rule have been met based upon the applicable:

(i) Treating physician opinion;

(ii) Medical research;

(iii) Community standards; and

(iv) Current peer review.

(b) Before denying treatment for an unfunded condition for any OMAP Member, especially an OMAP Member with a disability or with a comorbid condition, Providers must determine whether the OMAP Member has a funded condition and paired treatment that would entitle the OMAP Member to treatment under the program and both the funded and unfunded conditions must be represented by an ICD-9-CM diagnosis code; or, when the condition is a mental disorder, represented by DSM-IV diagnosis coding to the highest level of axis specificity.

(9) OMAP shall maintain a telephone information line for the purpose of providing assistance to Practitioners in determining coverage under the Oregon Health Plan Benefit Package of covered services. The telephone information line shall be staffed by registered nurses who shall be available during regular business hours. If an emergency need arises outside of regular business hours, OMAP shall make a retrospective determination under this subsection, provided OMAP is notified of the emergency situation during the next business day. If OMAP denies a requested service, OMAP shall provide written notification and a notice of the right to an Administrative Hearing to both the OHP Client and the treating physician within five working days of making the decision.

(10) If a condition/treatment pair is not on the Health Services Commission's list of prioritized services and OMAP determines the condition/treatment pair has not been identified by the Commission for inclusion on the list, OMAP shall make a coverage decision in consultation with the Health Services Commission.

(11) Coverage of services available through the Oregon Health Plan Benefit Package of Covered Services is limited by OAR 410-141-0500, Excluded Services and Limitations for Oregon Health Plan Clients.

ADMINISTRATIVE RULES

(12) General anesthesia for dental procedures which are Medically and/or Dentally Appropriate to be performed in a hospital or ambulatory surgical setting, is to be used only for those OMAP Members with concurrent needs: age, physical, medical or mental status, or degree of difficulty of the procedure as outlined below:

(a) Children under three years old with dental needs determined by the dentist or oral surgeon as requiring general anesthesia;

(b) Children over three years old requiring substantial dental care determined by the dentist or oral surgeon as requiring general anesthesia that may protect the child from unnecessary trauma;

(c) OMAP Members with physical, mental or medically compromised conditions;

(d) OMAP Members with dental needs for who local anesthesia is ineffective because of acute infection, anatomic variations, or allergy;

(e) Acute situational anxiety, fearfulness, extremely uncooperative or uncommunicative client with dental needs, determined by the dentist or oral surgeon, sufficiently important that dental care cannot be deferred;

(f) OMAP Members who have sustained extensive orofacial and dental trauma; or

(g) OMAP Members with dental needs who otherwise would not obtain necessary dental care when, in the decision of the dentist or oral surgeon, the need for dental treatment outweighs the risks of general anesthesia. The OMAP Member's dental record must clearly document the justification for the level of anesthesia and why, in the estimation of the dentist or oral surgeon, the treatment in an office setting is not possible.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 26-1995, f. 12-29-95, cert. ef. 1-1-96; HR 19-1996, f. & cert. ef. 10-1-96; HR 1-1997(Temp), f. 1-31-97, cert. ef. 2-1-97; HR 12-1997, f. 5-30-97, cert. ef. 6-1-97; HR 15-1997, f. & cert. ef. 7-1-97; HR 26-1997, f. & cert. ef. 10-1-97; OMAP 17-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 32-1998, f. & cert. ef. 9-1-98; OMAP 39-1998, f. & cert. ef. 10-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 35-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04

410-141-0520

Prioritized List of Health Services

(1) The Prioritized List of Health Services (Prioritized List) is the Oregon Health Services Commission's (HSC) listing of physical health services with "expanded definitions" of Ancillary Services and Preventive Services and the HSC's practice guidelines, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HSC. The HSC maintains the most current list on the HSC website (http://www.ohpr.state.or.us/hsc/index_hsc.htm) or, for a hardcopy, contact the Office of Health Policy and Research. This rule incorporates by reference the October 1, 2003 Prioritized List with technical revisions effective April 1, 2004, including expanded definitions and practice guidelines, and available on the HSC website.

(2) Certain Mental Health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Fully Capitated Health Plan (FCHP). These codes are identified on their own Mental Health (MH) section of the appropriate lines on the Prioritized List of Health Services.

(3) Chemical dependency (CD) services are covered for eligible OHP clients when provided by an FCHP or by a provider who has a letter of approval from the Office of Mental Health and Addiction Services and approval to bill Medicaid for CD services.

(4) The October 1, 2003 Prioritized List with technical revisions effective April 1, 2004, is in effect and condition/treatment pairs through line 546 are funded.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-04; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 52-2004(Temp)

Filed with Sec. of State: 9-1-2004

Certified to be Effective: 9-1-04 thru 2-15-05

Notice Publication Date:

Rules Amended: 410-125-0047

Subject: The Hospital Services Program administrative rules govern Office of Medical Assistance Programs' (OMAP) payment for services provided to clients. Effective September 1, 2004, OMAP will temporarily amend rule 410-125-0047 to clarify the language and to assist hospitals and managed care organizations in the administration of the limited hospital benefit for clients who are eligible for OMAP's Standard Benefit package. This rule will be permanently amended on or after November 1, 2004.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-125-0047

Limited Hospital Benefit Package for the OHP Standard Population

(1) The Oregon Health Plan (OHP) Standard population has a limited hospital benefit for urgent or emergent inpatient and emergency room services effective on August 1, 2004 through August 31, 2004. The limited hospital benefit for inpatient, outpatient, and emergency room services is effective on and after September 1, 2004.

(2) The limited hospital benefit includes the ICD-9 CM codes listed in the OHP Standard Population — Limited Hospital Benefit Code List. This rule incorporates by reference the OHP Standard Population — Limited Hospital Benefit Code List. This list includes diagnoses requiring prior authorization indicated by letters prior authorization (PA) next to the code number. The most current list, dated September 1, 2004, is available on the web site (www.dhs.state.or.us/policy/healthplan/guides/hospital), or contact the Office of Medical Assistance Programs for hardcopy.

(3) The Office of Medical Assistance Programs (OMAP) will reimburse hospitals for inpatient (diagnostic and treatment) services, outpatient (diagnostic and treatment services) and emergency room (diagnostic and treatment) based on the following:

(a) For treatment, the diagnosis must be listed in the OHP Standard Population — Limited Hospital Benefit Code List;

(b) For treatment the diagnosis must be above the funding line on the Prioritized List of Health Services (HSC List) (OAR 410-141-0520);

(c) The diagnosis (ICD-9) must pair with the treatment (CPT code); and

(d) Prior authorization (PA) must be obtained for codes indicated in the OHP Standard Population — Limited Hospital Benefit Code List. PA request should be directed to OMAP's contracted Quality Improvement Organization (QIO) and will follow the present (current) PA process. PAs must be processed as expeditiously as the client's health condition requires.

(e) Medically appropriate services required to make a definitive diagnosis are a covered benefit.

(4) Some non-diagnostic outpatient hospital services (e.g. speech, physical or occupational therapy, etc.) are not a covered benefits for the OHP Standard population (see the individual program for coverage).

(5) For benefit implementation process and PA requirements for the client enrolled in a Fully Capitated Health Plan (FCHP) and/or Mental Health Organization (MHO), contact the client's FCHP or MHO. The FCHP and/or MHO may have different requirements than OMAP.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist: OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 52-2004(Temp), f. & cert. ef. 9-1-04 thru 2-15-05

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Adm. Order No.: OMAP 53-2004(Temp)

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 9-10-04 thru 2-15-05

Notice Publication Date:

Rules Amended: 410-121-0157

Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0157 is temporarily amended to reference the updated information regarding participating pharmaceutical companies to the Medicaid Drug Rebate Program, in compliance with federal regulations. Updates include information from CMS Release #132, dated June 22, 2004, and Release #133, dated August 13, 2004.

Rules Coordinator: Darlene Nelson—(503) 945-6927

ADMINISTRATIVE RULES

410-121-0157

Participation in the Medicaid Drug Rebate Program

(1) The Oregon Medicaid Pharmaceutical Services Program is a participant in the Centers for Medicare and Medicaid Services (CMS) Medicaid Drug Rebate Program, created by the Omnibus Budget Reconciliation Act (OBRA) of 1990. The Medicaid Drug Rebate Program requires a drug manufacturer to enter into and have in effect a national rebate agreement with the Secretary of the Department of Health and Human Services for States to receive federal funding for outpatient drugs dispensed to Medicaid patients. The drug rebate program is administered by CMS's Center for Medicaid and State Operations (CMSO). Pharmaceutical companies participating in this program have signed agreements with CMS to provide rebates to the Office of Medical Assistance Programs (OMAP) on all their drug products. OMAP will reimburse providers only for outpatient drug products manufactured or labeled by companies participating in this program.

(2) Names and Labeler Code numbers for participants in the Medicaid Drug Rebate Program are the responsibility of and maintained by CMS. OMAP receives this information from CMS in the form of numbered and dated Releases. OMAP includes in rule by reference, Release #132, dated June 22, 2004 and the OMAP Master Pharmaceutical Manufacturer's Rebate Lists, alphabetical and numeric, by manufacturer, updated July 19, 2004 and Release #133, dated August 13, 2004 and the OMAP Master Pharmaceutical Manufacturer's Rebate Lists, alphabetical and numeric, by manufacturer, updated August 24, 2004. This information is available on the Department of Human Services' website: <http://www.dhs.state.or.us/policy/healthplan/rules/>, and on the CMS website: www.cms.hhs.gov/medicaid/drugs/drughmpg.asp, or by contacting CMS.

(3) OMAP contracts with First Health Services to manage the Medicaid Rebate Dispute Resolution program. Pharmacy providers must verify the accuracy of their Medicaid pharmacy claims with First Health Services within 30 days of request in instances where drug manufacturers dispute their claim information. Verification can be photocopies of drug invoices showing that the billed products were in stock during the time of the date of service.

(4) The actual National Drug Code (NDC) dispensed and the actual metric decimal quantity dispensed, must be billed.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 16-1991(Temp), f. 4-12-91, cert. ef. 4-15-91; HR 22-1991, f. & cert. ef. 5-16-91; HR 23-1991(Temp), f. 6-14-91, cert. ef. 6-17-91; HR 31-1991, f. & cert. ef. 7-16-91; HR 36-1991(Temp), f. 9-16-91, cert. ef. 10-1-91; HR 45-1992, f. & cert. ef. 10-16-91; HR 50-1991(Temp), f. & cert. ef. 10-29-91; HR 1-1992, f. & cert. ef. 1-2-92; HR 13-1992, f. & cert. ef. 6-1-92; HR 21-1992, f. 7-31-92, cert. ef. 8-1-92; HR 31-1992, f. & cert. ef. 10-1-92; HR 34-1992, f. & cert. ef. 12-1-92; HR 4-1993, f. 3-10-93, cert. ef. 3-11-93; HR 7-1993 (Temp), f. & cert. ef. 4-1-93; HR 14-1993, f. & cert. ef. 7-2-93; HR 24-1993, f. & cert. ef. 10-1-93; HR 17-1994, f. & cert. ef. 4-1-94; HR 25-1994, f. & cert. ef. 7-1-94; HR 2-1995, f. & cert. ef. 2-1-95; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 14-1995, f. 6-29-95, cert. ef. 7-1-95; HR 23-1995, f. 12-29-95, cert. ef. 1-1-96; HR 22-1997, f. & cert. ef. 10-1-97; HR 27-1997, f. & cert. ef. 12-1-97; OMAP 2-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 43-2000(Temp), f. 12-29-00, cert. ef. 1-1-01 thru 5-1-01; OMAP 3-2001, f. & cert. ef. 3-16-01; OMAP 24-2001(Temp), f. 5-9-01, cert. ef. 5-10-01 thru 11-1-01; OMAP 25-2001(Temp), f. 6-28-01, cert. ef. 7-1-01 thru 12-1-01; OMAP 27-2001(Temp), f. 7-30-01, cert. ef. 8-1-01 thru 1-26-02; OMAP 48-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-1-02; OMAP 56-2001(Temp), f. & cert. ef. 11-1-01 thru 4-15-02; OMAP 57-2001(Temp), f. 11-28-01, cert. ef. 12-1-01 thru 4-15-02; OMAP 66-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 5-15-02; OMAP 4-2002(Temp), f. & cert. ef. 3-5-02 thru 8-1-02; OMAP 16-2002(Temp), f. & cert. ef. 4-12-02 thru 9-1-02; OMAP 20-2002(Temp), f. & cert. ef. 5-15-02 thru 10-1-02; OMAP 34-2002(Temp), f. & cert. ef. 8-14-02 thru 1-15-03; OMAP 67-2002(Temp), f. & cert. ef. 11-1-02 thru 3-15-03; OMAP 6-2003(Temp), f. & cert. ef. 2-14-03 thru 7-1-03; OMAP 38-2003, f. & cert. ef. 5-9-03; OMAP 39-2003(Temp), f. & cert. ef. 5-15-03; OMAP 48-2003, f. & cert. ef. 7-7-03; OMAP 74-2003, f. & cert. ef. 10-1-03; OMAP 5-2004(Temp), f. & cert. ef. 2-4-04 thru 6-15-04; OMAP 24-2004, f. & cert. ef. 3-30-04; OMAP 31-2004(Temp), f. & cert. ef. 5-14-04 thru 10-15-04; OMAP 42-2004, f. 6-24-04 cert. ef. 7-1-04; OMAP 53-2004(Temp), f. & cert. ef. 9-10-04 thru 2-15-05

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Adm. Order No.: OMAP 54-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 7-1-04

Rules Amended: 410-122-0010, 410-122-0190

Subject: The Durable Medical Equipment and Medical Supplies (DMEPOS) Services program rules govern payment for the Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. Effective January 30, 2004, OMAP removed the prior authorization requirement for A4649 and E1399 when billing for equipment and supplies under \$50.00. OMAP revised 410-122-0190 to reflect this change. OMAP revised 410-122-0010 to add the definition of "home."

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-122-0010

Definitions

(1) Buy up — "Buy-up" refers to a situation in which a client wants to upgrade to a higher level of service than he or she is eligible for; e.g., a heavy duty walker instead of a regular walker.

(2) Consecutive Months — Any period of continuous use where no more than a 60-day break occurs.

(3) Home — For purposes of purchase, rental and repair of durable medical equipment that is used primarily as a supportive measure in meeting a client's basis daily living activities, home is a place of permanent residence, such as an assisted living facility (includes the common dining area), a 24-hour residential care facility, an adult foster home, a child foster home or a private home. This does not include hospitals or nursing facilities or any other setting that exists primarily for the purpose of providing medical/nursing care.

(4) Lifetime need — 99 months or more.

(5) Manufacturer Part Number (MPN):

(a) Each manufacturer provides an MPN to identify that manufacturer's part. It is a specification used by the manufacturer to store a part in an illustrated part catalog (graphics and text);

(b) An MPN uniquely identifies a part when used together with manufacturer code (external manufacturer), which is the own name used by the manufacturer and not the manufacturer name provided by other.

(6) OMAP's Maximum Allowable Rate — The maximum amount paid by OMAP for a service.

(7) Practitioner — A person licensed pursuant to Federal and State law to engage in the provision of health care services within the scope of the practitioner's license and certification.

(8) Prescription:

(a) A proper written order supported by documentation in the prescribing practitioner's records.

(b) A prescription must:

(A) Be signed;

(B) Be dated;

(C) Be legible;

(D) Specify the exact medical item or service required;

(E) List the ICD-9-CM diagnosis codes;

(F) List the number of units, and;

(G) List the length of time needed.

(c) An original, fax, or electronic prescription is acceptable.

(9) Purchase price — Includes:

(a) Delivery;

(b) Assembly;

(c) Adjustments, if needed, and;

(d) Training in the use of the equipment or supply.

(10) Rental fees — Include:

(a) Delivery;

(b) Training in the use of the equipment;

(c) Pick-up;

(d) Routine service, maintenance and repair, and;

(e) Moving equipment to new residence, if coverage is to continue.

(11) Technician — A DMEPOS provider staff professionally trained through product or vendor-based training, technical school training (e.g., electronics) or through apprenticeship programs with on-the-job training.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 54-2004, f. 9-10-04, cert. ef. 10-1-04

410-122-0190

Equipment and Services Not Otherwise Classified

(1) Documentation must support that the procedure code billed is accurate and is appropriate.

(2) The level of reimbursement should not be considered as a factor in the use of these procedure codes.

(3) Procedure Codes — **Table 122-0190.**

(4) Criteria for code E1399:

(a) Use modifier TW when using code E1399 for back-up equipment;

(b) Code E1399 includes but is not limited to use for the following:

(A) Walker gliders — Not covered for clients in a nursing facility;

(B) Oxymiser cannula — Not covered for clients in a nursing facility;

(C) Hydraulic bathtub lift — Not covered for clients in a nursing facility;

(D) Heavy-duty or extra-wide rehab shower/commode chair — Not covered for clients in a nursing facility;

(E) Routine maintenance for client-owned ventilator.

ADMINISTRATIVE RULES

- (i) Proof of manufacturer's suggested maintenance schedule must be submitted when requesting PA;
- (ii) Bill E1340 for labor charges.
- (c) Code E1399 cannot be used for:
 - (A) Wheelchair base;
 - (B) Repairs.
- (d) Code E1399 can only be used for gait belts when the:
 - (A) Client is 60 pounds or greater, and;
 - (B) Care provider is trained in the proper use, and;
 - (C) Client meets one of the following criteria:
 - (i) The client may be able to walk independently, but needs a minor correction of ambulation, or;
 - (ii) The client needs minimal or standby assistance to walk alone, or;
 - (iii) The client requires assistance with transfer.
 - (e) Documentation of medical appropriateness from the prescribing practitioner must:
 - (A) Be kept on file by the DME provider, and;
 - (B) Include documentation that the care provider is trained in proper use.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1993, f. & cert. ef. 4-1-93; 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 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; 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 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; 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 54-2004, f. 9-10-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 55-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 7-1-04

Rules Amended: 410-123-1240, 410-123-1260, 410-123-1490

Subject: The Dental Services program Administrative Rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. OMAP revised rules 410-123-1240, 410-123-1260 and 410-123-1490 to better reflect the intent and support the limitation on dental services. These amendments were necessary to add more direct language to assure that the intended dental services are provided, clarify rule language and take care of necessary housekeeping corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-123-1240

The Dental Claim Invoice

(1) OMAP requires the use of the ADA claim form for the billing of all dental services on paper claims. This includes all professional dental services provided in an ASC facility, outpatient hospital setting or inpatient hospital setting except for those dental services outlined in Rule 410-123-1440, which require the use of the CMS-1500 claim form. OMAP requires the 2000 ADA claim form.

(2) Refer to www.dhs.state.or.us/healthplan for specific information regarding HIPAA requirements and electronic billing of dental claims.

(3) Instructions for the forms referenced in this rule are available from OMAP.

(4) Do not include OMAP copayments when billing for dental services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 76-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 65-2003, f. 9-10-03, cert. ef. 10-1-03; OMAP 55-2004, f. 9-10-04, cert. ef. 10-1-04

410-123-1260

Dental Exams, Diagnostic and Procedural Services

(1) Refer to **Table 123-1260-1** for information regarding dental services requiring prior authorization and surgical report.

(2) The client's records must include appropriate documentation to support the service and level of care rendered.

(3) Dental services that are not dentally appropriate or are for the convenience of the client is not covered.

(4) Exams:

(a) Codes are based on the American Dental Association CDT-4, except where noted for restorations. Refer to the CDT-4 publication for code descriptions;

(b) For services billed that do not require a tooth number or surface, leave blank;

(c) Exams (billed as D0120, D0150, D0160 or D0180) by the same practitioner are payable once every twelve months;

(d) For each emergent episode, use D0140 for the initial exam. Use D0170 for related dental follow-up exams.

(5) Radiographs:

(a) Routine radiographs are limited to once every 12 months, except panoramic (D0330) and intraoral complete series (D0210) which are payable once every five years. The exception to these limitations is if the client is new to the office or clinic and the office or clinic was unsuccessful in obtaining radiographs from the previous dental office or clinic. Supporting documentation outlining the provider's attempts to receive previous records must be included in the client's records. A maximum of six radiographs are payable for any one emergency;

(b) When billing for radiographs, do not use tooth number or tooth surface;

(c) The minimum age for billing code D0210 is six years. For clients under age six, radiographs may be billed separately as follows:

(A) D0220 — once;

(B) D0230 — a maximum of five times;

(C) D0270 — a maximum of twice, or D0272 once.

(d) The minimum standards for payment of intraoral complete services are:

(A) For clients age six through 11, a minimum of 10 periapicals and two bitewings for a total of 12 films;

(B) There is a minimum of 10 periapicals and four bitewings for a total of 14 films for ages 12 and older.

(e) If fees for multiple single radiographs exceed the allowable reimbursement for a full mouth complete series (D0210), the Office of Medical Assistance Programs (OMAP) will pay for complete series;

(f) Bitewing radiographs for routine screening are payable every 12 months;

(g) Payment for routine panoramic films or complete series intraoral radiograph is limited to one every five years. This does not mean that panoramic or complete series intraoral radiographs can both be done within a five-year period. Additional films are covered when medically justified, e.g., fractures;

(h) Payment for some or all-multiple radiographs of the same tooth or area may be denied if OMAP determines the number to be excessive;

(i) Note: When billing additional films (D0230 and D0260), do not use a separate line for each additional film. Use only one line: add up the total additional films being billed and enter this number under the Quantity column, or create a "Q" column, depending on which form you use.

(6) Preventive Services:

(a) Prophylaxis — Limited to once every 12 months. Additional prophylaxis benefit provisions may be available for persons with high risk oral conditions due to disease process, medications or other medical treatments or conditions, severe periodontal disease, rampant caries and/or for persons with disabilities who cannot perform adequate daily oral health care;

(b) Topical Fluoride Treatment (Office Procedure) is limited to once every 12 months. Additional topical fluoride treatments may be available for a client:

(A) Who is pregnant with high-risk oral condition limited to periodontal disease or rampant caries;

(B) With physical disabilities that cannot perform adequate daily oral health care;

(C) Who have a developmental disability or other severe cognitive impairment that cannot perform adequate daily oral healthcare;

(D) Who is six years or younger with high-risk oral health factors.

(c) Sealants:

(A) Sealants are covered for permanent molars only for children 15 or younger;

(B) Limited to one treatment per tooth every five years except for visible evidence of clinical failure.

(d) Space Management — Removable space maintainers will not be replaced if lost or damaged.

(7) Tobacco Cessation:

(a) Use CDT-4 code D1320 on an American Dental Association (ADA) claim form when billing for tobacco cessation services as outlined. Maximum of 10 services within a three-month period;

(b) Follow criteria outlined in OAR 410-130-0190.

ADMINISTRATIVE RULES

- (8) Restorations — Amalgam and Composite:
- (a) Payment for restorations is limited to the maximum restoration fee of four surfaces per tooth. Refer to American Dental Association Current Dental Terminology for definitions of restorative procedures;
 - (b) All surfaces must be combined and billed one line per tooth using the appropriate code. For example, tooth #30 has a buccal amalgam and a MOD amalgam — bill MOD, B, using code D2161;
 - (c) Payment for an amalgam or composite restoration and a crown on the same tooth will be denied;
 - (d) Payment is made for a surface once in each treatment episode regardless of the number or combination of restorations;
 - (e) Payment for occlusal adjustment and polishing of the restoration is included in the restoration fee.
- (9) Crowns:
- (a) Acrylic Heat or Light Cured Crowns — allowed for anterior permanent teeth only;
 - (b) Prefabricated Plastic Crowns — allowed for anterior teeth only, permanent or primary;
 - (c) Permanent crowns — allowed for anterior permanent teeth only. Clients must be 16 or older. Radiographs required; history, diagnosis, and treatment plan may be requested;
 - (d) Payment for crowns for posterior teeth, permanent or primary is limited to stainless steel crowns;
 - (e) Payment for preparation of the gingival tissue is included in the fee for the crown;
 - (f) Payment for retention pins is limited to four per tooth;
 - (g) Crowns are covered only when there is significant loss of clinical crown and no other restoration will restore function. The following is not covered:
 - (A) Endodontic therapy alone (with or without a post) is not covered;
 - (B) Aesthetics.
 - (h) Crown replacement is limited to one every five years per tooth. Exceptions to this limitation may be made for crown damage due to acute trauma, based on the following factors:
 - (A) Extent of crown damage;
 - (B) Extent of damage to other teeth or crowns; and
 - (C) Extent of impaired mastication.
 - (i) Crowns will not be covered in cases of advanced periodontal disease or when a poor crown/root ratio exists for any reason.
- (10) Endodontics:
- (a) Pulp Capping: Direct and indirect pulp caps are included in the restoration fee — no additional payment will be made;
 - (b) Endodontic Therapy:
 - (A) Endodontics is covered only if the crown-to-root ratio is 50:50 or better and the tooth is restorable without other surgical procedures;
 - (B) Separate reimbursement for open-and-drain as a palliative procedure is allowed only when the root canal is not completed on the same date of service, or if the same practitioner or dental practitioner in the same group practice did not complete the procedure;
 - (C) The client's record must include appropriate documentation to support the services and level of care rendered;
 - (D) Root canal therapy is not covered for third molars.
 - (c) Endodontic Therapy on Permanent Teeth — Apexification is limited to a maximum of five treatments on permanent teeth only.
- (11) Periodontics:
- (a) When billing for quadrants, use quadrant UL, LL, UR or LR to define each tooth number. No surface code is necessary;
 - (b) D4210 — covered for severe gingival hyperplasia where enlargement of gum tissue occurs that prevents access to oral hygiene procedures, e.g., dilantin hyperplasia;
 - (c) D4220 — allowed once in a two-year period;
 - (d) D4240 and D4260 — allowed once every three years unless there is a documented medical/dental indication;
 - (e) D4341 — allowed once every two years. A maximum of two quadrants on one date of service is payable, except in extraordinary circumstances. Quadrants are not limited to physical area, but are further defined by the number of teeth with pockets 5 mm or greater;
 - (f) D4910 — allowed once every six months. For further consideration of more frequent periodontal maintenance benefits, office records must clearly reflect clinical indication, i.e., chart notes, pocket depths and radiographs;
 - (g) Records must clearly document the clinical indications for all periodontal procedures, including current pocket depth charting and/or radiographs;
 - (h) Surgical procedures include six months routine postoperative care;
 - (i) Note: The Office of Medical Assistance Programs (OMAP) will not reimburse for the following procedures if performed on the same date of service:
 - (A) D1110;
 - (B) D1120;
 - (C) D4210;
 - (D) D4220;
 - (E) D4260;
 - (F) D4341;
 - (G) D4355;
 - (H) D4910.
- (12) Removable Prosthodontics:
- (a) Removable cast metal prosthodontics and full dentures are limited to clients 16 or older;
 - (b) Adjustments to removable prosthodontics during the six-month period following delivery to clients are included in the fee;
 - (c) Replacement:
 - (A) Replacement of dentures and partials is limited to once every five years and only if dentally appropriate. This does not imply that replacement of dentures or partials must be done once every five years, but only when Dentally Appropriate;
 - (B) The limitation of once every five years applies to the client regardless of Dental Care Organization (DCO) or Fee-for-Service (FFS) enrollment status. This includes clients that move from FFS to DCO, DCO to FFS, or DCO to DCO. For example: a client receives full dentures on February 1, 2000, while FFS and a year later enrolls in a DCO. The client would not be eligible for another full denture until February 2, 2005, regardless of DCO or FFS enrollment;
 - (C) Replacement of partial dentures with full dentures is payable five years after the partial denture placement. Exceptions to this limitation may be made in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical and/or medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene will not warrant replacement.
 - (d) Relines:
 - (A) Reline of complete or partial dentures is allowed once every two years;
 - (B) Exceptions to this limitation may be made under the same conditions warranting replacement;
 - (C) Laboratory relines are not payable within five months after placement of an immediate denture.
 - (e) Tissue Conditioning:
 - (A) Tissue conditioning is allowed once per denture unit in conjunction with immediate dentures;
 - (B) One tissue conditioning is allowed prior to new prosthetic placement.
 - (f) Cast Partial Dentures:
 - (A) Cast partial dentures will not be approved if stainless steel crowns are used as abutments;
 - (B) Cast partial dentures must have one or more anterior teeth missing or four or more missing posterior teeth per arch with resulting space equivalent to that loss demonstrating inability to masticate. Third molars are not a consideration when counting missing teeth;
 - (C) Teeth to be replaced and teeth to be clasped are to be noted in the "remarks" section of the form.
 - (g) Denture Rebase Procedures:
 - (A) Rebase should only be done if a reline will not adequately solve the problem. Rebase is limited to once every three years;
 - (B) Exceptions to this limitation may be made in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical and/or medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene will not warrant rebasing.
 - (h) Laboratory Denture Reline Procedures — Limited to once every two years.
- (13) Maxillofacial Prosthetics:
- (a) For clients enrolled in managed care, maxillofacial prosthetics are to be billed using CPT or HCPCS coding on a CMS-1500 to the client's medical managed care organization (FCHP). Provision of maxillofacial

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prosthetics is included in the FCHP capitation and is not the DCO's responsibility;

(b) For fee-for-service clients, bill the Office of Medical Assistance Programs (OMAP) using CPT or HCPCS codes on a CMS-1500 listed in Table 123-1260-2. Payment is based on the physician fee schedule.

(14) Oral Surgery:

(a) Oral surgical services performed in a dental office setting do not require prior authorization (PA), and include, but are not limited to, all dental procedures, local anesthesia, surgical postoperative care, radiographs and follow-up visits;

(b) Oral surgical services performed in a dental office setting are billed on an American Dental Association (ADA) dental claim form. For clients enrolled in a Dental Care Organization (DCO), the oral surgical services are the responsibility of the DCO;

(c) Oral surgical services performed in an Ambulatory Surgical Center (ASC), inpatient or outpatient hospital setting and related anesthesia services require PA. Oral surgical procedures directly related to the teeth and supporting structures must be billed on an ADA claim form;

(d) If the services requiring hospital dentistry are the result of a medical condition/diagnosis (i.e., fracture, cancer), use appropriate American Medical Association (AMA) CPT-4 procedure codes and bill procedures on a CMS-1500 claim form. For clients enrolled in a Fully Capitated Health Plan (FCHP), the facility charge and anesthesia services are the responsibility of the FCHP. See rule 410-123-1490 Hospital Dentistry for requirements;

(e) All codes listed as By Report require an operative report;

(f) Payment for tooth reimplantation is covered only in cases of traumatic avulsion where there are good indications of success;

(g) Surgical Assistance:

(A) Reimbursement for surgical assistance is restricted to services provided by dentists and physicians;

(B) Surgical assistance will be reimbursed only when the assistant's services qualify as a dental or medical necessity;

(C) Only one surgical assistant will be reimbursed unless clinical justification is submitted for an additional assistant;

(D) Primary surgeons, assistant surgeons, anesthesiologists, and nurse anesthetists not in common practice must bill separately for their services.

(h) Extractions — Includes local anesthesia and routine postoperative care;

(i) Surgical Extractions:

(A) Includes local anesthesia and routine post-operative care;

(B) The following codes are limited to treatment for symptomatic pain, infection, bleeding, or swelling:

(i) D7220;

(ii) D7230;

(iii) D7240;

(iv) D7241 — By Report;

(v) D7250.

(j) Note: The following procedures on the Health Services Commission's (HSC) Prioritized List of Health Services (List) are covered as medical procedures. Bill on a CMS-1500, using CPT coding. If a client is enrolled in a Fully Capitated Health Plan (FCHP) it is the responsibility of the provider to contact the FCHP for any required authorization before the service is rendered:

(A) D7430;

(B) D7431;

(C) D7460;

(D) D7461;

(E) D7810;

(F) D7820;

(G) D7830.

(15) Orthodontia:

(a) Orthodontia services are limited to eligible clients for the ICD-9-CM diagnosis of cleft palate with cleft lip;

(b) Prior authorization (PA) is required for orthodontia exams and records. A referral letter from a physician or dentist indicating diagnosis of cleft palate/lip must be included in the client's record and a copy sent with the PA request;

(c) Documentation in the client's record must include diagnosis, length and type of treatment;

(d) Payment for appliance therapy includes the appliance and all follow-up visits;

(e) Orthodontia treatment for cleft palate/cleft lip is evaluated as two phases. Each phase is reimbursed individually (separately);

(f) Payment for orthodontia will be made in one lump sum at the beginning of each phase of treatment. Payment for each phase is for all orthodontia-related services. If the client transfers to another orthodontist during treatment, or treatment is terminated for any reason, the orthodontist must refund to the Office of Medical Assistance Programs (OMAP) any unused amount of payment, after applying the following formula: Total payment minus \$300.00 (for Banding) multiplied by the percentage of treatment remaining;

(g) The length of the treatment plan from the original request for authorization will be used to determine the number of treatment months remaining;

(h) As long as the orthodontist continues treatment no refund will be required even though the client may become ineligible for medical assistance sometime during the treatment period;

(i) Code:

(A) D8660 — PA required (reimbursement for required orthodontia records is included);

(B) Codes D8010-D8999 — PA required.

(16) Anesthesia:

(a) General anesthesia or IV sedation is to be used only for those clients with concurrent needs: age, physical, medical or mental status, or degree of difficulty of the procedure (D9220, D9221, and D9240);

(b) General anesthesia is paid using D9220 for the first 30 minutes and use D9221 for each additional 15-minute period, up to three hours on the same day of service. When using D9221, use care when entering quantity. Each 15-minute period represents a quantity of one. Enter this number in the quantity column;

(c) Nitrous oxide is paid per date of service, not by time;

(d) IV sedation is paid per date of service;

(e) Oral premedication anesthesia for conscious sedation:

(A) Limited to clients through 12 years of age;

(B) Limited to four times per year;

(C) Monitoring and nitrous oxide included in the fee; and

(D) Use of multiple agents is required to receive payment.

(f) Upon request, providers must submit to the Office of Medical Assistance Programs (OMAP) a copy of their permit to administer anesthesia, analgesia and/or sedation;

(g) Anesthesia — For the purpose of Title XIX and Title XXI, D9630 is limited to those oral medications used during a procedure and is not intended for "take home" medication.

(17) D9430 is limited to three visits per year.

Table 123-1260-1 [Table not printed. See ED. NOTE.]

Table 123-1260-2 [Table not printed. See ED. NOTE.]

[ED. NOTE: Tables are available from the Agency.]

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03; OMAP 55-2004, f. 9-10-04, cert. ef. 10-1-04

410-123-1490

Hospital Dentistry

(1) Hospital Dentistry is defined as routine dental services provided in an Ambulatory Surgical Center (ASC), inpatient or outpatient hospital setting under general anesthesia.

(2) The purpose of Hospital Dentistry is to provide safe, efficient dental care for clients who present special challenges requiring general anesthesia.

(3) The use of general anesthesia is sometimes necessary to provide quality dental care for the client. Depending on the client, this can be done in an ASC, a day surgery center, outpatient hospital or inpatient hospital setting with the use of pre- and/or postoperative patient admission to the hospital.

(4) General anesthesia is a controlled state of unconsciousness accompanied by a loss of protective reflexes, including the ability to maintain an airway independently and respond purposefully to physical stimulation or verbal command.

(5) The need to diagnose and treat, as well as the safety of the client and the practitioner, must justify the use of general anesthesia. The decision to use general anesthesia must take into consideration:

(a) Alternative behavior management modalities;

(b) Client's dental needs;

(c) Quality of dental care;

(d) Quantity of dental care;

(e) Client's emotional development;

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- (f) Client's physical considerations;
- (g) Client's requiring dental care for whom the use of general anesthesia may protect the developing psyche.
- (6) Client, parental or guardian written consent must be obtained prior to the use of general anesthesia.
- (7) The following information must be included in the client's dental record:
 - (a) Informed consent;
 - (b) Justification for the use of general anesthesia.
 - (8) Indications for the use of general anesthesia for children 18 or younger is limited to:
 - (a) If a child is under 3 years old with extensive dental needs;
 - (b) If a child is over 3 years old, treatment is attempted in the office setting with some type of sedation or nitrous oxide. If treatment in an office setting is not possible, documentation in the client's dental record as to why, in the estimation of the dentist, the client will not be responsive to office treatment;
 - (c) Acute situational anxiety, fearfulness, extreme uncooperative behavior, uncommunicative such as a client with developmental or mental disability, a client that is pre-verbal or extreme age where dental needs are deemed sufficiently important that dental care cannot be deferred;
 - (d) Requiring dental care for whom the use of general anesthesia is to protect the developing psyche;
 - (e) Client who has sustained extensive orofacial or dental trauma;
 - (f) Physical, mental or medically compromising conditions;
 - (g) Clients who have a developmental disability or other severe cognitive impairment, with acute situational anxiety and extreme uncooperative behavior that prevents dental care without general anesthesia;
 - (h) Clients who have a developmental disability or other severe cognitive impairments and have a physically compromising condition that prevents dental care without general anesthesia.
 - (10) The intent to cover hospital dentistry in adults is limited to:
 - (a) Clients who have a developmental disability or other severe cognitive impairment, with acute situational anxiety and extreme uncooperative behavior that prevents dental care without general anesthesia;
 - (b) Clients who have a developmental disability or other severe cognitive impairments and have a physically compromising condition that prevents dental care without general anesthesia;
 - (c) Client who has sustained extensive orofacial or dental trauma.
 - (11) Contraindications for general anesthesia:
 - (a) Client convenience. Refer to OAR 410-120-1200;
 - (b) A healthy, cooperative client with minimal dental needs;
 - (c) Medical contraindication to general anesthesia.
 - (12) Hospital Dentistry requires prior authorization (PA) regardless of whether or not a client is enrolled in a Fully Capitated Health Plan (FCHP) or Dental Care Organization (DCO). All requests for PA require the OMAP 3301 form to be completed.
 - (13) Obtaining PA:
 - (a) If a client is enrolled in an FCHP and a DCO:
 - (A) The attending dentist is responsible for contacting the FCHP for PA requirements and arrangements when provided in an inpatient hospital, outpatient hospital or ambulatory surgical center;
 - (B) The attending dentist is responsible for submitting documentation to the FCHP and simultaneously to the DCO on the OMAP 3301 form;
 - (C) The medical and dental plans should review the OMAP 3301 form and raise any concerns they have to the other, in addition to contacting the attending dentist. This allows for mutual plan involvement and monitoring;
 - (D) The total response turn around time should not exceed 20 calendar days from the date of submission of all required documentation for routine dental care and should according to the urgent/emergent dental care timelines;
 - (E) The FCHP is responsible for payment of all facility and anesthesia services. The DCO is responsible for payment of all dental professional services.
 - (b) If a client is fee-for-service for medical services and enrolled in a DCO:
 - (A) The attending dentist is responsible for faxing the OMAP 3301 form and a completed ADA form to the Office of Medical Assistance Programs (OMAP) Dental Program Coordinator;
 - (B) OMAP is responsible for payment of facility and anesthesia services. The DCO is responsible for payment of all dental professional services.
 - (c) If a client is enrolled in an FCHP and is fee-for-service dental:
 - (A) The individual dentist is responsible for contacting the FCHP, obtaining PA and arrangement for hospital dentistry;

- (B) It is the responsibility of the individual dentist to submit required documentation on the OMAP 3301 form to the FCHP;
- (C) The FCHP is responsible for all facility and anesthesia services. OMAP is responsible for payment of all dental professional services.
- (d) If a client is fee-for-service for both medical and dental:
 - (A) The individual dentist is responsible for faxing the OMAP 3301 form and a completed ADA form to the OMAP Dental Program Coordinator;
 - (B) OMAP is responsible for payment of all facility, anesthesia services and dental professional charges.
- (14) OMAP will not approve any subsequent hospital dentistry requests without clinical documentation as to why the treatment plan provided, as outlined in the prior authorization request, was not completed.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 55-2004, f. 9-10-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 56-2004
Filed with Sec. of State: 9-10-2004
Certified to be Effective: 10-1-04
Notice Publication Date: 7-1-04
Rules Repealed: 410-127-0100, 410-127-0120

Subject: The Home Health Care Services program rules govern payment for the Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP repealed rules 410-127-0100 and 410-127-0120 to remove billing instructions that are unnecessary in rule.
Rules Coordinator: Darlene Nelson—(503) 945-6927

Adm. Order No.: OMAP 57-2004
Filed with Sec. of State: 9-10-2004
Certified to be Effective: 10-1-04
Notice Publication Date: 7-1-04
Rules Amended: 410-129-0080, 410-129-0100
Rules Repealed: 410-129-0120, 410-129-0140

Subject: The Speech-Language Pathology, Audiology and Hearing Aid Services program rules govern Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP revised 410-129-0080 to correct a typographical error. OMAP revised 410-129-0100 to clarify reimbursement for services for Medicaid fee-for-service clients with Medicare. Proposed adopted language is consistent with General Rules. There is no change in the amount of reimbursement. OMAP repealed rules 410-129-0120 and 410-129-0140 to eliminate redundancy. This information is found as supplemental information, available on OMAP's website.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-129-0080 Prior Authorization of Payment

(1) Payment authorization (PA) is approval by Office of Medical Assistance Programs (OMAP), the Medically Fragile Children's Unit (MFCU), the Fee-For-Service (FFS) Medical Case Management (MCM) Contractor or the Managed Care Organizations (MCOs) for services which are medically appropriate.

(2) Payment authorization is required for speech-language pathology, audiology and hearing aid services as indicated in the Procedure Codes section of the OMAP Speech-Language Pathology, Audiology and Hearing Aid Services rules. For services requiring authorization from OMAP or MFCU, providers must contact OMAP or MFCU for authorization within five working days following initiation of services. Authorization will be given based on medical appropriateness and appropriateness of the therapy given. Hearing aids and other devices must be authorized prior to delivery of any services. For services requiring payment authorization from the FFS Medical Case Management (MCM) Contractor, authorization must be obtained prior to the initiation of services. For FFS MCM clients, OMAP will not reimburse for a service that requires payment authorization if provided prior to receiving authorization from the Medical Case Management Contractor. It is the provider's responsibility to obtain a payment authorization.

(3) Services for clients identified on the OMAP Medical Care Identification as having an "OMAP Contracted Plan" will be authorized by

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the plan. Contact the Managed Care Organization to determine their procedures.

[ED. NOTE: Forms referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 14-1982, f. 2-16-82, ef. 3-1-82; AFS 49-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 14-1984(Temp), f. & ef. 4-2-84; AFS 22-1984(Temp), f. & ef. 5-1-84; AFS 40-1984, f. 9-18-84, ef. 10-1-84; AFS 67-1985, f. 11-19-85, ef. 12-1-85; AFS 7-1988, f. & cert. ef. 2-1-88; HR 5-1991, f. 1-18-91, cert. ef. 2-1-91; Renumbered from 461-021-0310; HR 11-1992, f. & cert. ef. 4-1-92; HR 27-1993, f. & cert. ef. 10-1-93; OMAP 36-1999, f. & cert. ef. 10-1-99; OMAP 38-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 39-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 85-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 57-2004, f. 9-10-04, cert. ef. 10-1-04

410-129-0100

Medicare/Medicaid Claims

(1) When an individual, not in managed care, has both Medicare and Medicaid coverage, audiologists must bill audiometry and all diagnostic testings to Medicare first. Medicare will automatically forward these claims to Medicaid. Refer to OAR 410-120-1210 (General Rules) for information on OMAP reimbursement. For managed care clients with Medicare, contact the client's Managed Care Organization (MCO).

(2) Audiologists must bill all hearing aids and related services directly to OMAP on an OMAP 505. Payment authorization is required on most of these services. (See OARs 410-129-0240 and 410-129-0260)

(3) If Medicare transmits incorrect information to OMAP, or if an out-of-state Medicare carrier or intermediary was billed, providers must bill OMAP using an OMAP 505 form. If any payment is made by OMAP, an Adjustment Request must be submitted to correct payment, if necessary.

(4) Send all completed OMAP 505 forms to the Office of Medical Assistance Programs.

(5) Hearing Aid Dealers must bill all services directly to OMAP on a CMS-1500. Payment authorization is required on most services (See OARs 410-129-0240 and 410-129-0260).

(6) When a client, not in managed care, has both Medicare and Medicaid coverage, speech-language pathologists must bill services to Medicare first. Medicare will automatically forward these claims to Medicaid. Refer to OAR 410-120-1210 (General Rules) for information on OMAP reimbursement. For managed care clients with Medicare, contact the client's Managed Care Organization (MCO).

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 5-1991, f. 1-18-91, cert. ef. 2-1-91; HR 11-1992, f. & cert. ef. 4-1-92; OMAP 36-1999, f. & cert. ef. 10-1-99; OMAP 12-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 57-2004, f. 9-10-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 58-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 7-1-04

Rules Amended: 410-130-0160, 410-130-0200, 410-130-0220, 410-130-0240, 410-130-0245, 410-130-0255, 410-130-0580, 410-130-0595

Subject: The Medical-Surgical Services program administrative rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. OMAP revised the following rules as indicated: Rule 410-130-0160: to remove language regarding the grace period for use of deleted CPT/HCPCS codes. Rule 410-130-0200: to change the contact for prior authorization of transplants; remove PA requirements for breast reconstruction codes and add code for ventricular assist device insertions. Rule 410-130-0220: to add new codes. Rule 410-130-0240: to clarify language regarding massage covered only when performed in conjunction with other modalities. Rule 410-130-0245: to add scheduling for lead testing. Rule 410-130-0255: to clarify language regarding immunizations and vaccines. Rule 410-130-0580: to remove language regarding parents' signature on consent form for children under age 15. Rule 410-130-0595: to add requirements to review 5 A's at every visit and restrict initial assessment to licensed providers only.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-130-0160

Codes

(1) ICD-9-CM Diagnosis Codes:

(a) Always use the principal diagnosis code in the first position to the highest degree of specificity. List up to three additional diagnosis codes if the claim includes charges for services that relate to the additional diagnoses. However, it is not necessary to include more than one diagnosis code per procedure code;

(b) Diagnosis codes are required on all billings including those from independent laboratories and portable radiology including nuclear medicine and diagnostic ultrasound providers;

(c) Always supply the ICD-9-CM diagnosis code to ancillary service providers when prescribing services, equipment and supplies.

(2) CPT, and HCPCS Codes:

(a) Use only codes from the current year for Current Procedural Terminology (CPT) and Healthcare Common Procedure Coding System (HCPCS) codes;

(b) Effective January 1, 2005 HIPAA regulations prohibit the use of a grace period from January 1st through March 31st for codes deleted from CPT or HCPCS;

(c) CPT category II (codes with fifth character of "F") and III codes (codes with fifth character "T") are not Medical Assistance Program covered services;

(d) Use the most applicable CPT or HCPCS code. Do not fragment coding when services can be included in a single code (see the "Bundled Services" section of this rule). Do not use both CPT and HCPCS codes for the same procedure. This is considered duplicate billing.

(3) The Medical-Surgical Service rules list the 2004 HCPCS/CPT codes that require authorization, or have limitations. The Health Services Commission's Prioritized List of Health Services (rule 410-141-0520) determines covered services.

(4) For determining the appropriate level of service code for Evaluation and Management services, read the definitions in the CPT and HCPCS codebook. Use the definitions to verify your level of service, especially for office visits. Unless otherwise specified in the Medical-Surgical provider rule, use the guidelines from CPT and HCPCS.

(5) Must submit all claims either electronically or paper using CMS 1500 claim form. For claim form(s) and modifier requirements— See the Medical-Surgical Services section in the billing instructions.

(6) For multiple surgical procedures for the same CPT code in the 19000-69999 CPT series bill each on separate lines with different billed amounts. For example, bill CPT 26135 on one line for \$290.00 then on second line bill CPT 26135 with \$289.99. This includes bilateral procedures.

(7) Bundled Services — Reimbursements for some services are "bundled" into the payment for another service (e.g., payment for obtaining a PAP smear is bundled into the payment for the office visit). Bundled services cannot be billed separately to OMAP or the client. The abbreviation "BND" in the code lists in the OMAP Medical-Surgical Services provider rule indicates the procedure is bundled into another one.

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

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0610; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 2-1992, f. & cert. ef. 1-2-92; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04

410-130-0200

Prior Authorization

(1) If the client is covered by a managed care plan, contact the appropriate managed care plan for prior authorization (PA) requirements and instructions for billing the plan.

(2) If the client has both Medicare and Medical Assistance Program coverage, PA is not required from OMAP for services covered by Medicare, except for most transplants.

(3) Kidney and cornea transplants do not require PA unless they are performed out-of-state.

(4) Contact the Office of Medical Assistance Program's (OMAP) Transplant Coordinator for PA for transplants other than kidney and cornea, and requests for non-emergent, non-urgent out-of-state services. Refer to the OMAP Transplant Services rule for further information on transplants and refer to the General Rules for further information concerning out-of-state services.

(5) Services for clients of the Medically Fragile Children's Unit must be authorized by that Unit.

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(6) For clients enrolled in the fee-for-service (FFS) High Risk Medical Case Managed program, contact the Case Management Contractor shown on the client's Medical Care ID. See the Medical-Surgical Services Supplemental Information guide for details.

(7) All other procedures listed in the Medical-Surgical Services provider rule with a PA indicator must be prior authorized by the Oregon Medical Professional Review Organization (OMPRO) when performed in any setting. A second opinion may be requested by OMAP or OMPRO before authorization of payment is given for a surgery.

(8) Hospital admissions do not require PA unless the procedure requires PA.

(9) PA is not required for emergent or urgent procedures or services.

(10) Treating and performing practitioners are responsible for obtaining PA.

(11) Refer to **Table 130-0200-1** for all services/procedures requiring prior authorization. Table 130-0200-1

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 868, f. 12-30-77, ef. 2-1-78; AFS 65-1980, f. 9-23-80, ef. 10-1-80; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 23-1986, f. 3-19-86, ef. 5-1-86; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; Renumbered from 461-014-0045; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0630; HR 25-1990(Temp), f. 8-31-90, cert. ef. 9-1-90; HR 44-1990, f. & cert. ef. 11-30-90; HR 17-1991(Temp), f. 4-12-91, cert. ef. 5-1-91; HR 24-1991, f. & cert. ef. 6-18-91; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04

410-130-0220

Not Covered/Bundled Services

(1) Refer to the Oregon Health Plan Administrative Rules (OAR 410-141-0520) and General Rules (chapter 410, division 120) for coverage of services. Refer to Table 130-0220-1 for additional information regarding not covered services or for services that are considered by OMAP to be bundled. The following are examples of not covered services:

(a) "After hours" visits during regularly scheduled hours;

(b) Psychotherapy services (covered only through local Mental Health Clinics and Mental Health Organizations);

(c) Room charges (only services and supplies covered);

(d) Routine postoperative visits (included in the payment for the surgery) during 90 days following major surgery (global period) or 10 days following minor surgery;

(e) Services provided at the client's request in a location other than the practitioner's office that are normally provided in the office;

(f) Telephone calls for purposes other than tobacco cessation and maternity case management.

(2) This is not an inclusive list. Specific information is included in the Office of Medical Assistance Programs (OMAP) General Rules, Medical Assistance Benefits: Excluded Services and Limitations (OAR 410-120-1200).

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0640; HR 14-1991(Temp), f. & cert. ef. 3-7-91; HR 21-1991, f. 4-16-91, cert. ef. 5-1-91; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 16-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 30-1998, f. & cert. ef. 9-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 37-1999, f. & cert. ef. 10-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04

410-130-0240

Medical Services

(1) All medical and surgical services requiring prior authorization (PA) are listed in OAR 410-130-0200 PA Table 130-0200-1, and services that are Not Covered/Bundled services are listed in OAR 410-130-0220 Table 130-0220-1. Table 130-0220-1 only contains clarification regarding some services that are not covered. Refer to the Health Services List of Prioritized Services for additional information regarding not covered services.

(2) Acupuncture may be performed by a physician, a physician's employee-acupuncturist under the physician's supervision, or a licensed acupuncturist, and bill using CPT 97780 or 97781.

(3) Anesthesia is not covered for procedures that are below the funding line on the Health Services Commission's Prioritized List of Health Services:

(a) Reimbursement is based on the base units listed in the current American Society of Anesthesiology Relative Value Guide plus one unit per each 15 minutes of anesthesia time. Exceptions — anesthesia for neuraxial labor analgesia/anesthesia must be billed at the base units plus one unit for each 15 minutes of face-to-face contact time;

(b) Bill total quantity on one line of the base units plus one unit for each 15 minutes of anesthesia time. For the last fraction of time under 15 minutes, bill one unit for 8-14 minutes. Do not bill a unit for 1-7 minutes of time;

(c) Reimbursement for qualifying circumstances codes 99100-99140 and modifiers P1-P6 is bundled in the payment for codes 00100-01999. Do not add charges for 99100-99140 and modifiers P1-P6 in charges for 00100-01999;

(d) A valid consent form is required for all hysterectomies and sterilizations;

(e) If prior authorization (PA) was not obtained on a procedure that requires PA, then the anesthesia services may not be paid. Refer to OAR 410-130-0200 PA Table 130-0200-1;

(f) Anesthesia services are not payable to the provider performing the surgical procedure except for conscious sedation.

(4) Chiropractic services must be billed using 99202 and 99212 for the diagnostic visits and 98940-98942 for manipulation. Use CPT lab and radiology codes, which most accurately identifies the services performed.

(5) For Maternity Care and Delivery use Evaluation and Management codes when providing three or fewer antepartum visits:

(a) For births performed in a clinic or home setting, use CPT codes that most accurately describe the services provided. HCPCS supply code S8415 may be billed in addition to the CPT procedure code. Code S8415 includes all supplies, equipment, staff assistance, birthing suite, newborn screening cards, topical and local anesthetics. Bill medications (except topical and local anesthetics) with HCPCS codes that most accurately describe the medications;

(b) For labor management only, bill 59899 and attach a report;

(c) For multiple births, bill the highest level birth with the appropriate CPT code and the other births under the delivery only code. For example, for total OB with cesarean delivery of twins, bill 59510 for the first delivery and 59514 for the second delivery.

(6) Mental Health and Psychiatric Services:

(a) Administrative Exams and reports for psychiatric or psychological evaluations refer to the Administrative Exam rules;

(b) Psychiatrists can be reimbursed by OMAP for symptomatic diagnosis and services, which are somatic (physical) in nature. Contact the local Mental Health Department for covered psychiatric and psychological services;

(c) Mental Health Services — Must be provided by local Mental Health Clinics or a client's Mental Health Organization (MHO). Not payable to private physicians, psychologists, and social workers.

(7) Neonatal Intensive Care Unit (NICU) procedure codes are reimbursed only to neonatologists and pediatric intensivists for services provided to infants when admitted to a Neonatal or Pediatric Intensive Care Unit (NICU/PICU). All other pediatricians must use other CPT codes when billing for services provided to neonates and infants:

(a) Consultations by specialists other than neonatologists and pediatric intensivists are payable in addition to these codes;

(b) Neonatal intensive care codes are not payable for infants on Extracorporeal Membrane Oxygenation (ECMO). Use specific CPT ECMO codes.

(8) Neurology/Neuromuscular — Payment for polysomnographs and multiple sleep latency test (MSLT) are each limited to two in a 12-month period.

(9) Ophthalmology Services — Routine eye exams for the purpose of glasses or contacts are limited to one examination every 24 months for adults. All materials and supplies must be obtained from OMAP's contractor. Refer to the Vision Program Rules for more information.

(10) Special Services and Reports — OMAP will pay for procedure codes 99052 or 99054 only when the service provided is outside the practitioner's usual or scheduled working hours. These services are not payable to emergency room based physicians.

(11) Speech & Hearing — HCPCS codes V5000-V5299 are limited to speech-language pathologists, audiologists, and hearing aid dealers:

(a) Refer to the Speech and Hearing Program Rules for detailed information;

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(b) Payment for hearing aids and speech therapy must be authorized before the service is delivered;

(c) CPT 92593 and 92595 Covered only for children under age 21.

(12) Massage therapy is covered only when provided with other modalities during the same physical therapy session. Refer to Physical and Occupational Therapy Services administrative rules (410-131) for other restrictions.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 839(Temp), f. & ef. 4-28-77; PWC 849, f. 7-15-77, ef. 8-1-77; PWC 868, f. 12-30-77, ef. 2-1-78; AFS 14-1978(Temp), f. 4-14-78, ef. 4-15-78; AFS 31-1978, f. & ef. 8-1-78; AFS 26-1980, f. 5-21-80, ef. 6-1-80, AFS 56-1980(Temp), f. 8-29-80, ef. 9-1-80; AFS 2-1981, f. 1-9-81, ef. 2-1-81; AFS 36-1981, f. 6-29-81, ef. 7-1-81; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 38-1983, f. & ef. 8-1-83; AFS 57-1983, f. 11-29-83, ef. 1-1-84; AFS 48-1984(Temp), f. 11-30-84, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 56-1987, f. 10-29-87, ef. 11-1-87; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 48-1989, f. & cert. ef. 8-24-89; Renumbered from 461-014-0021 & 461-14-056; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0650, 461-014-0690 & 461-014-0700; HR 14-1991(Temp), f. & cert. ef. 3-7-91; HR 18-1991(Temp), f. 4-12-91, cert. ef. 4-15-91; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 24-1991, f. & cert. ef. 6-18-91; HR 2-1992, f. & cert. ef. 1-2-92; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 18-1992, f. & cert. ef. 7-1-92; HR 36-1992, f. & cert. ef. 12-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 16-1993, f. & cert. ef. 7-2-93; HR 6-1994, f. & cert. ef. 2-1-94; Renumbered from 410-130-0320, 410-130-0340, 410-130-0360 & 410-130-0740; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04

410-130-0245

EPSDT Program

(1) The Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program, formerly called Medichex, offers "well-child" medical exams with referral for medically appropriate comprehensive diagnosis and treatment for all children (birth through age 20) covered by the Basic Health Care benefit package.

(2) Screening Exams:

(a) Physicians (MD or DO), nurse practitioners, licensed physician assistants and other licensed health professionals may provide EPSDT services. Screening services are based on the definition of "Preventive Services" in OAR 410-141-0000;

(b) Periodic EPSDT screening exams must include:

(A) A comprehensive health and developmental history including assessment of both physical and mental health development;

(B) Assessment of nutritional status;

(C) Comprehensive unclothed physical exam including inspection of teeth and gums;

(D) Appropriate immunizations;

(E) Lead testing for children under age 6 as required. See the "Blood Lead Screening" section of this rule;

(F) Other appropriate laboratory tests (such as anemia test, sickle cell test, and others) based on age and client risk;

(G) Health education including anticipatory guidance;

(H) Appropriate hearing and vision screening.

(c) The provider may bill for both lab and non-lab services using the appropriate CPT and HCPCS codes. Immunizations must be billed according to the guidelines listed in OAR 410-130-0255;

(d) Inter-periodic EPSDT screening exams are any medically appropriate encounters with a physician (MD or DO), nurse practitioner, licensed physician assistant, or other licensed health professional within their scope of practice.

(3) Referrals:

(a) If, during the screening process (periodic or inter-periodic), a medical, mental health, substance abuse, or dental condition is discovered, the client may be referred to medical providers, Oregon Mental Health and Addiction Services, or dental providers for further diagnosis and/or treatment;

(b) The screening provider shall explain the need for the referral to the client, client's parent, or guardian;

(c) If the client, client's parent, or guardian agrees to the referral, assistance in finding an appropriate referral provider and making an appointment should be offered;

(d) The caseworker or local branch will assist in making other necessary arrangements.

(4) Blood Lead Screening: All children ages 12 months to 72 months are considered at risk for lead poisoning. Children ages 12 months to 72

months with Medical Assistance Program coverage must be screened for possible exposure to lead poisoning. Because the prevalence of lead poisoning peaks at age two, children screened or tested at age one should be re-screened or re-tested at age two. Screening consists of a Lead Risk Assessment Questionnaire (OMAP 9033) and/or blood lead tests as indicated.

(5) Lead Risk Assessment Questionnaire: Complete the Lead Risk Assessment Questionnaire (OMAP 9033) found in the Medical-Surgical Services Supplemental Information. The questionnaire must be used at each EPSDT exam beginning at one year of age to assess the potential for lead exposure. Retain this questionnaire in the client's medical record. Do not attach this form to the claim for reimbursement. OMAP does not stock this form; photocopy the form and the instructions from the Medical-Surgical Services Supplemental Information.

(6) Blood Lead Testing: Any "yes" or "don't know" answer in Part B, questions 1-8 on the Lead Risk Assessment Questionnaire (OMAP 9033) means that the child should receive a screening blood lead test. An elevated blood lead level is defined as $>10 \mu\text{g/dL}$. Children with an elevated blood lead screening test should have a confirmatory blood lead test performed according to the schedule described in Table 130-0245-1 of this rule. If the confirmatory blood lead test is elevated, follow-up blood lead tests should be performed approximately every three months until two consecutive test results are less than $10 \mu\text{g/dL}$. Comprehensive follow-up services based on the results of the confirmatory blood lead test are described in Table 130-0245-2 of this rule.

(7) Method of Blood Collection: Either venipuncture or capillary draw is acceptable for the screening blood lead test. All confirmatory blood lead tests must be obtained by venipuncture. Erythrocyte protoporphyrin (EP) testing is not a substitute for either a screening or a confirmation blood lead test.

(8) Additional Lead-Related Services: Families should be provided anticipatory guidance and lead education prenatally and at each well-child visit, as described in Tables 130-0245-3 and 130-0245-4 of this rule. Table 130-0245-1, Table 130-0245-2, Table 130-0245-3, Table 130-0245-4, Table 130-0245-5

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

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 16-1993, f. & cert. ef. 7-2-93; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 37-1999, f. & cert. ef. 10-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04

410-130-0255

Immunizations and Immune Globulins

(1) Use standard billing procedures for vaccines that are not part of the Vaccines for Children (VFC) Program.

(2) Synagis (palivizumab-rsv-igm) is covered only for high-risk infants and children as defined by the American Academy of Pediatric guidelines. Use 90378 for Synagis.

(3) Providers are encouraged to administer combination vaccines when medically appropriate and cost effective.

(4) Vaccines for Children (VFC) Program:

(a) Under this federal program, vaccine serums are free for clients ages 0 through 18. OMAP does not reimburse the cost of vaccine serums covered by this federal program, but will reimburse for the administration of the vaccine;

(b) Use the following procedures when billing for the administration of a vaccine provided free through the VFC program:

(A) When the sole purpose of the visit is to administer a VFC immunization(s), the provider should bill the appropriate immunization procedure code(s) with modifier -26 or -SL for each injection. Do not bill CPT codes 90471-90474 or 99211;

(B) When the immunization is administered as part of an Evaluation and Management service (e.g., well-child visit) the provider should bill the appropriate immunization code with modifier -26, or -SL for each injection in addition to the Evaluation and Management code.

(c) To enroll as a VFC provider, contact the DHS Immunization Program at 503-731-4020.

(d) Refer to Table 130-0255-1 for immunization codes included in the VFC Program for clients ages 0 through 18. Table 130-0255-1

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.06

Hist.: HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 4-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 31-

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2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; Renumbered from 410-130-0800; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04

410-130-0580

Hysterectomies and Sterilization

(1) Refer to OAR 410-130-0200 Prior Authorization, Table 130-0200-1 and OAR 410-130-0220 Not Covered/Bundled Services, Table 130-0220-1.

(2) Hysterectomies performed for the sole purpose of sterilization are not covered.

(3) All hysterectomies except radical hysterectomies require prior authorization (PA).

(4) A properly completed Hysterectomy Consent form (OMAP 741) or a statement signed by the performing physician depending upon the following circumstances is required for all hysterectomies:

(a) When a woman is capable of bearing children:

(A) Prior to the surgery, the person securing authorization to perform the hysterectomy must inform the woman and her representative, if any, orally and in writing, that the hysterectomy will render her permanently incapable of reproducing;

(B) The woman or her representative, if any, must sign the consent to acknowledge she received that information.

(b) When a woman is sterile prior to the hysterectomy, the physician who performs the hysterectomy must certify in writing that the woman was already sterile prior to the hysterectomy and state the cause of the sterility;

(c) When there is a life-threatening emergency situation that requires a hysterectomy in which the physician determines that prior acknowledgment is not possible, the physician performing the hysterectomy must certify in writing that the hysterectomy was performed under a life-threatening emergency situation in which he or she determined prior acknowledgment was not possible and describe the nature of the emergency.

(5) In cases of retroactive eligibility:

(a) The physician who performs the hysterectomy must certify in writing one of the following:

(A) The woman was informed before the operation that the hysterectomy would make her permanently incapable of reproducing;

(B) The woman was previously sterile and states the cause of the sterility;

(C) The hysterectomy was performed because of a life-threatening emergency situation in which prior acknowledgment was not possible and describes the nature of the emergency.

(b) Additional supplies of the Hysterectomy Consent form (OMAP 741) may be obtained through the DHS Distribution Center.

(6) Do not use the Consent to Sterilization form (OMAP 742) for hysterectomies.

(7) Mail a copy of the Hysterectomy consent form to OMAP-HFO, Claims Management.

(8) Do not submit a copy of the Hysterectomy consent form with the claim.

(9) Sterilization Male & Female: A copy of a properly completed Consent to Sterilization form (OMAP 742), the consent form in the federal brochure DHHS Publication No. (05) 79-50062 (Male), DHHS Publication No. (05) 79-50061 (Female), or another federally approved form must be submitted to the Office of Medical Assistance Programs (OMAP) for all sterilization. The original consent form must be retained in the clinical records. Prior authorization is not required.

(10) Voluntary Sterilization:

(a) Consent for sterilization must be an informed choice. The consent is not valid if signed when the client is:

(A) In labor;

(B) Seeking or obtaining an abortion; or

(C) Under the influence of alcohol or drugs.

(b) Ages 15 years or older who are mentally competent to give informed consent:

(A) At least 30 days, but not more than 180 days, must have passed between the date of the informed written consent (date of signature) and the date of the sterilization except:

(i) In the case of premature delivery by vaginal or cesarean section the consent form must have been signed at least 72 hours before the sterilization is performed and more than 30 days before the expected date of confinement;

(ii) In cases of emergency abdominal surgery (other than cesarean section), the consent form must have been signed at least 72 hours before the sterilization was performed.

(B) The client must sign and date the consent form before the person obtaining the consent signs and dates the consent. The date of signature must meet the above criteria. The person obtaining the consent must sign the consent form anytime after the client has signed but before the date of the sterilization. If an interpreter is provided to assist the individual being sterilized, the interpreter must also sign the consent form on the same date as the client;

(C) The person must be legally competent to give informed consent. The physician performing the procedure, and the person obtaining the consent if other than the physician, must review with the person the detailed information appearing on the Consent to Sterilization form regarding effects and permanence of the procedure, alternative birth control methods, and explain that withdrawal of consent at any time prior to the surgery will not result in any loss of other program benefits.

(11) Involuntary Sterilization — Clients who lack the ability to give informed consent and are 18 years of age or older:

(a) Only the Circuit Court of the county in which the client resides can determine that the client is unable to give informed consent;

(b) The Circuit Court must determine that the client requires sterilization;

(c) When the court orders sterilization, it issues a Sterilization Order. The order must be attached to the billing invoice. No waiting period or additional documentation is required.

(12) Submitting the Consent to Sterilization Form:

(a) After the sterilization is performed, a copy of the completed Consent to Sterilization form (OMAP 742) should be mailed by the performing surgeon to OMAP-HFO, Claims Management, in Salem;

(b) OMAP will review the form for errors and either call the provider or mail the form back if there are discrepancies. The Consent to Sterilization form must be completed in full. Consent forms submitted to OMAP without the client's signature or the date of signature by the client are invalid; clients may not sign or date the consent form retroactively;

(c) Do not submit the OMAP 742 with the claim;

(d) Initial claims by the surgeon, anesthesiologist and hospital will be paid without review for the consent form. All sterilization claims will be reviewed during a post-payment audit. If the OMAP 742 is missing or invalid, payments directly related to the sterilization will be recouped from the surgeon, anesthesiologist and hospital.

(13) How to Complete the Consent to Sterilization Form:

(a) Enter the client's name, sex, and recipient number where indicated;

(b) Client's Statement:

(A) 1 — Enter the name of the doctor or clinic;

(B) 2 — Enter the name of the surgical procedure;

(C) 3 — Check the appropriate age box and enter the birth date;

(D) 4 — Enter the client's name, the name of the doctor performing the procedure, and the name of the operation to be performed;

(E) 5 — Optional;

(F) 6 — The client must sign and date the consent.

(c) Interpreter's Statement — Complete only if an interpreter is required:

(A) 7 — Enter the name of the language used to explain the consent to the client;

(B) 8 — The interpreter must sign and date the consent on the same date as the client.

(d) Statement of Person Obtaining Consent:

(A) 9 — Enter the client's name and the name of the procedure to be performed;

(B) 10 — Check appropriate age box;

(C) 11 — The person obtaining the consent must sign, date, and enter the name and full address of the physician or facility. The date of signature must be on or after the date the client signs the consent, but before the procedure is performed.

(e) Physician's Statement:

(A) 12 — Enter the client's name, the date the procedure was performed, and the name of the procedure to be performed;

(B) 13 — Check the appropriate age box;

(C) 14 — Check the appropriate box. If the second box is checked, check the appropriate circumstance and provide further information;

(D) 15 — The performing physician must sign this consent. The date of signature must be either the date the sterilization was performed or a date following the sterilization.

(f) Mail a copy of the Consent to Sterilization form to: OMAP — POS, Claims Resolution.

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

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

ADMINISTRATIVE RULES

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 803(Temp), f. & ef. 7-1-76; PWC 813, f. & ef. 10-1-76; PWC 834, f. 3-31-77, ef. 5-1-77; PWC 868, f. 12-30-77, ef. 2-1-78; AFS 4-1979(Temp), f. & ef. 3-8-79; AFS 11-1979, f. 6-18-79, ef. 7-1-79; AFS 50-1981(Temp), f. & ef. 8-5-81; AFS 79-1981, f. 11-24-81, ef. 12-1-81; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 42-1985, f. & ef. 7-1-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; Renumbered from 461-014-0030; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0840; HR 43-1991, f. & cert. ef. 10-1-91; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 6-1994, f. & cert. ef. 2-1-94; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04

410-130-0595

Maternity Case Management (MCM)

(1) The primary purpose of the MCM program is to optimize pregnancy outcomes including the reduction of low birth weight babies. MCM services are tailored to the individual client needs. These services are provided face-to-face, unless specifically indicated in this rule, throughout the clients' pregnancy.

(2) This program:

(a) Is available to all pregnant clients receiving Medical Assistance Program coverage;

(b) Expands perinatal services to include management of health, economic, social and nutritional factors through the end of pregnancy and a two-month postpartum period;

(c) Must be initiated during the pregnancy and before delivery;

(d) Is an additional set of services over and above medical management of pregnant clients;

(e) Allows for billing for intensive nutritional counseling services.

(3) Any time there is a significant change in the health, economic, social, or nutritional factors of the client, the prenatal care provider must be notified.

(4) In situations where multiple providers are seeing one client for MCM services, the case manager must coordinate care to ensure duplicate claims are not submitted to the Office of Medical Assistance Programs (OMAP) if services are duplicated.

(5) Definitions:

(a) Case Management — An ongoing process to assist the individual client in obtaining access to and effective utilization of necessary health, social, economic, nutritional, and other services as defined in the Client Service Plan (CSP) or other documentation;

(b) Case Management Visit — A face-to-face encounter between a maternity case manager and the client that must include two or more specific training and education topics, addresses the CSP and provides ongoing relationship development between the client and the case manager;

(c) Client Service Plan (CSP) — A written systematic, client coordinated plan of care which lists goals and actions required to meet the needs of the client as identified in the Initial Assessment and includes a client discharge plan/summary;

(d) High Risk Case Management — Intensive case management services provided to a client identified and documented by the maternity case manager or prenatal care provider as being high risk;

(e) High Risk Client — Includes clients who have current (within the last year) documented alcohol, tobacco or other drug (ATOD) abuse history, or who are 17 or under, or have other conditions identified in the initial assessment instrument;

(f) Home/Environmental Assessment — A visit to the client's primary place of residence to assess health and safety of the client's living conditions;

(g) Initial Assessment — Documented, systematic collection of data with planned interventions as outlined in a CSP to determine current status and identify needs and strengths, in physical, psychosocial, behavioral, developmental, educational, mobility, environmental, nutritional, and emotional areas;

(h) Nutritional Counseling — Intensive nutritional counseling for clients who have at least one of the conditions listed under Nutritional Counseling (14);

(i) Prenatal/Perinatal Care Provider — The physician, licensed physician assistant, nurse practitioner, certified nurse midwife, or licensed direct entry midwife providing prenatal or perinatal (including labor and delivery) and/or postnatal services to the client;

(j) Telephone Case Management Visit — A non-face-to-face encounter between a maternity case manager and the client providing identical services of a Case Management Visit (G9012).

(6) Maternity Case Manager Qualifications:

(a) Maternity case managers must be currently licensed as a:

- (A) Physician;
- (B) Physician Assistant;
- (C) Nurse Practitioner;
- (D) Certified Nurse Midwife;
- (E) Direct Entry Midwife;
- (F) Social Worker; or
- (G) Registered Nurse;

(b) All of the above must have a minimum of two years related and relevant work experience;

(c) Other paraprofessionals may provide specific services with the exclusion of the initial assessment (G9001) while working under the supervision of one of the practitioners listed in (6)(a)(A-G) of this rule.

(d) Specific services not within the recognized scope of practice of the provider of MCM services must be referred to an appropriate discipline.

(7) Nutritional Counselor Qualifications — Nutritional counselors must:

(a) Be a registered dietician; or

(b) Have a bachelor's degree in a nutrition-related field with two years of related work experience.

(8) Documentation Requirements:

(a) Documentation is required for all MCM services in accordance with OMAP General Rules 410-120-1360; and

(b) A correctly completed OMAP form 2470, 2471, 2472 and 2473 or their equivalents meet minimum documentation requirements for Maternity Case Management Services.

(9) G9001 — Initial Assessment must be performed by a licensed Maternity Case Manager as defined under (6) (a):

(a) Services include:

(A) Client assessment as outlined in the "Definitions" section of this rule;

(B) Development of a CSP which addresses needs identified;

(C) Making referrals as needed;

(D) Assisting with a referral to a prenatal care provider as needed;

(E) Forwarding of the initial assessment and other relevant information to the on-going maternity case manager and prenatal care provider;

(F) Communicating pertinent information to others participating in the client's medical and social care.

(b) Data sources relied upon may include:

(A) Initial assessment;

(B) Client interviews;

(C) Available records;

(D) Contacts with collateral providers;

(E) Other professionals; and

(F) Other parties on behalf of the client.

(c) The client's record must reflect the date and to whom the initial assessment was sent;

(d) Paid one time per pregnancy per provider. No other MCM service can be performed until after an initial assessment has been completed. No other maternity management codes except a Home/Environmental Assessment (G9006) and a Case Management Visit (G9012) may be billed the same day as an initial assessment.

(10) G9002 — Case Management (Full Service) — Includes:

(a) Face-to-face client contacts;

(b) Implementation and monitoring of a CSP;

(A) The client's records must include a CSP and written updates to the plan;

(B) The CSP activities involve determining the client's strengths and needs, setting specific goals and utilizing appropriate resources in a cooperative effort between the client and the maternity case manager.

(c) Referral to services included in the CSP:

(A) Make referrals, provide information and assist the client in self-referral;

(B) Maintain contact with resources to ensure service delivery, share information, and assist with coordination.

(d) Ongoing nutritional evaluation with basic counseling and referrals to nutritional counseling as indicated;

(e) Utilization and documentation of the "5 A's" brief intervention protocol for addressing tobacco use (US Public Health Service Clinical Practice Guideline for Treating Tobacco Use and Dependence, 2000). Routinely:

(A) Ask all MCM clients about smoking status;

(B) Advise all smoking clients to quit;

(C) Assess for readiness to try to quit;

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(D) Assist all those wanting to quit by referring them to the Quitline and/or other appropriate tobacco cessation counseling;

(E) Provide motivational information for those not ready to quit;

(F) Arrange follow-up for interventions.(f) Training and education.

Refer to Table 130-0595-2;

(g) Linkage to labor and delivery services;

(h) Linkage to family planning services as needed;

(i) CSP coordination as follows:

(A) Contact with Department of Human Services worker, if assigned;

(B) Contact with prenatal care provider;

(C) Contact with other community resources/agencies to address needs.

(j) Client advocacy as necessary to facilitate access. The case manager serves as a client advocate and intervenes with agencies or persons to help the client receive appropriate benefits or services;

(k) Assist client in achieving the goals in the CSP. The case manager will advocate for the client when resources are inadequate or the service delivery system is non-responsive;(l) Paid one time per pregnancy. Bill after delivery when more than three months of service were provided. Services must be initiated prenatally and carried through the date of delivery.

(11) G9009 — Case Management (Partial Service):

(a) Can be billed when the CSP has been developed and case management services (G9002) were initiated prenatally and partially completed;

(b) Served client three months or less.

(12) G9005 — High Risk Case Management (Full Service):

(a) Requires at least eight case management visits;

(b) Paid one time per pregnancy after delivery when more than three months of services were provided to the client;

(c) Served client more than three months;

(d) Can be billed in addition to G9002.

(13) G9010 — High Risk Case Management (Partial Service):

(a) Payable when the client becomes "high risk" during the latter part of the pregnancy or intensive high risk MCM services were initiated and partially completed but not carried through to the date of delivery;

(b) Served client three months or less;

(c) Can be billed in addition to G9002 or G9009.

(14) S9470 — Nutritional Counseling:

(a) Available for clients who have at least one of the following conditions:

(A) Chronic disease such as diabetes or renal disease;

(B) Hematocrit (Hct) less than 34 or hemoglobin (Hb) less than 11 during the first trimester, or Hct less than 32 or Hb less than 10 during the second or third trimester;

(C) Pre-gravida weight under 100 pounds or over 200 pounds;

(D) Pregnancy weight gain outside the appropriate WIC guidelines;

(E) Eating disorder;

(F) Gestational diabetes;

(G) Hyperemesis;

(H) Pregnancy induced hypertension (pre-eclampsia);

(I) Other conditions identified by the maternity case manager, physician or prenatal care provider for which adequate services are not accessible through another program.

(b) Documentation must include all of the following:

(A) Nutritional assessment;

(B) Nutritional care plan;

(C) Regular client follow-up.

(c) May be billed in addition to other MCM services;

(d) Paid one time per pregnancy.

(15) G9006 — Home/Environment Assessment:

(a) Includes an assessment of the health and safety of the client's living conditions with training and education of all topics as indicated in Table 130-0595-1;

(b) One Home/Environment Assessment may be billed per pregnancy. Additional Home/Environment Assessments may be billed with documentation of problems and necessary follow-up or when a client moves. Documentation must be submitted with the claim to support the additional home/environment assessment.

(16) G9011 — Telephone Case Management Visit:

(a) A non-face-to-face encounter between a maternity case manager and the client, meeting all requirements of a Case Management Visit (G9012) and when a face-to-face Case Management Visit is not possible or practical;

(b) In lieu of a Case Management visit and counted towards the total number of Case Management Visits (see G9012 for limitations).

(17) G9012 — Case Management Visit:

(a) Each Case Management Visit must include an evaluation and/or revision of objectives and activities addressed in the CSP and training and education regarding at least two of the mandatory topics listed in Table 130-0595-2;

(b) Four Case Management Visits may be billed per pregnancy. Telephone contacts (G9011) are included in this limitation;

(c) Six additional Case Management Visits may be billed if the client is identified as High Risk. These additional visits may not be billed until after delivery. Bills for these additional six visits may only be submitted with or after High-Risk Full (G9005) or Partial (G9010) case management has been billed. Telephone contacts (G9011) are included in this limitation;

(d) May be provided in the client's home or other site. Table 130-0595-1, Table 130-0595-2

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 57-1987, f. 10-29-87, ef. 11-1-87; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; Renumbered from 461-014-0200 & 461-014-0201; AFS 54-1989(Temp), f. 9-28-89, cert. ef. 10-1-89; AFS 71-1989, f. & cert. ef. 12-1-89; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0580; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 34-1998, f. & cert. ef. 10-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; Renumbered from 410-130-0100; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 59-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 7-1-04

Rules Amended: 410-131-0120, 410-131-0160, 410-131-0200, 410-131-0280

Rules Repealed: 410-131-0220, 410-131-0240

Subject: The Physical and Occupational Therapy Services program rules governs the Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP amended the following rules as indicated: 410-131-0120: to place a limitation on massage therapy to establish consistency with other medical programs. 410-131-0160: to eliminate payment authorization requirement for OMAP fee-for-service clients, who also have Medicare, for physical and occupational therapy services covered by Medicare. 410-131-0200: to reference OMAP's General Rules to clarify OMAP reimbursement for services provided to OMAP fee-for-service clients who also have Medicare. There is no change in the reimbursement methodology. 410-131-0280: to delete coverage of CPT 97537, community/work integration training, since this procedure is not for treatment of diagnosis of a medical condition. Rules 410-131-0220 and 410-131-0240: to eliminate duplicated information that is not necessary in rule. This information is found in supplemental information, available on OMAP's website.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-131-0120

Limitations

(1) OARs 410-131-0020 through 410-131-0160 also apply to services delivered by home health agencies and by hospital-based therapists in the outpatient setting. They do not apply to services provided to hospital inpatients. Billing and reimbursement for therapy services delivered by home health agencies and hospital outpatient departments are to be in accordance with the rules in their respective provider guides.

(2) Program Information — A licensed occupational or physical therapist, or a licensed occupational or physical therapy assistant under the supervision of a therapist, must be in constant attendance while therapy treatments are performed:

(a) Duration — Therapy treatments must not exceed one hour per day each for occupational and physical therapy;

(b) Maintenance Therapy — Maintenance therapy means the goals and objectives have been reached, or there is no progress toward the goals and objectives, or the therapy does not require the skills of a therapist, and the client, family, foster parents, or caregiver have been taught and can carry out the therapy regimen. Maintenance therapy is not reimbursable;

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(c) Modalities — Up to two modalities may be authorized per day of treatment;

(d) Massage therapy, CPT 97124, is limited to two (2) units per day of treatment, and will only be authorized in conjunction with another therapeutic procedure or modality;

(e) Physical Capacity Examinations — Physical capacity examinations are not a part of the Occupational and Physical Therapy program, but may be reimbursed as Administrative Examinations when ordered by the local branch office. See OAR 410 Division 150 for information on Administrative examinations and report billing;

(f) Re-Evaluations — A re-evaluation to reassess or change the treatment plan and retrain the client, family, foster parents, or caregiver is reimbursable;

(g) Splint Fabrication — Supplies and materials for the fabrication of splints must be billed at the acquisition cost, not to exceed \$62.40. Acquisition cost is purchase price plus shipping. Off-the-shelf splints are not included in this service;

(h) Therapy Records — Therapy records must include:

(A) A written order (including type, number and duration of services) and therapy treatment plan signed by the prescribing provider;

(B) Documents, evaluations, re-evaluations and progress notes to support the therapy treatment plan and prescribing provider's written orders for changes in the therapy treatment plan;

(C) Modalities used on each date of service;

(D) Procedures performed and amount of time spent performing the procedures is documented and signed by the therapist;

(E) Documentation of splint fabrication and time spent fabricating the splint.

(i) Training — The therapy treatment plan and regimen will be taught to the client, family, foster parents, or caregiver during the therapy treatments. No extra treatments will be authorized for teaching.

(3) Payment Authorization:

(a) The following services do not require payment authorization for occupational or physical therapy:

(A) Up to two initial evaluations in any 12-month period;

(B) Up to four re-evaluation services in any 12-month period.

(b) All other occupational and physical therapy treatments require payment authorization.

(4) Services Not Covered — The following services are not covered:

(a) Services which are not medically appropriate;

(b) Services for those diagnoses which do not appear on a line of the Health Services Commission's Prioritized List of Health Services which has been funded by the Oregon Legislature (OAR 410-141-0520);

(c) Work hardening;

(d) Back school/back education classes;

(e) Hippotherapy;

(f) Urinary incontinence therapy;

(g) Durable medical equipment and medical supplies other than those listed in OAR 410-131-0280.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1991, f. 1-25-91, cert. ef. 2-1-91; HR 19-1992, f. & cert. ef. 7-1-92; HR 28-1993, f. & cert. ef. 10-1-93; HR 43-1994, f. 12-30-94, cert. ef. 1-1-95; HR 2-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 8-1998, f. & cert. ef. 3-2-98; OMAP 18-1999, f. & cert. ef. 4-1-99; OMAP 32-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 53-2002, f. & cert. ef. 10-1-02; OMAP 64-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 59-2004, f. 9-10-04, cert. ef. 10-1-04

410-131-0160

Payment Authorization

(1) Payment authorization is approval by the Office of Medical Assistance Programs (OMAP), the Medically Fragile Children's Unit (MFCU), the OMAP Case Management Contractor, or the Managed Care Organizations (MCOs) for services.

(2) Payment authorization is required for physical and occupational therapy services as indicated in the "Occupational and Physical Therapy Codes" section of the Physical and Occupational Therapy rules. For services requiring authorization from OMAP or MFCU, and for continuation of those services, providers must contact OMAP or MFCU for authorization within five working days following initiation of services. For services requiring payment authorization from the OMAP Case Management Contractor, authorization must be obtained prior to the initiation of services. For fee-for-service case management clients, OMAP will not reimburse for a service that requires payment authorization if provided prior to receiving authorization from the OMAP Case Management Contractor. Services for clients enrolled in a Managed Care Organization (MCO) will be authorized by the MCO. Contact the MCO to determine their procedures.

(3) If service is provided prior to receiving authorization, the provider may be at risk for denial of authorization. It is the provider's responsibility to obtain payment authorization. The FAX or postmark date is recognized by OMAP as the date of request.

(4) A payment authorization number must be present on all claims for occupational and physical therapy services that require payment authorization or the claim will be denied.

(5) Payment authorization does not guarantee eligibility or payment. It is the provider's responsibility to check for eligibility on the date of service.

(6) Payment authorization does not relieve the provider of the responsibility to follow all applicable rules regarding the provision of services.

(7) Physical and occupational therapy services for OMAP fee-for-service clients with Medicare do not require payment authorization for Medicare covered services. For clients enrolled in a Managed Care Organization (MCO), contact the MCO for their procedures.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 706, f. 1-2-75, ef. 2-1-75; PWC 760, f. 9-5-75, ef. 10-1-75; AFS 46-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 98-1982, f. 10-25-82, ef. 11-1-82; AFS 14-1984(Temp), f. & ef. 4-2-84; AFS 22-1984(Temp), f. & ef. 5-1-84; AFS 40-1984, f. 9-18-84, ef. 10-1-84; AFS 63-1987, f. 12-30-87, ef. 4-1-88; HR 8-1991, f. 1-25-91, cert. ef. 2-1-91; Renumbered from 461-023-0015; HR 19-1992, f. & cert. ef. 7-1-92; HR 28-1993, f. & cert. ef. 10-1-93; HR 43-1994, f. 12-30-94, cert. ef. 1-1-95; HR 2-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 8-1998, f. & cert. ef. 3-2-98; OMAP 18-1999, f. & cert. ef. 4-1-99; OMAP 32-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 41-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 53-2002, f. & cert. ef. 10-1-02; OMAP 92-2003, f. 12-30-03 cert. ef. 1-1-04; OMAP 59-2004, f. 9-10-04, cert. ef. 10-1-04

410-131-0200

Medicare/Medical Assistance Program Claims

(1) If a client has both Medicare and Medical Assistance Program coverage and has not met the current Medicare maximum, bill Medicare first. Medicare will automatically forward your bill to the Office of Medical Assistance Programs (OMAP) for you. If Medicare transmits incorrect information to OMAP or if an out-of-state Medicare carrier or intermediary was billed, bill OMAP using an OMAP 505 form.

(2) If an incorrect payment is made by OMAP, submit an Adjustment Request (OMAP 1036) to correct payment.

(3) See OAR 410-120-1210 (General Rules) for information on OMAP reimbursement.

(4) Supplies of OMAP 505 forms can be obtained from the Department of Human Services (DHS) Office of Forms and Document Management.

(5) Send all completed OMAP 505 forms to OMAP.

Stat. Auth.: ORS 184.750 & 184.770

Stats. Implemented: ORS 414.065

Hist.: HR 8-1991, f. 1-25-91, cert. ef. 2-1-91; OMAP 32-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 53-2002, f. & cert. ef. 10-1-02; OMAP 59-2004, f. 9-10-04, cert. ef. 10-1-04

410-131-0280

Occupational and Physical Therapy Codes

(1) Occupational therapists and physical therapists should use any of the following codes which are applicable according to their Licensure and Professional Standards.

(2) Services which do not require payment authorization: Table 280-1.

(3) Services which require payment authorization:

(a) Modalities — need to be billed in conjunction with a therapeutic procedure code;

(b) Supervised — The application of a modality that does not require direct (one-on-one) client contact by the provider. Each individual code in this series may be reported only once for each client encounter: Table 280-2.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1991, f. 1-25-91, cert. ef. 2-1-91; HR 19-1992, f. & cert. ef. 7-1-92; HR 43-1994, f. 12-30-94, cert. ef. 1-1-95; HR 8-1995, f. 3-31-95, cert. ef. 4-1-95; HR 4-1996, f. & cert. ef. 5-1-96; HR 2-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 8-1998, f. & cert. ef. 3-2-98; OMAP 18-1999, f. & cert. ef. 4-1-99; OMAP 3-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 32-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 16-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 41-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 53-2002, f. & cert. ef. 10-1-02; OMAP 64-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 14-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 59-2004, f. 9-10-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 60-2004
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ADMINISTRATIVE RULES

Notice Publication Date: 7-1-04

Rules Amended: 410-136-0040, 410-136-0160, 410-136-0200, 410-136-0240, 410-136-0440, 410-136-0800

Subject: The Medical Transportation Services program rules govern payment for the Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP revised rules 410-136-0040, 410-136-0160, 410-136-0200, 410-136-0240, 410-136-0440, and 410-136-0800 to prevent dual billing by medical transportation providers within contracted transportation brokerage areas; update codes for billing; define client sanctions in non-brokerage areas and bring them into line with brokerage areas; clarify the definition of Emergency Medical Transportation; allow Department of Human Services, Mental Health and Developmental Disability Services rules to supersede OMAP rules in secured transportation standards and enforcement and allow for brokerages to authorize reimbursement of mileage, per diem and lodging.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-136-0040

Reimbursement

(1) The Office of Medical Assistance Programs (OMAP) will reimburse according to the approved rate or schedule of maximum allowances for:

- (a) Ambulance, Air Ambulance, Stretcher Car, Wheelchair Car/Van:
- (A) Base Rate;
- (B) Mileage;
- (C) Base Rate — each additional client;
- (D) Extra Attendant.
- (b) Aid Call — service or care is provided at the scene by the responding emergency ambulance provider and no transport of client was required;
- (c) Taxi;
- (d) Secured Transport;
- (e) Fixed Route Bus Service.

(2) The provider cannot bill OMAP if:

- (a) County or city ordinance prohibits any provider from charging for services identified in the Medical
- (b) Transportation Services Administrative Rules;
- (c) The provider does not charge the general public for such services;
- (d) The provider did not provide transport, medical services, or treatment; or,
- (e) The provider is providing the transport through a transportation brokerage.

(3) OMAP will make payment for medical transportation when those services have been authorized by either the client's local branch office or OMAP. OMAP may recoup such payments if, on subsequent review, it is found that the provider did not comply with OMAP Administrative Rules. Non-compliance includes, but is not limited to, failure to adequately document the service and the need for the service.

(4) Reimbursement is based on the condition that the service to be provided at the point of origin and/or destination is a medical service covered under the Medical Assistance Programs and that the service billed is adequately documented in the provider's records prior to billing.

(5) OMAP will reimburse at the lesser of the amount charged the general public (public billing rate), the amount billed or OMAP's maximum allowed, less any amount paid or payable by another party.

(6) OMAP will base reimbursement for transportation services covered by Medicare on the lesser of Medicare's allowed amount or OMAP's maximum allowed, less any amount paid or payable by another party.

(7) OMAP will only reimburse for the mode of transportation authorized by the local branch office or OMAP.

(8) OMAP will only reimburse when a transport of the client has occurred or in the case of aid calls where service or care was provided at the scene by an ambulance provider and no transport of the client occurred.

(9) OMAP reimbursement is considered to be payment in full.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 1-1981, f. 1-7-81, ef. 2-1-81; AFS 54-1981, f. 8-19-81, ef. 10-1-81; AFS 5-1984, f. & ef. 2-3-84; AFS 64-1986, f. 9-8-86, ef. 10-1-86; HR 12-1993, f. 4-30-93, cert. ef. 5-1-93; Renumbered from 461-020-0025 & 461-020-0026; HR 30-1993, f. & cert. ef. 10-1-93; HR 28-1994, f. & cert. ef. 9-1-94; HR 25-1995, f. 12-29-95, cert. ef. 1-1-96; HR 14-1996(Temp), f. & cert. ef. 7-1-96; HR 25-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 33-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 55-2002, f. & cert. ef. 10-1-02; OMAP 60-2004, f. 9-10-04, cert. ef. 10-1-04

410-136-0160

Non-Emergency Medical Transportation

(1) Office of Medical Assistance Programs (OMAP) will make payment for prior authorized non-emergency medical transportation including client-reimbursed travel, that does not require the services of an Emergency Medical Technician when the client's branch office or OMAP has determined the transport is medically appropriate.

(2) OMAP will not make payment for transportation to a specific provider based solely on client preference or convenience. For purposes of authorizing non-emergency medical transportation, the medical service or practitioner must be within the local area. Local area is defined as "in or nearest" the client's city or town of residence. If the service to be obtained is not available locally, transportation may be authorized to a practitioner within the accepted community standard or the nearest location where the service can be obtained or to a location deemed by OMAP to be cost-effective.

(3) A Branch may not authorize and OMAP will not make payment for non-emergency medical transportation outside of a client's local area when the client has been non-compliant with treatment or has demonstrated other behaviors that result in a local provider or treatment facility's refusing to provide further service or treatment to the client. In the event supporting documentation demonstrates inadequate or inappropriate services are being (or have been) provided by the local treatment facility or practitioner, OMAP may authorize transportation outside of the client's local area on a case-by case basis.

(4) A client also may be suspended from obtaining medical transportation paid for by OMAP, either by the local DHS branch or the contracted regional transportation brokerage, for the following behaviors that may result in providers' refusing to transport the client:

- (a) Three or more client no-shows for the ride within a rolling 30-day period without good cause;
- (b) Threatening harm to providers or others in the vehicle;
- (c) Health conditions creating health or safety concerns to the provider or others in the vehicle;
- (d) Other conduct or circumstances that place the provider and others at risk of harm.

(5) A single suspension based on the behaviors listed in (4)(a) through (d) above shall not exceed 30 days. A client may be suspended more than once but not for the same event. If supporting documentation demonstrates a change in behavior, OMAP may authorize transportation on a case-by-case basis. All suspensions must be in accordance with OAR 410-120-1865.

(6) If a managed care client selects a Primary Care Physician (PCP) or Primary Care Manager (PCM) outside of the client's local area when a PCP or PCM is available in the client's local area the client is responsible for the transportation to the PCP or PCM, and this is not a covered service.

(7) The client will be required to utilize the least expensive mode of transportation that meets the medical needs and/or condition. Ride sharing by more than one client is considered to be cost effective and may be required unless written medical documentation in the branch record indicates ride sharing is not appropriate for a particular client. When more than one Medical Assistance client ride shares to medical appointments, OMAP will reimburse mileage to only one client. The written documentation will be made available for review upon request by OMAP.

(8) The provider must submit billings for non-emergency ambulance transports provided to clients enrolled in Fully Capitated Health Plans (FCHP) to the FCHP. The Plan will review for medical appropriateness prior to payment. Depending on the individual FCHP, the FCHP may or may not require authorization in advance of services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 815, f. & ef. 10-1-76; AFS 54-1981, f. 8-19-81, ef. 10-1-81; AFS 6-1982(Temp), f. 1-22-82, ef. 2-1-82; AFS 73-1982, f. & ef. 7-22-82; AFS 64-1986, f. 9-8-86, ef. 10-1-86; HR 12-1993, f. 4-30-93, cert. ef. 5-1-93; Renumbered from 461-020-0020; HR 30-1993, f. & cert. ef. 10-1-93; HR 28-1994, f. & cert. ef. 9-1-94; HR 25-1995, f. 12-29-95, cert. ef. 1-1-96; OMAP 27-1998(Temp), f. & cert. ef. 8-26-98 thru 2-1-99; OMAP 37-1998, f. & cert. ef. 10-1-98; OMAP 33-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 60-2004, f. 9-10-04, cert. ef. 10-1-04

410-136-0200

Emergency Medical Transportation (With Need for an Emergency Medical Technician)

(1) A service will qualify for Office of Medical Assistance Programs (OMAP) reimbursement as an emergency ambulance transport when a sudden, unexpected occurrence creates a medical crisis requiring immediate transportation to a site, usually a hospital, where appropriate emergency medical care is available.

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(2) Where transport occurs, the client must be transported to the nearest appropriate facility able to meet the client's medical needs.

(3) Authorizations of, and billings for, emergency ambulance services provided to clients enrolled in Fully Capitated Health Plans (FCHPs) must be submitted to the FCHP. The FCHP will review for medical appropriateness prior to payment.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 54-1981, f. 8-19-81, ef. 10-1-81; AFS 5-1984, f. & ef. 2-3-84; AFS 30-1985, f. 5-30-85, ef. 7-1-85; AFS 64-1986, f. 9-8-86, ef. 10-1-86; HR 12-1993, f. 4-30-93, cert. ef. 5-1-93; Renumbered from 461-020-0032; HR 25-1995, f. 12-29-95, cert. ef. 1-1-96; OMAP 33-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 43-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 60-2004, f. 9-10-04, cert. ef. 10-1-04

410-136-0240

Secured Transports

(1) Office of Medical Assistance Programs (OMAP) will reimburse for secured transports when the following conditions are met:

(a) The provider must be able to transport children and adults who are in crisis or at immediate risk of harming themselves or others due to mental or emotional problems or substance abuse;

(b) OMAP must recognize the provider as a provider of secured transports. This requires written advance notice to OMAP (prior to or at the time of enrollment) that the provider has met the requirements of the secure transport provider protocol as established in OARs 309-033-0200 through 309-033-0970;

(c) When medically appropriate (to administer medications, etc. in-route) or in those cases where legal requirements must be satisfied (i.e., a parent, legal guardian or escort is required during transport), one additional person will be allowed to escort at no additional charge to OMAP. OMAP's reimbursement is considered to be payment in full for the transport.

(2) The provider must submit a copy of all rates charged to the general public to OMAP, Provider Enrollment, at the time of enrollment. The provider must submit any changes to those rates to OMAP in writing within 30 days of the change. The notification must indicate the rate changes and effective date. If subsequent review by OMAP discloses that the written notice is not accurate, OMAP may recoup payments.

(3) OMAP will authorize reimbursement on an individual client basis in keeping with OMAP's rules regarding level of transport needed, eligibility, cost effectiveness and medical appropriateness. In the event the provider gave transport on an emergent basis, OMAP will authorize when appropriate after provision of service.

(4) OMAP will not reimburse for any secured transport provided to a client in the custody of or under the legal jurisdiction of any law enforcement agency or institution. OMAP will not reimburse for any transport resulting from a court ordered placement, any transport to/from a court hearing, or to/from a commitment hearing.

(5) The provider must transport the client to a Title XIX eligible or enrolled facility recognized by OMAP as having the ability to treat the immediate medical, mental and/or emotional needs of a client in crisis.

(6) OMAP must assume that a client being returned to place of residence is no longer in crisis or at immediate risk of harming him/herself or others, and is, therefore, able to utilize nonsecured transport. In the event a secured transport is medically appropriate to return a client to place of residence, the branch must obtain written documentation stating the circumstances and the treating physician must sign the documentation. The branch must retain the documentation in the branch record (along with a copy of the order) for OMAP review.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 28-1994, f. & cert. ef. 9-1-94; HR 25-1995, f. 12-29-95, cert. ef. 1-1-96; OMAP 33-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 60-2004, f. 9-10-04, cert. ef. 10-1-04

410-136-0440

Non-Emergency Medical Transportation Procedure Codes

(1) Ambulance Service — Bill the following codes using Type of Service "D".

(a) Basic Life Support (BLS) — Bill using the following procedure codes:

(A) A0428 — Ambulance service, BLS, non-emergency transport (BLS);

(B) S0215 — Ground mileage, per statute mile;

(C) A0424 — Extra ambulance attendant, ALS or BLS (requires medical review).

(b) Advanced Life Support (ALS) — Bill using the following procedure codes:

(A) A0426 — Ambulance Service, ALS, non-emergency transport, level 1 (ALS1);

(B) A0433 — Ambulance Service, ALS, non-emergency transport, level 2 (ALS2);

(C) S0215 — Ground mileage, per statute mile;

(D) A0424 — Extra ambulance attendant, ALS or BLS (requires medical review).

(c) Air Ambulance — Bill using the following procedure codes:

(A) A0430 — Ambulance service, conventional air services, transport, one-way (fixed wing);

(B) A0431 — Ambulance service, conventional air services, transport, one-way (rotary wing).

(d) Wheelchair Car/Van — Bill using the following procedure codes:

(A) A0130 — Non-emergency transportation, wheelchair car/van base rate;

(B) S0209 — Ground mileage, per statute mile;

(C) T2001 — Extra Attendant (each).

(e) Stretcher Car/Van — Bill using the following procedure codes:

(A) T2005 — Non-emergency transportation, stretcher car/van base rate;

(B) T2002 — Ground mileage, per statute mile, stretcher car/van

(C) T2001 — Extra Attendant (each);

(D) T2003 — Non-emergency transportation, stretcher car service provided by ambulance base rate;

(E) T2049 — Ground mileage, per statute mile, stretcher car/van by ambulance.

(f) Taxi — Bill using A0100 (all inclusive).;

(g) Secured Transport (all inclusive) — Bill using A0434. Attach a copy of the Medical Transportation Order to all billings submitted for secured transports.

(2) All non-emergency Medical Transportation requires authorization in advance of service provision.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 12-1993, f. 4-30-93, cert. ef. 5-1-93; HR 30-1993, f. & cert. ef. 10-1-93; HR 28-1994, f. & cert. ef. 9-1-94; HR 9-1995, f. 3-31-95, cert. ef. 4-1-95; HR 25-1995, f. 12-29-95, cert. ef. 1-1-96; OMAP 33-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 14-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 55-2002, f. & cert. ef. 10-1-02; OMAP 60-2004, f. 9-10-04, cert. ef. 10-1-04

410-136-0800

Prior Authorization of Client Reimbursed Mileage, Meals and Lodging

(1) The regional transportation brokerage or the client's local branch office must authorize all reimbursement for client mileage, meals and lodging in advance of the client's travel in order to qualify for reimbursement. A client may request reimbursement up to 30 days after their medical appointment(s) provided the expenditure was authorized in advance of the travel and provided that the requested amount is \$10 or greater. Reimbursement under the amount of \$10 shall be accumulated until the minimum of \$10 is reached.

(2) A client must demonstrate medical necessity before OMAP authorizes reimbursement for mileage, meals and/or lodging. OMAP will only reimburse to access medical services covered under the Oregon Health Plan.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 9-1998, f. & cert. ef. 4-1-98; OMAP 60-2004, f. 9-10-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 61-2004

Filed with Sec. of State: 9-10-2004

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Rules Adopted: 410-138-0530

Rules Amended: 410-138-0000, 410-138-0080, 410-138-0300, 410-138-0360, 410-138-0380, 410-138-0500, 410-138-0560

Rules Repealed: 410-138-0100, 410-138-0400

Subject: The Targeted Case Management Services program rules govern payment for the Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP adopted or amended rules listed above to create a contractual relationship between providers and OMAP using the Provider Enrollment Application as the authorizing document. This eliminated the need for multiple contracts. These changes clarify the differences between the various Targeted Case Management programs and updated the codes

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used for billing. Rules 410-138-0100 and 410-138-0400 are repealed to remove unnecessary text from rule.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-138-0000

Babies First/Cocoon Program

(1) Babies First/Cocoon Targeted Case Management (TCM) Services is a medical program operated by public health authorities, which matches public funds with matching Federal Funds for Oregon Health Plan (OHP) Medicaid eligible clients. These rules are to be used in conjunction with the General Rules governing the OMAP Programs (OAR 410 Division 120). The TCM Services rules are a user's manual designed to assist the TCM Provider Organization in matching State and Federal Funds for TCM services defined by Section 1915(g) of the Social Security Act, 42 USC (1396n)(g).

(2) The rules of the Babies First/Cocoon — Targeted Case Management Plan define Oregon Medicaid's program to reimburse the services provided under Babies First/Cocoon. This program expands preventive services for all infants and pre-schoolers (0 through 3 years) covered by Medicaid who are at risk of poor health outcome as outlined in OAR 410-138-0040, Risk Factors, provided by an enrolled Babies First/Cocoon — TCM provider consistent with these rules.

(3) Services include management of non-medical services, which address health, psychosocial, economic, nutritional and other services. Home visits constitute a significant part of the delivery of services.

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.085

Hist.: HR 20-1992, f. & cert. ef. 7-1-92; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04

410-138-0080

Billing Policy and Codes — Babies First/Cocoon Program

(1) Payment will be made to the enrolled Targeted Case Management Provider as the performing provider for those Case Management services provided by the employed staff person:

(2) Signing the Provider Enrollment Agreement sets forth the relationship between the State of Oregon, Department of Human Services and the TCM provider and constitutes agreement by the provider to comply with all applicable rules of the Medical Assistance Program, federal and state laws or regulations;

(3) The TCM provider will bill according to OAR 410 division 138 rules. Payments will be made through the Medical Management Information System (MMIS). The TCM provider must have a trading partner agreement with DHS prior to submission of electronic transactions;

(4) Targeted Case Management authorized under these rules is a cost-sharing (Federal Financial Participation matching) program. In addition to the requirements set forth in this rule, and pursuant to 42CFR433.10, DHS may monthly, but will no less than quarterly, invoice the TCM provider for their non-federal matching share based on the current Federal Medical Assistance Percentage (FMAP) rate. The TCM provider shall pay the amount stated in the invoice within 30 days of the date of the invoice;

(a) The TCM provider's share means the public funds share of the Medicaid payment amount. Pursuant to 42CFR433.51, public funds may be considered as the State's share in claiming federal financial participation if the public funds meet the following conditions: The public funds are transferred to DHS from public agencies, and the public funds are not federal funds or are federal funds authorized by federal law to be used to match other federal funds;

(b) The TCM provider's non-federal matching share shall be based on the current Federal Medical Assistance Percentage (FMAP) rate for Oregon provided annually by the Centers for Medicare and Medicaid Services. This percentage can vary each federal fiscal year. The DHS invoice shall be based on the FMAP in effect at the time of the State's payment to the TCM provider;

(c) The TCM provider shall submit to OMAP an original signed document certifying that the public funds transferred to OMAP (for the non-federal matching share) by the TCM provider under this rule are not federal funds or are federal funds authorized by federal law to be used to match other federal funds.

(5) Failure to timely remit the non-federal share described in subsection (4) will constitute an overpayment and will make the provider subject to overpayment recoupment or other remedy pursuant to OMAP General Rules, OAR 410-120-1400 through 410-120-1685.

(6) OMAP shall not be financially responsible for payment of any claim that the Centers for Medicare and Medicaid Services (CMS) disallows under the Medicaid program. If OMAP has previously paid the TCM provider for any claim which CMS disallows, the TCM provider shall reim-

burse OMAP the amount of the claim that OMAP has paid to the TCM provider, less any amount previously paid by the TCM provider to OMAP for purposes of reimbursing OMAP the non-federal match portion for that claim.

(7) Billing criteria for this program is as follows:

(a) The procedure code to be used is "T1016" for Babies First/Cocoon — Targeted Case Management. Maximum billing for the T1016 code is one time per day per client. One of the three activities listed below must occur in order to bill:

(A) Screening;

(B) Assessment;

(C) Intervention.

(b) Any place of service (POS) is valid;

(c) Prior authorization is not required;

(d) The provider must use Diagnosis Code "V201".

(8) Duplicate billings are not allowed and duplicate payments will be recovered. Services will be considered as duplicate if the same services are billed by more than one entity to meet the same need. Medical services must be provided and billed separately from Case Management Services.

(9) A unit of service can only be billed once under one procedure code, under one provider number.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 20-1992, f. & cert. ef. 7-1-92; HR 37-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04

410-138-0300

HIV Program

(1) HIV — Targeted Case Management (TCM) Services is a medical program operated by public health authorities, which matches public funds with matching Federal Funds for Oregon Health Plan (OHP) Medicaid eligible clients. These rules are to be used in conjunction with the General Rules governing the OMAP Programs (OAR 410 Division 120). The TCM Services rules are a user's manual designed to assist the TCM Provider Organization in matching State and Federal Funds for TCM services defined by Section 1915(g) of the Social Security Act, 42 USC (1396n)(g).

(2) The rules of the HIV — Targeted Case Management Plan define Oregon Medicaid's Program to reimburse the services provided under HIV — Targeted Case Management. This program expands services to all Medicaid eligible clients in Multnomah County with symptomatic HIV disease and one or more risk factors which result in an inability to remain in a home environment without ongoing management of support services (see OAR 410-138-0340, Risk Criteria).

(3) Services include management of non-medical services, which address physical, psychosocial, nutritional, educational, and other needs. Home visits constitute a significant part of the delivery of services, provided by an enrolled HIV — TCM provider consistent with these rules.

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.085

Hist.: HR 42-1992, f. 12-31-92, cert. ef. 1-1-93; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04

410-138-0360

Provider Requirements — HIV Program

(1) HIV — Targeted Case Management (TCM) organizations must be a public health authority and must meet the following criteria:

(a) Demonstrated capacity to provide all core elements of case management services including:

(A) Comprehensive nursing assessment;

(B) Comprehensive care/service plan development;

(C) Linking/coordination of services;

(D) Monitoring and follow-up of services;

(E) Reassessment of the client's status and needs.

(b) Demonstrated case management experience in coordinating and linking such community resources as required by the target population;

(c) Demonstrated experience with the target population;

(d) A sufficient number of staff to meet the case management service needs of the target population;

(e) An administrative capacity to ensure quality of services in accordance with state and federal requirements;

(f) A financial management capacity and system that provides documentation of services and costs;

(g) Capacity to document and maintain individual case records in accordance with state and federal requirements, including HIPAA Privacy requirements applicable to Case Management Services, ORS 192.518 — 192.524, 179.505, and 411.320;

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(h) Demonstrated ability to meet all state and federal laws governing the participation of providers in the state Medicaid program.

(i) Enrolled as a TCM provider with the Office of Medical Assistance Programs.

(2) The case manager must be:

(a) A licensed registered nurse with a minimum of one year of experience in public health or home health and HIV disease or a registered nurse working under the supervision of the above;

(b) Working under the guidelines of the enrolled HIV — TCM provider organization.

Stat. Auth.: ORS 409.010 & ORS 409.110

Stats. Implemented: ORS 414.065

Hist.: HR 42-1992, f. 12-31-92, cert. ef. 1-1-93; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04

410-138-0380

Billing Policy and Codes — HIV Program

(1) Payment will be made to the enrolled Targeted Case Management Provider as the performing provider for those Case Management services provided by the employed staff person:

(2) Signing the Provider Enrollment Agreement sets forth the relationship between the State of Oregon, Department of Human Services and the TCM provider and constitutes agreement by the provider to comply with all applicable rules of the Medical Assistance Program, federal and state laws or regulations;

(3) The TCM provider will bill according to OAR 410 division 138 rules. Payments will be made through the Medical Management Information System (MMIS). The TCM provider must have a trading partner agreement with DHS prior to submission of electronic transactions;

(4) Targeted Case Management authorized under these rules is a cost-sharing (Federal Financial Participation matching) program. In addition to the requirements set forth in this rule, and pursuant to 42CFR433.10, DHS may monthly, but will no less than quarterly, invoice the TCM provider for their non-federal matching share based on the current Federal Medical Assistance Percentage (FMAP) rate. The TCM provider shall pay the amount stated in the invoice within 30 days of the date of the invoice;

(a) The TCM provider's share means the public funds share of the Medicaid payment amount. Pursuant to 42CFR433.51, public funds may be considered as the State's share in claiming federal financial participation if the public funds meet the following conditions: The public funds are transferred to DHS from public agencies, and the public funds are not federal funds or are federal funds authorized by federal law to be used to match other federal funds;

(b) The TCM provider's non-federal matching share shall be based on the current Federal Medical Assistance Percentage (FMAP) rate for Oregon provided annually by the Centers for Medicare and Medicaid Services. This percentage can vary each federal fiscal year. The DHS invoice shall be based on the FMAP in effect at the time of the State's payment to the TCM provider;

(c) The TCM provider shall submit to OMAP an original signed document certifying that the public funds transferred to OMAP (for the non-federal matching share) by the TCM provider under this rule are not federal funds or are federal funds authorized by federal law to be used to match other federal funds.

(5) Failure to timely remit the non-federal share described in subsection (4) will constitute an overpayment and will make the provider subject to overpayment recoupment or other remedy pursuant to OMAP General Rules, OAR 410-120-1400 through 410-120-1685.

(6) OMAP shall not be financially responsible for payment of any claim that the Centers for Medicare and Medicaid Services (CMS) disallows under the Medicaid program. If OMAP has previously paid the TCM provider for any claim which CMS disallows, the TCM provider shall reimburse OMAP the amount of the claim that OMAP has paid to the TCM provider, less any amount previously paid by the TCM provider to OMAP for purposes of reimbursing OMAP the non-federal match portion for that claim.

(7) Billing criteria for this program is as follows:

(a) Use Procedure Code "T2023" for HIV — Targeted Case Management. Maximum billing for the T2023 code is one time per calendar month per client. At least one of the five activities listed below must occur during the month in order to bill:

(A) Assessment;

(B) Comprehensive Care/Services Plan Development;

(C) Intervention/Implementation;

(D) Coordination/Linking of Services;

(E) Evaluation.

(b) Any Place of Service (POS) is valid;

(c) Prior Authorization is not required;

(d) Provider must use Diagnosis Code "V08" or "042".

(8) Duplicate billings are not allowed and duplicate payments will be recovered. Services will be considered as duplicate if the same services are billed by more than one entity to meet the same need. Medical services must be provided and billed separately from Case Management Services.

(9) A unit of service can only be billed once under one procedure code, under one provider number.

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.065

Hist.: HR 42-1992, f. 12-31-92, cert. ef. 1-1-93; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04

410-138-0500

Pregnant Substance Abusing Women and Women with Young Children Program

(1) Pregnant Substance Abusing Women and Women with Young Children (PWWC) — Targeted Case Management (TCM) Services is a medical program operated by public health authorities, which matches public funds with matching Federal Funds for Oregon Health Plan (OHP) Medicaid eligible clients. These rules are to be used in conjunction with the General Rules governing the OMAP Programs (OAR 410 Division 120). The TCM Services rules are a user's manual designed to assist the TCM Provider Organization in matching State and Federal Funds for TCM services defined by Section 1915(g) of the Social Security Act, 42 USC (1396n)(g).

(2) The rules of the Targeted Case Management Program for Pregnant Substance Abusing Women and Women with Young Children define Oregon Medicaid's Program to reimburse the services provided under this program. This Program expands services to Medicaid eligible women living in Marion, Polk, Linn, Benton, Jackson, and Yamhill Counties, provided by an enrolled PWWC — TCM provider consistent with these rules.

(3) Services include screening and assessment, case plan development, and intervention/implementation of non-medical services, which address health, educational, vocational, mental health, housing, child care and other services necessary to help this target group remain clean and sober.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 19-1993, f. & cert. ef. 8-13-93; OMAP 41-1999, f. 10-15-99, cert. ef. 10-20-99; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04

410-138-0530

Risk Criteria — Pregnant Substance Abusing Women and Women with Young Children

(1) Pregnant or have children under the age of five; and,

(2) Are in need of treatment for the abuse of alcohol and other drugs.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04

410-138-0560

Billing Policy and Codes — Pregnant Substance Abusing Women and Women with Young Children

(1) Payment will be made to the enrolled Targeted Case Management Provider as the performing provider for those Case Management services provided by the employed staff person:

(2) Signing the Provider Enrollment Agreement sets forth the relationship between the State of Oregon, Department of Human Services and the TCM provider and constitutes agreement by the provider to comply with all applicable rules of the Medical Assistance Program, federal and state laws or regulations;

(3) The TCM provider will bill according to OAR 410 division 138 rules. Payments will be made through the Medical Management Information System (MMIS). The TCM provider must have a trading partner agreement with DHS prior to submission of electronic transactions;

(4) Targeted Case Management authorized under these rules is a cost-sharing (Federal Financial Participation matching) program. In addition to the requirements set forth in this rule, and pursuant to 42CFR433.10, DHS may monthly, but will no less than quarterly, invoice the TCM provider for their non-federal matching share based on the current Federal Medical Assistance Percentage (FMAP) rate. The TCM provider shall pay the amount stated in the invoice within 30 days of the date of the invoice;

(a) The TCM provider's share means the public funds share of the Medicaid payment amount. Pursuant to 42CFR433.51, public funds may be considered as the State's share in claiming federal financial participation if the public funds meet the following conditions: The public funds are trans-

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ferred to DHS from public agencies, and the public funds are not federal funds or are federal funds authorized by federal law to be used to match other federal funds;

(b) The TCM provider's non-federal matching share shall be based on the current Federal Medical Assistance Percentage (FMAP) rate for Oregon provided annually by the Centers for Medicare and Medicaid Services. This percentage can vary each federal fiscal year. The DHS invoice shall be based on the FMAP in effect at the time of the State's payment to the TCM provider;

(c) The TCM provider shall submit to OMAP an original signed document certifying that the public funds transferred to OMAP (for the non-federal matching share) by the TCM provider under this rule are not federal funds or are federal funds authorized by federal law to be used to match other federal funds.

(5) Failure to timely remit the non-federal share described in subsection (4) will constitute an overpayment and will make the provider subject to overpayment recoupment or other remedy pursuant to OMAP General Rules, OAR 410-120-1400 through 410-120-1685.

(6) OMAP shall not be financially responsible for payment of any claim that the Centers for Medicare and Medicaid Services (CMS) disallows under the Medicaid program. If OMAP has previously paid the TCM provider for any claim which CMS disallows, the TCM provider shall reimburse OMAP the amount of the claim that OMAP has paid to the TCM provider, less any amount previously paid by the TCM provider to OMAP for purposes of reimbursing OMAP the non-federal match portion for that claim.

(7) Billing criteria for this program is as follows:

(a) The procedure code to be used is "T2023" for Pregnant Substance Abusing Women with Young Children — Targeted Case Management. Maximum billing for the T2023 code is one time per calendar month per client. One of the three activities listed below must occur in order to bill:

- (A) Screening;
- (B) Assessment;
- (C) Intervention.
- (b) Any place of service (POS) is valid;
- (c) Prior authorization is not required;

(d) Provider must use Modifier Code "HF" and Diagnosis Code "V6141".

(8) Duplicate billings are not allowed and duplicate payments will be recovered. Services will be considered as duplicate if the same services are billed by more than one entity to meet the same need. Medical services must be provided and billed separately from Case Management Services.

(9) A unit of service can only be billed once under one procedure code, under one provider number.

Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Hist.: HR 19-1993, f. & cert. ef. 8-13-93; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 62-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 7-1-04

Rules Adopted: 410-146-0400, 410-146-0420, 410-146-0440, 410-146-0460

Rules Amended: 410-146-0000, 410-146-0020, 410-146-0021, 410-146-0025, 410-146-0040, 410-146-0120

Subject: The American Indian/Alaska Native Services program administrative rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. OMAP adopted rules 410-146-0400, 410-146-0420, 410-146-0440 and 410-146-0460 to include text from the Tribal Urban Clinic rules in the Federally Qualified Health Centers/Rural Health Clinics (FQHC/RHC) Services program rules. OMAP added specific information regarding payment methodology and reimbursement for Outstationed Eligibility Workers (outreach). OMAP revised rules 410-146-0000, 410-146-0020, 410-146-0021, 410-146-0025, 410-146-0040 and 410-146-0120 to provide language clarification, remove unnecessary language and take care of necessary housekeeping corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-146-0000

Foreword

(1) The Office of Medical Assistance Programs (OMAP) American Indian/Alaska Native (AI/AN) billing rules are designed to assist AI/AN Tribal Clinics/Health Centers, Indian Health Services (IHS), Federally Qualified Health Clinics (FQHC) with a 638 designation including, Urban Clinics, that are enrolled as AI/AN providers, to deliver health care services and prepare health claims for clients with Medical Assistance Program coverage. Providers should follow the OMAP rules in effect on the date of service.

(2) AI/AN clients can choose to be exempt from managed care organizations (see OAR 410-141-0060) and receive their care from AI/AN Health Care Facilities, or any other private provider enrolled with OMAP.

(3) AI/AN clients can choose to enroll in a managed care organization and continue to receive care on an infrequent basis from AI/AN Health Care Facilities. If the client chooses to remain in a managed care organization they must follow all managed care rules when seeking services outside of AI/AN Health Care Facilities. When a client chooses to utilize services through a managed care organization they must contact their plan for coverage and prior authorization information.

(4) These rules contain information on policy, special programs services outside of the encounter rate, such as, pharmacy, lab, x-ray, and Durable Medical Equipment (DME), etc., and criteria for some services. All OMAP rules are used in conjunction with the OMAP General Rules and the Oregon Health Plan Administrative Rules.

(5) AI/AN Health Care Facilities that have a pharmacy will need OMAP's Pharmacy rules. AI/AN pharmacies that provide DME and Medical Supplies will also need the DMEPOS rules.

(6) The Health Services Commission's Prioritized List of Health Services (see OAR 410-141-0520), defines the covered services under OMAP.

(7) Note: Urban Tribal Clinics are not recognized under the Centers for Medicare and Medicaid Services (CMS) 1996 Memorandum of Agreement (MOA).

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04

410-146-0020

Memorandum of Agreement (MOA)

(1) The State of Oregon, Office of Medical Assistance Programs (OMAP) recognizes the Centers for Medicare and Medicaid Services (CMS) Memorandum of Agreement (MOA).

(2) MOA outlines payment methodologies available to Tribal Facilities. Refer to 410-146-0420 for specific details.

(3) Urban Tribal Clinics are not recognized under CMS's MOA.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04

410-146-0021

American Indian/Alaska Native (AI/AN) Provider Enrollment

(1) Any of the following facilities may enroll as an AI/AN clinic provider:

- (a) Indian Health Services (IHS) Health facility;
- (b) Federally recognized Indian tribe, tribal organization; or
- (c) Federally Qualified Health Clinic (FQHC) with a 638 designation excluding Urban Tribal Clinics.

(2) AI/AN Urban Health Care Facilities refer to OAR 410-146-0400 for enrollment information.

(3) If an IHS or other federally recognized Indian tribe or tribal organization applies to enroll as an AI/AN provider, that clinic must show proof of federal recognition.

(4) If an IHS or other federally recognized Indian tribe or tribal organization has a pharmacy or supplies durable medical equipment (DME) and medical supplies, that clinic must apply for a pharmacy provider number and/or apply for a DME provider number in addition to the clinic provider number.

(5) If an IHS or other federally recognized Indian tribe or tribal organization provides van/sedan transportation the clinic does not apply for a transportation provider number. Their AI/AN clinic number is used as outlined in OAR 410-146-0240.

(6) Urban Tribal Healthcare Facilities with 638 designations may enroll as an Urban Tribal Facility.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04

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410-146-0025

Reimbursement for AI/AN Health Care Facilities

(1) Services provided by facilities of the Indian Health Service (IHS) which includes, at the option of the tribe, facilities operated by a tribe or tribal organizations, and funded by Title I or IV of the Indian Self Determination and Education Assistance Act (Public Law 93-638), may select the reimbursement methodology as outlined in 410-146-0420.

(2) AI/AN Health Care Facilities that qualify under the Memorandum of Agreement may choose one of the following payment methodologies:

(a) Paid at the rates negotiated between the Centers for Medicare and Medicaid Services (CMS) and IHS, which are published in the Federal Register or Federal Register Notices annually. This methodology is referred to as the Tribal encounter rate;

(b) Tribal Health Care Facility excluding AI/AN Urban Health Care Facilities, with a Title I or V designation serving as an Indian Tribal Health Center may be reimbursed using 100% reasonable costs paid on a per encounter basis; or

(c) Reimbursed on a per service basis. This is also known as fee-for-service.

(3) If a Tribal Health Care Facility chooses the 100% reasonable costs encounter rate, they are not eligible for Administrative Match contracts.

(4) AI/AN Urban Tribal Health Care Facilities are not eligible for Administrative Match contracts.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 36-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04

410-146-0040

ICD-9-CM Diagnosis Codes

(1) The appropriate code or codes from 001.0 through V82.9 must be used to identify diagnoses, symptoms, conditions, problems, complaints, or other reasons for the encounter/visit. Diagnosis codes are required on all claims, including those submitted by independent laboratories and portable radiology including nuclear medicine and diagnostic ultrasound providers. Always provide the client's diagnosis to ancillary service providers when prescribing services, equipment, and supplies.

(2) The principal diagnosis is listed in the first position; the principal diagnosis is the code for the diagnosis, condition, problem, or other reason for an encounter/visit shown in the medical record to be chiefly responsible for the services provided. Up to three additional diagnosis codes may be listed on the claim for documented conditions that coexist at the time of the encounter/visit and require or affect client care, treatment, or management.

(3) The diagnosis codes must be listed using the highest degree of specificity available in the ICD-9-CM. A three-digit code is used only if it is not further subdivided. Whenever fourth-digit subcategories and/or fifth-digit subcategories are provided, they must be assigned. A code is invalid if it has not been coded to its highest specificity.

(4) The Office of Medical Assistance Programs (OMAP) requires accurate coding and applies the national standards in effect for calendar years 2004 and 2005 set by the American Hospital Association, American Medical Association, and Centers for Medicare and Medicaid Services (CMS). OMAP has unique coding and claim submission requirements for Administrative Exams; specific diagnosis coding instructions are provided in the Administrative Examination and Report Billing provider rules.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 25-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 6-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03; OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04

410-146-0120

Maternity Case Management Services

(1) American Indian/Alaska Native Health Care Facilities are eligible for reimbursement for Maternity Case Management (MCM) services.

(2) Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) are eligible for reimbursement for Maternity Case Management (MCM) services. These services are billed using HCPCS code G9012 for each MCM encounter.

(3) Clients records must reflect the all MCM services provided including all mandatory topics. Refer to Medical/Surgical OAR 410-130-0595 for specific requirements of the MCM program.

(4) The primary purpose of the MCM program is to optimize pregnancy outcomes including the reduction of low birth weight babies. MCM services are intended to target pregnant women early during the prenatal period and can only be initiated when the client is pregnant and no later than the day prior to delivery. MCM services cannot be initiated the day of

delivery, during postpartum or for newborn evaluation. Clients are not eligible for MCM services if the MCM initial evaluation has not been completed prior to the day of delivery.

(5) Multiple MCM encounters in a single day cannot be billed as multiple encounters. A prenatal visit and a MCM service on the same day can be billed as two encounters only if the MCM service is the initial evaluation visit. After the initial evaluation visit, the nutritional counseling MCM service can be billed on the same day as a prenatal visit.

(6) The MCM program:

(a) Is available to all pregnant clients receiving Medical Assistance Program coverage;

(b) Expands perinatal services to include management of health, economic, social and nutritional factors through the end of pregnancy and a two-month post-partum period;

(c) Is an additional set of services over and above medical management, including perinatal services of pregnant clients;

(d) Allows for billing for intensive nutritional counseling services.

(7) MCM case managers are required to notify the:

(a) Prenatal care provider when:

(A) MCM services have been initiated; and

(B) Any time there is a significant change in the health, economic, social, or nutritional factors of the client.

(b) Health Division for all first-born babies.

(8) Note: In situations where multiple providers are seeing one client for MCM services, the case manager must coordinate care to ensure claims are not submitted to the Office of Medical Assistance Programs (OMAP) if services are duplicated.

(9) Four Case Management Visits may be billed per pregnancy. Six additional Case Management Visits may be billed if the client is identified as High Risk.

(10) OMAP recognizes Community Health Representatives (CHR) may be eligible to provide MCM services under the supervision of licensed health care practitioners as outlined in OAR 410-130-0595, may provide specific services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 25-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 6-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03; OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04

410-146-0400

American Indian/Alaska Native (AI/AN) Urban Health Care Facility Enrollment

(1) The Centers for Medicare and Medicaid (CMS) do not recognize AI/AN Urban Health Care Facilities under the Memorandum of Agreement (MOA) agreement and are not eligible to be reimbursed using the Tribal encounter rate.

(2) AI/AN Urban Health Care Facilities that have a Federally Qualified Health Center (FQHC) status are required to submit financial documentation prior to enrollment. The term "required financial documents" in this rule refers to:

(a) Cost Statement (OMAP 3027) or Medicare Cost Report for Rural Health Clinics (RHC);

(b) Cost Statement Worksheet (OMAP 3032);

(c) A copy of the clinic's trial balance;

(d) Audited financial statements if, the clinic received more than \$250,000 total Medicaid funds in a calendar year;

(e) Depreciation schedules;

(f) Overhead cost allocation schedules; and

(g) Complete copy of the grant proposal detailing the clinic's service and geographic scope.

(3) FQHC Enrollment:

(a) To be eligible for payment under the Prospective Payment System (PPS) encounter rate methodology, all FQHCs must meet the following criteria:

(A) Centers receiving Public Health Services (PHS) grant funds under authority of Section 330 — Migrant Health Centers, Community Health Centers, or Services to Homeless Individuals, must submit: a copy of the notice of current grant award, an Office of Medical Assistance Programs (OMAP) Provider Application (OMAP 3117), documents showing the clinic's scope of services, and the required financial documents;

(B) For non-federally funded health centers that PHS recommends, and the Centers for Medicare and Medicaid Services (CMS), determines should be designated as an FQHC (i.e., "Look Alikes"), the clinic must submit: a copy of the letter from CMS designating the facility as a "Look Alike" or designating the facility as a non-federally funded health center,

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an OMAP Provider Application (OMAP 3117), documents showing the clinic's scope of services, and the required financial documents;

(C) For non-federally funded health centers that CMS determines may, for good cause, qualify through waivers of CMS requirements, the clinic must submit: a copy of the letter from CMS designating the facility as a "Look Alike," an OMAP Provider Application (OMAP 3117), documents showing the clinic's scope of services, and the required financial documents. Waivers may be granted for up to two years;

(D) For outpatient health programs or facilities operated by an American Indian tribe under the Indian Self-Determination Act and for certain facilities serving urban American Indians/Alaska Natives.

(b) The OMAP Provider Application (OMAP 3117) and the required financial documents will be reviewed by OMAP for compliance with program rules prior to enrollment as an FQHC;

(c) Submit completed Cost Statements (OMAP 3027) one each for medical, dental and mental health. Addiction services are included in mental health costs, Cost Statement Worksheets (OMAP 3032), and the required financial documents to OMAP;

(d) If an FQHC provides mental health services the clinic must submit a copy of their certification from the Office of Mental Health and Addiction Services (OMHAS);

(e) If an FQHC provides addiction services, the clinic must submit a copy of their certification from OMHAS;

(f) A list of all MCO contracts;

(g) A list of names of all practitioners working within the FQHC and a list of all individual OMAP provider numbers;

(h) List of all clinics affiliated or owned by the FQHC including any clinics that do not have FQHC or RHC status along with all OMAP provider numbers assigned to these clinics.

(4) If an AI/AN Urban Health Care Facility does not meet these criteria they can enroll with OMAP as an individual clinic for reimbursement on a per service basis, also known as fee-for-service.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04

410-146-0420

Reimbursement Methodology

(1) AI/AN Tribal Health Care Facilities that qualify under CMS's Memorandum of Agreement may select one of the following reimbursement methodologies:

(a) Tribal encounter rate that is paid at the rates negotiated between the Centers for Medicare and Medicaid Services (CMS) and IHS, which are published in the Federal Register or Federal Register Notices annually;

(A) Note: If the negotiated rates for the IHS encounter is published in the Federal Register after the effective date of the new rate the Office of Medical Assistance Programs (OMAP) will retroactively reimburse the difference for all claims paid to American Indian/Alaska Native (AI/AN) Health Care Facilities with dates of service on or after the effective date of the new rate;

(B) AI/AN Tribal Health Care Facilities that choose the Tribal encounter rate may be eligible for an Administrative Match contract with OMAP;

(C) AI/AN Tribal Health Care Facilities that choose the Tribal encounter rate are eligible to receive managed care supplemental payments if they have contracts with OMAP managed care organizations.

(b) 100% of reasonable costs:

(A) An encounter rate that is calculated on indirect and direct clinic costs for Medicaid services;

(B) AI/AN Tribal Health Care Facilities that choose the 100% of reasonable costs are not eligible for an Administrative Match contract with OMAP. These costs are included in the indirect and direct costs;

(C) AI/AN Tribal Health Care Facilities that choose the 100% of reasonable costs are eligible to receive managed care supplemental payments if they have contracts with OMAP managed care organizations.

(c) Per service reimbursement also known as fee-for-service:

(A) Fee-for-service rates are posted on www.dhs.state.or.us;

(B) AI/AN Tribal Health Care Facilities that choose the fee-for-service methodology may be eligible for an Administrative Match contract with OMAP;

(C) AI/AN Tribal Health Care Facilities that choose the fee-for-service are not eligible for managed care supplemental payments.

(2) 100% of reasonable costs methodology for specific information refer to OARs 410-147-0380, 410-147-0440, 410-147-0480, 410-147-0520, 410-147-0540.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04

410-146-0440

Managed Care Supplemental Payments

(1) Qualifying AI/AN Tribal Health Care Facilities may receive managed care supplemental payments when the facility has contracts with OMAP's managed care organizations (MCOs).

(2) To receive managed care supplemental payments from OMAP the AI/AN Tribal Health Facility must submit the following:

(a) When submitting claims to MCOs:

(A) The claims must be submitted within the required timelines outlined in the contract with the MCO;

(B) The AI/AN Tribal Health Care Facility number must be used when submitting all claims to the MCOs. MCOs must accept an AI/AN Tribal Health Care Facility number and may not require individual provider numbers from the facility.

(b) When submitting managed care supplemental payment documentation to OMAP:

(A) Total payments for all services including lab and diagnostic imaging received from the MCO excluding any bonus or incentive payments;

(B) The total number of actual encounters, excluding all lab or diagnostic imaging encounters;

(C) All performing provider numbers that any practitioner associated with the AI/AN Tribal Health Care Facility. Association refers to a practitioner that works for the FQHC or RHC and has or had a private practice and billed OMAP for services;

(D) A current list of all MCO contracts. Must be updated annually and submitted to OMAP each October.

(3) MCO Supplemental Payment process:

(a) On a quarterly basis OMAP will send AI/AN Tribal Health Care Facilities all MCO encounter data received by OMAP electronically in a spreadsheet format along with an explanation letter;

(b) AI/AN Tribal Health Care Facility must review the encounter data and determine if it is complete within 30 days. If it is incomplete, the facility needs to:

(A) Add the missing data to the electronic file and return it with any documentation that can support the missing data to OMAP and the MCO, and;

(B) Verify that the MCO has the correct provider number for the clinic's claims.

(c) Once the data is reviewed and deemed correct by the AI/AN Tribal Health Care Facility, an interim check will be issued within 30 days for all encounters that OMAP can verify. A letter outlining the settlement and any other pertinent information will accompany the interim check;

(d) The data must be submitted within the timelines provided by OMAP.

(4) The data provided to the AI/AN Tribal Health Care Facility must be carefully reviewed in a timely fashion. If any missing data is not brought to OMAP's attention within the time frames outlined, OMAP will not recalculate an adjustment.

(5) Requests for MCO Supplemental Payments cannot be filed after the end of the required reporting period for that quarter unless OMAP has granted in writing an exception.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04

410-146-0460

Compensation for Outstationed Eligibility Workers

(1) Compensation may be provided for clinics that are eligible for an Outstationed Outreach Eligibility Worker (OSEW).

(2) Clinics must submit a budget each December 1st to OMAP for review of the clinic OSEW costs for approval before any OSEW compensation is made each January 1st.

(3) Expenses allowed for OSEW reimbursement:

(a) Salary for each OSEW. To determine which part of the OSEW expense should be charged to OMAP when OSEW has other duties, calculate the percentage of the OSEW total time spent performing eligibility services and multiply it by the total reasonable expenses of the OSEW. This portion of the wages and benefits may be charged to OMAP;

(b) Case management is not part of the OSEW reimbursement. If an OSEW also does case management, calculate the OSEW expense as outlined above;

(c) Travel necessary for OMAP training on OSEW activities;

(d) Phone bills, if a dedicated line. Otherwise an estimate of telephone usage and resulting costs;

(e) Wages for OSEW;

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(f) Reasonable equipment necessary to perform outreach activities; and

(g) Facility costs. Include a description of the facility area used and if its used for any other activity.

(4) Tribal Facilities that have a Medicaid Administrative Match contract that includes OSEW costs are not eligible for separate OSEW payments.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04

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Rules Amended: 410-147-0000, 410-147-0060, 410-147-0140, 410-147-0200, 410-147-0220, 410-147-0320, 410-147-0340, 410-147-0360, 410-147-0610

Subject: The Federally Qualified Health Centers and Rural Health Clinics (FQHC/RHC) program administrative rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. OMAP revised rules 410-147-0000, 410-147-0060, 410-147-0220 and 410-147-0610 to provide language clarification, remove unnecessary language and take care of necessary house-keeping corrections. OMAP revised rules 410-147-0140, 410-147-0200, 410-147-0320, 410-147-0340 and 410-147-0360 to reflect change in encounter rate determination process, clarify when multiple encounters are allowed and to refer to other program rules.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-147-0000

Foreword

(1) The Office of Medical Assistance Programs' (OMAP) Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) rules are designed to assist FQHCs and RHCs to deliver health care services and prepare health claims for clients with Medical Assistance Program coverage.

(2) The FQHC and RHC rules contain important information including general program policy, provider enrollment, and maintenance of financial records, special programs, and billing information.

(3) It is the clinic's responsibility to understand and follow all OMAP rules that are in effect on the date services are provided.

(4) Typically rules are modified twice a year, April for technical changes and October for technical and/or program changes. Technical changes refer to operational information. All provider rules can be found on OMAP's website.

(5) Notification of rule changes are mailed to all affected OMAP providers.

(6) FQHCs and RHCs must use rules contained in the FQHC and RHC rules. Do not use other provider rules unless specifically directed in rules contained in the FQHC and RHC rules. OMAP General Rules and the Oregon Health Plan (OHP) Administrative Rules are intended to be used in conjunction with all program rules including the FQHC and RHC provider rules.

(7) The Health Services Commission's Prioritized List of Health Services is found in the OHP Administrative Rules (OAR 410-141-0520) and defines the services covered under OMAP.

(8) An FQHC is defined as a clinic that is recognized and certified by the Centers for Medicare and Medicaid Services (CMS) as meeting federal requirements as an FQHC.

(9) An RHC is defined as a clinic that is recognized and certified by CMS as meeting federal requirements for payment for RHC services.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: Hist.: AFS 20-1988, f. 3-8-88, cert. ef. 4-1-88; AFS 16-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 47-1989, f. & cert. ef. 8-24-89; HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 29-1991(Temp), f. & cert. ef. 7-1-91; HR 33-1991, f. & cert. ef. 8-16-91; Renumbered from 461-0014-415; HR 12-1992, f. & cert. ef. 4-1-92; HR 24-1992, f. & cert. ef. 7-3-92; HR 13-1996(Temp), f. & cert. ef. 7-1-96; HR 24-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 42-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0000; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0000; OMAP 63-2004, f. 9-10-04, cert. ef. 10-1-04

410-147-0060

Prior Authorization

(1) Prior Authorization (PA) is not required for services provided within a Federally Qualified Health Center (FQHC) or Rural Health Clinic (RHC) with the exception of pharmacy services and hospital dentistry. Refer to the "Drugs" section of the FQHC and RHC rules for more information regarding pharmacy prior authorizations.

(2) Clients who are enrolled in a managed care organization (MCO) can receive family planning services, human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) prevention services (excludes any treatment for HIV or AIDS) through an FQHC or RHC without PA from the MCO as provided under the terms of Oregon's Section 1115 (CMS) Waiver. If the FQHC or RHC does not have a contract or other arrangements with an MCO, and the MCO denies payment, the Office of Medical Assistance Programs (OMAP) will reimburse for these services under the encounter rate (see OAR 410-141-0120).

(3) If a client is enrolled in an MCO there may be PA requirements for some services that are provided through the MCO. Contact the client's MCO for specifics.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0640; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0080; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 63-2004, f. 9-10-04, cert. ef. 10-1-04

410-147-0140

Multiple Encounters

(1) It is intended that multiple encounters will occur on an infrequent basis.

(2) A clinic may not develop clinic procedures that routinely involve multiple encounters for a single date of service.

(3) Each service must have distinctly different diagnoses in order to meet the criteria for multiple encounters. For example, a medical visit and a dental visit on the same day are considered different services with distinctly different diagnoses.

(4) Similar services, even when provided by two different health care practitioners, are not considered multiple encounters. Situations that would not be considered multiple encounters provided on the same date of service include, but are not limited to:

(a) A well child check and an immunization;

(b) A well child check and fluoride varnish application in a medical setting;

(c) A medical encounter with a mental health or addiction diagnosis on the same day as a mental health or addiction encounter;

(d) A mental health and addiction encounter with similar diagnosis;

(e) Any time a client receives only a partial service with one provider and partial service from another provider. This would be considered a single encounter.

(5) Medical encounter definitions:

(a) More than one outpatient visit with a medical professional within a 24-hour period for the same diagnosis constitutes a single encounter. For example, a client comes to the clinic in the morning for an examination, and during the examination, the client is diagnosed with hypertension. The practitioner prescribes medication and asks the client to return in the afternoon for a blood pressure check;

(b) More than one outpatient visits with a medical professional within a 24-hour period for distinctly different diagnoses may be reported as two encounters. For example, a client comes to the clinic in the morning for an immunization, and in the afternoon, the client falls and breaks an arm. This would be considered multiple medical encounters and can be billed as two encounters. However, a client who comes to the clinic for a prenatal visit in the morning and delivers in the afternoon would not be considered a distinctly different diagnosis and can only be billed as a single encounter;

(c) This does not imply that if a client is seen at a single office visit with multiple problems that multiple encounters can be billed.

(6) The following services may be considered as multiple encounters when two or more services are provided on the same date of service with distinctly different diagnoses:

(a) Dental;

(b) Mental health or addiction services unless both services have similar diagnoses, only one encounter can be reported. In addition, if the client is also seen for a medical office visit with a mental health or addiction diagnosis, then it is considered a single encounter;

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(c) Ophthalmologic services — fitting and dispensing of eyeglasses is included in the encounter where the practitioner performs a vision exam;

(d) Maternity Case Management MCM:

(A) When a client is newly diagnosed as pregnant and is referred for the initial MCM assessment; or

(B) When a practitioner determines the pregnant client needs nutritional counseling.

(e) Physical or occupational therapy (PT/OT) — If this service is also performed on the same date of service as the medical encounter that determined the need for PT/OT (initial referral), then it is considered a single encounter;

(f) Immunizations — if no other medical office visit occurs on the same date of service; and

(g) Tobacco cessation — if no other medical or addiction encounter occurs on the same date of service.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 8-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 19-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 42-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0520; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0155; OMAP 63-2004, f. 9-10-04, cert. ef. 10-1-04

410-147-0200

Maternity Case Management Services

(1) Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) are eligible for reimbursement for Maternity Case Management (MCM) services. Bill these services using HCPCS code G9012 for each MCM encounter.

(2) Clients' records must clearly document all MCM services provided including all mandatory topics. Refer to Medical/Surgical OAR 410-130-0595 for specific requirements of the MCM program.

(3) The primary purpose of the MCM program is to optimize pregnancy outcomes, including the reduction of low birth weight babies. MCM services are intended to target pregnant women early during the prenatal period and can only be initiated when the client is pregnant. MCM services cannot be initiated the day of delivery, during postpartum or for newborn evaluation. Clients are not eligible for MCM services if the provider has not completed the MCM initial evaluation the day before delivery.

(4) Multiple MCM encounters in a single day cannot be billed as multiple encounters. The practitioner can bill a prenatal visit and a MCM service on the same day only if the MCM service is the initial evaluation visit. After the initial evaluation visit, the practitioner can bill the nutritional counseling MCM service on the same day as a prenatal visit.

(5) The MCM program:

(a) Is available to all pregnant clients receiving Medical Assistance Program coverage;

(b) Expands perinatal services to include management of health, economic, social and nutritional factors through the end of pregnancy and a two-month post-partum period;

(c) Is an additional set of services over and above medical management, including perinatal services of pregnant clients;

(d) Allows for billing for intensive nutritional counseling services.

(6) MCM case managers are required to notify the:

(a) Prenatal care provider when:

(A) MCM services have been initiated; and

(B) Any time there is a significant change in the health, economic, social, or nutritional factors of the client.

(b) Health Division for all first-born babies.

(7) In situations where multiple practitioners are seeing one client for MCM services, the case manager must coordinate care to ensure multiple claims are not submitted to the Office of Medical Assistance Programs (OMAP).

(8) Practitioners may bill four case management visits per pregnancy. In addition, if a client is identified as high risk the practitioners may bill six additional case management visits.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 42-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0560; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0180; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 63-2004, f. 9-10-04, cert. ef. 10-1-04

410-147-0220

Tobacco Cessation

(1) Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) are eligible for reimbursement for tobacco cessation services under the encounter rate. Bill these services on a CMS-1500 using diagnosis code 305.1 only and either S9075 or G9016 as appropriate.

(2) Follow criteria outlined in OAR 410-130-0190.

(3) Practitioners may not report Tobacco Cessation, a specific OMAP prevention program, as a separate encounter when a medical, dental, mental health or addiction service encounter occurs on the same date of service.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 8-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 19-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 42-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0580; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0200; OMAP 63-2004, f. 9-10-04, cert. ef. 10-1-04

410-147-0320

Federally Qualified Health Center (FQHC)/Rural Health Clinics (RHC) Enrollment

(1) The term "required financial documents" in this rule refers to:

(a) Cost Statement (OMAP 3027) or Medicare Cost Report for RHC;

(b) Cost Statement Worksheet (OMAP 3032);

(c) A copy of the clinic's trial balance;

(d) Audited financial statements if totaling more than \$250,000 of Medicaid funds in a calendar year;

(e) Depreciation schedules;

(f) Overhead cost allocation schedules; and

(g) Complete copy of the grant proposal detailing the clinic's service and geographic scope for FQHCs only.

(2) For FQHC enrollment with the Office of Medical Assistance Programs (OMAP) a FQHC must receive Public Health Service (PHS) grant funds under the authority of Section 330 as:

(a) Migrant Health Center;

(b) Community Health Center;

(c) Services to Homeless Individuals; or

(d) Non-federally funded health centers that PHS recommends, and the Centers for Medicare and Medicaid Services (CMS) determines should be designated as an FQHC (i.e., "Look Alikes")

(3) To be eligible for payment under the Prospective Payment System (PPS) encounter rate methodology and to be enrolled as an FQHC, all FQHCs must submit:

(a) Copy of the notice of current grant award or a copy of the letter from CMS designating the facility as a "Look Alike" or designating the facility as a non-federally funded health center;

(b) Office of Medical Assistance Programs (OMAP) Provider Application (OMAP 3117);

(c) Documents showing the clinic's scope of services;

(d) All required financial documents;

(e) Submit completed Cost Statements (OMAP 3027) one each for medical, dental and mental health. Addiction services are included in mental health costs, Cost Statement Worksheets (OMAP 3032), and the required financial documents to: OMAP;

(f) If an FQHC provides mental health services the clinic must submit a copy of their certification from the Office of Mental Health and Addiction Services (OMHAS);

(g) If an FQHC provides addiction services the clinic must submit a copy of their certification from OMHAS;

(h) A list of all MCO contracts;

(i) List of names for all practitioners working within the FQHC and a list of all individual OMAP provider numbers; and

(j) List of all clinics affiliated or owned by the FQHC including any clinics that do not have FQHC or RHC status along with all OMAP provider numbers assigned to these clinics.

(4) RHC Enrollment:

(a) To be eligible for payment under the PPS encounter rate methodology and to enroll as an RHC, all RHCs must meet the following criteria:

(A) The RHC must be designated as an independent RHC. If your clinic is a provider-based RHC in a small rural hospital of less than 50 beds refer to the OMAP Hospital Services rules on enrollment, billing and reimbursement methodology;

(B) For those RHCs that are certified by CMS, the clinic must submit a copy of Medicare's certification as an RHC, an OMAP Provider Application (OMAP 3117), and the required financial documents;

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(C) The RHC must maintain Medicare certification and must be in compliance with all Medicare requirements for certification.

(b) The OMAP Provider Application (OMAP 3117) and the required financial documents will be reviewed by OMAP for compliance with program rules prior to enrollment as an RHC;

(c) Submit one of the following to OMAP:

(A) The clinic's completed Medicare Cost Report; or

(B) A completed Cost Statement (OMAP 3027), Cost Statement Worksheets (OMAP 3032), the OMAP Provider Application (OMAP 3117), and the required financial documents to: OMAP.

(d) If an RHC provides mental health services the clinic must submit a copy of their certification from the OMHAS;

(e) If an RHC provides addiction services the clinic must submit a copy of their certification from OMHAS;

(f) A list of all MCO contracts;

(g) List of names for all practitioners working within the FQHC and a list of all individual OMAP provider numbers;

(h) List of all clinics affiliated or owned by the RHC including any clinics that do not have FQHC or RHC status along with all OMAP provider numbers assigned to these clinics.

(5) The OMAP Provider Application (OMAP 3117) and the required financial documents will be reviewed by OMAP for compliance with program rules prior to enrollment as an FQHC;

(6) FQHCs, that are involved with a Sub-recipient, must provide documentation. Sub-recipient contracts with an FQHC must enroll as an FQHC and submit the same required documentation as outlined under the enrollment sections of this rule.

(7) For outpatient health programs or facilities operated by an American Indian tribe under the Indian Self-Determination Act and for certain facilities serving urban American Indians, refer to OAR 410-146-0021 for enrollment details;

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 13-1993, f. & cert. ef. 7-1-93; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0010; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 63-2004, f. 9-10-04, cert. ef. 10-1-04

410-147-0340

Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) /Provider Numbers

(1) Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) are allowed one clinic number only. Multiple sites are not allowed additional clinic provider numbers unless each site has a different tax identification number.

(2) The Office of Medical Assistance Programs (OMAP) may grant exception to section (1) of this rule upon written request. The request needs to include documentation describing in detail the need for multiple provider numbers and outlining the mechanisms in place to assure no duplication of billings. If OMAP provides multiple clinic numbers and OMAP finds evidence of duplicate billings or failure to use the billing provider number as required, OMAP may terminate the exception for multiple provider numbers upon written notice to the clinic. To request an exception, write to OMAP — Attn: FQHC/RHC Program Manager. Include an explanation about why OMAP should grant the FQHC or RHC an exception.

(3) Once a clinic enrolls as a FQHC or RHC, OMAP may terminate all individual provider numbers for FQHC/RHC practitioners the same date as the FQHC/RHC clinic number is issued unless documentation is provided for individual providers that have separate practice outside of the FQHC or RHC.

(4) If OMAP grants an exception to section (1) of this rule, OMAP will issue the FQHC or RHC a billing provider number for the main administrative site and a separate performing provider number for each clinic site. If the main administrative site also includes a clinic at that same site, that clinic will have two numbers:

(a) A billing provider number; and

(b) A clinic site provider number. When granted multiple provider numbers, clinics must enter the billing provider number in Field 33 and the clinic site provider number in Field 24K of the CMS-1500 when submitting claims to OMAP. The main administrative office with a clinic site must list the billing provider number in Field 33 and their clinic provider number in Field 24K.

(5) If an FQHC or RHC has several clinic sites and one or more of the clinics are not designated as an FQHC or RHC, the non-FQHC or non-RHC (each individual clinic) must apply for:

(a) A billing provider number; and

(b) Performing provider numbers for each practitioner.

(6) The FQHC/RHC must submit a written request regarding the circumstances of the need for a practitioner to have an individual provider number.

(7) Upon enrollment and each October thereafter, FQHCs and RHCs must submit to OMAP all provider numbers associated with FQHC/RHC practitioners and/or any non-FQHC and non-RHC clinics numbers.

(8) To request an exception for individual provider numbers, write to OMAP — Attn: FQHC/RHC Program Manager. Include an explanation of the circumstances regarding the individual provider numbers.

(9) If an FQHC or RHC operates a retail pharmacy or provides durable medical equipment (DME), prosthetics, orthotics, and supplies (DMEPOS), i.e., diabetic supplies, the clinic must apply for a pharmacy provider number and/or apply for a DME provider number. Providers may only use these numbers when billing for either retail pharmacy or DME-POS services. The clinic must meet all pharmacy or DME enrollment requirements and must use the rules from the appropriate program billing rules. These services are not included in the encounter rate.

(10) OMAP will not issue clinic provider number(s) until after the encounter rate is established.

(11) Managed Care Organizations (MCO) are required to report all MCO encounters using the FQHC/RHC clinic number and not individual provider numbers.

Stat. Auth.: ORS 409

Stat. Implemented: ORS 414.065

Hist.: OMAP 63-2002, f. & cert. ef. 10-1-02; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 63-2004, f. 9-10-04, cert. ef. 10-1-04

410-147-0360

Encounter Rate Determination

(1) The Office of Medical Assistance Programs (OMAP) must determine an encounter rate prior to enrolling with the Office of Medical Assistance Programs (OMAP) as a Federally Qualified Health Center (FQHC) or Rural Health Clinic (RHC):

(a) The PPS encounter rate is effective the date OMAP determines the clinic's encounter rate. The encounter rate may be used to bill for services provided on or after the effective date of the FQHC/RHC encounter rate.

(b) For new FQHC or RHC clinics and for OHP covered services provided prior to the establishment of the clinics encounter rate under PPS, bill the service as fee-for-service.

(2) Financial records must be filed prior to enrollment to determine an encounter rate for any new FQHC or RHC providing services for Title XIX or Title XXI clients that wants to enroll with OMAP and is seeking payment as an FQHC or RHC.

(3) To determine an encounter rate as a FQHC, submit all financial documents listed in OAR 410-147-0320 for each of the following services: Medical, Dental and Mental Health. Include addiction services in the Mental Health cost reports.

(4) To determine an encounter rate as a RHC, submit all financial documents listed in OAR 410-147-0320.

(a) OMAP will accept an uncertified Medicare Cost Report.

(b) If the clinic's Medicare Cost Report, provided to OMAP, does not include all covered Medicaid costs provided by the clinic, submit additional cost information to OMAP. OMAP will add these costs back in to the Medicare Cost Report when determining the RHC encounter rate.

(c) OMAP removes the Medicare productivity screen and any other Medicare payment caps from the RHC's Medicare rate.

(5) FQHCs or RHCs that have several clinic sites must file the required financial documentation for each clinic site unless specifically exempted in writing by OMAP. See OAR 410-147-0340 regarding multiple provider numbers.

(6) FQHCs and RHCs cannot include costs associated with non-FQHC or non-RHC sites.

(7) FQHCs and RHCs cannot include costs not associated with Medicaid services. OMAP does not allow the inclusion of indirect or direct costs for services that are not Medicaid covered services such as a social service office and staff in the clinic's cost report/statement.

(8) For out-of-state FQHCs or RHCs the Cost Statements (OMAP 3027) or Medicare Cost Reports for RHCs can only include financial documents for the clinic sites that see Medical Assistance Program clients and only for services provided to Medical Assistance Program clients. Do not include costs associated with other clinics or sites including non-FQHC or RHC, that do not serve Medical Assistance Program clients in the Cost Statements (OMAP 3027) or Medicare Cost Reports for RHCs.

(9) Effective January 1, 2001, OMAP determines FQHC and RHC encounter rates based on the requirements of the Balanced Budget Act of

ADMINISTRATIVE RULES

1997, the Budget Refinement Act of 1999 Prospective Payment System (PPS) payment methodology and BIPA.

(10) OMAP will establish the rate per encounter for an FQHC or RHC, where no previous cost expense exists, will be established from estimated clinic costs on the Cost Statement (OMAP 3027). OMAP can also establish a clinic's encounter rate based on a clinic of similar size and scope.

(11) At any time, if OMAP determines that the costs provided when establishing the encounter rate were inflated, OMAP may:

(a) Request corrected cost reports and any other financial documents in order to review and adjust the encounter rate; and

(b) Impose sanctions as defined in OAR 410-147-0560.

(12) For FQHCs only, effective October 1, 2004, OMAP will split the current single encounter rate into three separate encounter rates:

(a) Medical;

(b) Dental; and

(c) Mental Health. The costs for addiction services will be included in the Mental Health encounter rate.

(13) For FQHCs that existed in 1999 & 2000:

(a) If clinic existed during the original encounter rate determination in 2001, then there would be no cost adjustments except for the MEI when splitting the costs out for each service group; medical, dental, and mental health (includes addiction services) services. For example:

(A) The medical encounter rate would continue to be based on the average costs from 1999 & 2000;

(B) The dental encounter would continue to be based on the average costs from 1999 & 2000;

(C) The mental health and addiction services would continue to be based on the average costs from 1999 & 2000; and

(D) The rate would be adjusted by the MEI for each year from 2001-2004 and applied to each rate.

(14) For FQHCs that started after 1999 & 2000, OMAP will use the cost report used to determine the original encounter rate under PPS.

(15) If a clinic had a clinic or geographic scope change after the initial encounter rate determination, then OMAP would use the appropriate year to determine costs for the change in scope only. For example, if the scope change was limited to dental, then only the dental cost report could be updated using the date the scope change was approved by HRSA. For example: the clinic submitted 1999 & 2000 cost reports. In 2001 the clinic added a dental clinic. The cost report would be from 2001 (the most appropriate months) with the MEI adjusted for 2002, 2003 and 2004.

(16) When a FQHC shares the same space for multiple services, then OMAP will use square footage to determine the percent of the indirect cost associated with each encounter rate.

(17) A clinic may be exempt from this requirement if a FQHC has minimal utilization for a particular service such as "Look Alike" clinics and is located in an isolated area. Submit an exemption request with appropriate documentation to OMAP's FQHC Program Manager for consideration.

Stat. Auth.: ORS 409

Stat. Implemented: ORS 414.065

Hist.: OMAP 63-2002, f. & cert. ef. 10-1-02; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 63-2004, f. 9-10-04, cert. ef. 10-1-04

410-147-0610

Targeted Case Management (TCM)

(1) TCM is excluded from the FQHC/RHC encounter rate.

(2) If the FQHC or RHC is participating in a TCM program, DHS will issue a HCPCS code when the TCM contract is finalized.

(3) If a modifier is required and is not used, OMAP will deny the claim.

(4) If the FQHC or RHC is participating in a TCM program, the clinic must notify OMAP in writing and must include the description of the TCM program.

(5) A client may only participate in a single TCM program. OMAP does not allow Multiple TCM billings. This includes Maternity Case Management (MCM).

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 63-2004, f. 9-10-04, cert. ef. 10-1-04

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Adm. Order No.: OMAP 64-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 7-1-04

Rules Amended: 410-148-0020, 410-148-0080, 410-148-0100

Subject: The Home EPIV program administrative rules govern Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP revised rules 410-148-0020, 410-148-0080, and 410-148-0100 to clarify rule language and to take care of necessary housekeeping corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-148-0020

Home Enteral/Parenteral Nutrition and IV Services

(1) The Office of Medical Assistance Programs (OMAP) will make payment for medically appropriate goods, supplies and services for home enteral/parenteral nutrition and IV therapy on written order or prescription.

(a) The order or prescription must be dated and signed by a licensed prescribing practitioner, legible and specify the service required, the ICD-9-CM diagnosis codes, number of units and length of time needed.

(b) The prescription or order must be retained on file by the provider of service for the period of time specified in OMAP General Rules.

(c) An annual assessment and a new prescription are required once a year for ongoing services.

(d) Also covered are services for subcutaneous, epidural and intrathecal injections requiring pump or gravity delivery.

(2) All claims for Enteral/Parenteral Nutrition and IV services require a valid ICD-9-CM diagnosis code.

(a) It is the provider's responsibility to obtain the actual diagnosis code(s) from the prescribing practitioner. Reimbursement will be made according to covered services on funded lines of the Health Services Commission's Prioritized List of Health Services, and these rules.

(3) OMAP requires one nursing service visit to assess the home environment and appropriateness of enteral/parenteral nutrition or IV services in the home setting and to establish the client's treatment plan. This nursing service visit for assessment purposes does not require payment authorization and is not required when the only service provided is oral nutritional supplementation.

(4) Nursing service visits specific to this Home Enteral/Parenteral and IV services program are provided in the home, and will be reimbursed by OMAP only when prior authorized, and performed by a person who is licensed by the Oregon State Board of Nursing to practice as a Registered Nurse. All registered nurse delegated or assigned nursing care tasks must comply with the Oregon State Board of Nursing, Nurse Practitioner Act and Administrative Rules regulating the practice of nursing.

(5) Payment for services identified in the Home Enteral/Parenteral Nutrition and IV Services provider rules will be made only when provided in the client's place of residence, i.e., home or nursing facility.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0290; HR 9-1992, f. & cert. ef. 4-1-92; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0640; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 15-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 64-2004, f. 9-10-04, cert. ef. 10-1-04

410-148-0080

Equipment Rental/Purchase/Repair

(1) The following equipment shall be authorized, if medically appropriate and when cost effective, on a rental basis only:

(a) IV infusion pumps;

(b) Enteral formulae pumps.

(2) The equipment provider is responsible for providing working equipment including replacement if repairs are necessary.

(3) Pump rental payment will not be made beyond the purchase price, but no more than 15 consecutive months when the period of use extends beyond 15 consecutive months:

(a) Consecutive months are defined as "any period of continuous use where no more than a 60-day break occurs";

(b) Office of Medical Assistance Programs (OMAP) considers that the maximum rental period toward purchase price is - 15 consecutive months of pump rental. The purchase price has been met at the earlier of the purchase price or 15 consecutive months;

(c) Having met the purchase price as described in (2)(b), the pump becomes property of the client, and the patient is responsible for all maintenance and repairs.

(A) OMAP can still allow for medically necessary repairs on equipment that the patient owns.

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(B) The provider may bill OMAP for maintenance and servicing of the pump (as long as that maintenance and servicing is not covered under any manufacturer/supplier warranty) when a period of at least six months has elapsed since the final month of pump rental. Payment for the maintenance service will only be made one time during every six-month period.

(C) For a purchased pump, a rental pump may be prior authorized for up to one month during equipment repair for a client requiring medically necessary, continuous service.

(3) All other equipment for home enteral/parenteral nutrition and IV services will be authorized as either purchase or based on length of need and medical appropriateness.

(4) All rental or purchase of equipment, full services warranty, pickup, delivery, set-up, fitting and adjustments are included in the reimbursement. Individual consideration may be given in specific circumstances upon written request to OMAP.

(5) Repair of rental equipment is the responsibility of the provider.

(6) OMAP will not make payment for rental of pumps that are supplied by any manufacturer at no cost to the provider.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 20-1991, f. & cert. ef. 4-16-91; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0700; OMAP 15-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 64-2004, f. 9-10-04, cert. ef. 10-1-04

410-148-0100

Reimbursement

(1) Drug ingredients (medications) shall be reimbursed as defined in the Pharmaceutical Services Guide.

(2) The following service/goods will be reimbursed on a fee-for-service basis according to the OMAP Maximum Allowable Fees found in the Pharmaceutical Services Guide on OMAP's website: www.omap.hr.state.or.us/providernfo/;

(a) Enteral Formula;

(b) Oral Nutritional Supplements which are medically appropriate and meet the criteria specified in 410-148-0260(3);

(c) Parenteral Nutrition Solutions;

(3) Reimbursement for services will be based on the lesser of the amount billed, the Office of Medical Assistance Programs' (OMAP) maximum allowable rate. When the service is covered by Medicare, reimbursement will be based on the lesser of the amount billed, Medicare's allowed amount, or the OMAP's maximum allowable rate.

(4) Reimbursement for supplies that require authorization or services/supplies that are listed as Not Otherwise Classified (NOC) or By Report (BR) must be billed to OMAP at the providers' Acquisition Cost, and will be reimbursed at such rate.

(a) For purposes of this rule, Acquisition Cost is defined as the actual dollar amount paid by the provider to purchase the item directly from the manufacturer (or supplier) plus any shipping and/or postage for the item. Submit documentation identifying acquisition cost with your authorization request;

(b) Per diem, as it relates to reimbursement, represents each day that a given patient is provided access to a prescribed therapy. This definition is valid for per diem therapies of up to and including every 72 hours.

(c) Per diem reimbursement includes, but is not limited to:

(A) Professional Pharmacy services:

(i) Initial and ongoing assessment/clinical monitoring;

(ii) Coordination with medical professionals, family and other caregivers;

(iii) Sterile procedures, including IV admixtures, clean room upkeep and all biomedical procedures necessary for a safe environment;

(iv) Compounding of medication/medication set-up.

(B) Infusion therapy related supplies:

(i) Durable, reusable or elastomeric disposable infusion pumps;

(ii) All infusion or other administration devices;

(iii) Short peripheral vascular access devices;

(iv) Needles, gauze, sterile tubing, catheters, dressing kits, and other supplies necessary for the safe and effective administration of infusion therapy.

(C) Comprehensive, 24-hour per day, seven days per week delivery and pickup services (includes mileage).

(5) Reimbursement will not be made for the following:

(a) Central Catheter insertion or transfusion of blood/blood products in the client's home;

(b) Central Catheter insertion in the Nursing Facility;

(c) Intradialytic parenteral nutrition in the client's home or Nursing Facility;

(d) Oral Infant formula that is available through the WIC program;

(e) Oral nutritional supplements that are in addition to consumption of food items or meals.

(f) Tocolytic pumps for pre-term labor management;

(g) Home Enteral/Parenteral Nutrition or IV services outside of the client's home or place of residence.

Stat. Auth.: ORS 184.750 & ORS 184.770

Stats. Implemented: ORS 414.065

Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0720; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 64-2004, f. 9-10-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 65-2004

Filed with Sec. of State: 9-13-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 7-1-04

Rules Amended: 410-140-0060, 410-140-0080, 410-140-0115, 410-140-0160, 410-140-0380

Subject: The Visual Services program rules govern payment for the Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP revised 410-140-0060 to clarify billing procedures and eliminate duplicated information that is not necessary in rule. This information is found as supplemental information available on OMAP's website. OMAP revised 410-140-0080 to clarify reimbursement for services for Medicaid fee-for-service clients with Medicare and to reference General Rules. There is no change in reimbursement amount. OMAP revised 410-140-0115 to remove text regarding copayments for Standard Benefit Package pursuant to *Spry, et al. v. Thompson, et al*, court order. OMAP revised 410-140-0380 to show where to find information on Administrative Examination and to reference other appropriate rules. The remaining rules listed above are amended to make necessary housekeeping corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-140-0060

Health Insurance Claim Form (CMS-1500)

(1) Opticians, optometrists and ophthalmologists bill using the CMS-1500.

(2) Optometrists and ophthalmologists use the OMAP 505 form for those clients who have Medicare/Medical Assistance Program coverage, if Medicare transmits incorrect information to OMAP. Opticians cannot bill Medicare.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 75-1989, f. & cert. ef. 12-15-89; HR 12-1992, f. & cert. ef. 4-1-92; Renumbered from 461-018-0180; HR 15-1992, f. & cert. ef. 6-1-92; HR 37-1992, f. & cert. ef. 12-18-92; HR 15-1994, f. & cert. ef. 3-1-94; HR 1-1996, f. 1-12-96, cert. ef. 1-15-96; OMAP 20-1999, f. & cert. ef. 4-1-99; OMAP 87-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 65-2004, f. 9-13-04, cert. ef. 10-1-04

410-140-0080

Medicare/Medicaid Assistance Program Claims

(1) When a client has both Medicare and Medical Assistance Program coverage, optometrists and ophthalmologists must bill Medicare first. This must be done for all vision services.

(2) Refer to OAR 410-120-1210 (General Rules) for information on OMAP reimbursement.

(3) Medicare will automatically forward your claim to OMAP.

(4) In all of the following situations, bill OMAP on the OMAP 505:

(a) If Medicare sends incorrect claim information to OMAP and no payment is made on the entire claim;

(b) If an out-of-state Medicare carrier or intermediary was billed;

(c) If Medicare does not cover the service. Enter any Medicare payment received in the "Amount Paid" field (box 28) or use the appropriate TPR explanation code in the "Other Health Insurance Coverage" (box 9) portion on the OMAP 505. Be sure to enter the Medicare Maximum Allowable in Box 24H. If any billing corrections are needed and payment is made by OMAP, an Adjustment Request (OMAP 1036) must be submitted to correct payment;

(d) If Medicare crosses the claim over incorrectly or it does not cross-over.

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(5) Send all completed OMAP 505 forms to: Office of Medical Assistance Programs, PO Box 14015, Salem, OR 97309.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 75-1989, f. & cert. ef. 12-15-89; HR 15-1992, f. & cert. ef. 6-1-92; Renumbered from 461-018-0190; HR 37-1992, f. & cert. ef. 12-18-92; HR 15-1994, f. & cert. ef. 3-1-94; HR 1-1996, f. 1-12-96, cert. ef. 1-15-96; OMAP 20-1999, f. & cert. ef. 4-1-99; OMAP 65-2004, f. 9-13-04, cert. ef. 10-1-04

410-140-0115

Standard Benefit Package

Visual services for the purpose of vision correction, including routine eye examinations, frames, lenses, contacts, vision aids, and orthoptic and/or pleoptic training (vision therapy) are not covered under the OHP Standard Benefit Package.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 65-2004, f. 9-13-04, cert. ef. 10-1-04

410-140-0160

Coverage for Contact Lenses

(1) Coverage for Adults (age 21 or older):

(a) Prior Authorization is required for contact lenses for adults, except for the medical condition of Keratoconus. See OAR 410-140-0040, Prior Authorization, for information on requesting prior authorization. Contact lenses for adults are covered only when one of the following conditions exists:

- (A) Refractive error which is 9 diopters or greater in any meridian;
- (B) Keratoconus-contacts for Keratoconus does not require PA;
- (C) Anisometropia when the difference in power between two eyes is 3 diopters or greater;
- (D) Nystagmus;
- (E) Irregular astigmatism;
- (F) Aphakia.

(b) Prescription and fitting of either contact lenses or glasses is limited to once every 24 months. Replacement of contact lenses is limited to a total of two contacts every 12 months, and does not require PA;

(c) Corneoscopic lenses are not covered.

(2) Coverage for Children (birth through age 20):

(a) Contact lenses for children are covered when it is documented in the clinical record that glasses cannot be worn for medical reasons including but not limited to:

- (A) Refractive error which is 9 diopters or greater in any meridian;
- (B) Keratoconus-contacts for Keratoconus does not require PA;
- (C) Anisometropia when the difference in power between two eyes is 3 diopters or greater;
- (D) Nystagmus;
- (E) Irregular astigmatism;
- (F) Aphakia.

(b) Replacement of contact lenses is covered when documented as medically appropriate in the clinical record, and does not require PA;

(c) Corneoscopic lenses are not covered.

(3) General Information regarding contact lens coverage:

(a) Contact lenses may be obtained through SWEEP Optical. Include brand names with prescription information when ordering contact lenses. Contact lenses not obtained through SWEEP Optical must be billed to OMAP at the provider's Acquisition Cost. Acquisition cost is defined as the actual dollar amount paid by the provider to purchase the item directly from the manufacturer (or supplier) plus any shipping and/or postage for the item. Payment for contact lenses not obtained through SWEEP Optical will be the lesser of OMAP fee schedule or acquisition cost.

(b) The prescription for contact lenses includes specifying the optical and physical characteristics (such as power, size, curvature, flexibility, gas permeability).

(c) Fitting contact lenses includes instruction and training of the wearer and incidental revision of the lens during the training period.

(d) Follow-up of successfully fitted extended wear lenses is part of the general ophthalmological service (such as office visits). Adaptation of contacts due to trauma or disease is not included as part of the general service. The client's record must show clear documentation of the trauma or disease to support additional reimbursement for follow-up visits.

(4) Contact lens services:

(a) 92310, Prescription of optical and physical characteristics of and fitting of contact lens, with medical supervision of adaptation; corneal lens, both eyes; except for aphakia. Does not include the cost of the contact lenses. Prior authorization required for adults only; for Keratoconus use 92070;

(b) 92311, corneal lens for aphakia, one eye. Does not include the cost of the contact lenses;

(c) 92312, corneal lens for aphakia, both eyes. Does not include the cost of the contact lenses;

(d) 92325, Modification of contact lens (separate procedure), with medical supervision of adaptation;

(e) V2510-Contact lens, gas permeable, spherical, per lens;

(f) V2511-Contact lens, gas permeable, toric or prism ballast, per lens;

(g) V2520-Contact lens, hydrophilic, spherical, per lens;

(h) V2521-Contact lens, hydrophilic, toric or prism ballast, per lens.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 75-1989, f. & cert. ef. 12-15-89; HR 15-1992, f. & cert. ef. 6-1-92; Renumbered from 461-018-0230; HR 37-1992, f. & cert. ef. 12-18-92; HR 5-1995, f. & cert. ef. 3-1-95; HR 1-1996, f. 1-12-96, cert. ef. 1-15-96; OMAP 20-1999, f. & cert. ef. 4-1-99; OMAP 24-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 11-2002, f. & cert. ef. 4-1-02; OMAP 65-2004, f. 9-13-04, cert. ef. 10-1-04

410-140-0380

Administrative Exam Services Authorized by the Branch Office

Refer to the Administrative Examination and Billing Services rules for information on administrative examinations.

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

Stat. Auth.: ORS 409.010 & ORS 409.110

Stats. Implemented: ORS 414.065

Hist.: HR 37-1992, f. & cert. ef. 12-18-92; OMAP 65-2004, f. 9-13-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 66-2004

Filed with Sec. of State: 9-13-2004

Certified to be Effective: 10-1-04

Notice Publication Date:

Rules Amended: 410-142-0300

Subject: The Hospice Services program rules govern payment for the Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP revised 410-142-0300 to update OMAP's website address and to clarify billing information.

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 10/01/03. Rates were calculated per CMS State Agency Letter Number 03-05 dated September 25, 2003.)

[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

ADMINISTRATIVE RULES

Adm. Order No.: OMAP 67-2004

Filed with Sec. of State: 9-14-2004

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Notice Publication Date: 7-1-04

Rules Amended: 410-120-0000, 410-120-1140, 410-120-1160, 410-120-1260, 410-120-1960

Subject: The General Rules program administrative rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. OMAP revised rules 410-120-1140, 410-120-1160, 410-120-1260 and 410-120-1960 to incorporate changes made to the medical identification card, clarifications regarding billing providers collection. OMAP added further clarification to rules regarding when OMAP can make private health insurance premiums; the process has not changed but the rules required additional details of current practice.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-0000

Acronyms and Definitions

- (1) AAA — Area Agency on Aging.
- (2) Acupuncturist — A person licensed to practice acupuncture by the relevant State Licensing Board.
- (3) Acupuncture Services — Services provided by a licensed Acupuncturist within the scope of practice as defined under state law.
- (4) Acute — A condition, diagnosis or illness with a sudden onset and which is of short duration.
- (5) Acquisition Cost — Unless specified otherwise in individual program administrative rules, the net invoice price of the item, supply or equipment, plus any shipping and/or postage for the item.
- (6) Adequate Record Keeping — Documentation that supports the level of service billed. See 410-120-1360, Requirements for Financial, Clinical, and Other Records, and the individual provider rules.
- (7) Administrative Medical Examinations and Reports — Examinations, evaluations, and reports, including copies of medical records, requested on the OMAP 729 form through the local CAF, SPD, OMHAS branch office or requested and/or approved by OMAP to establish client eligibility for a medical assistance program or for casework planning.
- (8) All Inclusive Rate — The nursing facility rate established for a facility. This rate includes all services, supplies, drugs and equipment as described in OAR 411-070-0085, and in the Pharmaceutical Services and the Home Enteral/Parenteral Nutrition and IV Services provider rules, except as specified in OAR 410-120-1340, Payment.
- (9) Ambulance — A specially equipped and licensed vehicle for transporting sick or injured persons which meets the licensing standards of the Health Division of the Department of Human Services or the licensing standards of the state in which the provider is located.
- (10) Ambulatory Surgical Center (ASC) — A facility licensed as an ASC by the Department of Human Services.
- (11) American Indian/Alaska Native (AI/AN) — A member of a federally recognized Indian tribe, band or group, an Eskimo or Aleut or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601, or a person who is considered by the Secretary of the Interior to be an Indian for any purpose.
- (12) American Indian/Alaska Native clinic — Clinics recognized under Indian Health Services (IHS) law or by the Memorandum of Agreement between IHS and the Centers for Medicare and Medicaid (CMS).
- (13) Ancillary Services — Services supportive of or necessary to the provision of a primary service (e.g., anesthesiology is an ancillary service necessary for a surgical procedure).
- (14) Anesthesia Services — Administration of anesthetic agents to cause loss of sensation to the body or body part.
- (15) Audiologist — A person licensed to practice audiology by the State Board of Examiners for Speech Pathology and Audiology.
- (16) Audiology — The application of principles, methods and procedures of measurement, testing, appraisal, prediction, consultation, counseling and instruction related to hearing and hearing impairment for the purpose of modifying communicative disorders involving speech, language, auditory function, including auditory training, speech reading and hearing aid evaluation, or other behavior related to hearing impairment.
- (17) Automated Information System (AIS) — A computer system that provides information on clients' current eligibility status under the Medical Assistance Program.
- (18) Benefit Package — The "package" of covered health care services for which the client is eligible.
- (19) Billing Provider (BP) — A person, agent, business, corporation, clinic, group, institution, or other entity submits claims to and/or receives payment from the Medical Assistance Program on behalf of a performing provider and has been delegated the authority to obligate or act on behalf of the performing provider.
- (20) Buying Up — The practice of obtaining client payment in addition to the OMAP or managed care plan payment to obtain a non-covered service or item. For example, an additional client payment to obtain a gold crown (not covered) instead of the stainless steel crown (covered); an additional client payment to obtain eyeglass frames not on the OMAP or plan contract. If a client wants to purchase a non-covered service or item, they must be responsible for full payment. OMAP or plan payment for a covered service cannot be credited toward the non-covered service.
- (21) By Report (BR) — Services designated, as "BR" require operative or clinical and other pertinent information to be submitted with the billing as a basis for payment determination. This information must include an adequate description of the nature, and extent of need for the procedure. Information such as complexity of symptoms, final diagnosis, pertinent physical findings, diagnostic and therapeutic procedures, concurrent problems, and follow-up care will facilitate evaluation.
- (22) Children, Adults and Families (CAF) — A Division of the Oregon Department of Human Services, responsible for administering self-sufficiency and child-protective programs;
- (23) Children's Health Insurance Program (CHIP) — A Federal and State funded portion of the Medical Assistance Program established by Title XXI of the Social Security Act and administered in Oregon by the Department of Human Services Office of Medical Assistance Programs (see Medical Assistance Program).
- (24) Chiropractor — A person licensed to practice chiropractic by the relevant State Licensing Board.
- (25) Chiropractic Services — Services provided by a licensed Chiropractor within the scope of practice, as defined under State law and Federal regulation.
- (26) Citizen/Alien—Waived Emergency Medical (CAWEM) — Aliens granted lawful temporary resident status, or lawful permanent resident status under the Immigration and Nationality Act, are eligible only for emergency services and limited service for pregnant women. Emergency Services for CAWEM is defined in OAR 410-120-1200(2)(b)(F).
- (27) Claimant — a person who has requested a hearing.
- (28) Clinical Social Worker — A person licensed to practice clinical social work pursuant to State law.
- (29) Contiguous Area — The area up to 75 miles outside the border of the State of Oregon.
- (30) Contiguous Area Provider — A provider practicing in a contiguous area.
- (31) Copayments — The portion of a claim or medical, dental or pharmaceutical expense that a client must pay out of their own pocket to a provider or a facility for each service. It is usually a fixed amount that is paid at the time service is rendered.
- (32) Cost Effective — The lowest cost health care service or item which, in the judgment of Medical Assistance Program staff, meets the medical needs of the client.
- (33) Current Dental Terminology (CDT) — A listing of descriptive terms identifying dental procedure codes used by the American Dental Association.
- (34) Current Procedural Terminology (CPT) — The Physicians' Current Procedural Terminology is a listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians and other health care providers.
- (35) Date of Receipt of a Claim — The date on which OMAP receives a claim, as indicated by the Internal Control Number (ICN) assigned to a claim. "Date of Receipt" is shown as the Julian date in the 5th through 7th position of the Internal Control Number (ICN).
- (36) Date of Service — The date on which the client receives medical services or items, unless otherwise specified in the appropriate provider rules. For items that are mailed or shipped by the provider, the date of service is the date on which the order was received, the date on which the item was fabricated, or the date on which the item was mailed or shipped.
- (37) Dental Emergency Services — Dental services provided for severe tooth pain, unusual swelling of the face or gums, or an avulsed tooth.
- (38) Dental Services — Services provided within the scope of practice as defined under State law by or under the supervision of a dentist.

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(39) Dentist — A person licensed to practice dentistry pursuant to State law of the state in which he/she practices dentistry, or a person licensed to practice dentistry pursuant to Federal law for the purpose of practicing dentistry as an employee of the Federal government.

(40) Denturist — A person licensed to practice denture technology pursuant to State law.

(41) Denturist Services — Services provided, within the scope of practice as defined under State law, by or under the personal supervision of a denturist.

(42) Dental Hygienist — A person licensed to practice hygiene under the direction of a licensed professional within the scope of practice pursuant to State law.

(43) Dental Hygienist with Limited Access Certification (LAC) — A person licensed to practice dental hygiene with LAC pursuant to State law.

(44) Department of Human Services (DHS) — The Oregon Department of Human Services or any of its divisions, programs, or offices.

(45) Diagnosis Code — As identified in the ICD-CM, the primary diagnosis code is shown in all billing claims, unless specifically excluded in an individual provider rules. Where they exist, diagnosis codes shall be shown to the degree of specificity outlined in OAR 410-120-1280, Billing.

(46) Disability Services Office (DSO) — Disability Services Office. A branch of Seniors and People with Disabilities Division.

(47) Division — The Office of Medical Assistance Programs of the Department of Human Services.

(48) Division Representative — A person who represents the Division in the hearing and presents the Division's position.

(49) Durable Medical Equipment and Supplies (DME) — Equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches and custom built orthopedic braces. Medical supplies are non-reusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages and tubing.

(50) Electronic Eligibility Verification Service (EEVS) — Vendors of medical assistance eligibility information that have met the legal and technical specifications of OMAP in order to offer eligibility information to enrolled providers of OMAP.

(51) Emergency Room — The part of a licensed hospital facility open 24 hours a day to provide care for anyone in need of emergency treatment.

(52) Emergency Medical Services — (This definition does not apply to clients with CAWEM benefit package. CAWEM emergency services are governed by OAR 410-120-1210(e)(B)). The health care and services provided for diagnosis and treatment of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of both the woman and her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. If an emergency medical condition is found to exist, emergency medical services necessary to stabilize the condition must be provided. This includes all treatment that may be necessary to assure, within reasonable medical probability, that no material deterioration of the patient's condition is likely to result from, or occur during, discharge of the member or transfer of the member to another facility.

(53) Emergency Transportation — Transportation necessary when a sudden, unexpected occurrence creates a medical crisis requiring immediate transportation to a site, usually a hospital, where appropriate emergency medical care is available.

(54) EOB — Explanation of Benefits.

(55) EPSDT (Medicheck) — The Title XIX program of Early and Periodic Screening, Diagnosis and Treatment Services for eligible clients under age 21. It is a comprehensive child health program to assure the availability and accessibility of required medically appropriate health care services and to help Medical Assistance Program recipients and their parents or guardians effectively use them.

(56) False Claim — A claim that a provider knowingly submits or causes to be submitted that contains inaccurate or misleading information, and such inaccurate or misleading information would result, or has resulted, in an overpayment.

(57) Family Planning — Services for clients of child bearing age (including minors who can be considered to be sexually active) who desire such services and which are intended to prevent pregnancy or otherwise limit family size.

(58) Federally Qualified Health Center (FQHC) — A federal designation for a medical entity which receives grants under Section 329, 330,

or 340 of the "Public Health Service Act"; or a facility designated as a FQHC by the Centers for Medicare and Medicaid upon recommendation of the U.S. Public Health Service.

(59) Fee-for-Service Provider — A medical provider who is not reimbursed under the terms of an OMAP contract with a Prepaid Health Plan. A medical provider participating in a Prepaid Health Plan may be considered a Fee-for-Service provider when treating clients who are not enrolled in a Prepaid Health Plan.

(60) General Assistance (GA) — Medical Assistance administered and funded 100% with State of Oregon funds through the Oregon Health Plan.

(61) HCPCS — Healthcare Common Procedure Coding System, a method for reporting health care professional services, procedures, and supplies. HCPCS consists of the Level I — American Medical Association's Physician's Current Procedural Terminology (CPT), Level II — National codes, and Level III — Local codes. The Medical Assistance Program (OMAP) uses HCPCS codes; however, OMAP uses current Dental Terminology (CDT) codes for the reporting of dental care services and procedures.

(62) Health Maintenance Organization (HMO) — A public or private health care organization which is a federally qualified HMO under Section 1310 of the U.S. Public Health Services Act. HMOs provide health care services on a capitated, contractual basis.

(63) Hearing Aid Dealer — A person licensed by the Board of Hearing Aid Dealers to sell, lease or rent hearing aids in conjunction with the evaluation or measurement of human hearing and the recommendation, selection, or adaptation of hearing aids.

(64) Home Enteral Nutrition — Services provided in the client's place of residence to an individual who requires nutrition supplied by tube into the gastrointestinal tract, as described in the Home Enteral/Parenteral Nutrition and IV Services provider rules.

(65) Home Health Agency — A public or private agency or organization which has been certified by Medicare as a Medicare Home Health Agency and which is licensed by the Oregon State Health Division as a home health agency in Oregon, and meets the surety bond and capitalization requirements as outlined in the Balanced Budget Act (BBA) of 1997.

(66) Home Health Services — Part-time or intermittent skilled nursing services, other therapeutic services (physical therapy, occupational therapy, speech therapy), and home health aide services made available on a visiting basis in a place of residence used as the client's home.

(67) Home Intravenous (IV) Services — Services provided in the client's place of residence to an individual who requires that medication (antibiotics, analgesics, chemotherapy, hydration fluids, or other intravenous medications) be administered intravenously as described in the Home Enteral/Parenteral Nutrition and IV Services rules.

(68) Home Parenteral Nutrition — Services provided in the client's residence to an individual who is unable to absorb nutrients via the gastrointestinal tract, or for other medical reasons, requires nutrition be supplied parenterally as described in the Home Enteral/Parenteral Nutrition and IV Services rules.

(69) Hospital — A facility licensed by the Office of Public Health Systems as a general hospital which meets requirements for participation in the Medical Assistance Program under Title XVIII of the Social Security Act. Facilities licensed as Special Inpatient Care Facilities under the Office of Public Health System's definition of hospital are not considered hospitals by OMAP for reimbursement purposes; however, effective April 1, 2000, OMAP will reimburse a Special Inpatient Care Facility if the Centers for Medicare and Medicaid has certified the facility for participation in the Medicare Program as a hospital. Out-of-state hospitals will be considered hospitals for reimbursement purposes if they are licensed as an acute care or general hospital by the appropriate licensing authority within that state, and if they are enrolled as a provider of hospital services with the Medicaid agency within that state.

(70) Hospital-Based Professional Services — Professional services provided by licensed practitioners or staff based on a contractual or employee/employer relationship and reported as a cost on the "Hospital Statement of Reasonable Cost" report for Medicare and the "Calculation of Reasonable Cost" (OMAP 42) report for the Office of Medical Assistance Programs.

(71) Hospital Laboratory — A laboratory providing professional technical laboratory services as outlined under "laboratory services", in a hospital setting, as either an inpatient or outpatient hospital service whose costs are reported on the hospital's cost report to Medicare and the Medical Assistance Program.

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(72) ICD-9-CM — The ninth revision of the International Classification of Diseases Clinical Modification, including volumes 1, 2, and 3, as revised annually.

(73) Indian Health Program — Any Indian Health Service facility, any Federally recognized Tribe or Tribal organization, or any Federally Qualified Health Clinic (FQHC) with a 638 designation.

(74) Individual Adjustment Request — Form OMAP 1036 used to resolve an incorrect payment on a previously paid claim, including underpayments or overpayments.

(75) Inpatient Hospital Services — Services that are furnished in a hospital for the care and treatment of an inpatient. (See Hospital Services rules for definition of an inpatient.)

(76) Institution for Mental Diseases (IMD) — An institution whose overall character is that of a facility established and/or maintained primarily for the care and treatment of individuals with mental diseases. The following guidelines are used to assist in determining whether an institution is an IMD. No single guideline is necessarily determinative:

(a) The facility is licensed as a psychiatric facility for the care and treatment of individuals with mental diseases and/or alcohol and/or drug abuse problems;

(b) The facility advertises or holds itself out as a facility for the care and treatment of individuals with mental diseases and/or alcohol and/or drug abuse problems;

(c) The facility is accredited as a psychiatric facility by the JCAHO or is licensed by the Office of Public Health Systems as a facility for the treatment of alcohol and drug abuse problems;

(d) The facility specializes in providing psychiatric/psychological care and treatment and/or rehabilitative treatment for alcohol and/or drug abuse problems;

(e) The facility is under the jurisdiction of the State's Office of Mental Health and Addiction Services Division;

(f) More than 50 percent of all the patients in the facility are being treated for mental diseases and/or alcohol and/or drug abuse problems;

(g) A large proportion of the patients in the facility have been transferred from a State mental institution for continuing treatment of their mental disorders;

(h) Independent review teams report a preponderance of mental illness and/or drug and alcohol abuse diagnoses for the patients in the facility;

(i) Part or all of the facility consists of locked wards.

(77) Institutional Level of Income Standards (ILIS) — Three times the amount SSI pays monthly to a person who has no other income and who is living alone in the community. This is the standard used for Medicaid eligible individuals to calculate eligibility for long-term nursing care in a Nursing Home, Intermediate Care Facilities for the mentally retarded (ICF/MR) and individuals on ICF/MR waivers or eligibility for services under SPDs Home and Community Based Waiver.

(78) Institutionalized — A patient admitted to a nursing facility or hospital for the purpose of receiving nursing and/or hospital care for a period of 30 days or more.

(79) Laboratory — A facility licensed under ORS 438 and certified by the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, DHHS, as qualified to participate under Medicare, to provide laboratory services within or a part from a hospital. An entity is considered a laboratory if materials are derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings. If an entity performs even one laboratory test, including waived tests for these purposes, it is considered under the Clinical Laboratory Improvement Act (CLIA), to be a laboratory.

(80) Laboratory Services — Those professional and technical diagnostic analyses of blood, urine, and tissue ordered by a physician or other licensed practitioner of the healing arts within his/her scope of practice as defined under State law and provided to a patient by or under the direction of a physician or appropriate licensed practitioner in an office or similar facility, hospital, or independent laboratory.

(81) Licensed Direct Entry Midwife — A practitioner licensed by the Oregon Health Division as a Licensed Direct Entry Midwife.

(82) Liability Insurance — Insurance that provides payment based on legal liability for injuries or illness. It includes, but is not limited to, automobile liability insurance, uninsured and underinsured motorist insurance, homeowners' liability insurance, malpractice insurance, product liability insurance, Worker's Compensation, and general casualty insurance. It also includes payments under state "wrongful death" statutes that provide payment for medical damages.

(83) Maternity Case Management — A program available to pregnant clients. The purpose of Maternity Case Management is to extend prenatal services to include non-medical services, which address social, economic and nutritional factors. For more information refer to the Medical-Surgical Services rules.

(84) Medicaid — A Federal and State funded portion of the Medical Assistance Program established by Title XIX of the Social Security Act, as amended, administered in Oregon by the Department of Human Services (see Medical Assistance Program).

(85) Medical Assistance Program — A program for payment of health care provided to eligible Oregonians. Oregon's medical assistance program includes Medicaid Services, including the OHP Medicaid demonstration, and the Children's Health Insurance Program (CHIP):

(a) The Medical Assistance Program is administered by identified Divisions, and the Office of Medical Assistance Programs (OMAP), of the Department of Human Services;

(b) Coordination of the Medical Assistance Program is the responsibility of the Office of Medical Assistance Programs (OMAP).

(86) Medical Assistance Eligibility Confirmation — Verification through AIS, AIS Hot-Line, an authorized DHS representative, an authorized eligibility vendor or through presentation of a valid Medical Care Identification that a client has an open assistance case, which includes medical benefits.

(87) Medical Services — Care and treatment provided by a licensed medical provider directed at preventing, diagnosing, treating or correcting a medical problem.

(88) Medical Transportation — Transportation to or from covered medical services.

(89) Medically Appropriate — Services and medical supplies that are required for prevention, diagnosis or treatment of a health condition which encompasses physical or mental conditions, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an Oregon Health Plan client or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies which can be safely provided to an OMAP Member or PCCM Member in the PHP's or Primary Care Case Manager's judgement.

(90) Medicare — A federally administered program offering health insurance benefits for persons aged 65 or older and certain other aged or disabled persons. This program includes:

(a) Hospital Insurance (Part A) for inpatient services in a hospital or skilled nursing facility, home health care, and hospice care; and

(b) Medical Insurance (Part B) for physicians' services, outpatient hospital services, home health care, end-stage renal dialysis, and other medical services and supplies.

(91) Mediceck for Children and Teens — See EPSDT.

(92) MSO — Multiple Services Office. A branch of the of the Department of Human Services that serves Seniors and People with Disabilities.

(93) "Naturopath" — A person licensed to practice naturopathy pursuant to State law.

(94) "Naturopathic Services" — Services provided within the scope of practice as defined under State law.

(95) "Not Covered Services" — Services or items for which the Medical Assistance Program is not responsible for payment. Not-covered services are identified in:

(a) OAR 410-120-1200, Medical Assistance Benefits: Excluded Services and Limitations; and,

(b) 410-120-1210, Benefit packages;

(c) 410-141-0480, Benefit Package of Covered Services;

(d) 410-141-0520, Prioritized List of Health Services; and

(e) The individual OMAP provider rules.

(96) Nurse Anesthetist, C.R.N.A. — A registered nurse licensed in the State of Oregon who is currently certified by the American Association of Nurse Anesthetists Council on Certification.

(97) Nurse Practitioner — A person licensed as a registered nurse and certified by the Board of Nursing to practice as a nurse practitioner pursuant to State law.

ADMINISTRATIVE RULES

(98) Nurse Practitioner Services — Services provided within the scope of practice of a nurse practitioner as defined under State law and by rules of the Board of Nursing.

(99) Nursing Facility — A facility licensed and certified by the Senior and Disabled Services Division as defined in 411-070-0005.

(100) Nursing Services — Health care services provided to a patient by a registered professional nurse or a licensed practical nurse under the direction of a licensed professional within the scope of practice as defined by State law.

(101) Nutritional Counseling — Counseling which takes place as part of the treatment of a person with a specific condition, deficiency or disease such as diabetes, hypercholesterolemia, or phenylketonuria.

(102) Occupational Therapist — A person licensed by the State Board of Examiners for Occupational Therapy.

(103) Occupational Therapy — The functional evaluation and treatment of individuals whose ability to adapt or cope with the task of living is threatened or impaired by developmental deficiencies, physical injury or illness, aging process, or psychological disability; the treatment utilizes task-oriented activities to prevent or correct physical and emotional difficulties or minimize the disabling effect of these deficiencies on the life of the individual.

(104) Office of Mental Health and Addiction Services — An Office within the Oregon Department of Human Services.

(105) (The) Office of Medical Assistance Programs (OMAP) — An Office of the Oregon Department of Human Services. OMAP is responsible for coordinating the Medical Assistance Program within the State of Oregon.

(106) OMAP — Office of Medical Assistance Programs (see Medical Assistance Programs).

(107) Optometric Services — Services provided, within the scope of practice of optometrists as defined under State law.

(108) Optometrist — A person licensed to practice optometry pursuant to State law.

(109) Oregon Medical Professional Review Organization (OMPRO) — OMPRO is the Oregon Professional Review Organization for Medicare and contracts with OMAP to provide hospital utilization review and other services for the Medical Assistance Program. A Professional Review Organization is an organization established under federal law by the Department of Health and Human Services for the purpose of utilization review and quality assurance.

(110) Oregon Youth Authority — The state department charged with the management and administration of youth correction facilities, state parole and probation services and other functions related to state programs for youth corrections.

(111) Out-of-State Providers — Any provider located outside the borders of Oregon:

(a) Contiguous area providers are those located no more than 75 miles from the border of Oregon;

(b) Non-contiguous area providers are those located more than 75 miles from the borders of Oregon.

(112) Outpatient Hospital Services — Services that are furnished in a hospital for the care and treatment of an outpatient. See Hospital Services rules for definition of outpatient.

(113) Overdue Claim — A valid claim that is not paid within 45 days of the date it was received.

(114) Overpayment — Payment(s) made by the Medical Assistance Program to a provider in excess of the correct Medical Assistance Program payment amount for a service. Overpayments are subject to repayment to the Medical Assistance Program.

(115) Overuse — Use of medical goods or services at levels determined by Medical Assistance Program medical staff and/or medical consultants to be medically unnecessary or potentially harmful.

(116) Panel — The Hearing Officer Panel established by section 3, chapter 849, Oregon Laws 1999.

(117) Payment Authorization — Authorization granted by the responsible agency, division, office or organization for payment prior or subsequent to the delivery of services, as described in these General Rules and the appropriate program rules. See the individual program rules for services requiring authorization.

(118) Prepaid Health Plan (PHP) — A managed health, dental, chemical dependency, or mental health organization that contracts with OMAP and/or OMHAS on a case managed, prepaid, capitated basis under the Oregon Health Plan. PHP's may be Dental Care Organization (DCO), Fully Capitated Health Plan (FCHP), Mental Health Organization (MHO),

Physician Care Organization (PCO), or Chemical Dependency Organization (CDO).

(119) Pharmaceutical Services — Services provided by a pharmacist, including medications dispensed in a pharmacy upon an order of a licensed practitioner prescribing within his/her scope of practice.

(120) Pharmacist — A person licensed to practice pharmacy pursuant to state law.

(121) Physical Capacity Evaluation — An objective, directly observed measurement of a person's ability to perform a variety of physical tasks combined with subjective analysis of abilities of the person.

(122) Physical Therapist — A person licensed by the relevant State licensing authority to practice physical therapy.

(123) Physical Therapy — Treatment comprising exercise, massage, heat or cold, air, light, water, electricity or sound for the purpose of correcting or alleviating any physical or mental disability, or the performance of tests as an aid to the assessment, diagnosis or treatment of a human being. Physical therapy shall not include radiology or electrosurgery.

(124) Physician — A person licensed to practice medicine pursuant to state law of the state in which he/she practices medicine, or a person licensed to practice medicine pursuant to federal law for the purpose of practicing medicine under a contract with the Federal government.

(125) Physician Assistant — A person licensed as a physician assistant in accordance with ORS 677. Physician Assistants provide medical services under the direction and supervision of an Oregon licensed physician according to a practice description approved by the Board of Medical Examiners.

(126) Physician Services — Services provided, within the scope of practice as defined under state law, by or under the personal supervision of a physician.

(127) Podiatric Services — Services provided within the scope of practice of podiatrists as defined under state law.

(128) Podiatrist — A person licensed to practice podiatric medicine pursuant to state law.

(129) Post-Payment Review — Review of billings and/or other medical information for accuracy, medical appropriateness, level of service or for other reasons subsequent to payment of the claim.

(130) Practitioner — A person licensed pursuant to state law to engage in the provision of health care services within the scope of the practitioner's license and/or certification.

(131) Primary Care Physician — A physician who has responsibility for supervising, coordinating and providing initial and primary care to patients, initiating referrals for consultations and specialist care, and maintaining the continuity of patient care.

(132) Primary Care Provider — Any enrolled medical assistance provider who has responsibility for supervising, coordinating, and providing initial and primary care within their scope of practice for identified clients. Primary care providers initiate referrals for care outside their scope of practice, consultations and specialist care, and assure the continuity of medically appropriate client care.

(133) Prior Authorization (PA) — Payment authorization for specified medical services or items given by Medical Assistance Program staff prior to provision of the service. A physician referral is not a prior authorization.

(134) Private Duty Nursing Services — Nursing services provided within the scope of license by a registered nurse or a licensed practical nurse, under the general direction of the patient's physician to an individual who is not in a health care facility.

(135) Provider — An individual, facility, institution, corporate entity, or other organization which supplies health care services or items or bills on behalf of a provider of services. The term "provider" refers to both Performing Providers and Billing Providers unless otherwise specified. Payment can only be made to OMAP-enrolled providers, who have, by signature on the provider enrollment form, agreed to provide services and to bill in accordance with these General Rules and the individual program rules.

(136) Psychiatric Hospital — A hospital licensed by the relevant State licensing authority as a psychiatric hospital and certified as such under Title XVIII and XIX of the Social Security Act or any hospital which meets the federal definition of an Institution for Mental Disorders (IMD).

(137) Public Health Clinic — A clinic operated by county government.

(138) Public Rates — The charge for services and items that providers, including hospitals and nursing facilities, made to the general public for the same service on the same date as that provided to Medical Assistance Program clients.

ADMINISTRATIVE RULES

(139) Qualified Medicare Beneficiary (QMB) — A Medicare beneficiary, as defined by the Social Security Act and its amendments.

(140) Qualified Medicare and Medicaid Beneficiary (QMM) — A Medicare Beneficiary who is also eligible for Medical Assistance Program coverage.

(141) Radiological Services — Those professional and technical radiological and other imaging services for the purpose of diagnosis and treatment ordered by a physician or other licensed practitioner of the healing arts within the scope of practice as defined under state law and provided to a patient by or under the direction of a physician or appropriate licensed practitioner in an office or similar facility, hospital, or independent radiological facility.

(142) Recipient — A person who is currently eligible for Medical Assistance (also known as a “client”).

(143) Recoupment — An accounts receivable system that collects money owed by the provider to the Medical Assistance Program by withholding all or a portion of a provider’s future payments.

(144) Referral — The transfer of total or specified care of a client from one provider to another. As used by OMAP, the term “referral” also includes a request for a consultation or evaluation or a request or approval of specific services. In the case of clients whose medical care is contracted through a prepaid health plan, or managed by a primary care physician, a referral is required before non-emergency care is covered by the health plan or the Medical Assistance Program.

(145) Remittance Advice (RA) — The automated notice a provider receives explaining payments or other claim actions. It is the only notice sent to providers regarding claim actions.

(146) Request for Hearing — A clear expression, in writing, by an individual or representative that the person wishes to appeal a Division decision or action and wishes to have the decision considered by a higher authority.

(147) Retroactive Medical Eligibility — Eligibility for Medical Assistance granted to a client retroactive to a date prior to the client’s application for Medical Assistance.

(148) Sanction — An action against providers taken by the Medical Assistance Program in cases of fraud, misuse or abuse of Medical Assistance Program requirements.

(149) School Based Health Service — A health service required by an Individualized Education Plan (IEP) during a child’s education program which addresses physical or mental disabilities as recommended by a physician or other licensed practitioner.

(150) Senior and People with Disabilities (SPD) — A Division of the Oregon Department of Human Services responsible for the administration of programs that increase the independence of, and help protect, seniors and people with disabilities.

(151) Service Agreement — An agreement between the Medical Assistance Program and a specified provider to provide identified services for a specified rate. Service agreements may be limited to services required for the special needs of an identified client. Service Agreements do not preclude the requirement for a provider to enroll as a provider.

(152) Sliding Fee Schedule — A fee schedule with varying rates established by a provider of health care to make services available to indigent and low-income individuals. The Sliding Fee Schedule is based on ability to pay.

(153) Social Worker — A person licensed by the Board of Clinical Social Workers to practice clinical social work.

(154) Speech-Language Pathologist — A person licensed by the Oregon Board of Examiners for Speech Pathology.

(155) Speech-Language Pathology Services — The application of principles, methods, and procedure for the measuring, evaluating, predicting, counseling or instruction related to the development and disorders of speech, voice, or language for the purpose of preventing, habilitating, rehabilitating, or modifying such disorders in individuals or groups of individuals.

(156) Spend-Down — The amount the client must pay for medical expenses each month before becoming eligible for Medical Assistance under the Medically Needy Program. The spend-down is equal to the difference between the client’s total countable income and Medically Needy program income limits.

(157) State Facility — A hospital or training center operated by the State of Oregon, which provides long-term medical or psychiatric care.

(158) Subrogation — Right of the State to stand in place of the client in the collection of third party resources.

(159) Supplemental Security Income (SSI) — A program available to certain aged and disabled persons which is administered by the Social Security Administration through the Social Security office.

(160) Surgical Assistant — A person performing required assistance in surgery as permitted by rules of the State Board of Medical Examiners.

(161) Suspension — A sanction prohibiting a provider’s participation in the Medical Assistance Program by deactivation of the provider’s billing number for a specified period of time. No payments, Title XIX or State Funds, will be made for services provided during the suspension. The number will be reactivated automatically after the suspension period has elapsed.

(162) Targeted Case Management - Activities which will assist the client in a “target group” in gaining access to needed medical, social, educational and other services. This includes locating, coordinating, and monitoring necessary and appropriate services.

(163) Termination — A sanction prohibiting a provider’s participation in the Medical Assistance Program by canceling the provider’s number and agreement. No payments, Title XIX or State Funds, will be made for services provided after the date of termination. Termination is permanent unless:

(a) The exceptions cited in 42 CFR 1001.221 are met; or

(b) Otherwise stated by the Medical Assistance Program at the time of termination.

(164) Third Party Resource (TPR) — A medical or financial resource which, under law, is available and applicable to pay for medical services and items for a Medical Assistance Program client.

(165) Transportation — See “Medical Transportation”.

(166) Type A Hospital — A hospital identified by the Office of Rural Health as a Type A hospital.

(167) Type B AAA Unit — A Type B Area Agency on Aging funded by Oregon Project Independence (OPI), Title III — Older Americans Act, and Title XIX of the Social Security Act.

(168) Type B Hospital — A hospital identified by the Office of Rural Health as a Type B hospital.

(169) Usual Charge (UC) — The lesser of the following unless prohibited from billing by federal statute or regulation:

(a) The provider’s charge per unit of service for the majority of non-Medical Assistance users of the same service based on the preceding month’s charges;

(b) The provider’s lowest charge per unit of service on the same date that is advertised, quoted or posted. The lesser of these applies regardless of the payment source or means of payment;

(c) Where the provider has established a written sliding fee scale based upon income for individuals and families with income equal to or less than 200% of the federal poverty level, the fees paid by these individuals and families are not considered in determining the usual charge. Any amounts charged to third party resources are to be considered.

(170) Utilization Review (UR) — The process of reviewing, evaluating, and assuring appropriate use of medical resources and services. The review encompasses quality, quantity, and appropriateness of medical care to achieve the most effective and economic use of health care services.

(171) Valid Claim — An invoice received by the appropriate Division or Office of the Medical Assistance Program for payment of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the goods or services or from a third party; and

(b) Has been received within the time limitations prescribed in these General Rules

(172) Vision Services — Provision of corrective eyewear, including ophthalmological or optometric examinations for determination of visual acuity and vision therapy and devices.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1981, f. 1-23-81, ef. 3-1-81; AFS 33-1981, f. 6-23-81, ef. 7-1-81; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82, for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 57-1982, f. 6-28-82, ef. 7-1-82; AFS 81-1982, f. 8-30-82, ef. 9-1-82; AFS 4-1984, f. & ef. 2-1-84; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-84, ef. 9-1-84; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 13-1987, f. 3-31-87, ef. 4-1-87; AFS 7-1988, f. & cert. ef. 2-1-88; AFS 69-1988, f. & cert. ef. 12-5-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0005; HR 25-1991(Temp), f. & cert. ef. 7-1-91; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; HR 2-1994, f. & cert. ef. 2-1-94; HR 31-1994, f. & cert. ef. 11-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 11-2000, f. & cert. ef. 6-23-00; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef.

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2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 67-2004, f. 9-14-04, cert. ef. 10-1-04

410-120-1140

Verification of Eligibility

(1) The client's Medical Care Identification is confirmation of eligibility for medical services, subject to the limitations contained in these General Rules and the appropriate individual provider rules. There are three different types of Medical Care Identifications by which eligibility can be confirmed:

(a) Form OMAP 1417 — OMAP Medical Care Identification. This is a computer generated notice that is mailed to the client once a month or anytime there is a change to the case (i.e., address change);

(b) Form OMAP 1086 — Temporary Medical Care Identification. This form is handwritten by the responsible branch office;

(c) Form WMMID1C-A — Temporary Medical Care Identification. This is a computer generated form that is signed by an authorized person in the responsible branch office.

(2) It is the responsibility of the provider to verify that the individual receiving medical services is, in fact, an eligible individual on the date of service for the service provided and whether a managed care plan or OMAP is responsible for reimbursement. The provider assumes full financial risk in serving a person not identified as eligible or not confirmed by the Medical Assistance Program as eligible for the service provided on the date(s) of service.

(3) Medical Care Identifications include:

(a) The name(s) of the eligible individual(s), and the eligible person(s) Recipient Identification Number;

(b) The case number;

(c) Dates of coverage, including fee-for-service and managed care enrollment dates;

(d) The benefit packages each client is eligible for;

(e) Optional program messages (for example, third party resource information);

(f) The name of the responsible branch, the worker's identification code and the phone number of the branch;

(g) The name and phone number of the managed care provider, if applicable;

(i) Medical Management and/or pharmacy restrictions, if applicable.

(4) The Medical Care Identification is not transferable, and is valid only for the individual(s) listed on the card.

(5) Eligibility is verified either:

(a) From the Medical Care Identification, which shows the dates on which the client is eligible and indicates each client's benefit package; or

(b) If a patient identifies him/herself as eligible, but does not have a valid Medical Care Identification, the provider may either:

(A) Contact the OMAP Automated Information System (AIS), which operates Monday through Saturday from 3 a.m. to midnight, and Sunday from 6 a.m. to 7 p.m., to confirm eligibility. Providers who have contracted with an Electronic Eligibility Verification Service vendor can access client eligibility data 24 hours a day, 7 days a week; or

(B) Contact the local Department of Human Services (DHS) branch office during regular working hours to confirm eligibility if the information is not available through AIS.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 14-1979, f. 6-29-79, ef. 7-1-79; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82, for remaining AFS branch offices; AFS 103-1982, f. & ef. 11-1-83; AFS 61-1983, f. 12-19-83, ef. 1-1-84; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 43-1986(Temp), f. 6-13-86, ef. 7-1-86; AFS 57-1986, f. 7-25-86, ef. 8-1-86; AFS 78-1986(Temp), f. 12-16-86, ef. 1-1-87; AFS 10-1987, f. 2-27-87, ef. 3-1-87; AFS 53-1987, f. 10-29-87, ef. 11-1-87; AFS 53-1988(Temp), f. 8-23-88, cert. ef. 9-1-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0040; Renumbered from 461-013-0103 & 461-013-0109; HR 25-1991(Temp), f. & cert. ef. 7-1-91; HR 41-1991, f. & cert. ef. 10-1-91; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 32-1993, f. & cert. ef. 11-1-93; OMAP 10, 1999, f. & cert. ef. 4-1-99; Renumbered from 410-120-0080; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 67-2004, f. 9-14-04, cert. ef. 10-1-04

410-120-1160

Medical Assistance Benefits and Provider Rules

(1) The following services are covered when medically or dentally appropriate and within the limitations established by the Medical Assistance Program and set forth in the Oregon Administrative Rules for each category of medical services:

(a) Acupuncture Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(b) Administrative Examinations, as described in the Administrative Examinations and Billing Services provider rules (OAR 410 division 150);

(c) Alcohol and Drug Abuse Treatment Services:

(A) Alcohol and Drug Detoxification inpatient services are covered by the Office of Medical Assistance Programs when provided in an acute care hospital and when hospitalization is considered medically appropriate;

(B) Alcohol and Drug Abuse Treatment inpatient hospital services are not covered by the Office of Medical Assistance Programs;

(C) Non-hospital Alcohol and Drug Detoxification and Treatment services are available on a residential or outpatient basis through the Office of Medical Assistance Programs. Contact the client's managed care plan, local alcohol/drug treatment provider or local publicly funded alcohol and drug abuse program for information.

(d) Ambulatory Surgical Center Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(e) Anesthesia Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(f) Audiology Services, as described in the Speech-Language Pathology, Audiology and Hearing Aid Services provider rules (OAR 410 Division 129);

(g) Chiropractic Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(h) Dental Services, as described in the Dental/Dentist Services provider rules (OAR 410 division 123);

(i) Early and Periodic Screening, Diagnosis and Treatment services (EPSDT, Medichex for children and teens), are covered for individuals under 21 years of age as set forth in the individual program provider rules. OMAP may authorize services in excess of limitations established in the provider guide when it is medically appropriate to treat a condition that is identified as the result of an EPSDT screening;

(j) Family Planning Services, as described in the Medical-Surgical Services provider rules (OAR 410 Division 130). Family planning services are services and items provided to individuals of childbearing age including minors who can be considered to be sexually active who desire such services and which are intended to prevent pregnancy or otherwise limit family size. Services include annual exams, contraceptive education and counseling to address reproductive health issues, laboratory tests, radiological services, medical procedures, including birth control implants, tubal ligation, vasectomy, and pharmaceutical supplies and devices;

(k) Federally Qualified Health Centers and Rural Health Clinic, as described in the Federally Qualified Health Center and Rural Health Clinic provider rules (OAR 410 division 147);

(l) Home and Community Based Waiver Services, as described in the rules of the Mental Health and Developmental Disability Services Division and Seniors and People with Disabilities;

(m) Home Enteral/Parenteral Nutrition and IV Services, as described in the Home Enteral/Parenteral Nutrition and IV Services provider rules (OAR 410 division 148);

(n) Home Health Services, as described in the Home Health Services provider rules (OAR 410 division 127);

(o) Hospice Services, as described in the Hospice Services provider rules (OAR 410 division 142);

(p) Indian Health Services or tribal facility, as described in The Indian Health Care Improvement Act and its Amendments (Public Law 102-573), and the OMAP American Indian/Alaska Native provider rules (OAR 410 division 146);

(q) Inpatient Hospital Services, as described in the Hospital Services provider rules (OAR 410 division 125);

(r) Laboratory Services, as described in the Hospital Services and the Medical-Surgical Services provider rules (OAR 410 division 130);

(s) Licensed Direct Entry Midwife Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(t) Maternity Case Management, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(u) Medical Equipment and Supplies, as described in the Hospital Services, Medical-Surgical Services, Durable Medical Equipment, Home Health Care Services, Home Enteral/Parenteral Nutrition and IV Services and other provider rules;

(v) When client's Medical Care Identification Card indicates a benefit package that includes mental health will be based on the Prioritized List of Health Services. Other Medicaid non-OHP through as described in applicable treatment standard rules;

(w) Naturopathic Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

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(x) Nutritional Counseling is covered, as described in the Medical/Surgical Services provider rules (OAR 410 division 130);

(y) Occupational Therapy, as described in the Physical and Occupational Therapy Services provider rules (OAR 410 division 131);

(z) Organ Transplant Services, as described in the Transplant Services provider rules (OAR 410 division 124);

(aa) Outpatient Hospital Services, including clinic services, emergency room services, physical and occupational therapy services, and any other outpatient hospital services provided by and in a hospital, as described in the Hospital Services provider rules (OAR 410 division 125);

(bb) Physician, Podiatrist, Nurse Practitioner and Licensed Physician Assistant Services, as described in the Medical-Surgical Services provider rules (OAR 410 division 130);

(cc) Physical Therapy, as described in the Physical and Occupational Therapy and the Hospital Services provider rules (OAR 410 division 131);

(dd) Post Hospital Extended Care Benefit, as described in OAR 410 division 120, 141 and Seniors and Peoples with Disabilities program rules;

(ee) Prescription drugs, including home enteral and parenteral nutritional services and home intravenous services, as described in the Pharmaceutical Services, the Home Enteral/Parenteral Nutrition and IV Services and the Hospital Services provider rules (OAR 410 division 121, 148 and 125);

(ff) Preventive Services, as described in the Medical-Surgical Services and the Dental/Denturist Services provider rules (OAR 410 division 130 and 123) and prevention guidelines associated with the Health Service Commission's List of Prioritized Health Services (OAR 410-141-0520);

(gg) Private Duty Nursing, as described in the Private Duty Nursing provider rules (OAR 410 division 132);

(hh) Radiology and Imaging Services, as described in the Medical-Surgical Services, the Hospital Services, and Dental and Denturist Services provider rules (OAR 410 division 130, 125 and 123);

(ii) Rural Health Clinic Services, as described in the Federally Qualified Health Center and Rural Health Clinic provider rules (OAR 410 division 147);

(jj) School-Based Health Services, as described in the School-Based Health Services provider rules (OAR 410 division 133);

(kk) Speech and Language Therapy as described in the Speech-Language Pathology, Audiology and Hearing Aid Services and Hospital Services provider rules (OAR 410 division 129 and 125);

(ll) Transportation necessary to access a covered medical service or item, as described in the Medical Transportation provider rules (OAR 410 division 136);

(mm) Vision Services as described in the Visual Services provider rules (OAR 410 division 140).

(2) Other units or Offices, including Vocational Rehabilitation, Office of Mental Health and Addiction Services, and Seniors and People with Disabilities may offer services to Medicaid eligible clients, which are not reimbursed by or available through the Office of Medical Assistance Programs.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 14-1979, f. 6-29-79, ef. 7-1-79; AFS 73-1980(Temp), f. & ef. 10-1-80; AFS 5-1981, f. 1-23-81, ef. 3-1-81; AFS 71-1981, f. 9-30-81, ef. 10-1-81; Renumbered from 461-013-0000; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 94-1982(Temp), f. & ef. 10-18-82; AFS 103-1982, f. & ef. 11-1-82; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 42-1983, f. 9-2-83, ef. 10-1-83; AFS 62-1983, f. 12-19-83, ef. 1-1-84; AFS 4-1984, f. & ef. 2-1-84; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 25-1984, f. 6-8-84, ef. 7-1-84; AFS 14-1985, f. 3-14-85, ef. 4-1-85; AFS 53-1985, f. 9-20-85, ef. 10-1-85; AFS 67-1986(Temp), f. 9-26-86, ef. 10-1-86; AFS 76-1986(Temp), f. & ef. 12-8-86; AFS 16-1987(Temp), f. & ef. 4-1-87; AFS 17-1987, f. 5-4-87, ef. 6-1-87; AFS 32-1987, f. 7-22-87, ef. 8-1-87; AFS 6-1988, f. & cert. ef. 2-1-88; AFS 51-1988(Temp), f. & cert. ef. 8-2-88; AFS 58-1988(Temp), f. & cert. ef. 9-27-88; AFS 69-1988, f. & cert. ef. 12-5-88; AFS 70-1988, f. & cert. ef. 12-7-88; AFS 4-1989, f. 1-31-89, cert. ef. 2-1-89; AFS 8-1989(Temp), f. 2-24-89, cert. ef. 3-1-89; AFS 14-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 47-1989, f. & cert. ef. 8-24-89; HR 2-1990, f. & cert. ef. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0102; HR 5-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 19-1990, f. & cert. ef. 7-9-90; HR 32-1990, f. 9-24-90, cert. ef. 10-1-90; HR 41-1991, f. & cert. ef. 10-1-91; HR 27-1992(Temp), f. & cert. ef. 9-1-92; HR 33-1992, f. 10-30-92, cert. ef. 11-1-92; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HE 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0440; HR 2-1994, f. & cert. ef. 2-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 10-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 67-2004, f. 9-14-04, cert. ef. 10-1-04

410-120-1260

Provider Enrollment

(1) This rule applies only to providers seeking reimbursement from OMAP, except as otherwise provided in OAR 410-120-1295.

(2) Signing the provider application constitutes agreement by performing and billing providers to comply with all applicable rules of the Medical Assistance Program and federal and state laws and regulations.

(3) A performing provider is the provider of a service or item. A billing provider is a person or business entity who/that submits claims on behalf of a performing provider. All references to "provider" in this and other rules of the Medical Assistance Program include both performing and billing providers.

(4) An individual or organization must meet applicable licensing and/or regulatory requirements set forth by Federal and State statutes, regulations, and rules to be enrolled and to bill as a provider. In addition, all providers of services within the State of Oregon must have a valid Oregon business license if such a license is a requirement of the state, federal, county or city government to operate a business or to provide services.

(5) An individual or organization that is currently subject to sanction(s) by the Medical Assistance Program or Federal government is not eligible for enrollment (see Provider Sanctions).

(6) A performing provider number will be issued to an individual or organization providing covered health care services or items upon:

(a) Completion of the application and submission of the required documents;

(b) The signing of the provider application by the provider or a person authorized by the provider to bind the organization or individual to compliance with these rules;

(c) Verification of licensing or certification. Loss of the appropriate licensure or certification will result in immediate disenrollment of the provider and recovery of payments made subsequent to the loss of licensure or certification;

(d) Approval of the application by OMAP or the Division responsible for enrolling the provider.

(7) Performing providers may be enrolled retroactive to the date services were provided to a Medical Assistance client if:

(a) The provider was appropriately licensed, certified and/or otherwise met all Medical Assistance Program requirements for providers at the time services were provided; and

(b) Services were provided less than 12 months prior to the date of application for Medical Assistance provider status.

(8) Issuance of a provider number establishes enrollment of an individual or organization as a provider for limited category (ies) of services for the Medical Assistance Program.

(9) If a provider changes address, business affiliation, licensure, ownership, certification, billing agents or Federal Tax Identification Number (TIN), the Office of Medical Assistance Programs must be notified in writing within 30 days of the change. Failure to notify OMAP of a change of Federal Tax Identification Number may result in the imposing of a \$50 fine. Changes in business affiliation, ownership, and Federal Tax Identification Number may require the submission of a new application. Payments made to providers who have not furnished such notification may be recovered.

(10) Providers of services outside the state of Oregon will be enrolled under the following conditions:

(a) The provider is appropriately licensed and/or certified and meets standards established within the provider's state for participation in the state's Medicaid program. Disenrollment from the other state's Medicaid program is a basis for disenrollment in the Oregon Medical Assistance Program;

(b) The provider bills only for services provided within the provider's scope of licensure or certification;

(c) For noncontiguous out-of-state providers, the services provided must be for a specific Oregon Medicaid client who is temporarily outside Oregon or the contiguous area of Oregon, or for foster care or subsidized adoption children placed out of state, or the provider is seeking Medicare deductible or coinsurance coverage for QMB clients;

(d) The services for which the provider bills are covered services under the Oregon Medical Assistance Program;

(e) Facilities, including but not restricted to hospitals, rehabilitative facilities, institutions for care of individuals with mental retardation, psychiatric hospitals, and residential care facilities, will be enrolled as providers only if the facility is enrolled as a Medicaid provider in the state in which the facility is located or is licensed as a facility provider of services by the State of Oregon;

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(f) Out-of-state providers may provide contracted services per OAR 410-120-1880.

(11) Enrollment of Billing Providers:

(a) A person or business entity who/that submits claims to the Medical Assistance Program and/or receives payments from the Medical Assistance Program on the behalf of a professional provider (e.g., physician, physical therapist, speech therapist). The person/business entity must be enrolled with OMAP and meet all applicable federal regulations;

(b) A billing provider number will be issued only to billing providers billing on behalf of providers who have signed the provider enrollment form, who have met the licensure or other standards for enrollment as a provider and who have been delegated the authority to act on behalf of the performing provider and to bill on behalf of the provider of service;

(c) A billing provider must maintain, and make available to the Medical Assistance Program, upon request, records indicating the billing provider's relationship with the provider of service;

(d) The Billing Provider must obtain signed confirmation from the performing provider that the Billing Provider has been authorized by the Performing Provider to submit claims. This authorization must be maintained in the Billing Provider's files for at least five years, following the submission of claims to OMAP;

(e) The billing provider fee must not be based on a percentage of the amount collected or whether or not they collect the subject's payment (42 CFR 447 subpart A).

(12) Enrollment of Locum Tenens:

(a) For purposes of this rule, a locum tenens means a substitute physician retained to take over another physician's professional practice while he/she is absent for reasons such as illness, vacation, continuing medical education, pregnancy, etc.

(b) Locum tenens are not required to enroll with OMAP. The absentee physician must bill with their individual Medicaid provider number and receive payment for covered services provided by the locum tenens physician. Services provided by the locum tenens must be billed with a modifier Q6.

(13) Reciprocal Billing Arrangements:

(a) For purposes of this rule, reciprocal billing arrangements are similar in nature to a locum tenens in that a substitute physician is retained to take over another physician's professional practice on an occasional basis if the regular physician is unavailable;

(b) Providers with reciprocal billing arrangements are not required to enroll with OMAP. The absentee physician must bill with their individual Medicaid provider number and receive payment for covered services provided by the substitute physician. The absentee physician identifies the services provided by the substitute physician by using modifier Q5;

(c) These requirements do not apply to substitute arrangements among physicians in the same medical practice when claims are submitted in the name of the billing provider or group name.

(14) Provider termination:

(a) The provider may terminate enrollment at any time. The request must be in writing, via certified mail, return receipt requested. The notice shall specify the provider number to be terminated and the effective date of termination. Termination of the provider enrollment does not terminate any obligations of the provider for dates of services during which the enrollment was in effect;

(b) OMAP provider terminations or suspensions may be for, but are not limited to the following reasons:

(A) Breaches of provider agreement;

(B) Failure to comply with the statutes, regulations and policies of the Department of Human Services, Federal or State regulations that are applicable to the provider.

(C) When no claims have been submitted in an 18-month period. The provider must reapply for enrollment.

(15) When one or more of the requirements governing a provider's participation in the Medical Assistance program are no longer met, the provider's Medical Assistance Program provider number may be immediately suspended. The provider is entitled to a contested case hearing as outlined in 410-120-1600 through 410-120-1840 to determine whether the provider's Medical Assistance Program number will be revoked.

(16) The provision of health care services or items to clients of the Medical Assistance Program is a voluntary action on the part of the provider. Providers are not required to accept all Medical Assistance clients seeking service.

(17) In the event of bankruptcy proceedings, the provider must immediately notify the Director of OMAP in writing.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-78; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 5-1981, f. 1-23-81, ef. 3-1-81, Renumbered from 461-013-0060; AFS 33-1981, f. 6-23-81, ef. 7-1-81; AFS 47-1982, f. 4-30-82, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 57-1982, f. 6-28-82, ef. 7-1-82; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 42-1983, f. 9-2-83, ef. 10-1-83; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 73-1989, f. & cert. ef. 12-7-89; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0063, 461-013-0075 & 461-013-0180; HR 19-1990, f. & cert. ef. 7-9-90; HR 41-1991, f. & cert. ef. 10-1-91; HR 51-1991(Temp), f. 11-29-91, cert. ef. 12-1-91; HR 5-1992, f. & cert. ef. 1-16-92; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0020, 410-120-0040 & 410-120-0060; HR 31-1994, f. & cert. ef. 11-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 9-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 67-2004, f. 9-14-04, cert. ef. 10-1-04

410-120-1960

Payment of Private Insurance Premiums

(1) Payment of insurance policy premiums for Medicaid clients or eligible applicants will allow for the purchase of, or continuation of a client or eligible applicant's coverage by another third party. For purposes of this rule, an eligible applicant may be a non-Medicaid individual, for whom the Medical Assistance Program would pay the premium if it is necessary in order to enroll the Medicaid recipient in the health plan in accordance with this rule. The Medical Assistance Program may pay health insurance policy premiums or otherwise enter into agreements with other health insurance plans that comply with ORS 414.115 to 414.145 on behalf of eligible individuals when:

(a) The policy is a major medical insurance policy; or

(b) The policy is a Medicare supplemental with full pharmacy benefits; and (c) The payment of premiums and/or co-insurance and deductibles is likely to be cost effective, as determined under subsection (4) of this rule, i.e., that the estimated net cost to the Medical Assistance Program will be less than the estimated cost of paying providers on a fee-for-service or other basis.

(d) An eligible applicant may be a non-Medicaid individual in the household if payment of the premium including that individual is cost effective, and if it is necessary to include that individual in order to enroll the Medicaid recipient in the health plan.

(2) Clients that are not eligible for this program are:

(a) Non-SSI institutionalized and waived clients whose income deduction is used for payment of health insurance premiums;

(b) Clients eligible for reimbursement of cost-effective, employer-sponsored health insurance (OAR 461-135-0990).

(3) The Medical Assistance Program will assure that all Medicaid covered services continue to be made available to Medicaid-eligible individuals for whom the Medical Assistance Program elects to purchase insurance.

(4) Assessment of cost effectiveness will include:

(a) The past utilization experience of the client/eligible applicant as determined by past Medical Assistance and third party insurance utilization and claims data; and

(b) The current and probable future health status of the client/eligible applicant based upon existing medical conditions, previous medical history, age, number of dependents, and other relevant health status indicators; and

(c) The coverage of benefits, premium costs, copayments and coin-surance provisions, restrictions and other policies of the health insurance plans being considered.

(5) The Medical Assistance Program may purchase documents or records necessary to establish or maintain the client's eligibility for other insurance coverage.

(6) The Medical Assistance Program will not make payments for any benefits covered under the health insurance plan, except as follows:

(a) The Medical Assistance Program will calculate the Medical Assistance Program's allowable payment for a service. The amount paid by the other insurer will be deducted from the OMAP allowable. If the OMAP allowable exceeds the third party payment, OMAP will pay the provider of service the difference;

(b) The payment made by OMAP will not exceed any co-insurance, co-payment or deductible due;

(c) OMAP will make payment of co-insurance, copayments or deductibles due only for covered services provided to Medicaid-eligible individuals.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.115

Hist.: AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas,

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Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 38-1984, f. 8-30-84, ef. 9-1-84; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0170; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0500 & 410-120-0520; OMAP 67-2004, f. 9-14-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 68-2004(Temp)

Filed with Sec. of State: 9-14-2004

Certified to be Effective: 10-1-04 thru 3-15-05

Notice Publication Date:

Rules Amended: 410-124-0000, 410-141-0520

Subject: The Oregon Health Plan (OHP) administrative rules and Transplant Services program rules govern Office of Medical Assistance Programs' (OMAP) payment for services provided to clients. Rule 410-141-0520 in the OHP program is temporarily amended to immediately adopt the October 1, 2004 technical changes to the Prioritized List of Health Services as approved by Centers for Medicare and Medicaid Services (CMS) on September 1, 2004. OMAP will temporarily amend rule 410-124-0000, in the Transplant Services program to limit second solid organ transplants only for acute graft failure that occurs during the original hospitalization for transplantation, implementing a technical change to the Prioritized List as approved by the Health Services Commission and recently approved by Centers for Medicare and Medicaid (CMS) on September 1, 2004.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-124-0000

Transplant Services

(1) The Office of Medical Assistance Programs (OMAP) will make payment for prior authorized and emergency transplant services identified in these rules as covered for eligible clients receiving the Basic Benefit Health Care Package and when OMAP transplant criteria described in OAR 410-124-0010 and 410-124-0060 through 410-124-0160 is met. All other Benefit Packages do not cover transplant.

(2) OMAP will only prior authorize and reimburse for transplants if:

(a) All OMAP criteria are met; and

(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(c) The ICD-9-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

(3) Simultaneous multiple organ transplants are covered only if specifically identified as paired on the same currently funded line on the Oregon Health Plan (OHP) Prioritized List of Health Services whether the transplants are for the same underlying disease or for unrelated, but concomitant, underlying diseases.

(4) Not Covered Transplant Services: The following types of transplants are not covered by OMAP:

(a) Transplants which are considered experimental or investigational or which are performed on an experimental or investigational basis, as determined by OMAP;

(b) Transplant services which are contraindicated, as described in OAR 410-124-0060 through 410-124-0160;

(c) Second solid organ transplants are not covered except for acute graft failure that occurs during the original hospitalization for transplantation.

(d) Transplants which have not been prior authorized for payment by OMAP or the client's managed health care plan;

(e) Transplants which do not meet the guidelines for an emergency transplant in OAR 410-124-0040;

(f) Transplants which are not described as covered in OAR 410-141-0480 and 410-141-0520.

(5) Selection of Transplant Centers: Transplant services will be reimbursed only when provided in a transplant center that provides quality services, demonstrates good patient outcomes and compliance with all OMAP facility criteria. The transplant center must have provided transplant services for a period of at least two years and must have completed a minimum of 12 cases in the most recent year. The patient-and-graft-survival rates must be equal to or greater than the appropriate standard indicated in this rule. A transplant center which has had at least two years of experience in transplantation of any solid organ (heart, liver, lung, pancreas) and which has met or exceeded the appropriate standards may be considered for reimbursement for the transplantation of other solid organs and/or autologous or allogeneic bone marrow transplantation:

(a) An experienced and proficient transplant team and a well established transplant support infrastructure at the same physical location as the transplant service is required for transplant services rendered to OMAP clients. These transplant criteria are crucial to successful transplant outcome. Therefore, consortia will not be approved or contracted with for the provision of transplant services for OMAP clients. No OMAP transplant contract, prior approval or reimbursement will be made to consortia for transplant services where, as determined by OMAP, there is no assurance that the individual facilities that make up the consortia independently meet OMAP criteria. OMAP transplant criteria must be met individually by a facility to demonstrate substantial experience with the procedure;

(b) Once a transplant facility has been approved and contracted for OMAP transplant services, it is obliged to report immediately to OMAP any events or changes that would affect its approved status. Specifically, a transplant facility is required to report, within a reasonable period of time, any significant decrease in its experience level or survival rates, the departure of key members of the transplant team or any other major changes that could affect the performance of transplants at the facility. Changes from the terms of approval may lead to prospective withdrawal of approval for OMAP coverage of transplants performed at the facility;

(c) Fully Capitated Health Plans (FCHPs) that contract with non-OMAP contracted facilities for Basic Health Care Package clients will develop and use appropriate transplant facility criteria to evaluate and monitor for quality services at the transplant facility;

(d) Transplant centers which have less than two years experience in solid organ transplant may be reimbursed, at OMAP's discretion, for allogeneic or autologous bone marrow transplants upon completion of two years of experience in bone marrow transplantation with patient survival rates equal to or exceeding those defined in section (5) of this rule;

(e) OMAP will discontinue the contract with a transplant center when the graft and/or survival rates fall below the standards indicated in this rule for a period of two consecutive years.

(6) Standards for Transplant Centers:

(a) Heart, heart-lung and lung transplants:

(A) Heart: One-year patient survival rate of at least 80%;

(B) Heart-Lung: One-year patient survival rate of at least 65%;

(C) Lung: One-year patient survival rate of at least 65%.

(b) Bone Marrow (autologous and allogeneic), peripheral stem cell (autologous and allogeneic) and cord blood (allogeneic) transplants: One-year patient survival rate of at least 50%;

(c) Liver transplants: One year patient survival rate of at least 70% and one year graft survival rate of at least 60%;

(d) Simultaneous pancreas-kidney and pancreas-after-kidney transplants: One year patient survival rate of at least 90% and one year graft survival rate of at least 60%;

(e) Kidney transplants: One year patient survival rate of at least 92% and one year graft survival rate of at least 85%.

(7) Selection of transplant centers by geographic location: If the services are available in the state of Oregon, reimbursement will not be made to out-of-state transplant centers. Out-of-state centers will be considered only if:

(a) The type of transplant required is not available in the state of Oregon and/or the type of transplant (for example, liver transplant) is available in the state of Oregon but the Oregon transplant center does not provide that type of transplant for all clients or all covered diagnoses, (e.g., pediatric transplants); and

(b) An in-state transplant center requests the out-of-state transplant referral; and

(c) An in-state transplant facility recommends transplantation based on in-state facility and OMAP criteria; or

(d) It would be cost effective as determined by OMAP. For example, if the transplant service is covered by the client's benefit package and the client's primary insurer (i.e., Medicare) requires the use of an out-of-state transplant center; or

(e) It is a contiguous, out-of-state transplant center that has a contract or special agreement for reimbursement with OMAP.

(8) Professional and other services will be covered according to administrative rules in the applicable provider guides.

(9) Reimbursement for covered transplants and follow-up care for transplant services is as follows:

(a) For transplants for fee-for-service or Primary Care Case Manager (PCCM) clients:

(A) Transplant facility services — by contract with OMAP;

(B) Professional services — at OMAP maximum allowable rates;

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(b) For emergency services, when no special agreement has been established, the rate will be:

- (A) 75% of standard inpatient billed charge; and
- (B) 50% of standard outpatient billed charge; or
- (C) The payment rate set by the Medical Assistance program of the state in which the center is located, whichever is lower.

(c) For clients enrolled in FCHPs, reimbursement for transplant services will be by agreement between the FCHP and the transplant center.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 37-1990, f. 11-6-90, cert. ef. 11-9-90; HR 17-1992, f. & cert. ef. 7-1-92; HR 4-1994, f. & cert. ef. 2-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; HR 17-1997, f. & cert. ef. 7-11-97; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05

410-141-0520

Prioritized List of Health Services

(1) The Prioritized List of Health Services (Prioritized List) is the Oregon Health Services Commission's (HSC) listing of physical health services with "expanded definitions" of Ancillary Services and Preventive Services and the HSC's practice guidelines, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HSC. The HSC maintains the most current list on the HSC website (http://www.ohpr.state.or.us/hsc/index_hsc.htm) or, for a hardcopy, contact the Office of Health Policy and Research. This rule incorporates by reference the October 1, 2003 Prioritized List with technical revisions effective April 1, 2004 and October 1, 2004, including expanded definitions and practice guidelines, and available on the HSC website.

(2) Certain Mental Health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Fully Capitated Health Plan (FCHP). These codes are identified on their own Mental Health (MH) section of the appropriate lines on the Prioritized List of Health Services.

(3) Chemical dependency (CD) services are covered for eligible OHP clients when provided by an FCHP or by a provider who has a letter of approval from the Office of Mental Health and Addiction Services and approval to bill Medicaid for CD services.

(4) The October 1, 2003 Prioritized List with technical revisions effective April 1, 2004 and October 1, 2004, is in effect and condition/treatment pairs through line 546 are funded.

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

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-04; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05

Adm. Order No.: OMAP 69-2004

Filed with Sec. of State: 9-15-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 7-1-04

Rules Amended: 410-141-0410

Subject: The Oregon Health Plan (OHP) Administrative rules govern payment for the Office of Medical Assistance Programs' (OMAP) payments for services provided to clients. OMAP revised 410-141-0410 to update criteria. With this amendment, OMAP removed private medical insurance as an exemption for enrollment and addressed pharmacy requirements for TPR billing following the elimination of "pay and chase."

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0410

Oregon Health Plan Primary Care Managers

(1) Primary Care Managers provide Primary Care Management Services under the Oregon Health Plan. Primary Care Managers provide

Primary Care Management Services as defined in OAR 410-141-0000, Definitions, for the following PCM Services:

(a) Preventive services, primary care services and specialty services, including those provided by physicians, nurse practitioners, physician assistants, naturopaths, chiropractors, podiatrists, Rural Health Clinics, Migrant and Community Health Clinics, federally qualified health centers, county health departments, Indian health service clinics, and tribal health clinics;

(b) Inpatient hospital services;

(c) Outpatient hospital services except laboratory, x-ray and maternity management services.

(2) Services which are not PCM Case Managed Services include, but are not limited to, the following:

(a) Anesthesiology services;

(b) Dental care services;

(c) Durable medical equipment;

(d) Family planning services;

(e) Immunizations, treatment for communicable diseases, and treatment for sexually transmitted diseases provided by a publicly funded clinic;

(f) Laboratory services;

(g) Maternity Case management services;

(h) Medical transportation services;

(i) Mental health and chemical dependency services;

(j) Pharmacy services;

(k) Physical therapy, occupational therapy, speech therapy, and audiology services;

(l) Preventive services for acquired immune deficiency syndrome and human immunodeficiency virus;

(m) Routine eye examinations and dispensing of vision materials;

(n) School-based services provided under an Individual Education Plan or an Individual Family Service Plan;

(o) Targeted case management services;

(p) Diagnostic Imaging.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 69-2004, f. 9-15-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 70-2004

Filed with Sec. of State: 9-15-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 7-1-04

Rules Amended: 410-125-0000, 410-125-0020, 410-125-0030, 410-125-0040, 410-125-0041, 410-125-0045, 410-125-0050, 410-125-0085, 410-125-0100, 410-125-0101, 410-125-0102, 410-125-0103, 410-125-0120, 410-125-0124, 410-125-0140, 410-125-0150, 410-125-0165, 410-125-0220, 410-125-0360, 410-125-0620, 410-125-0640, 410-125-0641, 410-125-0720, 410-125-2000, 410-125-2020, 410-125-2030, 410-125-2040, 410-125-2060, 410-125-2080

Rules Repealed: 410-125-0240, 410-125-0260, 410-125-0500, 410-125-0580, 410-125-0680, 410-125-0700

Subject: The Hospital Services administrative rules govern Office of Medical Assistance Programs' (OMAP) payments for services rendered to clients. OMAP will amended rules and repealed other rules (listed above) to take care of necessary housekeeping corrections. There are no substantive changes made to the rules. The content of the repealed rules is informational and/or instructional and is not considered to be necessary in rule. This information is found in OMAP's Hospital Services Supplemental Information that supports the Hospital Services administrative rules.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-125-0000

Determining When the Patient Has Medical Assistance

(1) The Medical Card gives information about the client's eligibility and benefits.

(2) Eligibility may change on a monthly basis. In some instances, eligibility will change during the month. Request to see the Medical Card or contact Automated Information System (AIS) each time services are provided in order to assure that the client is eligible. Contact information can be found in the Hospital Services Supplemental Information and on the Office of Medical Assistance Programs (OMAPs) web site.

Stat. Auth.: ORS 184.750, 184.770, 411 & 414

Stats. Implemented: ORS 409.010

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Hist.: AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0150; HR 42-1991, f. & cert. ef. 10-1-91; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0020

Retroactive Eligibility

(1) The Office of Medical Assistance Programs (OMAP) may pay for services provided to a person who does not have Medicaid coverage at the time services are provided if the person is made retroactively eligible for medical assistance and eligibility is extended back to the date services were provided. Contact the local branch concerning possible retroactive eligibility. In some cases, the date you contact the branch may be considered the date of application for eligibility.

(2) When clients are not eligible at the time services are provided, it is not possible to get prior authorization (PA) for service. However authorization for payment may be given after the service is provided under some circumstances. For additional PA information see OAR 410-125-0080 and 410-125-0047.

* See OAR 410-125-0102 for exception for Medically Needy Program clients.

Stat. Auth.: ORS 184.750, 184.770, 411 & 414

Stats. Implemented: ORS 409.010

Hist.: AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0160, 461-015-0230 & 461-015-0370; HR 42-1991, f. & cert. ef. 10-1-91; Renumbered from 410-125-0160 & 410-125-0440; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0030

Hospital Hold

(1) A hospital hold is a process which allows an in-state general hospital or an out-of-state contiguous general hospital to assist an individual who is admitted to the hospital for an inpatient hospital stay to secure a date of request when the individual is unable to apply for the Oregon Health Plan due to inpatient hospitalization.

(2) The Office of Medical Assistance Programs (OMAP) will accept hospital holds for inpatient stays. Hospitals must either submit an OMAP 3261 or a hospital generated form to OMAP within 24 hours of the admission time or the next working day. If a hospital uses its own form, the form must contain all the information found on the OMAP 3261.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 12-2000(Temp), f. 8-16-00, cert. ef. 8-17-00 thru 2-1-01; OMAP 39-2000, f. 11-14-00, cert. ef. 11-15-00; OMAP 12-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0040

Title XIX/Title XXI Clients

(1) Title XIX /Title XXI clients are eligible for medical assistance through programs established by the Federal government and for which the State receives federal assistance. Most Title XIX/Title XXI clients are eligible for the Plus or Standard Benefit packages. See the General rules (chapter 410 division 120) for more information on eligibility, benefit package, and covered services. Most Title XIX/Title XXI clients are enrolled in a FCHP, a MHO and a DCO. Some Title XIX clients are Medicare Beneficiaries.

(2) The Office of Medical Assistance Programs (OMAP) contracts with Prepaid Health Plans (PHPs): Fully Capitated Health Plans (FCHPs), Mental Health Organizations (MHOs), and Dental Care Organizations (DCOs), to provide certain medical, mental health and dental services on a prepaid basis.

(a) FCHPs provide a comprehensive package of health care benefits including hospital, physician, laboratory, X-ray and other diagnostic imaging, Medichex (EPSDT), pharmacy, physical therapy, speech-language therapy, occupational therapy, case management, and other services.

(b) MHOs provide mental health services. They can be fully capitated health plans, community mental health programs, private behavioral organizations or a combination thereof.

(c) DCOs provide dental care.

(d) If the client is enrolled in a Prepaid Health Plan, the name, address and phone number of the plan will appear on the Medical Care Identification. Always check with the plan listed if there is a question about coverage.

(e) PHP clients receive most of their primary care services through the PHP or upon referral from the PHP. In emergency situations, all services may be provided without prior authorization or referral. However, all claims for emergency services must be sent to the prepaid health plan. The hospital must work with the client's prepaid health plan to arrange for billing and payment for emergency and non-emergency services.

(f) OMAP will not reimburse for services that can be provided by the client's PHP and are included in the PHP's contract as covered services. Reimbursement is between the service provider and the PHP.

(3) Medicare Clients: Some Title XIX clients also have Medicare coverage. Most Medicare beneficiaries who are also eligible for Medicaid will have the full range of covered benefits for both Medicare and Medicaid. However, a few individuals who are Medicare eligible are eligible for only partial coverage through Medicaid. Refer to the General rules (chapter 410 division 120) for information on eligibility.

Stat. Auth.: ORS 184

Stats. Implemented: ORS 414.065

Hist.: AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0170 & 461-015-0180; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 42-1991, f. & cert. ef. 10-1-91; Renumbered from 410-125-0060; HR 22-1992, f. 7-31-92, cert. ef. 8-1-92; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0041

Non-Title XIX/XXI Clients

(1) State-funded clients are clients who have not qualified for medical assistance through a federal program but have access to medical benefits through state funded programs. There are two categories of clients who are in State-funded programs.

(2) Program GA clients: Program GA clients are children in foster care, in SCF custody, who are not eligible for Title XIX/Title XXI programs. They have access to the full range of Medicaid covered services, but payment for services provided to these children may be different from that for Title XIX/Title XXI clients. For additional reimbursement information see the Hospital Services Supplemental Information on the Office of Medical Assistance Programs web site.

(3) Program SF clients: Program SF clients are individuals who are receiving treatment in a state facility, such as Oregon State Hospital, or the Eastern Oregon Training Center. They sometimes need to receive hospital care outside the state facility. They are entitled to the full range of Medicaid covered hospital services. These individuals will be referred by the state facility for services. They do not have Medical Care Identification cards. They are not enrolled in a Fully Capitated Health Plan. The state will contact the hospital regarding billing instructions for these clients.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 42-1991, f. & cert. ef. 10-1-91; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 36-1993, f. & cert. ef. 12-1-93; HR 5-1994, f. & cert. ef. 2-1-94; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0045

Coverage and Limitations

In general, most medically appropriate services are covered. There are, however, some restrictions and limitations. Please refer to the General rules for information on general scope of coverage and limitations. Some of the limitations and restrictions that apply to hospital services are:

(1) Prior authorization (PA): Some services require prior authorization. The Plus and Standard Benefit Packages may have different PA requirements. For the Plus Benefit Package check OAR 410-125-0080. Detailed PA information for the Standard Benefit Package is on the web site (<http://www.dhs.state.or.us/healthplan/guides/hospital>).

(2) Non-Covered services:

(a) Services that are not medically appropriate, unproven medical efficacy or services that are the responsibility of another Division are not covered by OMAP;

(b) Service coverage is based on the Health Services Commission's Prioritized List of Services and the benefit package;

(c) See the General rules (chapter 410 division 120) and other program divisions in Chapter 410 for a list of not covered services. Further information on covered and non-covered services is found in the Revenue Code section in the Hospital Services Supplemental Information.

(3) Limitations on Hospital Benefit Days: Clients have no hospital benefit day limitations for treatment of covered services.

(4) Dental Services: Clients have dental/denturist services identified as covered on the Health Services Commission Prioritized List (OAR 410-141-520).

(5) Services provided outside of the hospital's licensed facilities; for example, in the client's home or in a nursing home, are not covered by OMAP as hospital services. The only exceptions to this are Maternity Case Management services and specific nursing or physician services provided during a ground or air ambulance transport.

(6) Dialysis Services require a written physician prescription. The prescription must indicate the ICD-9 diagnosis code and must be retained

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by the provider of dialysis services for the period of time specified in the General Rules.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 42-1991, f. & cert. ef. 10-1-91; HR 36-1993, f. & cert. ef. 12-1-93; HR 5-1994, f. & cert. ef. 2-1-94; HR 4-1995, f. & cert. ef. 3-1-95; HR 3-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0050

Client Copayments

Copayments may be required for certain services and/or benefit package(s). See OAR 410-120-1230 for specific details.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 77-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0085

Outpatient Services

(1) Outpatient services that may require prior authorization include (see the individual Program rules):

- (a) Physical Therapy (chapter 410 division 131);
- (b) Occupational Therapy (chapter 410 division 131);
- (c) Speech Therapy (chapter 410 division 129);
- (d) Audiology (chapter 410 division 129);
- (e) Hearing Aids (chapter 410 division 129);
- (f) Dental Procedures (chapter 410 division 123);
- (g) Drugs (chapter 410 division 121);
- (h) Apnea monitors, services, and supplies (Chapter 410 Division 131);
- (i) Home Parenteral/Enteral Therapy (Chapter 410 Division 148);
- (j) Durable Medical Equipment and Medical supplies (Chapter 410 Division 122);

(k) Certain hospital services.

(2) Outpatient Surgical procedures:

(a) FCHP Clients: Contact the client's FCHP (phone number is on the client's Medical Care Identification). The health plan may have different prior authorization requirements than OMAP. Some services are not covered under FCHP contracts and require prior authorization from OMAP's contracted Quality Improvement Organization (QIO), or the OMAP Dental Program coordinator.

(b) Medicare Clients enrolled in FCHPs: These services must be authorized by the plan even if Medicare is the primary payer. Without this authorization, the provider will not be paid beyond any Medicare payments (see also OAR 410-125-0103).

(c) For the Plus benefit package OMAP clients:

(A) Surgical procedures listed in OAR 410-125-0080 require prior authorization when performed in an outpatient or day surgery setting, unless they are urgent or emergent.

(B) Contact OMAP contracted QIO (unless indicated otherwise in OAR 410-125-0080).

(d) For the Standard benefit package OMAP client's outpatient surgical procedures: see OAR 410-125-0047 and the OHP Standard Population — Limited Hospital Benefit Package Code List (www.dhs.state.or.us/policy/healthplan/guides/hospital), or contact OMAP for a hardcopy, for coverage and prior authorization requirements.

(e) Out-of-State Services — Outpatient services provided by hospitals located less than 75 miles from the border of Oregon do not require prior authorization unless specified in these rules. All non-urgent or non-emergent services provided by hospitals located more than 75 miles from the border of Oregon require prior authorization. For clients enrolled in an FCHP, contact the plan for authorization. For clients not enrolled in a pre-paid health plan, contact the OMAP Medical Director's office.

Stat. Auth.: ORS Ch 409
Stats. Implemented: ORS 414.065
Hist.: HR 42-1991, f. & cert. ef. 10-1-91; HR 39-1992, f. 12-31-92, cert. ef. 1-1-93; HR 36-1993, f. & cert. ef. 12-1-93; HR 5-1994, f. & cert. ef. 2-1-94; HR 4-1995, f. & cert. ef. 3-1-95; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0100

Quality Improvement Organization (QIO) Procedures

(1) The Office of Medical Assistance Programs (OMAP) contracts with a Quality Improvement Organization (QIO) to provide prior authorization for selected services. The contracted QIO approves or denies a request for non-emergency inpatient services based on recommendations from the QIO's physician review findings. Requests to the QIO for non-emergency inpatient hospital admissions may be submitted in writing (mail, fax) or by phone.

(2) The QIO has three working days to respond to a completed request for prior authorization. A completed request must contain all the information necessary for the QIO staff to recommend approval, denial, or to require a second opinion.

(3) Criteria used by the QIO to screen requests are: the QIO developed surgical criteria, InterQual Adult and Pediatric Medical criteria, the QIO Specialty Criteria for Psychiatric and Inpatient Rehabilitation Services, CMS Generic Quality Screens, and criteria for services developed by OMAP in conjunction with the QIO.

(4) The QIO staff can require a client seek a second opinion from a contracted second opinion physician if the appropriate criteria has not been met, or if the physician has not submitted adequate information. If the requesting physician disagrees with second opinion physician, the QIO can require a client have a third opinion. The requesting physician may ask the QIO to review the case after additional information is provided or may ask for a third opinion.

(5) If the second and third opinion physicians determine that the requested procedure or treatment is not likely to improve the basic health status of the client, or is not medically necessary, appropriate, or reasonable, OMAP will deny the request for prior authorization of payment based upon the recommendation of the QIO.

(6) The requesting physician may appeal a decision to deny reimbursement to OMAP.

(7) No payment will be made to the hospital or to the attending physician providing services for an inpatient hospital stay if the service is not authorized.

Stat. Auth.: ORS 184.750, 184.770, 411 & 414
Stats. Implemented: ORS 414.065
Hist.: AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0200; HR 42-1991, f. & cert. ef. 10-1-91; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0101

Hospital-Based Nursing Facilities and Medicaid Swing Beds

To receive reimbursement for hospital-based long-term care nursing facility services or Medicaid swing beds, the hospital must enter into an agreement with Seniors and People with Disabilities (SPD). These services must be provided, billed, and accounted for separately from other hospital services and in accordance with SPD rules. Contact SPD client's branch office for further information.

Stat. Auth.: ORS 184.750, 184.770, 411 & 414
Stats. Implemented: ORS 414.065
Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 68-1981, f. 9-30-81, ef. 10-1-82; 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. 6-1-88; 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, 461-015-0036; 461-015-0065 & 461-015-0124; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0580; 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 410-125-0860; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0102

Medically Needy Clients

(1) The QIO can give prior authorization for non-emergency inpatient services for clients who are in the Medically Needy Program but have not yet met their spend-down. Only Medically Needy Program clients under age 21 and pregnant women have coverage for inpatient services if enrolled in the Medically Needy Program.

(2) Prior authorization cannot be granted for outpatient services, which require prior authorization. However, you may contact the OMAP Medical/ Dental Group once the client has been made eligible and request retroactive authorization.

Stat. Auth.: ORS 184.750 & 184.770
Stats. Implemented: ORS 414.065
Hist.: HR 42-1991, f. & cert. ef. 10-1-91; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0103

Medicare Clients

When Medicare is the primary payer, services provided in the inpatient or out patient setting do not require prior authorization. However, if OMAP is the primary payer because the service is not covered by

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Medicare; the prior authorization requirements listed in chapter 410 division 125 would apply.

Stat. Auth.: ORS 184.750 & 184.770

Stats. Implemented: ORS 414.065

Hist.: HR 42-1991, f. & cert. ef. 10-1-91; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0120

Transportation To and From Medical Services

(1) Transportation to and from medical services, including hospital services, is a covered service. However, all non-emergency transports require prior authorization in order for the transportation provider to be paid.

(2) The transportation must be the least expensive obtainable under existing conditions and appropriate to the client's needs.

(3) Contact the client's branch office for prior authorization for the transport or instruct the transportation provider to contact the branch.

(4) No prior authorization is required when the client's condition requires emergency transport.

(5) When a hospital sends a patient to another facility or provider during the course of an inpatient stay and the client is returned to the admitting hospital within 24 hours, the hospital must arrange for and pay for the transportation. See billing instructions contained in the Hospital Supplemental Information on the OMAP's website for additional information.

Stat. Auth.: ORS 184.750, 184.770, 411 & 414

Stats. Implemented: ORS 414.065

Hist.: AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0210; HR 42-1991, f. & cert. ef. 10-1-91; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0124

Retroactive Authorization

Retroactive authorization for payment can be granted after the service is provided only in the following circumstances:

(1) The person was not yet eligible for Medicaid/CHIP at the time the services were provided. Payment can be made if the services are covered Medicaid/CHIP services and the client's eligibility is extended back to the date the hospital provided services. See: the Hospital Services Supplemental Information on the OMAP's website for additional billing information.

(2) If another insurer denied the claim because the service is not covered by that insurer, and the hospital did not seek prior authorization because it had good reason to believe the service was covered by the insurer. Payment can be made by OMAP if the services are covered by Medicaid. See: the Hospital Services Supplemental Information on the OMAP's website for additional billing information.

Stat. Auth.: ORS Ch 184

Stats. Implemented: ORS 414.065

Hist.: HR 42-1991, f. & cert. ef. 10-1-91; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0140

Prior Authorization Does Not Guarantee Payment

(1) Prior authorization (PA) is valid for the date range approved only as long as the client remains eligible for services. For example, a client may become ineligible after the prior authorization has been granted but before the actual date of service, or a client's hospital benefit days may be used prior to the time the claim for the prior authorized service is submitted to the Office of Medical Assistance Programs (OMAP) for payment.

(2) All prior authorized treatment is subject to retrospective review. If the information provided to obtain prior authorization can not be validated in a retrospective review, payment will be denied or recovered.

(3) Hospitals should develop their own internal monitoring system to determine if the admitting physician has received prior authorization for the service from OMAP or OMAP's contracted Quality Improvement Organization (QIO).

(4) For the Plus Benefit Package PA information refer to the Prior Authorization Chart in the Hospital Services rules (OAR 410-125-0080-1).

(5) For the Standard Benefit Package PA information refer to the Standard Population – Limited Hospital Benefit Package Covered Code List at the website www.dhs.state.or.us/policy/healthplan/guides/hospital.

(6) Hospitals may also verify PA requirements by calling OMAP's Provider Services Unit or the RN Benefit Hotline (contact phone numbers are located on the OMAP website).

Stat. Auth.: ORS 184.750, 409.010, 409.110, 411 & 414

Stats. Implemented: ORS 414.065

Hist.: AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0220; HR 42-1991, f. & cert. ef. 10-1-91; HR 39-1992, f. 12-31-92, cert. ef. 1-1-93; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0150

Disproportionate Share (Effective for services rendered on or after January 1, 2001)

(1) The Disproportionate Share Hospital (DSH) payment is an additional reimbursement made to hospitals that serve a disproportionate share of low-income patients with special needs.

(2) A hospital's eligibility for DSH payments is determined at the beginning of each fiscal year. Hospitals that are not eligible under Criteria 1 may apply for eligibility at any time during the year under Criteria 2. A hospital may be determined eligible under Criteria 2 only after being determined ineligible under Criteria 1.

(3) Eligibility under Criteria 2 is effective from the beginning of the quarter in which eligibility is approved. Out-of-state hospitals are eligible for DSH payments if they have been designated by their state Title XIX Medicaid program as eligible for DSH payments within that state:

(a) Criteria 1:

(A) The ratio of total paid Medicaid inpatient (Title XIX, non-Medicare) days for hospital services (regardless of whether the services were furnished on a fee-for-service basis or through a managed care entity) to total inpatient days is one or more standard deviations above the mean for all Oregon hospital;

(B) Information on total inpatient days is taken from the most recent audited Medicare Cost Report. The total paid Medicaid inpatient days is based on OMAP records for the same cost reporting period;

(C) Information on total paid Medicaid days is taken from Office of Medical Assistance Program (OMAP) reports of paid claims for the same fiscal period as the Medicare Cost Report.

(b) Criteria 2:

(A) A Low Income Utilization Rate exceeding 25 percent;

(B) The low income utilization rate is the sum of percentages (3)(b)(B)(i) and (3)(b)(B)(ii) below:

(i) The Medicaid Percentage: The total of Medicaid inpatient and outpatient revenues paid to the hospital for hospital services (regardless of whether the services were furnished on a fee-for-service basis or through a managed care entity) plus any cash subsidies received directly from State and local governments in a cost reporting period. This amount is divided by the total amount of inpatient and outpatient revenues and cash subsidies of the hospital for patient services in the most recent Medicare cost reporting period. The result is expressed as a percentage;

(ii) The Charity Care Percentage: The total hospital charges for inpatient hospital services for charity care in the most recent Medicare cost reporting period, minus any cash subsidies received directly from State and local government in the same period, is divided by the total amount of the hospital's charges for inpatient services in the same period. The result is expressed as a percentage;

(iii) Charity care is provided to individuals who have no source of payment, including third party and personal resources.

(C) Charity care shall not include deductions from revenues or the amount by which inpatient charges are reduced due to contractual allowances and discounts to other third party payers, such as FCHPs, Medicare, Medicaid, etc;

(D) The information used to calculate the Low Income Utilization rate is taken from the following sources:

(i) The most recent Medicare Cost Reports;

(ii) OMAP records of payments made during the same reporting period;

(iii) Hospital provided financial statements, prepared and certified for accuracy by a licensed public accounting firm for the same reporting period;

(iv) Hospital provided official records from state and county agencies of any cash subsidies paid to the hospital during the same reporting period;

(v) Any other information that OMAP, working in conjunction with representatives of Oregon hospitals, determines is necessary to establish eligibility.

(E) OMAP determines within 30 days of receipt of all required information if a hospital is eligible under the Low Income Utilization rate criteria.

(c) Other Disproportionate Share Payment Calculations:

(A) To receive DSH payments, a hospital must have at least two obstetricians with staff privileges at the hospital who have agreed to provide non-emergency obstetrical services to Medicaid patients. For hospitals in a rural area (outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital that performs non-emergency obstetric procedures. This requirement does not apply to a

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hospital in which a majority of inpatients are under 18 years of age, or a hospital that had discontinued or did not offer non-emergency obstetric services as of December 21, 1987. No hospital may qualify for disproportionate share payments, unless the hospital has, at a minimum, a Medicaid utilization rate of 1 percent. The Medicaid utilization rate is the ratio of total paid Medicaid (Title XIX, non-Medicare) days to total inpatient days. Newborn days, days in specialized wards, and administratively necessary days are included. Days attributable to individuals eligible for Medicaid in another State are also accounted for;

(B) Information on total inpatient days is taken from the most recent Medicare Cost Report.

(d) Disproportionate Share Payment Calculations:

(A) Eligibility Under Criteria 1 — The quarterly DSH payment to hospitals eligible under Criteria 1 is the sum of DRG weights for paid Title XIX non-Medicare claims for the quarter multiplied by a percentage of the hospital-specific Unit Value; this determines the hospital's DSH payment for the current quarter. The Unit Value used for eligible Type A, Type B, and Critical Access Hospitals is set at the same rate as for out-of-state hospitals. The calculation is as follows:

(i) For eligible hospitals more than one standard deviation and less than two standard deviations above the mean, the disproportionate share percentage is 5%. The total of all relative weights is multiplied by the hospital's unit value. This amount is multiplied by 5% to determine the DSH payment;

(ii) For eligible hospitals more than two and less than three standard deviations above the mean, the percentage is 10%. The total of all relative weights is multiplied by the hospital's unit value. The amount is multiplied by 0.10 to determine the DSH payment.

(iii) For eligible hospitals more than three standard deviations above the mean, the percentage is 25%. The total of all relative weights is multiplied by the hospital's unit value. This amount is multiplied by 0.25 to determine the DSH payment.

(B) Eligibility under Criteria 2 — For hospitals eligible under Criteria 2 (Low Income Utilization Rate), the payment is the sum of DRG weights for claims paid by OMAP in the quarter, multiplied by the hospital's disproportionate share adjustment percentage established under Section 1886(d)(5)(F)(iv) of the Social Security Act multiplied by the hospital's unit value;

(C) For out-of-state hospitals, the quarterly DSH payment is 5% of the out-of-state unit value multiplied by the sum of the Oregon Medicaid DRG weights for the quarter. Out-of-state hospitals that have entered into agreements with OMAP for payment are reimbursed according to the terms of the agreement or contract.

(e) Additional Disproportionate Share Adjustments:

(A) Public academic medical centers that meet the following eligibility standards shall be deemed eligible for additional DSH payments up to 100% of their cost for serving Medicaid fee for service clients and indigent and uninsured patients:

(i) The hospital must have at least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals who are entitled to medical assistance for such services; and

(ii) The hospital must be located within the State of Oregon (border hospitals are excluded); and

(iii) The hospital provides a major medical teaching program, defined as a hospital with more than 200 residents or interns.

(B) 100% of the costs for hospitals qualifying for this DSH payment will be determined from the following sources:

(i) The most recent Medicare Cost Reports; or

(ii) OMAP's record of payments made during the same reporting period; or

(iii) Hospital provided official records from state and county agencies of any cash subsidies paid to the hospital during the same reporting period; or

(iv) Any information which OMAP, working in conjunction with representatives of Oregon hospitals, determines necessary to establish cost.

(f) Disproportionate Share Payment Schedule:

(A) Hospitals qualifying for DSH payments under section (3)(d) will receive quarterly payments based on claims paid during the preceding quarter. Hospitals that were eligible during one fiscal year but are not eligible for disproportionate share status during the next fiscal year will receive DSH payments based on claims paid in the quarter in which they were eligible. Hospitals qualifying for DSH payments under section (3)(c) will receive quarterly payments of 25 percent of the amount determined under this section;

(B) Effective October 1, 1994, and in accordance with the Omnibus Budget Reconciliation Act of 1993, DSH payments to hospitals will not exceed 100 percent of the "basic limit" which is:

(i) The inpatient and outpatient costs for services to Medicaid patients, less the amounts paid by the State under the non-DSH payment provisions of the State plan, plus;

(ii) The inpatient and outpatient costs for services to uninsured indigent patients, less any payments for such services. An uninsured indigent patient is defined as an individual who has no other resources to cover the costs of services delivered. The costs attributable to uninsured patients are determined through disclosures in the Medicare (HCFA-2552) cost report and state records on indigent care.

(C) The State has a contingency plan to assure that disproportionate share hospital payments will not exceed the "State Disproportionate Share Hospital Allotment." A reduction in payments in proportion to payments received will be effected to meet the requirements of section 1923(f) of the Social Security Act. DSH payments are made quarterly. Before payments are made for the last quarter of the Federal fiscal year, payments for the first three quarters and the anticipated payment for the last quarter are cumulatively compared to the "State Disproportionate Share Hospital Allotment."

(i) If the Allotment will be exceeded, the DSH payments for the last quarter will be adjusted proportionately for each hospital qualifying for payments under section (3)(e).

(ii) If the allotment will still be exceeded after this adjustment, DSH payments to out-of-state hospitals will be adjusted in proportion to DSH payments received during the previous three quarters.

(iii) If this second adjustment still results in the allotment being exceeded, hospitals qualifying for payments under section (3)(d) (Criteria 1 and 2) will be adjusted by applying each hospital's proportional share of payments during the previous three quarters to total DSH payments to all hospitals for that period.

(D) Similar monitoring, using a predetermined limit based on the most recent audited costs, and including the execution of appropriate adjustments to DSH payments are in effect to meet the hospital specific limit provisions detailed in section 1923(g) of the Social Security Act.

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 461-015-0006 & 461-015-0124; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0620; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, 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 410-125-0940; HR 36-1993, f. & cert. ef. 12-1-93; HR 24-1995, f. 12-29-95, cert. ef. 1-1-96; OMAP 6-1998(Temp), f. & cert. ef. 2-11-98 thru 7-15-98; OMAP 23-1998, f. & cert. ef. 7-15-98; OMAP 35-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0165

Transfers and Reimbursement

(1) When a patient is transferred between hospitals, the transferring hospital is paid on the basis of the number of inpatient days spent at the transferring hospital multiplied by the Per Diem Inter-Hospital Transfer Payment rate.

(2) The Per Diem Inter-Hospital Transfer Payment rate = the DRG payment divided by the geometric mean length of stay for the DRG. The geometric mean length of stay is reported in the DRG tables on the OMAP website.

(3) Payment to the transferring hospital will not exceed the DRG payment.

(4) The final discharging hospital receives the full DRG payment.

Stat. Auth.: ORS 409

Stats. Implemented: 414.065

Hist.: AFS 44-1985, f. & ef. 7-1-85; AFS 46-1987, f. & ef. 10-1-87; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0135; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0390; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 42-1991, f. & cert. ef. 10-1-91; Renumbered from 410-125-0480; HR 53-1991, f. & cert. ef. 11-18-91; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

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410-125-0220

Services Billed on the UB-92 and Other Claim Forms

(1) All inpatient and outpatient services provided by the hospital or hospital employees, unless otherwise specified below, are billed on the UB-92.

(2) Professional staff and other providers: Services provided by other providers or professional staff with whom the hospital has a contract or agreement regarding provision of services and whom the hospital reimburses a salary or a fee are billed on the UB-92 along with other inpatient or outpatient charges if such costs are reported on the hospital's Medicare Cost Report as a hospital cost.

(3) Residents and medical students: Professional services provided by residents or medical students serving in the hospital as residents or students at the time services are provided are reimbursed by OMAP through direct medical education or indirect medical education payments and may not be billed on the UB-92.

(4) Diagnostic and similar services provided by another provider or facility outside the hospital: When diagnostic or short-term services are provided to an inpatient by another provider or facility because the admitting hospital does not have the equipment or facilities to provide all services required and the patient is returned within 24 hours to the admitting hospital, the admitting hospital should add the following charges to the inpatient UB-92 claim:

(a) Charges from the other provider or hospital under the appropriate Revenue Code. The admitting hospital is responsible for reimbursing the other provider or hospital. Office of Medical Assistance Programs (OMAP) will not reimburse the other provider or hospital; and

(b) Charges for transportation to the other facility or provider. These must be billed under Revenue Code 542. No prior authorization of the transport is required. The hospital will arrange for the transport and pay the transportation provider for the transport. OMAP will not reimburse the transportation provider. This is the only instance in which transportation charges can be billed on the UB-92.

(5) Orthotics, prosthetics, durable medical equipment and implants:

(a) When a provider of orthotic or prosthetic devices provides services or materials to an inpatient through an agreement or arrangement with the hospital, the cost of those services will be billed by the hospital on the UB-92, along with all other inpatient services. The hospital is responsible for reimbursing the provider. Office of Medical Assistance Programs (OMAP) will not reimburse the provider;

(b) Wheelchairs provided to the client for the client's use after discharge from the hospital may be billed separately by the Durable Medical Equipment supplier or by the hospital if the hospital is the supplier.

(6) Pharmaceutical and Home Parenteral/ Enteral Services: All hospital pharmaceutical charges must be billed on a UB-92, except home parenteral and enteral services and medications provided to patients who are in nursing homes:

(a) Home parenteral and enteral services, including home hyperalimentation, home IV Antibiotics, home IV analgesics, home enteral therapy, home IV chemotherapy, home IV hydrational fluids, and other home IV drugs, require prior authorization and must be billed on the Pharmacy Invoice Form in accordance with the rules in the Home Enteral/Parenteral rules (chapter 410 division 148);

(b) Medications provided to clients who are in nursing homes must be billed on the Pharmacy Invoice Form in accordance with the rules in the Pharmaceutical Services rules (Chapter 410 Division 121).

(7) Dental services: Dental services provided by hospitals are billed on the UB-92. Reimbursement for dental services provided by hospitals is restricted to those identified in the Dental Services rules (chapter 410 division 123 as covered services).

(8) End-stage renal dialysis facilities: Hospitals providing end-stage renal dialysis and free-standing end-stage renal dialysis facilities will bill on the UB-92 as described in these rules and instructions and will be reimbursed at the hospital's interim rate.

(9) Maternity case management:

(a) Hospital clinics may serve as maternity case managers for pregnant clients. The Medical-Surgical rules (chapter 410 division 130) contains information on the scope of services, definition of program terms, procedure codes, and provider qualifications. These services are billed by hospitals on the UB-92; and

(b) Providers must bill using Revenue Code 569.

(10) Home health care services. Hospitals that operate home health care services must obtain a separate provider number and bill for these services in accordance with the Home Health Care Services rules (Chapter 410 Division 127).

(11) Hospital operated air and ground ambulance services. A hospital which operates an air or ground ambulance service may apply to OMAP for a provider number as an air or ground ambulance provider. If costs for staff and equipment are reported on the Medicare Cost Report, these costs must be identifiable. OMAP will remove these costs from the Medicare Cost Report in calculating the hospital's cost-to-charge ratio for outpatient services. These services are billed on the HCFA-1500 in accordance with the rules and restrictions contained in the Medical Transportation rules (Chapter 410 Division 136).

(12) Supervising physicians providing services in a teaching setting:

(a) Services provided on an inpatient or outpatient basis by physicians who are on the faculty of teaching hospitals may be billed on the UB-92 with other inpatient or outpatient charges only when:

(A) The physician is serving as an employee of the hospital, or receives reimbursement from the hospital for provision of services, during the period of time when services are provided; and

(B) The hospital does not report these services as a direct medical education cost on the Medicare and OMAP cost report.

(b) The services of supervising faculty physicians are not to be billed to OMAP on either the CMS-1500 or the UB-92 if the hospital elects to report the cost of these professional services as a direct medical education cost on the Medicare and OMAP cost report; and

(c) The services of supervising faculty physicians are billed on the HCFA-1500 if the physician is serving in a private capacity during the period of time when services are provided, i.e., the physician is receiving no reimbursement from the hospital for the period of time during which services are provided. Refer to the Medical-Surgical Services rules (chapter 410 division 130) or additional information on billing on the CMS-1500.

[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 30-1982, f. 4-26-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 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 48-1984(Temp), f. 11-30-84, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85; AFS 44-1985, f. & ef. 7-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 46-1987, f. & ef. 10-1-87; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0055, 461-015-0130, 461-015-0135; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0260, 461-015-0290, 461-015-0300, 461-015-0310, 461-015-0320, 461-015-0420, 461-015-0430; HR 42-1991, f. & cert. ef. 10-1-91; Renumbered from 410-125-0280, 410-125-0300, 410-125-0320, 410-125-0340, 410-125-540 & 410-125-560; HR 39-1992, f. 12-31-92, cert. ef. 1-1-93; HR 36-1993, f. & cert. ef. 12-1-93; HR 5-1994, f. & cert. ef. 2-1-94; HR 4-1995, f. & cert. ef. 3-1-95; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0360

Definitions and Billing Requirements

(1) Total days on an inpatient claim must equal the number of accommodation days. Do not count the day of discharge when calculating the number of accommodation days.

(2) Inpatient services are services to patients who typically are admitted to the hospital before midnight and listed on the following day's census, with the following exceptions:

(a) A patient admitted and transferred to another acute care hospital on the same day is considered an inpatient;

(b) A patient who expires on the day of admission is an inpatient; and

(c) Births.

(3) Outpatient services:

(a) Outpatient services are services to patients who are treated and released the same day;

(b) Outpatient services also include services provided prior to midnight and continuing into the next day if the patient was admitted for ambulatory surgery, admitted to a birthing center, a treatment or observation room, or a short-term stay bed;

(c) Outpatient observation services are services provided by a hospital, including the use of a bed and periodic monitoring by hospital nursing or other staff for the purpose of evaluation of a patient's medical condition. A maximum of 48 hours of outpatient observation will be reimbursed. An outpatient observation stay that exceeds 48 hours must be billed as inpatient; and

(d) Outpatient observation services do not include the following:

(A) Services provided for the convenience of the patient, patient's family or physician but which are not medically necessary;

(B) Standard recovery period; and

(C) Routine preparation services and recovery for diagnostic services provided in a hospital outpatient department.

(4) Outpatient and inpatient services provided on the same day: If a patient receives services in the emergency room or in any outpatient setting

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and is admitted to an acute care bed in the same hospital on the same day, combine the emergency room and other outpatient charges related to that admission with the inpatient charges. Bill on a single UB-92 for both inpatient and outpatient services provided under these circumstances:

(a) If on the day of discharge, the client uses outpatient services at the same hospital, these must be billed on the UB-92 along with other inpatient charges, regardless of the type of service provided or the diagnosis of the client. Prescription medications provided to a patient being discharged from the hospital may be billed separately as outpatient Take Home Drugs if the patient receives more than a three-day supply.

(b) Inpatient and outpatient services provided to a client on the same day by two different hospitals will be reimbursed separately. Each hospital will bill for the services provided by that hospital.

(5) Outpatient procedures which result in an inpatient admission: If, during the course of an outpatient procedure, an emergency develops requiring an inpatient stay, place a "1" in Form Locator 19 (Type of Admission). The principal diagnosis should be the condition or complication that caused the admission. Bill charges for the outpatient and inpatient services together.

[ED. NOTE: Forms 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 30-1982, f. 4-26-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 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 48-1984(Temp), f. 11-30-84, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 46-1987, f. & ef. 10-1-87; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0055; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0330, 461-015-0340 & 461-015-0380; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 42-1991, f. & cert. ef. 10-1-91; Renumbered from 410-125-0380 & 410-125-0460; HR 22-1993 (Temp), f. & cert. ef. 9-1-93; HR 36-1993, f. & cert. ef. 12-1-93; HR 4-1995, f. & cert. ef. 3-1-95; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0620

Special Reports and Exams and Medical Records

Refer to the OMAP Administrative Exams and Reports Billing rules (chapter 410 division 150) for information and instructions on billing for administrative exams and reports.

[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 60-1982, f. & ef. 7-1-82; AFS 46-1987, f. & ef. 10-1-87; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0040; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0460; HR 42-1991, f. & cert. ef. 10-1-91; HR 39-1992, f. 12-31-92, cert. ef. 1-1-93; HR 36-1993, f. & cert. ef. 12-1-93; HR 3-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0640

Third Party Payers — Other Resources, Client Responsibility and Liability

(1) Medicare: Do not send claims to OMAP until they have been billed to and adjudicated by Medicare:

(a) Exception: Take home drugs and other services, which are not covered by Medicare, may be billed directly to OMAP without billing Medicare first;

(b) See: billing instructions in the Hospital Services Supplemental Information on OMAP's website for additional information on billing Medicare claims.

(2) Other Insurance. With the exception of services described in the General Rules, bill all other insurance first before billing OMAP. Report the payments made by the other insurers.

(3) Motor vehicle accident fund:

(a) Enter 01 (Auto Accident) in the Occurrence Code Block (Form Locator 32 – 35) and give the date of the accident;

(b) For all other clients, bill all other resources before billing OMAP. Do not bill the Motor Vehicle Accident Fund.

(4) Employment Related Injuries: Enter 04 (Employment Related Accident) in Form Locators 32 – 35 and give the date of occurrence.

(5) Liability:

(a) Liability refers to insurance that provides payment based on legal liability for injuries or illness or damages to property. It includes, but is not limited to, automobile liability insurance, uninsured and underinsured motorist insurance, homeowners' liability insurance, malpractice insurance, product liability insurance and general casualty insurance. It also includes payments under state "wrongful death" statutes that provide payment for medical damages;

(b) The provider may bill the insurer for liability prior to billing OMAP. The provider may not bill both OMAP and the insurer;

(c) The provider may bill OMAP after receiving a payment denial from the insurer; however, the OMAP billing must be within 12 months of date of service. Payment accepted from OMAP is payment in full;

(d) The provider may bill OMAP without billing the liability insurer. However, payment accepted from OMAP is payment in full. The payment made by OMAP may not later be returned in order to pursue payment from the liability insurer. When the provider bills OMAP, the provider agrees not to place any lien against the client's liability settlement;

(e) The provider has 12 months from the date of service to bill OMAP. No payment will be made by OMAP under any circumstances once the one year limit has passed if no billing has been received within that time.

(6) Adoption Agreements. Adopting parents and/or an adoption agency may be considered a prior resource. In some instances, OMAP makes reimbursement to hospitals and other providers for services provided to a mother whose baby is to be adopted. OMAP may also make reimbursement for services provided to the infant. Some adoption agreements, however, stipulate that the adoptive parents will make payment for part or all of the medical costs for the mother and/or the child. In these instances, the adoptive parent(s) and/or agency are a third party resource and should be billed before billing OMAP for this service.

(7) Veteran's Administration Benefits:

(a) Some clients have limited benefits through the Veterans' Administration. Hospitals must bill the Veterans' Administration for VA covered services before billing OMAP;

(b) The Veterans' Administration requires notification within 72 hours of an emergency admission to a non-VA hospital.

(8) Trust Funds. Some individuals will have trust funds that will pay for medical expenses. Occasionally a special trust fund will be set up to pay for extraordinary medical expenses, such as a transplant. These, and other trusts which pay medical expenses, are considered a prior resource. Bill the trust fund prior to billing OMAP for services that are covered by the trust fund.

(9) Billing the Client. A provider may bill the client or any financially responsible relative or representative of that individual only as allowed in OAR 410-120-1280.

(10) The hospital may not bill the client under the following circumstances:

(a) For services which are covered by OMAP;

(b) For services for which OMAP has made payment;

(c) For services billed to OMAP for which no payment is made because third party reimbursement exceeds the OMAP maximum allowed amount;

(d) For any deductible, coinsurance or co-pay amount;

(e) For services for which OMAP has denied payment to the hospital as a result of one of the following:

(A) The hospital failed to supply the correct information to OMAP to allow processing of the claim in a timely manner as described in these rules and the General Rules;

(B) The hospital failed to obtain prior authorization as described in these rules;

(C) The service provided by the hospital was determined by or OMAP not to be medically appropriate; or

(D) The service provided by the hospital was determined by the QIO not to be medically appropriate, necessary, or reasonable.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 60-1982, f. & ef. 7-1-82; AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 46-1987, f. & ef. 10-1-87; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0080 & 461-015-0126; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0470 & 461-015-0480; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 42-1991, f. & cert. ef. 10-1-91; Renumbered from 410-125-0660; HR 22-1992, f. 7-31-92, cert. ef. 8-1-92; HR 39-1992, f. 12-31-92, cert. ef. 1-1-93; HR 36-1993, f. & cert. ef. 12-1-93; HR 5-1994, f. & cert. ef. 2-1-94; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0641

Medicare

(1) A Medicare/Medicaid claim can automatically be sent to OMAP after adjudicated by Medicare. This saves the effort of a second submission, as well as ensuring a more accurate and speedier payment by the Office of Medical Assistance Programs (OMAP). Medicare will automatically transmit the correct Medicare payment, coinsurance, and deductible information to OMAP.

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(2) Hard copy billings sent to Medicare can also be automatically sent to OMAP. Refer to the Hospital Services Supplemental Information for specific billing instructions.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 42-1991, f. & cert. ef. 10-1-91; HR 36-1993, f. & cert. ef. 12-1-93; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-0720

Adjustment Requests

(1) Most overpayment and under-payments are resolved through the adjustment process. Only paid claims can be adjusted. If no payment was made, the claim must be submitted using a UB-92. All overpayments must be reported. Overpayments will be taken from future payments.

(2) Much of the information required on the Adjustment Request Form is printed on the Remittance Advice. Documentation may be submitted to support the request. Attach a copy of the claim and Remittance Advice. Adjustment requests must be submitted in writing to Office of Medical Assistance Programs.

(3) Complete adjustment instructions can be found in Hospital Services Supplemental Information.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.750, 184.770, Ch. 411 & 414
Stats. Implemented: ORS 414.065
Hist.: AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; HR 21 1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0510; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 42-1991, f. & cert. ef. 10-1-91; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-2000

Access to Records

(1) Providers must furnish requested medical and financial documentation within 30 calendar days from the date of request. Failure to comply within 30 calendar days will result in recovery of payment(s) made by Office of Medical Assistance Programs (OMAP) for services being reviewed.

(2) OMAP contracts with a Quality Improvement Organization (QIO) to conduct post payment review of admissions and claim records. The QIO may request records from a hospital or may request access to records while at the hospital. The QIO has the same right to medical information as OMAP.

(3) The hospital has 30 days to provide OMAP or the QIO with copies of records. In some cases, there may be a more urgent need to review records.

(4) The Medical Payment Recovery Unit (MPRU) conducts recovery activities for OMAP involving third party liability resources. MPRU may request records from the hospital. This unit has the same right to medical and financial information as OMAP.

Stat. Auth.: ORS 184.750, 184.770, 411 & 414
Stats. Implemented: ORS 414.065
Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 60-1982, f. & ef. 7-1-82; AFS 46-1987, f. & ef. 10-1-87; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0040; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0690; HR 42-1991, f. & cert. ef. 10-1-91; OMAP 11-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-2020

Post Payment Review

(1) All services provided by a hospital in the inpatient or outpatient setting are subject to post-payment review by Office of Medical Assistance Programs (OMAP) or the contracted Quality Improvement Organization (QIO). Both emergency and non-emergency services may be reviewed. Claims for services may be reviewed to determine:

(a) The medical necessity of the admission or outpatient services provided;

- (b) The appropriateness of the length of stay;
- (c) The appropriateness of the plan of care;
- (d) The accuracy of the ICD-9 coding and DRG assignment;
- (e) The appropriateness of the setting selected for service delivery;
- (f) The quality of care of the services provided;
- (g) The nature of any service coded as emergent;
- (h) The accuracy of the billing;
- (i) The care furnished is appropriately documented.

(2) If the QIO determines that a hospital service was not within OMAP coverage parameters, the hospital and attending physician will be notified in writing and will have twenty days to provide additional written documentation to support the medical necessity of the admission and/or procedure(s).

(3) If the recommendation for denial is upheld by the reviewing contracted QIO, the hospital and/or practitioner may request a reconsideration of the denial within 30 days of the receipt of the denial.

(4) If the reconsidered decision is to uphold the denial, payment to all providers of service will be recovered.

(5) The hospital and/or practitioner may appeal any final decision through the OMAP administrative appeals process.

(6) No payment will be made by OMAP for inpatient services if the QIO or Medicare has determined the service is not medically necessary and/or appropriate.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 1-1984, f. & ef. 1-9-84; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 46-1987, f. & ef. 10-1-87; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0090; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0700; HR 42-1991, f. & cert. ef. 10-1-91; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-2030

Recovery of Payments

(1) Payments made by OMAP will be recovered for:

(a) Services identified by the provider as emergent or urgent, but determined on retrospective review not to have been emergent or urgent. Payment will also be recovered from the admitting and/or performing physician;

(b) Services determined by OMAP's contracted Quality Improvement Organization (QIO) that the readmission to the same hospital was the result of a premature discharge;

(c) Services were billed but not provided;

(d) Services provided at an inappropriate level of care, which includes the setting selected for service delivery;

(e) OMAP non-covered services;

(f) Services, which were covered by a third party payer or other resources; or

(g) Services denied by a third party payer as not medically necessary.

(2) Payment to a physician and other providers of service for inpatient non-urgent or non-emergent services requiring prior authorization is subject to recovery by OMAP if recovery is made from the hospital.

(3) If review by OMAP results in a denial, the hospital may appeal any final decision through the OMAP Administrative Appeals process. See Administrative Hearings (chapter 410 division 120).

(4) As part of the Utilization Review Program, OMAP and/or its Contractor will develop and maintain a data system profiling the patterns of practice of institutions and practitioners. As a result of these profiles, OMAP may initiate focused reviews. Any practitioner or hospital subject to a focused review will be notified in advance of the review.

(5) All providers having a pattern of inappropriate utilization or inappropriate quality of care according to the current standards of the medical community and/or abuse of OMAP rules or procedures, will be subject to corrective action. Actions taken will be those determined appropriate by OMAP, the QIO, or sanctions established under the Oregon Revised Statutes (ORS) or Oregon Administrative Rule and/or referral to a State or Federal authority, licensing body or regulatory agency for appropriate action.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 42-1991, f. & cert. ef. 10-1-91; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-2040

Provider Appeals — Administrative Review

(1) A provider may request an administrative review regarding the decision(s) by the Office of Medical Assistance Programs (OMAP) that affect the services they provide or have provided. See General Rules (chapter 410 division 120).

(2) A requests for an Administrative Review must be submitted in writing to the Medicaid Administrator, 500 Summer Street NE, E49, Salem, OR 97301-1079.

(3) The request must be received within 30 days of the date of notification of the payment decision or notification of change in reimbursement.

Stat. Auth.: ORS 184.750, 184.770, 411 & 414
Stats. Implemented: ORS 414.065
Hist.: AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0710; HR 42-1991, f. & cert. ef. 10-1-91; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-2060

Provider Appeals — Hearing Request

If the hospital disagrees with the Office of Medical Assistance Programs (OMAP) calculation of reasonable costs for outpatient services or

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inpatient services, the outpatient interim rate, DRG based prospective payment for inpatient services, the calculation of the hospital's unit value, or any other hospital reimbursement methodologies or payments, a written request for an appeal may be made to OMAP in accordance with the General rules (chapter 410 division 120). A hearing request must be received not later than 30 days following the date of the notice of action. At the time of appeal, the hospital must submit any data the hospital wants OMAP to consider in support of the appeal. The appeal will be conducted as described in General rules.

Stat. Auth.: ORS 184.750, 184.770 & 414
Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(4); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 49-1989 (Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; Renumbered from 461-015-0123; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0720; HR 42-1991, f. & cert. ef. 10-1-91; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

410-125-2080

Administrative Errors

(1) If a hospital has been given incorrect information by Office of Medical Assistance Programs, Children, Adults, and Families Programs, or Seniors and People with Disabilities/staff, and services were provided on the basis of this information, and payment has been denied as a result, the hospital may submit a request for payment as an Administrative Error.

(2) Include the following:

- An explanation of the problem;
- Any documents supporting the request for payment;
- A copy of any Remittance Advice printouts received on this claim;
- A copy of the original claim.

(3) Send the request: Office of Medical Assistance Programs, Provider Inquiry, Administrative Errors, 500 Summer Street NE, E-44, Salem, OR 97301-1077.

Stat. Auth.: ORS 184.750, 184.770, 411 & 414
Stats. Implemented: ORS 414.065

Hist.: AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0730; HR 42-1991, f. & cert. ef. 10-1-91; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04

Adm. Order No.: OMAP 71-2004

Filed with Sec. of State: 9-15-2004

Certified to be Effective: 10-1-04

Notice Publication Date: 7-1-04

Rules Amended: 410-121-0040

Subject: The Pharmaceutical Services program Administrative Rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. OMAP revised 410-121-0040 to delete prior authorization (PA) on over-the-counter drugs and add brand name PA to this rule.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining prior authorization for the following drugs and products:

- Isotretinoin (Accutane) and Retinoic Acid (Retin A);
- Growth hormone;
- Oral Nutritional supplements;
- Antihistamines (selected);
- Nasal inhalers (selected);
- Antifungals (selected);
- Weight reduction drugs;
- Excessive daily doses;
- Excessive drug therapy duration;
- Coal tar preparations;
- Topical antibiotics;
- Topical antivirals (selected);
- Topical testosterone;
- Dronabinol (marinol);
- Drugs with cosmetic indications;
- (A) Emollients;
- (B) Dermatologicals;
- (C) Hair growth products;
- (p) 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).

(2) Brand name drugs that have two or more generically equivalent products available.

(3) 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

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

Adm. Order No.: MHD 3-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 9-10-04

Notice Publication Date: 10-1-03

Rules Repealed: 309-041-0325, 309-041-0330, 309-041-0335

Subject: These rules are repealed in conjunction with the adoption of rules on January 1, 2004 for Chapter 411, Division 320, consolidating the rules governing county operations of case management and crisis/diversion services. A Notice for this change was filed in the October 2003 Bulletin and the hearing was held on 10/22/03 at 1:30 p.m. but the Certificate for Permanent Repeal was never filed.

Rules Coordinator: Lynda Dyer—(503) 945-6398

Adm. Order No.: MHD 4-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 9-10-04

Notice Publication Date: 11-1-03

Rules Repealed: 309-041-1110, 309-041-1115, 309-041-1120, 309-041-1125, 309-041-1130, 309-041-1135, 309-041-1138, 309-041-1140, 309-041-1142, 309-041-1145, 309-041-1150, 309-041-1165, 309-041-1170

Subject: The rules for Self-Directed Support for Individuals with Developmental Disabilities and Their Families, OAR 309-041-1110 through 309-041-1170, are being repealed following the permanent adoption to Comprehensive In-Home Support for Adults with Developmental Disabilities rules, OAR 411-330-0010 through 411-330-0170 on December 28, 2003. A Notice for this change was filed the November 2003 Bulletin and the hearing was held on 11/21/03 at 9 a.m. but the Certificate for Permanent Repeal was never filed.

Rules Coordinator: Lynda Dyer—(503) 945-6398

Adm. Order No.: MHD 5-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 9-10-04

Notice Publication Date: 11-1-03

Rules Repealed: 309-041-2100

Subject: This rulemaking action follows permanent adoption of the larger body of rules titled, "Family Support Services for Children with Developmental Disabilities" filed with the Secretary of State on December 28, 2003. These amendments were taken to: (a) establish the rules in Chapter 411, Division 305; (b) make adjustments to the Family Support program based on reduced funding allocations required by the Department's approved 2003-2005 operating budget; (c) reflect service eligibility, service descriptions, and other participation requirements acceptable under the Community Based Waiver #0117.90.R2. A Notice for this change was filed in the November 2003 Bulletin and the hearing was held on 11/26/2003 at

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1pm but the Certificate for Permanent Repeal of this particular rule number was never filed.

Rules Coordinator: Lynda Dyer—(503) 945-6398

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

Adm. Order No.: PH 27-2004

Filed with Sec. of State: 8-19-2004

Certified to be Effective: 8-19-04

Notice Publication Date: 7-1-04

Rules Adopted: 333-015-0065, 333-015-0070, 333-015-0075, 333-015-0080, 333-015-0085, 333-015-0090

Rules Amended: 333-015-0025, 333-015-0030, 333-015-0034, 333-015-0035, 333-015-0040, 333-015-0045, 333-015-0050, 333-015-0060

Rules Repealed: 333-015-0055, 333-015-0025(T), 333-015-0030(T), 333-015-0034(T), 333-015-0035(T), 333-015-0040(T), 333-015-0045(T), 333-015-0050(T), 333-015-0060(T), 333-015-0065(T), 333-015-0070(T), 333-015-0075(T), 333-015-0080(T), 333-015-0085(T), 333-015-0090(T)

Subject: Retroactively adopts 333-015-0065, 333-015-0070, 333-015-0075, 333-015-0080, 333-015-0085, 333-015-0090; amends 333-015-0025, 333-015-0030, 333-015-0034, 333-015-0035, 333-015-0040, 333-015-0045, 333-015-0050, 333-015-0060; and repeals 333-015-0055. These rule changes were previously submitted to the Secretary of State's office and became effective on August 27, 2002. Excepting one new rule regarding the effective date, these rules entail only minor grammatical changes made to the rules previously filed with the Secretary of State's office on August 27, 2002.

These rules relate to House Bill 2828 (2001 Legislative Session) which amends statutes 433.835 through 433.875 and 433.990(4) to broaden the application of Oregon's previous Clean Air Act to prohibit smoking in places of employment.

The rules provide definitions of enclosed area, place of employment, employer, restaurant, bar or tavern, bowling center, local government, local public health authority, minors, person in charge of a public place, public places regularly inspected by the Department of Human Services (DHS), Health Services, and hotel and motel rooms that pertain to the provisions of the new statute. The definition for "public place" is amended. The places that are not required to be smoke free are outlined and signage required in workplaces is described. Ventilation requirements for employee smoking lounges are also described as well as the provisions concerning waivers. Clarification of the relationship between the new state law and laws passed in local jurisdictions prior to July 1, 2001, is provided. The rules describe steps and procedures through which complaints of violation will be addressed as well as what constitutes a violation. The respective roles of DHS, Health Services and Local Public Health Authorities are described, as well as determining action needed if a violation is noted during a regularly scheduled inspection by these agencies. Also outlined are steps to be followed in establishing a remediation plan for employers found to be in violation, and who is authorized to issue citations if the plan is not followed.

Rules Coordinator: Christina Hartman—(503) 731-4405

333-015-0025

Authority and Purpose

(1) These rules are adopted pursuant to the authority granted the Oregon Department of Human Services, Health Services (formerly the Oregon Health Division) in 433.835 through 433.875 and 433.990(4) concerning smokefree places of employment and public places.

(2) The purpose of the Oregon Indoor Clean Air Act is to reduce the health hazard of persons in confined places caused by inhaling smoke from tobacco products.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02;

OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04;

PH 27-2004, f. & cert. ef. 8-19-04

333-015-0030

Definitions

(1) "Act" means the Oregon Indoor Clean Air Act as it appears in ORS 433.835 through 433.875 and 433.990(4).

(2) "Bars or taverns posted as off-limits to minors under rules adopted by the Oregon Liquor Control Commission" means, any enclosed area licensed by the Oregon Liquor Control Commission (OLCC) to serve alcohol by the drink for consumption on premises that are posted with an OLCC Minor Posting prohibiting minors anywhere on the premises or allowing minors only during certain specified days and hours, pursuant to OAR 845-006-0340. For the purposes of the Act, a bar or tavern is included in this definition only during those days and hours when minors are not allowed on the premises.

(3) "Bowling center" means an enclosed area where the primary purpose of the business is the provision of bowling facilities, including bowling lanes.

(4) "Employer" means any entity or individual who engages an individual to perform work or services in an enclosed area under the control of said employer.

(5) "Enclosed area" means all space between a floor and a ceiling that is enclosed on all sides by solid walls or windows, exclusive of doors or passageways, that extend from the floor to the ceiling, including all space therein screened by partitions that do not extend to the ceiling or are not solid, such as "office landscaping" or similar structures.

(6) "Local government" means any county, district, municipality, port, or political subdivision of this state.

(7) "Local Public Health Authority" means the county government unless a health district has been formed under ORS 431.414 or the County has contracted with a person or agency to act as the public health authority or the county has relinquished its authority to the state.

(8) "Minors" means people under the age of 18 for the purpose of employee smoking lounges in OAR 333-015-0035(3)(g). "Minors" in reference to OLCC minors postings has the meaning given to the term in OLCC statute and rules.

(9) "Place of employment" means every enclosed area under the control of a public or private employer that employees frequent during the course of employment, including but not limited to work areas, employee lounges, rest rooms, conference rooms, classrooms, cafeterias and hallways. "Place of employment" does not include a private residence unless it is used as a child care facility as defined in ORS 657A.250, a facility providing adult day care as defined in ORS 410.490(3) or a health care facility as defined in ORS 442.015.

(10) "Person in Charge of a Public Place" means any person who has responsibility because of ownership, proprietorship, or management of a place that is open to or frequented by the public. A person in charge of a public place is used to refer to those instances where the person in charge is not an employer.

(11) "Public place" means any enclosed indoor area open to and frequented by the public, except those public places subject to ORS 441.815, including but not limited to restaurants, as defined in ORS 624.010, retail stores, banks, commercial establishments, educational facilities, nursing homes, auditoriums, arenas, meeting rooms and grocery stores.

(12) "Public places which the Department of Human Services regularly inspects" means food service facilities, tourist accommodations, public swimming pools, spas, wading pools and bathhouses.

(13) "Restaurants posted as off-limits to minors or areas of restaurants posted as off-limits to minors under rules adopted by the Oregon Liquor Control Commission" means any restaurant or portion of a restaurant that is posted with an OLCC Minor Posting prohibiting minors anywhere on the premises or allowing minors only during certain specified days and hours pursuant to OAR 845-006-0340. For purposes of the Act, a restaurant or portion of a restaurant is included in this definition only in those specific locations and during those days and hours when minors are not allowed on the premises.

(14) "Rooms designated by the owner or person in charge of a hotel or motel as rooms in which smoking is permitted" means sleeping rooms or suites in that hotel or motel.

(15) "Smoking instrument" means any cigar, cigarette, pipe or other tobacco smoking equipment.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02;

OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04;

PH 27-2004, f. & cert. ef. 8-19-04

ADMINISTRATIVE RULES

333-015-0034

Jury Rooms

(1) Smoking is prohibited in a room during the time that jurors are required to use the room.

(2) All jury rooms shall be posted prominently with "No Smoking" signs having letters no less than one inch in height.

(3) Nothing in this section is intended to allow smoking in a jury room when it would otherwise be prohibited by ORS 433.850 through 433.875.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 19-1985(Temp), f. & ef. 9-26-85; HD 31-1985, f. & ef. 12-9-85; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0035

General Provision

(1) No person shall smoke or carry any lighted smoking instrument in a public place except in those areas that are not required to be smokefree pursuant to ORS 433.850(2) and 333-015-0035(3)(a) through (f) of these rules.

(2) Employers shall provide a place of employment that is free of tobacco smoke for all employees, except in those areas listed in ORS 433.850(2) and in 333-015-0035(3).

(3) The following areas are not required to be smokefree:

(a) Retail businesses primarily engaged in the sale of tobacco or tobacco products;

(b) Restaurants posted as off-limits to minors or areas of restaurants posted as off-limits to minors under rules adopted by OLCC;

(c) Bars or taverns posted as off-limits to minors under rules adopted by OLCC;

(d) Rooms or halls being used by charitable, fraternal or religious organizations during the time they conduct bingo games under a license issued pursuant to ORS 464.270;

(e) Bowling centers;

(f) Rooms designated by the owner or person in charge of a hotel or motel as rooms in which smoking is permitted;

(g) Employee lounges designated by an employer for smoking if:

(A) The lounge is not accessible to minors;

(B) The air in the lounge is exhausted directly to the outside by an exhaust fan and not recirculated to other parts of the building;

(C) The lounge is in compliance with ventilation standards and conditions set forth in OAR 333-015-0050.

(D) The lounge is located in a nonwork area where no employee is required to enter as part of the employee's work responsibilities. For purposes of this paragraph, "work responsibilities" does not include custodial or maintenance work carried out in a lounge when it is unoccupied; and

(E) There are sufficient nonsmoking lounges to accommodate nonsmokers.

(4) Nothing in these rules shall prevent an employer in charge of a place of employment (PIC) or a person in charge of a public place listed in OAR 333-015-0035(3) from designating the entire place of employment or public place as smokefree.

(5) Nothing in ORS 433.835 through 433.875 or in these rules requires an employer to provide an employee smoking lounge.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0040

Signs

(1) An employer or PIC, except in those places described in OAR 333-015-0035(3), shall post signs prohibiting smoking. Signs shall use either the "no smoking" symbol (a cigarette with a diagonal slash through it within a circle) or the words "No Smoking" or both. Signs shall be posted prominently at each outside entrance to the place of employment or building.

(2) In a place of employment or public place such as a restaurant or tavern where minors are prohibited in a portion of the enclosed space or are prohibited only during certain times: the employer or PIC shall post signage at the entrances and wherever else necessary to clearly describe where and when smoking is prohibited.

(3) At each entrance to an employee lounge designated for smoking as permitted under section 333-015-0035(3)(g) of these rules, the employer shall post a sign with the words, "This is a smoking area. Occupants will be exposed to secondhand smoke."

(4) All signs used to describe whether smoking is prohibited or allowed in a place of employment or public place shall be placed at a height and location easily seen by a person entering the establishment and shall not be obscured in any way.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0045

Ashtrays

Ashtrays intended for use inside the place of employment or public place are prohibited where and when smoking is prohibited.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0050

Ventilation Standards

(1) Any employee smoking lounge provided by an employer as permitted under OAR 333-015-0035(3)(g) must be enclosed and shall meet the following ventilation standards and conditions:

(a) Smoking lounge must have a negatively pressurized ventilation system that exhausts air to the exterior of the building with smoke-tight ducts. Termination of ducts shall be more than 30 feet from any air intake to any building; from any doors to any building; and from any window capable of being opened in any building.

(b) Doors between the smoking lounge and other parts of the building must be solid and self-closing.

(c) Building heating, ventilation and air conditioning (HVAC) system must be balanced to prohibit any migration of smoke from the smoking room to other parts of the building.

(d) Smoking lounge ventilation system must operate at all times that the room is occupied.

(e) Smoking lounge must be clearly identified with signs as described in OAR 333-015-0040(3).

(2) Prior to permitting smoking in an employee lounge, an employer must obtain written certification by an actively registered professional engineer (PE) that the design, installation and performance of the ventilation system meet the standards described in these rules; and that all conditions and standards described in OAR 333-015-0050(1)(a) through (e) are met. The employer must keep the certification on the premises and must produce it for inspection at the request of DHS-HS or the Local Public Health Authority (LPHA).

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0060

Waivers

The sole discretion for granting a waiver shall reside with the State Public Health Officer. The State Public Health Officer may waive the provision of these rules upon technical review:

(1) If it is demonstrated to the satisfaction of the State Public Health Officer that strict compliance with the rule would be highly burdensome or impractical due to special conditions; and

(2) If the public or private interest in the granting of the waiver is found by the State Public Health Officer to clearly outweigh the interest of the application of uniform rules; and

(3) If alternate measures are provided which, in the opinion of the State Public Health Officer, will provide adequate protection to the health, safety and comfort of non-smoking employees and the public.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: HD 10-1983, f. & ef. 7-1-83; OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0065

Local Governments

(1) A local government may not prohibit smoking in any areas listed in rule 333-015-0035(3), unless the local government prohibition was passed before July 1, 2001.

(2) No local government may allow smoking in any area where it is prohibited by ORS 433.835 through 433.875 or by these rules.

Stat. Auth.: ORS 433

ADMINISTRATIVE RULES

Stats. Implemented: ORS 433
Hist.: OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0070

Enforcement

(1) The DHS-HS, shall maintain a system for receiving complaints, providing educational materials conducting site visits, and issuing notices of violation.

(2) DHS-HS shall:

(a) Provide education and assistance to places of employment and public places to help them comply with the Act, and

(b) Receive, respond to, and investigate complaints of non-compliance with the Act; prepare and follow-up on remediation plans with sites found to be out of compliance with the Act and/or these rules.

(c) Issue citations to violators of the Act and/or these rules, and as necessary conduct contested cases under ORS Chapter 183.

(3) On written agreement with DHS-HS, a County and/or LPHA may assume any or all the responsibilities outlined in (2) above. In such cases, DHS-HS will, upon request of the LPHA, be available for consultation and technical assistance with enforcement procedures.

Stat. Auth.: ORS 433

Stat. Implemented: ORS 433

Hist.: OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0075

Complaint Response

The DHS-HS or the LPHA shall respond to complaints as follows:

(1) Initial complaint:

(a) The DHS-HS or the LPHA shall whether the assess site in question is required to be smokefree under the provisions of ORS 433.835 through 433.850.

(b) If the DHS-HS or the LPHA determines that the place of employment (or some portion) or public place is required to be smokefree, the DHS-HS or the LPHA shall send a letter ("initial response letter") to the place of employment or public place named in the complaint within 10 business days after receipt of the complaint of violation. The letter shall contain notification that the employer or PIC has been reported as being in violation of the Act and or these rules, educational materials about how to comply with the Act and or these rules, and information on whom to contact for further information and assistance in compliance.

(c) The DHS-HS or the LPHA shall send a form letter to the complainant, if the complainant has supplied their name and contact information, notifying them that the complaint has been received and is being investigated, or that the workplace is not required to be smokefree under ORS 433.835 through 433.850.

(2) Second or subsequent complaint:

(a) If the DHS-HS or the LPHA receives additional complaint(s) about the site within 5 business days after the "initial response letter" was sent, the DHS-HS or the LPHA shall send a form letter to the complainant, if the complainant has supplied their name and contact information, telling them that the complaint has been received and the investigation process begun.

(b) If the DHS-HS or the LPHA receives a second or subsequent complaint about the site more than 5 business days after the "initial response letter" was sent, a representative of the DHS-HS or the LPHA shall make an unannounced site visit within 10 business days of complaint receipt, to determine whether the employer or PIC is in violation of the Act or of these rules.

(3) Finding of violation: A violation is deemed to have occurred if during a site visit pursuant to a second or subsequent complaint, at a time and in an area where smoking is prohibited, the DHS-HS or LPHA representative:

(a) Observes any person smoking or carrying a lighted smoking instrument; or

(b) Observes cigar or cigarette butts; or

(c) Observes any violation of rules concerning ventilation standards for employee lounges set forth in OAR 333-015-0050; or

(d) Observes no signs or insufficient signs as required under these rules; or

(e) Obtains written signed statements from at least two individuals who have personally witnessed smoking or the carrying of a lighted smoking instrument at a time and in an area where smoking is prohibited.

(4) Remediation plan: After a finding of violation, the DHS-HS or the LPHA representative and the employer or PIC will jointly develop a remediation plan. All remediation plans must be completed:

(a) Within 15 days of the site visit if the employer has fewer than 500 employees and fewer than three separate work sites;

(b) Within 15 days of the site visit for public places with no employees;

(c) Within 45 days of the site visit if the employer has 500 or more employees and three or more work sites.

(d) An employer or PIC may request in writing an extension of time in which to complete the remediation plan in special circumstances. An extension may be granted only by the State Public Health Officer.

(e) A DHS-HS or LPHA representative shall make a follow-up visit within 14 days of the remediation plan completion date to confirm completion.

(5) Failure to complete remediation plan on schedule. If, during the follow-up visit, the DHS-HS or the LPHA representative finds that the remediation plan has not been implemented and/or finds additional evidence of violations, the DHS-HS or the LPHA shall notify the State Public Health Officer or designee for further enforcement activity.

(a) The State Public Health Officer or designee shall issue to the employer or PIC a citation of violation containing the following information:

(A) Name and address of site and name of employer or PIC,

(B) Date of initial site visit,

(C) Evidence of violation and citation of rule violated,

(D) Summary of remediation plan and completion date,

(E) Findings and date of follow-up visit,

(F) Citation of legal authority for fine,

(G) Amount of civil penalty,

(H) Options: either pay civil penalty in full within 10 days, request a hearing within 10 days, or have default judgment entered against employer or PIC,

(I) Statement of hearing and appeal rights under ORS Chapter 183, and

(J) Signature and title of State Health Officer or designee issuing the citation.

(b) A citation form shall be provided by DHS-HS. This form shall be used for all citations.

(c) The citation shall be personally delivered to the employer or PIC or mailed to the place of employment or public place address by both first class mail and certified mail, return receipt requested.

(d) Payment of civil penalties shall be made by mail to the State Public Health Officer and credited to the General Fund, as required by ORS 433.855(1)(c).

(6) Failure to Cooperate. In addition to assessing fines under OAR 333-015-0075(5) above, the State Public Health Officer may initiate further legal action against an employer or PIC upon notification that they have:

(A) Refused to allow an on-site visit to assess status of compliance;

(B) Refused to cooperate in the development of a remediation plan;

(C) Incurred repeated or multiple violations of the Act or these rules.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0080

Public Places which the DHS-HS Regularly Inspects

If, in public places which the DHS-HS regularly inspects and which are required to be smokefree under these rules, the DHS-HS or the LPHA inspector, during a regular inspection, notes a possible violation of these rules, the inspector shall report the violation to the DHS-HS as a complaint of violation.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0085

Penalties

A violation of the Act and/or these rules shall be punishable by \$50.00 each day the workplace or public place is found to be out of compliance not to exceed \$1000.00 in any 30-day period.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

ADMINISTRATIVE RULES

Hist.: OHD 8-2002(Temp), f. & cert. ef. 5-28-02 thru 11-22-02; OHD 12-2002, f. & cert. ef. 8-27-02; PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

333-015-0090

Effective Date

The effective date for rules 333-015-0025, 333-015-0030, 333-015-0034, 333-015-0035, 333-015-0040, 333-015-0045, 333-015-0050, 333-015-0060, 333-015-0065, 333-015-0070, 333-015-0075, 333-015-0080, 333-015-0085 and 333-015-0090 shall be August 27, 2002.

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433

Hist.: PH 18-2004(Temp), f. & cert. ef. 5-7-04 thru 10-27-04; PH 27-2004, f. & cert. ef. 8-19-04

Adm. Order No.: PH 28-2004

Filed with Sec. of State: 8-19-2004

Certified to be Effective: 8-19-04

Notice Publication Date: 7-1-04

Rules Amended: 333-560-0110, 333-560-0120

Subject: Amends OAR 333-560-0110 to modify some of the requirements that must be met before a Certificate of Need will be approved under the expedited review process. Amends OAR 333-560-0120 to modify the procedures for expedited review. Expedited Certificate of Need review may be available when long term care beds are relocated or replaced.

Rules Coordinator: Christina Hartman—(503) 731-4405

333-560-0110

Expedited Review for Relocation or Replacement of Long-Term Care Beds

Under certain circumstances, Health Services may approve relocation or replacement of existing long-term care beds under the expedited review process set forth in this rule and OAR 333-560-0120 without the analysis of service area need specified in OAR 333-610-0030 when all of the following conditions are met:

(1) Relocation or replacement, under this rule, shall include:

(a) Rebuilding of all or part of a long-term care facility within its service area; or

(b) Relocation of all or part of the beds in two existing long-term care facilities within the same service area, at either one of the facilities, or at a new location in the service area; or

(c) Combinations of the above;

(d) For the purposes of this rule, relocation or replacement shall not include the conversion of existing space within a hospital building;

(e) Regardless of subsection (b) of this section, if the applicant can demonstrate to the satisfaction of Health Services that a location outside of the original service area is appropriate based upon the unique nature and characteristics of the population served by the facility and can satisfactorily demonstrate the appropriateness of an alternative site for the replaced facility, Health Services may waive the requirement that the beds be relocated or replaced within the original service area. To qualify under this subsection, the applicant must demonstrate to the satisfaction of Health Services that the facility has a statewide or regional service area and that it specializes in serving a distinct population with unique medical needs such as children or ventilator dependent individuals with specific programmatic services. Only beds which serve this type of distinct population are eligible for relocation or replacement under this subsection.

(2) The applicant shall submit, with the letter of intent, a copy of a letter that has been sent to Seniors and People with Disabilities requesting irrevocable delicensure of the relocated or replaced beds, effective as of the date of licensure of the replacement beds. Health Services will confirm that Seniors and People with Disabilities has received the letter before ruling the project eligible for expedited review. The applicant must provide a written statement to Health Services stating that it will not withdraw this letter if it is granted a certificate of need for its project.

(3) In any event, the relocation or replacement process shall not result in a net increase in the number of licensed long-term care beds in the geographical service area except as provided under OAR 333-550-0010(3)(b) or 333-560-0110(1)(e) when applicable.

(4) If the project involves construction of a new facility, the design and construction of the entire relocated or replaced facility must meet all Senior and People with Disabilities criteria for new construction standards in long-term care facilities or has received a waiver from Seniors and People with Disabilities based on a showing that full compliance with new

construction standards is not required. If the project involves relocating beds to an existing facility, the patient rooms that will house the relocated beds and areas of the existing facility that support the relocated beds must meet all Seniors and People with Disabilities criteria for new construction standards in long-term care facilities or a waiver must be obtained from Seniors and People with Disabilities based on a showing that full compliance with new construction standards is not required. The applicant must submit schematic plans for the project.

(5)(a) The applicant must demonstrate, to the satisfaction of Health Services, that the physical environment for patients and the ability to provide patient care both at the new setting and, if it remains open, at the original setting will significantly improve as a result of the proposed project. Health Services may waive this requirement if the applicant can demonstrate, to Health Service's satisfaction, that failure to undertake the project will result in serious adverse economic consequences for the applicant that will jeopardize its ability to continue to provide nursing facility services. A waiver under this section will only be granted if the applicant can demonstrate to the satisfaction of the Health Services that the physical environment for patients and the ability to provide patient care will remain the same or improve as a result of the project. Health Services may, at its discretion, perform an on-site evaluation of all existing facilities involved.

(b) Examples of the types of improvements that Health Services may consider under this section include, but are not limited to: reduction of the number of residents in rooms; increased square footage per resident rooms; increased or remodeled dining, activities, social services, therapy, kitchen, laundry, and nursing station space; improved fire and life safety; improved resident toilet, hand washing and bathing areas; improved electrical systems including alarms and call systems; and improved heating and ventilation systems.

(6) The applicant shall demonstrate, to the satisfaction of Health Services, that the applicant's proposal is financially viable and shall indicate the impact on patient charges. The applicant must demonstrate financial viability and the impact on charges at the new setting. If the original setting remains open, the applicant must demonstrate that reducing the number of beds at the original setting will not adversely impact the financial condition of that facility. Applicants must submit completed Forms CN-3 through CN-12 and a narrative discussion of the items identified in OAR 333-580-0060. Forms or narrative discussion which are not relevant to the proposal need not be completed, however. Applicants should contact Health Services to determine which forms and narrative discussion are relevant to their proposal.

Stat. Auth.: ORS 431.120(6) & ORS 442.315

Stats. Implemented: ORS 431.120(6) & ORS 442.315

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; OHD 1-1998, f. & cert. ef. 1-6-98; PH 28-2004, f. & cert. ef. 8-19-04

333-560-0120

Procedures for Expedited Review

(1) The expedited review process shall be initiated upon the written request of the applicant, payment of the fee specified in OAR 333-565-0000(4), and submission of four copies of the completed forms and narrative discussion identified in section (2) of this rule. The forms and narrative discussion must be completed to the satisfaction of Health Services. As soon as possible after receiving and reviewing such forms and narrative, Health Services shall notify the applicant whether or not the forms and narrative discussion are complete. Within five working days of the date that Health Services notifies the applicant that the forms and narrative discussion identified in section (2) of this rule are complete, Health Services shall rule the project eligible for expedited review. Notwithstanding the previous sentence, however, a project shall not be ruled to be eligible for expedited review sooner than the date of Health Services ruling on the letter of intent for the project.

(2) Projects undergoing expedited review are exempt from the full review process detailed in division 570 of this chapter, with the exception of OAR 333-570-0070(3) to (10); and from the application requirements and review criteria established in division 580 of this chapter, with the exception of OAR 333-580-0060, 333-580-0090 and 333-580-0100. Applicants must complete Forms CN-1 through CN-12 and submit four copies of these forms along with four copies of the narrative discussion required by OAR 333-580-0060 at the time that expedited review is requested under section (1) of this rule. Forms which are not relevant to the proposal need not be completed, however. Applicants should contact Health Services to determine which forms are relevant to their proposal.

(3) If all of the conditions specified in OAR 333-560-0110 have been met, Health Services shall issue a proposed order granting the certificate of need for the project. The date of this proposed order shall be no later than

ADMINISTRATIVE RULES

15 days from the date that Health Services rules the project eligible for expedited review. Such an order shall contain findings to justify the granting of a certificate of need under this rule and OAR 333-560-0110, but need contain no other findings.

(4) Projects granted a certificate of need under the expedited review provisions are not exempt from the monitoring and reporting requirements of OAR 333-575-0000 and 333-575-0010.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 431.120(6) & ORS 442.315
Stats. Implemented: ORS 431.120(6) & ORS 442.315
Hist.: HD 13-1994, f. & cert. ef. 4-22-94; OHD 11-1998, f. & cert. ef. 10-22-98; PH 28-2004, f. & cert. ef. 8-19-04

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

Adm. Order No.: SSP 20-2004(Temp)

Filed with Sec. of State: 9-7-2004

Certified to be Effective: 9-7-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 461-115-0651, 461-160-0030, 461-160-0055

Subject: 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.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-115-0651

Required Verification and When to Verify; FS

(1) Each of the following eligibility factors must be verified when a client initially applies for food stamp benefits and when a change in one of the factors is required to be reported.

(a) The identity of the applicant and any authorized representative or alternate payee.

(b) Residency.

(c) Alien status.

(d) Social Security Number (SSN) or application for an SSN.

(e) In a case being evaluated for disqualification due to a job quit or reduction of work hours — the reason for the job quit or reduction in hours.

(f) Countable income.

(g) Medical expenses, if they are used as a deduction. Verification of a Medicare-approved drug discount card is required to use the actual, pre-discounted expense of a prescription as a deduction.

(h) Disability, if a student claims unfitness for employment but the disability is not obvious.

(i) An order to pay child support and the amount actually paid.

(j) Any factor for which the Department has conflicting or incomplete information.

(2) If the client does not provide the required verification for medical expenses, court-ordered child support, or any eligibility factor for which the Department requests verification, the claimed expenses are not used to determine the food stamp benefit.

(3) In addition to the verification required by section (1) of this rule, the income for a client must be verified:

(a) Each month for a client in the monthly reporting system.

(b) Every six months for a client in the semi-annual reporting system.

(4) A client is allowed a minimum of 10 days to provide requested verification.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.111, 411.816

Hist.: AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04

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. For OSIPM-MN, allow incurred medical costs.

(b) A cost 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 payment. For OSIPM-MN, if the amount of an anticipated reimbursement for medical costs is unknown, allow the full amount of the medical costs for spend-down.

(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

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, 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) Installation 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.

(4) For an OSIPM-MN client who qualifies for QMB, medical costs covered by Part A and Part B of Medicare are not deductible if the provider is enrolled with 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 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

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

Adm. Order No.: SPD 30-2004

Filed with Sec. of State: 8-27-2004

Certified to be Effective: 9-1-04

Notice Publication Date: 8-1-04

Rules Amended: 411-071-0000, 411-071-0005, 411-071-0010, 411-071-0015, 411-071-0020, 411-071-0025, 411-071-0027, 411-071-

ADMINISTRATIVE RULES

0030, 411-071-0035, 411-071-0040, 411-071-0045, 411-071-0050, 411-071-0060, 411-071-0070, 411-071-0075, 411-071-0080, 411-071-0085, 411-071-0090, 411-071-0095, 411-071-0100, 411-071-0105, 411-071-0110, 411-071-0115

Rules Repealed: 411-071-0055

Rules Renumbered: 411-071-0065 to 411-071-0043

Subject: Chapter 411, Division 071, Private Admission Assessment rules are permanently amended effective 09/01/2004. Permanent revisions to the rules address the following:

A) Removes the ability of a certified program to charge an individual for any portion of an assessment;

B) Revises portions of the certification process to include;

a) Changes the term of a certification from one year, to the life of the contracted period

b) Eliminates the annual renewal process

c) Implements an annual certification fee of \$200

d) Eliminates the previous certification fee structure which was based on the number of assessments completed.

C) Establishes a uniform rate for conducting Private Admission Assessments (PAA) of \$140 per, for all types of PAAs. The previous assessment rates of \$125 for an inpatient of a hospital and \$170 for assessments performed on an outpatient basis will be revoked.

D) The proposed amendment also brings rule language to be consistent with new agency names and current practice.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-071-0000

Purpose

(1) The purpose of Private Admission Assessment is to ensure that non-Medicaid eligible individuals applying for or considering admission to a Medicaid certified nursing facility receive information regarding appropriate service and placement alternatives.

(2) These rules establish procedures and requirements for admission assessment of non-Medicaid eligible individuals applying for or considering admission to a Medicaid certified nursing facility as required in ORS 410.505 to 410.545. The admission assessment includes mandatory services necessary to comply with the federal pre-admission screening requirements established by the Health Care Financing Administration. It also provides optional information regarding appropriate care settings and services, including nursing facilities and community-based options such as adult foster care, assisted living, residential care, in-home services, and other community-based services.

(3) These rules establish a certification process for programs henceforth called "certified programs," to perform admission assessments to individuals seeking admission to nursing facilities with a Medicaid contract. These rules establish standards for assessments performed by certified programs, local Area Agencies on Aging and Department personnel. Recommendations made during the admission assessment are not binding. Each individual has the right to choose from any of the long-term care options available.

Stat. Auth.: ORS 410.505 - 410.545

Stats. Implemented: ORS 410.030 & 410.510

Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0005

Definitions

(1) "Act" means the provisions of ORS 410.505 to 410.545 and ORS 410.890.

(2) "Activities of Daily Living (ADL)" means those personal functional activities required by an individual for continued well being and are essential for health and safety. This includes eating, dressing/grooming, bathing/personal hygiene, mobility, bowel and bladder management, and cognition..

(3) "Admission Assessment" means a professional program that provides an assessment of the long-term care needs of an individual applying for or considering admission to a nursing facility who is not or does not appear to be Medicaid eligible. The admission assessment includes mandatory services necessary to comply with the federal pre-admission screening requirements and optional information regarding appropriate care settings and services, including nursing facilities and community-based options.

(4) "Adult Foster Home" means any family home or other facility in which care is provided for compensation to five or fewer elderly or disabled adults who are not related to the provider by blood or marriage.

(5) "Applicant" means a hospital or private agency applying for certification to conduct admission assessments according to the provisions of the Act.

(6) "Application for Certification" means the application form designated and distributed by the Department to applicants.

(7) "Area Agency on Aging (AAA)" means the agency designated by the Department and charged with the responsibility of providing a comprehensive and coordinated system of services to the elderly and people with disabilities in a planning and service area.

(8) "Assessment Fee" means the amount of money charged by a certified program to the Department or to an individual for admission assessment services.

(9) "Assisted Living Facility" means a program approach, within a physical structure that provides or coordinates a range of services, available on a 24-hour basis, for support of an individual's independence in a residential setting. Assisted living promotes resident self-direction and participation in decisions and emphasizes choice, dignity, privacy, individuality, independence and home-like surroundings.

(10) "Certification" means the process of being certified by the Department to conduct admission assessments for non-Medicaid individuals. Hospitals and private agencies wishing to conduct admission assessments must be certified by the Department.

(11) "Certification Fee" means a fee charged to an applicant program to become certified under ORS 410.505 et seq.

(12) "Certified Program" means a hospital, private agency, an Area Agency on Aging, or an individual certified by the Department to conduct admission assessments in accordance with ORS 410.530.

(13) "Continuing Care Retirement Community" means a facility as defined in ORS 101.020.

(14) "Civil Penalty" means a penalty imposed on a nursing facility by the Department in the manner provided in ORS 441.705 to 745.

(15) "Community-Based Care" means services provided in local communities including, but not limited to, adult foster care, assisted living, residential care, and in-home services.

(16) "Decertify" means to revoke the certification to conduct admission assessments.

(17) "Department" means the Department of Human Services/Seniors and People with Disabilities.

(18) "Exception" means a variance from the provisions of these rules granted by the Department to a certified program.

(19) "Exemption" means an individual who does not have a diagnosis of mental illness or mental retardation and is not subject to the requirement for an admission assessment prior to admission to a nursing facility in accordance with ORS 410.520(2).

(20) "Facility" means, unless otherwise indicated, a nursing facility as defined under these Rules.

(21) "Financial Interest" means ownership in any nursing facility or other facility licensed by the Department, or receiving placement fee from a facility. This includes ownership as an individual or as a fiduciary, a relationship in a capacity as a director, or an advisor or any other participant holding legal or equitable interest.

(22) "Hospital" means an acute care facility, as defined in ORS 442.015(13)(a), licensed by the Health Services under ORS 441.020 - 441.097.

(23) "Individual" means the person applying for or considering admission to a nursing facility and who is not or does not appear to be Medicaid eligible.

(24) "Legally Designated Representative" means a legal guardian or a person holding the power of attorney for health care as defined in ORS 127.305(10).

(25) "Level II Evaluation" means a comprehensive assessment implemented by the Department of individuals with mental illness or mental retardation/developmental disabilities to evaluate and determine whether nursing facility services and Specialized Services are needed.

(26) "Long-Term Care" means community-based services and nursing facility care funded by public and/or private money.

(27) "New Admission" for pre-admission screening means an individual admitted to any nursing facility for the first time. With the exception of certain hospital discharges in accordance with OAR 411-071-0015, new admissions are subject to Pre-Admission Screening.

(28) "Nursing Facility" means a facility licensed to provide nursing care. Unless indicated otherwise, "nursing facility" means a Medicaid certified nursing facility.

(29) "Placement" means a nursing facility or community-based care setting where an individual will reside and receive services.

ADMINISTRATIVE RULES

(30) "Program" means a certified program as defined under these rules.

(31) "Recommend Placement" means to communicate to an individual information about a specific facility and/or service(s) that have been determined to be most appropriate to the individual's needs and preferences.

(32) "Referral" means the process by which an individual may receive assessment services from a different assessment source.

(33) "Resident" means any individual who is residing in a hospital or nursing facility.

(34) "Residential Care Facility" means a facility that provides care for six or more persons over the age of 18 on a 24-hour basis in one or more buildings on contiguous property.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.505

Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SDDS 1-1998, f. 1-30-98, cert. ef. 2-1-98; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0010

Assessment Requirements

(1) An admission assessment must be provided prior to admission for all non-Medicaid eligible individuals applying as new admissions to a Medicaid certified nursing facility except as provided in OAR 411-071-0015. The admission assessment must occur no more than 90 days prior to the date of admission.

(2) Admission assessments are to be performed by certified programs.

(3) If the assessment is performed by personnel from a certified program, such personnel must make a good faith effort to determine whether the individual receiving the assessment is or appears to be Medicaid eligible based on a review of optional income and asset information provided by the individual. If the individual appears to be Medicaid eligible or may become Medicaid eligible within 60 days, the certified program must contact and coordinate with the local Area Agency on Aging/Seniors and People with Disabilities unit to provide further assessment services.

Stat. Auth.: ORS 410.505 - 410.545

Stats. Implemented: ORS 410.510 & 410.520

Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0015

Exemptions

(1) The criteria under which an individual is exempted must be clearly indicated on the form designated by the Department.

(2) An exemption from the full assessment process may be granted for an individual who meets one of the following criteria:

(a) An individual seeking temporary admission to a nursing facility from a hospital and meets all of the following criteria as certified by the attending physician:

(A) Seeks admission directly from a hospital, or within 30 days of discharge from the hospital, after receiving acute inpatient care at the hospital; and

(B) Requires nursing facility services for the condition for which he or she received care in the hospital; and

(C) Requires nursing facility services for 30 days or less.

(b) An individual has a medical prognosis with life expectancy of 30 days or less;

(c) An individual seeking temporary admission for respite services with expected length of stay of 30 days or less;

(d) A resident of a continuing care retirement community who is seeking admission to a Medicaid certified nursing facility that is part of the same continuing care retirement community; or

(e) An individual certified by the attending physician that he/she must be admitted from the community or hospital emergency room without delay due to a serious and immediate threat to the individual's health and safety.

(3) The assessment must be completed and signed by a certified program, the attending physician, or a professional medical staff person working directly under the supervision of the attending physician for individuals admitted under an exemption criteria.

(4) An individual admitted to a nursing facility under an exemption under subsections (2)(a), (b), or (c) of this rule must receive an assessment within 7 days after the 30th day of admission.

(5) An individual temporarily admitted to a nursing facility under subsection (2)(e) of this rule must receive an assessment within seven days from the date of admission.

(6) No assessment or exemption is required for:

(a) An individual returning to a nursing facility after having entered a hospital from the same nursing facility; or

(b) An individual transferring from one Oregon nursing facility to another Oregon nursing facility with or without an intervening hospital stay.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.520

Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SDDS 1-1998, f. 1-30-98, cert. ef. 2-1-98; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0020

Assessment Process

(1) The Department must develop and provide to certified programs an assessment instrument to be used for all admission assessments.

(2) The admission assessment must consist of:

(a) Information necessary to comply with federal pre-admission screening requirements as established by the Centers for Medicare Services;

(b) Recommendations regarding appropriate care settings and services based on the individual's personal, family, and community support system, discussion of the individual's lifestyle preferences and goals, and other information. An individual or the individual's representative must indicate on the assessment form provided by the Department whether the individual has received information about care options or does not want the information. An individual may not be required to receive this information. Documentation by non-hospital based programs must be on the form designated by the Department. Hospital based programs must document information regarding appropriate care settings and services in their own discharge planning documents for all individuals assessed.

(3) Appropriate information about care settings and services may be made available to individuals choosing to receive such information, including information on community-based care services, nursing facility options, and additional information as may be appropriate to a particular geographic area.

(4) The recommendations of the admission assessment are not binding; an individual has the right to choose any or none of the available options. An individual may designate someone to participate in the assessment process.

(5) As part of the admission assessment process, the individual or the individual's representative, as specified in section (6) of this rule, must be requested to certify on the assessment instrument whether the individual has received information about care options or does not want the information.

(6) The following descending hierarchy is to be observed when certifying the information required in sections (5) and (6) of this rule and signing the assessment form:

(a) The individual, if the individual is capable at the time the assessment is performed;

(b) The individual's legally designated representative (as defined in OAR 411-071-0000(24)) if the individual is not capable at the time the admission assessment is performed;

(c) The individual's next of kin or, if appropriate, a knowledgeable friend if the individual has no legally designated representative and is not capable at the time the admission assessment is performed;

(d) The person performing the assessment if a good faith effort fails to locate the individual's next of kin or appropriate friend, the individual has no legally designated representative, and is not capable at the time the admission assessment is performed;

(e) The person performing the assessment if the individual is capable at the time the assessment is performed but refuses to sign.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.510, 410.525 & 410.530

Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SDDS 1-1998, f. 1-30-98, cert. ef. 2-1-98; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0025

Recommendations for Placement/Prohibition on Conflict of Interest

(1) If the individual chooses to have long-term care information provided by a certified program, the certified program must provide information about appropriate care settings and services.

(2) A certified program must not recommend placement to a specific nursing facility, assisted living facility, residential care facility or adult foster home in which it has a financial interest.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.525 & 410.530

Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SDDS 1-1998, f. 1-30-98, cert. ef. 2-1-98; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

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411-071-0027

Confidentiality of Assessment Information

(1) Any records, forms, or information collected during the assessment process that identify an individual by name or address must be confidential and subject to the Department's rules on confidentiality set forth in OAR chapter 411, division 005.

(2) Certified programs must not release information obtained during the assessment process to any person or entity not authorized by law to receive such information without the written consent of the individual or the individual's legal guardian.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.535

Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0030

Assessment Fees

A certified program must not charge an individual for any portion of the assessment.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.515, 410.525 & 410.530

Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SDSD 1-1998, f. 1-30-98, cert. ef. 2-1-98; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0035

Certification Process

(1) Any hospital, agency, program, or Area Agency on Aging must obtain certification from the Department before providing admission assessment services.

(2) The certification issued to a program is not valid for use by any other program.

(3) Certification is valid for the length of the contract unless revoked or suspended by the Department.

Stat. Auth.: ORS 410.505 - 410.545

Stats. Implemented: ORS 410.530

Hist.: SSD 22-1990, f. & cert. ef. 10-15-90; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0040

Application Process

(1) Application for certification must be submitted in writing on a form provided by the Department. The application must include but not be limited to:

(a) The name, address, phone number and other descriptive information about the applicant;

(b) A statement of the applicant's experience in performing functional assessments and knowledge of long term care resources in the area to be served by the applicant. This statement must demonstrate, to the satisfaction of the Department, the ability of the applicant to perform admission assessments;

(c) Information and supporting documentation regarding qualifications and training of personnel performing assessments, as required by the Department;

(d) Examples of informational materials provided to individuals receiving admission assessments;

(e) Information pertaining to the program's financial interests in nursing facilities, assisted living facilities, residential care facilities and adult foster homes; and

(f) A signed and dated statement from the applicant stating that the applicant will comply with the requirements of ORS 410.505 to 410.545 and these rules.

(2) The application will not be considered complete until all the required information is received by the Department.

(3) After receipt of the completed application materials, the Department will investigate the information submitted and consult with the local Area Agency on Aging/Seniors and People with Disabilities unit and health care providers who have worked with the applicant to determine compliance with these rules.

(4) If the Department determines after review of the completed application that the applicant does not meet the requirements for certification, the Department must issue a written notice to the applicant citing the deficiencies in the application. If the applicant fails to correct the deficiencies within the time frames specified by the Department, the application may be denied. If denied, the applicant is entitled to a hearing as defined in ORS Chapter 183.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.530

Hist.: SSD 22-1990, f. & cert. ef. 10-15-90; SSD 5-1992, f. & cert. ef. 7-7-92; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SDSD 1-1998, f. 1-30-98, cert. ef. 2-1-98; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0043

Qualifications for Personnel Performing Admission Assessments

(1) Except as provided in section (2) of this rule, all persons performing admission assessments shall meet one of the following criteria:

(a) Be a registered nurse licensed by the State of Oregon;

(b) Have a master of social work degree from an accredited institution of higher education; or

(c) Have a bachelor's degree from an accredited institution of higher education and have experience in gerontology, health care, long-term care, or other relevant human services.

(2) Any applicant or Certified Program may request that the Division allow an employee who meets the following conditions to perform admission assessments:

(a) The employee for whom the exception is being requested works directly under the supervision of someone qualifying under section (1) of this rule; and

(b) One or more of the following apply:

(A) The employee has at least one year of experience performing functions substantially similar to admission assessments;

(B) The employee has other work or educational experiences that provide clear and convincing evidence of the person's ability to perform admission assessments.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530

Hist.: SSD 22-1990, f. & cert. ef. 10-15-90; Renumbered from 411071-0065; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0045

Issuance of the Certificate for Private Admission Assessment

Within 60 days of receipt of a completed application, the Department must issue a Certificate for Private Admission Assessment to the applicant if the applicant meets all the requirements of ORS 410.505 to 410.545 and these rules. The Certificate must indicate the name, address and telephone number of the program and the name of the owner and/or manager of the program.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530

Hist.: SSD 22-1990, f. & cert. ef. 10-15-90; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0050

Contracts, Reimbursements, and Certification Fees

(1) Certified programs eligible for reimbursement must enter into a contract with the Department regarding provision of admission assessment services. Certified hospital programs that only provide inpatient admission assessment services and are not eligible for reimbursement must enter into an agreement with the Department regarding provision of assessment services.

(2) The maximum fee a certified program may charge to the Department for the admission assessment will be \$ \$140 for all assessments, including those performed on an outpatient basis by hospitals that are certified programs.

(3) Each certified program that has a contract with the Department must pay an annual certification fee to the Department of \$200. Fee payments must be received by the Department within 60 days of the date the invoice was issued, unless other specific arrangements have been approved by the Department. Failure to pay fees in a timely fashion may be cause for suspension of reimbursement payments and/or suspension or revocation of a program's certification.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.515, ORS 410.530 & ORS 410.535

Hist.: SSD 22-1990, f. & cert. ef. 10-15-90; SSD 5-1992, f. & cert. ef. 7-7-92; SSD 14-1993, f. 12-30-93, cert. ef. 1-1-94; SDSD 1-1998, f. 1-30-98, cert. ef. 2-1-98; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0060

Exceptions

(1) A certified program may make written request to the Department for an exception from the provisions of these rules. An exception may be granted if the certified program proves to the Department by clear and convincing evidence that such an exception is in compliance with ORS 410.505 to 410.545 and the federal criteria for pre-admission assessment, and will not jeopardize the health, safety, and welfare of the individuals receiving the admission assessment.

(2) Exceptions will be granted in writing and reviewed at each renewal period.

Stat. Auth.: ORS 410

Stats. Implemented: ORS 410.530 & 410.535

Hist.: SSD 22-1990, f. & cert. ef. 10-15-90; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

ADMINISTRATIVE RULES

411-071-0070

Orientation Requirement

(1) Management and supervisory personnel responsible for the admission assessment activities of the program applying for certification must participate in orientation or training sessions conducted by the Department.

(2) All personnel of the certified program, who will be performing admission assessments, must participate in the earliest available orientation or training session conducted by or approved by the Department on the admission assessment process, the forms designated by the Department and the continuum of long term care options available.

Stat. Auth.: ORS 410
Stats. Implemented: ORS 410.530 & 410.535
Hist.: SSD 22-1990, f. & cert. ef. 10-15-90; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0075

Record Keeping

Certified programs must maintain records for three calendar years of the following materials:

- (1) Completed assessment forms for each individual assessed;
- (2) Personnel records for all employees engaged in performing admission assessments;
- (3) Billing and financial records required by the program's contract with the Department; and
- (4) Any other information as required by the Department and necessary for the implementation and enforcement of ORS 410.505 to 410.595 and these rules.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.530 & 410.535
Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SDSD 1-1998, f. 1-30-98, cert. ef. 2-1-98; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0080

Complaints Against Certified Programs

(1) Any person who believes these rules or the provisions of ORS 410.505 to 410.545 have been violated may file a complaint with the Department or with a local Area Agency on Aging/Seniors and People with Disabilities unit.

(2) The Department or its representative must notify the certified program that a complaint has been filed.

(3) After consultation with the local area agency on aging/Seniors and People with Disabilities unit, the Department or its designee will investigate the complaint. Department investigators may interview employees of the certified program and must have access to pertinent documents and records of the program. The Department will notify the program of the results of the investigation and any proposed action or sanction.

(4) Any complainant, witness or employee of a certified program must not be subject to retaliation by a program for making a report, for being interviewed about a complaint, or for being a witness.

(5) The certified program is responsible for violation of these rules by its employees, subcontractors or agents.

Stat. Auth.: ORS 410
Stats. Implemented: ORS 410.530 & 410.535
Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0085

Procedures for Corrections of Violations

(1) After investigation, if the Department has determined that a certified program has violated the Act or these rules, the Department or its authorized representative must so notify the program in writing. The Notice of Violation must include:

- (a) A description of the matters asserted or charged;
- (b) A reference to the particular section of the statute, rule or order involved;
- (c) A specific time frame for correction, that must be no later than 60 days after receipt of the notice;
- (d) A statement of the sanctions that may be imposed against the program for failure to correct the violations; and
- (e) A statement of the right to request a hearing if a sanction is imposed.

(2) At any time during the time frame for correction specified in the Notice of Violation, the certified program or the Department may request a conference. The conference must be scheduled within ten days of a request by either party.

(3) The purpose of the conference is to discuss the violations stated in the Notice of Violation and to provide information to the certified program to assist the program in complying with the requirements of these rules.

(4) The certified program must notify the Department of correction of violations no later than the date specified in the Notice of Violation.

(5) The Department may reinvestigate the certified program after the date the Department receives the report of compliance or after the date by which the violations must be corrected as specified in the Notice of Violation.

(6) All hearings must be conducted according to the applicable provisions of ORS 183.310 to 183.550.

Stat. Auth.: ORS 410
Stats. Implemented: ORS 410.530 & 410.535
Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0090

Complaint Records

(1) A record must be maintained by the Department of all complaints and any action taken on the complaint. Any information regarding the investigation of the complaint must not be filed in the public file until the investigation has been completed.

(2) The name, addresses and other identifying information of the complainant, client and any witnesses are confidential and must not be placed in the public record.

(3) Any person has the right to inspect and photocopy the public complaint file maintained by the Department. Disclosure of information of the public complaint file must be governed by relevant statutes concerning public records and confidentiality.

Stat. Auth.: ORS 410
Stats. Implemented: ORS 410.530 & 410.535
Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0095

Sanctions

(1) The Department may suspend, revoke or refuse to renew the certification to provide admission assessment if the Department finds that the program has violated any provision of the Act or these rules, including:

- (a) Substantial failure to comply with these rules or with the Act;
- (b) Refusal by a program or employee to allow access and inspection of records by an authorized representative of the Department;
- (c) Fraudulent information or material misrepresentations in the application or renewal for a Certificate for Private Admission Assessment; or
- (d) Failure to comply with a final order of the Department imposing an administrative sanction.

(2) The Department may require a certified program to be involved in a process of corrective action and may provide the program a specified amount of time to meet the standards of the Act and these rules before suspension or revocation of their certification.

(3) If the Department imposes an administrative sanction, it must serve notice of administrative sanction upon the program personally or by certified mail.

(4) The Notice of Administrative Sanction must include:

- (a) Each sanction imposed;
- (b) A description of each violation;
- (c) A reference to the particular section of the statute, rule or order involved;
- (d) A statement of the certified program's right to a contested case hearing;
- (e) A statement that the Department's files on the subject of the contested case automatically become part of the contested case record upon default for the purpose of proving a prima facie case; and
- (f) A statement that the notice becomes a final order upon default if the program fails to request a hearing within the specified time.

(5) If an administrative sanction is imposed it must be preceded by a hearing if the program requests the hearing in writing within 60 days after receipt of the notice. All hearings must be conducted according to the applicable provisions of ORS 183.310 to 183.550.

(6) If a program fails to request the hearing within the 60 days, the notice of administrative sanction will become a final order of the Department in accordance with ORS 183.310.

Stat. Auth.: ORS 410
Stats. Implemented: ORS 410.530 & 410.535
Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0100

Responsibilities of Nursing Facilities

(1) A Medicaid eligible individual must have an AAA/Seniors and People with Disabilities Pre-Admission Screening and prior authorization of payment prior to admission to a nursing facility. A nursing facility must not admit a Medicaid eligible individual based on a Private Admission Assessment.

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(2) A nursing facility receiving an application for admission from an individual who is subject to the admission assessment requirement but has not had an assessment performed within the preceding 90 days must provide the individual with information on the admission assessment process and a list of certified programs provided by the Department or the area agency on aging/Seniors and People with Disabilities office.

(3) Except as provided in section (4) of this rule, nursing facilities must not admit an individual without a completed and signed assessment form in the client record. Such forms are to be maintained as a permanent part of the client record.

(4) A nursing facility may admit an individual without a completed and signed assessment form in the client record provided the facility has received verbal confirmation from a certified program that an assessment has been completed for the individual within the preceding 90 days and a copy of the assessment form will be sent to the facility as soon as is reasonably possible. The facility must note in the client record the name of the certified program, the name and title of the person providing the verbal confirmation, and the date and time confirmation was provided.

(5) If a nursing facility admits an individual under an exempted hospital discharge set forth in OAR 411-071-0015(3)(a) for the purpose of rehabilitative and/or nursing services for 30 days or less, the nursing facility must contact a certified program to ensure a Private Admission Assessment is completed within seven days after the 30th day of admission.

(6) If a nursing facility admits an individual under an emergency exemption set forth in OAR 411-071-0015(3)(e), the nursing facility must contact a certified program and must ensure a Private Admission Assessment is completed within seven days of admission.

(7) A nursing facility receiving an application from an individual who is not an Oregon resident, or from an individual who is being discharged from a hospital that is not a certified program, or from an individual currently residing in a nursing facility outside the state of Oregon must immediately notify the local Area Agency on Aging/Seniors and People with Disabilities unit of the need for the individual to receive an admission assessment. The nursing facility must contact a certified program to ensure a Private Admission Assessment is completed within seven days of admission.

(8) The nursing facility is responsible for assuring that an individual subject to the Level II pre-admission screening evaluation required by the federal pre-admission screening requirements has been referred to the Seniors and People with Disabilities of the Department of Human Services.

(9) The Department may disallow payment for nursing services provided to an individual who has not been screened in compliance with the federal pre-admission screening requirements or an individual who is subject to the Level II evaluation and determination but who has not received such a determination within the time limits established in the federal pre-admission requirements.

(10) A nursing facility failing to comply with these rules may be subject to administrative sanctions as provided in ORS 410.540 and/or civil penalties as provided in OAR 411-071-0105.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.515 & 410.540
Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SDSD 1-1998, f. 1-30-98, cert. ef. 2-1-98; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0105 Civil Penalties

(1) Civil penalties, not to exceed \$5,000, may be assessed to nursing facilities for violation of the Act or these rules, and must be imposed in the manner provided in ORS 441.705 to 441.745.

(2) Any civil penalty imposed must become due and payable when the nursing facility incurring the penalty receives a notice in writing from the Department. The notice must be sent by registered or certified mail and shall include:

- A reference to the particular sections of the Act involved;
- A short and plain statement of the matters asserted or charged;
- A statement of the amount of the penalty or penalties imposed; and
- A statement of the right to request a hearing.

(3) The facility to which the notice is addressed will have ten days from the date of mailing in which to make written application for a hearing.

(4) All hearings must be conducted according to the applicable provisions of ORS 183.310 to 183.550.

(5) If the nursing facility fails to request a hearing within the time specified, or if the facility is found to be in violation of ORS 410.540 or these rules, an order may be entered assessing a civil penalty.

(6) Unless the penalty is paid within ten days after the date the order becomes final, the order constitutes a judgement and may be filed in accordance with ORS 183.413 to 183.470. Execution may be issued upon the order in the same manner as upon a judgement of a court of record.

(7) Judicial review of civil penalties imposed must be as provided in ORS 183.480, except that the court may, in its discretion, reduce the amount of the penalty.

(8) All penalties recovered under ORS 410.505 to 410.545 must be paid into the State Treasury and credited to the General Fund.

Stat. Auth.: ORS 410
Stats. Implemented: ORS 410.540 & 410.890
Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0110 Responsibility of Certified Programs

A certified program performing an admission assessment must:

(1) Transmit a copy of the assessment form to the nursing facility upon admission of the individual;

(2) Send a copy of the completed assessment form to the Department;

(3) Provide a copy of the assessment form to the individual who receives the assessment or exemption; and

(4) Refer to either Seniors and People with Disabilities of the Department of Human Services, or Mental Health and Addiction Services of Health Services, for an individual subject to the Level II pre-admission screening evaluation required by the federal pre-admission screening requirements.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.530 & 410.535
Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SDSD 1-1998, f. 1-30-98, cert. ef. 2-1-98; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

411-071-0115 Responsibility of Adult Foster Homes, Residential Care Facilities and Non-Medicaid Nursing Facilities

(1) On or after February 1, 1991, except as provided in section (2) of this rule, prior to admission to an adult foster home, a residential care facility, or a non-Medicaid certified nursing facility, the facility must advise the individual seeking admission of the availability of admission assessment services at their own expense.

(2) An individual who is entering a non-Medicaid certified nursing facility that is part of a closed system continuing care retirement community shall be exempt from this requirement.

(3) The facility must certify on a form provided by the Department that the individual has been so advised. The facility shall maintain a copy of the form in the individual's client record and make a copy available to the Area Agency on Aging/Seniors and People with Disabilities unit upon request.

(4) Adult foster homes, residential care facilities and non-Medicaid nursing facilities who fail to comply with these rules will be subject to sanctions against their license as specified in: ORS 443.705 to 443.820 and OAR chapter 411, division 50, for adult foster homes; ORS 443.400 to 443.455 and chapter OAR 411, division 55, for residential care facilities; and ORS Chapter 441 and OAR chapter 411, divisions 85 through 89, for non-Medicaid nursing facilities.

Stat. Auth.: ORS 410.505 - ORS 410.545
Stats. Implemented: ORS 410.515 & ORS 410.540
Hist.: SSD 3-1991, f. & cert. ef. 2-1-91; SSD 1-1994, f. 3-11-94, cert. ef. 3-15-94; SPD 30-2004, f. 8-27-04, cert. ef. 9-1-04

Department of Justice Chapter 137

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Subject: Adopts new comprehensive model public contract rules replacing existing model contract rules, which are repealed effective March 1, 2005. The rules apply to public contracts first advertised, but if not advertised then entered into, on or after March 1, 2005. That is the operative date of the new Public Contracting Code, ORS Chapters 279A, B and C. ORS 279A.065 requires the Attorney General to adopt these model rules of procedure for public contracting of all public bodies authorized to conduct procurements.

The rules govern procedures for the competitive solicitation of contracts by public bodies (and related matters), as well as authorize alternative public contracting methods.

Rules Coordinator: Carol Riches—(503) 378-6313

137-046-0100

Application; Federal Law Supremacy

(1) These Model Rules set forth the rules of procedure for Public Contracting of Contracting Agencies subject to these Model Rules. These Model Rules consist of the following four divisions:

(a) This division 46, which is applicable to all Public Contracting;

(b) Division 47, which describes procedures for Public Contracting for Goods or Services, as defined in ORS 279B.005, and for Personal Services other than Architectural, Engineering and Land Surveying Services and Related Services by State Contracting Agencies;

(c) Division 48, which describes procedures for Public Contracting for Architectural, Engineering and Land Surveying Services and Related Services; and

(d) Division 49, which describes procedures for Public Contracting for Construction Services.

(2) In the event of conflict between rules in this division 46 and rules in divisions 47, 48 and 49, the rules in divisions 47, 48 and 49 take precedence over the rules in this division 46.

(3) Except as otherwise expressly provided in ORS 279C.800 through ORS 279C.870, and notwithstanding ORS Chapters 279A, 279B, and ORS 279C.005 through 279C.670, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of ORS Chapters 279A, 279B, and ORS 279C.005 through 279C.670 or these model rules, or require additional conditions in Public Contracts not authorized by ORS Chapters 279A, 279B, and ORS 279C.005 through 279C.670 or these Model Rules.

(4) These division 46 rules become effective on March 1, 2005 and apply to Public Contracts first advertised, but if not advertised then entered into, on or after March 1, 2005.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.030 & ORS 279A.065

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0110

Definitions for the Model Rules

Unless the context of a specifically applicable definition in the Code requires otherwise, capitalized terms used in the Model Rules will have the meaning set forth in the division of the Model Rules in which they appear, and if not defined there, the meaning set forth in these division 46 rules, and if not defined there, the meaning set forth in the Code. The following terms, when capitalized in these Model Rules, shall have the meaning set forth below:

(1) **“Addendum”** or **“Addenda”** means an addition or deletion to, a material change in, or general interest explanation of a Solicitation Document.

(2) **“Award”** means, as the context requires, either the act or occurrence of the Contracting Agency’s identification of the Person with whom the Contracting Agency will enter into a Contract following the resolution of any protest of the Contracting Agency’s selection of that Person, and the completion of all Contract negotiations.

(3) **“Bid”** means a response to an Invitation to Bid.

(4) **“Closing”** means the date and time announced in a Solicitation Document as the deadline for submitting Offers.

(5) **“Code”** means the Public Contracting Code, as defined in ORS 279A.010.

(6) **“Competitive Range”** means the Proposers with whom the Contracting Agency will conduct discussions or negotiations if the Contracting Agency intends to conduct discussions or negotiations in accordance with OAR 137-047-0262 or OAR 137-049-0650. The size of the Competitive Range must be stated in the Solicitation Document, but will be decreased if the number of Proposers that submit Proposals is less than the specified number, or may be increased by the Contracting Agency in accordance with OAR 137-047-0262 or 137-049-0650.

(7) **“Contract”** means a “Public Contract,” as defined in ORS 279A.010.

(8) **“Contract Price”** means, as the context requires, (i) the maximum payments that a Contracting Agency will make under a Contract, including bonuses, incentives and contingency amounts, if the Contractor fully performs under the Contract, (ii) the maximum not-to-exceed amount of payments specified in the Contract, or (iii) the unit prices for Goods or Services or Personal Services set forth in the Contract.

(9) **“Contract Review Authority”** means (i) for State Contracting Agencies, generally the Director of the Oregon Department of Administrative Services, (ii) for Local Contracting Agencies, the Local Contracting Agency’s Local Contract Review Board determined as set forth in ORS 279A.060, and (iii) where specified by statute, the Director of the Oregon Department of Transportation.

(10) **“Contractor”** means the Person with whom a Contracting Agency enters into a Contract.

(11) **“DBE Disqualification”** means a disqualification, suspension or debarment pursuant to ORS 200.065, 200.075 or 279A.110.

(12) **“Descriptive Literature”** means the Offeror’s materials submitted to provide information concerning the products or services available in response to a Solicitation Document.

(13) **“Electronic Advertisement”** means notice of a Contracting Agency’s request for Offers, request for quotes, request for information or other document inviting participation in the Contracting Agency’s Procurements available over the Internet via (a) the World Wide Web or some other Internet protocol; or (b) a Contracting Agency’s Electronic Procurement System. An Electronic Advertisement may include a Solicitation Document.

(14) **“Electronic Offer”** means a response to a Contracting Agency’s request for Offers or request for quotes submitted to a Contracting Agency

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via email or through the Contracting Agency's Electronic Procurement System.

(15) **"Electronic Procurement System"** means an information system that Persons may access through the Internet, using the World Wide Web or some other Internet protocol, or that Persons may otherwise remotely access using a computer, that enables a Contracting Agency to post Electronic Advertisements, receive Electronic Offers, and conduct other activities related to a Procurement.

(16) **"Goods and Services"** or **"Goods or Services"** has the meaning set forth in ORS 279B.005(1)(b).

(17) **"Invitation to Bid"** or **"ITB"** means all documents used for soliciting Bids in accordance with either ORS 279B.055, or 279C.335.

(18) **"Model Rules"** means the Attorney General's model rules of procedure for Public Contracting, which are set forth in OAR chapter 137, divisions 46, 47, 48 and 49.

(19) **"Offer"** means a response to a Solicitation Document.

(20) **"Offeror"** means a Person who submits an Offer.

(21) **"Opening"** means the date, time and place announced in the Solicitation Document for the public opening of Written sealed Offers.

(22) **"Person"** means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity.

(23) **"Personal Services"** means the services or type of services performed under a Personal Services Contract.

(24) **"Personal Services Contract"** or **"Contract for Personal Services"** means:

(i) for a Local Contracting Agency, a contract or member of a class of contracts, other than a contract for the services of an Architect, Engineer, Land Surveyor or Provider of Related Services (as defined in ORS 279C.100), that the Local Contracting Agency's Local Contract Review Board has designated as a Personal Services Contract pursuant to ORS 279A.055; or

(ii) for a State Contracting Agency, a contract, or member of a class of contracts, other than a contract for the services of an Architect, Engineer, Land Surveyor or Provider of Related Services (as defined in ORS 279C.100), whose primary purpose is to acquire specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment, including, without limitation, a contract for the services of an accountant, physician or dentist, educator, information technology or other consultant, broadcaster or artist (including a photographer, filmmaker, painter, weaver or sculptor).

(25) **"Product Sample"** means a representative specimen of the item offered by the Offeror in response to the Solicitation Document. Unless otherwise provided in the Solicitation Document, the Product Sample shall be the exact product or a representative portion of that product offered by the Offeror.

(26) **"Proposal"** means a response to a Request for Proposals.

(27) **"Responsible Offeror"** (also, **"Responsible Bidder"** or **"Responsible Proposer,"** as applicable) means a Person that has submitted an Offer and meets the standards set forth in OAR 137-047-0640 or 137-049-0390(2), and that has not been debarred or disqualified by the Contracting Agency under OAR 137-047-0575 or 137-049-0370. When used alone, **"Responsible"** means meeting the aforementioned standards.

(28) **"Responsive Offer"** (also, **"Responsive Bid"** or **"Responsive Proposal,"** as applicable) means an Offer that substantially complies in all material respects with applicable solicitation requirements. When used alone, **"Responsive"** means having the characteristic of substantially complying in all material respects with applicable solicitation requirements.

(29) **"Request for Proposals"** or **"RFP"** means all documents used for soliciting Proposals in accordance with either ORS 279B.060, 279C.110 or OAR 137-049-0650.

(30) **"Signed"** or **"Signature"** means any mark, word or symbol attached to or logically associated with a document and executed or adopted by a Person with the intent to be bound.

(31) **"Solicitation Document"** means an Invitation to Bid, Request for Proposals or other document issued to invite offers from prospective contractors pursuant to ORS Chapter 279B or 279C.

(32) **"Specification"** means any description of the physical or functional characteristics, or of the nature of a supply, service or construction item, including any requirement for inspecting, testing or preparing a supply, service or construction item for delivery and the quantities or qualities of materials to be furnished under a Contract. Specifications generally will

state the result to be obtained and may, on occasion, describe the method and manner of doing the Work to be performed.

(33) **"Work"** means the furnishing of all materials, equipment, labor and incidentals necessary to successfully complete any individual item in a Contract and successful completion of all duties and obligations imposed by the Contract.

(34) **"Written"** or **"Writing"** means conventional paper documents, whether handwritten, typewritten or printed, in contrast to spoken words. It also includes electronic transmissions or facsimile documents when required by applicable law or permitted by a Solicitation Document or Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0120

Policy

Contracting Agencies subject to the Code shall conduct Public Contracting to further the policies set forth in ORS 279A.015, elsewhere in the Code, and in these Model Rules.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.015 & ORS 279A.065

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0130

Application of the Code and Model Rules; Exceptions

(1) Except as set forth in this section, a Contracting Agency shall exercise all rights, powers and authority related to Public Contracting in accordance with the Code and the Model Rules.

(2) A Contracting Agency that has specifically opted out of the Model Rules and adopted its own rules of procedure for Public Contracting pursuant to 279A.065 in the exercise of its own contracting authority is not subject to these Model Rules, except for those portions of the Model Rules that the Contracting Agency has prescribed for its own use for Public Contracting.

(3) Contracts or classes of contracts for Personal Services of a Local Contracting Agency designated as such by the Local Contracting Agency's Local Contract Review Board pursuant to ORS 279A.055, are not subject to these Model Rules, unless the Local Contracting Agency adopts OAR 137-047-0250 through 137-047-0290 as the procedures the Local Contracting Agency will use to screen and select persons to perform Contracts for Personal Services other than Architectural, Engineering and Surveying Services and Related Services.

(4) Neither the Code nor these Model Rules apply to the contracts or the classes of contracts described in ORS 279A.025(2).

(5) Neither the Code nor these Model Rules apply to the Public Contracting activities of the Contracting Agencies listed in ORS 279A.025(3).

(6) Contracting Agencies otherwise subject to the Code and these Model Rules may enter into Public Contracts under a federal program described in ORS 279A.180 without following the procedures set forth in ORS 279B.050 through 279B.085, provided that the Contracting Agency enters into the Public Contract pursuant to rules adopted by the Public Contracting Agency pursuant to ORS 279A.180.

(7) Contracting Agencies otherwise subject to the Code and these Model Rules may enter into contracts for Goods or Services with non-profit agencies providing employment opportunities for disabled individuals pursuant to ORS 279.835 through 279.855 without following the source selection procedures set forth in either ORS 279A.200 through 279A.225, or 279B.050 through 279B.085. However, Contracting Agencies must enter into such contracts in accordance with administrative rules promulgated by the Department.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.050, 279A.055, 279A.065 & 279A.180

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0200

Affirmative Action; Limited Competition Permitted

(1) Pursuant to ORS 279A.100, a Contracting Agency may limit competition on Public Contracts for Goods and Services, or on other Public Contracts with an estimated cost of \$50,000 or less to carry out affirmative action policies, in accordance with policies and procedures established by the Public Contracting Agency.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.100

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

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137-046-0210

Subcontracting to and Contracting with Emerging Small Businesses; DBE Disqualification

(1) As set forth in ORS 279A.105, a Contracting Agency may require a contractor to subcontract some part of a Contract to, or to obtain materials to be used in performing the Contract from:

(a) A business enterprise that is certified under ORS 200.055 as an emerging small business; or

(b) A business enterprise that is:

(A) Certified under ORS 200.055 as an emerging small business; and

(B) Is located in or draws its workforce from economically distressed areas, as designated by the Oregon Economic and Community Development Department.

(2) A subcontractor certified under ORS 200.055 as an emerging small business is located in or draws its workforce from economically distressed areas if:

(a) Its principal place of business is located in an area designated as economically distressed by the Oregon Economic and Community Development Department pursuant to administrative rules adopted by the Oregon Economic and Community Development Department; or

(b) The contractor certifies in writing to the Contracting Agency that a substantial number of the subcontractor's employees or subcontractors that will manufacture the goods or complete the services under the contract reside in an area designated as economically distressed by the Oregon Economic and Community Development Department pursuant to administrative rules adopted by the Oregon Economic and Community Development Department. For the purposes of making the foregoing determination, the Contracting Agency shall determine in each particular instance what proportion of a contractor's subcontractor's employees or subcontractors constitute a substantial number.

(3) Contracting Agencies shall include in each Solicitation Document a requirement that Offerors certify in their Offers in a form prescribed by the Contracting Agency, that the Offeror has not and will not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055.

(4) DBE Disqualification.

(a) A Contracting Agency may disqualify a Person from consideration of Award of the Contracting Agency's Contracts under ORS 200.065(5), or suspend a Person's right to bid on or participate in any public contract pursuant to ORS 200.075(1) after providing the Person with notice and a reasonable opportunity to be heard in accordance with sections (d) and (e) of this section.

(b) As provided in ORS 200.065 and 200.075 a Contracting Agency may disqualify or suspend a Person's right to submit an Offer or to participate in a Contract (e.g. act as a subcontractor) as follows:

(A) For a DBE Disqualification under ORS 200.065, the Contracting Agency may disqualify a Person upon finding that the Person engaged in any of the activities made unlawful by ORS 200.065(1) or (2), or if the Person has been disqualified by another Contracting Agency pursuant to ORS 200.065.

(B) For a DBE Disqualification under ORS 200.075, the Contracting Agency may suspend a Person upon finding that the Person engaged in any of the acts prohibited by ORS 200.075(a) through (c).

(c) A Contracting Agency may disqualify or suspend a Person's right to submit Offers or participate in Public Contracts only for the length of time permitted by ORS 200.065 or 200.075, as applicable.

(d) The Contracting Agency shall notify the Person in Writing of a proposed DBE Disqualification pursuant to this section, served personally or by registered or certified mail, return receipt requested. This notice shall:

(A) State that the Contracting Agency intends to disqualify or suspend the Person;

(B) Set forth the reasons for the DBE Disqualification;

(C) Include a statement of the Person's right to a hearing if requested in Writing within the time stated in the notice and that if the Contracting Agency does not receive the Person's Written request for a hearing within the time stated, the Person shall have waived its right to a hearing;

(D) Include a statement of the authority and jurisdiction under which the hearing will be held;

(E) Include a reference to the particular sections of the statutes and rules involved;

(F) State the proposed DBE Disqualification period; and

(G) State that the Person may be represented by legal counsel.

(e) **Hearing.** The Contracting Agency shall schedule a hearing upon the Contracting Agency's receipt of the Person's timely request. The

Contracting Agency shall notify the Person of the time and place of the hearing and provide information on the procedures, right of representation and other rights related to the conduct of the hearing prior to hearing.

(f) **Notice of DBE Disqualification.** The Contracting Agency will notify the Person in Writing of its DBE Disqualification, served personally or by registered or certified mail, return receipt requested. The notice shall contain:

(A) The effective date and period of DBE Disqualification;

(B) The grounds for DBE Disqualification; and

(C) A statement of the Person's appeal rights and applicable appeal deadlines.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 200.065, 200.075, 279A.065, 279A.105 & 279A.110

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0300

Preference for Oregon Goods and Services; Nonresident Bidders

(1) **Award When Offers Identical.** When a Contracting Agency receives Offers identical in price, fitness, availability and quality, and chooses to award a Contract, the Contracting Agency shall award the Contract based on the following order of precedence:

(a) The Agency shall award the Contract to the Offeror among those submitting identical offers that is offering Goods or Services or Personal Services that have been manufactured or produced in Oregon.

(b) If two or more Offerors submit identical Offers, and both offer Goods or Services or Personal Services manufactured or produced in Oregon, the Contracting Agency shall award the Contract by drawing lots among the identical Offers offering Goods or Services or Personal Services that have been manufactured or produced in Oregon. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.

(c) If the Contracting Agency receives identical Offers, and none of the identical Offers offer Goods or Services or Personal Services manufactured or produced in Oregon, then the Contracting Agency shall award the Contract by drawing lots among the identical Offers. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.

(2) **Determining if Offers are Identical.** A Contracting Agency shall consider Offers identical in price, fitness, availability and quality as follows:

(a) Bids received in response to an Invitation to Bid are identical in price, fitness, availability and quality if the Bids are Responsive, and offer the Goods or Services or Personal Services described in the Invitation to Bid at the same price.

(b) Proposals received in response to a Request for Proposals are identical in price, fitness, availability and quality if they are Responsive and achieve equal scores when scored in accordance with the evaluation criteria set forth in the Request for Proposals.

(c) Proposals received in response to a Special Procurement conducted pursuant to ORS 279B.085 are identical in price, fitness, availability and quality if, after completing the contracting procedure approved by the Contract Review Authority, the Contracting Agency determines, in writing, that two or more Proposals are equally advantageous to the Contracting Agency.

(3) **Determining if Goods or Services or Personal Services are Manufactured or Produced in Oregon.** For the purposes of complying with section 1 of this Rule, Contracting Agencies may request, either in a Solicitation Document, following Closing, or at any other time determined appropriate by the Contracting Agency, any information the Contracting Agency determines is appropriate and necessary to allow the Contracting Agency to determine if the Goods or Services or Personal Services are manufactured or produced in Oregon. A Contracting Agency may use any reasonable criteria to determine if Goods or Services or Personal Services are manufactured or produced in Oregon, provided that the criteria reasonably relate to that determination, and provided that the Contracting Agency applies those criteria equally to each Bidder or Proposer.

(4) **Procedure for Drawing Lots.** In any instance when this Section calls for the drawing of lots, the Contracting Agency shall draw lots by a procedure that affords each Offeror subject to the drawing a substantially equal probability of being selected, and that does not allow the person making the selection the opportunity to manipulate the drawing of lots to increase the probability of selecting one Offeror over another.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.120

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

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137-046-0310

Reciprocal Preferences

When evaluating Bids pursuant to OAR 137-047-0255, 137-047-0257 or 137-049-0390, Contracting Agencies shall add a percentage increase to the Bid of a Nonresident Bidder equal to the percentage, if any, of the preference that would be given to that Bidder in the state in which the Bidder resides. A Contracting Agency may rely on the list prepared and maintained by the Department pursuant to ORS 279A.120(4) to determine both (i) whether the Nonresident Bidder's state gives preference to in-state bidders, and (ii) the amount of such preference.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.120

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0320

Preference for Recycled Materials

(1) Notwithstanding provisions of law requiring a Contracting Agency to award a Contract to the lowest responsible bidder or best proposer or provider of a quotation, and in accordance with subsection (2) of this section, a Contracting Agency charged with the procurement of goods for any public use shall give preference to the procurement of goods manufactured from recycled materials.

(2) In comparing goods from two or more Bidders or Proposers, if at least one Bidder or Proposer offers goods manufactured from recycled materials, and at least one Bidder or Proposer does not, a Contracting Agency shall select the Bidder or Proposer offering goods manufactured from recycled materials if each of the following four conditions exists:

(a) The recycled product is available;

(b) The recycled product meets applicable standards;

(c) The recycled product can be substituted for a comparable non-recycled product; and

(d) The recycled product's costs do not exceed the costs of non-recycled products by more than five percent, or a higher percentage if a written determination is made by the Contracting Agency and set forth in the Solicitation Document. For purposes of making the foregoing determination, the Contracting Agency shall consider the costs of the goods following any adjustments the Contracting Agency makes to the price of the goods for purposes of evaluation pursuant to OAR 137-046-0310.

(3) For the purposes of this Section, a Contracting Agency shall determine if goods are manufactured from recycled materials in accordance with standards established by the Contracting Agency.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.125

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0400

Authority for Cooperative Procurements

(1) Agencies may participate in, sponsor, conduct or administer Cooperative Procurements as follows:

(a) Contracting Agencies may participate in, sponsor, conduct or administer Joint Cooperative Procurements to establish Contracts or Price Agreements for Goods or Services or Personal Services, that use source selection methods substantially equivalent to those set forth in ORS 279B.055, 279B.060, or 279B.085 or to establish Contracts for Public Improvements that use a competitive bidding process substantially equivalent to that set forth in ORS 279C.005 through 279C.870.

(b) Contracting Agencies may participate in, sponsor, conduct or administer Permissive Cooperative Procurements to establish contracts or Price Agreements for the acquisition of Goods or Services or Personal Services that use source selection methods substantially equivalent to those set forth in ORS 279B.055 or 279B.060.

(c) Contracting Agencies may participate in, sponsor, conduct or administer Interstate Cooperative Procurements to establish contracts or Price Agreements for the acquisition of Goods or Services or Personal Services that use source selection methods substantially equivalent to those set forth in ORS 279B.055 or 279B.060.

(2) A solicitation and award process uses source selection methods substantially equivalent to those identified in ORS 279B.055, 279B.060 or 279B.085 when it has the characteristics set forth in ORS 279A.200(2). Each Participating Contracting Agency shall determine, in writing, whether the solicitation and award process for an Original Contract arising out of a Cooperative Procurement is substantially equivalent to those identified in ORS 279B.055, 279B.060 or 279B.085 in accordance with ORS 279A.200(2).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.205

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0410

Responsibilities of Administering Contracting Agencies and Purchasing Contracting Agencies

(1) If a Contracting Agency is an Administering Contracting Agency of a Cooperative Procurement, the Contracting Agency may establish the conditions under which Persons may participate in the Cooperative Procurements administered by the Administering Contracting Agency. Such conditions may include, without limitation, whether each Person that participates in the Cooperative Procurement must pay administrative fees to the Administering Contracting Agency, whether the participants must enter into a written agreement with the Administering Contracting Agency, or any other matters related to the administration of the Cooperative Procurement and the resulting Original Contract. A Contracting Agency that acts as an Administering Contracting Agency may, but is not required to, include provisions in the Solicitation Document for a Cooperative Procurement or advertise the Solicitation Document in a manner to assist Purchasing Contracting Agencies' compliance with the Code or these Model Rules.

(2) If a Contracting Agency, acting as a Purchasing Contracting Agency, enters into a Contract or Price Agreement based on a Cooperative Procurement, the Contracting Agency shall comply with the Code and these Model Rules, including without limitation those sections of the Code and these Model Rules that govern:

(a) The extent to which the Purchasing Contracting Agency may participate in the Cooperative Procurement;

(b) The advertisement of the solicitation document related to the Cooperative Procurement; and

(c) Public notice of the Purchasing Contracting Agency's intent to establish Contracts or Price Agreements based on a Cooperative Procurement.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.205

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0420

Joint Cooperative Procurements

A Contracting Agency that chooses to participate in, sponsor, conduct or administer a Joint Cooperative Procurement may do so only in accordance with ORS 279A.210.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.210

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0430

Permissive Cooperative Procurements

A Contracting Agency that chooses to participate in, sponsor, conduct or administer a Permissive Cooperative Procurement may do so only in accordance with ORS 279A.215.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.215

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0440

Advertisements of Intent to Establish Contracts or Price Agreements through a Permissive Cooperative Procurement

(1) A Purchasing Contracting Agency that wishes to enter into a Contract or Price Agreement arising out of a Permissive Cooperative Procurement must publish notice of its intent to do so if the Purchasing Contracting Agency estimates that it will spend in excess of \$250,000 on Goods and Services or Personal Services acquired under the Contract or Price Agreement.

(2) For purposes of determining whether a Purchasing Contracting Agency must give the notice required by OAR 137-046-0440(1), a Purchasing Contracting Agency will spend in excess of \$250,000 for Goods and Services or Personal Services acquired under a Contract or Price Agreement arising out of a Permissive Cooperative Procurement if:

(a) The Purchasing Contracting Agency's Contract or Price Agreement arising out of the Permissive Cooperative Procurement expressly provides that the Purchasing Contracting Agency will make payments over the term of the Contract or Price Agreement that will, in aggregate, exceed \$250,000, whether or not the total amount or value of the payments is expressly stated;

(b) The Purchasing Contracting Agency's Contract or Price Agreement arising out of the Permissive Cooperative Procurement expressly provides for a guaranteed maximum price, or a maximum not to exceed amount in excess of \$250,000; or

(c) At the time the Purchasing Contracting Agency enters into the Contract or Price Agreement, the Purchasing Contracting Agency reason-

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ably contemplates, based on historical or other data available to the Purchasing Contracting Agency, that the total payments it will make for Goods or Services or Personal Services under the Contract or Price Agreement will, in aggregate, exceed \$250,000 over the anticipated duration of the Contract or Price Agreement.

(3) The notice of intent required by OAR 137-046-0440(1) shall contain the information required by ORS 279A.215(2)(b), and Agency shall advertise the notice in the same manner as provided in ORS 279B.055(4)(b) and (c). Unless the Purchasing Contracting Agency has adopted rules that set forth a different time period, the Purchasing Contracting Agency shall give the notice required by this Section no fewer than 7 days before the deadline for submitting comments regarding the Purchasing Contracting Agency's intent to establish a Contract or Price Agreement through a Permissive Cooperative Procurement.

(4) An Administering Contracting Agency that intends to establish a Contract or Price Agreement arising out of the Permissive Cooperative Procurement it administers may satisfy the notice requirements set forth in OAR 137-046-0440(1) and (3) by including the information required by ORS 279A.215(2)(b) in the Solicitation Document related to the Permissive Cooperative Procurement, and including instructions in the Solicitation Document to potential Offerors describing how they may submit comments in response to the Administering Contracting Agency's intent to establish a Contract or Price Agreement through the Permissive Cooperative Procurement. The content and timing of such notice shall comply in all respects with ORS 279A.215(2), 279A.215(3) and these Model Rules.

(5) The Purchasing Contracting Agency shall respond to any comments on its intent to establish a Contract or Price Agreement through a Permissive Cooperative Procurement as set forth in ORS 279A.215(3)(c).

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065 & ORS 279A.215
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0450

Interstate Cooperative Procurements

A Contracting Agency that chooses to participate in, sponsor, conduct or administer an Interstate Cooperative Procurement may do so only in accordance with ORS 279A.220.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065 & ORS 279A.220
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0460

Advertisements of Interstate Cooperative Procurements

A Purchasing Contracting Agency may only participate in an Interstate Cooperative Procurement if at least one of the following occurs:

(1) The Solicitation Document for the Interstate Cooperative Procurement lists the Purchasing Contracting Agency or the Cooperative Procurement Group of which the Purchasing Contracting Agency is a member as a party that may enter into Contracts or Price Agreements under the terms and conditions of the Original Contract, and the Solicitation Document is advertised in Oregon in compliance with ORS 279B.055(4) or 279B.060(4) by either:

(a) The Purchasing Contracting Agency; or

(b) The Cooperative Procurement Group, or a member of the Cooperative Procurement Group, of which the Purchasing Contracting Agency is a member; or

(c) Another Purchasing Contracting Agency that is subject to the Code, so long as such advertisement would, if given by the Purchasing Contracting Agency, comply with ORS 279B.055(4) or 279B.060(4) with respect to the Purchasing Contracting Agency; or

(2) If the Solicitation Document issued by the Administering Contracting Agency was not advertised in accordance with OAR 137-046-0460(1), the Purchasing Contracting Agency gives notice of its intent to enter into a Public Contract or Price Agreement based on the terms of the Interstate Cooperative Procurement. The notice of intent shall contain the information required by ORS 279A.220(2)(b)(B), and the Purchasing Contracting Agency shall advertise the notice in the same manner as provided in ORS 279B.055(4)(b) and (c). Unless the Purchasing Contracting Agency has adopted rules that set forth a different time period, the Purchasing Contracting Agency shall give the notice required by this Section no fewer than 7 days before the deadline for submitting comments regarding the Purchasing Contracting Agency's intent to establish a contract or price agreement through a Permissive Cooperative Procurement.

(3) The Purchasing Contracting Agency shall respond to any comments on its intent to establish a contract or price agreement through a Permissive Cooperative Procurement as set forth in ORS 279A.220(3)(c).

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065 & ORS 279A.220
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0470

Protests and Disputes

(1) If a bidder or proposer wishes to protest the procurement process, the contents of a solicitation document related to a Cooperative Procurement, or the award or proposed award of an Original Contract, the bidder or proposer shall direct the protest to the Administering Contracting Agency, and the bidder or proposer shall make such protest in accordance with ORS 279B.400 through 279B.425. If the Administering Contracting Agency is not subject to the Code, then bidders or proposers shall make such protests in accordance with the processes and procedures established by the Administering Contracting Agency.

(2) The failure of a Purchasing Contracting Agency to exercise any rights or remedies it has under a Contract or Price Agreement entered into through a Cooperative Procurement shall not affect the rights or remedies of any other Contracting Agency that participates in the Cooperative Procurement, including the Administering Contracting Agency, and shall not prevent any other Purchasing Contracting Agency from exercising any rights or seeking any remedies that may be available to it under its own Contract or Price Agreement arising out of the Cooperative Procurement.

(3) Any other protests related to a Cooperative Procurement, or disputes related to a Contract or Price Agreement arising out of a Cooperative Procurement, shall be made and resolved as set forth in ORS 279A.225.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065 & ORS 279A.225
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0480

Contract Amendments

A purchasing Contracting Agency may amend a Contract entered into pursuant to a Cooperative Procurement as set forth in OAR 137-047-0800.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-046-0500

Repealed Rules

As required by Or Laws 2003, chapter 794, section 334, OAR 137-030-0000, 137-030-0005, 137-030-0006, 137-030-0008, 137-030-0010, 137-030-0011, 137-030-0012, 137-030-0013, 137-030-0014, 137-030-0015, 137-030-0020, 137-030-0030, 137-030-0035, 137-030-0040, 137-030-0050, 137-030-0055, 137-030-0060, 137-030-0065, 137-030-0070, 137-030-0075, 137-030-0080, 137-030-0085, 137-030-0090, 137-030-0095, 137-030-0100, 137-030-0102, 137-030-0104, 137-030-0105, 137-030-0110, 137-030-0115, 137-030-0120, 137-030-0125, 137-030-0130, 137-030-0135, 137-030-0140, 137-030-0145, 137-030-0155, 137-035-0000, 137-035-0010, 137-035-0020, 137-035-0030, 137-035-0040, 137-035-0050, 137-035-0060, 137-035-0065, 137-035-0070, 137-035-0080, 137-040-0000, 137-040-0005, 137-040-0010, 137-040-0015, 137-040-0017, 137-040-0020, 137-040-0021, 137-040-0025, 137-040-0030, 137-040-0031, 137-040-0035, 137-040-0045, 137-040-0500, 137-040-0510, 137-040-0520, 137-040-0530, 137-040-0540, 137-040-0550, 137-040-0560, 137-040-0565, 137-040-0570, 137-040-0590 are repealed effective March 1, 2005. The repealed rules will continue to apply to the solicitation of Public Contracts first advertised, but if not advertised then entered into, before March 1, 2005.

Stat. Auth.: ORS 279A.065 & OL 2003, Ch. 795, 334
Stats. Implemented: ORS 279A.065 & OL 2003, Ch. 795, 334
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0000

Application

These division 47 rules implement ORS Chapter 279B, Public Procurements and apply to the Procurement of Goods or Services. State Contracting Agencies shall also procure Personal Services, except for Architectural, Engineering, Land Surveying and Related Services, pursuant to these division 47 rules. For the purposes of State Contracting Agencies the term "Services", when used in these division 47 rules also includes Personal Services. Local Contracting Agencies, pursuant to ORS 279B.050(4)(a), may also adopt these division 47 rules to govern the Procurement of Personal Services Contracts or elect to award Personal Services Contracts under procedures set forth in ORS 279B.055 through 279B.085. These division 47 rules become effective on March 1, 2005 and apply to Contracts first advertised, but if not advertised then entered into, on or after March 1, 2005.

Stat. Auth.: ORS 279A.065

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Stats. Implemented: ORS 279B.015
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0100

Definitions

(1) “**Advantageous**” means in the Contracting Agency’s best interests, as assessed according to the judgment of the Contracting Agency.

(2) “**Affected Person**” or “**Affected Offeror**” means a Person whose ability to participate in a Procurement is adversely affected by a Contracting Agency decision.

(3) “**Scope**” means the range and attributes of the Goods or Services described in the applicable Procurement document.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0250

Methods of Source Selection

Except as permitted by ORS 279B.065 through 279B.085 and ORS 279A.200 through 279A.225, a Contracting Agency shall Award a Public Contract for Goods or Services based on Offers received in response to either competitive sealed Bids pursuant to ORS 279B.055 or competitive sealed Proposals pursuant to ORS 279B.060.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.050
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0255

Competitive Sealed Bidding

(1) Generally. A Contracting Agency may procure Goods or Services by competitive sealed bidding as set forth in ORS 279B.055. An Invitation to Bid is used to initiate a competitive sealed bidding solicitation and shall contain the information required by ORS 279B.055(2) and by section 2 of this rule. The Contracting Agency shall provide public notice of the competitive sealed bidding solicitation as set forth in OAR 137-047-0300.

(2) Invitation to Bid. In addition to the provisions required by ORS 279B.055(2), the Invitation to Bid shall include the following:

(a) General Information.

(A) Notice of any pre-Offer conference as follows:

(i) The time, date and location of any pre-Offer conference;

(ii) Whether attendance at the conference will be mandatory or voluntary; and

(iii) A provision that provides that statements made by the Contracting Agency’s representatives at the conference are not binding upon the Contracting Agency unless confirmed by Written Addendum.

(B) The form and instructions for submission of Bids and any other special information, e.g., whether Bids may be submitted by electronic means (See OAR 137-047-0330 for required provisions of electronic Bids);

(C) The time, date and place of Opening;

(D) The office where the Solicitation Document may be reviewed;

(E) A statement that each Bidder must identify whether the Bidder is a “resident Bidder,” as defined in ORS 279A.120(1);

(F) Contractor’s certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110(4). (See OAR 137-046-0210(3)); and

(G) How the Contracting Agency will notify Bidders of Addenda and how the Contracting Agency will make Addenda available (See OAR 137-047-0430).

(b) Contracting Agency Need. The character of the Goods or Services the Contracting Agency is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements.

(c) Bidding and Evaluation Process.

(A) The anticipated solicitation schedule, deadlines, protest process, and evaluation process;

(B) The Contracting Agency shall set forth objective evaluation criteria in the Solicitation Document in accordance with the requirements of ORS 279B.055(6)(a). Evaluation criteria need not be precise predictors of actual future costs, but to the extent possible, such evaluation factors shall be reasonable estimates of actual future costs based on information the Contracting Agency has available concerning future use; and

(C) If the Contracting Agency intends to Award Contracts to more than one Bidder pursuant to OAR 137-047-0600(4)(c), the Contracting Agency shall identify in the Solicitation Document the manner in which it will determine the number of Contracts it will Award.

(d) Applicable preferences pursuant to ORS 279B.055(6)(b).

(e) For Contracting Agencies subject to ORS 305.385, Contractor’s certification of compliance with the Oregon tax laws in accordance with ORS 305.385.

(f) All Contract terms and conditions, including a provision indicating whether the Contractor can assign the Contract, delegate its duties, or subcontract the delivery of the Goods or Services without prior written approval from the Contracting Agency.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.055
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0257

Multistep Sealed Bids

(1) Generally. A Contracting Agency may procure Goods or Services by using multistep competitive sealed Bids pursuant to ORS 279.055(12).

(2) Phased Process. Multistep bidding is a phased process that seeks necessary information or unpriced technical Bids in the initial phase and regular competitive sealed bidding, inviting Bidders who submitted technically eligible Bids in the initial phase to submit competitive sealed price Bids on the technical Bids in the final phase. The Contract shall be Awarded to the lowest Responsible Bidder. If time is a factor, the Contracting Agency may require Bidders to submit a separate sealed price Bid during the initial phase to be opened after the technical evaluation.

(3) Public Notice. Whenever multistep sealed Bids are used, public notice for the first phase shall be given in accordance with OAR 137-047-0300. Public notice is not required for the subsequent phases. However, a Contracting Agency shall give notice of subsequent phases to all Bidders and inform Bidders of the right to protest Addenda issued after initial Closing pursuant to OAR 137-047-430 and inform Bidders excluded from the subsequent phases of the right, if any, to protest exclusion pursuant to OAR 137-047-0720.

(4) Procedures Generally. In addition to the procedures set forth in OAR 137-047-0300 through 137-047-0490, a Contracting Agency shall employ the procedures set forth in this rule for multistep bidding:

(a) Solicitation Protest. Prior to the Closing of phase one, a Contracting Agency shall provide an opportunity to protest the solicitation and under ORS 279B.405 and OAR 137-047-0730.

(b) Addenda Protest. A Contracting Agency may, provide an opportunity to protest any Addenda issued during phase two pursuant to OAR 137-047-0430(3)(b).

(c) Exclusion Protest. A Contracting Agency may, but is not required to provide an opportunity for a Bidder to protest exclusion from the second round of multistep sealed Bids as set forth in OAR 137-047-0720.

(d) Administrative Remedy. Proposers may submit a protest to any Addenda or to any action by the Contracting Agency that has the effect of excluding the Proposer from the second phase of multistep bidding to the extent such protests are provided for in the Solicitation Document or required by this section. Failure to so protest shall be considered the Bidders’s failure to pursue an administrative remedy made available to the Bidder by the Contracting Agency.

(e) Award Protest. A Contracting Agency shall provide an opportunity to protest its intent to Award a Contract pursuant to ORS 279B.410 and OAR 137-047-0740. An Affected Bidder may protest, for any of the bases set forth in OAR 137-047-0720(2), its exclusion from the second phase of a multistep sealed Bid, or an Addendum issued following initial Closing, if the Contracting Agency did not previously provide Bidders the opportunity to protest such exclusion or Addendum.

(5) Procedure for Phase One of Multistep Sealed Bids.

(a) Form. Multistep sealed bidding shall be initiated by the issuance of an Invitation to Bid in the form and manner required for competitive sealed Bids except as hereinafter provided. In addition to the requirements set forth in OAR 137-047-0255(2), the multistep Invitation to Bid shall state:

(A) That un-priced technical Bids are requested;

(B) Whether price Bids are to be submitted at the same time as un-priced technical Bids; if they are, that such price Bids shall be submitted in a separate sealed envelope;

(C) That the solicitation is a multistep sealed Bid Procurement, and priced Bids will be considered only in the second phase and only from those Bidders whose un-priced technical Bids are found eligible in the first phase;

(D) The criteria to be used in the evaluation of un-priced technical Bids;

(E) That the Contracting Agency, to the extent that it finds necessary, may conduct oral or written discussions for the purposes of clarification of the un-priced technical Bids;

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(F) That the Goods or Services being procured shall be furnished generally in accordance with the Bidder's technical Bid as found to be finally eligible and shall meet the requirements of the Invitation to Bid.

(G) Whether Bidders excluded from subsequent phases have a right to protest the exclusion before the notice of intent to Award. Such information can be given or changed by Addenda.

(b) Addenda to the Invitation to Bid. After receipt of un-priced technical Bids, Addenda to the Invitation to Bid shall be distributed only to Bidders who submitted un-priced technical Bids.

(c) Receipt and Handling of Un-priced Technical Bids. Un-priced technical Bids need not be opened publicly.

(d) Evaluation of Un-priced Technical Bids. Un-priced technical Bids submitted by Bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation to Bid. Un-priced technical Bids shall be categorized as:

(A) Eligible;

(B) Potentially eligible; that is, reasonably susceptible of being made eligible; or

(C) Ineligible. The Contracting Agency shall record in writing the basis for determining a Bid ineligible and make it part of the Procurement file. The Contracting Agency may initiate phase two of the procedure if, in the Contracting Agency's opinion, there are sufficient eligible un-priced technical Bids to assure effective price competition in the second phase without technical discussions. If the Contracting Agency finds that such is not the case, the Contracting Agency may issue an Addendum to the Invitation to Bid or engage in technical discussions as set forth in subsection (5)(e) of this rule.

(e) Discussion of Un-priced Technical Bids. The Contracting Agency may seek clarification of a technical Bid by any eligible, or potentially eligible Bidder. During the course of such discussions, the Contracting Agency shall not disclose any information derived from one un-priced technical Bid to any other Bidder. Once discussions are begun, any Bidder who has not been notified that its Bid has been finally found ineligible may submit supplemental information amending its technical Bid at any time until the Closing of the final step established by the Contracting Agency. Such submission may be made at the request of the Contracting Agency or upon the Bidder's own initiative.

(f) Notice of Ineligible Un-priced Technical Bid. When the Contracting Agency determines a Bidder's un-priced technical Bid to be ineligible, such Bidder shall not be afforded an additional opportunity to supplement its technical Bids.

(g) Mistakes During Multistep Sealed Bidding. Mistakes may be corrected or Bids may be withdrawn during phase one:

(A) Before un-priced technical Bids are considered;

(B) After any discussions have commenced under subsection (5)(e);

(C) When responding to any Addenda of the Invitation to Bid; or

(D) In accord with OAR 137-047-0470.

(6) Procedure for Phase Two of Multistep Sealed Bids.

(a) Initiation. Upon the completion of phase one, the Contracting Agency shall either:

(A) Open price Bids submitted in phase one (if price Bids were required to be submitted) from Bidders whose un-priced technical Bids were found to be eligible; or

(B) If price Bids have not been submitted, technical discussions have been held, or Addenda to the Invitation to Bid have been issued, invite each eligible Bidder to submit a price Bid.

(b) Conduct. Phase Two shall be conducted as any other competitive sealed Bid Procurement except:

(A) As specifically set forth in this rule;

(B) No public notice need be given of this invitation to submit price Bids because such notice was previously given.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.055

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0260

Competitive Sealed Proposals

(1) Generally. A Contracting Agency may procure Goods or Services by competitive sealed Proposals as set forth in ORS 279B.060. A Request for Proposal is used to initiate a competitive sealed Proposal solicitation and shall contain the information required by ORS 279B.060(2) and by section 2 of this rule. The Contracting Agency shall provide public notice of the competitive sealed Proposals as set forth in OAR 137-047-0300.

(2) Request for Proposal. In addition to the provisions required by ORS 279B.060(2), the Request for Proposal shall include the following:

(a) General Information.

(A) Notice of any pre-Offer conference as follows:

(i) The time, date and location of any pre-Offer conference; and

(ii) Whether attendance at the conference will be mandatory or voluntary; and

(iii) A provision that provides that statements made by the Contracting Agency's representatives at the conference are not binding upon the Contracting Agency unless confirmed by Written Addendum.

(B) The form and instructions for submission of Proposals and any other special information, e.g., whether Proposals may be submitted by electronic means (See OAR 137-047-0330 for required provisions of electronic Proposals);

(C) The time, date and place of Opening;

(D) The office where the Solicitation Document may be reviewed;

(E) Contractor's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110(4). (See OAR 137-046-0210(3)); and

(F) How the Contracting Agency will notify Proposers of Addenda and how the Contracting Agency will make Addenda available (See OAR 137-047-0430).

(b) Contracting Agency Need. The character of the Goods or Services the Contracting Agency is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements.

(c) Proposal and Evaluation Process.

(A) The anticipated solicitation schedule, deadlines, protest process, and evaluation process;

(B) The Contracting Agency shall set forth selection criteria in the Solicitation Document in accordance with the requirements of ORS 279B.060(2)(h)(E). Evaluation criteria need not be precise predictors of actual future costs and performance, but to the extent possible, such factors shall be reasonable estimates of actual future costs based on information available to the Contracting Agency; and

(C) If the Contracting Agency intends to Award Contracts to more than one Proposer pursuant to OAR 137-047-0600(4)(d), the Contracting Agency must identify in the Solicitation Document the manner in which it will determine the number of Contracts it will Award.

(d) Applicable Preferences described in ORS 279A.125(2) and 282.210.

(e) For Contracting Agencies subject to ORS 305.385, Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385.

(f) All Contract terms and conditions, including a provision indicating whether the Contractor can assign the Contract, delegate its duties, or subcontract the Goods or Services without prior written approval from the Contracting Agency.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0261

Procedures for Competitive Range, Multi-tiered and Multistep Proposals

(1) Generally. A Contracting Agency may procure Goods or Services employing any combination of the methods of Contractor selection as set forth in ORS 279B.060(6)(b). In addition to the procedures set forth in OAR 137-047-0300 through 137-047-0490 for methods of Contractor selection that call for the establishment of a Competitive Range or include discussions or negotiations, a Contracting Agency shall employ the procedures set forth in this rule for Competitive Range, multi-tiered and multistep Proposals.

(2) Solicitation Protest. Prior to the initial Closing, a Contracting Agency shall provide an opportunity to protest the solicitation under ORS 279B.405 and OAR 137-047-0730.

(3) Addenda Protest. A Contracting Agency may provide an opportunity to protest, pursuant OAR 137-047-0430, any Addenda issued pursuant to ORS 279B.060(6)(d).

(4) Exclusion Protest. A Contracting Agency may provide before the notice of an intent to Award an opportunity for a Proposer to protest exclusion from the Competitive Range or from subsequent phases of multi-tiered or multistep sealed Proposals as set forth in OAR 137-047-0720.

(5) Administrative Remedy. Proposers may submit a protest to any Addenda or to any action by the Contracting Agency that has the effect of excluding the Proposer from subsequent phases of a multiple-tiered or multistep Request for Proposals to the extent such protests are provided for in the Solicitation Document. Failure to so protest shall be considered the

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Proposer's failure to pursue an administrative remedy made available to the Proposer by the Contracting Agency.

(6) Award Protest. A Contracting Agency shall provide an opportunity to protest its intent to Award a Contract pursuant to ORS 279B.410 and OAR 137-047-0740. An Affected Proposer may protest, for any of the bases set forth in OAR 137-047-0720(2), its exclusion from the Competitive Range or any phase of a multi-tiered or multistep sealed Proposal, or an Addendum issued following initial Closing, if the Contracting Agency did not previously provide Proposers the opportunity to protest such exclusion or Addendum.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

Hist.: DOJ 11-2004, f. 9-1-04, cert. eff. 3-1-05

137-047-0262

Competitive Range, Discussions and Negotiations

(1) Competitive Range. When a Contracting Agency's solicitation process conducted pursuant to ORS 279B.060(6)(b) calls for the Contracting Agency to establish a Competitive Range at any stage in the Procurement process, it shall do so as follows:

(a) Determining Competitive Range.

(A) The Contracting Agency shall establish a Competitive Range after evaluating all Responsive Proposals in accordance with the evaluation criteria set forth in the Request for Proposals. After evaluation of all Proposals in accordance with the criteria set forth in the Request for Proposals, the Contracting Agency shall determine and rank the Proposers in the Competitive Range.

(B) The Contracting Agency may increase the number of Proposers in the Competitive Range if the Contracting Agency's evaluation of Proposals establishes a natural break in the scores of Proposers indicating a number of Proposers greater than the initial Competitive Range are closely competitive, or have a reasonable chance of being determined the most Advantageous Proposer. The Contracting Agency may decrease the number of Proposers in the initial Competitive Range only if the excluded Proposers have no reasonable chance to be the most advantageous Proposer.

(b) Protesting Competitive Range. The Contracting Agency shall provide Written notice to all Proposers identifying Proposers in the Competitive Range. A Contracting Agency may provide an opportunity for Proposers excluded from the Competitive Range to protest the Contracting Agency's evaluation and determination of the Competitive Range in accordance with OAR 137-030-0720.

(c) Intent to Award; Discuss or Negotiate. After determination of the Competitive Range and after any protest period provided in accordance with subsection (1)(b) expires, or after the Contracting Agency has provided a final response to any protest, whichever date is later, the Contracting Agency may either:

(A) Provide Written notice to all Proposers in the Competitive Range of its intent to Award the Contract to the highest-ranked Proposer in the Competitive Range.

(i) An unsuccessful Proposer may protest the Contracting Agency's intent to Award in accordance with OAR 137-047-0740 and ORS 279B.410.

(ii) After the protest period provided in accordance with OAR 137-047-0740 expires, or after the Contracting Agency has provided a final response to any protest, whichever date is later, the Contracting Agency shall commence negotiations in accordance with section (3) of this rule with Proposers in the Competitive Range; or

(B) Engage in discussions with Proposers in the Competitive Range and accept revised Proposals from them as set forth in section (2) of this rule and following such discussions and receipt and evaluation of revised Proposals, conduct negotiations as set forth in section (3) of this rule with the Proposers in the Competitive Range.

(2) Discussions; Revised Proposals. If the Contracting Agency chooses to enter into discussions with and receive best and final Offers (See 137-047-0262(4)), the Contracting Agency shall proceed as follows:

(a) Initiating Discussions. The Contracting Agency shall initiate oral or written discussions with all Proposers submitting Responsive Proposals or all Proposers in the Competitive Range (collectively "eligible Proposers") regarding their Proposals with respect to the provisions of the RFP that the Contracting Agency identified in the RFP as the subject of discussions. The Contracting Agency may conduct discussions for the following purposes:

(A) Informing eligible Proposers of deficiencies in their initial Proposals;

(B) Notifying eligible Proposers of parts of their Proposals for which the Contracting Agency would like additional information; or

(C) Otherwise allowing eligible Proposers to develop revised Proposals that will allow the Contracting Agency to obtain the best Proposal based on the requirements and evaluation criteria set forth in the Request for Proposals.

(b) Conducting Discussions. The Contracting Agency may conduct discussions with each eligible Proposer necessary to fulfill the purposes of this section 2, but need not conduct the same amount of discussions with each eligible Proposer. The Contracting Agency may terminate discussions with any eligible Proposer at any time. However, the Contracting Agency shall offer all eligible Proposers the same opportunity to discuss their Proposals with the Contracting Agency before the Contracting Agency notifies eligible Proposers of the date and time pursuant to section 4 that best and final Proposals will be due.

(A) In conducting discussions, the Contracting Agency:

(i) Shall treat all eligible Proposers fairly and shall not favor any eligible Proposer over another;

(ii) Shall disclose other eligible Proposer's Proposals or discussions only in accordance with 279B.060(6)(a)(B) or (C);

(iii) May adjust the evaluation of a Proposal as a result of a discussion under this section. The conditions, terms, or price of the Proposal may be altered or otherwise changed during the course of the discussions provided the changes are within the scope of the Request for Proposals.

(B) At any time during the time allowed for discussions, the Contracting Agency may:

(i) Continue discussions with a particular eligible Proposer;

(ii) Terminate discussions with a particular eligible Proposer and continue discussions with other eligible Proposers; or

(iii) Conclude discussions with all remaining eligible Proposers and provide notice pursuant to section 4 of this rule to the eligible Proposers requesting best and final Offers.

(3) Negotiations.

(a) Initiating Negotiations. The Contracting Agency may commence serial negotiations with the highest-ranked eligible Proposers or commence simultaneous negotiations with all eligible Proposers as follows:

(A) After initial determination of which Proposals are Responsive; or

(B) After initial determination of the Competitive Range in accordance with section (1) of this rule; or

(C) After conclusion of discussions with all eligible Proposers and evaluation of revised Proposals (See section (2) of this rule).

(b) Conducting Negotiations.

(A) Scope. The Contracting Agency may negotiate:

(i) The statement of Work;

(ii) The Contract Price as it is affected by negotiating the statement of Work; and

(iii) Any other terms and conditions reasonably related to those expressly authorized for negotiation in the Request for Proposals or Addenda thereto. Accordingly, Proposers shall not submit, and the Contracting Agency shall not accept, for negotiation any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the Request for Proposals or Addenda thereto.

(B) Terminating Negotiations. At any time during discussions or negotiations that the Contracting Agency conducts in accordance with sections (2) or (3) of this rule, the Contracting Agency may terminate discussions or negotiations with the highest-ranked Proposer, or the Proposer with whom it is currently discussing or negotiating, if the Contracting Agency reasonably believes that:

(i) The Proposer is not discussing or negotiating in good faith; or

(ii) Further discussions or negotiations with the Proposer will not result in the parties agreeing to the terms and conditions of a final Contract in a timely manner.

(c) Continuing Serial Negotiations. If the Contracting Agency is conducting serial negotiations and the Contracting Agency terminates negotiations with a Proposer in accordance with paragraph 3(b)(B) of this rule, the Contracting Agency may then commence negotiations with the next highest scoring Proposer in the Competitive Range, and continue the process described in section (3) of this rule until the Contracting Agency has either:

(A) Determined to Award the Contract to the Proposer with whom it is currently discussing or negotiating; or

(B) Completed one round of discussions or negotiations with all Proposers in the Competitive Range, unless the Contracting Agency provided for more than one round of discussions or negotiations in the Request for Proposals, in which case the Contracting Agency has completed all rounds of discussions or negotiations.

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(d) Competitive Simultaneous Negotiations. If the Contracting Agency chooses to conduct competitive negotiations, the Contracting Agency may negotiate simultaneously with competing Proposers. The Contracting Agency:

(A) Shall treat all Proposers fairly and shall not favor any Proposer over another;

(B) May disclose other Proposer's Proposals or the substance of negotiations with other Proposers only if the Contracting Agency notifies all of the Proposers with whom the Contracting Agency will engage in negotiations of the Contracting Agency's intent to disclose before engaging in negotiations with any Proposer.

(e) Any oral modification of a Proposal resulting from negotiations under this section (3) shall be reduced to Writing by the Proposer.

(4) Best and Final Offers. If best and final Offers are required, a Contracting Agency shall establish a common date and time by which Proposers must submit best and final Offers. Best and final Offers shall be submitted only once; provided, however, the Contracting Agency may make a written determination that it is in the Contracting Agency's best interest to conduct additional discussions, negotiations or change the Contracting Agency's requirements and require another submission of best and final Offers. Otherwise, no discussion of or changes in the best and final Offers shall be allowed prior to Award. Proposers shall also be informed if they do not submit notice of withdrawal or another best and final Offer, their immediately previous Offer will be construed as their best final Offer. The Contracting Agency shall evaluate Offers as modified by the best and final Offer. The Contracting Agency shall conduct evaluations conducted as described in 137-047-0600. The Contracting Agency shall not modify evaluation factors or their relative importance after the date and time that best and final Offers are due.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0263

Multistep Sealed Proposals

(1) Generally. A Contracting Agency may procure Goods or Services by using multistep competitive sealed Proposals pursuant to ORS 279.060(6)(b)(G).

(2) Phased Process. Multistep sealed Proposals is a phased Procurement process that seeks necessary information or un-priced technical Proposals in the initial phase and invites Proposers who submitted technically qualified Proposals in the initial phase to submit competitive sealed price Proposals on the technical Proposers in the final phase. The Contract shall be Awarded to the Responsible Proposer submitting the most Advantageous Proposal in accordance with the terms of the Solicitation Document applicable to the final phase. If time is a factor, the Contracting Agency may require Proposers to submit a separate sealed price Proposal during the initial phase to be opened after the technical evaluation.

(3) Public Notice. Whenever multistep sealed Proposals are used, public notice for the first phase shall be given in accordance with OAR 137-047-0300. Public notice is not required for the subsequent phases. However, a Contracting Agency shall give notice of the subsequent phases to all Proposers and inform any Proposers excluded from the subsequent phases of the right, if any, to protest exclusion pursuant to 137-047-0720.

(4) Procedure for Phase One of Multistep Sealed Proposals.

(a) Form. Multistep sealed Proposals shall be initiated by the issuance of a Request for Proposal in the form and manner required for competitive sealed Proposals except as provided in this rule. In addition to the requirements set forth in OAR 137-047-0260(2), the multistep Request for Proposal shall state:

(A) That un-priced technical Proposals are requested;

(B) Whether price Proposals are to be submitted at the same time as un-priced technical Proposals; that if they are, such price Proposals shall be submitted in a separate sealed envelope;

(C) That the solicitation is a multistep sealed Proposal Procurement, and that priced Proposals will be considered only in the subsequent phases from those Proposers whose un-priced technical Proposals are found qualified in the first phase;

(D) The criteria to be used in the evaluation of un-priced technical Proposals;

(E) That the Contracting Agency, to the extent that it finds necessary, may conduct oral or written discussions of the un-priced technical Proposals;

(F) That the Goods or Services being procured shall be furnished generally in accordance with the Proposer's technical Proposal as found to be

finally qualified and shall meet the requirements of the Request for Proposal.

(G) Whether Proposers excluded from subsequent phases have a right to protest the exclusion. Such information can be given or changed through Addenda.

(b) Addenda to the Request for Proposal. After receipt of un-priced technical Proposals, Addenda to the Request for Proposal shall be distributed only to Proposers who submitted un-priced technical Proposals.

(c) Receipt and Handling of Un-priced Technical Proposals. Un-priced technical Proposals need not be opened publicly.

(d) Evaluation of Un-Priced Technical Proposals. Un-priced technical Proposals shall be evaluated solely in accordance with the criteria set forth in the Request for Proposal. Un-priced technical Proposals shall be categorized as:

(A) Qualified;

(B) Potentially qualified; that is, reasonably susceptible of being made qualified; or

(C) Unqualified. The Contracting Agency shall record in writing the basis for determining a Proposal unqualified and make it part of the Procurement file. The Contracting Agency may initiate phase two of the procedure if, in the Contracting Agency's opinion, there are sufficient qualified or potentially qualified un-priced technical Proposals to assure effective price competition in the second phase without technical discussions. If the Contracting Agency finds that such is not the case, the Contracting Agency shall issue an Addendum to the Request for Proposal or engage in technical discussions as set forth in subsection 4(e).

(e) Discussion of Un-priced Technical Proposals. The Contracting Agency may seek clarification of a technical Proposal of any Proposer who submits a qualified, or potentially qualified technical Proposal. During the course of such discussions, the Contracting Agency shall not disclose any information derived from one un-priced technical Proposal to any other Proposer. Once discussions are begun, any Proposer who has not been notified that its Proposal has been finally found unqualified may submit supplemental information amending its technical Proposal at any time until the Closing date established by the Contracting Agency. Such submission may be made at the request of the Contracting Agency or upon the Proposer's own initiative.

(f) Notice of Unqualified Un-priced Technical Proposal. When the Contracting Agency determines a Proposer's un-priced technical Proposal to be unqualified, such Proposer shall not be afforded an additional opportunity to supplement its technical Proposals.

(g) Mistakes During Multistep Sealed Proposals. Mistakes may be corrected or Proposals may be withdrawn during phase one:

(A) Before un-priced technical Proposals are considered;

(B) After any discussions have commenced under subsection 4(e) of this rule;

(C) When responding to any Addenda to the Request for Proposal; or

(D) In accordance with OAR 137-047-0470.

(5) Procedure for Subsequent Phases.

(a) Initiation. Upon the completion of phase one, the Contracting Agency shall either:

(A) Open price Proposals submitted in phase one (if price Proposals were required to be submitted) from Proposers whose un-priced technical Proposals were found to be qualified; or

(B) If price Proposals have not been submitted, technical discussions have been held, or Addenda to the Request for Proposals have been issued, invite each qualified Proposer to submit price Proposals.

(b) Conduct. Phase two shall be conducted as any other competitive sealed Proposal solicitation except:

(A) As specifically set forth in this rule; and

(B) No public notice need be given of the request to submit price Proposals because such notice was previously given.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0265

Small Procurements

(1) Generally. For Procurements of Goods or Services less than or equal to \$5,000 a Contracting Agency may Award a Contract as a small Procurement pursuant to ORS 279B.065 and in accordance with rules promulgated by the Contracting Agency pursuant to ORS 279A.070.

(2) Amendments. A Contracting Agency may amend a Public Contract Awarded as a small Procurement in accordance OAR 137-047-0800, but the cumulative amendments shall not increase the total Contract Price to greater than \$6,000.

Stat. Auth.: ORS 279A.065 & ORS 279B.065

ADMINISTRATIVE RULES

Stats. Implemented: ORS 279B.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0270

Intermediate Procurements

(1) Generally. For Procurements of Goods or Services greater than \$5000 and less than or equal to \$150,000, a Contracting Agency may Award a Contract as an intermediate Procurement pursuant to ORS 279B.070.

(2) Written Solicitations. For intermediate Procurements equal to or exceeding \$75,000, a Contracting Agency shall use a Written solicitation to obtain quotes, Bids or Proposals.

(3) Negotiations. A Contracting Agency may negotiate with a Proposer to clarify its quote, Bid, or Proposal or to effect modifications that will make the quote, Bid, or Proposal acceptable or make the quote, Bid, or Proposal more Advantageous to the Contracting Agency.

(4) Amendments. A Contracting Agency may amend a Public Contract Awarded as an intermediate Procurement in accordance with OAR 137-047-0800, but the cumulative amendments shall not increase the total Contract Price to a sum that is greater than twenty-five percent (25%) of the original Contract price.

Stat. Auth.: ORS 279A.065 & ORS 279B.070
Stats. Implemented: ORS 279B.070
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0275

Sole-source Procurements

(1) Generally. A Contracting Agency may Award a Public Contract without competition as a sole-source Procurement pursuant to the requirements of ORS 279B.075.

(2) Public Notice. If, but for the Contracting Agency's determination that it may enter into a Contract as a sole-source, a Contracting Agency would be required to select a Contractor using source selection methods set forth in either ORS 279B.055 or 279B.060, a Contracting Agency shall give public notice of the Contract Review Authority's determination that the Goods or Services or class of Goods or Services are available from only one source in a manner similar to public notice of competitive sealed Bids under ORS 279B.055(4) and OAR 137-047-0300. The public notice shall describe the Goods or Services to be acquired by a sole-source Procurement, identify the prospective Contractor and include the date, time and place that protests are due. The Contracting Agency shall give such public notice at least fourteen (14) Days before Award of the Contract.

(3) Protest. An Affected Person may protest the Contract Review Authority's determination that the Goods or Services or class of Goods or Services are available from only one source in accordance with OAR 137-047-0710.

Stat. Auth.: ORS 279A.065 & ORS 279B.075
Stats. Implemented: ORS 279B.075
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0280

Emergency Procurements

A Contracting Agency may Award a Public Contract as an Emergency Procurement pursuant to the requirements of ORS 279B.080. When an Emergency Procurement is authorized, the Procurement shall be made with competition that is practicable under the circumstances.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.080
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0285

Special Procurements

(1) Generally. A Contracting Agency may Award a Public Contract as a Special Procurement pursuant to the requirements of ORS 279B.085.

(2) Public Notice. A Contracting Agency shall give public notice of (1) its request for approval of a Special Procurement and (2) the Contract Review Authority's approval of a Special Procurement in a manner similar to public notice of competitive sealed Bids under ORS 279B.055(4) and OAR 137-047-0300. The public notice shall describe the Goods or Services or class of Goods or Services to be acquired through the Special Procurement. The Contracting Agency shall give such public notice of its request for approval of a Special Procurement at least seven (7) Days prior to the approval of the Special Procurement by the Contract Review Authority. The Contracting Agency shall give such public notice of the approval of a Special Procurement at least fourteen (14) Days before Award of the Contract.

(3) Protest. An Affected Person may protest the approval of or request for approval of a Special Procurement in accordance with ORS 279B.400 and OAR 137-047-0700.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.085
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0290

Cooperative Procurements

A Contracting Agency may participate in, sponsor, conduct, or administer Cooperative Procurements as set forth in ORS 279A.200 through 279A.225 and OAR 137-046-0400 through 137-046-0480.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.205
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0300

Public Notice of Solicitation Documents

(1) Notice of Solicitation Documents; Fee. A Contracting Agency shall provide public notice of every Solicitation Document in accordance with section (2) of this rule. The Contracting Agency may give additional notice using any method it determines appropriate to foster and promote competition, including:

(a) Mailing notice of the availability of the Solicitation Document to Persons that have expressed an interest in the Contracting Agency's Procurements;

(b) Placing notice on the Contracting Agency's Electronic Procurement System; or

(c) Placing notice on the Contracting Agency's Internet World Wide Web site.

(2) Advertising. A Contracting Agency shall advertise every notice of a Solicitation Document as follows:

(a) The Contracting Agency shall publish the advertisement for Offers in accordance with the requirements of ORS 279B.055(4) and 279B.060(4); or

(b) A Contracting Agency may publish the advertisement for Offers on the Contracting Agency's Electronic Procurement System instead of publishing notice in a newspaper of general circulation as required by ORS 279B.055(4)(b) if, by rule or order, the Contracting Agency's Contract Review Authority has authorized the Contracting Agency to publish notice of Solicitation Documents on the Contracting Agency's Electronic Procurement System.

(3) Content of Advertisement. All advertisements for Offers shall set forth:

(a) Where, when, how, and for how long the Solicitation Document may be obtained;

(b) A general description of the Goods or Services to be acquired;

(c) The interval between the first date of notice of the Solicitation Document given in accordance with subsection 2(a) or (b) above and Closing, which shall not be less than fourteen (14) Days for an Invitation to Bid and thirty (30) Days for a Request for Proposals, unless the Contracting Agency determines that a shorter interval is in the public's interest, and that a shorter interval will not substantially affect competition. However, in no event shall the interval between the first date of notice of the Solicitation Document given in accordance with subsection 2(a) or (b) above and Closing be less than seven (7) Days as set forth in ORS 279B.055(4)(f). The Contracting Agency shall document the specific reasons for the shorter public notice period in the Procurement file;

(d) The date that Persons must file applications for prequalification if prequalification is a requirement and the class of Goods or Services is one for which Persons must be prequalified;

(e) The office where Contract terms, conditions and Specifications may be reviewed;

(f) The name, title and address of the individual authorized by the Contracting Agency to receive Offers;

(g) The scheduled Opening; and

(h) Any other information the Contracting Agency deems appropriate.

(4) Posting Advertisement for Offers. The Contracting Agency shall post a copy of each advertisement for Offers at the principal business office of the Contracting Agency. A Proposer may obtain a copy of the advertisement for Offers upon request.

(5) Minority, Women Emerging Small Business. In accordance with ORS 200.035, a State Contracting Agency shall provide timely notice of all Procurements to the Advocate for Minority, Women and Emerging Small Business if the estimated Contract Price exceeds \$5,000.

(6) Fees. The Contracting Agency may charge a fee or require a deposit for the Solicitation Document.

(7) Notice of Addenda. The Contracting Agency shall provide potential Offerors notice of any Addenda to a Solicitation Document in accordance with OAR 137-047-0430.

Stat. Auth.: ORS 279A.065, ORS 279B.055 & ORS 279B.060

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Stats. Implemented: ORS 279B.055 & ORS 279B.060
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0310

Bids or Proposals are Offers

(1) Offer and Acceptance. The Bid or Proposal is the Bidder's or Proposer's Offer to enter into a Contract. The Offer is a "Firm Offer," i.e., the Offer shall be held open by the Offeror for the Contracting Agency's acceptance for the period specified in OAR 137-047-0480. The Contracting Agency's Award of the Contract constitutes acceptance of the Offer and binds the Offeror to the Contract.

(2) Contingent Offers. Except to the extent the Proposer is authorized to propose certain terms and conditions pursuant to OAR 137-047-0262, a Proposer shall not make its Offer contingent upon the Contracting Agency's acceptance of any terms or conditions (including Specifications) other than those contained in the Solicitation Document.

(3) Offeror's Acknowledgment. By Signing and returning the Offer, the Offeror acknowledges it has read and understands the terms and conditions contained in the Solicitation Document and that it accepts and agrees to be bound by the terms and conditions of the Solicitation Document. If the Request for Proposals permits proposal of alternative terms under OAR 137-047-0262, the Offeror's Offer includes the nonnegotiable terms and conditions and any proposed terms and conditions offered for negotiation upon and to the extent accepted by the Contracting Agency in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065, ORS 279B.055 & ORS 279B.60

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0320

Facsimile Bids and Proposals

(1) Contracting Agency Authorization. A Contracting Agency may authorize Offerors to submit facsimile Offers. If the Contracting Agency determines that Bid or Proposal security is or will be required, the Contracting Agency should not authorize facsimile Offers unless the Contracting Agency has another method for receipt of such security. Prior to authorizing the submission of facsimile Offers, the Contracting Agency shall determine that the Contracting Agency's equipment and personnel are capable of receiving the size and volume of anticipated Offers within a short period of time. In addition, the Contracting Agency shall establish administrative procedures and controls:

- (a) To receive, identify, record, and safeguard facsimile Offers;
- (b) To ensure timely delivery of Offers to the location of Opening; and
- (c) To preserve the Offers as sealed.

(2) Provisions To Be Included in Solicitation Document. In addition to all other requirements, if the Contracting Agency authorizes a facsimile Offer, the Contracting Agency will include in the Solicitation Document the following:

(a) A provision substantially in the form of the following: "A 'facsimile Offer,' as used in this Solicitation Document, means an Offer, modification of an Offer, or withdrawal of an Offer that is transmitted to and received by the Contracting Agency via a facsimile machine";

(b) A provision substantially in the form of the following: "Offerors may submit facsimile Offers in response to this Solicitation Document. The entire response must arrive at the place and by the time specified in this Solicitation Document";

(c) A provision that requires Offerors to Sign their facsimile Offers;

(d) A provision substantially in the form of the following: "The Contracting Agency reserves the right to Award the Contract solely on the basis of a facsimile Offer. However, upon the Contracting Agency's request the apparent successful Offeror shall promptly submit its complete original Signed Offer";

(e) The data and compatibility characteristics of the Contracting Agency's receiving facsimile machine as follows:

(A) Telephone number; and

(B) Compatibility characteristics, e.g. make and model number, receiving speed, communications protocol; and

(f) A provision that the Contracting Agency is not responsible for any failure attributable to the transmission or receipt of the facsimile Offer including, but not limited to the following:

(A) Receipt of garbled or incomplete documents;

(B) Availability or condition of the receiving facsimile machine;

(C) Incompatibility between the sending and receiving facsimile machine;

(D) Delay in transmission or receipt of documents;

(E) Failure of the Offeror to properly identify the Offer documents;

(F) Illegibility of Offer documents; and

(G) Security and confidentiality of data.

137-047-0330

Electronic Procurement

(1) Electronic Procurement Authorized.

(a) A Contracting Agency may conduct all phases of a Procurement, including without limitation the posting of Electronic Advertisements and the receipt of Electronic Offers, by electronic methods if and to the extent the Contracting Agency specifies in a Solicitation Document, a request for quotes, or any other Written instructions on how to participate in the Procurement.

(b) The Contracting Agency shall open an Electronic Offer in accordance with electronic security measures in effect at the Contracting Agency at the time of its receipt of the Electronic Offer. Unless the Contracting Agency provides procedures for the secure receipt of Electronic Offers, the Person submitting the Electronic Offer assumes the risk of premature disclosure due to submission in unsealed form.

(c) The Contracting Agency's use of electronic Signatures shall be consistent with applicable statutes and rules. A Contracting Agency may limit the use of electronic methods of conducting a Procurement as Advantageous to the Contracting Agency.

(d) If the Contracting Agency determines that Bid or Proposal security is or will be required, the Contracting Agency should not authorize Electronic Offers unless the Contracting Agency has another method for receipt of such security.

(2) Rules Governing Electronic Procurements. The Contracting Agency shall conduct all portions of an electronic Procurement in accordance with these division 47 rules, unless otherwise set forth in this rule.

(3) Preliminary Matters. As a condition of participation in an electronic Procurement the Contracting Agency may require potential Contractors to register with the Contracting Agency before the date and time on which the Contracting Agency will first accept Offers, to agree to the terms, conditions, or other requirements of a Solicitation Document, or to agree to terms and conditions governing the Procurement, such as procedures that the Contracting Agency may use to attribute, authenticate or verify the accuracy of an Electronic Offer, or the actions that constitute an electronic Signature.

(4) Offer Process. A Contracting Agency may specify that Persons must submit an Electronic Offer by a particular date and time, or that Persons may submit multiple Electronic Offers during a period of time established in the Electronic Advertisement. When the Contracting Agency specifies that Persons may submit multiple Electronic Offers during a specified period of time, the Contracting Agency must designate a time and date on which Persons may begin to submit Electronic Offers, and a time and date after which Persons may no longer submit Electronic Offers. The date and time after which Persons may no longer submit Electronic Offers need not be specified by a particular date and time, but may be specified by a description of the conditions that, when they occur, will establish the date and time after which Persons may no longer submit Electronic Offers. When the Contracting Agency will accept Electronic Offers for a period of time, then at the designated date and time that the Contracting Agency will first receive Electronic Offers, the Contracting Agency must begin to accept real time Electronic Offers on the Contracting Agency's Electronic Procurement System, and shall continue to accept Electronic Offers in accordance with subsection 5(b) of this rule until the date and time specified by the Contracting Agency, after which the Contracting Agency will no longer accept Electronic Offers.

(5) Receipt of Electronic Offers.

(a) When a Contracting Agency conducts an electronic Procurement that provides that all Electronic Offers must be submitted by a particular date and time, the Contracting Agency shall receive the Electronic Offers in accordance with these division 47 rules.

(b) When the Contracting Agency specifies that Persons may submit multiple Offers during a period of time, the Contracting Agency shall accept Electronic Offers, and Persons may submit Electronic Offers, in accordance with the following:

(A) Following receipt of the first Electronic Offer after the day and time the Contracting Agency first receives Electronic Offers the Contracting Agency shall post on the Contracting Agency's Electronic Procurement System, and updated on a real time basis, the lowest Electronic Offer price or the highest ranking Electronic Offer. At any time before the date and time after which the Contracting Agency will no longer receive Electronic Offers, a Person may revise its Electronic Offer, except

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that a Person may not lower its price unless that price is below the then lowest Electronic Offer.

(B) A Person may not increase the price set forth in an Electronic Offer after the day and time that the Contracting Agency first accepts Electronic Offers.

(C) A Person may withdraw an Electronic Offer only in compliance with these division 47 rules. If a Person withdraws an Electronic Offer, it may not later submit an Electronic Offer at a price higher than that set forth in the withdrawn Electronic Offer.

(6) Failure of the E-Procurement System. In the event of a failure of the Contracting Agency's Electronic Procurement System that interferes with the ability of Persons to submit Electronic Offers, protest or to otherwise participate in the Procurement, the Contracting Agency may cancel the Procurement in accordance with OAR 137-047-0660, or may extend the date and time for receipt of Electronic Offers by providing notice of the extension immediately after the Electronic Procurement System becomes available.

Stat. Auth.: ORS 279A.065 & ORS 279B.055
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0400

Offer Preparation

(1) Instructions. An Offeror shall submit and Sign its Offer in accordance with the instructions set forth in the Solicitation Document. An Offeror shall initial and submit any correction or erasure to its Offer prior to Opening in accordance with the requirements for submitting an Offer set forth in the Solicitation Document.

(2) Forms. An Offeror shall submit its Offer on the form(s) provided in the Solicitation Document, unless an Offeror is otherwise instructed in the Solicitation Document.

(3) Documents. An Offeror shall provide the Contracting Agency with all documents and descriptive literature required by the Solicitation Document.

(4) Electronic Submissions. If the Solicitation Document permitted Electronic Offers under OAR 137-047-0330, an Offeror may submit its Offer electronically. The Contracting Agency shall not consider Electronic Offers unless authorized by the Solicitation Document.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0410

Offer Submission

(1) Product Samples and Descriptive Literature. A Contracting Agency may require product samples or descriptive literature if the Contracting Agency determines either is necessary or desirable to evaluate the quality, features or characteristics of an Offer. The Contracting Agency will dispose of product samples, or make them available for the Offeror to retrieve in accordance with the Solicitation Document.

(2) Identification of Offers.

(a) To ensure proper identification and handling, Offers shall be submitted in a sealed envelope appropriately marked or in the envelope provided by the Contracting Agency, whichever is applicable. If the Contracting Agency permits Electronic Offers or facsimile Offers in the Solicitation Document, the Offeror may submit and identify Electronic Offers or facsimile Offers in accordance with these division 47 rules and the instructions set forth in the Solicitation Document.

(b) The Contracting Agency is not responsible for Offers submitted in any manner, format or to any delivery point other than as required in the Solicitation Document.

(3) Receipt of Offers. The Offeror is responsible for ensuring the Contracting Agency receives its Offer at the required delivery point prior to the Closing, regardless of the method used to submit or transmit the Offer.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0420

Pre-Offer Conferences

(1) Purpose. A Contracting Agency may hold pre-Offer conferences with prospective Offerors prior to Closing, to explain the Procurement requirements, obtain information, or to conduct site inspections.

(2) Required Attendance. The Contracting Agency may require attendance at the pre-Offer conference as a condition for making an Offer.

(3) Scheduled Time. If a Contracting Agency holds a pre-Offer conference, it shall be held within a reasonable time after the Solicitation

Document has been issued, but sufficiently before the Closing to allow Offerors to consider information provided at that conference.

(4) Statements Not Binding. Statements made by a Contracting Agency's representative at the pre-Offer conference do not change the Solicitation Document unless the Contracting Agency confirms such statements with a Written Addendum to the Solicitation Document.

(5) Agency Announcement. The Contracting Agency must set forth notice of any pre-Offer conference in the Solicitation Document in accordance with OAR 137-047-0255(2) or 137-047-0260(2).

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0430

Addenda to Solicitation Document

(1) Issuance; Receipt. The Contracting Agency may change a Solicitation Document only by Written Addenda. An Offeror shall provide Written acknowledgment of receipt of all issued Addenda with its Offer, unless the Contracting Agency otherwise specifies in the Addenda.

(2) Notice and Distribution. The Contracting Agency shall notify prospective Offerors of Addenda in a manner intended to foster competition and to make prospective Offerors aware of the Addenda. The Solicitation Document shall specify how the Contracting Agency will provide notice of Addenda and how the Contracting Agency will make the Addenda available before Closing, and at each subsequent step or tier of evaluation if the Contracting Agency will engage in a multistep competitive sealed Bid process in accordance with OAR 137-047-0257, or a multi-tiered or multistep competitive sealed Proposal process in accordance with OAR 137-047-0261 through 137-047-0263. The following is an example of how a Contracting Agency may specify how it will provide notice of Addenda: "Contracting Agency will not mail notice of Addenda, but will publish notice of any Addenda on Contracting Agency's web site. Addenda may be downloaded off the Contracting Agency's web site. Offerors should frequently check the Contracting Agency's web site until Closing, i.e., at least once weekly until the week of Closing and at least once daily the week of the Closing."

(3) Timelines; Extensions.

(a) The Contracting Agency shall issue Addenda within a reasonable time to allow prospective Offerors to consider the Addenda in preparing their Offers. The Contracting Agency may extend the Closing if the Contracting Agency determines prospective Offerors need additional time to review and respond to Addenda. Except to the extent required by a countervailing public interest, the Contracting Agency shall not issue Addenda less than 72 hours before the Closing unless the Addendum also extends the Closing.

(b) Notwithstanding subsection 3(a) of this rule, an Addendum that modifies the evaluation criteria, selection process or procedure for any tier of competition under a multistep sealed Bid or a multi-tiered or multistep sealed Proposal issued in accordance with ORS 279B.060(6)(d) and OAR 137-047-0261 through 137-047-0263 must be issued no fewer than five (5) Days before the beginning of that tier or step of competition, unless the Contracting Agency determines that a shorter period is sufficient to allow Offerors to prepare for that tier or step of competition. The Contracting Agency shall document the factors it considered in making that determination, which may include, without limitation, the scope of the changes to the Solicitation Document, the location of the remaining eligible Proposers, or whether shortening the period between issuing an Addendum and the beginning of the next tier or step of competition favors or disfavors any particular Proposer or Proposers.

(4) Request for Change or Protest. Unless a different deadline is set forth in the Addendum, an Offeror may submit a Written request for change or protest to the Addendum, as provided in OAR 137-047-0730, by the close of the Contracting Agency's next business day after issuance of the Addendum, or up to the last day allowed to submit a request for change or protest under OAR 137-047-0730, whichever date is later. If the date established in the previous sentence falls after the deadline for receiving protests to the Solicitation Document in accordance with OAR 137-047-0730, then the Contracting Agency may consider an Offeror's request for change or protest to the Addendum only, and the Contracting Agency shall not consider a request for change or protest to matters not added or modified by the Addendum. Notwithstanding any provision of this section (4) of this rule, a Contracting Agency is not required to provide a protest period for Addenda issued after initial Closing during a multi-tier or multistep Procurement process conducted pursuant to ORS 279B.055 or ORS 279B.060.

Stat. Auth.: ORS 279A.065 & ORS 279B.060
Stats. Implemented: ORS 279B.060
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

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137-047-0440

Pre-Closing Modification or Withdrawal of Offers

(1) Modifications. An Offeror may modify its Offer in Writing prior to the Closing. An Offeror shall prepare and submit any modification to its Offer to the Contracting Agency in accordance with OAR 137-047-0400 and 137-047-0410, unless otherwise specified in the Solicitation Document. Any modification must include the Offeror's statement that the modification amends and supersedes the prior Offer. The Offeror shall mark the submitted modification as follows:

(a) Bid (or Proposal) Modification; and

(b) Solicitation Document Number (or other identification as specified in the Solicitation Document).

(2) Withdrawals.

(a) An Offeror may withdraw its Offer by Written notice submitted on the Offeror's letterhead, Signed by an authorized representative of the Offeror, delivered to the individual and location specified in the Solicitation Document (or the place of Closing if no location is specified), and received by the Contracting Agency prior to the Closing. The Offeror or authorized representative of the Offeror may also withdraw its Offer in person prior to the Closing, upon presentation of appropriate identification and evidence of authority satisfactory to the Contracting Agency.

(b) The Contracting Agency may release an unopened Offer withdrawn under subsection 2(a) of this rule to the Offeror or its authorized representative, after voiding any date and time stamp mark.

(c) The Offeror shall mark the Written request to withdraw an Offer as follows:

(A) Bid (or Proposal) Withdrawal; and

(B) Solicitation Document Number (or Other Identification as specified in the Solicitation Document).

(3) Documentation. The Contracting Agency shall include all documents relating to the modification or withdrawal of Offers in the appropriate Procurement file.

Stat. Auth.: ORS 279A.065 & ORS 279B.055

Stats. Implemented: ORS 279B.055

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0450

Receipt, Opening, and Recording of Offers; Confidentiality of Offers.

(1) Receipt. A Contracting Agency shall electronically or mechanically time-stamp or hand-mark each Offer and any modification upon receipt. The Contracting Agency shall not open the Offer or modification upon receipt, but shall maintain it as confidential and secure until Opening. If the Contracting Agency inadvertently opens an Offer or a modification prior to the Opening, the Contracting Agency shall return the Offer or modification to its secure and confidential state until Opening. The Contracting Agency shall document the resealing for the Procurement file (e.g. "Contracting Agency inadvertently opened the Offer due to improper identification of the Offer.").

(2) Opening and Recording. A Contracting Agency shall publicly open Offers including any modifications made to the Offer pursuant to OAR 137-047-0440(1). In the case of Invitations to Bid, to the extent practicable, the Contracting Agency shall read aloud the name of each Bidder, and such other information as the Contracting Agency considers appropriate. However, the Contracting Agency may withhold from disclosure information in accordance with ORS 279B.055(5)(c) and 279B.060(5). In the case of Requests for Proposals or voluminous Bids, if the Solicitation Document so provides, the Contracting Agency will not read Offers aloud.

Stat. Auth.: ORS 279A.065 & ORS 279B.055

Stats. Implemented: ORS 279B.055

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0460

Late Offers, Late Withdrawals and Late Modifications

Any Offer received after Closing is late. An Offeror's request for withdrawal or modification of an Offer received after Closing is late. An Agency shall not consider late Offers, withdrawals or modifications except as permitted in OAR 137-047-0470 or 137-047-0262.

Stat. Auth.: ORS 279A.065 & ORS 279B.055

Stats. Implemented: ORS 279B.055

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0470

Mistakes

(1) Generally. To protect the integrity of the competitive Procurement process and to assure fair treatment of Offerors, a Contracting Agency should carefully consider whether to permit waiver, correction or withdrawal of Offers for certain mistakes.

(2) Contracting Agency Treatment of Mistakes. A Contracting Agency shall not allow an Offeror to correct or withdraw an Offer for an error in judgment. If the Contracting Agency discovers certain mistakes in an Offer after Opening, but before Award of the Contract, the Contracting Agency may take the following action:

(a) A Contracting Agency may waive, or permit an Offeror to correct, a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Offer, or an insignificant mistake that can be waived or corrected without prejudice to other Offerors. Examples of minor informalities include an Offeror's failure to:

(A) Return the correct number of Signed Offers or the correct number of other documents required by the Solicitation Document;

(B) Sign the Offer in the designated block, provided a Signature appears elsewhere in the Offer, evidencing an intent to be bound; and

(C) Acknowledge receipt of an Addendum to the Solicitation Document, provided that it is clear on the face of the Offer that the Offeror received the Addendum and intended to be bound by its terms; or the Addendum involved did not affect price, quality or delivery.

(b) A Contracting Agency may correct a clerical error if the error is evident on the face of the Offer or other documents submitted with the Offer, and the Offeror confirms the Contracting Agency's correction in Writing. A clerical error is an Offeror's error in transcribing its Offer. Examples include typographical mistakes, errors in extending unit prices, transposition errors, arithmetical errors, instances in which the intended correct unit or amount is evident by simple arithmetic calculations (for example a missing unit price may be established by dividing the total price for the units by the quantity of units for that item or a missing, or incorrect total price for an item may be established by multiplying the unit price by the quantity when those figures are available in the Offer). In the event of a discrepancy, unit prices shall prevail over extended prices.

(c) A Contracting Agency may permit an Offeror to withdraw an Offer based on one or more clerical errors in the Offer only if the Offeror shows with objective proof and by clear and convincing evidence:

(A) The nature of the error;

(B) That the error is not a minor informality under this subsection or an error in judgment;

(C) That the error cannot be corrected or waived under subsection (b) of this section;

(D) That the Offeror acted in good faith in submitting an Offer that contained the claimed error and in claiming that the alleged error in the Offer exists;

(E) That the Offeror acted without gross negligence in submitting an Offer that contained a claimed error;

(F) That the Offeror will suffer substantial detriment if the Contracting Agency does not grant the Offeror permission to withdraw the Offer;

(G) That the Contracting Agency's or the public's status has not changed so significantly that relief from the forfeiture will work a substantial hardship on the Contracting Agency or the public it represents; and

(H) That the Offeror promptly gave notice of the claimed error to the Contracting Agency.

(d) The criteria in subsection (2)(c) of this rule shall determine whether a Contracting Agency will permit an Offeror to withdraw its Offer after Closing. These criteria also shall apply to the question of whether a Contracting Agency will permit an Offeror to withdraw its Offer without forfeiture of its Bid bond (or other Bid or Proposal security), or without liability to the Contracting Agency based on the difference between the amount of the Offeror's Offer and the amount of the Contract actually awarded by the Contracting Agency, whether by Award to the next lowest Responsive and Responsible Bidder or the most Advantageous Responsive and Responsible Proposer, or by resort to a new solicitation.

(3) Rejection for Mistakes. The Contracting Agency shall reject any Offer in which a mistake is evident on the face of the Offer and the intended correct Offer is not evident or cannot be substantiated from documents submitted with the Offer.

(4) Identification of Mistakes after Award. The procedures and criteria set forth above are Offeror's only opportunity to correct mistakes or withdraw Offers because of a mistake. Following Award, an Offeror is bound by its Offer, and may withdraw its Offer or rescind a Contract entered into pursuant to this division 47 only to the extent permitted by applicable law.

Stat. Auth.: ORS 279A.065 & ORS 279B.055

Stats. Implemented: ORS 279B.055

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

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137-047-0480

Time for Agency Acceptance

An Offeror's Offer is a Firm Offer, irrevocable, valid and binding on the Offeror for not less than thirty (30) Days following Closing unless otherwise specified in the Solicitation Document.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0490

Extension of Time for Acceptance of Offer

A Contracting Agency may request, orally or in Writing, that Offerors extend, in Writing, the time during which the Contracting Agency may consider their Offer(s). If an Offeror agrees to such extension, the Offer shall continue as a Firm Offer, irrevocable, valid and binding on the Offeror for the agreed-upon extension period.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0500

Responsibility of Bidders and Proposers

Before Awarding a Contract the Contracting Agency shall determine that the Bidder submitting the lowest Bid or Proposer submitting the most Advantageous Proposal is Responsible. The Contracting Agency shall use the standards set forth in ORS 279B.110 and OAR 137-047-0640(1)(c)(F) to determine if a Bidder or Proposer is Responsible. In the event a Contracting Agency determines a Bidder or Proposer is not Responsible it shall prepare a Written determination of non-Responsibility as required by ORS 279B.110 and shall reject the Offer.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.110
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0525

Qualified Products Lists

A Contracting Agency may develop and maintain a qualified products list pursuant to ORS 279B.115.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.115
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0550

Prequalification of Prospective Offerors

(1) A Contracting Agency may prequalify prospective Offerors pursuant to ORS 279B.120 and 279B.125.

(2) Notwithstanding the prohibition against revocation of prequalification in ORS 279B.120(3), a Contracting Agency may determine that a prequalified Offeror is not Responsible prior to Contract Award.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.120
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0575

Debarment of Prospective Offerors

(1) Generally. A Contracting Agency may Debar prospective Offerors for the reasons set forth in ORS 279A.110 or after providing notice and the opportunity for hearing as set forth in ORS 279B.130.

(2) Responsibility. Notwithstanding the limitation on the term for Debarment in ORS 279B.130(1)(b), a Contracting Agency may determine that a previously Debarred Offeror is not Responsible prior to Contract Award.

(3) Imputed Knowledge. A Contracting Agency may attribute improper conduct of a Person or its affiliate or affiliates having a contract with a prospective Offeror to the prospective Offeror for purposes of Debarment where the impropriety occurred in connection with the Person's duty for or on behalf of, or with the knowledge, approval, or acquiescence of, the prospective Offeror.

(4) Limited Participation. A Contracting Agency may allow a Debarred Person to participate in solicitations and Contracts on a limited basis during the Debarment period upon Written determination that participation is Advantageous to a Contracting Agency. The determination shall specify the factors on which it is based and define the extent of the limits imposed.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.130
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0600

Offer Evaluation and Award

(1) Contracting Agency Evaluation. The Contracting Agency shall evaluate Offers only as set forth in the Solicitation Document, pursuant to ORS 279B.055(6)(a) and 279B.060(6)(b), and in accordance with applicable law. The Contracting Agency shall not evaluate Offers using any other requirement or criterion.

(a) Evaluation of Bids.

(A) Nonresident Bidders. In determining the lowest Responsive Bid, the Contracting Agency shall apply the reciprocal preference set forth in ORS 279A.120(2)(b) and OAR 137-046-0310 for Nonresident Bidders.

(B) Public Printing. The Contracting Agency shall for the purpose of evaluating Bids apply the public printing preference set forth in ORS 282.210.

(C) Award When Bids are Identical. If the Contracting Agency determines that one or more Bids are identical under OAR 137-046-0300, the Contracting Agency shall Award a Contract in accordance with the procedures set forth in OAR 137-046-0300.

(b) Evaluation of Proposals.

(A) Award When Proposals are Identical. If the Contracting Agency determines that one or more Proposals are identical under OAR 137-046-0300, the Contracting Agency shall Award a Contract in accordance with the procedures set forth in OAR 137-046-0300.

(B) Public Printing. The Contracting Agency shall for the purpose of evaluating Proposals apply the public printing preference set forth in ORS 282.210.

(c) Recycled Materials. When procuring Goods, the Contracting Agency shall give preference for recycled materials as set forth in ORS 279A.125 and OAR 137-046-0320.

(2) Clarification of Bids. After Bid Opening, a Contracting Agency may conduct discussions with apparent Responsive Bidders for the purpose of clarification to assure full understanding of the Bid. All Bids, in the Contracting Agency's sole discretion, needing clarification shall be accorded such an opportunity. The Contracting Agency shall document clarification of any Bidder's Bid in the Procurement file.

(3) Negotiations Prohibited.

(a) Bids. Except as permitted by section 2 of this rule, a Contracting Agency shall not negotiate with any Bidder. After Award of the Contract, the Contracting Agency and Contractor may only modify the Contract in accordance with OAR 137-047-0800.

(b) Requests for Proposals. A Contracting Agency may conduct discussions or negotiate with Proposers only in accordance with ORS 279B.060(6)(b) and OAR 137-047-0262 After Award of the Contract, the Contracting Agency and Contractor may only modify the Contract in accordance with OAR 137-047-0800.

(4) Award.

(a) General. If Awarded, the Contracting Agency shall Award the Contract to the Responsible Bidder submitting the lowest, Responsive Bid or the Responsible Proposer submitting the most Advantageous, Responsive Proposal. The Contracting Agency may Award by item, groups of items or the entire Offer provided such Award is consistent with the Solicitation Document and in the public interest.

(b) Multiple Items. An Invitation to Bid or Request for Proposals may call for pricing of multiple items of similar or related type with Award based on individual line item, group total of certain items, a "market basket" of items representative of the Contracting Agency's expected purchases, or grand total of all items.

(c) Multiple Awards — Bids.

(A) Notwithstanding subsection 4(a) of this rule, a Contracting Agency may Award multiple Contracts under an Invitation to Bid in accordance with the criteria set forth in the Invitation to Bid. Multiple Awards shall not be made if a single Award will meet the Contracting Agency's needs, including but not limited to adequate availability, delivery, service, or product compatibility. A multiple Award may be made if Award to two or more Bidders of similar Goods or Services is necessary for adequate availability, delivery, service or product compatibility. Multiple Awards may not be made for the purpose of dividing the Procurement into multiple solicitations, or to allow for user preference unrelated to utility or economy. A notice to prospective Bidders that multiple Contracts may be Awarded for any Invitation to Bid shall not preclude the Contracting Agency from Awarding a single Contract for such Invitation to Bid.

(B) If an Invitation to Bid permits the Award of multiple Contracts, the Contracting Agency shall specify in the Invitation to Bid the criteria it will use to choose from the multiple Contracts when purchasing Goods or Services.

ADMINISTRATIVE RULES

(d) Multiple Awards — Proposals.

(A) Notwithstanding subsection 4(a) of this rule, a Contracting Agency may Award multiple Contracts under a Request for Proposals in accordance with the criteria set forth in the Request for Proposals. Multiple Awards shall not be made if a single Award will meet the Contracting Agency's needs, including but not limited to adequate availability, delivery, service or product compatibility. A multiple Award may be made if Award to two or more Proposers of similar Goods or Services is necessary for adequate availability, delivery, service or product compatibility. Multiple Awards may not be made for the purpose of dividing the Procurement into multiple solicitations, or to allow for user preference unrelated to obtaining the most Advantageous Contract. A notice to prospective Proposers that multiple Contracts may be Awarded for any Request for Proposals shall not preclude the Contracting Agency from Awarding a single Contract for such Request for Proposals.

(B) If a Request for Proposals permits the Award of multiple Contracts, the Contracting Agency shall specify in the Request for Proposals the criteria it will use to choose from the multiple Contracts when purchasing Goods or Services.

(c) Partial Awards. If after evaluation of Offers, the Contracting Agency determines that an acceptable Offer has been received for only parts of the requirements of the Solicitation Document:

(A) The Contracting Agency may Award a Contract for the parts of the Solicitation Document for which acceptable Offers have been received; or

(B) The Contracting Agency may reject all Offers and may issue a new Solicitation Document on the same or revised terms, conditions and Specifications.

(f) All or none Offers. A Contracting Agency may Award all or none Offers if the evaluation shows an all or none Award to be the lowest cost for Bids or the most Advantageous for Proposals of those submitted.

Stat. Auth.: ORS 279A.065 & ORS 279B.060
Stats. Implemented: ORS 279B.055 & ORS 279B.060
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0610

Notice of Intent to Award

(1) Notice of Intent to Award. The Contracting Agency shall provide Written notice of its intent to Award to all Bidders and Proposers pursuant to ORS 279B.135 at least seven (7) Days before the Award of a Contract, unless the Contracting Agency determines that circumstances require prompt execution of the Contract, in which case the Contracting Agency may provide a shorter notice period. The Contracting Agency shall document the specific reasons for the shorter notice period in the Procurement file.

(2) Finality. The Contracting Agency's Award shall not be final until the later of the following:

(a) The expiration of the protest period provided pursuant to OAR 137-047-0740; or

(b) The Contracting Agency provides Written responses to all timely-filed protests denying the protests and affirming the Award.

Stat. Auth.: ORS 279A.065 & ORS 279B.135
Stats. Implemented: ORS 279B.135
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0620

Documentation of Award

(1) Basis of Award. After Award, the Contracting Agency shall make a record showing the basis for determining the successful Offeror part of the Contracting Agency's Procurement file.

(2) Contents of Award Record. The Contracting Agency's record shall include:

(a) For Bids:

(A) Bids;

(B) Completed Bid tabulation sheet; and

(C) Written justification for any rejection of lower Bids.

(b) For Proposals:

(A) Proposals;

(B) The completed evaluation of the Proposals;

(C) Written justification for any rejection of higher scoring Proposals;

and

(D) If the Contracting Agency engaged in any of the methods of Contractor selection described in ORS 279B.060(6)(b) and OAR 137-047-0261 through 137-047-0263, Written documentation of the content of any discussions, negotiations, best and final Offers, or any other procedures the Contracting Agency used to select a Proposer to which the Contracting Agency Awarded a Contract.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0630

Availability of Award Decisions

(1) Contract Documents. To the extent required by the Solicitation Document, the Contracting Agency shall deliver to the successful Offeror a Contract, Signed purchase order, Price Agreement, or other Contract documents as applicable.

(2) Availability of Award Decisions. A Person may obtain tabulations of Awarded Bids or evaluation summaries of Proposals for a minimal charge, in person or by submitting to the Contracting Agency a Written request accompanied by payment. The requesting Person shall provide the Solicitation Document number and enclose a self-addressed, stamped envelope. In addition, the Contracting Agency may make available tabulations of Bids and Proposals through the Electronic Procurement System of the Contracting Agency or the Contracting Agency's website.

(3) Availability of Procurement Files. After notice of intent to Award, the Contracting Agency shall make Procurement files available in accordance with applicable law.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.055 & ORS 279B.060
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0640

Rejection of an Offer

(1) Rejection of an Offer.

(a) A Contracting Agency may reject any Offer as set forth in ORS 279B.100.

(b) The Contracting Agency shall reject an Offer upon the Contracting Agency's finding that the Offer:

(A) Is contingent upon the Contracting Agency's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document;

(B) Takes exception to terms and conditions (including Specifications) set forth in the Solicitation Document;

(C) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of the Solicitation Document or in contravention of applicable law;

(D) Offers Goods or Services that fail to meet the Specifications of the Solicitation Document;

(E) Is late;

(F) Is not in substantial compliance with the Solicitation Document;

or

(G) Is not in substantial compliance with all prescribed public Procurement procedures.

(c) The Contracting Agency shall reject an Offer upon the Contracting Agency's finding that the Offeror:

(A) Has not been prequalified under ORS 279B.120 and the Contracting Agency required mandatory prequalification;

(B) Has been Debarred as set forth in ORS 279B.130 or has been disqualified pursuant to OAR 137-046-0210(4) (DBE Disqualification);

(C) Has not met the requirements of ORS 279A.105, if required by the Solicitation Document;

(D) Has not submitted properly executed Bid or Proposal security as required by the Solicitation Document;

(E) Has failed to provide the certification of non-discrimination required under ORS 279A.110(4); or

(F) Is non-Responsible. Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. Before Awarding a Contract, the Contracting Agency must have information that indicates that the Offeror meets the applicable standards of Responsibility. To be a Responsible Offeror, the Contracting Agency must determine pursuant to ORS 279B.110 that the Offeror:

(i) Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the Offeror to meet all contractual responsibilities; and

(ii) Has a satisfactory record of contract performance. A Contracting Agency should carefully scrutinize an Offeror's record of contract performance if the Offeror is or recently has been materially deficient in contract performance. In reviewing the Offeror's performance, the Contracting Agency should determine whether the Offeror's deficient performance was expressly excused under the terms of the contract, or whether the Offeror took appropriate corrective action. The Contracting Agency may review the Offeror's performance on both private and public contracts in determining

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the Offeror's record of contract performance. The Contracting Agency shall make its basis for determining an Offeror non-Responsible under this subparagraph part of the Procurement file pursuant to ORS 279B.110(2)(b);

(iii) Has a satisfactory record of integrity. An Offeror may lack integrity if a Contracting Agency determines the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to a Contracting Agency. A Contracting Agency may find an Offeror non-Responsible based on the lack of integrity of any Person having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror's performance of the Contract or a parent company, predecessor or successor Person). The standards for Debarment under ORS 279B.130 may be used to determine an Offeror's integrity. The Contracting Agency shall make its basis for determining that an Offeror is non-Responsible under this subparagraph part of the Procurement file pursuant to ORS 279B.110(2)(c);

(iv) Is qualified legally to contract with the Contracting Agency; and

(v) Has supplied all necessary information in connection with the inquiry concerning Responsibility. If the Offeror fails to promptly supply information requested by the Contracting Agency concerning Responsibility, the Contracting Agency shall base the determination of Responsibility upon any available information, or may find the Offeror non-Responsible.

(2) Form of Business Entity. For purposes of this rule, the Contracting Agency may investigate any Person submitting an Offer. The investigation may include that Person's officers, directors, owners, affiliates, or any other Person acquiring ownership of the Person to determine application of this rule or to apply the Debarment provisions of ORS 279B.130.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.100 & 279B.110
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0650

Rejection of All Offers

(1) Rejection. A Contracting Agency may reject all Offers as set forth in ORS 279B.100. The Contracting Agency shall notify all Offerors of the rejection of all Offers, along with the reasons for rejection of all Offers.

(2) Criteria. The Contracting Agency may reject all Offers based upon the following criteria:

(a) The content of or an error in the Solicitation Document, or the Procurement process unnecessarily restricted competition for the Contract;

(b) The price, quality or performance presented by the Offerors are too costly or of insufficient quality to justify acceptance of any Offer;

(c) Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity of the competitive process;

(d) Causes other than legitimate market forces threaten the integrity of the competitive process. These causes may include, without limitation, those that tend to limit competition, such as restrictions on competition, collusion, corruption, unlawful anti-competitive conduct, and inadvertent or intentional errors in the Solicitation Document;

(e) The Contracting Agency cancels the Procurement or solicitation in accordance with OAR 137-047-0660; or

(f) Any other circumstance indicating that Awarding the Contract would not be in the public interest.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.100
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0660

Cancellation of Procurement or Solicitation

(1) Cancellation in the Public Interest. A Contracting Agency may cancel a Procurement or solicitation as set forth in ORS 279B.100.

(2) Notice of Cancellation Before Opening. If the Contracting Agency cancels a Procurement or solicitation prior to Opening, the Contracting Agency shall provide Written notice of cancellation in the same manner that the Contracting Agency initially provided notice of the solicitation. Such notice of cancellation shall:

(a) Identify the Solicitation Document;

(b) Briefly explain the reason for cancellation; and

(c) If appropriate, explain that an opportunity will be given to compete on any resolicitation.

(3) Notice of Cancellation After Opening. If the Contracting Agency cancels a Procurement or solicitation after Opening, the Contracting Agency shall provide Written notice of cancellation to all Offerors who submitted Offers.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.100
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0670

Disposition of Offers if Procurement or Solicitation Canceled

(1) Prior to Opening. If the Contracting Agency cancels a Procurement or solicitation prior to Opening, the Contracting Agency shall return all Offers it received to Offerors unopened, provided the Offeror submitted its Offer in a hard copy format with a clearly visible return address. If there is no return address on the envelope, the Contracting Agency shall open the Offer to determine the source and then return it to the Offeror. For Electronic Offers, the Contracting Agency shall delete the Offers from the Contracting Agency's Electronic Procurement System or information technology system.

(2) After Opening. If the Contracting Agency cancels a Procurement or solicitation after Opening, the Contracting Agency:

(a) May return Proposals in accordance with ORS 279B.060(5)(c); and

(b) Shall keep Bids in the Procurement file.

(3) Rejection of All Offers. If the Contracting Agency rejects all Offers, the Contracting Agency shall keep all Proposals and Bids in the Procurement file.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.100
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0700

Protests and Judicial Review of Special Procurements

(1) Purpose. An Affected Person may protest the approval of or request for approval of a Special Procurement. Pursuant to ORS 279B.400(1), before seeking judicial review of the approval or request for approval of a Special Procurement, an Affected Person must file a Written protest with the Contract Review Authority for the Contracting Agency and exhaust all administrative remedies.

(2) Delivery.

(a) Protest of Request for Approval of a Special Procurement. An Affected Person must deliver a Written protest to the Contract Review Authority for the Contracting Agency within fourteen (14) Days after the first date of public notice of a proposed Special Procurement, unless a different protest period is provided in the public notice of the proposed Special Procurement.

(b) Protest of Approval of a Special Procurement. Notwithstanding the requirements for filing a writ of review under ORS Chapter 34 pursuant to ORS 279B.400(4)(a), an Affected Person must deliver a Written protest to the Contract Review Authority for the Contracting Agency within fourteen (14) Days after the first date of public notice of the approval of a Special Procurement by the Contract Review Authority for the Contracting Agency, unless a different protest period is provided in the public notice of the approval of a Special Procurement.

(3) Content of Protest. The Written protest must include:

(a) A detailed statement of the legal and factual grounds for the protest;

(b) A description of the resulting harm to the Affected Person; and

(c) The relief requested.

(4) Contract Review Authority Response.

(a) Protest of Request for Approval of a Special Procurement: The Contract Review Authority shall not consider an Affected Person's protest of the Contracting Agency's request for approval of a Special Procurement submitted after the timeline established for submitting such protest under this rule or such different time period as may be provided in the public notice of the request for approval of a proposed Special Procurement. The Contract Review Authority shall issue a Written disposition of the protest in a timely manner. If the Contract Review Authority upholds the protest, in whole or in part, it may in its sole discretion implement the sustained protest in the approval of the Special Procurement, or deny the request for approval of the Special Procurement.

(b) Protest of Approval of a Special Procurement: The Contract Review Authority shall not consider an Affected Person's protest of the approval of a Special Procurement submitted after the timeline established for submitting such protest under this rule or such different time period as may be provided in the public notice of the approval of a Special Procurement. The Contract Review Authority shall issue a Written disposition of the protest in a timely manner. If the Contract Review Authority upholds the protest, in whole or in part, it may in its sole discretion implement the sustained protest in the approval of the Special Procurement, or revoke the approval of the Special Procurement.

(5) Judicial Review. An Affected Person may not seek judicial review of the Contract Review Authority's denial of a protest of a request for approval of a Special Procurement. An Affected Person may seek judicial

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review of the Contract Review Authority's decision relating to a protest of the approval of a Special Procurement in accordance with ORS 279B.400.

Stat. Auth.: ORS 279A.065 & ORS 279B.400
Stats. Implemented: ORS 279B.400
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0710

Protests and Judicial Review of Sole-Source Procurements

(1) Purpose. For sole-source Procurements requiring public notice under OAR 137-047-0275, an Affected Person may protest the determination of the Contract Review Authority or designee that the Goods or Services or class of Goods or Services are available from only one source. Pursuant to ORS 279B.420(3)(f), before seeking judicial review, an Affected Person must file a Written protest with the Contract Review Authority or designee and exhaust all administrative remedies.

(2) Delivery. Unless otherwise specified in the public notice of the sole-source Procurement, an Affected Person must deliver a Written protest to the Contract Review Authority or designee within seven (7) Days after the first date of public notice of the sole-source Procurement, unless a different protest period is provided in the public notice of a sole-source Procurement.

(3) Content of Protest. The Written protest must include:

(a) A detailed statement of the legal and factual grounds for the protest;

(b) A description of the resulting harm to the Affected Person; and

(c) The relief requested.

(4) Contract Review Authority Response. The Contract Review Authority or designee shall not consider an Affected Person's sole-source Procurement protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the public notice of the sole-source Procurement. The Contract Review Authority or designee shall issue a Written disposition of the protest in a timely manner. If the Contract Review Authority or designee upholds the protest, in whole or in part, the Contracting Agency shall not enter into a sole-source Contract.

(5) Judicial Review. Judicial review of the Contract Review Authority's or designee's disposition of a sole-source Procurement protest shall be in accordance with ORS 279B.420.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.075
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0720

Protests and Judicial Review of Multi-Tiered and Multistep Solicitations

(1) Purpose. An Affected Offeror may protest exclusion from the Competitive Range or from subsequent tiers or steps of a solicitation in accordance with the applicable Solicitation Document. When such a protest is permitted by the Solicitation Document, then pursuant to ORS 279B.420(3)(f), before seeking judicial review, an Affected Offeror must file a Written protest with the Contracting Agency and exhaust all administrative remedies.

(2) Basis for Protest. An Affected Offeror may protest its exclusion from a tier or step of competition only if the Offeror is Responsible and submitted a Responsive Offer and but for the Contracting Agency's mistake in evaluating the Offeror's or other Offerors' Offers, the protesting Offeror would have been eligible to participate in the next tier or step of competition. (For example, the protesting Offeror must claim it is eligible for inclusion in the Competitive Range if all ineligible higher-scoring Offerors are removed from consideration, and that those ineligible Offerors are ineligible for inclusion in the Competitive Range because: their Proposals were not Responsive, or the Contracting Agency committed a substantial violation of a provision in the Solicitation Document or of an applicable Procurement statute or administrative rule, and the protesting Offeror was unfairly evaluated and would have, but for such substantial violation, been included in the Competitive Range.)

(3) Delivery. Unless otherwise specified in the Solicitation Document, an Affected Offeror must deliver a Written protest to the Contracting Agency within seven (7) Days after issuance of the notice of the Competitive Range or notice of subsequent tiers or steps.

(4) Content of Protest. The Affected Offeror's protest shall be in Writing and must specify the grounds upon which the protest is based.

(5) Contracting Agency Response. The Contracting Agency shall not consider an Affected Offeror's multi-tiered or multistep solicitation protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the Solicitation Document. The Contracting Agency shall issue a Written dis-

position of the protest in a timely manner. If the Contracting Agency upholds the protest, in whole or in part, the Contracting Agency may in its sole discretion either issue an Addendum under OAR 137-047-0430 reflecting its disposition or cancel the Procurement or solicitation under OAR 137-047-0660.

(6) Judicial Review. Judicial review of the Contracting Agency's decision relating to a multi-tiered or multistep solicitation protest shall be in accordance with ORS 279B.420.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.060
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0730

Protests and Judicial Review of Solicitations

(1) Purpose.

(a) A prospective Offeror may protest the Procurement process or the Solicitation Document for a Contract solicited under ORS 279B.055, 279B.060 and 279B.085 as set forth in ORS 279B.405(2)(a). Pursuant to ORS 279B.405(3), before seeking judicial review, a prospective Offeror must file a Written protest with the Contracting Agency and exhaust all administrative remedies.

(b) Contract-Specific Special Procurements. Notwithstanding section 1(a) of this rule, a Person may not protest, challenge, or review a Contract-Specific Special Procurement except upon the occurrence of the conditions set forth ORS 279B.405(2)(b).

(2) Delivery. Unless otherwise specified in the Solicitation Document, a prospective Offeror must deliver a Written protest to the Contracting Agency not less than ten (10) Days prior to Closing.

(3) Content of Protest. In addition to the information required by ORS 279B.405(4), a prospective Offeror's Written protest shall include a statement of the desired changes to the Procurement process or the Solicitation Document that the prospective Offeror believes will remedy the conditions upon which the prospective Offeror based its protest.

(4) Contracting Agency Response. The Contracting Agency shall not consider a Prospective Offeror's solicitation protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the Solicitation Document. The Contracting Agency shall consider the protest if it is timely filed and meets the conditions set forth in ORS 279B.405(4). The Contracting Agency shall issue a Written disposition of the protest in accordance with the timeline set forth in ORS 279B.405(6). If the Contracting Agency upholds the protest, in whole or in part, the Contracting Agency may in its sole discretion either issue an Addendum reflecting its disposition under OAR 137-047-0430 or cancel the Procurement or solicitation under OAR 137-047-0660.

(5) Extension of Closing. If the Contracting Agency receives a protest from a prospective Offeror in accordance with this rule, the Contracting Agency may extend Closing if the Contracting Agency determines an extension is necessary to consider and respond to the protest.

(6) Clarification. Prior to the deadline for submitting a protest, a prospective Offeror may request that the Contracting Agency clarify any provision of the Solicitation Document. The Contracting Agency's clarification to an Offeror, whether orally or in Writing, does not change the Solicitation Document and is not binding on the Contracting Agency unless the Contracting Agency amends the Solicitation Document by Addendum.

(7) Judicial Review. Judicial review of the Contracting Agency's decision relating to a solicitation protest shall be in accordance with ORS 279B.405.

Stat. Auth.: ORS 279A.065 & ORS 279B.405
Stats. Implemented: ORS 279B.405
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0740

Protests and Judicial Review of Contract Award

(1) Purpose. An Offeror may protest the Award of a Contract, or the intent to Award of a Contract, whichever occurs first, if the conditions set forth in ORS 279B.410(1) are satisfied. An Offeror must file a Written protest with the Contracting Agency and exhaust all administrative remedies before seeking judicial review of the Contracting Agency's Contract Award decision.

(2) Delivery. Unless otherwise specified in the Solicitation Document, an Offeror must deliver a Written protest to the Contracting Agency within seven (7) Days after issuance of the notice of intent to Award the Contract.

(3) Content of Protest. An Offeror's Written protest shall specify the grounds for the protest to be considered by the Contracting Agency pursuant to ORS 279B.410(2).

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(4) Contracting Agency Response. The Contracting Agency shall not consider an Offeror's Contract Award protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the Solicitation Document. The Contracting Agency shall issue a Written disposition of the protest in a timely manner as set forth in ORS 279B.410(4). If the Contracting Agency upholds the protest, in whole or in part, the Contracting Agency may in its sole discretion either Award the Contract to the successful protestor or cancel the Procurement or solicitation.

(5) Judicial Review. Judicial review of the Contracting Agency's decision relating to a Contract Award protest shall be in accordance with ORS 279B.415.

Stat. Auth.: ORS 279A.065 & ORS 279B.410
Stats. Implemented: ORS 279B.410 & ORS 279B.415
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0745

Protests and Judicial Review of Qualified Products List Decisions

(1) Purpose. A prospective Offeror may protest the Contracting Agency's decision to exclude the prospective Offeror's Goods from the Contracting Agency's qualified products list under ORS 279B.115. A prospective Offeror must file a Written protest and exhaust all administrative remedies before seeking judicial review of the Contracting Agency's qualified products list decision.

(2) Delivery. Unless otherwise stated in the Contracting Agency's notice to prospective Offerors of the opportunity to submit Goods for inclusion on the qualified products list, a prospective Offeror must deliver a Written protest to the Contracting Agency within seven (7) Days after issuance of the Contracting Agency's decision to exclude the prospective Offeror's Goods from the qualified products list.

(3) Content of Protest. The prospective Offeror's protest shall be in Writing and must specify the grounds upon which the protest is based.

(4) Contracting Agency Response. The Contracting Agency shall not consider a prospective Offeror's qualified products list protest submitted after the timeline established for submitting such protest under this rule, or such different time period as may be provided in the Contracting Agency's notice to prospective Offerors of the opportunity to submit Goods for inclusion on the qualified products list. The Contracting Agency shall issue a Written disposition of the protest in a timely manner. If the Contracting Agency upholds the protest, it shall include the successful protestor's Goods on the qualified products list.

(5) Judicial Review. Judicial review of the Contracting Agency's decision relating to a qualified products list protest shall be in accordance with ORS 279B.425.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.115
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0750

Judicial Review of Other Violations

Any violation of ORS Chapter 279A or 279B by a Contracting Agency for which no judicial remedy is otherwise provided in the Public Contracting Code is subject to judicial review as set forth in ORS 279B.420.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.420
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0760

Review of Prequalification and Debarment Decisions

Review of the Contracting Agency's prequalification and Debarment decisions shall be as set forth in ORS 279B.425.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.425
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-047-0800

Contract Amendments

(1) Additional Goods or Services. A Contracting Agency may amend a Contract without additional competition to add additional Goods or Services within the Scope of the Solicitation Document, or if no Solicitation Document, the Contract, or in the instance of a Special Procurement the approval of Special Procurement subject to the following conditions:

(a) The original Contract was Awarded pursuant to ORS 279B.055, 279B.060, 279B.065, 279B.070, 279B.075, 279B.085, or 279A.200 through 279A.225; and

(b) One of the following two conditions are satisfied:

(A) The additional Goods or Services are required by reason of existing or new laws, rules, regulations or ordinances of federal, state or local agencies, that affect performance of the original Contract; or

(B) The prices for the Goods or Services are modified only as follows:

(i) When prices for the Goods or Services are based on unit prices, unit prices that establish the cost basis for the additional Goods or Services were provided in the Offer or original Contract and those prices do not increase except as permitted by an escalation clause in the Contract; or

(ii) When prices for the Goods or Services are not based on unit prices, options that establish the cost basis for the additional Goods or Services were provided in the Solicitation Document, Offer, or original Contract.

(2) Renegotiated Contract. A Contracting Agency may renegotiate the terms and conditions, including the Contract Price, of a Contract without additional competition and amend a Contract if it is Advantageous to the Contracting Agency subject to the following conditions:

(a) The amended Contract is within the Scope of the Solicitation Document, or if no Solicitation Document, the Contract, or in the instance of a Special Procurement the approval of Special Procurement;

(b) A Contracting Agency must determine that, with all things considered, the renegotiated Contract is at least as favorable to the Contracting Agency as the original Contract; and

(c) The renegotiated Contract will not have a total term greater than allowed in the original Solicitation Document, Contract or approval of a Special Procurement after combining the initial and extended terms. For example, a one-year Contract, renewable each year for up to four additional years, may be renegotiated as a two to five-year Contract, but not beyond a total of five years. Also, if multiple Contracts with a single Contractor are restated as a single Contract, the term of the single Contract may not have a total term greater than the longest term of any of the prior Contracts.

(d) If a Contractor offers a lower price in exchange for a change in term or condition that was expressly rejected in the original solicitation, the amended Contract may be structured with this changed term as an optional, but not as a mandatory Contract term.

(e) If the Contract is the result of a Cooperative Procurement, the amended Contract may not materially change the terms, conditions, and prices of the Original Contract.

(3) Small or Intermediate Contract. A Contracting Agency may amend a Contract Awarded as small or intermediate Procurement pursuant to sections 1 or 2 of this rule, provided also the total increase in Contract price does not exceed the amount set forth in OAR 137-047-0265 for small Procurements and OAR 137-047-0270 for intermediate Procurements.

(4) Emergency Contract. A Contracting Agency may amend a Contract Awarded as an emergency Procurement if the emergency justification for entering into the Contract still exists, and the amendment is necessary to address the continuing emergency.

(5) Price Agreements. A Contracting Agency may amend or terminate a Price Agreement as follows:

(a) As permitted by the Price Agreement;

(b) As permitted by this rule;

(c) If the circumstances set forth in ORS 279B.140(2) exist; or

(d) As permitted by applicable law.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0100

Application; Effective Date

(1) The Attorney General is required to prepare and maintain model rules of procedure that govern Public Contracting under the Public Contracting Code and that are appropriate for use by all Contracting Agencies. These division 48 rules apply to the screening and selection of Architects, Engineers and Land Surveyors, and providers of Related Services under Contracts, and set forth the following procedures:

(a) Procedures through which Contracting Agencies select Consultants to perform Architectural, Engineering, or Land Surveying Services, or Related Services; and

(b) Two-tiered procedures for selection of Architects, Engineers, Land Surveyors and providers of Related Services for certain Public Improvements owned and maintained by a Local Government.

(2) These division 48 rules apply to any Contracting Agency with independent contracting authority that is seeking the services of a Consultant to perform Architectural, Engineering, or Land Surveying Services, or Related Services if Contracting Agency has not adopted its own rules of procedure for the screening and selection of Consultants to

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perform Architectural, Engineering, or Land Surveying Services, or Related Services as provided in ORS 279A.065(a).

(3) The dollar threshold amounts that are applicable to the Direct Appointment Procedure, OAR 137-048-0200, the Informal Selection Procedure, OAR 137-048-210, and the Formal Selection Procedure, OAR 137-048-220, are independent from and have no effect on the dollar threshold amounts that trigger the legal sufficiency review requirement for State Contracting Agencies under OAR 291.047.

(4) Effective Date. These division 48 rules become effective on March 1, 2005 and apply to the above-described Contracts first advertised, but if not advertised then entered into, on or after March 1, 2005.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0110

Definitions

In addition to the definitions set forth in ORS 279A.010, ORS 279C.100, and OAR 137-046-0110, the following definitions apply to these division 48 rules:

(1) **“Consultant”** means an Architect, Engineer, Land Surveyor, or provider of Related Services. A Consultant includes a business entity that employees Architects, Engineers, Land Surveyors or providers of Related Services, or any combination of the foregoing.

(2) **“Estimated Fee”** means Contracting Agency’s reasonably projected fee to be paid for a Consultant’s services under the anticipated Contract, excluding all anticipated reimbursable or other non-professional fee expenses. The Estimated Fee is used solely to determine the applicable Contract solicitation method and is distinct from the total amount payable under the Contract. The Estimated Fee shall not be used as a basis to resolve other Public Contracting issues, including without limitation, direct purchasing authority or Public Contract review and approval under ORS 291.047.

(3) **“Project”** means all components of a Contracting Agency’s planned undertaking that gives rise to the need for a Consultant’s Architectural, Engineering, or Land Surveying Services, or Related Services under a Contract.

(4) **“Proposer”** means a Consultant who submits a proposal to a Contracting Agency in response to a Request for Proposals.

(5) **“Request for Qualifications”** or **“RFQ”** means a written document issued by a Contracting Agency to which Consultants respond with a description of their experience with and qualifications for the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFQ and from which Contracting Agency creates a list of Consultants who are qualified to perform those services, but which is not intended to result in a Contract between a Consultant and a Contracting Agency.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0120

List of Interested Consultants; Performance Record

(1) Consultants who are engaged in the lawful practice of their profession and who are interested in providing Architectural, Engineering, or Land Surveying Services or Related Services may annually submit a statement describing their qualifications and related performance information to Contracting Agencies’ office addresses. Contracting Agencies will use this information to create a list of prospective Consultants and will update this list at least once every two years.

(2) Contracting Agencies may compile and maintain a record of each Consultant’s performance under Contracts with the particular Contracting Agency, including information obtained from Consultants during an exit interview. Upon request and in accordance with the Oregon Public Records Law (ORS 192.410 through 192.505) Contracting Agencies may make available copies of the records.

(3) State Contracting Agencies shall keep a record of all Contracts with Consultants and shall make these records available to the public consistent with the requirements of the Oregon Public Records Law (ORS 192.410 through 192.505). State Contracting Agencies shall include the following information in the record:

(a) Locations throughout the state where the Contracts are performed;

(b) Consultants’ principal office address and all office addresses in the State of Oregon;

(c) Consultants’ direct expenses on each Contract whether or not those direct expenses are reimbursed. “Direct expenses” include all amounts that are directly attributable to Consultants’ services performed under each Contract, including personnel travel expenses, and that would

not have been incurred but for the services being performed. The record shall include all personnel travel expenses as a separate and identifiable expense on the Contract; and

(d) The total number of Contracts awarded to each Consultant over the immediately preceding 10-year period from the date of the record.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065 & ORS 279C.110
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0130

Applicable Selection Procedures; Pricing Information

(1) When selecting the most qualified Consultants to perform Architectural, Engineering, or Land Surveying Services, State Contracting Agencies and Local Contracting Agencies that are contracting with Consultants under the conditions listed in ORS 279C.110(2) shall follow the applicable selection procedure under either OAR 137-048-0210 (Informal Selection Procedure), 137-048-0220 (Formal Selection Procedure), or 137-048-0200 (Direct Appointment Procedure). Contracting Agencies subject to this section (1) shall not solicit or use pricing policies and proposals or other pricing information to determine a Consultant’s compensation until after the Contracting Agency has selected the most qualified Consultant in accordance with the applicable selection procedure.

(2) Contracting Agencies selecting Consultants to perform Related Services and Local Contracting Agencies selecting Consultants to perform Architectural, Engineering or Land Surveying Services for Contracts when the conditions under ORS 279C.110(2) do not exist, shall follow one of the following selection procedures:

(a) When selecting a Consultant on the basis of qualifications alone, Contracting Agencies shall follow the applicable selection procedure under either OAR 137-048-0210 (Informal Selection Procedure), 137-048-0220 (Formal Selection Procedure) or 137-048-0200 (Direct Appointment Procedure);

(b) When selecting a Consultant on the basis of price competition alone, Contracting Agencies shall follow either the provisions under OAR chapter 137, division 47 for obtaining and evaluating Bids, or OAR 137-048-0200 (Direct Appointment Procedure); and

(c) When selecting a Consultant on the basis of price and qualifications, Contracting Agencies shall follow either the provisions under OAR chapter 137, division 47 for obtaining and evaluating Proposals, or OAR 137-048-0200 (Direct Appointment Procedure). Contracting Agencies subject to this section (2) may request and consider a Proposer’s pricing policies, proposals and other pricing information submitted with a Proposal.

(3) Contracting Agencies may use electronic methods to screen and select a Consultant in accordance with the procedures described in sections (1) and (2) of this rule. If a Contracting Agency uses electronic methods to screen and select a Consultant, Contracting Agency shall first promulgate rules for conducting the screening and selection procedure by electronic means, substantially in conformance with OAR 137-047-0330 (Electronic Procurement).

(4) In applying these rules, State Contracting Agencies shall support the state’s goal of promoting a sustainable economy in the rural areas of the state.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065 & ORS 279C.110
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0200

Direct Appointment Procedure

(1) Contracting Agencies may enter into a Contract directly with a Consultant without following the selection procedures set forth elsewhere in these rules if:

(a) Contracting Agency finds that an Emergency exists; or

(b) The Estimated Fee to be paid under the Contract does not exceed \$25,000; or

(c) For State Contracting Agencies, the Architectural, Engineering, or Land Surveying Services, or Related Services to be performed under the Contract:

(A) Consist of or are related to Architectural, Engineering, or Land Surveying Services, or Related Services that have been substantially described, planned or otherwise previously studied in an earlier Contract with the same Consultant and are rendered for the same Project as the Architectural, Engineering, or Land Surveying Services, or Related Services rendered under the earlier Contract;

(B) The Estimated Fee to be made under the Contract does not exceed \$150,000; and

(C) State Contracting Agency used either the formal selection procedure under OAR 137-048-0220 (Formal Selection Procedure) or the formal

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selection procedure applicable to selection of the Consultant at the time of selection, to select the Consultant for the earlier Contract; or

(d) For Local Contracting Agencies, the Architectural, Engineering, or Land Surveying Services, or Related Services to be performed under the Contract:

(A) Consist of or are related to Architectural, Engineering, or Land Surveying Services, or Related Services that have been substantially described, planned or otherwise previously studied in an earlier Contract with the same Consultant and are rendered for the same Project as the Architectural, Engineering, or Land Surveying Services, or Related Services rendered under the earlier Contract; and

(B) Local Contracting Agency used a formal selection procedure described in rules applicable to Local Contracting Agency under either ORS 279.049 or 279A.065, whichever was in effect at the time Local Contracting Agency selected Consultant for the earlier Contract; or

(C) Consultant will be assisting Contracting Agency by providing analysis, testing services, testimony or similar services for a Project that is, or is reasonably anticipated to be, the subject of a claim, lawsuit or other form of action, whether legal, equitable, administrative or otherwise.

(2) Contracting Agencies may select Consultants for Contracts under this rule from the following sources:

(a) Contracting Agency's list of Consultants that is created under OAR 137-048-0120 (List of Interested Consultants; Performance Record);

(b) Another Contracting Agency's list of Consultants that the Contracting Agency has created under OAR 137-048-0120 (List of Interested Consultants; Performance Record), with written consent of that Contracting Agency; or

(c) All Consultants offering the required Architectural, Engineering, or Land Surveying Services, or Related Services that Contracting Agency reasonably can identify under the circumstances.

(3) Contracting Agency shall direct negotiations with Consultants selected under this rule toward obtaining written agreement on:

(a) Consultant's performance obligations and performance schedule;

(b) Payment methodology and a maximum amount payable to Contractor for the Architectural, Engineering, or Land Surveying Services, or Related Services required under the Contract that is fair and reasonable to the Contracting Agency as determined solely by the Contracting Agency, taking into account the value, scope, complexity and nature of the Architectural, Engineering, or Land Surveying Services, or Related Services; and

(c) Any other provisions Contracting Agency believes to be in Contracting Agency's best interest to negotiate.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C110 & ORS 279C.115

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0210

Informal Selection Procedure

(1) Contracting Agencies may use the informal selection procedure described in this rule to obtain a Contract if the Estimated Fee is expected not to exceed \$150,000.

(2) Contracting Agencies using the informal selection procedure shall:

(a) Create a Request for Proposals that includes at a minimum the following:

(A) A description of the Project for which Consultant's Architectural, Engineering, or Land Surveying Services, or Related Services are needed and a description of the Architectural, Engineering, or Land Surveying Services, or Related Services that will be required under the resulting Contract;

(B) Anticipated Contract performance schedule;

(C) Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including construction services;

(D) Date and time Proposals are due and other directions for submitting Proposals;

(E) Criteria upon which most qualified Consultant will be selected. Selection criteria may include, but are not limited to, the following:

(i) Amount and type of resources and number of experienced staff Consultant has available to perform the Architectural, Engineering, or Land Surveying Services, or Related Services described in the Request for Proposals within the applicable time limits, including the current and projected workloads of such staff and the proportion of time such staff would have available for the Architectural, Engineering, or Land Surveying Services, or Related Services;

(ii) Proposed management techniques for the Architectural, Engineering, or Land Surveying Services, or Related Services described in the Request for Proposals;

(iii) Consultant's capability, experience and past performance history and record in providing similar Architectural, Engineering, or Land Surveying Services, or Related Services, including but not limited to quality of work, ability to meet schedules, cost control methods and contract administration practices;

(iv) Approach to Architectural, Engineering, or Land Surveying Services, or Related Services described in the Request for Proposals and design philosophy, if applicable;

(v) Proposer's geographic proximity to and familiarity with the physical location of the Project;

(vi) Volume of work, if any, previously awarded to Proposer, with the objective of effecting equitable distribution of Contracts among qualified Consultants, provided such distribution does not violate the principle of selecting the most qualified Consultant for the type of professional services required;

(vii) Ownership status and employment practices regarding women, minorities and emerging small businesses or historically underutilized businesses;

(viii) Pricing policies, proposals and other pricing information if the Contracting Agency is a Local Contracting Agency selecting a Consultant when the conditions under ORS 279C.110(2) do not exist.

(F) A Statement that Proposers responding to the RFP do so solely at their expense, and Contracting Agency is not responsible for any Proposer expenses associated with the RFP; and

(G) A statement directing Proposers to the protest procedures set forth in these division 48 rules.

(b) Provide a Request for Proposals to a minimum of five prospective Consultants drawn from:

(A) Contracting Agency's list of Consultants that is created and maintained under OAR 137-048-0120 (List of Interested Consultants; Performance Record);

(B) Another Contracting Agency's list of Consultants that is created and maintained under OAR 137-048-0120 (List of Interested Consultants; Performance Record); or

(C) All Consultants Contracting Agency reasonably can locate that offer the desired Architectural, Engineering, or Land Surveying Services, or Related Services, or any combination of the foregoing.

(c) Review and rank all Proposals received according to the criteria set forth in the Request for Proposals, and select the three highest ranked Proposers.

(3) If Contracting Agency does not cancel the RFP after it reviews and ranks each Proposer, Contracting Agency will begin negotiating a Contract with the highest ranked Proposer. Contracting Agency shall direct negotiations toward obtaining written agreement on:

(a) Consultant's performance obligations and performance schedule;

(b) Payment methodology and a maximum amount payable to Contractor for the Architectural, Engineering, or Land Surveying Services, or Related Services required under the Contract that is fair and reasonable to the Contracting Agency as determined solely by the Contracting Agency, taking into account the value, scope, complexity and nature of the Architectural, Engineering, or Land Surveying Services, or Related Services; and

(c) Any other provisions Contracting Agency believes to be in Contracting Agency's best interest to negotiate.

(4) Contracting Agency shall, either orally or in writing, formally terminate negotiations with the highest ranked Proposer if Contracting Agency and Proposer are unable for any reason to reach agreement on a Contract within a reasonable amount of time. Contracting Agency may thereafter negotiate with the second ranked Proposer, and if necessary, with the third ranked Proposer, in accordance with section (3) of this rule, until negotiations result in a Contract. If negotiations with any of the top three Proposers do not result in a Contract within a reasonable amount of time, Contracting Agency may end the particular informal solicitation and thereafter may proceed with a new informal solicitation under this rule or proceed with a formal solicitation under OAR 137-048-0220 (Formal Selection Procedure).

(5) Contracting Agency shall terminate the informal selection procedure and proceed with the formal selection procedure under OAR 137-048-220 if the scope of the anticipated Contract is revised during negotiations so that the Estimated Fee will exceed \$150,000. Notwithstanding the foregoing, Contracting Agency may continue Contract negotiations with the Proposer selected under the informal selection procedure if Contracting

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Agency makes written determinations that contracting with that Proposer will:

- (a) Promote efficient use of Contracting Agency's resources and result in substantial cost savings to Contracting Agency; and
- (b) Protect the integrity of the Public Contracting process and the competitive nature of the procurement by not encouraging favoritism or substantially diminishing competition in the award of the Contract.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.110
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0220

Formal Selection Procedure

(1) Subject to OAR 137-048-0130 (Applicable Selection Procedures; Pricing Information), Contracting Agencies shall use the formal selection procedure described in this rule to select Consultants if the Consultants cannot be selected under either OAR 137-048-0200 (Direct Appointment Procedure) or under OAR 137-048-0210 (Informal Selection Procedure). The formal selection procedure described in this rule may otherwise be used at Contracting Agencies' discretion.

(2) Contracting Agencies using the formal selection procedure shall obtain Contracts through public advertisement of Requests for Proposals, or Requests for Qualifications followed by a Request for Proposals.

(a) Except as provided in subsection (b) of this section, Contracting Agency shall advertise each RFP and RFQ at least once in at least one newspaper of general circulation in the area where the Project is located and in as many other issues and publications as may be necessary or desirable to achieve adequate competition. Other issues and publications may include, but are not limited to, local newspapers, trade journals, and publications targeted to reach the minority, women and emerging small business enterprise audiences.

(A) Contracting Agency shall publish the advertisement within a reasonable time before the deadline for the Proposal submission or response to the RFQ but in any event no fewer than fourteen (14) calendar days before the closing date set forth in the RFP or RFQ.

(B) Contracting Agency shall include a brief description of the following items in the advertisement:

- (i) The Project;
- (ii) A description of the Architectural, Engineering, or Land Surveying Services, or Related Services Contracting Agency seeks;
- (iii) How and where Consultants may obtain a copy of the RFP or RFQ; and

(iv) The deadline for submitting a Proposal or response to the RFQ.

(b) In the alternative to advertising in a newspaper as described in subsection 2(a) of this rule, Contracting Agency shall publish each RFP and RFQ by one or more of the electronic methods identified in OAR 137-046-0110(13). Contracting Agency shall comply with subsections 2(a)(A) and 2(a)(B) of this rule when publishing advertisements by electronic methods.

(c) Contracting Agency may send notice of the RFP or RFQ directly to all Consultants on the Contracting Agency's list of Consultants that is created and maintained under OAR 137-048-0120 (List of Interested Consultants; Performance Record).

(3) Request for Qualifications Procedure. Contracting Agencies may use the RFQ procedure to evaluate potential Consultants and establish a short list of qualified Consultants to whom Contracting Agency may issue an RFP for some or all of the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFQ.

(a) Contracting Agency shall include the following, at a minimum, in each RFQ:

(A) A brief description of the Project for which Contracting Agency is seeking Consultants;

(B) A description of the Architectural, Engineering, or Land Surveying Services, or Related Services Contracting Agency seeks for the Project;

(C) Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including construction services;

(D) The deadline for submitting a response to the RFQ;

(E) A description of required Consultant qualifications for the Architectural, Engineering, or Land Surveying Services, or Related Services Agency seeks;

(F) The RFQ evaluation criteria, including weights or points applicable to each criterion;

(G) A statement whether or not Contracting Agency will hold a pre-qualification meeting for all interested Consultants to discuss the Project and the Architectural, Engineering, or Land Surveying Services, or Related

Services described in the RFQ and if a pre-qualification meeting will be held, the location of the meeting and whether or not attendance is mandatory; and

(H) A Statement that Proposers responding to the RFQ do so solely at their expense, and Contracting Agency is not responsible for any Proposer expenses associated with the RFQ.

(b) Contracting Agency may include a request for any or all of the following in each RFQ:

(A) A statement describing Consultant's general qualifications and related performance information;

(B) A description of Consultant's specific qualifications to perform the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFQ including Consultant's available resources and recent, current and projected workloads;

(C) A list of similar Architectural, Engineering, or Land Surveying Services, or Related Services and references concerning past performance, and a copy of all records, if any, of Consultant's performance under Contracts with any other Contracting Agency;

(D) The number of Consultant's experienced staff available to perform the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFQ, including such personnel's specific qualifications and experience and an estimate of the proportion of time that such personnel would spend on those services;

(E) Approach to Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFQ and design philosophy, if applicable;

(F) Proposer's geographic proximity to and familiarity with the physical location of the Project;

(G) Ownership status and employment practices regarding women, minorities and emerging small businesses or historically underutilized businesses;

(H) Pricing policies, proposals and other pricing information if the Contracting Agency is a Local Contracting Agency and the conditions under ORS 279C.110(2) do not exist; and

(I) Any other information Contracting Agency deems reasonable necessary to evaluate Consultants' qualifications.

(c) RFQ Evaluation Committee. Contracting Agency shall establish an RFQ evaluation committee of at least two individuals to review, score and rank the responding Consultants according to the evaluation criteria. Contracting Agency may appoint to the evaluation committee Contracting Agency employees or employees of other public agencies with experience in architecture, engineering, or land surveying, Related Services, construction or Public Contracting. If Contracting Agency procedure permits, the Contracting Agency may include on the evaluation committee private practitioners of architecture, engineering, land surveying or related professions. The Contracting Agency shall designate one member of the evaluation committee as the evaluation committee chairperson.

(d) Contracting Agency may use any reasonable screening or evaluation method to establish a short list of qualified Consultants, including but not limited to:

(A) Requiring Consultants responding to an RFQ to achieve a threshold score before qualifying for placement on the short list;

(B) Placing a pre-determined number of the highest scoring Consultants on a short list;

(C) Placing on a short list only those Consultants with certain essential qualifications or experience, whose practice is limited to a particular subject area, or who practice in a particular geographic locale or region, provided that such factors are material, would not unduly restrict competition, and were announced as dispositive in the RFP.

(e) After the evaluation committee reviews, scores and ranks the responding Consultants, Contracting Agency shall establish a short list of at least three qualified Consultants, provided however, that if four or fewer Consultants responded to the RFQ, then:

(A) Contracting Agency may establish a short list of fewer than three qualified Consultants; or

(B) Contracting Agency may cancel the RFQ and issue an RFP.

(f) No Consultant will be eligible for placement on Contracting Agency's short list established under subsection (3)(d) of this rule if Consultant or any of Consultant's principals, partners or associates are members of Contracting Agency's RFQ evaluation committee.

(g) Except when the RFQ is cancelled, Contracting Agency shall provide a copy of the subsequent RFP to each Consultant on the short list.

(4) Formal Selection of Consultants Through Request for Proposals. Contracting Agencies shall use the procedure described in section (4) of

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this rule when issuing an RFP for a Contract described in section (1) of this rule.

(a) RFP Required Contents. Contracting Agencies using the formal selection procedure shall include at least the following in each Request for Proposals, whether or not the RFP is preceded by an RFQ:

(A) General background information, including a description of the Project and the specific Architectural, Engineering, or Land Surveying Services, or Related Services sought for the Project, the estimated Project cost, the estimated time period during which the Project is to be completed, and the estimated time period in which the specific Architectural, Engineering, or Land Surveying Services, or Related Services sought will be performed.

(B) The RFP evaluation process and criteria which will be used to select the most qualified Proposer, including the number of points applicable to each criterion. If Contracting Agency does not indicate the applicable number of points, then each criterion is worth the same number of points. Evaluation criteria may include, but are not limited to, the following:

(i) Proposer's availability and capability to perform the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFP;

(ii) Experience of Proposer's key staff persons in providing similar Architectural, Engineering, or Land Surveying Services, or Related Services on comparable Projects;

(iii) The amount and type of resources, and number of experienced staff persons Proposer has available to perform the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFP;

(iv) The recent, current and projected workloads of the staff and resources referenced in section (4)(a)(B)(iii), above;

(v) The proportion of time Proposer estimates that the staff referenced in section (4)(a)(B)(iii), above, would spend on the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFP;

(vi) Proposer's demonstrated ability to complete successfully similar Architectural, Engineering, or Land Surveying Services, or Related Services on time and within budget, including whether or not there is a record of satisfactory performance under OAR 137-048-0120 (List of Interested Consultants; Performance Record);

(vii) References and recommendations from past clients;

(viii) Proposer's performance history in meeting deadlines, submitting accurate estimates, producing high quality work, and meeting financial obligations;

(ix) Status and quality of any required license or certification;

(x) Proposer's knowledge and understanding of the Project and Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFP as shown in Proposer's approach to staffing and scheduling needs for the Architectural, Engineering, or Land Surveying Services, or Related Services and proposed solutions to any perceived design and constructability issues;

(xi) Results from interviews, if conducted;

(xii) Design philosophy, if applicable, and approach to the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFP;

(xiii) Pricing policies, proposals and other pricing information if the Contracting Agency is a Local Contracting Agency selecting a Consultant when the conditions under ORS 279C.110(2) do not exist; and

(xiv) Any other criteria that the Contracting Agency seems relevant to the Project and Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFP, including, where the nature and budget of the Project so warrant, a design competition between competing Proposers.

(C) Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including construction services;

(D) Whether interviews are possible and if so, the weight or points applicable to the potential interview;

(E) The date and time Proposals are due, and the delivery location for Proposals;

(F) Reservation of the right to seek clarifications of each Proposal;

(G) Reservation of the right to negotiate a final Contract that is in the best interest of the Contracting Agency;

(H) Reservation of the right to reject any or all Proposals and reservation of the right to cancel the RFP at anytime if doing either would be in the public interest as determined by the Contracting Agency;

(I) A Statement that Proposers responding to the RFP do so solely at their expense, and Contracting Agency is not responsible for any Proposer expenses associated with the RFP;

(J) A statement directing Proposers to the protest procedures set forth in these rules;

(K) Special Contract requirements, including but not limited to disadvantaged business enterprise ("DBE"), minority business enterprise ("MBE"), women business enterprise ("WBE") and emerging small business enterprise ("ESB") participation goals or good faith efforts with respect to DBE, MBE, WBE and ESB participation, and federal requirements when federal funds are involved;

(L) A statement whether or not Contracting Agency will hold a pre-Proposal meeting for all interested Consultants to discuss the Project and the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFP and if a pre-Proposal meeting will be held, the location of the meeting and whether or not attendance is mandatory;

(M) A request for any information Contracting Agency deems reasonably necessary to permit Contracting Agency to evaluate, rank and select the most qualified Proposer to perform the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFP; and

(N) A sample form of the Contract.

(b) RFP Evaluation Committee. Contracting Agency shall establish a committee of at least three individuals to review, score and rank Proposals according to the evaluation criteria set forth in the RFP. If the RFP has followed an RFQ, the Contracting Agency may include the same members who served on the RFQ evaluation committee. Contracting Agency may appoint to the evaluation committee Contracting Agency employees or employees of other public agencies with experience in architecture, engineering, land surveying, Related Services, construction or Public Contracting. At least one member of the evaluation committee must be a Contracting Agency employee. If Contracting Agency procedure permits, the Contracting Agency may include on the evaluation committee private practitioners of architecture, engineering, land surveying or related professions. The Contracting Agency shall designate one of its employees who also is a member of the evaluation committee as the evaluation committee chairperson.

(A) No Proposer will be eligible for award of the Contract under the RFP if Proposer or any of Proposer's principals, partners or associates are members of Contracting Agency's RFP evaluation committee for the Contract;

(B) If the RFP provides for the possibility of Proposer interviews, the evaluation committee may elect to interview Proposers if the evaluation committee considers it necessary or desirable. If the evaluation committee conducts interviews, it shall award up to the number of points indicated in the RFP for the anticipated interview; and

(C) The evaluation committee shall provide to Contracting Agency the results of the scoring and ranking for each Proposer.

(c) If Contracting Agency does not cancel the RFP after it receives the results of the scoring and ranking for each Proposer, Contracting Agency will begin negotiating a Contract with the highest ranked Proposer. Contracting Agency shall direct negotiations toward obtaining written agreement on:

(A) Consultant's performance obligations and performance schedule;

(B) Payment methodology and a maximum amount payable to Contractor for the Architectural, Engineering, or Land Surveying Services, or Related Services required under the Contract that is fair and reasonable to the Contracting Agency as determined solely by the Contracting Agency, taking into account the value, scope, complexity and nature of the Architectural, Engineering, or Land Surveying Services, or Related Services; and

(C) Any other provisions Contracting Agency believes to be in Contracting Agency's best interest to negotiate.

(d) Contracting Agency shall, either orally or in writing, formally terminate negotiations with the highest ranked Proposer if Contracting Agency and Proposer are unable for any reason to reach agreement on a Contract within a reasonable amount of time. Contracting Agency may thereafter negotiate with the second ranked Proposer, and if necessary, with the third ranked Proposer, and so on, in accordance with section (4)(c) of this rule, until negotiations result in a Contract. If negotiations with any Proposer do not result in a Contract within a reasonable amount of time, Contracting Agency may end the particular formal solicitation. Nothing in this rule precludes Contracting Agency from proceeding with a new formal solicitation for the same Architectural, Engineering, or Land Surveying

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Services, or Related Services described in the RFP that failed to result in a Contract.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.110
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0230

Ties Among Proposers

(1) If Contracting Agency is selecting a Consultant on the basis of qualifications alone and determines after the ranking of Proposers that two or more Proposers are equally qualified, Contracting Agency may select a candidate through any process that Contracting Agency believes will result in the best value for Contracting Agency taking into account the scope, complexity and nature of the Architectural, Engineering, or Land Surveying Services. The process shall instill public confidence through ethical and fair dealing, honesty and good faith on the part of Contracting Agency and Proposers and shall protect the integrity of the Public Contracting process. Once a tie is broken, Contracting Agency and the selected Proposer shall proceed with negotiations under OAR 137-048-0210(3) or 137-048-0220(4)(c), as applicable.

(2) If a Contracting Agency is selecting a Consultant on the basis of price alone, or on the basis of price and qualifications, and determines after the ranking of Proposers that two or more Proposers are identical in terms of price or are identical in terms of price and qualifications, then the Contracting Agency shall follow the procedure set forth in OAR 137-047-0300, (Preferences for Oregon Goods and Services; Nonresident Bidders, to select the Consultant).

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.110
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0240

Protest Procedures

(1) RFP Protest and Request for Change. Consultants may submit a written protest of anything contained in an RFP and may request a change to any provision, specification or contract term contained in an RFP, no later than seven (7) calendar days prior to the date Proposals are due unless a different deadline is indicated in the RFP. Each protest and request for change must include the reasons for the protest or request, and any proposed changes to the RFP provisions, specifications or contract terms. Contracting Agency will not consider any protest or request for change that is submitted after the submission deadline.

(2) Protest of Consultant Selection. Contracting Agency shall provide to all Proposers a copy of the selection notice that Contracting Agency sent to the highest ranked Proposer. A Proposer who claims to have been adversely affected or aggrieved by the selection of the highest ranked Proposer may submit a written protest of the selection to Contracting Agency no later than seven (7) calendar days after the date of the selection notice unless a different deadline is indicated in the RFP. A Proposer submitting a protest must claim that the protesting Proposer is the highest ranked Proposer because the Proposals of all higher ranked Proposers failed to meet the requirements of the RFP or because the higher ranked Proposers otherwise are not qualified to perform the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFP. Contracting Agency will not consider any protest that is submitted after the submission deadline.

(3) A duly authorized representative of Contracting Agency shall resolve all timely submitted protests within a reasonable time following Contracting Agency's receipt of the protest and once resolved, shall promptly issue a written decision on the protest to the Proposer who submitted the protest. If the protest results in a change to the RFP, Contracting Agency shall revise the RFP accordingly and shall re-advertise the RFP in accordance with these rules.

(4) Proposers may be able to obtain judicial review of Contracting Agency's protest disposition pursuant to ORS 183.484.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065 & ORS 279C.110
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0250

RFP or RFQ Cancellation; Costs

Contracting Agency may cancel a solicitation, whether informal or formal, or reject all Proposals or responses to RFQs, or any combination of the foregoing, without liability to Contracting Agency at anytime after issuing an RFP or RFQ, if Contracting Agency believes it is in the public interest to do so. Consultants responding to either RFPs or RFQs are responsible for all costs they may incur in connection with submitting Proposals and responses to RFQs.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0260

Two-Tiered Selection Procedure for Local Contracting Agency Public Improvement Projects

(1) If a Local Contracting Agency requires a Consultant to perform Architectural, Engineering, or Land Surveying Services, or Related Services for a Public Improvement owned and maintained by that Local Contracting Agency, and a State Agency will serve as the lead Contracting Agency and will enter into Contracts with Consultants for Architectural, Engineering, or Land Surveying Services, or Related Services, for that Public Improvement, the State Contracting Agency shall utilize the two-tiered selection process described below to obtain these Contracts with Consultants.

(2) Tier One. State Contracting Agency shall, when feasible, identify no fewer than the three (3) most qualified Proposers responding to an RFP that was issued under the applicable selection procedures described in OAR 137-048-0210 (Informal Selection Procedure) and 137-048-0220 (Formal Selection Procedure), or from among Consultants identified under OAR 137-048-0200 (Direct Appointment Procedure), and shall notify the Local Contracting Agency of the Consultants selected.

(3) Tier Two. Local Contracting Agency shall either:

(a) Select a Consultant from the list of Proposers provided from the State Contracting Agency to perform the Architectural, Engineering, or Land Surveying Services, or Related Services for Local Contracting Agency's Public Improvement; or

(b) Select a Consultant to perform the Architectural, Engineering, or Land Surveying Services, or Related Services for Local Contracting Agency's Public Improvement through an alternative process adopted by the Local Contracting Agency, consistent with the provisions of the applicable RFP, if any, and these division 48 rules.

(4) State Contracting Agency shall thereafter begin Contract negotiations with the selected Consultant in accordance with the negotiation provisions in OAR 137-048-0220(4)(c).

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.125
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0300

Prohibited Payment Methodology; Purchase Restrictions

(1) Except as otherwise allowed by law, Contracting Agency shall not enter into any Contract which includes compensation provisions that expressly provide for payment of:

(a) Consultant's costs under the Contract plus a percentage of those costs; or

(b) A percentage of the Project construction costs or total Project costs.

(2) Except as otherwise allowed by law, a Contracting Agency shall not enter into any Contract in which:

(a) The compensation paid under the Contract is solely based on or limited to the Consultant's hourly rates for the Consultant's personnel working on the Project and reimbursable expenses incurred during the performance of work on the Project (sometimes referred to as a "time and materials" Contract); and

(b) The Contract does not include a maximum amount payable to Contractor for the Architectural, Engineering, or Land Surveying Services, or Related Services required under the Contract.

(3) Except in cases of Emergency or in the particular instances noted in the subsections below, Contracting Agency shall not purchase any building materials, supplies or equipment for any building, structure or facility constructed by or for Contracting Agency from any Consultant under a Contract with Contracting Agency to perform Architectural, Engineering or Land Surveying Services, or Related Services, for the building, structure or facility. This prohibition does not apply if either of the following circumstances exists:

(a) Consultant is providing Architectural, Engineering or Land Surveying Services, or Related Services under a Contract with Contracting Agency to perform Design-Build services or Energy Savings Performance Contract services (see OAR 137-049-0670 and 137-049-0680).

(b) That portion of the Contract relating to the acquisition of building materials, supplies or equipment was awarded to Consultant pursuant to applicable law governing the award of such contracts.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

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137-048-0310

Effect of Material Alteration or Delay of Project

If Contracting Agency delays or delays and then materially alters a Project for which Contracting Agency has entered a Contract, and the Contract has expired or been terminated, Contracting Agency may enter a Contract with the same Consultant to perform either the same Architectural, Engineering, or Land Surveying Services, or Related Services described in the Contract or Architectural, Engineering, or Land Surveying Services, or Related Services as amended to reflect Contracting Agency's material alteration of the Project if no more than one year has passed since expiration or termination of the Contract and Contracting Agency makes written findings that entering a Contract with Consultant:

- (1) Will promote efficient use of public funds and resources and result in substantial cost savings to Contracting Agency;
- (2) Will not encourage favoritism in the contracting process; and
- (3) Will not substantially diminish competition for future contracts with Consultants.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065 & ORS 279C.110
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-048-0320

Contract Amendments

(1) Contracting Agency may amend any Contract if the Contracting Agency, in its sole discretion, determines that the amendment is within the scope of services contemplated under the RFP and that the amendment would not materially impact the field of competition for the services described in the RFP. In making this determination, the Contracting Agency shall consider potential alternative methods of procuring the services contemplated under the proposed amendment. An amendment would not materially impact the field of competition for the services described in the RFP if the Contracting Agency reasonably believes that the number of Proposers would not significantly increase if the RFP were re-issued to include the additional services.

(2) The Contracting Agency may amend any Contract if the additional services are required by reason of existing or new laws, rules, regulations or ordinances of federal, state or local agencies, that affect performance of the original Contract.

(3) All amendments to Contracts must be in writing, must be signed by an authorized representative of the Consultant and the Contracting Agency and must receive all required approvals before the amendments will be binding on the Contracting Agency.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0100

Application

(1) These division 49 rules apply to Public Improvement Contracts as well as Public Contracts for ordinary construction services that are not Public Improvements. Model Rules that apply specifically to Public Improvement Contracts are so identified.

(2) These division 49 rules address matters covered in ORS Chapter 279C (with the exception of Architectural, Engineering, Land Surveying and Related Services, all of which are addressed in division 48 of the Model Rules).

(3) These division 49 Model rules become effective on March 1, 2005 and apply to the Contracts described in section (1) above first advertised, but if not advertised then entered into, on or after March 1, 2005.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0110

Policies

In addition to the general Code policies set forth in ORS 279A.015, the 279C.300 policy on competition and the ORS 279C.305 policy on least-cost for Public Improvements apply to these division 49 rules.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.300 & ORS 279C.305
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0120

Definitions

(1) **"Conduct Disqualification"** means a Disqualification pursuant to ORS 279C.440.

(2) **"Disqualification"** means the preclusion of a Person from contracting with a Contracting Agency for a period of time in accordance with

ORAR 137-049-0370. Disqualification may be a Conduct Disqualification or DBE Disqualification.

(3) **"Foreign Contractor"** means a Contractor that is not domiciled in or registered to do business in the State of Oregon. See ORAR 137-049-0480.

(4) **"Notice"** means any of the alternative forms of public announcement of Procurements, as described in ORAR 137-049-0210.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0130

Competitive Bidding Requirement

A Contracting Agency shall solicit Bids for Public Improvement Contracts by Invitation to Bid ("ITB"), except as otherwise allowed or required pursuant to ORS 279C.335 on Competitive Bidding exceptions and exemptions, 279A.030 on federal law overrides or 279A.100 on affirmative action. Also see ORAR 137-049-0600 to 137-049-0690 regarding the use of Alternative Contracting Methods and the exemption process.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.335
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0140

Contracts for Construction Other Than Public Improvements

(1) **Procurement Under ORS Chapter 279B.** Pursuant to ORS 279C.320, Public Contracts for construction services that are not Public Improvement Contracts, other than Emergency Contracts regulated under ORS 279C.335(5) and ORAR 137-049-0150, may be procured and amended as general trade services under the provisions of ORS Chapter 279B rather than under the provisions of ORS Chapter 279C and these division 49 rules.

(2) **Application of ORS Chapter 279C.** Non-procurement provisions of ORS Chapter 279C and these division 49 rules may still be applicable to the resulting Contracts. See, for example, particular statutes on Disqualification (ORS 279C.440, 445 and 450); Legal Actions (ORS 279C.460 and 465); Required Contract Conditions (ORS 279C.505, 515, 520 and 530); Hours of Labor (ORS 279C.540 and 545); Retainage (ORS 279C.550, 560 and 565); Subcontracts (ORS 279C.580); Action on Payment Bonds (ORS 279C.600, 605, 610, 615, 620 and 625); Termination (ORS 279C.650, 650, 660 and 670); and all of the Prevailing Wage Rates requirements (ORS 279C.800 through 870) for Public Works Contracts.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.320
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0150

Emergency Contracts; Bidding and Bonding Exemptions

(1) **Emergency Declaration.** Pursuant to ORS 279C.335(5) and this rule, a Contracting Agency may declare that Emergency circumstances exist that require prompt execution of a Public Contract for Emergency construction or repair Work. The declaration shall be made at an administrative level consistent with the Contracting Agency's internal policies, by a written declaration that describes the circumstances creating the Emergency and the anticipated harm from failure to enter into an Emergency Contract. The Emergency declaration shall exempt the Public Contract from the competitive bidding requirements of ORS 279C.335(1) and shall thereafter be kept on file as a public record.

(2) **Competition for Contracts.** The Contracting Agency shall ensure competition for an Emergency Contract as reasonable and appropriate under the Emergency circumstances, and may include written requests for Offers, oral requests for Offers or direct appointment without competition in cases of extreme necessity, in whatever Solicitation time periods the Contracting Agency considers reasonable in responding to the Emergency.

(3) **Contract Award.** Any Contract Awarded under this rule must be Awarded within 60 Days after declaration of the Emergency, unless an extension is granted under ORS 279C.335(5).

(4) **Contract Scope.** Although no dollar limitation applies to Emergency Contracts, the scope of the Contract must be limited to Work that is necessary and appropriate to remedy the conditions creating the Emergency as described in the declaration.

(5) **Contract Modification.** Emergency Contracts may be modified by change order or amendment to address the conditions described in the original declaration or an amended declaration that further describes additional work necessary and appropriate for related Emergency circumstances.

(6) **Excusing Bonds.** Pursuant to ORS 279C.380(4) and this rule, the Emergency declaration may also state that the Contracting Agency waives the requirement of furnishing a performance bond and payment bond for

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the Emergency Contract. After making such an Emergency declaration the bonding requirements are excused for the procurement.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.335(5) & 279C.380(4)
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0160

Intermediate Procurements; Competitive Quotes and Amendments

(1) **General.** Public Improvement Contracts estimated by the Contracting Agency not to exceed \$100,000, or not to exceed \$50,000 in the case of Contracts for highways, bridges and other transportation projects, may be Awarded in accordance with intermediate level procurement procedures for competitive quotes established by this rule.

(2) **Selection Criteria.** The selection criteria may be limited to price or some combination of price, experience, specific expertise, availability, project understanding, contractor capacity, responsibility and similar factors.

(3) **Request for Quotes.** Contracting Agencies shall utilize written requests for quotes whenever reasonably practicable. Written request for quotes shall include the selection criteria to be utilized in selecting a Contractor and, if the criteria are not of equal value, their relative value or ranking. When requesting quotations orally, prior to requesting the price quote the Contracting Agency shall state any additional selection criteria and, if the criteria are not of equal value, their relative value. For Public Works Contracts, oral quotations may be utilized only in the event that Written copies of the prevailing wage rates are not required by the Bureau of Labor and Industries.

(4) **Number of Quotes; Record Required.** Contracting Agencies shall seek at least three competitive quotes, and keep a written record of the sources and amounts of the quotes received. If three quotes are not reasonably available the Contracting Agency shall make a written record of the effort made to obtain those quotes.

(5) **Award.** If Awarded, the Contracting Agency shall Award the Contract to the prospective contractor whose quote will best serve the interests of the Contracting Agency, taking into account the announced selection criteria. If Award is not made to the Offeror offering the lowest price, the Contracting Agency shall make a written record of the basis for Award.

(6) **Price Increases.** Intermediate level Public Improvement Contracts obtained by competitive quotes may be increased above the original amount of Award by Contracting Agency issuance of a Change to the Work or Amendment, pursuant to OAR 137-049-0910, within the following limitations:

(a) Up to an aggregate Contract Price increase of 25% over the original Contract amount when a Contracting Agency's contracting officer determines that a price increase is warranted for additional reasonably related Work, and;

(b) Up to an aggregate Contract Price increase of 50% over the original Contract amount, when a Contracting Agency's contracting officer determines that a price increase is warranted for additional reasonably related Work and a Contracting Agency official, board or governing body with administrative or review authority over the contracting officer approves the increase.

(7) **Amendments.** Amendments of intermediate level Public Improvement Contracts that exceed the thresholds stated in section (1) are specifically authorized by the code, when made in accordance with this rule. Accordingly, such amendments are not considered new procurements and do not require an exemption from competitive bidding.

Stat. Auth.: ORS 279A.065
Stats. Implemented: Temporary provisions relating to competitive quotes were not codified but compiled as Legislative Counsel notes following ORS 279C.410.
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0200

Solicitation Documents; Required Provisions; Assignment or Transfer

(1) **Solicitation Document.** Pursuant to ORS 279C.365 and this rule, the Solicitation Document shall include the following:

(a) **General Information.**

(A) Identification of the Public Improvement project, including the character of the Work, and applicable plans, Specifications and other Contract documents;

(B) Notice of any pre-Offer conference as follows:

(i) The time, date and location of any pre-Offer conference;

(ii) Whether attendance at the conference will be mandatory or voluntary; and

(iii) That statements made by the Contracting Agency's representatives at the conference are not binding upon the Contracting Agency unless confirmed by Written Addendum.

(C) The deadline for submitting mandatory prequalification applications and the class or classes of Work for which Offerors must be prequalified if prequalification is a requirement;

(D) The name and title of the authorized Contracting Agency Person designated for receipt of Offers and contact Person (if different);

(E) Instructions and information concerning the form and submission of Offers, including the address of the office to which Offers must be delivered, any Bid or Proposal security requirements, and any other required information or special information, e.g., whether Offers may be submitted by facsimile or electronic means (See OAR 137-049-0300 regarding facsimile Bids or Proposals and OAR 137-049-0310 regarding electronic Procurement);

(F) The time, date and place of Opening;

(G) The time and date of Closing after which a Contracting Agency will not accept Offers, which time shall be not less than five Days after the date of the last publication of the advertisement. Although a minimum of five Days is prescribed, Contracting Agencies are encouraged to use at least a 14 Day Solicitation period when feasible. If the Contracting Agency is issuing an ITB that may result in a Public Improvement Contract with a value in excess of \$100,000, the Contracting Agency shall designate a time of Closing consistent with the first-tier subcontractor disclosure requirements of ORS 279C.370(1)(b) and OAR 137-049-0360. For timing issues relating to Addenda, see OAR 137-049-0250;

(H) The office where the Specifications for the Work may be reviewed;

(I) A statement that each Bidder to an ITB must identify whether the Bidder is a "resident Bidder," as defined in ORS 279A.120;

(J) If the Contract resulting from a Solicitation will be a Contract for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a), a statement that no Offer will be received or considered by the Contracting Agency unless the Offer contains a statement by the Offeror as a part of its Offer that "Contractor agrees to be bound by and will comply with the provisions of ORS 279C.840 or 40 U.S.C. 276a.";

(K) A statement that the Contracting Agency will not receive or consider an Offer for a Public Improvement Contract unless the Offeror is registered with the Construction Contractors Board, or is licensed by the State Landscape Contractors Board, as specified in OAR 137-049-0230;

(L) Whether a Contractor or a subcontractor under the Contract must be licensed under ORS 468A.720 regarding asbestos abatement projects;

(M) Contractor's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110(4). (See OAR 137-049-0440(3));

(N) How the Contracting Agency will notify Offerors of Addenda and how the Contracting Agency will make Addenda available (See OAR 137-049-0250); and

(O) When applicable, instructions and forms regarding First-Tier Subcontractor Disclosure requirements, as set forth in OAR 137-049-0360.

(b) **Evaluation Process:**

(A) A statement that the Contracting Agency may reject any Offer not in compliance with all prescribed Public Contracting procedures and requirements, and may reject for good cause all Offers upon the Contracting Agency's finding that it is in the public interest to do so;

(B) The anticipated Solicitation schedule, deadlines, protest process and evaluation process, if any;

(C) Evaluation criteria, including the relative value applicable to each criterion, that the Contracting Agency will use to determine the Responsible Bidder with the lowest Responsive Bid (where Award is based solely on price) or the Responsible Proposer or Proposers with the best Responsive Proposal or Proposals (where use of Competitive Proposals is authorized under ORS 279C.335 and OAR 137-049-0620), along with the process the Contracting Agency will use to determine acceptability of the Work;

(i) If the Solicitation Document is an Invitation to Bid, the Contracting Agency shall set forth any special price evaluation factors in the Solicitation Document. Examples of such factors include, but are not limited to, conversion costs, transportation cost, volume weighing, trade-in allowances, cash discounts, depreciation allowances, cartage penalties, ownership or life-cycle cost formulas. Price evaluation factors need not be precise predictors of actual future costs; but, to the extent possible, such evaluation factors shall be objective, reasonable estimates based upon information the Contracting Agency has available concerning future use;

(ii) If the Solicitation Document is a Request for Proposals, the Contracting Agency shall refer to the additional requirements of OAR 137-049-0650; and

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(c) **Contract Provisions.** The Contracting Agency shall include all Contract terms and conditions, including warranties, insurance and bonding requirements, that the Contracting Agency considers appropriate for the Public Improvement project. The Contracting Agency must also include all applicable Contract provisions required by Oregon law as follows:

(A) Prompt payment to all Persons supplying labor or material; contributions to Industrial Accident Fund; liens and withholding taxes (ORS 279.505(1));

(B) Demonstrate that an employee drug testing program is in place (ORS 279C.505(2));

(C) If the Contract calls for demolition Work described in ORS 279C.510(1), a condition requiring the Contractor to salvage or recycle construction and demolition debris, if feasible and cost-effective;

(D) If the Contract calls for lawn or landscape maintenance, a condition requiring the Contractor to compost or mulch yard waste material at an approved site, if feasible and cost effective (ORS 279C.510(2));

(E) Payment of claims by public officers (ORS 279C.515(1));

(F) Contractor and first-tier subcontractor liability for late payment on Public Improvement Contracts pursuant to ORS 279C.515(2), including the rate of interest;

(G) Person's right to file a complaint with the Construction Contractors Board for all Contracts related to a Public Improvement Contract (ORS 279C.515(3));

(H) Hours of labor in compliance with ORS 279C.520;

(I) Environmental and natural resources regulations (279C.525);

(J) Payment for medical care and attention to employees (ORS 279C.530(1));

(K) A Contract provision substantially as follows: "All employers, including Contractor, that employ subject Workers who Work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements." (ORS 279C.530(2));

(L) Maximum hours, holidays and overtime (ORS 279C.540);

(M) Time limitation on claims for overtime (ORS 279C.545);

(N) Prevailing wage rates (ORS 279C.800 to 279C.870);

(O) Fee paid to BOLI (ORS 279C.830);

(P) Retainage (ORS 279C.550 to 279C.570);

(Q) Prompt payment policy, progress payments, rate of interest (ORS 279C.570);

(R) Contractor's relations with subcontractors (ORS 279C.580);

(S) Notice of claim (ORS 279C.605);

(T) Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385; and

(U) Contractor's certification that all subcontractors performing Work described in ORS 701.005(2) (i.e., construction Work) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 to 701.055 before the subcontractors commence Work under the Contract.

(2) **Assignment or Transfer Restricted.** Unless otherwise provided in the Contract, the Contractor shall not assign, sell, dispose of, or transfer rights, nor delegate duties under the Contract, either in whole or in part, without the Contracting Agency's prior Written consent. Unless otherwise agreed by the Contracting Agency in Writing, such consent shall not relieve the Contractor of any obligations under the Contract. Any assignee or transferee shall be considered the agent of the Contractor and be bound to abide by all provisions of the Contract. If the Contracting Agency consents in Writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, shall remain liable to the Contracting Agency for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the Contracting Agency otherwise agrees in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.110(4), 279A.120, 279C.365, 279C.370, 279C.390, 279C.505 to 580, 279C.605, 305.385, 468A.720, 701.005 & 701.055

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0210

Notice and Advertising Requirements; Posting

(1) **Notice and Distribution Fee.** A Contracting Agency shall furnish "Notice" as set forth below in subsections (a) through (c), to a number of Persons sufficient for the purpose of fostering and promoting competition. The Notice shall indicate where, when, how and for how long the Solicitation Document may be obtained and generally describe the Public Improvement project or Work. The Notice may contain any other appropriate information. The Contracting Agency may charge a fee or require a deposit for the Solicitation Document. The Contracting Agency may furnish Notice using any method determined to foster and promote competition, including:

(a) Mailing Notice of the availability of Solicitation Documents to Persons that have expressed an interest in the Contracting Agency's Procurements;

(b) Placing Notice on the Contracting Agency's Electronic Procurement System; or

(c) Placing Notice on the Contracting Agency's Internet Web site.

(2) **Advertising.** Pursuant to ORS 279C.360 and this rule, a Contracting Agency shall advertise every Solicitation for competitive Bids or competitive Proposals for a Public Improvement Contract, unless the Contract Review Authority for that Contracting Agency has exempted the Solicitation from the advertisement requirement as part of a competitive Bidding exemption under ORS 279C.335.

(a) Unless the Contracting Agency publishes by Electronic Advertisement as permitted under subsection 2(b), the Contracting Agency shall publish the advertisement for Offers at least once in at least one newspaper of general circulation in the area where the Contract is to be performed and in as many additional issues and publications as the Contracting Agency may determine to be necessary or desirable to foster and promote competition.

(b) A Contracting Agency may publish by Electronic Advertisement if the Contract Review Authority for the Contracting Agency determines Electronic Advertisement is likely to be cost effective and, by rule or order, authorizes Electronic Advertisement.

(c) In addition to the Contracting Agency's publication required under subsection 2(a) or 2(b), the Contracting Agency shall also publish an advertisement for Offers in at least one trade newspaper of general statewide circulation if the Contract is for a Public Improvement with an estimated cost in excess of \$125,000.

(d) All advertisements for Offers shall set forth:

(A) The Public Improvement project;

(B) The office where Contract terms, conditions and Specifications may be reviewed;

(C) The date that Persons must file applications for prequalification under ORS 279C.340, if prequalification is a requirement, and the class or classes of Work for which Persons must be prequalified;

(D) The scheduled Closing, which shall not be less than five Days after the date of the last publication of the advertisement;

(E) The name, title and address of the Contracting Agency Person authorized to receive Offers;

(F) The scheduled Opening; and

(G) If applicable, that the Contract is for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276(a)).

(3) **Minority, Women Emerging Small Business.** State Contracting Agencies shall provide timely notice of all Solicitations to the Advocate for Minority, Women and Emerging Small Business if the estimated Contract Price exceeds \$5,000. See ORS 200.035.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.360 & ORS 200.035

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0220

Prequalification of Offerors

(1) **Prequalification.** Pursuant to ORS 279C.430 and this rule, two types of prequalification are authorized:

(a) **Mandatory Prequalification.** A Contracting Agency may, by rule, resolution, ordinance or other law or regulation, require mandatory prequalification of Offerors on forms prescribed by the Contracting Agency's Contract Review Authority. A Contracting Agency must indicate in the Solicitation Document if it will require mandatory prequalification. Mandatory prequalification is when a Contracting Agency conditions a Person's submission of an Offer upon the Person's prequalification. The Contracting Agency shall not consider an Offer from a Person that is not prequalified if the Contracting Agency required prequalification.

(b) **Permissive Prequalification.** A Contracting Agency may prequalify a Person for the Contracting Agency's Solicitation list on forms prescribed by the Contracting Agency's Contract Review Authority, but in permissive prequalification the Contracting Agency shall not limit distribution of a Solicitation to that list.

(2) **Prequalification Presumed.** If an Offeror is currently prequalified by either the Oregon Department of Transportation or the Oregon Department of Administrative Services to perform Contracts, the Offeror

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shall be rebuttably presumed qualified to perform similar Work for other Contracting Agencies.

(3) **Standards for Prequalification.** A Person may prequalify by demonstrating to the Contracting Agency's satisfaction:

(a) That the Person's financial, material, equipment, facility and personnel resources and expertise, or ability to obtain such resources and expertise, indicate that the Person is capable of meeting all contractual responsibilities;

(b) The Person's record of performance;

(c) The Person's record of integrity;

(d) The Person is qualified to contract with the Contracting Agency. (See, OAR 137-049-0390(2) regarding standards of responsibility.)

(4) **Notice Of Denial.** If a Person fails to prequalify for a mandatory prequalification, the Contracting Agency shall notify the Person, specify the reasons under section (3) of this rule and inform the Person of the Person's right to a hearing under ORS 279C.445 and 279C.450.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.430 & ORS 279C.435

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0230

Eligibility to Bid or Propose; Registration or License

(1) **Construction Contracts.** A Contracting Agency shall not consider a Person's Offer to do Work as a contractor, as defined in ORS 701.005(2), unless the Person has a current, valid certificate of registration issued by the Construction Contractors Board at the time the Offer is made.

(2) **Landscape Contracts.** A Contracting Agency shall not consider a Person's Offer to do Work as a landscape contractor as defined in ORS 671.520(2), unless the Person has a current, valid landscape contractors license issued pursuant to ORS 671.560 by the State Landscape Contractors Board at the time the offer is made.

(3) **Noncomplying Entities.** The Contracting Agency shall deem an Offer received from a Person that fails to comply with this rule nonresponsive and shall reject the Offer as stated in ORS 279C.365(1)(k), unless contrary to federal law or subject to different timing requirements set by federal funding agencies.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, ORS 671.530 & ORS 701.055

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0240

Pre-Offer Conferences

(1) **Purpose.** A Contracting Agency may hold pre-Offer conferences with prospective Offerors prior to Closing, to explain the Procurement requirements, obtain information or to conduct site inspections.

(2) **Required attendance.** The Contracting Agency may require attendance at the pre-Offer conference as a condition for making an Offer. Unless otherwise specified in the Solicitation Document, a mandatory attendance requirement is considered to have been met if, at any time during the mandatory meeting, a representative of an offering firm is present.

(3) **Scheduled time.** If a Contracting Agency holds a pre-Offer conference, it shall be held within a reasonable time after the Solicitation Document has been issued, but sufficiently before the Closing to allow Offerors to consider information provided at that conference.

(4) **Statements Not Binding.** Statements made by a Contracting Agency's representative at the pre-Offer conference do not change the Solicitation Document unless the Contracting Agency confirms such statements with a Written Addendum to the Solicitation Document.

(5) **Contracting Agency Announcement.** The Contracting Agency must set forth notice of any pre-Offer conference in the Solicitation Document in accordance with OAR 137-049-0200(1)(a)(B).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365 & 279C.370

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0250

Addenda to Solicitation Documents

(1) **Issuance; Receipt.** The Contracting Agency may change a Solicitation Document only by Written Addenda. An Offeror shall provide Written acknowledgement of receipt of all issued Addenda with its Offer, unless the Contracting Agency otherwise specifies in the Addenda or in the Solicitation Document.

(2) **Notice and Distribution.** The Contracting Agency shall notify prospective Offerors of Addenda consistent with the standards of Notice set forth in OAR 137-049-0210(1). The Solicitation Document shall specify how the Contracting Agency will provide notice of Addenda and how the Contracting Agency will make the Addenda available (see, OAR 137-049-0200(1)(a)(N)). For example, "Contracting Agency will not mail notice of

Addenda, but will publish notice of any Addenda on Contracting Agency's Web site. Addenda may be downloaded off the Contracting Agency's Web site. Offerors should frequently check the Contracting Agency's Web site until closing, i.e., at least once weekly until the week of Closing and at least once daily the week of the Closing."

(3) **Timelines; Extensions.** The Contracting Agency shall issue Addenda within a reasonable time to allow prospective Offerors to consider the Addenda in preparing their Offers. The Contracting Agency may extend the Closing if the Contracting Agency determines prospective Offerors need additional time to review and respond to Addenda. Except to the extent required by public interest, the Contracting Agency shall not issue Addenda less than 72 hours before the Closing unless the Addendum also extends the Closing.

(4) **Request for Change or Protest.** Unless a different deadline is set forth in the Addendum, an Offeror may submit a Written request for change or protest to the Addendum, as provided in OAR 137-049-0260, by the close of the Contracting Agency's next business day after issuance of the Addendum, or up to the last day allowed to submit a request for change or protest under OAR 137-049-0260, whichever date is later. The Contracting Agency shall consider only an Offeror's request for change or protest to the Addendum; the Contracting Agency shall not consider a request for change or protest to matters not added or modified by the Addendum, unless the Offeror submits the request for change or protest before the deadline for the Contracting Agency's receipt of request for change or protests as set forth in OAR 137-049-0260(2) and (3).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.395 & ORS 279A.065

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0260

Request for Clarification or Change; Solicitation Protests

(1) **Clarification.** Prior to the deadline for submitting a Written request for change or protest, an Offeror may request that the Contracting Agency clarify any provision of the Solicitation Document. The Contracting Agency's clarification to an Offeror, whether orally or in Writing, does not change the Solicitation Document and is not binding on the Contracting Agency unless the Contracting Agency amends the Solicitation Document by Addendum.

(2) **Request for Change.**

(a) **Delivery.** An Offeror may request in Writing a change to the Specifications or Contract terms and conditions. Unless otherwise specified in the Solicitation Document, an Offeror must deliver the Written request for change to the Contracting Agency not less than 10 Days prior to Closing;

(b) **Content of Request for Change.**

(A) An Offeror's Written request for change shall include a statement of the requested change(s) to the Contract terms and conditions, including any Specifications, together with the reason for the requested change.

(B) An Offeror shall mark its request for change as follows:

(i) "Contract Provision Request for Change"; and

(ii) Solicitation Document number (or other identification as specified in the Solicitation Document).

(3) **Protest.**

(a) **Delivery.** An Offeror may protest Specifications or Contract terms and conditions. Unless otherwise specified in the Solicitation Document, an Offeror must deliver a Written protest on those matters to the Contracting Agency not less than 10 Days prior to Closing;

(b) **Content of Protest.**

(A) An Offeror's Written protest shall include:

(i) A detailed statement of the legal and factual grounds for the protest;

(ii) A description of the resulting prejudice to the Offeror; and

(iii) A statement of the desired changes to the Contract terms and conditions, including any Specifications.

(B) An Offeror shall mark its protest as follows:

(i) "Contract Provision Protest"; and

(ii) Solicitation Document number (or other identification as specified in the Solicitation Document).

(4) **Contracting Agency Response.** The Contracting Agency is not required to consider an Offeror's request for change or protest after the deadline established for submitting such request or protest. The Contracting Agency shall provide notice to the applicable Person if it entirely rejects a protest. If the Contracting Agency agrees with the Person's request or protest, in whole or in part, the Contracting Agency shall either issue an Addendum reflecting its determination under OAR 137-049-0260 or cancel the Solicitation under OAR 137-049-0270.

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(5) **Extension of Closing.** If a Contracting Agency receives a Written request for change or protest from an Offeror in accordance with this rule, the Contracting Agency may extend Closing if the Contracting Agency determines an extension is necessary to consider the request or protest and issue an Addendum, if any, to the Solicitation Document.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.345 & ORS 279C.365

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0270

Cancellation of Solicitation Document

(1) **Cancellation in the Public Interest.** A Contracting Agency may cancel a Solicitation for good cause if the Contracting Agency finds that cancellation is in the public interest. The Contracting Agency's reasons for cancellation shall be made part of the Solicitation file.

(2) **Notice of Cancellation.** If the Contracting Agency cancels a Solicitation prior to Opening, the Contracting Agency shall provide Notice of cancellation in accordance with OAR 137-049-0210(1). Such notice of cancellation shall:

- (a) Identify the Solicitation;
- (b) Briefly explain the reason for cancellation; and
- (c) If appropriate, explain that an opportunity will be given to compete on any resolicitation.

(3) **Disposition of Offers.**

(a) **Prior to Offer Opening.** If the Contracting Agency cancels a Solicitation prior to Offer Opening, the Contracting Agency shall return all Offers it received to Offerors unopened, provided the Offeror submitted its Offer in a hard copy format with a clearly visible return address. If there is no return address on the envelope, the Contracting Agency shall open the Offer to determine the source and then return it to the Offeror.

(b) **After Offer Opening.** If the Contracting Agency rejects all Offers, the Contracting Agency shall retain all such Offers as part of the Contracting Agency's Solicitation file.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.395

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0280

Offer Submissions

(1) **Offer and Acceptance.** The Bid or Proposal is the Bidder's or Proposer's offer to enter into a Contract.

(a) In competitive Bidding, the Offer is always a "Firm Offer," i.e., the Offer shall be held open by the Offeror for the Contracting Agency's acceptance for the period specified in OAR 137-049-0410. The Contracting Agency's Award of the Contract to a Bidder constitutes acceptance of the Offer and binds the Offeror to the Contract.

(b) In competitive Proposals, the Solicitation Document shall describe whether Offers are to be made and considered as "Firm Offers" that may be accepted without negotiation, as in the case of competitive Bidding, or whether Offers are subject to discussion, negotiation or otherwise are not to be considered as final offers. See OAR 137-049-0650 on Requests for Proposals and OAR 137-049-0290 on Bid or Proposal Security.

(2) **Responsive Offer.** A Contracting Agency may Award a Contract only to a Responsive Offeror with a Responsive Offer.

(3) **Contingent Offers.** Except to the extent that an Offeror is authorized to propose certain terms and conditions pursuant to OAR 137-049-0650, an Offeror shall not make an Offer contingent upon the Contracting Agency's acceptance of any terms or conditions (including Specifications) other than those contained in the Solicitation Document.

(4) **Offeror's Acknowledgement.** By signing and returning the Offer, the Offeror acknowledges it has read and understands the terms and conditions contained in the Solicitation Document and that it accepts and agrees to be bound by the terms and conditions of the Solicitation Document. If the Request for Proposals permits proposal of alternative terms under OAR 137-049-0650, the Offeror's Offer includes the nonnegotiable terms and conditions and any proposed terms and conditions offered for negotiation upon and to the extent accepted by the Contracting Agency in Writing.

(5) **Instructions.** An Offeror shall submit and Sign its Offer in accordance with the Solicitation Document. An Offeror shall initial and submit any correction or erasure to its Offer prior to the Opening in accordance with the requirements for submitting an Offer under the Solicitation Document.

(6) **Forms.** An Offeror shall submit its Offer on the form(s) provided in the Solicitation Document, unless an Offeror is otherwise instructed in the Solicitation Document.

(7) **Documents.** An Offeror shall provide the Contracting Agency with all documents and descriptive literature required under the Solicitation Document.

(8) **Facsimile or Electronic Submissions.** If the Contracting Agency permits facsimile or electronic Offers in the Solicitation Document, the Offeror may submit facsimile or electronic Offers in accordance with the Solicitation Document. The Contracting Agency shall not consider facsimile or electronic Offers unless authorized by the Solicitation Document.

(9) **Product Samples and Descriptive Literature.** A Contracting Agency may require Product Samples or descriptive literature if it is necessary or desirable to evaluate the quality, features or characteristics of the offered items. The Contracting Agency will dispose of Product Samples, or return or make available for return Product Samples to the Offeror in accordance with the Solicitation Document.

(10) **Identification of Offers.**

(a) To ensure proper identification and handling, Offers shall be submitted in a sealed envelope appropriately marked or in the envelope provided by the Contracting Agency, whichever is applicable.

(b) The Contracting Agency is not responsible for Offers submitted in any manner, format or to any delivery point other than as required in the Solicitation Document.

(11) **Receipt of Offers.** The Offeror is responsible for ensuring that the Contracting Agency receives its Offer at the required delivery point prior to the Closing, regardless of the method used to submit or transmit the Offer.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365 & ORS 279C.375

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0290

Bid or Proposal Security

(1) **Security Amount.** If a Contracting Agency requires Bid or Proposal security, it shall be not more than 10% or less than 5% of the Offeror's Bid or Proposal, consisting of the base Bid or Proposal together with all additive alternates. A Contracting Agency shall not use Bid or Proposal security to discourage competition. The Contracting Agency shall clearly state any Bid or Proposal security requirements in its Solicitation Document. The Offeror shall forfeit Bid or Proposal security after Award if the Offeror fails to execute the Contract and promptly return it with any required Performance Bond and Payment Bond and, in the case of Proposal security, with any required proof of insurance. See ORS 279C.365(4) and 279C.385.

(2) **Requirement for Bid Security (Optional for Proposals).** Unless a Contracting Agency has otherwise exempted a Solicitation or class of Solicitations from Bid security pursuant to ORS 279C.390, the Contracting Agency shall require Bid security for its Solicitation of Bids for Public Improvements. The Contracting Agency may require Bid security even if it has exempted a class of Solicitations from Bid security. Contracting Agencies may require Proposal security in RFPs when Award of a Public Improvement Contract may be made without negotiation following receipt of a Firm Offer as described in OAR 137-049-0280(1)(b). See ORS 279C.400(5).

(3) **Form of Bid or Proposal Security.** A Contracting Agency may accept only the following forms of Bid or Proposal security:

- (a) A surety bond from a surety company authorized to do business in the State of Oregon;
- (b) An irrevocable letter of credit issued by an insured institution as defined in ORS 706.008; or
- (c) A cashier's check or Offeror's certified check.

(4) **Return of Security.** A Contracting Agency shall return or release the Bid or Proposal security of all unsuccessful Offerors after a Contract has been fully executed and all required bonds have been provided, or after all Offers have been rejected. The Contracting Agency may return the Bid or Proposal security of unsuccessful Offerors prior to Award if the return does not prejudice Contract Award and the security of at least the Bidders with the three lowest Bids, or the Proposers with the three highest scoring Proposals, is retained pending execution of a Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, ORS 279C.385 & ORS 279C.390

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0300

Facsimile Bids and Proposals

(1) **Contracting Agency Authorization.** A Contracting Agency may authorize Offerors to submit facsimile Offers. If the Contracting Agency determines that Bid or Proposal security is or will be required, the Contracting Agency shall not authorize facsimile Offers unless the

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Contracting Agency has established a method for receipt of such security. Prior to authorizing the submission of facsimile Offers, the Contracting Agency shall determine that the Contracting Agency's equipment and personnel are capable of receiving the size and volume of anticipated Offers within a short period of time. In addition, the Contracting Agency shall establish administrative procedures and controls:

- (a) To receive, identify, record and safeguard facsimile Offers;
- (b) To ensure timely delivery of Offers to the location of Opening; and
- (c) To preserve the Offers as sealed.

(2) **Provisions To Be Included in Solicitation Document.** In addition to all other requirements, if the Contracting Agency authorizes a facsimile Offer for Bids or Proposals, the Contracting Agency shall include in the Solicitation Document (other than in a request for quotes) the following:

(a) A provision substantially in the form of the following: "A 'facsimile Offer', as used in this Solicitation Document, means an Offer, modification of an Offer, or withdrawal of an Offer that is transmitted to and received by the Contracting Agency via a facsimile machine.";

(b) A provision substantially in the form of the following: "Offerors may submit facsimile Offers in response to this Solicitation Document. The entire response must arrive at the place and by the time specified in this Solicitation Document.";

(c) A provision that requires Offerors to Sign their facsimile Offers;

(d) A provision substantially in the form of the following: "The Contracting Agency reserves the right to Award the Contract solely on the basis of the facsimile Offer. However, upon the Contracting Agency's request the apparent successful Offeror shall promptly submit its complete original Signed Offer.";

(e) The data and compatibility characteristics of the Contracting Agency's receiving facsimile machine as follows:

- (A) Telephone number; and
- (B) Compatibility characteristics, e.g., make and model number, receiving speed, communications protocol; and

(f) A provision that the Contracting Agency is not responsible for any failure attributable to the transmission or receipt of the facsimile Offer including, but not limited to the following:

- (A) Receipt of garbled or incomplete documents;
- (B) Availability or condition of the receiving facsimile machine;
- (C) Incompatibility between the sending and receiving facsimile machine;
- (D) Delay in transmission or receipt of documents;
- (E) Failure of the Offeror to properly identify the Offer documents;
- (F) Illegibility of Offer documents; and
- (G) Security and confidentiality of data.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.365
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0310

Electronic Procurement

(1) **General.** Contracting Agencies may utilize Electronic Advertisement of Public Improvement Contracts in accordance with ORS 279C.360(1), provided that advertisement of such Contracts with an estimated Contract Price in excess of \$125,000 must also be published in a trade newspaper of general statewide circulation, and may post notices of intent to Award electronically as provided by ORS 279C.410(7).

(2) **Alternative Procedures.** In the event that a Contracting Agency desires to allow Electronic Offers for a Public Improvement Contract, it shall first promulgate supporting procedures substantially in conformance with OAR 137-047-0330 (Electronic Procurement under ORS Chapter 279B), taking into account ORS Chapter 279C requirements for written bids, opening bids publicly, bid security, first-tier subcontractor disclosure and inclusion of prevailing wage rates.

(3) **Interpretation.** Nothing in this rule shall be construed as prohibiting Contracting Agencies from making procurement documents for Public Improvement Contracts available in electronic format as well as in hard copy when Bids are to be submitted only in hard copy.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.365
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0320

Pre-Closing Modification or Withdrawal of Offers

(1) **Modifications.** An Offeror may modify its Offer in Writing prior to the Closing. An Offeror shall prepare and submit any modification to its Offer to the Contracting Agency in accordance with OAR 137-049-0280, unless otherwise specified in the Solicitation Document. Any modification

must include the Offeror's statement that the modification amends and supersedes the prior Offer. The Offeror shall mark the submitted modification as follows:

(a) Bid (or Proposal) Modification; and

(b) Solicitation Number (or Other Identification as specified in the Solicitation Document).

(2) **Withdrawals.**

(a) An Offeror may withdraw its Offer by Written notice submitted on the Offeror's letterhead, Signed by an authorized representative of the Offeror, delivered to the location specified in the Solicitation Document (or the place of Closing if no location is specified), and received by the Contracting Agency prior to the Closing. The Offeror or authorized representative of the Offeror may also withdraw its Offer in Person prior to the Closing, upon presentation of appropriate identification and satisfactory evidence of authority.

(b) The Contracting Agency may release an unopened Offer withdrawn under subsection 2(a) to the Offeror or its authorized representative, after voiding any date and time stamp mark.

(c) The Offeror shall mark the Written request to withdraw an Offer as follows:

(A) Bid (or Proposal) Withdrawal; and

(B) Solicitation Number (or Other Identification as specified in the Solicitation Document).

(3) **Documentation.** The Contracting Agency shall include all documents relating to the modification or withdrawal of Offers in the appropriate Solicitation file.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.360(2), 279C.365, 279C.375 & 279C.395
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0330

Receipt, Opening and Recording of Offers; Confidentiality of Offers

(1) **Receipt.** A Contracting Agency shall electronically or mechanically time-stamp or hand-mark each Offer and any modification upon receipt. The Contracting Agency shall not open the Offer or modification upon receipt, but shall maintain it as confidential and secure until Opening. If the Contracting Agency inadvertently opens an Offer or a modification prior to the Opening, the Contracting Agency shall return the Offer or modification to its secure and confidential state until Opening. The Contracting Agency shall document the resealing for the Procurement file (e.g. "Contracting Agency inadvertently opened the Offer due to improper identification of the Offer").

(2) **Opening and Recording.** A Contracting Agency shall publicly open Offers including any modifications made to the Offer pursuant to OAR 137-049-0320. In the case of Invitations to Bid, to the extent practicable, the Contracting Agency shall read aloud the name of each Bidder, the Bid price(s), and such other information as the Contracting Agency considers appropriate. In the case of Requests for Proposals or voluminous Bids, if the Solicitation Document so provides, the Contracting Agency will not read Offers aloud.

(3) **Availability.** After Opening, the Contracting Agency shall make Bids available for public inspection, but pursuant to ORS 279C.410 Proposals are not subject to disclosure until after notice of intent to award is issued. In any event Contracting Agencies may withhold from disclosure those portions of an Offer that the Offeror designates as trade secrets or as confidential proprietary data in accordance with applicable law. See ORS 192.501(2); 646.461 to 646.475. To the extent the Contracting Agency determines such designation is not in accordance with applicable law, the Contracting Agency shall make those portions available for public inspection. The Offeror shall separate information designated as confidential from other nonconfidential information at the time of submitting its Offer. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment are not confidential, and shall be publicly available regardless of an Offeror's designation to the contrary.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.365, ORS 279C.375 & ORS 279C.395
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0340

Late Bids, Late Withdrawals and Late Modifications

Any Offer received after Closing is late. An Offeror's request for withdrawal or modification of an Offer received after Closing is late. A Contracting Agency shall not consider late Offers, withdrawals or modifications except as permitted in OAR 137-049-0350 or 137-049-0390.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.365, ORS 279C.375 & ORS 279C.395
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

ADMINISTRATIVE RULES

137-049-0350

Mistakes

(1) **Generally.** To protect the integrity of the competitive Procurement process and to assure fair treatment of Offerors, a Contracting Agency should carefully consider whether to permit waiver, correction or withdrawal of Offers for certain mistakes.

(2) **Contracting Agency Treatment of Mistakes.** A Contracting Agency shall not allow an Offeror to correct or withdraw an Offer for an error in judgment. If the Contracting Agency discovers certain mistakes in an Offer after Opening, but before Award of the Contract, the Contracting Agency may take the following action:

(a) A Contracting Agency may waive, or permit an Offeror to correct, a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Offer, or an insignificant mistake that can be waived or corrected without prejudice to other Offerors. Examples of minor informalities include an Offeror's failure to:

(A) Return the correct number of Signed Offers or the correct number of other documents required by the Solicitation Document;

(B) Sign the Offer in the designated block, provided a Signature appears elsewhere in the Offer, evidencing an intent to be bound; and

(C) Acknowledge receipt of an Addendum to the Solicitation Document, provided that it is clear on the face of the Offer that the Offeror received the Addendum and intended to be bound by its terms; or the Addendum involved did not affect price, quality or delivery.

(b) A Contracting Agency may correct a clerical error if the error is evident on the face of the Offer or other documents submitted with the Offer, and the Offeror confirms the Contracting Agency's correction in Writing. A clerical error is an Offeror's error in transcribing its Offer. Examples include typographical mistakes, errors in extending unit prices, transposition errors, arithmetical errors, instances in which the intended correct unit or amount is evident by simple arithmetic calculations (for example a missing unit price may be established by dividing the total price for the units by the quantity of units for that item or a missing, or incorrect total price for an item may be established by multiplying the unit price by the quantity when those figures are available in the Offer). In the event of a discrepancy, unit prices shall prevail over extended prices.

(c) A Contracting Agency may permit an Offeror to withdraw an Offer based on one or more clerical errors in the Offer only if the Offeror shows with objective proof and by clear and convincing evidence:

(A) The nature of the error;

(B) That the error is not a minor informality under this subsection or an error in judgment;

(C) That the error cannot be corrected or waived under subsection (b) of this section;

(D) That the Offeror acted in good faith in submitting an Offer that contained the claimed error and in claiming that the alleged error in the Offer exists;

(E) That the Offeror acted without gross negligence in submitting an Offer that contained a claimed error;

(F) That the Offeror will suffer substantial detriment if the Contracting Agency does not grant the Offeror permission to withdraw the Offer;

(G) That the Contracting Agency's or the public's status has not changed so significantly that relief from the forfeiture will work a substantial hardship on the Contracting Agency or the public it represents; and

(H) That the Offeror promptly gave notice of the claimed error to the Contracting Agency.

(d) The criteria in subsection (2)(c) of this rule shall determine whether a Contracting Agency will permit an Offeror to withdraw its Offer after Closing. These criteria also shall apply to the question of whether a Contracting Agency will permit an Offeror to withdraw its Offer without forfeiture of its Bid bond (or other Bid or Proposal security), or without liability to the Contracting Agency based on the difference between the amount of the Offeror's Offer and the amount of the Contract actually awarded by the Contracting Agency, whether by Award to the next lowest Responsive and Responsible Bidder or the best Responsive and Responsible Proposer, or by resort to a new solicitation.

(3) **Rejection for Mistakes.** The Contracting Agency shall reject any Offer in which a mistake is evident on the face of the Offer and the intended correct Offer is not evident or cannot be substantiated from documents submitted with the Offer.

(4) **Identification of Mistakes after Award.** The procedures and criteria set forth above are Offeror's only opportunity to correct mistakes or withdraw Offers because of a mistake. Following Award, an Offeror is bound by its Offer, and may withdraw its Offer or rescind a Contract

entered into pursuant to this division 49 only to the extent permitted by applicable law.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375 & ORS 279C.395

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0360

First-Tier Subcontractors; Disclosure and Substitution

(1) **Required Disclosure.** Within two working hours after the Bid Closing on an ITB for a Public Improvement having a Contract Price anticipated by the Contracting Agency to exceed \$100,000, all Bidders shall submit to the Contracting Agency a disclosure form as described by ORS 279C.370(2), identifying any first-tier subcontractors (those Entities that would be contracting directly with the prime contractor) that will be furnishing labor or labor and materials on the Contract, if Awarded, whose subcontract value would be equal to or greater than:

(a) Five percent of the total Contract Price, but at least \$15,000; or

(b) \$350,000, regardless of the percentage of the total Contract Price.

(2) **Bid Closing, Disclosure Deadline and Bid Opening.** For each ITB to which this rule applies, the Contracting Agency shall:

(a) Set the Bid Closing on a Tuesday, Wednesday or Thursday, and at a time between 2 p.m. and 5 p.m., except that these Bid Closing restrictions do not apply to an ITB for maintenance or construction of highways, bridges or other transportation facilities, and provided that the two-hour disclosure deadline described by this rule would not then fall on a legal holiday;

(b) Open Bids publicly immediately after the Bid Closing; and

(c) Consider for Contract Award only those Bids for which the required disclosure has been submitted by the announced deadline on forms prescribed by the Contracting Agency.

(3) **Bidder Instructions and Disclosure Form.** For the purposes of this rule, a Contracting Agency in its Solicitation shall:

(a) Prescribe the disclosure form that must be utilized, substantially in the form set forth in ORS 279C.370(2); and

(b) Provide instructions in a notice substantially similar to the following: "Instructions for First-Tier Subcontractor Disclosure". Bidders are required to disclose information about certain first-tier subcontractors when the contract value for a Public Improvement is greater than \$100,000 (see ORS 279C.370). Specifically, when the contract amount of a first-tier subcontractor furnishing labor or labor and materials would be greater than or equal to: (i) 5% of the project Bid, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, the Bidder must disclose the following information about that subcontract either in its Bid submission, or within two hours after Bid Closing:

(A) The subcontractor's name;

(B) The category of Work that the subcontractor would be performing; and

(C) The dollar value of the subcontract. If the Bidder will not be using any subcontractors that are subject to the above disclosure requirements, the Bidder is required to indicate "NONE" on the accompanying form.

THE CONTRACTING AGENCY MUST REJECT A BID IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE (see OAR 137-049-0360).

(4) **Submission.** A Bidder shall submit the disclosure form required by this rule either in its Bid submission, or within two Working hours after Bid Closing in the manner specified by the ITB.

(5) **Responsiveness.** Compliance with the disclosure and submittal requirements of ORS 279C.370 and this rule is a matter of Responsiveness. Bids that are submitted by Bid Closing, but for which the disclosure submittal has not been made by the specified deadline, are not Responsive and shall not be considered for Contract Award.

(6) **Contracting Agency Role.** Contracting Agencies shall obtain, and make available for public inspection, the disclosure forms required by ORS 279C.370 and this rule. Contracting Agencies shall also provide copies of disclosure forms to the Bureau of Labor and Industries as required by ORS 279C.835. Contracting Agencies are not required to determine the accuracy or completeness of the information provided on disclosure forms.

(7) **Substitution.** Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585. Contracting Agencies shall accept Written submissions filed under that statute as public records. Aside from issues involving inadvertent clerical error under ORS 279C.585, Contracting Agencies do not have a statutory role or duty to review, approve or resolve disputes concerning such substitutions. See ORS 279C.590 regarding complaints to the Construction Contractors Board on improper substitution.

Stat. Auth.: ORS 279A.065

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Stats. Implemented: ORS 279C.370, 279C.585, 279C.590 & 279C.835
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0370

Disqualification of Persons

(1) **Authority.** A Contracting Agency may disqualify a Person from consideration of Award of the Contracting Agency's Contracts after providing the Person with notice and a reasonable opportunity to be heard in accordance with sections (2) and (4) of this rule.

(a) **Standards for Conduct Disqualification.** As provided in ORS 279C.440, a Contracting Agency may disqualify a Person for:

(A) Conviction for the commission of a criminal offense as an incident in obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.

(B) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the Person's responsibility as a contractor.

(C) Conviction under state or federal antitrust statutes.

(D) Violation of a contract provision that is regarded by the Contracting Agency to be so serious as to justify Conduct Disqualification. A violation under this subsection 1(a)(D) may include but is not limited to material failure to perform the terms of a contract or an unsatisfactory performance in accordance with the terms of the contract. However, a Person's failure to perform or unsatisfactory performance caused by acts beyond the Person's control is not a basis for Disqualification.

(b) **Standards for DBE Disqualification.** As provided in ORS 200.065, 200.075 or 279A.110, a Contracting Agency may disqualify a Person's right to submit an Offer or to participate in a Contract (e.g. subcontractors) as follows:

(A) For a DBE Disqualification under ORS 200.065, the Contracting Agency may disqualify a Person upon finding that:

(i) The Person fraudulently obtained or retained or attempted to obtain or retain or aided another Person to fraudulently obtain or retain or attempt to obtain or retain certification as a disadvantaged, minority, women or emerging small business enterprise; or

(ii) The Person knowingly made a false claim that any Person is qualified for certification or is certified under ORS 200.055 for the purpose of gaining a Contract or subcontract or other benefit; or

(iii) The Person has been disqualified by another Contracting Agency pursuant to ORS 200.065.

(B) For a DBE Disqualification under ORS 200.075, the Contracting Agency may disqualify a Person upon finding that:

(i) The Person has entered into an agreement representing that a disadvantaged, minority, women, or emerging small business enterprise, certified pursuant to ORS 200.055 ("Certified Enterprise"), will perform or supply materials under a Public Improvement Contract without the knowledge and consent of the Certified Enterprise; or

(ii) The Person exercises management and decision-making control over the internal operations, as defined by ORS 200.075(1)(b), of any Certified Enterprise; or

(iii) The Person uses a Certified Enterprise to perform services under a contract or to provide supplies under a Public Improvement Contract to meet an established Certified Enterprise goal, and such enterprise does not perform a commercially useful function, as defined by ORS 200.075(3), in performing its obligations under the contract.

(iv) If a Person is Disqualified for a DBE Disqualification under ORS 200.075, the affected Contracting Agency shall not permit such Person to participate in that Contracting Agency's Contracts.

(C) For a DBE Disqualification under ORS 279A.110, a Contracting Agency may disqualify a Person if the Contracting Agency finds that the Person discriminated against minority, women or emerging small business enterprises in awarding a subcontract under a contract with that Contracting Agency.

(2) **Notice of Intent to Disqualify.** The Contracting Agency shall notify the Person in Writing of a proposed Disqualification personally or by registered or certified mail, return receipt requested. This notice shall:

(a) State that the Contracting Agency intends to disqualify the Person;

(b) Set forth the reasons for the Disqualification;

(c) Include a statement of the Person's right to a hearing if requested in Writing within the time stated in the notice and that if the Contracting Agency does not receive the Person's Written request for a hearing within the time stated, the Person shall have waived its right to a hearing;

(d) Include a statement of the authority and jurisdiction under which the hearing will be held;

(e) Include a reference to the particular sections of the statutes and rules involved;

(f) State the proposed Disqualification period; and

(g) State that the Person may be represented by legal counsel.

(3) **Hearing.** The Contracting Agency shall schedule a hearing upon the Contracting Agency receipt of the Person's timely request. The Contracting Agency shall notify the Person of the time and place of the hearing and provide information on the procedures, right of representation and other rights related to the conduct of the hearing prior to hearing.

(4) **Notice of Disqualification.** The Contracting Agency will notify the Person in Writing of its Disqualification, personally or by registered or certified mail, return receipt requested. The notice shall contain:

(a) The effective date and period of Disqualification;

(b) The grounds for Disqualification; and

(c) A statement of the Person's appeal rights and applicable appeal deadlines. For a Conduct Disqualification or a DBE Disqualification under ORS 279A.110, the disqualified person must notify the Contracting Agency in Writing within three business Days after receipt of the Contracting Agency's notice of Disqualification if the Person intends to appeal the Contracting Agency's decision.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 200.065, 200.075, 279C.440, 279C.445, 279C.450 & 279A.110

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0380

Bid or Proposal Evaluation Criteria

(1) **General.** A Public Improvement Contract, if Awarded, shall be Awarded to the Responsible Bidder submitting the lowest Responsive Bid, or to the Responsible Proposer submitting the best Responsive Proposal. See OAR 137-049-0390, and Rules for Alternative Contracting Methods at OAR 137-049-0600 to 137-049-0690.

(2) **Bid Evaluation Criteria.** Invitations to Bid may solicit lump-sum Offers, unit-price Offers or a combination of the two.

(a) **Lump Sum.** If the ITB requires a lump-sum Bid, without additive or deductive alternates, or if the Contracting Agency elects not to award additive or deductive alternates, Bids shall be compared on the basis of lump-sum prices, or lump-sum base Bid prices, as applicable. If the ITB calls for a lump-sum base Bid, plus additive or deductive alternates, the total Bid price shall be calculated by adding to or deducting from the base Bid those alternates selected by the Contracting Agency, for the purpose of comparing Bids.

(b) **Unit Price.** If the Bid includes unit pricing for estimated quantities, the total Bid price shall be calculated by multiplying the estimated quantities by the unit prices submitted by the Bidder, and adjusting for any additive or deductive alternates selected by the Contracting Agency, for the purpose of comparing Bids. Contracting Agencies shall specify within the Solicitation Document the estimated quantity of the procurement to be used for determination of the low Bidder. In the event of mathematical discrepancies between unit price and any extended price calculations submitted by the Bidder, the unit price shall govern. See OAR 137-049-0350(2)(b).

(3) **Proposal Evaluation Criteria.** If the Contracting Agency's Contract Review Authority has exempted the Procurement of a Public Improvement from the competitive Bidding requirements of ORS 279C.335(1), and has directed the Contracting Agency to use an Alternative Contracting Method under ORS 279C.335(3), the Contracting Agency shall set forth the evaluation criteria in the Solicitation Documents. See OAR 137-049-0650, 137-049-0650, ORS 279C.335 and 279C.405.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0390

Offer Evaluation and Award; Determination of Responsibility

(1) **General.** If Awarded, the Contracting Agency shall Award the Contract to the Responsible Bidder submitting the lowest, Responsive Bid or the Responsible Proposer or Proposers submitting the best, Responsive Proposal or Proposals, provided that such Person is not listed by the Construction Contractors Board as disqualified to hold a Public Improvement Contract. See ORS 279C.375(2)(a). The Contracting Agency may Award by item, groups of items or the entire Offer provided such Award is consistent with the Solicitation Document and in the public interest.

(2) **Determination of Responsibility.** Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. Before Awarding a Contract, the Contracting Agency must have information that indicates that the Offeror meets the standards of responsibility set forth in ORS 279.375(2)(b). To be a Responsible Offeror, the Contracting Agency must determine that the Offeror:

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(a) Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to demonstrate the capability of the Offeror to meet all contractual responsibilities;

(b) Has a satisfactory record of contract performance. A Contracting Agency should carefully scrutinize an Offeror's record of contract performance if the Offeror is or recently has been materially deficient in contract performance. In reviewing the Offeror's performance, the Contracting Agency should determine whether the Offeror's deficient performance was expressly excused under the terms of contract, or whether the Offeror took appropriate corrective action. The Contracting Agency may review the Offeror's performance on both private and Public Contracts in determining the Offeror's record of contract performance. The Contracting Agency shall make its basis for determining an Offeror not Responsible under this paragraph part of the Solicitation file;

(c) Has a satisfactory record of integrity. An Offeror may lack integrity if a Contracting Agency determines the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to a Contracting Agency. A Contracting Agency may find an Offeror not Responsible based on the lack of integrity of any Person having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror's performance of the Contract or a parent company, predecessor or successor Person). The standards for Conduct Disqualification under OAR 137-049-0370 may be used to determine an Offeror's integrity. The Contracting Agency shall make its basis for determining that an Offeror is not Responsible under this paragraph part of the Solicitation file;

(d) Is qualified legally to contract with the Contracting Agency; and

(e) Has supplied all necessary information in connection with the inquiry concerning responsibility. If the Offeror fails to promptly supply information requested by the Contracting Agency concerning responsibility, the Contracting Agency shall base the determination of responsibility upon any available information, or may find the Offeror not Responsible.

(3) **Contracting Agency Evaluation.** The Contracting Agency shall evaluate an Offer only as set forth in the Solicitation Document and in accordance with applicable law. The Contracting Agency shall not evaluate an Offer using any other requirement or criterion.

(4) **Offeror Submissions.**

(a) The Contracting Agency may require an Offeror to submit Product Samples, descriptive literature, technical data, or other material and may also require any of the following prior to Award:

(A) Demonstration, inspection or testing of a product prior to Award for characteristics such as compatibility, quality or workmanship;

(B) Examination of such elements as appearance or finish; or

(C) Other examinations to determine whether the product conforms to Specifications.

(b) The Contracting Agency shall evaluate product acceptability only in accordance with the criteria disclosed in the Solicitation Document to determine that a product is acceptable. The Contracting Agency shall reject an Offer providing any product that does not meet the Solicitation Document requirements. A Contracting Agency's rejection of an Offer because it offers nonconforming Work or materials is not Disqualification and is not appealable under ORS 279C.445.

(5) **Evaluation of Bids.** The Contracting Agency shall use only objective criteria to evaluate Bids as set forth in the ITB. The Contracting Agency shall evaluate Bids to determine which Responsible Offeror offers the lowest Responsive Bid.

(a) Nonresident Bidders. In determining the lowest Responsive Bid, the Contracting Agency shall, in accordance with OAR 137-046-0310, add a percentage increase to the Bid of a nonresident Bidder equal to the percentage, if any, of the preference given to that Bidder in the state in which the Bidder resides.

(b) Clarifications. In evaluating Bids, a Contracting Agency may seek information from a Bidder only to clarify the Bidder's Bid. Such clarification shall not vary, contradict or supplement the Bid. A Bidder must submit Written and Signed clarifications and such clarifications shall become part of the Bidder's Bid.

(c) Negotiation Prohibited. The Contracting Agency shall not negotiate scope of Work or other terms or conditions under an Invitation to Bid process prior to Award.

(6) **Evaluation of Proposals.** See OAR 137-049-0650 regarding rules applicable to Requests for Proposals.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335, 279C.365, 279C.375 & 279C.395

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0400

Documentation of Award; Availability of Award Decisions

(1) **Basis of Award.** After Award, the Contracting Agency shall make a record showing the basis for determining the successful Offeror part of the Contracting Agency's Solicitation file.

(2) **Contents of Award Record for Bids.** The Contracting Agency's record shall include:

(a) All submitted Bids;

(b) Completed Bid tabulation sheet; and

(c) Written justification for any rejection of lower Bids.

(3) **Contents of Award Record for Proposals.** Where the use of Requests for Proposals is authorized as set forth in OAR 137-049-0650, the Contracting Agency's record shall include:

(a) All submitted Proposals.

(b) The completed evaluation of the Proposals;

(c) Written justification for any rejection of higher scoring Proposals or for failing to meet mandatory requirements of the Request for Proposal; and

(d) If the Contracting Agency permitted negotiations in accordance with 137-049-0650, the Contracting Agency's completed evaluation of the initial Proposals and the Contracting Agency's completed evaluation of final Proposals.

(4) **Contract Document.** The Contracting Agency shall deliver a fully executed copy of the final Contract to the successful Offeror.

(5) **Bid Tabulations and Award Summaries.** Upon request of any Person the Contracting Agency shall provide tabulations of Awarded Bids or evaluation summaries of Proposals for a nominal charge which may be payable in advance. Requests must contain the Solicitation Document number and, if requested, be accompanied by a self-addressed, stamped envelope. Contracting Agencies may also provide tabulations of Bids and Proposals Awarded on designated Web sites or on the Contracting Agency's Electronic Procurement System.

(6) **Availability of Solicitation Files.** The Contracting Agency shall make completed Solicitation files available for public review at the Contracting Agency.

(7) **Copies from Solicitation Files.** Any Person may obtain copies of material from Solicitation files upon payment of a reasonable copying charge.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365 & ORS 279C.375

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0410

Time for Contracting Agency Acceptance; Extension

(1) **Time for Offer Acceptance.** An Offeror's Bid, or Proposal submitted as a Firm Offer (see OAR 137-049-0280), is irrevocable, valid and binding on the Offeror for not less than 30 Days from Closing unless otherwise specified in the Solicitation Document.

(2) **Extension of Acceptance Time.** A Contracting Agency may request, orally or in Writing, that Offerors extend, in Writing, the time during which the Contracting Agency may consider and accept their Offer(s). If an Offeror agrees to such extension, the Offer shall continue as a Firm Offer, irrevocable, valid and binding on the Offeror for the agreed-upon extension period.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0420

Negotiation With Bidders Prohibited

(1) **Bids.** Except as permitted by ORS 279C.340 and OAR 137-049-0430 when all bids exceed the cost estimate, a Contracting Agency shall not negotiate with any Bidder prior to Contract Award. After Award of the Contract, the Contracting Agency and Contractor may modify the Contract only by change order or amendment to the Contract in accordance with OAR 137-049-0860.

(2) **Requests for Proposals.** A Contracting Agency may conduct discussions or negotiations with Proposers only in accordance with the requirements of OAR 137-049-0650.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.340 & ORS 279C.375

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0430

Negotiation When Bids Exceed Cost Estimate

(1) **Generally.** In accordance with ORS 279C.340, if all Responsive Bids from Responsible Bidders on a competitively Bid Project exceed the Contracting Agency's Cost Estimate, prior to Contract Award the

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Contracting Agency may negotiate Value Engineering and Other Options with the Responsible Bidder submitting the lowest, Responsive Bid in an attempt to bring the Project within the Contracting Agency's Cost Estimate. The subcontractor disclosure and substitution requirements of OAR 137-049-0360 do not apply to negotiations under this rule.

(2) **Definitions.** The following definitions apply to this administrative rule:

(a) **"Cost Estimate"** means the Contracting Agency's most recent pre-Bid, good faith assessment of anticipated Contract costs, consisting either of an estimate of an architect, engineer or other qualified professional, or confidential cost calculation Worksheets, where available, and otherwise consisting of formal planning or budgetary documents.

(b) **"Other Options"** means those items generally considered appropriate for negotiation in the RFP process, relating to the details of Contract performance as specified in OAR 137-049-0650, but excluding any material requirements previously announced in the Solicitation process that would likely affect the field of competition.

(c) **"Project"** means a Public Improvement.

(d) **"Value Engineering"** means the identification of alternative methods, materials or systems which provide for comparable function at reduced initial or life-time cost. It includes proposed changes to the plans, Specifications, or other Contract requirements which may be made, consistent with industry practice, under the original Contract by mutual agreement in order to take advantage of potential cost savings without impairing the essential functions or characteristics of the Public Improvement. Cost savings include those resulting from life cycle costing, which may either increase or decrease absolute costs over varying time periods.

(3) **Rejection of Bids.** In determining whether all Responsive Bids from Responsible Bidders exceed the Cost Estimate, only those Bids that have been formally rejected, or Bids from Bidders who have been formally disqualified by the Contracting Agency, shall be excluded from consideration.

(4) **Scope of Negotiations.** Contracting Agencies shall not proceed with Contract Award if the scope of the Project is significantly changed from the original Bid. The scope is considered to have been significantly changed if the pool of competition would likely have been affected by the change; that is, if other Bidders would have been expected by the Contracting Agency to participate in the Bidding process had the change been made during the Solicitation process rather than during negotiation. This rule shall not be construed to prohibit resolicitation of trade subcontracts.

(5) **Discontinuing Negotiations.** The Contracting Agency may discontinue negotiations at any time, and shall do so if it appears to the Contracting Agency that the apparent low Bidder is not negotiating in good faith or fails to share cost and pricing information upon request. Failure to rebid any portion of the project, or to obtain subcontractor pricing information upon request, shall be considered a lack of good faith.

(6) **Limitation.** Negotiations may be undertaken only with the lowest Responsive, Responsible Bidder pursuant to ORS 279C.340. That statute does not provide any additional authority to further negotiate with Bidders next in line for Contract Award.

(7) **Public Records.** To the extent that a Bidder's records used in Contract negotiations under ORS 279C.340 are public records, they are exempt from disclosure until after the negotiated Contract has been awarded or the negotiation process has been terminated, at which time they are subject to disclosure pursuant to the provisions of the Oregon Public Records Law, ORS 192.410 to 192.505.

Stat. Auth.: ORS 279C.340 & ORS 279A.065

Stats. Implemented: ORS 279C.340

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0440

Rejection of Offers

(1) Rejection of an Offer.

(a) A Contracting Agency may reject any Offer upon finding that to accept the Offer may impair the integrity of the Procurement process or that rejecting the Offer is in the public interest.

(b) The Contracting Agency shall reject an Offer upon the Contracting Agency's finding that the Offer:

(A) Is contingent upon the Contracting Agency's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document;

(B) Takes exception to terms and conditions (including Specifications);

(C) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of Solicitation Document or in contravention of applicable law;

(D) Offers Work or goods that fail to meet the Specifications of the Solicitation Document;

(E) Is late;

(F) Is not in substantial compliance with the Solicitation Documents;

(G) Is not in substantial compliance with all prescribed public Solicitation procedures.

(c) The Contracting Agency shall reject an Offer upon the Contracting Agency's finding that the Offeror:

(A) Has not been prequalified under ORS 279C.430 and the Contracting Agency required mandatory prequalification;

(B) Has been Disqualified;

(C) Has been declared ineligible under ORS 279C.860 by the Commissioner of Bureau of Labor and Industries and the Contract is for a Public Work;

(D) Is listed as not qualified by the Construction Contractors Board, if the Contract is for a Public Improvement;

(E) Has not met the requirements of ORS 279A.105 if required by the Solicitation Document;

(F) Has not submitted properly executed Bid or Proposal security as required by the Solicitation Document;

(G) Has failed to provide the certification required under section 3 of this rule;

(H) Is not Responsible. See OAR 137-049-0390(2) regarding Contracting Agency determination that the Offeror has met statutory standards of responsibility.

(2) **Form of Business.** For purposes of this rule, the Contracting Agency may investigate any Person submitting an Offer. The investigation may include that Person's officers, Directors, owners, affiliates, or any other Person acquiring ownership of the Person to determine application of this rule or to apply the Disqualification provisions of ORS 279C.440 to 279C.450 and OAR 137-049-0370.

(3) **Certification of Non-Discrimination.** The Offeror shall certify and deliver to the Contracting Agency Written certification, as part of the Offer that the Offeror has not discriminated and will not discriminate against minority, women or emerging small business enterprises in obtaining any required subcontracts. Failure to do so shall be grounds for disqualification.

(4) **Rejection of all Offers.** A Contracting Agency may reject all Offers for good cause upon the Contracting Agency's Written finding it is in the public interest to do so. The Contracting Agency shall notify all Offerors of the rejection of all Offers, along with the good cause justification and finding.

(5) **Criteria for Rejection of All Offers.** The Contracting Agency may reject all Offers upon a Written finding that:

(a) The content of or an error in the Solicitation Document, or the Solicitation process unnecessarily restricted competition for the Contract;

(b) The price, quality or performance presented by the Offerors is too costly or of insufficient quality to justify acceptance of the Offer;

(c) Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity of the competitive process;

(d) Causes other than legitimate market forces threaten the integrity of the competitive Procurement process. These causes include, but are not limited to, those that tend to limit competition such as restrictions on competition, collusion, corruption, unlawful anti-competitive conduct and inadvertent or intentional errors in the Solicitation Document;

(e) The Contracting Agency cancels the Solicitation in accordance with OAR 137-049-0270; or

(f) Any other circumstance indicating that Awarding the Contract would not be in the public interest.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375, 279C.380, 279C.395, 279A.105 & 279A.110

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0450

Protest of Contractor Selection, Contract Award

(1) **Purpose.** An adversely affected or aggrieved Offeror must exhaust all avenues of administrative review and relief before seeking judicial review of the Contracting Agency's Contractor selection or Contract Award decision.

(2) **Notice of Competitive Range.** Unless otherwise provided in the RFP, when the competitive proposal process is authorized under OAR 137-049-0650, the Contracting Agency shall provide Written notice to all

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Proposers of the Contracting Agency's determination of the Proposers included in the Competitive Range. The Contracting Agency's notice of the Proposers included in the Competitive Range shall not be final until the later of the following:

(a) 10 Days after the date of the notice, unless otherwise provided therein; or

(b) Until the Contracting Agency provides a Written response to all timely-filed protests that denies the protest and affirms the notice of the Proposers included in the Competitive Range.

(3) **Notice of Intent to Award.** Unless otherwise provided in the Solicitation Document, the Contracting Agency shall provide Written notice to all Offerors of the Contracting Agency's intent to Award the Contract. The Contracting Agency's Award shall not be final until the later of the following:

(a) Seven Days after the date of the notice, unless the Solicitation Document provided a different period for protest; or

(b) The Contracting Agency provides a Written response to all timely-filed protests that denies the protest and affirms the Award.

(4) **Right to Protest Award.**

(a) An adversely affected or aggrieved Offeror may submit to the Contracting Agency a Written protest of the Contracting Agency's intent to Award within seven Days after issuance of the notice of intent to Award the Contract, unless a different protest period is provided under the Solicitation Document.

(b) The Offeror's protest must be in Writing and must specify the grounds upon which the protest is based.

(c) An Offeror is adversely affected or aggrieved only if the Offeror is eligible for Award of the Contract as the Responsible Bidder submitting the lowest Responsive Bid or the Responsible Proposer submitting the best Responsive Proposal and is next in line for Award, i.e., the protesting Offeror must claim that all lower Bidders or higher-scored Proposers are ineligible for Award:

(A) Because their Offers were nonresponsive; or

(B) The Contracting Agency committed a substantial violation of a provision in the Solicitation Document or of an applicable Procurement statute or administrative rule, and the protesting Offeror was unfairly evaluated and would have, but for such substantial violation, been the Responsible Bidder offering the lowest Bid or the Responsible Proposer offering the highest-ranked Proposal.

(d) The Contracting Agency shall not consider a protest submitted after the time period established in this rule or such different period as may be provided in the Solicitation Document. A Proposer may not protest a Contracting Agency's decision not to increase the size of the Competitive Range above the size of the Competitive Range set forth in the RFP.

(5) **Right to Protest Competitive Range.**

(a) An adversely affected or aggrieved Proposer may submit to the Contracting Agency a Written protest of the Contracting Agency's decision to exclude the Proposer from the Competitive Range within seven Days after issuance of the notice of the Competitive Range, unless a different protest period is provided under the Solicitation Document. (See procedural requirements for the use of RFPs at OAR 137-049-0650.)

(b) The Proposer's protest shall be in Writing and must specify the grounds upon which the protest is based.

(c) A Proposer is adversely affected only if the Proposer is responsible and submitted a Responsive Proposal and is eligible for inclusion in the Competitive Range, i.e., the protesting Proposer must claim it is eligible for inclusion in the Competitive Range if all ineligible higher-scoring Proposers are removed from consideration, and that those ineligible Proposers are ineligible for inclusion in the Competitive Range because:

(A) Their Proposals were not responsive; or

(B) The Contracting Agency committed a substantial violation of a provision in the RFP or of an applicable Procurement statute or administrative rule, and the protesting Proposer was unfairly evaluated and would have, but for such substantial violation, been included in the Competitive Range.

(d) The Contracting Agency shall not consider a protest submitted after the time period established in this rule or such different period as may be provided in the Solicitation Document. A Proposer may not protest a Contracting Agency's decision not to increase the size of the Competitive Range above the size of the Competitive Range set forth in the RFP.

(6) **Authority to Resolve Protests.** The head of the Contracting Agency, or such Person's designee, may settle or resolve a Written protest submitted in accordance with the requirements of this rule.

(7) **Decision.** If a protest is not settled, the head of the Contracting Agency, or such Person's designee, shall promptly issue a Written decision

on the protest. Judicial review of this decision will be available if provided by statute.

(8) **Award.** The successful Offeror shall promptly execute the Contract after the Award is final. The Contracting Agency shall execute the Contract only after it has obtained all applicable required documents and approvals.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375, 279C.380, 279C.385 & 279C.460

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0460

Performance and Payment Security; Waiver

(1) **Public Improvement Contracts.** Unless the required performance bond is waived under ORS 279C.380(1)(a), excused in cases of emergency under ORS 279C.380(4), or unless the Contracting Agency's Contract Review Authority exempts a Contract or classes of contracts from the required performance bond and payment bond pursuant to ORS 279C.390, the Contractor shall execute and deliver to the Contracting Agency a performance bond and a payment bond each in a sum equal to the Contract Price for all Public Improvement Contracts. However, under ORS 279C.390(3)(b) the Director of the Oregon Department of Transportation may reduce the performance bond amount for contracts financed from the proceeds of bonds issued under ORS 367.620(3)(a).

(2) **Other Construction Contracts.** A Contracting Agency may require performance security for other construction Contracts that are not Public Improvement Contracts. Such requirements shall be expressly set forth in the Solicitation Document.

(3) **Requirement for Surety Bond.** The Contracting Agency shall accept only a performance bond furnished by a surety company authorized to do business in Oregon unless otherwise specified in the Solicitation Document (i.e., the Contracting Agency may accept a cashier's check or certified check in lieu or all or a portion of the required performance bond if specified in the Solicitation Document). The payment bond must be furnished by a surety company authorized to do business in Oregon, and in an amount equal to the full contract price.

(4) **Time for Submission.** The apparent successful Offeror must promptly furnish the required performance security upon the Contracting Agency's request. If the Offeror fails to furnish the performance security as requested, the Contracting Agency may reject the Offer and Award the Contract to the Responsible Bidder with the next lowest Responsive Bid or the Responsible Proposer with the next highest-scoring Responsive Proposal, and, at the Contracting Agency's discretion, the Offeror shall forfeit its Bid or Proposal security.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375, ORS 279C.380 & ORS 279C.390

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0470

Substitute Contractor

If the Contractor provided a performance bond, the Contracting Agency may afford the Contractor's surety the opportunity to provide a substitute contractor to complete performance of the Contract. A substitute contractor shall perform all remaining Contract Work and comply with all terms and conditions of the Contract, including the provisions of the performance bond and the payment bond. Such substitute performance does not involve the Award of a new Contract and shall not be subject to the competitive Procurement provisions of ORS Chapter 279C.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, 279C.370, 279C.375, 279C.380 & 279C.390

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0490

Foreign Contractor

If the Contract Price exceeds \$10,000 and the Contractor is a Foreign Contractor, the Contractor shall promptly report to the Oregon Department of Revenue on forms provided by the Department of Revenue, the Contract Price, terms of payment, Contract duration and such other information as the Department of Revenue may require before final payment can be made on the Contract. A copy of the report shall be forwarded to the Contracting Agency. The Contracting Agency Awarding the Contract shall satisfy itself that the above requirements have been complied with before it issues final payment on the Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.120

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

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137-049-0600

Purpose

OAR 137-049-0600 to 137-049-0690 are intended to provide guidance to Contracting Agencies regarding the use of Alternative Contracting Methods for Public Improvement Contracts, as may be directed by a Contracting Agency's Contract Review Authority under ORS 279C.335. Those methods include, but are not limited to, Design-Build, Energy Savings Performance Contract (ESPC) and Construction Manager/General Contractor (CM/GC) forms of contracting. As to ESPC contracting, these OAR 137-049-0600 to 137-049-0690 rules implement the requirements of ORS 279C.335 pertaining to the adoption of model rules appropriate for use by all Contracting Agencies to govern the procedures for entering into ESPCs.

Stat. Auth.: ORS 279C.335, 279A.065 & 351.086
Stats. Implemented: ORS 279C.335, 279A.065 & 351.086
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0610

Definitions for Alternative Contracting Methods

The following definitions shall apply to these OAR 137-049-0600 to 137-049-0690 rules, unless the context requires otherwise:

(1) **Alternative Contracting Methods** means innovative Procurement techniques for obtaining Public Improvement Contracts, utilizing processes other than the traditional method of Design-Bid-Build (with Award based solely on price, in which a final design is issued with formal Bid documents, construction services are obtained by sealed Bid Awarded to the lowest Responsive, Responsible Bidder, and the project is built in accordance with those documents). In industry practice, such methods commonly include variations of Design-Build contracting, CM/GC forms of contracting and ESPCs, which are specifically addressed in these OAR 137-049-0600 to 137-049-0690 rules, as well as other developing techniques such as general "performance contracting" and "cost plus time" contracting, for which procedural requirements are identified under these OAR 137-049-0600 to 137-049-0690 rules.

(2) **Construction Manager/General Contractor (or "CM/GC")** means a form of Procurement that results in a Public Improvement Contract for a Construction Manager/General Contractor to undertake project team involvement with design development; constructability reviews; value engineering, scheduling, estimating and subcontracting services; establish a Guaranteed Maximum Price to complete the Contract Work; act as General Contractor; hold all subcontracts, self-perform portions of the Work as may be allowed by the Contracting Agency under the CM/GC Contract; coordinate and manage the building process; provide general Contractor expertise; and act as a member of the project team along with the Contracting Agency, architect/engineers and other consultants. CM/GC also refers to a Contractor under this form of Contract, sometimes known as the "Construction Manager at Risk."

(3) **Design-Build** means a form of Procurement that results in a Public Improvement Contract in which the construction Contractor also provides or obtains specified design services, participates on the project team with the Contracting Agency, and manages both design and construction. In this form of Contract, a single Person provides the Contracting Agency with all of the services necessary to both design and construct the project.

(4) **Energy Conservation Measures (or "ECMs") (also known as "energy efficiency measures")** means, as used in ESPC Procurement, any equipment, fixture or furnishing to be added to or used in an existing building or structure, and any repair, alteration or improvement to an existing building or structure that is designed to reduce energy consumption and related costs, including those costs related to electrical energy, thermal energy, water consumption, waste disposal, and future contract-labor costs and materials costs associated with maintenance of the building or structure. For purposes of these OAR 137-049-0600 to 137-049-0690 rules, use of either or both of the terms "building" or "structure" shall be deemed to include existing energy, water and waste disposal systems connected or related to or otherwise used for the building or structure when such system(s) are included in the project, either as part of the project together with the building or structure, or when such system(s) are the focus of the project. Maintenance services are not Energy Conservation Measures, for purposes of these OAR 137-049-0600 to 137-049-0690 rules.

(5) **Energy Savings Guarantee** means the energy savings and performance guarantee provided by the ESCO under an ESPC Procurement, which guarantees to the Contracting Agency that certain energy savings and performance will be achieved for the project covered by the RFP, through the installation and implementation of the agreed-upon ECMs for the project. The Energy Savings Guarantee shall include, but shall not be limited

to, the specific energy savings and performance levels and amounts that will be guaranteed, provisions related to the financial remedies available to the Contracting Agency in the event the guaranteed savings and performance are not achieved, the specific conditions under which the ESCO will guarantee energy savings and performance (including the specific responsibilities of the Contracting Agency after final completion of the design and construction phase), and the term of the energy savings and performance guarantee.

(6) **Energy Savings Performance Contract (or "ESPC")** means a Public Improvement Contract between a Contracting Agency and a Qualified Energy Service Company for the identification, evaluation, recommendation, design and construction of Energy Conservation Measures, including a Design-Build Contract, that guarantee energy savings or performance.

(7) **Guaranteed Maximum Price (or "GMP")** means the total maximum price provided to the Contracting Agency by the Contractor, and accepted by the Contracting Agency, that includes all reimbursable costs of and fees for completion of the Contract Work, as defined by the Public Improvement Contract, except for material changes in the scope of Work. It may also include particularly identified contingency amounts.

(8) **Measurement and Verification (or "M & V")** means, as used in ESPC Procurement, the examination of installed ECMs using the International Performance Measurement and Verification Protocol ("IPMVP"), or any other comparable protocol or process, to monitor and verify the operation of energy-using systems pre-installation and post-installation.

(9) **Project Development Plan** means a secondary phase of services performed by an ESCO in an ESPC Procurement when the ESCO performs more extensive design of the agreed-upon ECMs for the project, provides the detailed provisions of the ESCO's Energy Savings Guarantee that the fully installed and commissioned ECMs will achieve a particular energy savings level for the building or structure, and prepares an overall report or plan summarizing the ESCO's services during this secondary phase of the Work and otherwise explaining how the agreed-upon ECMs will be implemented during the design and construction phase of the Work; The term "Project Development Plan" can also refer to the report or plan provided by the ESCO at the conclusion of this phase of the Work.

(10) **Qualified Energy Service Company (or "ESCO")** means, as used in ESPC Procurement, a company, firm or other legal Person with the following characteristics: demonstrated technical, operational, financial and managerial capabilities to design, install, construct, commission, manage, measure and verify, and otherwise implement Energy Conservation Measures and other Work on building systems or building components that are directly related to the ECMs in existing buildings and structures; a prior record of successfully performing ESPCs on projects involving existing buildings and structures that are comparable to the project under consideration by the Contracting Agency; and the financial strength to effectively guarantee energy savings and performance under the ESPC for the project in question, or the ability to secure necessary financial measures to effectively guarantee energy savings under an ESPC for that project.

(11) **Technical Energy Audit** means, as used in ESPC Procurement, the initial phase of services to be performed by an ESCO that includes a detailed evaluation of an existing building or structure, an evaluation of the potential ECMs that could be effectively utilized at the facility, and preparation of a report to the Contracting Agency of the ESCO's Findings during this initial phase of the Work; the term "Technical Energy Audit" can also refer to the report provided by the ESCO at the conclusion of this phase of the Work.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.335 & ORS 279A.065
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0620

Use of Alternative Contracting Methods

(1) **Competitive Bidding Exemptions.** ORS Chapter 279C requires a competitive Bidding process for Public Improvement Contracts unless a statutory exception applies, a class of Contracts has been exempted or an individual Contract has been exempted in accordance with ORS 279C.335 and any applicable Contracting Agency rules. Use of Alternative Contracting Methods may be directed by a Contracting Agency's Contract Review Authority as an exception to the prescribed Public Contracting practices in Oregon, and their use must be justified in accordance with the Code and these OAR 137-049-0600 to 137-049-0690 rules. See OAR 137-049-0630 regarding required Findings and restrictions on class exemptions.

(2) **Energy Savings Performance Contracts.** Unlike other Alternative Contracting Methods covered by OAR 137-049-0600 to 137-

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049-0690, ESPCs may be exempted from the competitive Bidding process for Public Improvement Contracts pursuant to ORS 279C.335, if the Contracting Agency complies with the procedures set forth in OAR 137-049-0600 to 137-049-0690 related to the Solicitation, negotiation and contracting for ESPC services.

(3) **Post-Project Evaluation.** ORS 279C.355 requires that the Contracting Agency prepare a formal post-project evaluation of Public Improvement projects in excess of \$100,000 for which the competitive Bidding process was not used. The purpose of this evaluation is to determine whether it was actually in the Contracting Agency's best interest to use an Alternative Contracting Method. The evaluation must be delivered to the Contracting Agency's Contract Review Authority within 30 Days of the date the Contracting Agency "accepts" the Public Improvement project, which event is typically defined in the Contract. In the absence of such definition, acceptance of the Project occurs on the later of the date of final payment or the date of final completion of the Work. ORS 279C.355 describes the timing and content of this evaluation, with three required elements:

- (a) Financial information, consisting of cost estimates, any Guaranteed Maximum Price, changes and actual costs;
- (b) A narrative description of successes and failures during design, engineering and construction; and
- (c) An objective assessment of the use of the Alternative Contracting Method as compared to the exemption Findings.

Stat. Auth.: ORS 279C.335 & 279A.065

Stats. Implemented: ORS 279C.335, 279A.065, 279C.355 & 351.086

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0630

Findings, Notice and Hearing

(1) **Cost Savings Factors.** When Findings are required under ORS 279C.335 to exempt a Contract or class of Contracts from competitive Bidding requirements, the "substantial cost savings" criterion at ORS 279C.335(2)(b) allows consideration of the type, cost, amount of the Contract, number of Entities available to Bid, and "such other factors as may be deemed appropriate."

(2) **Required Information.** Likewise, the statutory definition of "Findings" at ORS 279.330 means the justification for a Contracting Agency conclusion that includes, "but is not limited to," information regarding eight identified areas.

(3) **Addressing Cost Savings.** Accordingly, when the Contract or class of Contracts under consideration for an exemption contemplates the use of Alternative Contracting Methods, the "substantial cost savings" requirement may be addressed by a combination of:

(a) Specified Findings that address the factors and other information specifically identified by statute, including an analysis or reasonable forecast of future cost savings as well as present cost savings; and

(b) Additional Findings that address industry practices, surveys, trends, past experiences, evaluations of completed projects required by ORS 279C.355 and related information regarding the expected benefits and drawbacks of particular Alternative Contracting Methods. To the extent practicable, such Findings shall relate back to the specific characteristics of the project or projects at issue in the exemption request.

(4) **Favoritism and Competition.** The criteria at ORS 279C.335(2)(a) that it is "unlikely" that the exemption will "encourage favoritism" or "substantially diminish competition" may be addressed in contemplating the use of Alternative Contracting Methods by specifying the manner in which an RFP process will be utilized, that the Procurement will be formally advertised with public notice and disclosure of the planned Alternative Contracting Method, competition will be encouraged, Award made based upon identified selection criteria and an opportunity to protest that Award.

(5) **Class Exemptions.** In making the findings supporting a class exemption the Contracting Agency shall clearly identify the class with respect to its defining characteristics. Those characteristics shall include some combination of Project descriptions or locations, time periods, contract values or method of procurement or other factors that distinguish the limited and related class of Projects from a Contracting Agency's overall construction program. Classes shall not be defined solely by funding sources, such as a particular bond fund, or by method of procurement, but must be defined by characteristics that reasonably relate to the exemption criteria set forth in ORS 279C.335(2).

(6) **Public Hearing.** Before final adoption of Findings exempting a Public Improvement Contract from the requirement of competitive bidding, a Contracting Agency shall give notice and hold a public hearing as required by ORS 279C.335(4). The hearing shall be for the purpose of receiving public comment on the Contracting Agency's draft Findings.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335 & ORS 279A.065

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0640

Competitive Proposals; Procedure

Contracting Agencies may utilize the following RFP process for Public Improvement Contracts, allowing flexibility in both Proposal evaluation and Contract negotiation, only in accordance with ORS 279C.400 to 279C.410 and OAR 137-049-0600 to 137-049-690, unless other applicable statutes control a Contracting Agency's use of competitive Proposals for Public Improvement Contracts. Also see the subdivision of rules in this division entitled Formal Procurement Rules, OAR 137-049-0200 to 137-049-0480, and RFP related rules under the Alternative Contracting Methods subdivision at OAR 137-049-0640 to 137-049-0660. For ESPCs, the following RFP process shall be utilized if a Contracting Agency desires the Procurement process to be exempt from the competitive Bidding requirements of ORS 279C.335. The RFP process for the Alternative Contracting Methods identified in OAR 137-049-0600 to 137-049-0690 includes the following steps:

(1) **Proposal Evaluation.** Factors in addition to price may be considered in the selection process, but only as set forth in the RFP. For ESPC Proposal evaluations, the Contracting Agency may provide in the RFP that qualifications-based evaluation factors will outweigh the Contracting Agency's consideration of price-related factors, due to the fact that prices for the major components of the Work to be performed during the ESPC process contemplated by the RFP will likely not be determinable at the time of Proposal evaluation. Proposal evaluation shall be as objective as possible. Evaluation factors need not be precise predictors of future costs and performance, but to the extent possible such evaluation factors shall:

(a) Be reasonable estimates based on information available to the Contracting Agency;

(b) Treat all Proposals equitably; and

(c) Recognize that public policy requires that Public Improvements be constructed at the least overall cost to the Contracting Agency. See ORS 279C.305.

(2) **Evaluation Factors.**

(a) In basic negotiated construction contracting, where the only reason for an RFP is to consider factors other than price, those factors may consist of firm and personnel experience on similar projects, adequacy of equipment and physical plant, sources of supply, availability of key personnel, financial capacity, past performance, safety records, project understanding, proposed methods of construction, proposed milestone dates, references, service, and related matters that affect cost or quality.

(b) In CM/GC contracting, in addition to (a) above, those factors may also include the ability to respond to the technical complexity or unique character of the project, analyze and propose solutions or approaches to complex project problems, coordination of multiple disciplines, the time required to commence and complete the improvement, and related matters that affect cost or quality.

(c) In Design-Build contracting, in addition to (a) and (b) above, those factors may also include design professional qualifications, specialized experience, preliminary design submittals, technical merit, design-builder team experience and related matters that affect cost or quality.

(d) In ESPC contracting, in addition to the factors set forth in subsections (a), (b) and (c) above, those factors may also include sample Technical Energy Audits from similar projects, sample M & V reports, financial statements and related information of the ESCO for a time period established in the RFP, financial statements and related information of joint venturers comprising the ESCO, the ESCO's capabilities and experience in performing energy baseline studies for facilities (independently or in cooperation with an independent third-party energy baseline consultant), past performance of the ESCO in meeting energy guarantee Contract levels, the specific Person that will provide the Energy Savings Guarantee to be offered by the ESCO, the ESCO's management plan for the project, information on the specific methods, techniques and equipment that the ESCO will use in the performance of the Work under the ESPC, the ESCO's team members and consultants to be assigned to the project, the ESCO's experience in the Energy Savings Performance Contracting field, the ESCO's experience acting as the prime contractor on previous ESPC projects (as opposed to a sub-contractor or consultant to a prime ESCO), the ESCO's vendor and product neutrality related to the development of ECMs, the ESCO's project history related to removal from an ESPC project or the inability or unwillingness of the ESCO to complete an ESPC project, the ESCO's M & V capabilities and experience (independently or in cooperation with an independent third-party M & V consultant), the ESCO's ability to explain the unique risks associated with ESPC projects and the assignment of risk in the particular

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project between the Contracting Agency and the ESCO, the ESCO's equipment performance guarantee policies and procedures, the ESCO's energy savings and cost savings guarantee policies and procedures, the ESCO's project cost guarantee policies and procedures, the ESCO's pricing methodologies, the price that the ESCO will charge for the Technical Energy Audit phase of the Work and the ESCO's fee structure for all phases of the ESPC.

(3) **Contract Negotiations.** Contract terms may be negotiated to the extent allowed by the RFP and OAR 137-049-0600 to 137-049-0690, provided that the general Work scope remains the same and that the field of competition does not change as a result of material changes to the requirements stated in the Solicitation Document. See OAR 137-049-0650. Terms that may be negotiated consist of details of Contract performance, methods of construction, timing, assignment of risk in specified areas, fee, and other matters that affect cost or quality. In ESPC contracting, terms that may be negotiated also include the scope of preliminary design of ECMs to be evaluated by the parties during the Technical Energy Audit phase of the Work, the scope of services to be performed by the ESCO during the Project Development Plan phase of the Work, the detailed provisions of the Energy Savings Guarantee to be provided by the ESCO and scope of Work, methodologies and compensation terms and conditions during the design and construction phase and M & V phase of the Work, consistent with the requirements of OAR 137-049-0680 below.

Stat. Auth.: ORS 279C.335 & ORS 279A.065

Stats. Implemented: ORS 279C.335, ORS 279A.065 & ORS 351.086

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0650

Requests for Proposals (RFP)

(1) **Generally.** The use of competitive proposals must be specially authorized for a Public Improvement Contract under the competitive bidding requirement of ORS 279C.335(1), OAR 137-049-0130 and 137-049-0600 to 137-049-0690. Also see ORS 279C.400 to 279C.410 for statutory requirements regarding competitive Proposals, and OAR 137-049-0640 regarding competitive Proposal procedures.

(2) **Solicitation Documents.** In addition to the Solicitation Document requirements of OAR 137-049-0200, this rule applies to the requirements for Requests for Proposals. RFP Solicitation Documents shall conform to the following standards:

(a) The Contracting Agency shall set forth selection criteria in the Solicitation Document. Examples of evaluation criteria include price or cost, quality of a product or service, past performance, management, capability, personnel qualification, prior experience, compatibility, reliability, operating efficiency, expansion potential, experience of key personnel, adequacy of equipment or physical plant, financial wherewithal, sources of supply, references and warranty provisions. See OAR 137-049-0640. Evaluation factors need not be precise predictors of actual future costs and performance, but to the extent possible, such factors shall be reasonable estimates based on information available to the Contracting Agency;

(b) When the Contracting Agency is willing to negotiate terms and conditions of the Contract or allow submission of revised Proposals following discussions, the Contracting Agency must identify the specific terms and conditions in or provisions of the Solicitation Document that are subject to negotiation or discussion and authorize Offerors to propose certain alternative terms and conditions in lieu of the terms and conditions the Contracting Agency has identified as authorized for negotiation. The Contracting Agency must describe the evaluation and discussion or negotiation process, including how the Contracting Agency will establish the Competitive Range;

(c) When the Contracting Agency intends to Award Contracts to more than one Proposer, the Contracting Agency must identify in the Solicitation Document the manner in which it will determine the number of Contracts it will Award. The Contracting Agency shall also include the criteria it will use to determine how the Contracting Agency will endeavor to achieve optimal value, utility and substantial fairness when selecting a particular Contractor to provide goods or services from those Contractors Awarded Contracts.

(3) Evaluation of Proposals.

(a) **Evaluation.** The Contracting Agency shall evaluate Proposals only in accordance with criteria set forth in the RFP and applicable law. The Contracting Agency shall evaluate Proposals to determine the Responsible Proposer or Proposers submitting the best Responsive Proposal or Proposals.

(A) **Clarifications.** In evaluating Proposals, a Contracting Agency may seek information from a Proposer to clarify the Proposer's Proposal. A Proposer must submit Written and Signed clarifications and such clarifications shall become part of the Proposer's Proposal.

(B) **Limited Negotiation.** If the Contracting Agency did not permit negotiation in its Request for Proposals, the Contracting Agency may, nonetheless, negotiate with the highest-ranked Proposer, but may then only negotiate the:

(i) Statement of Work; and

(ii) Contract Price as it is affected by negotiating the statement of Work.

(iii) The process for discussions or negotiations that is outlined and explained in subsections (5)(b) and (6) of this rule does not apply to this limited negotiation.

(b) **Discussions; Negotiations.** If the Contracting Agency permitted discussions or negotiations in the Request for Proposals, the Contracting Agency shall evaluate Proposals and establish the Competitive Range, and may then conduct discussions and negotiations in accordance with this rule.

(A) If the Solicitation Document provided that discussions or negotiations may occur at Contracting Agency's discretion, the Contracting Agency may forego discussions and negotiations and evaluate all Proposals in accordance with this rule.

(B) If the Contracting Agency proceeds with discussions or negotiations, the Contracting Agency shall establish a negotiation team tailored for the acquisition. The Contracting Agency's team may include legal, technical and negotiating personnel.

(c) **Cancellation.** Nothing in this rule shall restrict or prohibit the Contracting Agency from canceling the Solicitation at any time.

(4) Competitive Range; Protest; Award.

(a) Determining Competitive Range.

(A) If the Contracting Agency does not cancel the Solicitation, after the Opening the Contracting Agency will evaluate all Proposals in accordance with the evaluation criteria set forth in the Request for Proposals. After evaluation of all Proposals in accordance with the criteria set forth in the Request for Proposals, the Contracting Agency will determine and rank the Proposers in the Competitive Range.

(B) The Contracting Agency may increase the number of Proposers in the Competitive Range if the Contracting Agency's evaluation of Proposals establishes a natural break in the scores of Proposers indicating a number of Proposers greater than the initial Competitive Range are closely competitive, or have a reasonable chance of being determined the best Proposer after the Contracting Agency's evaluation of revised Proposals submitted in accordance with the process described in this rule.

(b) **Protesting Competitive Range.** The Contracting Agency shall provide Written notice to all Proposers identifying Proposers in the Competitive Range. A Proposer that is not within the Competitive Range may protest the Contracting Agency's evaluation and determination of the Competitive Range in accordance with OAR 137-049-0450.

(c) **Intent to Award; Discuss or Negotiate.** After the protest period provided in accordance with these rules expires, or after the Contracting Agency has provided a final response to any protest, whichever date is later, the Contracting Agency may either:

(A) Provide Written notice to all Proposers in the Competitive Range of its intent to Award the Contract to the highest-ranked Proposer in the Competitive Range.

(i) An unsuccessful Proposer may protest the Contracting Agency's intent to Award in accordance with OAR 137-049-0450.

(ii) After the protest period provided in accordance with OAR 137-049-0450 expires, or after the Contracting Agency has provided a final response to any protest, whichever date is later, the Contracting Agency shall commence final Contract negotiations with the highest-ranked Proposer in the Competitive Range; or

(B) Engage in discussions with Proposers in the Competitive Range and accept revised Proposals from them, and, following such discussions and receipt and evaluation of revised Proposals, conduct negotiations with the Proposers in the Competitive Range.

(5) **Discussions; Revised Proposals.** If the Contracting Agency chooses to enter into discussions with and receive revised Proposals from the Proposers in the Competitive Range, the Contracting Agency shall proceed as follows:

(a) **Initiating Discussions.** The Contracting Agency shall initiate oral or Written discussions with all of the Proposers in the Competitive Range regarding their Proposals with respect to the provisions of the RFP that the Contracting Agency identified in the RFP as the subject of discussions. The Contracting Agency may conduct discussions for the following purposes:

(A) Informing Proposers of deficiencies in their initial Proposals;

(B) Notifying Proposers of parts of their Proposals for which the Contracting Agency would like additional information; and

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(C) Otherwise allowing Proposers to develop revised Proposals that will allow the Contracting Agency to obtain the best Proposal based on the requirements and evaluation criteria set forth in the Request for Proposals.

(b) **Conducting Discussions.** The Contracting Agency may conduct discussions with each Proposer in the Competitive Range necessary to fulfill the purposes of this section, but need not conduct the same amount of discussions with each Proposer. The Contracting Agency may terminate discussions with any Proposer in the Competitive Range at any time. However, the Contracting Agency shall offer all Proposers in the Competitive Range the opportunity to discuss their Proposals with Contracting Agency before the Contracting Agency notifies Proposers of the date and time pursuant to this section that revised Proposals will be due.

(A) In conducting discussions, the Contracting Agency:

(i) Shall treat all Proposers fairly and shall not favor any Proposer over another;

(ii) Shall not discuss other Proposers' Proposals;

(iii) Shall not suggest specific revisions that a Proposer should make to its Proposal, and shall not otherwise direct the Proposer to make any specific revisions to its Proposal.

(B) At any time during the time allowed for discussions, the Contracting Agency may:

(i) Continue discussions with a particular Proposer;

(ii) Terminate discussions with a particular Proposer and continue discussions with other Proposers in the Competitive Range; or

(iii) Conclude discussions with all remaining Proposers in the Competitive Range and provide notice to the Proposers in the Competitive Range to submit revised Proposals.

(c) **Revised Proposals.** If the Contracting Agency does not cancel the Solicitation at the conclusion of the Contracting Agency's discussions with all remaining Proposers in the Competitive Range, the Contracting Agency shall give all remaining Proposers in the Competitive Range notice of the date and time by which they must submit revised Proposals. This notice constitutes the Contracting Agency's termination of discussions, and Proposers must submit revised Proposals by the date and time set forth in the Contracting Agency's notice.

(A) Upon receipt of the revised Proposals, the Contracting Agency shall score the revised Proposals based upon the evaluation criteria set forth in the Request for Proposals, and rank the revised Proposals based on the Contracting Agency's scoring.

(B) The Contracting Agency may conduct discussions with and accept only one revised Proposal from each Proposer in the Competitive Range unless otherwise set forth in the Request for Proposals.

(d) **Intent to Award; Protest.** The Contracting Agency shall provide Written notice to all Proposers in the Competitive Range of the Contracting Agency's intent to Award the Contract. An unsuccessful Proposer may protest the Contracting Agency's intent to Award in accordance with OAR 137-049-0450. After the protest period provided in accordance with that rule expires, or after the Contracting Agency has provided a final response to any protest, whichever date is later, the Contracting Agency shall commence final Contract negotiations.

(6) **Negotiations.**

(a) **Initiating Negotiations.** The Contracting Agency may determine to commence negotiations with the highest-ranked Proposer in the Competitive Range following the:

(A) Initial determination of the Competitive Range; or

(B) Conclusion of discussions with all Proposers in the Competitive Range and evaluation of revised Proposals.

(b) **Conducting Negotiations.**

(A) Scope. The Contracting Agency may negotiate:

(i) The statement of Work;

(ii) The Contract Price as it is affected by negotiating the statement of Work; and

(iii) Any other terms and conditions reasonably related to those expressly authorized for negotiation in the Request for Proposals. Accordingly, Proposers shall not submit, and Contracting Agency shall not accept, for negotiation any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the Request for Proposals.

(c) **Terminating Negotiations.** At any time during discussions or negotiations that the Contracting Agency conducts in accordance with this rule, the Contracting Agency may terminate discussions or negotiations with the highest-ranked Proposer, or the Proposer with whom it is currently discussing or negotiating, if the Contracting Agency reasonably believes that:

(A) The Proposer is not discussing or negotiating in good faith; or

(B) Further discussions or negotiations with the Proposer will not result in the parties agreeing to the terms and conditions of a final Contract in a timely manner.

(d) **Continuing Negotiations.** If the Contracting Agency terminates discussions or negotiations with a Proposer, the Contracting Agency may then commence negotiations with the next highest scoring Proposer in the Competitive Range, and continue the process described in this rule until the Contracting Agency has either:

(A) Determined to Award the Contract to the Proposer with whom it is currently discussing or negotiating; or

(B) Completed one round of discussions or negotiations with all Proposers in the Competitive Range, unless the Contracting Agency provided for more than one round of discussions or negotiations in the Request for Proposals.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.400 - 279C.410

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0660

RFP Pricing Mechanisms

(1) A Request for Proposals may result in a lump sum Contract Price, as in the case of competitive Bidding. Alternatively, a cost reimbursement Contract may be negotiated.

(2) Economic incentives or disincentives may be included to reflect stated Contracting Agency purposes related to time of completion, safety or other Public Contracting objectives, including total least cost mechanisms such as life cycle costing.

(3) A Guaranteed Maximum Price (GMP) is used as the pricing mechanism for CM/GC where a total Contract Price is provided in the design phase in order to assist the Contracting Agency in determining whether the project scope is within the Contracting Agency's budget, and allowing for design changes during preliminary design rather than after final design Work has been completed.

(a) If this collaborative process is successful, the Contractor shall propose a final GMP, which may be accepted by the Contracting Agency and included within the Contract.

(b) If this collaborative process is not successful, and no mutually agreeable resolution on GMP can be achieved with the Contractor, then the Contracting Agency shall terminate the Contract. The public Contracting Agency may then proceed to negotiate a new Contract (and GMP) with the firm that was next ranked in the original selection process, or employ other means for continuing the project under ORS Chapter 279C.

(4) When cost reimbursement Contracts are utilized, regardless of whether a GMP is included, the Contracting Agency shall provide for audit controls that will effectively verify rates and ensure that costs are reasonable, allowable and properly allocated.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0670

Design-Build Contracts

(1) **General.** The Design-Build form of contracting, as defined at OAR 137-049-0610(3), has technical complexities that are not readily apparent. Contracting Agencies shall use this contracting method only with the assistance of knowledgeable staff or consultants who are experienced in its use. In order to use the Design-Build process, the Contracting Agency must be able to reasonably anticipate the following types of benefits:

(a) Obtaining, through a Design-Build team, engineering design, plan preparation, value engineering, construction engineering, construction, quality control and required documentation as a fully integrated function with a single point of responsibility;

(b) Integrating value engineering suggestions into the design phase, as the construction Contractor joins the project team early with design responsibilities under a team approach, with the potential of reducing Contract changes;

(c) Reducing the risk of design flaws, misunderstandings and conflicts inherent in construction Contractors building from designs in which they have had no opportunity for input, with the potential of reducing Contract claims;

(d) Shortening project time as construction activity (early submittals, mobilization, subcontracting and advance Work) commences prior to completion of a "Biddable" design, or where a design solution is still required (as in complex or phased projects); or

(e) Obtaining innovative design solutions through the collaboration of the Contractor and design team, which would not otherwise be possible if the Contractor had not yet been selected.

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(2) **Authority.** Contracting Agencies shall utilize the Design-Build form of contracting only in accordance with the requirements of these OARs 137-049-0600 to 137-049-0690 rules. See particularly OAR 137-049-0620 on "Use of Alternative Contracting Methods" and OAR 137-049-0680 pertaining to ESPCs.

(3) **Selection.** Design-Build selection criteria may include those factors set forth above in OAR 137-049-0640(2)(a), (b) and (c).

(4) **QBS Inapplicable.** Because the value of construction services predominates the Design-Build form of contracting, the qualifications based selection (QBS) process mandated by ORS 279C.110 for State Contracting Agencies in obtaining certain consultant services is not applicable.

(5) **Licensing.** If a Design-Build Contractor is not an Oregon licensed design professional, the Contracting Agency shall require that the Design-Build Contractor disclose in its Written Offer that it is not an Oregon licensed design professional, and identify the Oregon licensed design professional(s) who will provide design services. See ORS 671.030(5) regarding the offer of architectural services, and ORS 672.060(11) regarding the offer of engineering services that are appurtenant to construction services.

(6) **Performance Security.** ORS 279C.380(1)(a) provides that for Design-Build Contracts the surety's obligation on performance bonds, or the Bidder's obligation on cashier's or certified checks accepted in lieu thereof, includes the preparation and completion of design and related professional services specified in the Contract. This additional obligation, beyond performance of construction services, extends only to the provision of professional services and related design revisions, corrective Work and associated costs prior to final completion of the Contract (or for such longer time as may be defined in the Contract). The obligation is not intended to be a substitute for professional liability insurance, and does not include errors and omissions or latent defects coverage.

(7) **Contract Requirements.** Contracting Agencies shall conform their Design-Build contracting practices to the following requirements:

(a) **Design Services.** The level or type of design services required must be clearly defined within the Procurement documents and Contract, along with a description of the level or type of design services previously performed for the project. The services to be performed shall be clearly delineated as either design Specifications or performance standards, and performance measurements must be identified.

(b) **Professional Liability.** The Contract shall clearly identify the liability of design professionals with respect to the Design-Build Contractor and the Contracting Agency, as well as requirements for professional liability insurance.

(c) **Risk Allocation.** The Contract shall clearly identify the extent to which the Contracting Agency requires an express indemnification from the Design-Build Contractor for any failure to perform, including professional errors and omissions, design warranties, construction operations and faulty Work claims.

(d) **Warranties.** The Contract shall clearly identify any express warranties made to the Contracting Agency regarding characteristics or capabilities of the completed project (regardless of whether errors occur as the result of improper design, construction, or both), including any warranty that a design will be produced that meets the stated project performance and budget guidelines.

(e) **Incentives.** The Contract shall clearly identify any economic incentives and disincentives, the specific criteria that apply and their relationship to other financial elements of the Contract.

(f) **Honoraria.** If allowed by the RFP, honoraria or stipends may be provided for early design submittals from qualified finalists during the Solicitation process on the basis that the Contracting Agency is benefited from such deliverables.

Stat. Auth.: ORS 279C.335 & ORS 279A.065

Stats. Implemented: ORS 279C.335, 279A.065, 279C.110 & 351.086

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0680

Energy Savings Performance Contracts (ESPC)

(1) **Generally.** These OAR 137-049-0600 to 137-049-0690 rules include a limited, efficient method for Public Contract Contracting Agencies to enter into ESPCs outside the competitive Bidding requirements of ORS 279C.335 for existing buildings or structures, but not for new construction. If a Contracting Agency chooses not to utilize the ESPC Procurement method provided for by these OAR 137-049-0600 to 137-049-0690 rules, the Contracting Agency may still enter into an ESPC by complying with the competitive Bidding exemption process set forth in ORS 279C.335, or by otherwise complying with the Procurement requirements

applicable to any Contracting Agency not subject to all the requirements of ORS 279C.335.

(2) **ESPC Contracting Method.** The ESPC form of contracting, as defined at OAR 137-049-0610(6), has unique technical complexities associated with the determination of what ECMs are feasible for the Contracting Agency, as well as the additional technical complexities associated with a Design-Build Contract. Contracting Agencies shall only utilize the ESPC contracting method with the assistance of knowledgeable staff or consultants who are experienced in its use. In order to utilize the ESPC contracting process, the Contracting Agency must be able to reasonably anticipate one or more of the following types of benefits:

(a) Obtaining, through an ESCO, the following types of integrated services: facility profiling, energy baseline studies, ECMs, Technical Energy Audits, project development planning, engineering design, plan preparation, cost estimating, life cycle costing, construction administration, project management, construction, quality control, operations and maintenance staff training, commissioning services, M & V services and required documentation as a fully integrated function with a single point of responsibility;

(b) Obtaining, through an ESCO, an Energy Savings Guarantee;

(c) Integrating the Technical Energy Audit phase and the Project Development Plan phase into the design and construction phase of Work on the project;

(d) Reducing the risk of design flaws, misunderstandings and conflicts inherent in the construction process, through the integration of ESPC services;

(e) Obtaining innovative design solutions through the collaboration of the members of the ESCO integrated ESPC services team;

(f) Integrating cost-effective ECMs into an existing building or structure, so that the ECMs pay for themselves through savings realized over the useful life of the ECMs;

(g) Preliminary design, development, implementation and an Energy Savings Guarantee of ECMs into an existing building or structure through an ESPC, as a distinct part of a major remodel of that building or structure that is being performed under a separate remodeling Contract; and

(h) Satisfying local energy efficiency design criteria or requirements.

(3) **Authority.** Contracting Agencies desiring to pursue an exemption from the competitive Bidding requirements of ORS 279C.335 (and, if applicable, ORS 351.086), shall utilize the ESPC form of contracting only in accordance with the requirements of these OAR 137-049-0600 to 137-049-0690 rules.

(4) **No Findings Required.** A Contracting Agency is only required to comply with the ESPC contracting procedures set forth in these OAR 137-049-0600 to 137-049-0690 rules in order for the ESPC to be exempt from the competitive Bidding processes of ORS 279C.335. No Findings are required for an ESPC to be exempt from the competitive Bidding process for Public Improvement Contracts pursuant to ORS 279C.335, unless the Contracting Agency is subject to the requirements of ORS 279C.335 and chooses not to comply with the ESPC contracting procedures set forth in these OAR 137-049-0600 to 137-049-0690 rules.

(5) **Selection.** ESPC selection criteria may include those factors set forth above in OAR 137-049-0640(2)(a), (b), (c) and (d). Since the Energy Savings Guarantee is such a fundamental component in the ESPC contracting process, Proposers must disclose in their Proposals the identity of any Person providing (directly or indirectly) any Energy Savings Guarantee that may be offered by the successful ESCO during the course of the performance of the ESPC, along with any financial statements and related information pertaining to any such Person.

(6) **QBS Inapplicable.** Because the value of construction services predominates in the ESPC method of contracting, the qualifications based selection (QBS) process mandated by ORS 279C.110 for State Contracting Agencies in obtaining certain consultant services is not applicable.

(7) **Licensing.** If the ESCO is not an Oregon licensed design professional, the Contracting Agency shall require that the ESCO disclose in the ESPC that it is not an Oregon licensed design professional, and identify the Oregon licensed design professional(s) who will provide design services. See ORS 671.030(5) regarding the offer of architectural services, and ORS 672.060(11) regarding the offer of engineering services that are appurtenant to construction services.

(8) **Performance Security.** At the point in the ESPC when the parties enter into a binding Contract that constitutes a Design-Build Contract, the ESCO must provide a performance bond and a payment bond, each for 100% of the full Contract Price, including the construction and design and related professional services specified in the ESPC Design-Build Contract, pursuant to ORS 279C.380(1)(a). For ESPC Design-Build Contracts, these

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“design and related professional services” include conventional design services, commissioning services, training services for the Contracting Agency’s operations and maintenance staff, and any similar professional services provided by the ESCO under the ESPC Design-Build Contract prior to final completion of construction. M & V services, and any services associated with the ESCO’s Energy Savings Guarantee are not included in these ORS 279C.380(1)(a) “design and related professional services.” Nevertheless, a Contracting Agency may require that the ESCO provide performance security for M & V services and any services associated with the ESCO’s Energy Savings Guarantee, if the Contracting Agency so provides in the RFP.

(9) **Contracting Requirements.** Contracting Agencies shall conform their ESPC contracting practices to the following requirements:

(a) **General ESPC Contracting Practices.** An ESPC involves a multi-phase project, which includes the following contractual elements:

(A) A contractual structure which includes general Contract terms describing the relationship of the parties, the various phases of the Work, the contractual terms governing the Technical Energy Audit for the project, the contractual terms governing the Project Development Plan for the project, the contractual terms governing the final design and construction of the project, the contractual terms governing the performance of the M & V services for the project, and the detailed provisions of the ESCO’s Energy Savings Guarantee for the project.

(B) The various phases of the ESCO’s Work will include the following:

- (i) The Technical Energy Audit phase of the Work;
- (ii) The Project Development Plan phase of the Work;
- (iii) A third phase of the Work that constitutes a Design-Build

Contract, during which the ESCO completes any plans and Specifications required to implement the ECMs that have been agreed to by the parties to the ESPC, and the ESCO performs all construction, commissioning, construction administration and related services to actually construct the project; and

(iv) A final phase of the Work, whereby the ESCO, independently or in cooperation with an independent consultant hired by the Contracting Agency, performs M & V services to ensure that the Energy Savings Guarantee identified by the ESCO in the earlier phases of the Work and agreed to by the parties has actually been achieved.

(b) **Design-Build Contracting Requirements in ESPCs.** At the point in the ESPC when the parties enter into a binding Contract that constitutes a Design-Build Contract, the Contracting Agency shall conform its Design-Build contracting practices to the Design-Build contracting requirements set forth in OAR 137-040-0560(7) above.

(c) **Pricing Alternatives.** The Contracting Agency may utilize one of the following pricing alternatives in an ESPC:

(A) A fixed price for each phase of the services to be provided by the ESCO;

(B) A cost reimbursement pricing mechanism, with a maximum not-to-exceed price or a GMP; or

(C) A combination of a fixed fee for certain components of the services to be performed, a cost reimbursement pricing mechanism for the construction services to be performed with a GMP, a single or annual fixed fee for M & V services to be performed for an identified time period after final completion of the construction Work, and a single or annual Energy Savings Guarantee fixed fee payable for an identified time period after final completion of the construction Work that is conditioned on certain energy savings being achieved at the facility by the ECMs that have been implemented by the ESCO during the project (in the event an annual M & V services fee and annual Energy Savings Guarantee fee is utilized by the parties, the parties may provide in the Design-Build Contract that, at the sole option of the Contracting Agency, the ESCO’s M & V services may be terminated prior to the completion of the M & V/Energy Savings Guarantee period and the Contracting Agency’s future obligation to pay the M & V services fee and Energy Savings Guarantee fee will likewise be terminated, under terms agreed to by the parties).

(d) **Permitted ESPC Scope of Work.** The scope of Work under the ESPC is restricted to implementation and installation of ECMs, as well as other Work on building systems or building components that are directly related to the ECMs, and that, as an integrated unit, will pay for themselves over the useful life of the ECMs installed. The permitted scope of Work for ESPCs resulting from a Solicitation under these 137-049-0600 to 137-049-0690 rules does not include maintenance services for the project facility.

Stat. Auth.: ORS 279C.335; ORS 279A.065

Stats. Implemented: ORS 279C.335, 279A.065, 279C.110 & 351.086

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0690

Construction Manager/General Contractor (CM/GC)

(1) **General.** The CM/GC form of contracting, as defined at OAR 137-049-0610(2), is a technically complex project delivery system. Contracting Agencies shall use this contracting method only with the assistance of knowledgeable staff or consultants who have a demonstrated capability of managing the CM/GC process in the necessary disciplines of engineering, construction scheduling and cost control, accounting, legal, Public Contracting and project management. Unlike the Design-Build form of contracting, the CM/GC form of contracting does not contemplate a “single point of responsibility” under which the Contractor is responsible for successful completion of all Work related to a performance Specification. The CM/GC has defined contract obligations, including responsibilities as part of the project team along with the Contracting Agency and design professional, although in CM/GC there is a separate contract between the Contracting Agency and design professional. In order to utilize the CM/GC method, the Contracting Agency must be able to reasonably anticipate the following types of benefits:

(a) **Time Savings.** The Public Improvement has significant schedule ramifications, such that concurrent design and construction are necessary in order to meet critical deadlines and shorten the overall duration of construction. The Contracting Agency may consider operational and financial data that show significant savings or increased opportunities for generating revenue as a result of early completion, as well as less disruption to public facilities as a result of shortened construction periods;

(b) **Cost Savings.** Early Contractor input during the design process is expected to contribute to significant cost savings. The Contracting Agency may consider value engineering, building systems analysis, life cycle costing analysis and construction planning that lead to cost savings. The Contracting Agency shall specify any special factors influencing this analysis, including high rates of inflation, market uncertainty due to material and labor fluctuations or scarcities, and the need for specialized construction expertise due to technical challenges; or

(c) **Technical Complexity.** The Public Improvement presents significant technical complexities that are best addressed by a collaborative or team effort between the Contracting Agency, design professionals and Contractor, in which the Contractor will assist in addressing specific project challenges through pre-construction services. The Contracting Agency may consider the need for Contractor input on issues such as operations of the facility during construction, tenant occupancy, public safety, delivery of an early budget or GMP, financing, historic preservation, difficult remodeling projects and projects requiring complex phasing or highly coordinated scheduling.

(2) **Authority.** Contracting Agencies shall use the CM/GC form of contracting only in accordance with the requirements of these rules. See particularly OAR 137-049-0620 on “Use of Alternative Contracting Methods.”

(3) **Selection.** CM/GC selection criteria may include those factors set forth above in OAR 137-049-0640(2)(b).

(4) **Basis for Payment.** The CM/GC process adds specified Construction Manager services to traditional General Contractor services, requiring full Contract performance within a negotiated Guaranteed Maximum Price (GMP). The basis for payment is reimbursable direct costs as defined under the Contract, plus a fee constituting full payment for Work and services rendered, which together shall not exceed the GMP. See GMP definition at OAR 137-049-0610(7) and Pricing Mechanisms at OAR 137-049-0660.

(5) **Contract Requirements.** Contracting Agencies shall conform their CM/GC contracting practices to the following requirements:

(a) **Setting the GMP.** The GMP shall be set at an identified time consistent with industry practice, after supporting information reasonably considered necessary to its use has been developed, and the supporting information shall define with particularity both what is included and excluded from the GMP. A set of drawings and Specifications shall be produced establishing the GMP scope.

(b) **Adjustments to the GMP.** The Contract shall clearly identify the standards or factors under which changes or additional Work will be considered outside of the Work scope that warrants an increase in the GMP, as well as criteria for decreasing the GMP. The GMP shall not be increased without a concomitant increase to the scope defined at the establishment of the GMP or most recent GMP amendment.

(c) **Cost Savings.** The Contract shall clearly identify the disposition of any cost savings resulting from completion of the Work below the GMP; that is, under what circumstances, if any, the CM/GC might share in those cost savings, or whether they accrue only to the Contracting Agency’s ben-

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efit. (Note that unless there is a clearly articulated reason for sharing such cost savings, they should accrue to the Contracting Agency.)

(d) **Cost Reimbursement.** The Contract shall clearly identify what items or categories of items are eligible for cost reimbursement within the GMP, including any category of "General Conditions" (a general grouping of direct costs that are not separately invoiced, subcontracted or included within either overhead or fee), and may also incorporate a mutually-agreeable cost-reimbursement standard.

(e) **Audit.** Cost reimbursements shall be made subject to final audit adjustment, and the Contract shall establish an audit process to ensure that Contract costs are allowable, properly allocated and reasonable.

(f) **Fee.** Compensation for the CM/GC's services shall be paid on the basis of a fee that is inclusive of profit, overhead and all other indirect or non-reimbursable costs. Costs determined to be included within the fee should be expressly defined wherever possible. The fee, first expressed as a proposed percentage of all reimbursable costs, shall be identified during and become an element of the selection process. It shall subsequently be expressed as a fixed amount when the GMP is established.

(g) **Incentives.** The Contract shall clearly identify any economic incentives, the specific criteria that apply and their relationship to other financial elements of the Contract (including the GMP).

(h) **Controlled Insurance Programs.** For projects anticipated to exceed \$75 Million, the Contract shall clearly identify whether an Owner Controlled or Contractor Controlled Insurance Program is anticipated or allowable. If so, the Contract shall clearly identify (1) anticipated cost savings from reduced premiums, claims reductions and other factors, (2) the allocation of cost savings, and (3) safety responsibilities and/or incentives.

(i) **Early Work.** The RFP shall clearly identify, whenever feasible, the circumstances under which any of the following activities may be authorized and undertaken for compensation prior to establishing the GMP:

(A) Early Procurement of materials and supplies;

(B) Early release of Bid packages for such things as site development; and

(C) Other advance Work related to critical components of the Contract.

(j) **Subcontractor Selection.** The Contract shall clearly describe the methods by which the CM/GC shall publicly receive, open and record Bids or price quotations, and competitively select subcontractors to perform the Contract Work based upon price, as well as the mechanisms by which the Contracting Agency may waive those requirements. The documents shall also describe completely the methods by which the CM/GC and its affiliated or subsidiary entities may compete to perform the Work, including, at a minimum, advance notice to the public of the CM/GC's intent to compete and a public Opening of Bids or quotations by an independent party.

(k) **Subcontractor Approvals and Protests.** The Contract shall clearly establish whether the Contracting Agency must approve subcontract awards, and to what extent, if any, the Contracting Agency will resolve Procurement protests of subcontractors and suppliers. The related procedures and reporting mechanisms shall be established with certainty, including whether the CM/GC acts as the Contracting Agency's representative in this process and whether the CM/GC's subcontracting records are considered to be public records. In any event, the Contracting Agency shall retain the right to monitor the subcontracting process in order to protect Contracting Agency's interests.

(l) **CM/GC Self-Performance.** Whenever feasible, the Contract shall establish the elements of Work the CM/GC may self-perform without competition, including, for example, the Work of the job-site general conditions. In the alternative, the Contract shall include a process for Contracting Agency approval of CM/GC self-performance.

(m) **Socio-Economic Programs.** The Contract shall clearly identify conditions relating to any required socio-economic programs (such as Affirmative Action or Prison Inmate Labor Programs), including the manner in which such programs affect the CM/GC's subcontracting requirements, the enforcement mechanisms available, and the respective responsibilities of the CM/GC and Contracting Agency.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 297C.335 & ORS 279C.380(2)

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0800

Required Contract Clauses

Contracting Agencies shall include in all formal Solicitations for Public Improvement Contracts all of the ORS Chapter 279C required Contract clauses, as set forth in the checklist contained in OAR 137-049-0200(1)(c) regarding Solicitation Documents. The following series of rules provide further guidance regarding particular Public Contract provisions.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 297C.505 - 279C.545 & 279C.800 - 279C.870

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0810

Waiver of Delay Damages Against Public Policy

Contracting Agencies shall not place any provision in a Public Improvement Contract purporting to waive, release, or extinguish the rights of a Contractor to damages resulting from a Contracting Agency's unreasonable delay in performing the Contract. However, Contract provisions requiring notice of delay, providing for alternative dispute resolution such as arbitration (where allowable) or mediation, providing other procedures for settling contract disputes, or providing for reasonable liquidated damages, are permissible.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.315

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0820

Retainage

(1) **Withholding of Retainage.** Except to the extent a Contracting Agency's enabling laws require otherwise, a Contracting Agency shall not retain an amount in excess of five percent of the Contract Price for Work completed. If the Contractor has performed at least 50 percent of the Contract Work and is progressing satisfactorily, upon the Contractor's submission of Written application containing the surety's Written approval, the Contracting Agency may, in its discretion, reduce or eliminate retainage on any remaining progress payments. The Contracting Agency shall respond in Writing to all such applications within a reasonable time. When the Contract Work is 97-1/2 percent completed, the Contracting Agency may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent of the value of the remaining unperformed Contract Work. A Contracting Agency may at any time reinstate retainage. Retainage shall be included in the final payment of the Contract Price.

(2) **Deposit in interest-bearing accounts.** Upon request of the Contractor, a Contracting Agency shall deposit cash retainage in an interest-bearing account in a bank, savings bank, trust company, or savings association, for the benefit of the Contracting Agency. Earnings on such account shall accrue to the Contractor. State Contracting Agencies shall establish the account through the State Treasurer.

(3) **Alternatives to cash retainage.** In lieu of cash retainage to be held by a Contracting Agency, the Contractor may substitute one of the following:

(a) Deposit of securities:

(A) The Contractor may deposit bonds or securities with the Contracting Agency or in any bank or trust company to be held for the benefit of the Contracting Agency. In such event, the Contracting Agency shall reduce the retainage by an amount equal to the value of the bonds and securities, and reimburse the excess to the Contractor.

(B) Bonds and securities deposited or acquired in lieu of retainage shall be of a character approved by the Oregon Department of Administrative Services, which may include, without limitation:

(i) Bills, certificates, notes or bonds of the United States.

(ii) Other obligations of the United States or its Contracting Agencies.

(iii) Obligations of any corporation wholly owned by the Federal Government.

(iv) Indebtedness of the Federal National Mortgage Association.

(C) Upon the Contracting Agency's determination that all requirements for the protection of the Contracting Agency's interests have been fulfilled, it shall release to the Contractor all bonds and securities deposited in lieu of retainage.

(b) Deposit of surety bond. A Contracting Agency, at its discretion, may allow the Contractor to deposit a surety bond in a form acceptable to the Contracting Agency in lieu of all or a portion of funds retained or to be retained. A Contractor depositing such a bond shall accept surety bonds from its subcontractors and suppliers in lieu of retainage. In such cases, retainage shall be reduced by an amount equal to the value of the bond, and the excess shall be reimbursed.

(4) **Recovery of costs.** A Contracting Agency may recover from the Contractor all costs incurred in the proper handling of cash retainage and securities, by reduction of the final payment.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.560, ORS 279C.570 & ORS 701.420

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0830

Contractor Progress Payments

(1) **Request for progress payments.** Each month the Contractor shall submit to the Contracting Agency its Written request for a progress pay-

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ment based upon an estimated percentage of Contract completion. At the Contracting Agency's discretion, this request may also include the value of material to be incorporated in the completed Work that has been delivered to the premises and appropriately stored. The sum of these estimates is referred to as the "value of completed Work." With these estimates as a base, the Contracting Agency will make a progress payment to the Contractor, which shall be equal to: (i) the value of completed Work; (ii) less those amounts that have been previously paid; (iii) less other amounts that may be deductible or owing and due to the Contracting Agency for any cause; and (iv) less the appropriate amount of retainage.

(2) **Progress payments do not mean acceptance of Work.** Progress payments shall not be construed as an acceptance or approval of any part of the Work, and shall not relieve the Contractor of responsibility for defective workmanship or material.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.570

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0840

Interest

(1) **Prompt payment policy.** A Contracting Agency shall pay promptly all payments due and owing to the Contractor on Contracts for Public Improvements.

(2) **Interest on progress payments.** Late payment interest shall begin to accrue on payments due and owing on the earlier of 30 Days after receipt of invoice or 15 Days after Contracting Agency approval of payment (the "Progress Payment Due Date"). The interest rate shall equal three times the discount rate on 90-day commercial paper in effect on the Progress Payment Due Date at the Federal Reserve Bank in the Federal Reserve district that includes Oregon, up to a maximum rate of 30 percent.

(3) **Interest on final payment.** Final payment on the Contract Price, including retainage, shall be due and owing no later than 30 Days after Contract completion and acceptance of the Work. Late-payment interest on such final payment shall thereafter accrue at the rate of one and one-half percent per month until paid.

(4) **Settlement or judgment interest.** In the event of a dispute as to compensation due a Contractor for Work performed, upon settlement or judgment in favor of the Contractor, interest on the amount of the settlement or judgment shall be added to, and not made part of, the settlement or judgment. Such interest, at the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District that includes Oregon, shall accrue from the later of the Progress Payment Due Date, or thirty Days after the Contractor submitted a claim for payment to the Contracting Agency in Writing or otherwise in accordance with the Contract requirements.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.570

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0850

Final Inspection

(1) **Notification of Completion; inspection.** The Contractor shall notify the Contracting Agency in Writing when the Contractor considers the Contract Work completed. Within 15 Days of receiving Contractor's notice, the Contracting Agency will inspect the project and project records, and will either accept the Work or notify the Contractor of remaining Work to be performed.

(2) **Acknowledgment of acceptance.** When the Contracting Agency finds that all Work required under the Contract has been completed satisfactorily, the Contracting Agency shall acknowledge acceptance of the Work in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.570(8)

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0860

Public Works Contracts

(1) **Generally.** ORS 279C.800 to 279C.870 regulates Public Works Contracts, as defined in ORS 279C.800(5), and requirements for payment of prevailing wage rates. Also see administrative rules of the Bureau of Labor and Industries (BOLI) at OAR chapter 839.

(2) **Required Contract Conditions.** As detailed in the above statutes and rules, every Public Works Contract must contain the following provisions:

(a) Contracting Agency authority to pay certain unpaid claims and charge such amounts to Contractors, as set forth in ORS 279C.515(1).

(b) Maximum hours of labor and overtime, as set forth in ORS 279C.520(1).

(c) Employer notice to employees of hours and days that employees may be required to work, as set forth in ORS 279C.520(2).

(d) Contractor required payments for certain services related to sickness or injury, as set forth in ORS 279C.530.

(e) Requirement for payment of prevailing rate of wage, as set forth in ORS 279C.830(1).

(f) Requirement for payment of fee to BOLI, as set forth in ORS 279C.830(2) and administrative rule of the BOLI commissioner.

(3) **Requirements for Specifications.** The Specifications for every Public Works Contract, consisting of the procurement package (such as the Project Manual, Bid or Proposal Booklets, Request for Quotes or similar procurement Specifications), must contain the following provisions:

(a) The prevailing rate of wage, as required by ORS 279C.830(1), physically contained within or attached to hard copies of procurement Specifications, and by a downloadable direct link to the specific wage rates that apply to the project (either on the Contracting Agency web site or the BOLI web site) when procurement Specifications are also made available in electronic format.

(b) Reference to payment of fee to BOLI, as required by ORS 279C.830(2).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.800 - ORS 279C.870

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0870

Specifications; Brand Name Products

(1) **Generally.** The Contracting Agency's Solicitation Document shall not expressly or implicitly require any product by brand name or mark, nor shall it require the product of any particular manufacturer or seller, except pursuant to an exemption granted under ORS 279C.345(2).

(2) **Equivalents.** A Contracting Agency may identify products by brand names so long as the following language: "approved equal"; "or equal"; "approved equivalent" or "equivalent," or similar language is included in the Solicitation Document. The Contracting Agency shall determine, in its sole discretion, whether an Offeror's alternate product is "equal" or "equivalent."

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.345

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0880

Records Maintenance; Right to Audit Records

(1) **Records Maintenance; Access.** Contractors and subcontractors shall maintain all fiscal records relating to Contracts in accordance with generally accepted accounting principles ("GAAP"). In addition, Contractors and subcontractors shall maintain all other records necessary to clearly document (i) their performance; and (ii) any claims arising from or relating to their performance under a Public Contract. Contractors and subcontractors shall make all records pertaining to their performance and any claims under a Contract (the books, fiscal records and all other records, hereafter referred to as "Records") accessible to the Contracting Agency at reasonable times and places, whether or not litigation has been filed as to such claims.

(2) **Inspection and Audit.** A Contracting Agency may, at reasonable times and places, have access to and an opportunity to inspect, examine, copy, and audit the Records of any Person that has submitted cost or pricing data according to the terms of a Contract to the extent that the Records relate to such cost or pricing data. If the Person must provide cost or pricing data under a Contract, the Person shall maintain such Records that relate to the cost or pricing data for 3 years from the date of final payment under the Contract, unless a shorter period is otherwise authorized in Writing.

(3) **Records Inspection; Contract Audit.** The Contracting Agency, and its authorized representatives, shall be entitled to inspect, examine, copy, and audit any Contractor's or subcontractor's Records, as provided in section 1 of this rule. The Contractor and subcontractor shall maintain the Records and keep the Records accessible and available at reasonable times and places for a minimum period of 3 years from the date of final payment under the Contract or subcontract, as applicable, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later, unless a shorter period is otherwise authorized in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.030, 279C.375, 279C.380 & 279C.440

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

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137-049-0890

Contracting Agency Payment for Unpaid Labor or Supplies

(1) **Contract incomplete.** If the Contract is still in force, the Contracting Agency may, in accordance with ORS 279C.515(1), pay a valid claim to the Person furnishing the labor or services, and charge the amount against payments due or to become due to the Contractor under the Contract. If a Contracting Agency chooses to make such a payment as provided in ORS 279C.515(1), the Contractor and the Contractor's surety shall not be relieved from liability for unpaid claims.

(2) **Contract completed.** If the Contract has been completed and all funds disbursed to the prime Contractor, all claims shall be referred to the Contractor's surety for resolution. The Contracting Agency shall not make payments to subcontractors or suppliers for Work already paid for by the Contracting Agency.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.515
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0900

Contract Suspension; Termination Procedures

(1) **Suspension of Work.** In the event a Contracting Agency suspends performance of Work for any reason considered by the Contracting Agency to be in the public interest other than a labor dispute, the Contractor shall be entitled to a reasonable extension of Contract time, and to reasonable compensation for all costs, including a reasonable allowance for related overhead, incurred by the Contractor as a result of the suspension.

(2) **Termination of Contract by mutual agreement for reasons other than default.**

(a) Reasons for termination. The parties may agree to terminate the Contract or a divisible portion thereof if:

(A) The Contracting Agency suspends Work under the Contract for any reason considered to be in the public interest (other than a labor dispute, or any judicial proceeding relating to the Work filed to resolve a labor dispute); and

(B) Circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the Work.

(b) Payment. When a Contract, or any divisible portion thereof, is terminated pursuant to this section (2), the Contracting Agency shall pay the Contractor a reasonable amount of compensation for preparatory Work completed, and for costs and expenses arising out of termination. The Contracting Agency shall also pay for all Work completed, based on the Contract Price. Unless the Work completed is subject to unit or itemized pricing under the Contract, payment shall be calculated based on percent of Contract completed. No claim for loss of anticipated profits will be allowed.

(3) **Public interest termination by Contracting Agency.** A Contracting Agency may include in its Contracts terms detailing the circumstances under which the Contractor shall be entitled to compensation as a matter of right in the event the Contracting Agency unilaterally terminates the Contract for any reason considered by the Contracting Agency to be in the public interest.

(4) **Responsibility for completed Work.** Termination of the Contract or a divisible portion thereof pursuant to this rule shall not relieve either the Contractor or its surety of liability for claims arising out of the Work performed.

(5) **Remedies cumulative.** The Contracting Agency may, at its discretion, avail itself of any or all rights or remedies set forth in these rules, in the Contract, or available at law or in equity.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.650, 279C.326, 279C.655, 279C.660, 279C.665 & 279C.670
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

137-049-0910

Changes to the Work and Contract Amendments

(1) **Definitions for Rule.** As used in this rule:

(a) "**Amendment**" means a Written modification to the terms and conditions of a Public Improvement Contract, other than by Changes to the Work, within the general scope of the original Procurement that requires mutual agreement between the Contracting Agency and the Contractor.

(b) "**Changes to the Work**" means a mutually agreed upon change order, or a construction change directive or other Written order issued by the Contracting Agency or its authorized representatives to the Contractor requiring a change in the Work within the general scope of a Public Improvement Contract and issued under its changes provisions in administering the Contract and, if applicable, adjusting the Contract Price or contract time for the changed work.

(2) **Changes Provisions.** Changes to the Work are anticipated in construction and, accordingly, Contracting Agencies shall include changes provisions in all Public Improvement Contracts that detail the scope of the changes clause, provide pricing mechanisms, authorize the Contracting Agency or its authorized representatives to issue Changes to the Work and provide a procedure for addressing Contractor claims for additional time or compensation. When Changes to the Work are agreed to or issued consistent with the Contract's changes provisions they are not considered to be new Procurements and an exemption from competitive bidding is not required for their issuance by Contracting Agencies.

(3) **Change Order Authority.** Contracting Agencies may establish internal limitations and delegations for authorizing Changes to the Work, including dollar limitations. Dollar limitations on Changes to the Work are not set by these Model Rules, but such changes are limited by the above definition of that term.

(4) **Contract Amendments.** Contract Amendments within the general scope of the original Procurement are not considered to be new Procurements and an exemption from competitive bidding is not required in order to add components or phases of Work specified in or reasonably implied from the Solicitation Document. Amendments to a Public Improvement Contract may be made only when:

(a) They are within the general scope of the original Procurement;

(b) The field of competition and Contractor selection would not likely have been affected by the Contract modification. Factors to be considered in making that determination include similarities in Work, project site, relative dollar values, differences in risk allocation and whether the original Procurement was accomplished through Competitive Bidding, Competitive Proposals, competitive quotes, sole source or Emergency contract;

(c) In the case of a Contract obtained under an Alternative Contracting Method, any additional Work was specified or reasonably implied within the findings supporting the competitive bidding exemption; and

(d) The Amendment is made consistent with applicable legal requirements.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065 & ORS 279C.400(1)
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05

Department of Revenue Chapter 150

Adm. Order No.: REV 8-2004

Filed with Sec. of State: 9-15-2004

Certified to be Effective: 9-15-04

Notice Publication Date: 6-1-04

Rules Adopted: 150-321.706

Subject: To adopt administrative rule defining "owner" for timber taxation purposes.

Rules Coordinator: Xann-Marie Culver—(503) 947-2099

150-321.706

Definition of Owner for Small Tract Forestland Purposes

"Owner" as used in ORS 321.706 to 321.716 means one or more individuals, a public or private corporation, a limited liability company, a limited liability partnership, an unincorporated association, a partnership, an estate, a trust, a government, a governmental instrumentality, or any combination of these or similar entities.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.706
Hist.: REV 8-2004, f. & cert. ef. 9-15-04

Department of Transportation Chapter 731

Adm. Order No.: DOT 4-2004

Filed with Sec. of State: 8-20-2004

Certified to be Effective: 8-20-04

Notice Publication Date: 4-1-04

Rules Adopted: 731-060-0000, 731-060-0010, 731-060-0020, 731-060-0030, 731-060-0040, 731-060-0050, 731-060-0060, 731-060-0070

Subject: ORS 184.631 (Section 18, Chapter 819, Oregon Laws 2003; HB 2661) gives ODOT authority to establish the "Oregon Department of Transportation Commercial Products Research and Development Program." The purpose of the program is to enter into

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partnerships with private and other organizations to research or develop commercial products which “reduce the cost of maintenance and preservation, extend the useful life of the state’s highways or improve highway safety.” These rules establish a process for soliciting and selecting projects to receive funding for research and development of products.

Rules Coordinator: Brenda Trump—(503) 945-5278

731-060-0000

Purpose

ORS 184.631 requires the Department of Transportation to establish a public-private partnership research and development program. The purpose of division 60 rules is to provide procedures, standards, and criteria for establishment and operation of this program, hereby named the Oregon Department of Transportation Commercial Products Research and Development Program.

Stat. Auth.: ORS 184.616, 184.619 & 184.631
Stat. Implemented: ORS 184.631
Hist.: DOT 4-2004, f. & cert. ef. 8-20-04

731-060-0010

Definitions

For the purposes of division 60 rules, the following definitions apply, unless the context clearly indicates otherwise:

(1) “Applicant” means any person, enterprise or organization applying for product research or development assistance from the Oregon Department of Transportation.

(2) “Applied Research or Development Project” means any research or development activity selected and funded by the Oregon Department of Transportation Commercial Products Research and Development Program.

(3) “Board” means Oregon Department of Transportation Commercial Products Research and Development Board.

(4) “Program” means the Oregon Department of Transportation Commercial Products Research and Development Program, which is the public-private partnership research and development program required by ORS 184.631.

(5) “ODOT” means Oregon Department of Transportation.

(6) “Recipient” means any person, enterprise or organization currently receiving assistance from the Program.

(7) “Subject Technology” means the property, product or invention for which research or development assistance is being sought.

Stat. Auth.: ORS 184.616, 184.619 & 184.631
Stat. Implemented: ORS 184.631
Hist.: DOT 4-2004, f. & cert. ef. 8-20-04

731-060-0020

Oregon Department of Transportation Commercial Products Research and Development Board

(1) The Director of the Oregon Department of Transportation will appoint members to the ODOT Commercial Products Research and Development Board, designating one of those appointees as the Board Chair.

(2) The Board will consist of three representatives from the Oregon University System, three representatives from the private sector and one representative from the Oregon Economic and Community Development Department.

(3) The Board is responsible for the following:

(a) Adopting and maintaining a procedures manual for the ongoing operation of the Program and oversight of projects;

(b) Adopting application policies, forms, schedules and procedures;

(c) Making funding recommendations to the ODOT Research Program Manager;

(d) Screening proposals for eligibility;

(e) Making project award recommendations to the ODOT Research Program Manager; and

(f) Recommending to the ODOT Research Program Manager, individuals for appointment to project steering committees.

(4) The Board may appoint one or more advisory committees to assist in the evaluation of project proposals.

Stat. Auth.: ORS 184.616, 184.619 & 184.631
Stat. Implemented: ORS 184.631
Hist.: DOT 4-2004, f. & cert. ef. 8-20-04

731-060-0030

Solicitation

(1) Project applications will be solicited on a cyclical basis, biennially, annually or more frequently, depending on availability of funding.

(2) For each biennium, the frequency of solicitations will be determined by the ODOT Research Program Manager.

(3) A public notice of ODOT’s intent to solicit project applications will be published, specifying a deadline for submissions of applications that is at least 30 days after the public notice appears.

(4) The Board will select a range of public media, sufficient to assure broad knowledge of the Program, through which the public notice will appear.

Stat. Auth.: ORS 184.616, 184.619 & 184.631
Stat. Implemented: ORS 184.631
Hist.: DOT 4-2004, f. & cert. ef. 8-20-04

731-060-0040

Eligibility

(1) To be eligible for funding, through the Program:

(a) The Subject Technology must show the potential to reduce the cost of maintenance and preservation, extend the useful life of the state’s highways or improve highway safety, as specified in ORS 184.631;

(b) The Subject Technology must meet all requirements of state and Federal laws applicable to the source of funds;

(c) The Applicant must agree to abide by all laws and regulations pertaining to the Applied Research or Development Project;

(d) The Applicant must agree to provide to the Board or assist the Board in obtaining information requested by the Board for the purpose of evaluating the Applicant’s abilities to successfully commercialize the Subject Technology; and

(e) To receive assistance, the Applicant must follow the application procedures specified by the Board.

(2) The Board may establish additional criteria for eligibility.

Stat. Auth.: ORS 184.616, 184.619 & 184.631
Stat. Implemented: ORS 184.631
Hist.: DOT 4-2004, f. & cert. ef. 8-20-04

731-060-0050

Selection Criteria

Eligible projects will be evaluated by the Board, based on the potential of the Subject Technology to reduce the cost of maintenance and preservation or extend the useful life of the state’s highways or improve highway safety; and based on the following criteria:

(1) Potential of the Subject Technology to produce future revenue for the state of Oregon;

(2) The technical merit of the proposed research;

(3) The ability of the Applicant to successfully commercialize the Subject Technology;

(4) Proof of ownership or of authority to develop the Subject Technology provided by the Applicant;

(5) The rationale, provided by the Applicant, for use of public rather than private funds; and

(6) Other criteria that may be identified by the Board.

Stat. Auth.: ORS 184.616, 184.619 & 184.631
Stat. Implemented: ORS 184.631
Hist.: DOT 4-2004, f. & cert. ef. 8-20-04

731-060-0060

Project Steering Committee

(1) For each Applied Research or Development Project that is selected to go forward, the ODOT Research Program Manager, based on recommendations of the Board, will appoint members to a Project Steering Committee.

(2) The Project Steering Committee will include the following members:

(a) One representative for the Recipient;

(b) One representative from ODOT;

(c) One representative from the Oregon University System; and

(d) Other members at the discretion of the ODOT Research Program Manager.

(3) The Project Steering Committee will periodically review the progress of the Applied Research or Development Project and report the findings of this review to the ODOT Research Program Manager.

(4) The Recipient must provide quarterly progress reports to the Project Steering Committee on the Applied Research or Development Project receiving ODOT funds.

(5) The Recipient must provide annual progress reports to the Project Steering Committee on the Recipient’s efforts related to the development and marketing of the Subject Technology.

Stat. Auth.: ORS 184.616, 184.619 & 184.631
Stat. Implemented: ORS 184.631
Hist.: DOT 4-2004, f. & cert. ef. 8-20-04

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731-060-0070

Project Approval, Allocation of Resources and Disbursement of Funds

(1) The ODOT Research Program Manager is the sole judge of the suitability and eligibility of an Applied Research or Development Project, and Project approval, allocation of resources and disbursement of funds will be in the sole discretion of the ODOT Research Program Manager.

(2) The ODOT Research Program Manager may suspend approval of new Applied Research or Development Projects, conditional on spending limitations or other circumstances.

(3) If the ODOT Research Program Manager approves funding for an Applied Research or Development Project, ODOT will pay the Recipient, based on the terms of a funding agreement negotiated between the parties.

(4) The Applicant must satisfy the ODOT Research Program Manager that he or she will receive all applicable federal, state and local permits and licenses before the allocation of resources and disbursement of funds.

(5) The Applicant must satisfy the ODOT Research Program Manager that he or she has or will obtain insurance if necessary in the amount and coverage satisfactory to ODOT.

Stat. Auth.: ORS 184.616, 184.619 & 184.631

Stat. Implemented: ORS 184.631

Hist.: DOT 4-2004, f. & cert. ef. 8-20-04

Adm. Order No.: DOT 5-2004

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Rules Adopted: 731-070-0005, 731-070-0010, 731-070-0020, 731-070-0030, 731-070-0040, 731-070-0050, 731-070-0060, 731-070-0070, 731-070-0080, 731-070-0110, 731-070-0120, 731-070-0130, 731-070-0140, 731-070-0160, 731-070-0170, 731-070-0180, 731-070-0190, 731-070-0200, 731-070-0210, 731-070-0220, 731-070-0230, 731-070-0240, 731-070-0250, 731-070-0260, 731-070-0270, 731-070-0280, 731-070-0290, 731-070-0295, 731-070-0300, 731-070-0310, 731-070-0320, 731-070-0330, 731-070-0350, 731-070-0360

Subject: Section 3, Chapter 790, Oregon Laws 2003 (SB772) gives ODOT authority to establish the "Oregon Innovative Partnerships Program," the purpose of which is to develop partnerships with private entities or units of local government to develop an expedited project delivery process and maximize innovation for transportation projects. These rules establish a process for soliciting concepts or proposals or receive and evaluate concepts or proposals for transportation projects from private entities or units of government.

Rules Coordinator: Brenda Trump—(503) 945-5278

731-070-0005

Purpose and Intent of the Oregon Innovative Partnerships Program

(1) The primary purpose of the Oregon Innovative Partnerships Program is to expedite project delivery and maximize innovation in project financing and delivery by encouraging Public-Private Partnerships.

(2) Public-Private Partnerships are formed when all parties benefit and when the outcome of the partnerships exceeds what any of the parties could accomplish on their own.

(3) When properly designed and implemented, Public-Private Partnerships can supplement limited State transportation revenues with a wide range of other sources.

(4) ODOT will operate the Oregon Innovative Partnerships Program in an environment that encourages cooperative partnerships between and among public and private sectors.

(5) While recognizing that other jurisdictions have undertaken Public-Private Partnerships, ODOT intends to be a leader in its approach to fostering cooperation amongst the parties for the public good.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 – 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0010

Definitions for the Oregon Innovative Partnerships Program

As used in OAR 731-070-0010 to 731-070-0360:

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

(2) "Commission" or "OTC" means the Oregon Transportation Commission created by ORS 184.612 and any person or persons authorized or directed by the Commission to take any action or make any decision authorized by these rules on the Commission's behalf.

(3) "Competing Proposal" means a written submission to the Department that a proposer submits in response to a notice issued by the Department under OAR 731-070-0130.

(4) "Conceptual Proposal" means a written submission to the Department satisfying the requirements set forth in OAR 730-070-0060.

(5) "Department" or "ODOT" means the Oregon Department of Transportation created by ORS 184.615.

(6) "Detailed Proposal" means a written submission to the Department satisfying the requirements set forth in OAR 730-070-0070.

(7) "Director" means the Director of Transportation appointed under ORS 184.620 and any person or persons authorized or directed by the Director to take any action or make any decision authorized by these rules on the Director's behalf.

(8) "Major Partner" means, with respect to a limited liability company or joint venture, each firm, business organization or person that has an ownership interest therein in excess of 5%.

(9) "Major Subcontractor" is any subcontractor designated in the proposal to perform 10% or more of the scope of work for a proposed Project.

(10) "Program" or "OIPP" means the Oregon Innovative Partnerships Program established under Oregon Laws 2003, chapter 790, codified at ORS 367.800 to 367.826.

(11) "Public-Private Partnerships" or "PPP" means a nontraditional arrangement between the Department and one or more private or public entities that provides for the implementation of a Transportation Project that may include:

(a) Acceptance of a private contribution to a transportation system project or service in exchange for a public benefit concerning that project or service;

(b) Sharing of resources and the means of providing transportation system projects or services;

(c) Cooperation in researching, developing, and implementing transportation system projects or services;

(d) Use of innovative funding methods; or

(e) Expedited project delivery.

(f) The use of the word "partnership" to describe such an arrangement does not confer on the relationship formed any of the attributes or incidents of a partnership under common law or under ORS chapters 68 and 70.

(12) "Private Contribution" means resources supplied by a private entity to accomplish all or any part of the work on a transportation system project, including funds, financing, income, revenue, cost sharing, technology, staff, materials, equipment, expertise, data, or engineering, construction, or maintenance services, or other items of value.

(13) "Transportation Project" or "Project" has the meaning given that term in ORS 367.802.

(14) Terms not otherwise defined herein shall have the meaning given them in ORS 367.800 to 367.826.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 – 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0020

General Selection Policies

(1) The Department may exercise broad discretion, subject to the ultimate approval of the Commission, in evaluating and selecting proposals in accordance with the criteria stated in OAR 731-070-0010 to 731-070-0360. To conduct a meaningful evaluation of a proposal, ODOT may refine its examination of the proposal so that the features offered by a particular proposal are translated into, or examined in light of, the general criteria identified in section (3) of this rule.

(2) In light of the exemption from the public contracting requirements of ORS chapter 279 contained in ORS 367.806(5), the selection of proposals must be based on considerations that include public need, technical and financial feasibility, transportation efficiency, cost effectiveness, and acceleration of project delivery. The selection process must appreciate economy and potential savings to the public, but proposal selection will be determined on a best-value basis, taking into account the policies described in this rule and the applicable criteria identified in OAR 731-070-0110 and 731-070-0140, rather than on a lowest responsible bidder determination.

(3) In evaluating unsolicited proposals and in selecting projects for which to solicit proposals under OAR 731-070-0240, ODOT will give precedence to proposals and projects that will satisfy one or more of the following policies:

(a) Projects that will address an urgent or state-identified transportation need in a manner that will materially advance the project delivery time-frame in light of current or anticipated levels of funding and existing transportation plans.

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(b) Projects that use primarily rights-of-way and publicly-owned real property that already are owned or under the long-term control of ODOT or other public entities that have authority to put the real property to the use proposed.

(c) Projects for which planning, reliable feasibility determinations, comparable, successful prior projects or case studies demonstrate a strong potential to attract or generate a substantial contribution of non-state or non-tax resources to pay project cost items like capital, operation and maintenance, and provide a reasonable return on that investment in terms of:

- (A) A private partner's investment, if any; and
- (B) Transportation benefits to the public.

(d) Projects for which planning, reliable feasibility determinations, comparable, successful prior projects or case studies demonstrate a low risk of failure (in terms of the completion of infrastructure improvements and the attraction or generation of a substantial contribution of non-state or non-tax resources), practicable means of mitigating the risk of failure, or a high reward-to-risk ratio (in terms both of the benefits to the public and the private partner's investment incentive).

(e) Proposals that identify specific, reliable, confirmable and economically-viable, non-state or non-traditional sources of funding that will be available to supplement or replace state funding or other state resources for the project.

(f) Projects for which there is a demonstration of clear and substantial public support.

(g) Proposals that identify innovative construction approaches that will result in shorter build time, reduced construction cost or improved function in comparison to conventional approaches.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0030

Conflict of Interest and Improper Proposer Conduct

(1) By submitting a proposal, the proposer certifies that the proposer, to the best of its knowledge, is not aware of any information bearing on the existence of any potential Organizational Conflict of Interest. If the proposer is aware of information bearing on whether a potential Organizational Conflict of Interest may exist, the proposer shall provide, as an exception to the certification, a disclosure statement describing this information, in a form suitable to ODOT, as part of its proposal. For purposes of this section, "Organizational Conflict of Interest" means that because of other activities or relationships with other persons, a proposer, a principal officer of a proposer, or a prime contractor who is proposed to perform construction or design work on a proposed Transportation Project, is unable or potentially unable to render impartial assistance or advice to ODOT, or the person's objectivity in performing the proposed contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

(2) Warranty Against Contingent Fees. By submitting a proposal, the proposer warrants that the proposer, except for a bona fide employee or agency working solely for the proposer:

(a) Has not employed or retained any person or agency to solicit or obtain the contract that might result from submission of the proposal; and

(b) Has not paid upon agreement or understanding to any person or agency employed or retained to solicit or obtain a Transportation Project agreement any contingent fee. For breach or violation of this warranty, the Department shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(c) As used in this rule:

(A) "Bona fide agency" means an established commercial or selling agency, maintained by a proposer for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain federal or state contracts nor holds itself out as being able to obtain any federal or state contract or contracts through improper influence.

(B) "Bona fide employee" means a person or firm employed by a proposer and subject to the proposer's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain federal or state contracts nor holds itself out as being able to obtain any federal or state contract or contracts through improper influence.

(C) "Contingent fee" means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a federal or state contract.

(D) "Improper influence" means any influence that induces or intends to induce a federal or state officer or employee to give consideration or to

act regarding a federal or state contract on any basis other than the merits of the matter.

(3) By submitting a proposal, the proposer certifies, to the best of its knowledge and belief, that on or after December 23, 1989:

(a) No federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement;

(b) If any funds other than federal appropriated funds (including profit or fee received under a covered federal transaction) have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with its proposal, the proposer shall complete and submit, with its proposal, OMB standard form LLL, Disclosure of Lobbying Activities, to the Department; and

(c) The proposer shall include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(4) Certification - Debarment, Suspension, Proposed Debarment and Responsibility Factors. By submitting a proposal, the proposer certifies, to the best of its knowledge and belief, that neither the proposer, a Major Partner, a Major Subcontractor, nor any principal officer of a proposer, Major Partner or Major Subcontractor, who is proposed to perform construction or design work on a proposed Transportation Project:

(a) Is presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency or agency of the State of Oregon;

(b) Has, within a three-year period preceding the submission of its proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of bids or proposals; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property;

(c) Is presently indicted for, or otherwise criminally or civilly charged by a governmental entity with the commission of any of the offenses enumerated in subsection (b) of this section; or

(d) Has had, within a three-year period preceding the submission of its proposal, one or more contracts terminated for default by any federal, state or local government agency.

(5) For the purposes of this rule, a "principal officer of a proposer, Major Partner or Major Subcontractor," means an officer, director, owner, and partner and any person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(6) In addition to requiring the certification of compliance with the foregoing provisions of this rule, in any Transportation Project that involves funding provided by or through the federal government, ODOT shall be entitled to require, as a requirement of any contract for a Transportation Project with a proposer, that proposer make such additional certifications, warranties or commitments as may be required by the laws, rules, regulations or policies that govern the funding source or which are conditions of the receipt of such funding.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0040

Protection of ODOT from Proposer "Monopolization" of Site Claims

(1) By submitting a proposal, a proposer thereby waives and relinquishes any claim, right in or expectation that the proposer may assert against the State of Oregon, the Commission, ODOT, or their members, officers and employees, that the proposer may occupy, use, profit from, or otherwise exercise any prerogative with respect to any route, corridor, right of way or public property identified in the proposal as being involved in or related to the proposed Transportation Project. A proposer may obtain no right to claim exclusivity or the right of use with respect to any such route, corridor, right of way or public property by virtue of having submitted a proposal that proposes to use or otherwise involve or affect it.

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(2) By submitting a proposal, a proposer thereby waives and relinquishes, as against the State of Oregon, the Commission, ODOT, and their members, officers and employees, any right, claim, copyright, proprietary interest or other right in any proposed location, site, route, corridor, right of way or alignment or transportation mode or configuration identified in the proposal as being involved in or related to the proposed Transportation Project. This waiver does not apply, however, to a proposer's rights in any documents, designs and other information and records that constitute "sensitive business, commercial or financial information that is not customarily provided to business competitors" as specified in OAR 731-070-0280 and 731-070-0290.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0050

Submission of Unsolicited Conceptual Proposal

(1) Unless prequalification is required under OAR 731-070-0350, any private entity or unit of government may submit an unsolicited Conceptual Proposal for a transportation project to ODOT for consideration under the OIPP.

(2)(a) A proposal review fee in the amount prescribed by OAR 731-070-0055 must accompany any unsolicited Conceptual Proposal submitted by a private entity or unit of government.

(b) A proposal review fee in the amount prescribed by OAR 731-070-0055 must accompany any unsolicited Detailed Proposal submitted by a private entity or unit of government.

(3) The proposer shall submit 20 copies, individually identified, of any unsolicited Conceptual Proposal in addition to the proposal bearing the signature of the authorized representative. The original proposal, required copies and processing fee shall be delivered to the Director or his designee.

(4) ODOT will consider an unsolicited proposal only if the proposal:

(a) Is unique or innovative in comparison with and is not substantially duplicative of other transportation system projects included in the state transportation improvement program within the Department or, if it is similar to a project in the state transportation improvement program, the project has not been fully funded by ODOT or any other public entity as of the date the proposal is submitted, or the proposal offers an opportunity to materially advance or accelerate the implementation of the project. Unique or innovative features which may be considered by ODOT in evaluating such a proposal may include but are not limited to unique or innovative financing, construction, design, schedule or other project components as compared with other projects or as otherwise defined by ODOT rules or regulations; and

(b) Includes all information required by and is presented in the format set out in OAR 731-070-0060. Such information shall include a list of any proprietary information included in the proposal that the proposer considers protected trade secrets or other information exempted from disclosure under ORS 367.803(5) and (6) and OAR 731-070-0280 and 0290.

(5) ODOT will not consider an unsolicited proposal for a project involving another state or local government unit of another state unless ODOT and the appropriate representative of the other state or of the local government unit of the other state have entered into an agreement that permits the acceptance of unsolicited proposals for such a project.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0060

Contents and Format of Conceptual Proposals

(1) An unsolicited or competing Conceptual Proposal shall include the following information, separated by tabs as herein described:

(a) TAB 1: Qualifications and Experience:

(A) Identify the legal structure of the private entity or consortium of private entities or of private and public entities (the "Team") submitting the proposal. Identify the organizational structure of the Team for the Project, the Team's management approach and how each Major Partner and Major Subcontractor identified as being a part of the Team as of the date of submission of the proposal fits into the overall Team.

(B) Describe the experience of each private entity involved in the proposed Project. Describe the length of time in business, business experience, public sector transportation experience, PPP experience, development experience, design-build experience and other similarly sized engagements of each Major Partner and Major Subcontractor. The lead entity must be identified.

(C) Provide the names, addresses and telephone numbers of persons within the Team who may be contacted for further information.

(D) Provide financial information regarding the private entity or consortium and each Major Partner demonstrating their ability to perform the proposed Project.

(E) If the Proposer is a limited liability company, all members and managers, if any (as those terms are defined in ORS 63.001), as well as any assignee of an ownership interest, regardless of whether the assignee has also acquired the voting and other rights appurtenant to membership.

(F) If the Proposer is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

(G) If the Proposer is an association other than a limited liability company, all members, officers and directors of the association.

(H) If the Proposer is a partnership or joint venture, all of the general partners, limited partners or joint venturers.

(I) On the written request of an entity that previously has been prequalified under OAR 731-070-00350 or 731-070-0360, ODOT may waive any requirement of this subsection (a) for which ODOT determines that the entity has provided sufficient information in the prequalification process.

(b) TAB 2: Project Characteristics:

(A) Provide a topographical map (1:2,000 or other appropriate scale) depicting the location of the proposed project.

(B) Provide a description of the Transportation Project or Projects, including all proposed interconnections with other existing transportation facilities or known publicly identified projects.

(C) Describe the Project in sufficient detail so the type and intent of the Project, the general location of the Project, and the communities that may be affected by the Project are clearly identified. Describe the assumptions used in developing the Project.

(D) List the critical factors for the Project's success.

(E) If the proposed Project does not conform with the state and local transportation plans or local comprehensive plans, outline the proposer's approach for securing the Project's conformity with state and local transportation plans and local comprehensive plans or indicate the steps required for acceptance into such plans.

(F) When a proposed Project is sited, in whole or in part, within the jurisdiction of a metropolitan planning organization or area commission on transportation, identify applicable regional and local approvals required for the project.

(G) Provide an explanation of how the proposed transportation project would impact local transportation plans of each affected locality.

(H) Provide a list of public transportation facilities and major apparent public utility facilities that will be crossed or affected by the Transportation Project and a statement of the proposer's plans to accommodate such facilities.

(I) Describe the role the proposer anticipates ODOT will have in the development, construction, operation, maintenance, financing, or any other aspect of the Transportation Project.

(c) TAB 3: Project Financing:

(A) Include a list and discussion of assumptions (user fees or toll rates, and usage of the facility) underlying all major elements of the proposed financing plan for the Project.

(B) Identify the probable risk factors relating to the proposed Project financing and methods for dealing with these factors.

(C) Identify any local, state or federal resources that the proposer contemplates requesting for the Project. Describe the total commitment (financial, services, property, etc.), if any, expected from governmental sources; the timing of any anticipated commitment; and its impact on project delivery.

(D) Identify any aspect of the financial model for the Transportation Project that implicates or potentially implicates the restrictions on use of highway-related revenues under Article IX, section 3a of the Oregon Constitution, and explain how the financial model avoids conflicting with those restrictions.

(E) Provide a conceptual estimate of the total cost of the Transportation Project.

(d) TAB 4: Public Support/Project Benefit/Compatibility:

(A) Describe the significant benefits of the Project to the community, region or state and identify who will benefit from the Project and how they will benefit. Identify any state benefits resulting from the Project including the achievement of state transportation policies or other state goals.

(B) Describe significant benefits of the Project to the state's economic condition. Discuss whether the Project is critical to attracting or maintaining competitive industries and businesses to the state or region.

(C) Identify any known or anticipated government support or opposition, or general public support or opposition, for the Project.

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(D) Identify all major environmental, social and land use issues that the proposer knows or anticipates must be addressed.

(2) All pages of a Conceptual Proposal shall be numbered. Each copy of the proposal will be bound or otherwise contained in a single volume where practicable. All documentation submitted with the proposal will be contained in that single volume.

(3) A Conceptual Proposal submitted by a Private Entity must be signed by an authorized representative of the Private Entity submitting the unsolicited Conceptual Proposal.

(4) The Proposer shall include a list of any proprietary information included in the proposal which the proposer considers protected trade secrets or other information exempted from disclosure under ORS 367.804 and OAR 731-070-0280 and 0290.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 – 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0070

Contents and Format of Detailed Proposal

(1) A Detailed Proposal shall include the following information, unless waived by the Department, separated by tabs as herein described:

(a) TAB 1: Qualifications and Experience.

(A) Identify the legal structure of the private entity or consortium of private entities or of private and public entities (the “Team”) submitting the proposal. Identify the organizational structure of the Team for the Project, the Team’s management approach and how each Major Partner and Major Subcontractor identified as being a part of the Team as of the date of submission of the proposal fits into the overall Team.

(B) Describe the experience of each private entity involved in the proposed Project. Describe the length of time in business, business experience, public sector transportation experience, PPP experience, development experience, design-build experience and other similarly sized engagements of each Major Partner and Major Subcontractor. The lead entity must be identified.

(C) Provide the names, addresses and telephone numbers of persons within the Team who may be contacted for further information.

(D) Include the address, telephone number, and the name of a specific contact person at a public entity for which the private entity or the Team or the primary members of the Team have completed a development project, public-private partnership project or design-build project.

(E) Include the resumes for those managerial persons within the Team that will likely be associated in a significant way with the Project development and implementation.

(F) Provide financial information regarding the private entity or Team and each Major Partner that includes, if available, the most recent independently audited financial statement of the private entity or Team and of each Major Partner, and which demonstrates their ability to perform the work and Project as set forth in the Detailed Proposal, including ability to obtain appropriate payment and performance bonds.

(G) Submit executed disclosure forms, prescribed by ODOT, for the Team, each Major Partner and any Major Subcontractor.

(b) TAB 2: Project Characteristics:

(A) Provide a detailed description of the Transportation Project or Projects, including all proposed interconnections with other existing transportation facilities or known publicly identified projects. Describe the Project in sufficient detail so the type and intent of the Project, the general location of the Project, and the communities that may be affected by the Project are clearly identified. Describe the assumptions used in developing the Project.

(B) Identify any significant local, state or federal services or practical assistance that the proposer contemplates requesting for the Project. In particular, identify and describe any significant services that will need to be performed by the Department such as right-of-way acquisition or operation and maintenance of the completed Project.

(C) Include a preliminary list of all significant federal, state, regional and local permits and approvals required for the Project. Identify which, if any, permits or approvals are planned to be obtained by ODOT.

(D) List the critical factors for the Project’s success.

(E) Identify the proposed preliminary schedule for implementation of the Project.

(F) Describe the assumptions related to ownership, law enforcement and operation of the Project and any facility that is part of the Project.

(G) Describe the payment and performance bonds and guarantees that the Team will provide for the Project.

(H) Identify any public improvements that will be part of the proposed Transportation Project that will constitute “public works” under ORS

279.348, the workers on which must be paid in accordance with Oregon’s Prevailing Rate of Wage Law, ORS 279.348 to 279.375, and any public improvements the workers on which must be paid in accordance with the federal Davis-Bacon Act, 40 USC sections 3141 to 3148.

(c) TAB 3: Project Financing.

(A) Provide a projected budget for the project based on proposer’s prior experience on other projects or other cost projection factors and information.

(B) Include a list and discussion of assumptions (e.g., user fees, toll rates and usage of the facility) underlying all major elements of the plan for the Project.

(C) Identify the proposed risk factors relating to the proposed Project financing and methods for dealing with these factors.

(D) Identify any significant local, state or federal resources that the proposer contemplates requesting for the Project. Describe the total commitment (financial, services, property, etc.), if any, expected from governmental sources; the timing of any anticipated commitment; and its impact on project delivery.

(E) Identify any aspect of the financial model for the Transportation Project that implicates or potentially implicates restrictions on the use of highway-related revenues under Article IX, section 3a of the Oregon Constitution, and explain how the financial model avoids conflicting with those restrictions.

(F) Identify the form of the Private Contribution and the members of the Team that will make the Private Contribution and the proposed compensation for such Private Contribution.

(G) Provide an explanation of how funds for the Transportation Project will be segregated, accounted for and expended in a manner that ensures that any moneys from the state highway fund will be expended exclusively for the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in Oregon, as required by Article IX, section 3a(1), of the Oregon Constitution.

(H) Identify, to the extent possible, proposed financing team members, including banks, investment banks, equity investors, credit enhancement providers, bond trustees and legal counsel to the same.

(d) TAB 4: Public Support/Project Benefit/Compatibility

(A) Identify who will benefit from the Project, how they will benefit and how the Project will benefit the overall transportation system.

(B) Identify any anticipated government support or opposition, or general public support or opposition, for the Project.

(C) Explain the strategy and plans that will be carried out to involve and inform the agencies and the public in areas affected by the Project.

(D) Describe the significant social and economic benefits of the Project to the community, region or state and identify who will benefit from the Project and how they will benefit. Identify any state benefits resulting from the Project including the achievement of state transportation policies or other state goals.

(f) TAB 5: Special Deliverables.

(A) Provide a statement setting out the plan for securing all necessary real property, including proposed timeline for any necessary acquisitions.

(B) Provide proposed design, construction and completion guarantees and warranties.

(C) Include traffic studies and/or forecasts and related materials that establish project revenue assumptions, including, if any, user fees or toll rates, and usage of the facility.

(D) Provide such additional material and information as ODOT may reasonably request.

(2) All pages of a proposal shall be numbered. Each copy of the proposal will be bound or otherwise contained in a single volume where practicable. All documentation submitted with the proposal will be contained in that single volume.

(3) A proposal submitted by a Private Entity must be signed by an authorized representative of the Private Entity submitting the proposal.

(4) The Proposer shall include a list of any proprietary information included in the proposal which the proposer considers protected trade secrets or other information exempted from disclosure under ORS 367.804 and OAR 731-070-0280 and 731-070-0290.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 – 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0080

Additional Proposer Organizational Disclosure Requirements

(1) In addition to the disclosure requirements of OAR 731-070-0060(1)(a) and 0070(1)(a), the Director or the Director’s designee may

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impose, after the submission of a proposal, any other special disclosure requirements the Director determines to be reasonably necessary to evaluate the expertise, experience, financial backing, integrity, ownership and control of any proposer.

(2) All proposers must provide all the information required by this rule and the Director. All proposers and Key Persons must complete and submit the required disclosure form within the deadlines set by the director or the director's designee. All proposers and Key Persons must provide any documents required in the disclosure process, or other documents as determined by the Director, or their proposals may be rejected by ODOT.

(3) ODOT may reject, or require the supplementation of, a proposal if the proposer has not provided all information required in the disclosure form or if any information provided is not accurate, current or truthful. The failure or refusal of any proposer to properly execute, fully complete, or accurately report any information required by the required disclosure shall be sufficient grounds for rejection of the proposal.

(4) Any change in the status of the proposer, in the identity of any of the Key Persons, or the addition of any Key Persons must be reported to the Department within thirty (30) days of the known change, and those whose status has changed or who have been added as Key Persons will be required to submit the required disclosure information. For purposes of this section, a "change in the status of a proposer" means a reorganization of the business structure or corporate structure of the proposer or a Major Partner, or a change in ownership of the proposer or a Major Partner amounting to a transfer of over twenty percent of the entity's ownership.

(5) The burden of satisfying ODOT's disclosure requirements, both in terms of producing the disclosures and assuring their accuracy and completeness, resides with each proposer.

(6) Each proposer, by submitting a proposal, thereby accepts all risk of adverse public notice, damages, financial loss, criticism or embarrassment that may result from any disclosure or publication of any material or information required or requested by the department in connection with the proposer's submission of a proposal. In submitting a proposal, the proposer expressly waives, on behalf of itself, its partners, joint venturers, officers, employees and agents, any claim against the director, the State of Oregon, the Oregon Transportation Commission, ODOT, and their officers and employees, for any damages that may arise therefrom.

(7) An Agency that submits a proposal may, prior to submission, request ODOT to waive the disclosure requirements of this rule with respect to the corporate public entity and its officers. However, if the Agency proposes to enter into or establish a partnership or joint venture with a private party to perform any substantial portion of the proposed Project (as opposed to the engagement of only a prime contractor or sub-contractors), then disclosure of the private party must be made as if the private party is a proposer, in accordance with this rule.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0110

Initial Review of Unsolicited Conceptual Proposals

(1) An unsolicited Conceptual Proposal submitted under OAR 731-070-0050 will be reviewed by an Initial Review Committee (IRC), which shall be appointed by the Director from Department personnel.

(2) The IRC will assess:

- (a) Whether the proposal is complete;
- (b) Whether the proposer is qualified;
- (c) Whether the proposal appears to satisfy the requirements of OAR 731-070-0060;

(d) Whether the project as proposed appears to be technically and financially feasible;

(e) Whether the project as proposed appears to have the potential of enhancing the state transportation system; and

(f) Whether the project as proposed appears to be in the public interest.

(3) The IRC will report the results of its assessment to the Director. Based on this assessment, the Director will determine whether the proposal satisfies the requirements of section (2) of this rule. If the Director determines that the proposal satisfies the requirements set out in section (2) of this rule, the Director will forward a recommendation concerning the proposal to the Commission for preliminary review and approval. The recommendation will not include sensitive business, commercial or financial information or trade secrets as described in 731-070-0290.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0120

Commission Preliminary Review of Unsolicited Conceptual Proposals

At the first regular meeting of the Oregon Transportation Commission following a determination by the Director under OAR 731-070-0110 that an unsolicited Conceptual Proposal merits further review, the Commission will review the recommendation and approve or disapprove the proposal for further evaluation and action by ODOT under ORS 367.800 to 367.826 and OAR chapter 731, division 70.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0130

Competing Proposals

(1) Within 30 days of the Commission's preliminary approval of an unsolicited Conceptual Proposal under OAR 731-070-0120, ODOT shall provide public notice of the proposed project. This notice shall:

(a) Be published in a newspaper of general circulation and upon such electronic website providing for general public access as ODOT may develop for such purpose;

(b) Be provided to any county, city, metropolitan service district, or transportation district in which the project will be located;

(c) Be provided to any person or entity that expresses in writing to ODOT an interest in the subject matter of the unsolicited Conceptual Proposal and to any member of the Legislature whose House or Senate district would be affected by such proposal;

(d) Outline the general nature and scope of the unsolicited Conceptual Proposal, including the location of the transportation project and the work to be performed on the project; and

(e) Specify the address to which any competing Conceptual Proposal must be submitted.

(2) Any entity that elects to submit a competing proposal for the proposed project shall submit a written letter of intent to do so not later than 30 calendar days after ODOT's initial publication of notice. Any letter of intent received by ODOT after the expiration of the 30-day period shall not be valid and any competing proposal submitted thereafter by a private or governmental entity that has not submitted a timely letter of intent shall not be considered by ODOT.

(3) An entity that has submitted a timely letter of intent must submit its competing proposal to ODOT not later than 90 calendar days after ODOT's initial publication of notice under section (1) of this rule, or such other time as ODOT states in the notice. The competing proposal must:

(a) Be signed by an authorized representative of the proposer;

(b) Be accompanied by the processing fee for Conceptual Proposals required under OAR 731-070-0055(1); and

(c) Include the information and be organized in the manner required of an unsolicited Conceptual Proposal under OAR 731-070-0060.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0140

Evaluation of Unsolicited and Competing Conceptual Proposals

(1) **Evaluation Panel.** An Evaluation Panel shall be appointed by the Director and shall consist of not fewer than five nor more than nine members, at least three of whom shall be employees of the Department.

(2) **Evaluation Panel Review.** After expiration of the time to submit competing Conceptual Proposals to an unsolicited Conceptual Proposal, the Evaluation Panel will review the competing proposals to determine whether they satisfy the requirements of OAR 731-070-0050 and qualify for full evaluation.

(3) **Competing or Non-Competing Proposals.** As part of its initial review of Competing Proposals under section (2) of this rule, the Evaluation Panel shall make a preliminary assessment whether any of the Competing Proposals differ from the original unsolicited Conceptual Proposal in such a significant and meaningful manner that they should be treated as an original unsolicited Conceptual Proposal. If the Evaluation Panel believes that a proposal submitted as a competing proposal should be treated as an original unsolicited Conceptual Proposal and that it satisfies the requirements of OAR 731-070-0050, the Evaluation Panel shall forward the proposal to the Director, who shall determine whether the proposal should be submitted to the Commission for preliminary review and approval under OAR 731-070-0120, and the proposal shall thereafter be processed under these rules in the same manner as an unsolicited Conceptual Proposal.

(4) **Proposer Presentations.** At any time during this evaluation process, the Evaluation Panel may request proposers to make presentations

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to the Panel. Proposers shall be afforded not less than ten (10) business days following written notification from the Panel to prepare such presentations. The format of these presentations will include a formal presentation by the proposer, followed by any questions the Evaluation Panel may have pertaining to the project proposal or the presentation. These meetings will allow the Evaluation Panel to seek clarification of project elements and complete deliverable requirements, and provide proposers with the opportunity to further explain their proposed projects. If there is an issue to which the proposer is unable to respond during the formal presentation, the Evaluation Panel may, at its discretion, grant the proposer a reasonable period of time in which to submit a written response.

(5) **Evaluation Factors.** The Evaluation Panel shall assess the original unsolicited Conceptual Proposal and qualifying Competing Proposals based on the following factors:

(a) **Qualifications and Experience.** Does the proposer propose a team that is qualified, managed, and structured in a manner that will enable the team to complete the proposed project?

(A) **Experience with Similar Infrastructure Projects.** Have members of this team previously worked together or in a substantially similar consortium or partnership arrangement constructing, improving or managing transportation infrastructure? Has the lead firm managed, or any of the member firms worked on, a similar privatization project?

(B) **Demonstration of Ability to Perform Work.** Does the team possess the necessary financial, staffing, equipment, and technical resources to successfully complete the project? Do the team and/or member firms have competing financial or workforce commitments that may inhibit success and follow-through on this project?

(C) **Leadership Structure.** Is one firm designated as lead on the project? Does the organization of the team indicate a well thought out approach to managing the project? Is there an agreement/document in place between members?

(D) **Project Manager's Experience.** Is a Project Manager identified, and does this person work for the principal firm? If not, is there a clear definition of the role and responsibility of the Project Manager relative to the member firms? Does the Project Manager have experience leading this type and magnitude of project?

(E) **Management Approach.** Have the primary functions and responsibilities of the management team been identified? Have the members of the team developed an approach to facilitate communication among the project participants? Has the firm adequately described its approach to communicating with and meeting the expectations of the state?

(F) **Financial Condition.** Is the financial information submitted on the firms sufficient to determine the firms' capability to fulfill its obligations described in the project proposal, and is that capability demonstrated by the submitted information?

(G) **Project Ownership.** Does the proposal identify the proposed ownership arrangements for each phase of the project and clearly state assumptions on legal liabilities and responsibilities during each phase of the project?

(H) **Participation of Small Businesses and Businesses Owned by Women and Minorities.** What is the level of commitment by the proposers to use small, minority-, and women-owned business enterprises in developing and implementing the project?

(I) **Competitive Subcontracting.** To what extent have adequate and transparent procurement policies been adopted by the proposer to maximize opportunities for competitive procurement of work, services, materials and supplies that the proposer will outsource?

(b) **Project Characteristics.** Is the proposed transportation facility technically feasible?

(A) **Project Definition.** Is the project described in sufficient detail to determine the type and size of the project, the location, all proposed interconnections with other transportation facilities, the communities that may be affected, and alternatives (e.g. alignments) that may need to be evaluated?

(B) **Proposed Project Schedule.** Is the time frame for project completion clearly outlined? Is the proposed schedule reasonable given the scope and complexity of the project?

(C) **Operation.** Does the proposer present a reasonable statement setting forth plans for operation of the project or facilities that are included in the project?

(D) **Technology.** Is the proposal based on proven technology? What is the degree of technical innovation associated with the proposal? Will the knowledge or technology gained from the project benefit other areas of the state or nation? Does the technology proposed maximize interoperability

with relevant local and statewide transportation technology? Can the proposed project upgrade relevant local technology?

(E) **Conforms to Laws, Regulations, and Standards.** Is the proposed project consistent with applicable state and federal statutes and regulations, or reasonably anticipated modifications of state or federal statutes, regulations or standards? Does the proposed design meet applicable state and federal standards?

(F) **Federal Permits.** Is the project outside the purview of federal oversight, or will it require some level of federal involvement due to its location on the National Highway System or Federal Interstate System or because federal permits are required? Does the Proposal identify the primary federal permits and agencies that will be involved in review and oversight of the project?

(G) **Meets/Exceeds Environmental Standards.** Is the proposed project consistent with applicable state and federal environmental statutes and regulations? Does the proposed design meet applicable state environmental standards? Does the proposal adequately address air quality issues?

(H) **State and Local Permits.** Does the proposal list the required permits and provide a schedule for obtaining them? Are there known or foreseeable negative impacts arising from the project? If so, is there a mitigation plan identified? Are alternatives to standards or regulations needed to avoid those impacts that cannot be mitigated?

(I) **Right of Way.** Does the proposal set forth a method or plan to secure all property interests required for the transportation project?

(J) **Maintenance.** Does the proposer have a plan to maintain any facilities that are part of the proposed transportation project in conformance with department standards? Does the proposal clearly define assumptions or responsibilities during the operational phase including law enforcement, toll collection and maintenance? Under the proposal, will maintenance and operation of any new facilities be consistent with standards applied throughout the highway system and use the same work-forces and methods?

(c) **Project Financing.** Has the proposer provided a financial plan which will allow for access to the necessary capital to make a substantial contribution of non-state, private-sector, or other innovative financing resources to the financing of the facility or project?

(A) **Financing.** Did the proposer demonstrate evidence of its experience, ability and commitment to provide a sufficient private-sector contribution or other innovative financing contribution of funds or resources to the project as well as the ability to obtain the other necessary financing?

(B) **Financial Plan.** Does the financial plan demonstrate a reasonable basis for funding project development and operations? Are the assumptions on which the plan is based well defined and reasonable in nature? Are the plan's risk factors identified and dealt with sufficiently? Are the planned sources of funding and financing realistic? Is the proposer prepared to make a financial contribution to the project? Does the proposer adequately identify sources of non-state funding that it anticipates including in the project financing, and does the proposer provide adequate assurance of the availability of those funds and the reliability of the funding sources?

(C) **Estimated Cost.** Is the estimated cost of the project reasonable in relation to the cost of similar projects?

(D) **Life Cycle Cost Analysis.** Does the proposal include an appropriately conducted analysis of projected rate of return and life-cycle cost estimate of the proposed project and/or facility?

(E) **Business Objective.** Does the proposer clearly articulate its reasons for pursuing this project? Do its assumptions appear reasonable?

(d) **Public Support.** Has the proposer demonstrated sufficient public support for the proposed project or proposed a reasonable plan for garnering that support?

(A) **Community Benefits.** Will this project bring a significant transportation and economic benefit to the community, the region, and/or the state? Are there ancillary benefits to the communities because of the project?

(B) **Community Support.** What is the extent of known support or opposition for the project? Does the project proposal demonstrate an understanding of the national and regional transportation issues and needs, as well as the impacts this project may have on those needs? Is there a demonstrated ability to work with the community? Have affected local jurisdictions expressed support for the project?

(C) **Public Involvement Strategy.** What strategies are proposed to involve local and state elected officials in developing this project? What level of community involvement is contemplated for the project? Is there a clear strategy for informing and educating the public and for obtaining community input throughout the development and life of the project?

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(e) **Project Compatibility.** Is the proposed project compatible with, or can it be made compatible with state and local comprehensive transportation plans?

(A) **Compatibility with the Existing Transportation System.** Does this project propose improvements that are compatible with, or that can be made compatible with, the present and planned transportation system? Does the project provide continuity with existing and planned state and local facilities?

(B) **Fulfills Policies and Goals.** Does the proposed project help achieve performance, safety, mobility or transportation demand management goals? Does the project improve connections among the transportation modes?

(C) **Enhance Community-Wide Transportation System.** Has the proposer identified the specific way in which the project benefits affected community transportation systems? Does this project enhance adjacent transportation facilities?

(D) **Conformity with Local, Regional and State Transportation Plans.** Does the project conform with, or can it achieve conformity with, city and county comprehensive plans and regional transportation plans? Does the project conform with, or can it achieve conformity with, plans developed by the Oregon Transportation Commission under ORS 184.618 and any applicable regional transportation plans or local transportation programs? If not, are the steps proposed under OAR 731-070-0060(1)(b) to achieve conformity with such plans adequate and appropriate to provide a high likelihood that the project and the applicable plans can be brought into conformity?

(E) **Economic Development.** Will the proposed project enhance the state's economic development efforts? Is the project critical to attracting or maintaining competitive industries and businesses to the region, consistent with stated objectives?

(6) **Factors for Proposals that Include Tolling.** If the project financing component of a proposal includes a plan to impose tolls, the Evaluation Panel shall specifically consider:

(a) The opinions and interests of units of government encompassing or adjacent to the path of the proposed tollway project in having the tollway installed;

(b) The probable impact of the proposed tollway project on local environmental, aesthetic and economic conditions and on the economy of the state in general;

(c) The extent to which funding other than state funding is available for the proposed tollway project and the extent to which resources other than tolls would be required to be established and/or maintained as necessary security to support such a financing.

(d) The likelihood that the estimated use of the tollway project will provide sufficient revenues to independently finance the costs related to the construction and future maintenance, repair and reconstruction of the tollway project, including the repayment of any loans to be made from moneys in the State Tollway Account or other accounts;

(e) With respect to tollway projects, any portion of which will be financed with state funds or department loans or grants:

(A) The relative importance of the proposed tollway project compared to other proposed tollways; and

(B) Traffic congestion and economic conditions in the communities that will be affected by competing tollway projects; and

(f) The effects of tollway implementation on other major highways in the state system and on community and local street traffic.

(7) **Evaluation Panel Recommendation.**

(a) For any Conceptual Proposal that receives a favorable evaluation, the Evaluation Panel will prepare a written determination, based on facts and circumstances presented in the proposal or known to ODOT, that the proposal merits development into a Detailed Proposal.

(b) In its written determination regarding any Conceptual Proposal, the Evaluation Panel may specify conditions that it recommends the proposer be required to satisfy before proceeding to develop a Detailed Proposal. By way of example, such conditions may include, but are not limited to:

(A) Requiring the proposer to provide additional information or clarification concerning elements or parts of its Conceptual Proposal;

(B) Requiring the proposer to develop and submit additional information confirming the technical feasibility of the proposed Transportation Project;

(C) Requiring the proposer to develop and submit additional information confirming that the proposed Transportation Project complies with or can be brought into compliance with relevant local and state transportation plans, restrictions on property use, and environmental laws, or that the

Transportation Project and the applicable plans, restrictions and environmental laws can otherwise be brought into conformity;

(D) Requiring the proposer to commit in writing, to ODOT, to undertake good faith efforts to modify or adjust in specific ways, in the Detailed Proposal, the Transportation Project that was the subject of the Conceptual Proposal to incorporate steps, characteristics or features that ODOT identifies as necessary or desirable to enhance the feasibility, public acceptance, transportation efficiency, or economy in execution or operation, of the Transportation Project;

(E) Otherwise requiring the proposer to develop and present revisions to, or alternatives within, the Detailed Proposal that will permit ODOT to obtain best value based on the requirements and evaluation criteria set forth in the notice or request for Conceptual Proposals and based on knowledge obtained by ODOT by virtue of its review and evaluation of the Conceptual Proposals; and

(F) Requiring the proposer to enter into an interim agreement, on terms satisfactory to the proposer and ODOT, under which proposer will provide services to ODOT in connection with the development of the Detailed Proposal or further development of the project, including assistance to ODOT in obtaining any necessary regulatory approvals.

(c) The Evaluation Panel will report its assessments and recommendations to the Director. The Director will review the Evaluation Panel's assessments and recommendations and determine whether to forward any of them to the Commission.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 – 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0160

Use of a Process that Permits ODOT Feedback and Ability of Proponents to Supplement/Refine Proposals after Initial Submission; ODOT Authority to Elect Competitive Negotiations.

(1) **For Original Unsolicited Proposals:** ODOT reserves the right, to be exercised in its sole and absolute discretion, to require or to permit proposers to submit, at any time, revisions, clarifications to, or supplements of their previously submitted proposals. ODOT may, in the exercise of this authority, require proposers to add features, concepts, elements, information or explanations that were not included in their initial proposals, and may require them to delete features, concepts, elements, information or explanations that were included in their initial proposals. A proposer will not be legally bound to accept a request to add to or delete from a proposal any feature, concept, element or information, but its refusal to do so in response to a request by ODOT shall constitute sufficient grounds for ODOT to elect to terminate consideration of its proposal.

(2) **For Competing Proposals:**

(a) After ODOT's opening and review of competing proposals, ODOT may issue or electronically post an addendum to the request for competing proposals that:

(A) Requires proposers to address or add physical features or elements, and information or explanations that were not included in their initial proposals; or

(B) Requires proposers to delete physical features or elements that were included in their initial proposals; or

(b) ODOT will send any such addendum that it issues by a method other than electronic posting to all proposers who are eligible to compete under the particular competing proposal process.

(c) ODOT will issue or electronically post an addendum issued under this section. The addendum will contain a deadline by which the proposers must submit to ODOT any additions to, modifications of or deletions from their proposals.

(d) A proposer will not be legally bound to accept a request to add to or delete from a proposal any feature, element or information or explanation, but its refusal to do so in response to an addendum issued by ODOT shall constitute sufficient grounds for ODOT to elect to terminate consideration of the proposer's competitive proposal and also may be considered by ODOT in determining the proposer to be selected as the result of the competing proposal process.

(3) **ODOT Authority to Elect Competitive Negotiations:**

(a) In addition to ODOT's ability to exercise any alternative selection or contracting process permitted under this rule or OAR 731-070-0270(2), ODOT may authorize, at its option, competitive negotiations with multiple proposers as a means of selecting from among Competing Proposals solicited under OAR 731-070-0130, or from among Detailed Proposals requested under OAR 731-070-0270(2)(b). Negotiations under this section are part of the proposal evaluation process and do not constitute the negotiation of a Transportation Project agreement.

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(b) ODOT may announce its election to conduct competitive negotiations:

(A) In any notice issued for Competing Proposals under OAR 731-070-0130;

(B) In any request for the submission of Detailed Proposals under OAR 731-070-0270(2); or

(C) By written notice, by mail or by electronic means, to the proposers, issued at any time following ODOT's receipt of proposals under OAR 731-070-0130 or 731-070-0270(2).

(c) In any communication under subsection (3)(b) of this rule, or by notice to the proposers issued by mail or by electronic means at any time after the receipt of proposals, ODOT may announce that it will initiate competitive negotiations with all proposers who submitted responsive proposals, or only with proposers who qualify to negotiate because ODOT has determined that their proposals fall within a competitive range.

(d) When ODOT elects to negotiate only with proposers within a competitive range, then after ODOT's evaluation of proposals in accordance with the criteria set forth in the notice or request for proposals, ODOT will determine the proposers in the competitive range.

(A) For purposes of this section (3), the proposers in the competitive range consist of those proposers whose proposals, as determined by ODOT in its discretion, have a reasonable chance of being determined the best proposal as the result of the preliminary evaluation conducted under subsection (3)(d). In determining which proposals fall within the competitive range, ODOT may consider whether its preliminary evaluation of proposals establishes a natural break in the preliminary scores of the proposals that suggests those proposals that are sufficiently competitive to be included in the competitive range.

(B) ODOT will provide written notice to all proposers, by mail or by electronic means, of the proposals ODOT determines to fall within the competitive range. A proposer whose proposal is not within the competitive range may submit a written protest of ODOT's evaluation and determination of the competitive range within 14 calendar days after the date of ODOT's notice. A proposer's written protest must state facts and argument that demonstrate how the competitive range determination was flawed or how ODOT's determination constituted an abuse of discretion. If ODOT receives no written protest concerning the proposed selection listing within the 14 calendar day period, then ODOT will proceed with negotiations with the proposers whose proposals fell within the competitive range.

(C) In response to a timely filed protest, ODOT will issue a written decision that resolves the issues raised in the protest. ODOT will make its written determination available, by mail or by electronic means, to the protesting proposer and to the proposers falling within the competitive range. ODOT's written decision under this subsection shall constitute a final order under ORS 183.484.

(e) The object of competitive negotiations, which ODOT may conduct concurrently with more than one proposer or serially, is to maximize ODOT's ability to obtain best value and to permit proposers to develop revised proposals. Therefore, the negotiations may include, but shall not be limited to:

(A) Informing proposers of deficiencies in their proposals;

(B) Notifying proposers of parts of their proposals for which ODOT would like additional information; and

(C) Otherwise allowing proposers to develop revised proposals that will permit ODOT to obtain the best proposal based on the requirements and evaluation criteria set forth in the notice or request for proposals.

(f) The scope, manner and extent of negotiations with any proposer are subject to the discretion of ODOT. To prevent the disclosure of proposal information to a proposer's competitors, ODOT shall conduct negotiations with proposers before the subject proposals, information about the proposed Transportation Project, or proposal information have been shared with other government entities under ORS 367.804(5)(a). In conducting negotiations, ODOT:

(A) Shall treat all proposers fairly and shall not engage in conduct that favors any proposer over another;

(B) Shall not reveal to another proposer a proposer's unique technology, unique or innovative approaches to Transportation Project design, management or financing, or any information that would compromise the proposer's intellectual property, trade secrets or sensitive business information; or

(C) Shall not reveal to another proposer a proposer's price or pricing information, provided, however, that ODOT may inform a proposer that ODOT considers a proposer's price or pricing information to be too high or too low.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 – 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0170

Protests of Rejection of Proposal/Award of Contract to Competitor in Competing Proposals Context

(1) At least fourteen (14) calendar days prior to the final selection of the successful proposer in any competitive proposal selection process, ODOT will give, electronically or otherwise, written notice to all participating proposers of ODOT's apparent selection of the successful proposer. A proposer who would be adversely affected by the selection announced in the notice may, within the 14-day period, submit to ODOT a written protest of the selection of the apparent successful proposer.

(2) For purposes of this rule, a protesting proposer is adversely affected by a selection only if the proposer has submitted a responsive competing proposal and is next-in-line for selection. In other words, the protesting proposer must demonstrate that all higher-scoring proposers are ineligible for selection because either:

(a) The higher-scoring proposals were not responsive to the requirements stated in ODOT's notice requesting competing proposals; or

(b) ODOT committed a substantial violation of a provision in ODOT's notice requesting competing proposals, in these rules, or in ORS 367.800 to 367.826, or otherwise abused its discretion, in evaluating the competing proposals.

(3) A proposer's written protest must state facts and argument that demonstrate how the selection process was flawed or how ODOT's selection of the apparent successful proposer constituted an abuse of ODOT's discretion. If ODOT receives no written protest concerning the proposed selection listing within the 14-day period, then the selection of the successful proposer automatically shall become effective on the fifteenth (15th) calendar day after ODOT first transmitted or otherwise delivered its written notice of the apparent successful proposer.

(4) In response to a proposer's timely filed protest that complies with this rule, ODOT will issue a written decision that resolves the issues raised in the protest. In considering a timely protest, ODOT may request further information from the protesting proposer and from the apparent successful proposer identified in ODOT's notice issued under subsection (1) of this rule. ODOT will make its written determination available, by mail or by electronic means, to the protesting proposer and to the apparent successful proposer identified in ODOT's notice issued under subsection (1) of this rule. ODOT's written decision under this subsection shall constitute a final order under ORS 183.484.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 – 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0180

Commission Review and Selection of Proposals

The Commission shall review the evaluations of Conceptual Proposals forwarded by the Director under OAR 731-070-0140(7). Based on that review the Commission shall:

(1) Select one Conceptual Proposal for development of a Detailed Proposal;

(2) Select one Conceptual Proposal for development of a Detailed Proposal subject to the proposer's satisfaction of specified conditions; or

(3) Reject all Conceptual Proposals.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 – 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0190

Detailed Proposal

(1) Upon the Commission's selection of a Conceptual Proposal under OAR 731-070-0180(1) for further evaluation and on completion of the protest period, ODOT shall notify the proposer to submit a Detailed Proposal complying with the requirements of OAR 731-070-0070.

(2) Upon the Commission's provisional selection subject to satisfaction of conditions of a Conceptual Proposal under OAR 731-070-0180(2) for development of a Detailed Proposal and on completion of the protest period, ODOT shall notify the proposer of the conditions. The proposer shall have twenty-one (21) calendar days from receipt of the Commission's notification to elect to proceed under specified conditions. If the proposer elects to proceed, ODOT shall work with the proposer to develop a plan for satisfying the conditions. If the plan entails entry into an interim "agreement" within the meaning of ORS 367.802(1), the agreement will conform to all relevant requirements of ORS 367.800 to 367.826.

(3) After the Commission's selection or provisional selection of a Conceptual Proposal and until submission of the Detailed Proposal, ODOT and the proposer may confer on any matter pertinent to development of the Detailed Proposal.

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(4) The Evaluation Panel, as supplemented by consultants retained by ODOT, shall review the Detailed Proposal to ensure compliance with the requirements of ORS 731-070-0070. The Evaluation Panel shall evaluate the Detailed Proposal based on the factors set forth in ORS 731-070-0140(5) and any additional factors consistent with the intent and goals of the OPPI legislation, but the weighting and final decision is subject to the sole discretion of the Evaluation Panel.

(5) Upon completion of its review of the Detailed Proposal, the Evaluation Panel will recommend to the Director whether the Detailed Proposal should be advanced to a final agreement.

(6) After receipt of the Evaluation Panel's recommendation, the Director shall either accept or reject the Evaluation Panel's recommendation, and if accepted, the Director shall submit to the Oregon Transportation Commission the Detailed Proposal, as modified, if applicable, with a recommendation that the Detailed Proposal constitutes an acceptable basis for an agreement to enter into a public-private partnership with the proposer.

(7) After receipt of the selection from the Director, the Oregon Transportation Commission shall either approve or disapprove the Detailed Proposal selected by the Director for negotiation of a final agreement.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0200

Negotiation of Agreement

(1) A Detailed Proposal selected by the Commission for negotiation of a final agreement shall be referred to a working group appointed by the Director. The working group shall be responsible for negotiating the final agreement with the proposer. Each final agreement will define the rights and obligations of ODOT and the respective proposer with regard to the transportation project. The final agreement must include provisions specifying at least the following:

(a) At what point in the transportation project public and private sector partners will enter the project and which partners will assume responsibility for specific project elements;

(b) How the partners will share management of the risks of the project;

(c) How the partners will share the costs of development of the project;

(d) How the partners will allocate financial responsibility for cost overruns;

(e) The penalties for nonperformance;

(f) The incentives for performance;

(g) The invoicing and payment procedures and schedules to be followed, and the accounting and auditing standards to be used to evaluate work on the project; and

(h) Whether the project is consistent with the plan developed by the Oregon Transportation Commission under ORS 184.618 and any applicable regional transportation plans or local transportation programs and, if not consistent, how and when the project will become consistent with applicable plans and programs.

(2) If public moneys are used to pay any costs of construction of public works that is part of a transportation project, the construction contract shall contain provisions that require payment of workers under the contract in accordance with ORS 279.334 and 279.348 to 279.380.

(3) An agreement for the construction of a public improvement as part of a transportation project shall approved for bonding, financial guarantees, deposits or the posting of other security to secure the payment of laborers, subcontractors and suppliers who perform work or provide materials as part of the project.

(4) The working group shall consider whether to implement procedures to promote competition among subcontractors for any subcontracts to be let in connection with the transportation project. As part of its request for approval of the agreement by the Commission under OAR 731-070-0230, the working group shall report in writing to the Commission its conclusions regarding the appropriateness of implementing such procedures.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0210

ODOT Objection to Subcontractors

(1) Prior to the execution of any contract with a proposer, the proposer must provide ODOT a list of all Major Subcontractors who will perform work in the construction, operation or maintenance of the Project. All subcontractors must be legally eligible to perform or work on public contracts under federal and Oregon law and regulations. No subcontractor will be

accepted who is on the list of contractors ineligible to receive public works contracts under ORS 279.361.

(2) If ODOT has reasonable objection to any proposed subcontractor, ODOT is authorized to require, before the execution of a contract, an apparently successful proposer to submit an acceptable substitute. In such case, the proposer must submit an acceptable substitute, and the contract may, at ODOT's discretion, be modified to equitably account for any difference in cost necessitated by the substitution. ODOT will permit a maximum of fourteen (14) calendar days from the date of ODOT's written demand for substitution which to make an acceptable substitution. A proposer's failure to make an acceptable substitution at the end of the 14-day period will constitute sufficient grounds for ODOT to refuse to execute a contract without incurring any liability for the refusal. However, if the proposer had identified such a Major Subcontractor in its Detailed Proposal as an equity contributor to the Project, or the Major Subcontractor had committed other financial support that had been relied on by the proposer, then the proposer shall be granted a period of sixty (60) business days to identify an acceptable substitute. Following such identification, the proposer shall be granted an additional thirty (30) business days to conclude negotiations of acceptable terms and conditions with that substitute Major Subcontractor.

(3) ODOT will not require any proposer to engage any subcontractor, supplier, other person or organization against whom the proposer has reasonable objection.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0220

Legal Sufficiency Review of Final Agreement

On completion of a final agreement, the Attorney General will review it for legal sufficiency under ORS 291.047 and OAR chapter 137, division 045. When conducting that review, the Attorney General shall:

(1) Recognize that the agreement is the product of a partnership; and

(2) Defer to the business judgment of the department and the Oregon Transportation Commission concerning the assignment of risks and the incentives provided within the agreement.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0230

Commission Review of Final Agreement

On completion of the Attorney General's legal sufficiency review of the final agreement, the Commission shall:

(1) Approve the final agreement;

(2) Reject the final agreement; or

(3) Return the final agreement to the working group for further negotiation on issues the Commission specifies.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0240

Commission Selection of Projects for Solicitation of Proposals

ODOT may solicit Proposals for a public-private partnership approach to planning, acquiring, financing, developing, designing, managing, constructing, reconstructing, replacing, improving, maintaining, repairing, leasing and/or operating a transportation project if the Commission has determined that such an approach has the potential to accelerate cost-effective delivery of the project or promote innovative approaches to carrying out the project.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0250

Solicitation Documents

The Request for Proposals for a public-private transportation project approved for solicitation under OAR 731-070-0240 shall include the following:

(1) General Information.

(a) Notice of any pre-proposal conference as follows:

(A) The time, date and location of any pre-proposal conference;

(B) Whether attendance at the conference will be mandatory or voluntary; and

(C) That statements made by ODOT's representatives at the conference are not binding upon ODOT unless confirmed by written addendum.

ADMINISTRATIVE RULES

(b) The deadline for submitting mandatory prequalification applications and the class or classes of work for which proposers must be prequalified if prequalification is a requirement;

(c) The name and title of the authorized agency person designated for receipt of proposals and contact person (if different);

(d) Instructions and information concerning submission requirements including the address of the office to which proposals must be delivered and any other special information, e.g., whether proposals may be submitted by Facsimile or Electronic Data Interchange;

(e) The time, date and place of opening of proposals;

(f) The time and date of closing after which ODOT will not accept proposals, which time shall be not less than five days after the date of the last publication of the advertisement. The interval between the date of issuance of the Solicitation Document and a closing should not be less than 30 days unless ODOT finds a shorter interval is in the public's interest;

(g) The form and submission of proposals and any information required therein;

(h) If the agreement resulting from a solicitation will be a contract for a public work subject to ORS 279.348 to 279.380 or the Davis-Bacon Act (**40 U.S.C. sections 3141 to 3148**), a statement that no proposal will be received or considered by ODOT unless the proposal contains a statement by the proposer, as a part of its proposal, that proposer agrees to be bound by and will comply with the provisions of ORS 279.350 or **40 USC sections 3141 to 3148**;

(i) If the project so requires, a statement that ODOT will not receive or consider a proposal from an entity when the entity is not registered with the Construction Contractors Board or is not licensed by the State Landscape Contractors Board as required by ORS 671.530;

(j) Whether a contractor or a subcontractor under the contract must be licensed under ORS 468A.720;

(k) Contractor's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279.111. (See OAR 731-005-0245(3)); and

(l) How ODOT will notify proposers of Addenda and how ODOT will make Addenda available.

(2) Agency Need. A description of the transportation project for which ODOT is requesting proposals for a public-private partnership in such detail as ODOT considers appropriate or feasible under the circumstance.

(3) Evaluation process:

(a) A statement that ODOT may reject any proposal not in compliance with all prescribed procedures and requirements and other applicable laws, and that the rights reserved to ODOT in the consideration of unsolicited and competing proposals under OAR 731-070-0300 to 731-070-0330 apply equally to proposals submitted in response to the Request for Proposal;

(b) The anticipated solicitation schedule, deadlines, protest process, and evaluation process, if any; and

(c) Evaluation criteria that ODOT will use to select a proposal from among those submitted in response to the Request for Proposals.

(4) All contract terms and conditions, including warranties and bonding requirements, ODOT considers necessary, and including contractor's certification that all subcontractors performing work described in ORS 701.005(2) (i.e., construction work) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 to 701.055 before the subcontractors commence work under the contract.

(5) If federal funds are involved, the federal laws, rules and regulations applicable to the fund requirements shall govern in the event they conflict with a provision required by state law.

(6) Unless otherwise provided in the contract, the contractor shall not assign, sell, dispose of, or transfer rights, nor delegate duties under the contract, either in whole or in part, without ODOT's prior written consent. Unless otherwise agreed by ODOT in writing, such consent shall not relieve the contractor of any obligations under the Contract. Any assignee or transferee shall be considered the agent of the contractor and be bound to abide by all provisions of the contract. If ODOT consents in writing to an assignment, sale, disposal or transfer of the contractor's rights or delegation of contractor's duties, the contractor and its surety, if any, shall remain liable to ODOT for complete performance of the contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless ODOT otherwise agrees in writing.

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

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0260

Public Notice of Solicitation

(1) Notice and Distribution Fee. ODOT shall furnish notice to a sufficient number of entities for the purpose of fostering and promoting competition. The notice shall indicate where, when, how, and for how long the Solicitation Document may be obtained and generally describe the work. The notice may contain any other appropriate information. ODOT may charge a fee or require a deposit for the Solicitation Document. ODOT may furnish notice using any method determined to foster and promote competition, including:

(a) Mail notice of the availability of Solicitation Documents ("notice") to Entities that have expressed an interest in ODOT's procurements;

(b) Place notice on the Oregon the Department of Administrative Services' electronic procurement system known as the Vendor Information Program ("VIP"); or

(c) Place notice on ODOT's internet web site.

(2) Advertising. ODOT shall advertise every solicitation for proposals, unless the Contract Review Authority has exempted the solicitation from the advertisement requirement.

(a) Unless ODOT publishes by Electronic Advertisement as permitted under subsection (b) of this section, ODOT shall publish the advertisement for proposals at least once in at least one newspaper of general circulation in the area where the Contract is to be performed and in as many additional issues and publications as ODOT may determine to be necessary or desirable to foster and promote competition.

(b) ODOT may publish by Electronic Advertisement if:

(A) ODOT has published a notice that it may publish future advertisements for proposals by Electronic Advertisement. ODOT shall publish such notice weekly, for no less than four consecutive weeks, in at least one newspaper of general circulation in the area where the business office of ODOT is located and in as many additional issues and publications as ODOT may determine to be necessary or desirable to provide notice to potential proposers. ODOT notice shall include the World Wide Web location (i.e. Uniform Resource Locator or URL) where ODOT will publish future Electronic Advertisements or alternatively, to the Web location where ODOT will publish information on accessing the Electronic Advertisement via a telnet application;

(B) ODOT posts in its business office a notice that the Department will publish advertisements for proposals by Electronic Advertisement. The notice shall include the World Wide Web location (i.e. Uniform Resource Locator or URL) where ODOT publishes Electronic Advertisements or alternatively, to the Web location where ODOT publishes information on accessing the Electronic Advertisement via telnet; and

(C) DAS determines Electronic Advertisement is less expensive than publishing by newspaper under subsection (a) of this section.

(c) In addition to ODOT's publication required under subsection (a) or (b) of this section, ODOT shall also publish advertisement for proposals in at least one trade newspaper of general statewide circulation if the transportation project includes or contemplates a Public Improvement with an estimated cost in excess of \$125,000.

(d) All advertisements for proposals shall set forth:

(A) The scheduled closing, that shall not be less than five days after the date of the last publication of the advertisement;

(B) The date that entities must file applications for prequalification if prequalification is a requirement and the class or classes of work for which entities must be prequalified;

(C) The nature of the work to be performed or the goods to be purchased;

(D) The office where the Solicitation Documents may be reviewed;

(E) The name, title and address of ODOT person authorized to receive proposals;

(F) The scheduled opening; and

(G) If applicable, that the contract is for a public work subject to ORS 279.348 to 279.380 or the Davis-Bacon Act (**40 U.S.C. sections 3141 to 3148**).

(3) Posting Advertisement for Proposals. ODOT shall post a copy of each advertisement for proposals at the principal business office of ODOT. A proposer may obtain a copy of the advertisement for proposals upon request from Contractor Plans Unit, Transportation Building, 355 Capitol Street NE, Salem, Oregon 97301-3871 or on the Internet at www.odot.state.or.us.

(4) Minority, Women Emerging Small Business. ODOT shall provide timely notice of all solicitations to the Advocate for Minority, Women and Emerging Small Business if the estimated project cost exceeds \$5,000.

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

ADMINISTRATIVE RULES

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0270

Evaluation and Selection of Solicited Proposals

(1) Proposals received pursuant to a solicitation under OAR 731-070-0240 to 731-070-0260 shall be evaluated and a proposal selected for development of a Detailed Proposal in the same manner as and under the procedures established under OAR 731-070-0060 to 731-070-0180 for unsolicited proposals, unless and except as otherwise specified in the solicitation. It is provided, however, that the evaluation procedure also will comply with the requirement for consultation with regional and local government under OAR 731-070-0295. The development and evaluation of a Detailed Proposal and the negotiation, execution and approval of a Final Agreement shall be governed by OAR 731-070-0200 to 731-070-0230, unless and except as otherwise specified in the solicitation.

(2) In a solicitation for proposals, when ODOT in its sole discretion deems it appropriate to do so given the nature of the proposal, ODOT may specify requirements for proposal content, and for criteria and procedures under which the proposals will be evaluated and selected, that are in addition to or in lieu of those provided for in OAR 731-070-0060 to 731-070-0230. Any alternative process or processes so specified will comply with the requirements of ORS 367.800 to 367.826. Examples of possible alternative processes include:

(a) Selecting a proposal for development into a final agreement based on a unitary proposal instead of a two-step conceptual/detailed proposal process; and

(b) Evaluating conceptual proposals to rank proposers and select one to perform development services necessary to refine the ultimate character and scope of the project, after which the highly ranked proposers would be asked to submit detailed proposals from which one would be selected for negotiation of a final agreement. These examples are offered for illustrative purposes only, and should not be construed to limit the scope of ODOT's discretion or authority to develop proposal and evaluation criteria and processes for any project as long as those criteria and processes comply with the requirements of ORS 367.800 to 367.826.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0280

Public Records Requests

(1) Upon written request and within a reasonable time, the Director or his designee shall provide records relating to transportation project proposals for inspection in accordance with ORS Chapter 192, ORS 367.804 and these rules.

(2) ODOT may charge fees to cover its reasonable and actual costs in responding to public records requests. Such costs may include but are not limited to costs associated with locating records, separating exempt from nonexempt records, monitoring the requester's inspection of requested records, copying records and delivering copies of requested records. In accordance with OAR 731-001-0025, ODOT may charge fees calculated to reimburse it for its reasonable and actual costs as authorized by the relevant provisions of the Public Records Law.

(3) ODOT may prepare an estimate of the costs of responding to any request for public records, and may require payment of all or a portion of the estimated costs before acting on the request.

(4) Records related to a proposal for a Transportation Project submitted to ODOT under the Oregon Innovative Partnerships Program are exempt from disclosure under the Oregon Public Records Law until:

(a) ODOT shares the records or the information contained in them with a local government, metropolitan planning organization or area commission on transportation as part of the consultation process described in OAR 731-070-0295; or

(b) ODOT completes its evaluation of the proposed project and has selected the proposal for negotiation of an agreement.

(5) Notwithstanding section (4) of this rule, sensitive business, commercial or financial information that is not customarily provided to business competitors that is submitted to the department in connection with a Transportation Project is exempt from disclosure under the Oregon Public Records Law until the records or information contained in them is submitted to the Commission in connection with its review and approval of the transportation project under ORS 367.806(6) and OAR 731-070-0230.

(6) On ODOT's receipt of a request, under the Public Records Law, for the disclosure of records or information that have been submitted to ODOT by a proposer under the program authorized by ORS 367.800 to

367.826, ODOT will notify the proposer of the request and provide the proposer a reasonable opportunity to demonstrate that all or part of the requested records or information are exempt from disclosure under ORS 367.800 to 367.826, the Public Records Law, ORS 192.410 to 192.505, the Uniform Trade Secrets Act, ORS 646.461 to 646.475, or other applicable law recognizing the confidentiality of public records and information. In determining whether the information or records are exempt from disclosure, ODOT will consider the evidence and objections to disclosure presented by the proposer, but as custodian of the records or information, ODOT must make the initial determination of the records that may be withheld from disclosure.

(7) An affected proposer who seeks to demonstrate that public records pertaining to it are exempt from disclosure must respond to ODOT with its evidence and objections within four working days of ODOT's issuance of notice of the request to the proposer. After considering the proposer's evidence and objections, ODOT will inform the proposer of its disclosure decision, giving the proposer no fewer than three working days in which to institute appropriate proceedings in its own behalf to protect the proposer's interests in preventing the disclosure or maintaining the confidentiality of the records or information. The proposer shall be exclusively responsible for all costs, expenses and attorney fees incurred in taking any action to prevent the disclosure of information or records under this section.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0290

Designation of Sensitive Business, Commercial or Financial Information and Trade Secrets

(1) The following procedure shall be followed by proposers to designate information as "sensitive business, commercial or financial information" under ORS 367.804(6): each individual page of a proposal that contains sensitive business, commercial or financial information must be clearly marked "Sensitive Business, Commercial or Financial Information."

(2) A proposer may desire that certain information be considered "trade secret" information for purposes of applying the public records exemption set out in ORS 192.501(2). To qualify for that exemption, trade secret information must meet the following criteria:

(a) Not the subject of a patent;

(b) Only known to a limited number of individuals within an organization;

(c) Used in a business that the organization conducts;

(d) Of potential or actual commercial value; and

(e) Capable of providing the user with a business advantage over competitors not having the information.

(3) The following procedures shall be followed by the proposer to designate information as trade secret:

(a) Each individual page of a plan or progress report that contains trade secret information must be clearly marked trade secret;

(b) Written substantiation describing what information is considered trade secret and why must accompany the document. The written substantiation shall address the following:

(A) Identify which portions of information are claimed trade secret;

(B) Identify how long confidential treatment is desired for this information;

(C) Identify any pertinent patent information;

(D) Describe to what extent the information has been disclosed to others, who knows about the information, and what measures have been taken to guard against undesired disclosure of the information to others;

(E) Describe the nature of the use of the information in business;

(F) Describe why the information is considered to be commercially valuable;

(G) Describe how the information provides a business advantage over competitors;

(H) If any of the information has been provided to other government agencies, identify which one(s); and

(I) Include any other information that supports a claim of trade secret.

(4) Notwithstanding a proposer's designation of information as constituting "trade secret," and subject to a proposer's opportunity to object to disclosure under OAR 731-070-0280, ODOT will independently assess whether the trade secret exemption applies and whether the public interest requires disclosure when responding to a public records request.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

ADMINISTRATIVE RULES

731-070-0295

Consultation with Local Government, Transportation District, Metropolitan Planning Organization or Area Commission on Transportation

As part of its evaluation of a proposal submitted under these rules, ODOT will consult with appropriate local governments, metropolitan planning organizations and area commissions on transportation. Consultation under this rule will occur in such manner and at such time as ODOT considers appropriate in the particular circumstance, and shall include:

- (1) An informal information-sharing opportunity prior to completion of the department's evaluation of the proposal;
- (2) Solicitation of comments from the appropriate local governments, transportation district, metropolitan planning organization or area commission on transportation; and
- (3) Any additional method(s) of consultation appropriate under the circumstances.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0300

ODOT Rights Reserved

(1) ODOT reserves all rights available to it by law in administering these rules, including without limitation, the right in its sole discretion to:

- (a) Reject any and all proposals at any time.
- (b) Terminate evaluation of any and all proposals at any time.
- (c) Suspend, discontinue and/or terminate comprehensive agreement negotiations with any proposer at any time prior to the actual authorized execution of such agreement by all parties.
- (d) Negotiate with a proposer without being bound by any provision in its proposal.
- (e) Request or obtain additional information about any proposals.
- (f) Issue addenda to and/or cancel any RFP.
- (g) In accordance with the rule-making procedures of ORS chapter 183, revise, supplement or withdraw all or any part of these rules.
- (h) Decline to return any and all fees required to be paid by proposers hereunder.

(i) Request revisions to proposals.

(2) Under no circumstances shall the state, the Oregon Transportation Commission or ODOT be liable for, or reimburse, the costs incurred by proposers, whether or not selected for negotiations, in developing proposals or in negotiating agreements. Any and all information ODOT makes available to proposers shall be as a convenience to the proposer and without representation or warranty of any kind. Proposers may not rely upon any oral responses to inquiries. If a proposer has a question regarding application of these rules, the proposer may submit the question in writing to the Director or his designee.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0310

Extensions of Time: Waivers

(1) ODOT reserves the right to extend any deadline or time within which a proposer or ODOT must take any action required or permitted under OAR chapter 731, division 70 if the affected proposer applies in writing for relief to ODOT and demonstrates in that application that special circumstances warrant the grant of such relief. For the purpose of this subsection, special circumstances that warrant the grant of relief include practical exigencies that reasonably can be regarded as imposing a substantial, practical impediment to the proposer's ability to meet the deadline or achieve the correction of a violation of rules. Special circumstances are circumstances beyond the reasonable control of the proposer organization and include, but are not limited to, the illness or other incapacity of key officers of the organization seeking relief, emergency reorganizations or replacements of the corporate structure, board of directors or executive officers of the organization, acts of God, and comparable practical impediments to a person's or organization's ability to meet a deadline or achieve the correction of a violation of rules. However, no such extension will be afforded to any single proposer for the requirements identified under sections OAR 731-070-0130(2) and (3).

(2) The grant or denial of relief under this rule must be determined by the Director or his designee. ODOT also reserves the right to waive or to permit the correction of minor or technical violations of rules in this Division. ODOT will not grant relief under this section in any case that involves the submission of competitive proposals or competitive responses in which granting the relief would give the entity or person applying for

relief a material competitive advantage that is not made available to its competitors.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0320

ODOT's Authority to Suspend, by "Order," the Acceptance of Specified Categories of Unsolicited Proposals

(1) ODOT may, at any time, suspend its receipt and consideration of all unsolicited proposals, or of any class, category or description of unsolicited proposals, including but not limited to unsolicited Conceptual Proposals. ODOT may suspend its receipt and consideration of all unsolicited proposals, of any class, category or description of unsolicited proposals, or of unsolicited proposals to undertake any class, category or description of Transportation Project (such as, by way of illustration only, proposals to perform the maintenance of existing ODOT transportation facilities, proposals within certain cost categories, proposals that relate to certain geographic areas or proposals to repair state secondary highway surfaces) by issuing a written order that:

(a) Declares that ODOT has suspended the acceptance and consideration of all unsolicited proposals or of unsolicited proposals for certain types of Projects;

(b) Describes the proposals or the class or character of the Projects that are subject to the suspension; and

(c) Specifies either the term of the suspension or that the suspension will continue until recalled by a subsequent order of ODOT.

(2) Commencing on the effective date of the suspension order, ODOT will refuse to accept unsolicited proposals or unsolicited proposals for Transportation Projects of the class, category or description contained in the order, and may, as stated in the order, cease further processing and consideration of any such unsolicited proposals then currently under consideration by ODOT.

(3) By submitting an unsolicited proposal, each proposer thereby waives and relinquishes every claim of right, entitlement or expectation that the processing and consideration of its proposal will not be subject to suspension under this rule.

(4) The State of Oregon, ODOT, the Oregon Transportation Commission, and their officers and employees, shall have no responsibility or liability of any nature for the preservation, confidentiality or safe-keeping of any proposal that is subject to a suspension order under this rule and is submitted to ODOT while that suspension order is in effect.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0330

ODOT's Authority to Prioritize the Processing of Submitted Proposals in Accordance with ODOT's Assessment of Need and Urgency.

(1) ODOT may, at any time, select any class, category or description of proposal or Transportation Project, including any individual proposal or Project, for the purpose of giving priority to the processing and consideration of unsolicited proposals by issuing a written order that declares that ODOT will give priority to the processing and consideration of unsolicited proposals for certain types of Projects (or to a particular proposal), and describes the class or character of the proposals or Projects (or the particular proposal or Project) that are given priority. The priority order may either specify the term of the priority order, identify the submitted proposals (or proposal) that are subject to the priority order, or provide that the priority order will continue in effect until recalled by a subsequent order of ODOT.

(2) Commencing on the effective date of the order giving priority, ODOT may undertake expedited processing and consideration of unsolicited proposals (or a particular unsolicited proposal) for Transportation Projects of the class, category or description contained in the order. The limited resources of the Department, in such cases, will require either the postponement of, or delay in, the processing and consideration of unsolicited proposals for Projects that are not within a class, category or description that is subject to a priority order.

(3) By submitting an unsolicited proposal, each proposer thereby waives and relinquishes every claim of right, entitlement or expectation that:

(a) Its proposal will enjoy the benefit of a priority order; and

(b) The processing and consideration of its proposal will not be subject to postponement or delay arising out of ODOT's issuance of an order that gives priority to another proposal or to proposals for different classes, categories or descriptions of Projects.

Stat. Auth.: ORS 184.616, 184.619, 367.824
Stat. Implemented: ORS 367.800 – 367.824
Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

ADMINISTRATIVE RULES

731-070-0350

Discretionary Order Requiring the Prequalification of Proposers - Unsolicited Proposals

(1) ODOT may, at any time, issue a written order that requires any entity that wishes to submit an Unsolicited Proposal to apply for prequalification to submit a proposal. The order must describe the character or class of the Project or Projects, and the size of the Projects in terms of estimated implementation or construction cost, that are subject to the prequalification requirement. The order also must provide that each proposer must be prequalified by ODOT in order to submit a proposal for the kind or kinds of Project described in the order, and that ODOT will reject proposals received for the kind or kinds of Projects described in the order from proposers who are not prequalified.

(2) The prequalification order also shall contain:

(a) The location at which interested entities may obtain prequalification applications, information about prequalification criteria and other related documents, if any; and

(b) The name, title, and address of the person designated to receive the prequalification applications.

(3) Each prequalification application shall be in writing and must substantially comply with the instructions given by ODOT in a prequalification application questionnaire or prequalification form issued by ODOT.

(4) ODOT may establish the criteria used to evaluate prequalification applications in light of the features and demands of the kind or kinds of Project for which prequalification is required as a condition of an entity's application to submit an Unsolicited Proposal. The criteria may include, but shall not be limited to:

(a) The applicant's financial resources, including:

(A) Bonding capacity;

(B) Solvency; and

(C) Past payment history with employees, suppliers and subcontractors;

(b) The applicant's equipment and technology available to perform the Project, including whether the applicant has or reasonably can obtain, either itself, through subcontractors, or otherwise, all licenses and registrations necessary for use and operation of any technology or equipment involved in the Project, and all licenses and permits necessary to the lawful completion of the Project;

(c) The applicant's key personnel available to work on the Project, including:

(A) The specific capabilities of the applicant and its key personnel, as demonstrated by work on past projects which are comparable in size, nature, and technical and managerial complexity to the Project and to the scope of any construction services that may be required by the Project; and

(B) The identity and experience of the key personnel planned to be assigned to the Project;

(d) The applicant's performance history on other projects or contracts, including the applicant's approach to comparable projects and the planning, phasing and scheduling techniques employed by the applicant in those projects in general, and to the extent possible, particularly as applicable to the kind or kinds of Project for which prequalification is required;

(e) The applicant's safety programs and safety record including, where applicable, evidence of the applicant's experience modifier issued by the Department of Consumer and Business Services, Workers' Compensation Division;

(f) The applicant's experience or ability to provide the services of key persons with experience in design-build projects and similar innovative approaches to project completion;

(g) References from owners, architects and engineers with whom the applicant has worked in the past;

(h) The histories of the applicant and its Major Partners concerning their involvement, within the five years immediately preceding the issuance date of the department's prequalification order (or such shorter period as ODOT may specify in the order), in claims and litigation, including mediated or arbitrated construction claims and governmental administrative proceedings, arising out of past projects or under contracts to which they were parties in which the proceedings exceeded \$1,000,000 in liability exposure or claim amount;

(i) Information concerning whether the applicant, any Major Partner, and any key person of either has been, within the five years immediately preceding the issuance date of the department's prequalification order (or such shorter period as ODOT may specify in the order):

(A) Convicted of any criminal offense as an incident in obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(B) Convicted under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the person's responsibility as a contractor; or

(C) Convicted or determined to be liable under state or federal antitrust statutes.

(5) ODOT will, after receiving a prequalification application submitted in accordance with section (3) of this rule, notify the applicant whether the applicant is qualified to submit an Unsolicited Proposal for a Project of the kind or kinds described in ODOT's order issued under section (1) of this rule.

(6) If ODOT determines that the applicant is not qualified, ODOT shall provide the applicant written notice of that determination that contains a statement of the reason or reasons for that determination.

(7) An entity that ODOT determines not to be qualified may, within five (5) business days after its receipt of ODOT's written notice of that determination, submit to ODOT a written protest of the decision. The protest must state facts and argument to demonstrate that ODOT's decision was incorrect or constituted an abuse of ODOT's discretion.

(8) If an entity timely submits a protest that complies with section (7) of this rule, ODOT will issue a written decision that resolves the issues raised in the protest. ODOT's written decision under this subsection shall constitute a final order under ORS 183.484.

(9) Unless otherwise specified in ODOT's order issued under section (1) of this rule, an ODOT determination that an applicant is prequalified to submit proposals for any particular kind or kinds of Project shall have an effective term of three years from the date of ODOT's written notice of the determination.

(10) Notwithstanding any specification of a term during which an entity's prequalification is effective, ODOT may terminate or revise an entity's prequalified status upon ODOT's discovery of information that adversely reflects on the applicant's prequalified status. Prior to any termination or adverse revision of an applicant's prequalification, ODOT will provide the applicant written notice of that determination and advise that entity that it may protest the proposed action under section (7) of this rule.

(11) On the written request of an entity that previously has been prequalified for a Project or for kinds of Projects similar in size and character to the kind or kinds of Projects described in the order issued under section (1) of this rule (as determined in the discretion of ODOT), or on the written request of a unit of local government, ODOT may waive the requirement that the entity or unit of local government must submit a prequalification application under this rule.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

731-070-0360

Discretionary Notice Requiring the Prequalification of Proposers - Competing Proposals

(1) Prior to furnishing public notice of a request for competing proposals, ODOT may issue written notice that any entity that wishes to submit a competing proposal in response to that request must be prequalified by ODOT. The notice must provide that each proposer must be prequalified by ODOT in order to submit a proposal in response to the particular request for competing proposals, and that ODOT will reject proposals received from proposers who are not prequalified.

(2) ODOT must publish each notice that prequalification is required in the same manner that it issues public notice of a solicitation under OAR 731-070-0260(2). Additionally, each notice shall contain:

(a) The location at which interested entities may obtain prequalification applications, information about prequalification criteria and other related documents, if any;

(b) The date and time by which entities must submit their prequalification applications to ODOT, which generally will be a reasonable time prior to ODOT's issuance of the request for competing proposals, and the location at which they must be filed; and

(c) The name, title, and address of the person designated to receive the prequalification applications.

(3) Each prequalification application shall be in writing and must substantially comply with the instructions given by ODOT in a prequalification application questionnaire or prequalification form issued by ODOT.

(4) ODOT shall establish the criteria used to evaluate prequalification applications prior to the advertised notice of required prequalification. The criteria may include, but need not be limited to:

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(a) The applicant's financial resources, including:
(A) Bonding capacity;
(B) Solvency; and
(C) Past payment history with employees, suppliers and subcontractors;

(b) The applicant's equipment and technology available to perform the Project, including whether the applicant has or can reasonably obtain, either itself, through subcontractors, or otherwise, all licenses and registrations necessary for use and operation of any technology or equipment involved in the Project, and all licenses and permits necessary to the lawful completion of the Project;

(c) The applicant's key personnel available to work on the Project, including:

(A) The specific capabilities of the applicant and its key personnel, as demonstrated by work on past projects which are comparable in size, nature, and technical and managerial complexity to the Project and the scope of any construction services that may be required by the Project; and

(B) The identity and experience of the key personnel planned to be assigned to the Project;

(d) The applicant's performance history on other projects or contracts, including the applicant's approach to comparable projects and the planning, phasing and scheduling techniques employed by the applicant on those projects in general, and to the extent possible, particularly as applicable to the kind or kinds of Project for which prequalification is required;

(e) The applicant's safety programs and safety record including, where applicable, evidence of the applicant's experience modifier issued by the Department of Consumer and Business Services, Workers' Compensation Division;

(f) The applicant's experience or ability to provide the services of key persons with experience in design-build projects and similar innovative approaches to project completion;

(g) References from owners, architects and engineers with whom the applicant has worked in the past;

(h) The histories of the applicant and its Major Partners concerning their involvement, within the five years immediately preceding the issuance date of the department's prequalification notice (or such shorter period as ODOT may specify in the notice), in claims and litigation, including mediated or arbitrated construction claims and governmental administrative proceedings, arising out of past projects or under contracts to which they were parties in which the proceedings exceeded \$1,000,000 in liability exposure or claim amount;

(i) Information concerning whether the applicant, any Major Partner, and any key person of either has been, within the five years immediately preceding the issuance date of the department's prequalification notice (or such shorter period as ODOT may specify in the notice):

(A) Convicted of any criminal offense as an incident in obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(B) Convicted under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the person's responsibility as a contractor;

(C) Convicted or determined to be liable under state or federal antitrust statutes.

(5) ODOT will, after receiving a prequalification application submitted in accordance with section (3) of this rule, notify the applicant whether the applicant is qualified to submit a proposal in response to ODOT's request for competing proposals.

(6) If ODOT determines that the applicant is not qualified, ODOT shall provide the applicant written notice of that determination that contains a statement of the reason or reasons for that determination.

(7) An entity whom ODOT determines not to be qualified may, within five (5) business days after its receipt of ODOT's written notice of that determination, submit to ODOT a written protest of the decision. The protest must state facts and argument to demonstrate that ODOT's decision was incorrect or constituted an abuse of ODOT's discretion.

(8) If an entity timely submits a protest that complies with section (7) of this rule, ODOT will issue a written decision that resolves the issues raised in the protest. ODOT's written decision under this subsection shall constitute a final order under ORS 183.484.

(9) Unless otherwise specified in ODOT's notice issued under section (1) of this rule, an ODOT determination that an applicant is prequalified under this section for the Projects or kinds of Projects specified in the

notice shall have an effective term of three years from the date of ODOT's written notice of the determination.

(10) Notwithstanding any specification of a term during which an entity's prequalification is effective, ODOT may terminate or revise an entity's prequalified status upon ODOT's discovery of information that adversely reflects on the applicant's prequalified status. Prior to any termination or adverse revision of an applicant's prequalification, ODOT will provide the applicant written notice of that determination that contains a statement of the reason or reasons for that determination and advise that entity that it may protest the proposed action under section (7) of this rule.

(11) On the written request of an entity that previously has been prequalified for a Project or for kinds of Projects similar in size and character to the Project or kinds of Projects described in the notice issued under section (1) of this rule (as determined in the discretion of ODOT), or on the written request of a unit of local government, ODOT may waive the requirement that the entity or unit of local government must submit a prequalification application under this rule.

Stat. Auth.: ORS 184.616, 184.619, 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04

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

Filed with Sec. of State: 8-26-2004

Certified to be Effective: 8-26-04 thru 2-21-05

Notice Publication Date:

Rules Adopted: 731-070-0055

Subject: The Department of Transportation is in the process of adopting rules for the implementation of Chapter 790, Oregon Laws 2003 (SB 772), which establish the Oregon Innovative Partnerships Program (OIPP). The program allows for solicitation of or acceptance of proposals for transportation projects from private entities or units of government. ORS 367.804 (Sec. 3 of SB 772) allows the department to charge an administrative fee for the evaluation of the concepts or proposals received. This temporary rule establishes fees that will be charged for evaluation of unsolicited proposals. The department cannot determine the cost of evaluation since this is a new program. Therefore, the fees are set relatively low, but will recoup some of the department's costs. The requirement to pay an evaluation fee will also encourage only legitimate proposals to be submitted.

Rules Coordinator: Brenda Trump—(503) 945-5278

731-070-0055

Fees to Accompany Unsolicited Proposals

(1) The proposal review fees required by OAR 731-070-0050(2) are as follows, unless otherwise specified in sections (2) or (3) of this rule:

(a) For initial Conceptual Proposals, as defined in OAR 731-070-0010(4):

(A) A \$5,000 non-refundable fee for a project under \$100 million; and

(B) A \$20,000 non-refundable fee for a project \$100 million or more.

(b) If the Commission elects to invite competing Conceptual Proposals as described in OAR 731-070-0120, all subsequent submittals shall be accompanied by the fees in (1)(a).

(c) For Detailed Proposals, as defined in OAR 731-070-0010(6):

(A) A \$10,000 non-refundable fee for a project under \$100 million;

and

(B) A \$40,000 non-refundable fee for a project \$100 million or more.

(2) If the cost of evaluating an unsolicited proposal exceeds the fees assessed under section (1) of this rule, the Director may assess additional fees that reflect the reasonable expected costs to be incurred by ODOT in evaluating the unsolicited proposal that exceed the amount deposited in section (1) of this rule.

(3) The Director may waive the fees specified in sections (1) and (2) of this rule if the interests of the state or the specific merits of the project would warrant such a waiver. In considering whether to grant a waiver the Director will consider the magnitude of costs versus benefits of such a waiver.

Stat. Auth.: ORS 184.616, 184.619, 367.822 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 6-2004(Temp), f. & cert. ef. 8-26-04 thru 2-21-05

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

Adm. Order No.: DMV 18-2004

Filed with Sec. of State: 8-20-2004

Certified to be Effective: 8-20-04

Notice Publication Date: 7-1-04

Rules Adopted: 735-024-0015, 735-024-0025

Rules Amended: 735-024-0030

Rules Repealed: 735-024-0010, 735-024-0020, 735-024-0040, 735-024-0045, 735-024-0060, 735-024-0090

Subject: This rulemaking specifies and adopts title brands that may be added to an Oregon title pursuant to ORS 803.015; identifies when DMV will issue an Oregon title with a brand, and when a brand may be removed from an Oregon title and vehicle record. This rulemaking also removes rule language that is either superseded by new rule language or that is outdated and no longer needed. The adoption of OAR 735-024-0015 and OAR 735-024-0025 define terms and establish procedures and requirements pertaining to when a title brand is required to be printed on an Oregon title and when a brand may be removed. OAR 735-024-0030 is amended to update definitions pertaining to vehicles and documents for vehicles that have been damaged, altered, or rebuilt. OAR 735-024-0010, 735-024-0020, 735-024-0040, 735-024-0045, 735-024-0060 and 735-024-0090 are repealed because they have either been superseded by OAR 735-024-0015 and 735-024-0025 or have become outdated and are no longer needed.

Rules Coordinator: Brenda Trump—(503) 945-5278

735-024-0015

Definitions; Title Brands

As used in this rule through 735-024-0025, the following definitions apply:

(1) "Brand," "branded title," or "title brand" means a notation, indicator, symbol or phrase that is or has been printed, stamped or otherwise affixed to a certificate of title to indicate the history, condition, or circumstances of a vehicle. A title brand does not necessarily indicate the extent to which a vehicle may have been damaged, whether a vehicle has been repaired or to what degree a damaged vehicle has been repaired.

(2) "Assembled vehicle" as defined in ORS 801.130 and these rules means a vehicle:

(a) With a body that does not resemble any particular year model or make of vehicle;

(b) That is not a vehicle rebuilt by a manufacturer;

(c) That is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(d) That is not an antique vehicle, a vehicle of special interest, a reconstructed vehicle or a replica.

(3) The following title brands defined under this section are adopted pursuant to ORS 803.015 and indicate a determination of a vehicle's condition made by another jurisdiction, or in the case of "glider kit" or "replica vehicle" a determination made by Oregon DMV:

(a) "Branded" means:

(A) A listing of two or more brands on an out-of-state title or similar document; or

(B) A brand not specifically defined or identified under this rule.

(b) "Flood damaged," "flood," or a word of similar import means a brand to indicate that a vehicle has been submerged in water to the point that the vehicle sustained damage;

(c) "Glider kit" or a word of similar import means a brand to indicate:

(A) A kit consisting of a new truck cab or cab and hood assembly, including a front axle assembly and frame rails, with or without an engine, transmission and rear axle, manufactured and sold with a manufacturer's statement of origin, has been used to replace damaged or worn components of an existing heavy truck or tractor; or

(B) A heavy truck or tractor was assembled using a kit consisting of all new component parts, including engine, transmission and rear axle, manufactured and sold with a manufacturer's statement of origin, and assembled by a person other than the manufacturer of the components.

(C) For purposes of this subsection, "heavy truck or tractor" means truck or tractor with a gross vehicle weight rating of more than 16,000 pounds.

(d) "Lemon," "lemon-defective," "lemon-law buy-back," "returned to manufacturer" or a word of similar import means a brand to indicate a vehicle was returned to the manufacturer because of a defect or condition that could not be corrected and that substantially impaired the safety, market value, or the use, or intended use, of the vehicle.

(e) "Previous damage" means a title brand issued by DMV prior to August 20, 2004, to indicate that DMV had received information from another jurisdiction that a vehicle was damaged, destroyed, wrecked or salvaged, or words of similar import. The term "previous damaged" does not apply to vehicles issued a junk title or similar ownership document by another jurisdiction as described under OAR 735-020-0070;

(f) "Reconstructed vehicle," or "reconstructed" as defined in ORS 801.405 and these rules, means either:

(A) A vehicle that:

(i) Has a body that resembles and primarily is a particular year model or make of vehicle;

(ii) Is not a vehicle rebuilt by a manufacturer;

(iii) Is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(iv) Is not a replica; or

(B) A motor truck that has been rebuilt using a component kit if the manufacturer of the kit assigns a vehicle identification number and provides a manufacturer's certificate of origin for the kit.

(g) "Totaled vehicle" or "totaled" as defined in ORS 801.527 and these rules means:

(A) A vehicle that is declared a total loss by an insurer that is obligated to cover the loss or that the insurer takes possession of or title to.

(B) A vehicle that is stolen, if it is not recovered within 30 days of the date that it is stolen and if the loss is not covered by an insurer.

(C) A vehicle that has sustained damage that is not covered by an insurer and that is such that the estimated cost to repair the vehicle is equal to at least 80 percent of the retail market value of the vehicle prior to the damage. For purposes of this subsection, "retail market value" shall be as reflected in publications relied upon by financial institutions doing business in this state.

(h) "Replica" as defined in ORS 801.425 and these rules, means a vehicle with a body built to resemble and be a reproduction of another vehicle of a given year and given manufacturer;

(4) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation;

(5) "Oregon Certificate of Title" or "Oregon title" means a certificate of title, as that term is defined in ORS 801.185, issued by DMV.

(6) "Oregon Salvage Title Certificate" means a written document issued by DMV under the provisions of ORS 803.140 and 819.016 as evidence of vehicle ownership. An Oregon Salvage Title Certificate is not a Oregon Certificate of Title.

(7) "Salvage title," "salvage certificate" and "wrecker's bill of sale" means a document issued by another jurisdiction to indicate the vehicle has been damaged, wrecked or salvaged or words of similar import. "Salvage title" does not refer to an Oregon salvage title certificate as defined by ORS 801.454 and this rule, unless the Oregon salvage title certificate reflects a brand that indicates the vehicle was damaged in another jurisdiction, before being titled in Oregon.

(8) "Word(s) of similar import" means any word, term, indicator, symbol or phrase that means the same or has the same effect as the terms described under OAR 735-020-0070 (junk titles) and defined under section (2) of this rule.

(9) For purposes of this rule, OAR chapter 735, division 024, division 152, ORS chapters 819 and 822, "Auto Recycler" has the same meaning as "wrecker" as defined under OAR 735-152-0010 and means a person issued a wrecker certificate under ORS 822.110.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.012, 803.015, 803.0140, 819.016, 821.060

Stats. Implemented: ORS 803.015 & 803.420

Hist.: DMV 18-2004, f. & cert. ef. 8-20-04

735-024-0025

Title Brands; When Issued, Removed and Exceptions

(1) When Issued. DMV will issue a branded title or a title with an "assembled" make when an application for an Oregon title is submitted and:

(a) The vehicle's title carries a brand(s) described under OAR 735-024-0015(2);

(b) The vehicle meets the definition of an "Assembled vehicle" as defined under OAR 735-024-0015(2); or

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(c) The vehicle meets the definition of a "Reconstructed Vehicle," a "Replica" or a "Totaled vehicle" as those terms are defined under OAR 735-024-0015.

(2) An Oregon title issued under section (1) of this rule:

(a) Will not necessarily be issued with the same brand that appeared on the vehicle's previous certificate of title or other ownership document(s);

(b) Will be issued with a brand described under OAR 735-024-0015 determined by DMV to be most comparable to the brand that appeared on the previous certificate of title. This subsection does not apply to a "branded" brand;

(c) Will indicate the name of the jurisdiction that issued the title brand, unless the title brand was issued by DMV; and

(d) Will be issued with a brand or "assembled" make described under OAR 735-024-0015 when DMV determines from a previous title or vehicle record, from the application for title or from information obtained from any source that a brand or "assembled" make should be placed on the Oregon title as set forth in section (1) of this rule. DMV may require documentation to determine if a vehicle should be issued an Oregon title with an "assembled" make, or a "reconstructed" or "replica" brand.

(3) Except as specifically provided in section (4) of this rule, once a title brand or "assembled" make has been placed on a vehicle's Oregon Certificate of Title that brand or "assembled" make will appear on any subsequent Oregon title issued for the vehicle.

(4) DMV may omit, remove, add or change a title brand or "assembled" make when:

(a) DMV receives information that indicates an Oregon title or Oregon Salvage Title Certificate was issued with an incorrect brand or "assembled" make. For example, DMV receives written information from an originating jurisdiction that indicates its title incorrectly reflects a title brand;

(b) DMV is satisfied the title brand or "assembled" make was placed on the Oregon title or Oregon Salvage Title Certificate in error;

(c) DMV failed to place a title brand or "assembled" make on the Oregon title or Oregon Salvage Title Certificate when required under section (1) of this rule or subsections (d), (e) and (f) of this section.

(d) A subsequent accident or occurrence causes the vehicle to be identified with a brand or different brand such as "totaled" or "reconstructed."

(e) A vehicle issued an Oregon title with any brand or an "assembled" make other than totaled is reported to DMV as a totaled vehicle under ORS 819.012 or 819.014. Except as described in subsection (f) of this section, if DMV issues a new Oregon title, it will include a totaled brand, which replaces any previous brand shown on the Oregon title. For example, a vehicle issued an Oregon title with a flood brand, will be issued an Oregon title with a totaled -reconstructed brand when the vehicle is reported to DMV as a totaled vehicle and is subsequently titled as a reconstructed vehicle;

(f) Notwithstanding subsection (e) of this section, a vehicle issued an Oregon title with an assembled make, or glider kit, reconstructed or replica brand is reported to DMV as a totaled vehicle. If DMV issues a new Oregon title, it will include the original brand and a totaled brand. For example, a vehicle issued an Oregon title with a "replica" brand that is later reported to DMV as "totaled" under ORS 819.020 or 819.014, will be issued an Oregon title with a "replica-totaled-reconstructed" brand when the vehicle is reported to DMV as a totaled vehicle and is subsequently titled as a reconstructed vehicle; or

(g) The reason the vehicle was reported to DMV as a totaled vehicle is theft and the vehicle is recovered and no longer meets the definition of a "totaled vehicle" under ORS 801.527.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.012, 803.015, 803.0140, 819.016, 821.060

Stats. Implemented: ORS 803.015 & 803.420

Hist.: DMV 18-2004, f. & cert. ef. 8-20-04

735-024-0030

Definitions Relating to Vehicles and Documents for Vehicles that Have Been Damaged, Altered, or Rebuilt

The following definitions and application of terms apply to OAR 735-024-0030 through 735-024-0170:

(1) "Accepting Vehicles as Salvage Material" as used in ORS 819.040, means to receive or purchase a vehicle that has already been wrecked, dismantled, or disassembled.

(2) "Assembled Vehicle" as defined in ORS 801.130 and these rules means a vehicle:

(a) With a body that does not resemble any particular year model or make of vehicle;

(b) That is not a vehicle rebuilt by a manufacturer;

(c) That is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(d) That is not an antique vehicle, a vehicle of special interest, a reconstructed vehicle or a replica.

(3) "Brand," "branded title," or "title brand" means a notation, indicator, symbol or phrase that is or has been printed, stamped or otherwise affixed to a certificate of title to indicate the history, condition, or circumstances of a vehicle. A title brand does not necessarily indicate the extent to which a vehicle may have been damaged, whether a vehicle has been repaired or to what degree a damaged vehicle has been repaired.

(4) "Certificate of Title" or "title" is defined in ORS 801.185. A title:

(a) May be issued by Oregon or some other jurisdiction;

(b) When issued by Oregon, is issued under ORS 803.045 or as is provided in 820.500 and 821.060;

(c) Except where designated, does not include a "salvage title certificate," "salvage title" or "salvage certificate";

(d) Is not issued to vehicles that:

(A) Are dismantled, disassembled, or substantially altered;

(B) Are otherwise in a condition that would require the title to be surrendered to the DMV for cancellation; or

(C) Have been issued a junk title, junk certificate or similar ownership document or brand as described in OAR 735-020-0070.

(e) Follows the frame or unibody of the vehicle for which the title was originally issued.

(5) "Dismantle" and "Disassemble" are defined in OAR 735-024-0050.

(6) "Frame" or "Unibody" refer to the major component(s) of a vehicle that form the support structure, undercarriage or lower structure of the vehicle, excluding such things as wheels or suspension. "Frame" does not include the body of the vehicle.

(7) "Insurer" as used in ORS 801.527 and 819.014 and in these rules, means a person engaged in the business of entering into policies of insurance. The term does not include persons who are self-insured.

(8) "Primary Ownership Document" is defined in ORS 801.402 and OAR 735-020-0010.

(9) "Proof of Compliance" means a document issued by DMV as evidence that:

(a) The title or primary ownership document was surrendered to DMV in accordance with ORS 819.010, 819.012 or 819.014; and

(b) The title or primary ownership document was marked, or DMV received other documentation that satisfied DMV that the vehicle was wrecked, dismantled, disassembled or totaled.

(10) "Reconstructed Vehicle," or "reconstructed" as defined in ORS 801.405 and these rules, means either:

(a) A vehicle that:

(A) Has a body that resembles and primarily is a particular year model or make of vehicle;

(B) Is not a vehicle rebuilt by a manufacturer;

(C) Is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(D) Is not a replica; or

(b) A motor truck that has been rebuilt using a component kit if the manufacturer of the kit assigns a vehicle identification number and provides a manufacturer's certificate of origin for the kit.

(11) "Replica" as defined in ORS 801.425 and these rules, means a vehicle with a body built to resemble and be a reproduction of another vehicle of a given year and given manufacturer.

(12) "Salvage Title Certificate," "Oregon Salvage Title Certificate" or "salvage title" as defined in ORS 801.454 and this rule means a written document issued by DMV under the provisions of ORS 803.140 and 819.016 as evidence of vehicle ownership. Unless designated otherwise, an Oregon Salvage Title Certificate is not a certificate of title.

(13) "Salvage title," "salvage certificate" and "wrecker's bill of sale" means a document issued for a vehicle to indicate the vehicle has been damaged, wrecked or salvaged or words of similar import. "Salvage title" does not refer to an Oregon salvage title certificate as defined by ORS 801.454 and this rule, unless the Oregon salvage title certificate reflects a brand that indicates the vehicle was damaged in another jurisdiction, before being titled in Oregon.

(14) "Substantially Alter the Form" is defined in OAR 735-024-0050.

(15) "Totaled vehicle" and "totaled" as defined in ORS 801.527 and these rules means:

(a) A vehicle that is declared a total loss by an insurer that is obligated to cover the loss or that the insurer takes possession of or title to;

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(b) A vehicle that is stolen, if it is not recovered within 30 days of the date that it is stolen and if the loss is not covered by an insurer; or

(c) A vehicle that has sustained damage that is not covered by an insurer and that is such that the estimated cost to repair the vehicle is equal to at least 80 percent of the retail market value of the vehicle prior to the damage. For purposes of this subsection, "retail market value" shall be as reflected in publications relied upon by financial institutions doing business in this state.

(16) "Wreck" is defined in OAR 735-024-0050.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.012, 803.015, 803.0140, 819.016, 821.060
Stats. Implemented: ORS 803.015, 803.420

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92; DMV 18-2004, f. & cert. ef. 8-20-04

Adm. Order No.: DMV 19-2004

Filed with Sec. of State: 8-20-2004

Certified to be Effective: 8-20-04

Notice Publication Date: 7-1-04

Rules Amended: 735-072-0023, 735-072-0027

Subject: OAR 735-072-0023 establishes the Provisional Driver Improvement Program. The amendment specifies that a person suspended under this Program who is required to pass tests as a condition of reinstatement, must pass the required tests even if five years has passed since the suspension. This change is made because driver licenses are now issued for an eight-year period. OAR 735-072-0027 establishes the Adult Driver Improvement Program. The amendment clarifies that a person who has previously been suspended under section (4) of this rule will have driving privileges suspended if a subsequent conviction or preventable accident is posted to their driving record, and a review of the record shows the person still has at least four or has more than four driver improvement violations and/or preventable accidents with the 24-month review period.

Rules Coordinator: Brenda Trump—(503) 945-5278

735-072-0023

Provisional Driver Improvement Program

(1) Drivers who have reached 14 years of age but who have not yet reached 18 years of age are subject to the Provisional Driver Improvement Program. The Provisional Driver Improvement Program is designed to have a quick and immediate impact on young drivers who are convicted of traffic offenses or involved in preventable accidents. This rule applies to driver improvement violations and preventable accidents that occur when the driver is 14, 15, 16 or 17 years of age, and whose record review date occurs before the person has reached 18 years of age.

(2) On the record review date, DMV will review the person's driving record and restrict the driving privileges of any provisional driver who has:

- (a) Two driver improvement violations; or
- (b) Two preventable accidents; or
- (c) A combination of one driver improvement violation and one preventable accident.

(3) The following apply to provisional restrictions:

(a) DMV will restrict the license or instruction permit of a provisional driver to drive only to and from or for employment, with no passengers except their parent, stepparent or guardian;

(b) DMV will impose the restriction for a period of 90 days regardless of whether the driver becomes 18 years of age during the restriction period. DMV will notify the provisional driver by letter that the restriction will begin five days from the date of the letter. During the 90-day restriction period, the provisional driver must carry the restriction letter at all times while the person is driving a motor vehicle;

(c) A person who violates the Provisional Driver Improvement Program restriction, can be cited under ORS 807.010, operating in violation of license restrictions, which is a Class B traffic violation; and

(d) DMV will delay imposition of a restriction to driving privileges and place a pending restriction code on the person's driving record of any provisional driver:

(A) Whose driving privileges are cancelled, suspended or revoked until DMV grants driving privileges or fully reinstates driving privileges; or

(B) Who has not been granted driving privileges until DMV grants driving privileges in the form of a provisional driver license or instruction permit;

(C) Unless that provisional driver gets another driver improvement violation or preventable accident while under the age of 18. In that case, DMV will suspend the driving privileges or right to apply for driving priv-

ileges as set forth in subsection (6) of this rule. This suspension will supercede the pending restriction and the pending restriction code will be removed from the person's driving record.

(4) DMV may offer an interview with a DMV employee to a provisional driver whose driving privileges are restricted. The purpose of the interview is to re-evaluate the person's driving privilege based on a review of performance since the date of the incident that caused the restriction. Actions DMV may take after re-evaluating the person's performance include but are not limited to:

(a) Lessening or increasing the severity or duration of the restriction;

(b) Requiring the completion, within 90 days of the interview, of a driver improvement course;

(c) Requiring the person to complete and pass all or some of DMV's driver license examinations (knowledge test, vision test and drive test) within 60 days from the date of the interview directing the person to complete the examination and to notify DMV of the completion. If the person fails any licensing examination, DMV will suspend the person's driving privileges or right to apply for driving privileges under ORS 809.410(13).

(5) DMV will suspend driving privileges or the right to apply for driving privileges if a provisional driver has an interview with a DMV employee and does not comply with any requirement imposed by DMV. If the requirement is to complete and pass all or some of DMV's driver license examinations, the suspension will continue until the provisional driver completes and passes all required examinations. For all other requirements imposed by DMV, the suspension will continue until the provisional driver fully complies with the requirement or for five years from the effective date of the suspension, whichever is earlier.

(6) DMV will suspend for six months the driving privileges or right to apply for driving privileges of any provisional driver who has:

- (a) Three driver improvement violations;
- (b) Three preventable accidents; or
- (c) A combination of driver improvement violations and preventable accidents that total three.

(7) For each subsequent driver improvement violation or preventable accident, DMV will suspend for six months the driving privileges or right to apply for driving privileges of a provisional driver, regardless of a previous or current Driver Improvement Program suspension(s), who has:

- (a) Four or more driver improvement violations;
- (b) Four or more preventable accidents; or
- (c) A combination of driver improvement violations and preventable accidents that total four or more.

(8) DMV will suspend for one year the driving privileges or the right to apply for driving privileges of a provisional driver convicted of any offense listed in ORS 809.600(1). This suspension is for Provisional Driver Improvement Program purposes and is in addition to any suspension or revocation imposed because of the specific conviction.

(9) The suspension period for those suspensions imposed under sections (6), (7) and (8) of this rule will be imposed for the full suspension period, regardless of whether the provisional driver becomes 18 years of age during the suspension period. A suspension of driving privileges or the right to apply for driving privileges under this rule shall run concurrently with any other suspension, revocation, or cancellation in effect at the time the suspension begins. This section is applicable to suspensions imposed on or after June 30, 2002.

Stat. Auth.: ORS 184.616, 184.619 & 809.480

Stats. Implemented: ORS 809.480

Hist.: DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 7-2003(Temp), f. 5-14-03, cert. ef. 5-15-03 thru 11-10-03; DMV 13-2003, f. & cert. ef. 9-22-03; DMV 19-2004, f. & cert. ef. 8-20-04

735-072-0027

Adult Driver Improvement Program

(1) A driver whose record review date is on or after the person has reached 18 years of age is subject to the Adult Driver Improvement Program. DMV will look back from the record review date to the incident date that resulted in a conviction or the date of a preventable accident to determine if a person is subject to the Adult Driver Improvement Program.

(2) DMV will restrict the license or instruction permit of an adult driver who within the 18-month period immediately prior to the record review date has:

- (a) Three driver improvement violations;
- (b) Three preventable accidents; or
- (c) A combination of driver improvement violations and preventable accidents that total three.

(3) The following apply to adult restrictions:

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(a) DMV will restrict the license or instruction permit of an adult driver to no driving between the hours of 12 midnight and 5 a.m., unless driving between home and work or driving for purposes of employment;

(b) DMV will impose the restriction for a period of 30 days. DMV will notify the adult driver by letter that the restriction will begin 30 days from the date of the letter. During the restriction period, the adult driver must carry the restriction letter at all times the person is driving a motor vehicle; and

(c) DMV will delay imposition of a restriction to driving privileges and place a pending restriction code on the person's driving record of any adult driver:

(A) Whose driving privileges are cancelled, suspended or revoked until DMV grants driving privileges or fully reinstates driving privileges; or

(B) Who has not been granted driving privileges until DMV grants driving privileges in the form of a driver license or instruction permit;

(C) Unless that adult driver gets another driver improvement violation or preventable accident that would total four driver improvement violations or preventable accidents in a 24-month period prior to the record review date. In that case, DMV will suspend the driving privileges or right to apply for driving privileges. This suspension will supercede the pending restriction and the pending restriction code will be removed from the person's driving record.

(d) DMV will not impose a pending restriction to the driving privileges of an adult driver if:

(A) Five years have elapsed from the date the pending restriction was imposed; and

(B) The adult driver has no record of a driver improvement violation or preventable accident occurring in the last 18 months prior to the granting of driving privileges or full reinstatement of driving privileges.

(4) DMV will suspend the driving privileges or right to apply for driving privileges of an adult driver who within the 24-month period immediately prior to the record review date has:

(a) Four driver improvement violations;

(b) Four preventable accidents; or

(c) A combination of driver improvement violations and preventable accidents that total four.

(5) For each subsequent driver improvement violation or preventable accident, DMV will suspend the driving privileges or right to apply for driving privileges of an adult driver, regardless of a previous or current Driver Improvement Program suspension(s), who within the 24-month period immediately prior to the record review date has:

(a) Four or more driver improvement violations;

(b) Four or more preventable accidents;

(c) A combination of driver improvement violations and preventable accidents that total four or more.

(6) The suspension period under sections (3), (4) and (5) of this rule will be for 30 days. The suspension will run concurrently with any other suspension, revocations, or cancellations in effect at the time the suspension begins.

Stat. Auth.: ORS 184.616, 184.619 & 809.480

Stats. Implemented: ORS 809.480

Hist.: DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 19-2004, f. & cert. ef. 8-20-04

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Rules Adopted: 735-150-0039, 735-150-0205

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Rules Repealed: 735-150-0100

Subject: These rules establish procedures and requirements for the administration and enforcement of laws relating to the regulation of Oregon vehicle dealers. The changes bring them into compliance with legislative changes to relevant statutes and provide additional safeguards to Oregon vehicle consumers. The rule changes: establish qualifications for dealers to act as agents of DMV; establish procedures and requirements for closure of a dealership; add an exemp-

tion for dealers from satisfying financing within 15 days for inventory financing security interest when a dealer is the debtor and amends dealer record rules to comply with Chapter 332, Oregon Laws 2003 (SB 603); add a specific sanction and penalties for a dealer who acts as a DMV agent when not covered by bond or insurance, Chapter 471, Oregon Laws 2003 (HB 3048); and update terms and definitions and make other non-substantive changes to simplify rule language.

Rules Coordinator: Brenda Trump—(503) 945-5278

735-150-0000

Authority and Purpose

Division 150 rules are adopted under the authority of ORS 822.035. These rules establish procedures and requirements for the administration and enforcement of laws relating to the regulation of Oregon vehicle dealers.

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

Stat. Auth.: ORS 184.616, 184.619 802.010 & 822.035

Stats. Implemented: ORS 822.035

Hist.: MV 7-1987, f. & ef. 7-13-87; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0005

Oregon Dealer Advisory Committee

(1) The Oregon Dealer Advisory Committee is established pursuant to ORS 802.370.

(2) The committee's membership will consist of the following individuals:

(a) Two individuals who represent franchise dealers of new vehicles;

(b) Two individuals who represent dealers of used vehicles;

(c) Two individuals who represent Oregon auto recyclers;

(d) Two individuals who represent the interests of the general public;

(e) One individual who represents recreational vehicle dealers;

(f) One individual who represents vehicle dealership office management interests;

(g) One individual who represents auto auctions;

(h) One individual who represents Oregon towing businesses.

(i) In addition to the committee membership described under subsections (a) through (h) of this section, membership may also include:

(A) One realtor who is a certified vehicle dealer;

(B) One individual who represents manufactured housing dealers; and

(C) One individual, whose term of appointment and interest of representation will be determined by the DMV Administrator.

(3) DMV must annually designate one member listed in section (2) of this rule as chair of the committee.

(4) Members' terms of appointment will be three (3) years. However, members serve at the pleasure of the DMV Administrator. A member may be replaced upon missing two (2) consecutive meetings without good cause. The initial date of expiration of terms will be staggered in a manner determined by DMV.

(5) DMV will seek the recommendation of a trade or professional association generally recognized to represent a membership category before appointing a committee member, however, DMV is not bound by the association's recommendation.

(6) DMV must consult with the committee before:

(a) Adopting administrative rules under ORS 822.035;

(b) Taking disciplinary action against a dealer under ORS 822.050 to revoke, suspend or place a dealer on probation;

(c) Levying a civil penalty against a dealer under ORS 822.009(1); or

(d) Taking disciplinary action against an Oregon auto recycler under OAR 735-152-0050 to revoke, suspend or place an auto recycler on probation.

(7) DMV, at its discretion, may consult with the committee or committee member by mail, telephone, or other electronic means, or at a meeting of the committee. However, DMV is not bound by a committee recommendation. DMV must provide members seven (7) days from the date of a mailing to respond to proposed actions, unless DMV determines continued operation of a business jeopardizes public health or safety.

Stat. Auth.: ORS 184.616, 184.619 802.010 & 822.035

Stats. Implemented: ORS 802.370

Hist.: MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0010

Definitions

As used in this division and ORS Chapter 822:

(1) "Additional (or supplemental) place of business" or "additional (or supplemental) location":

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(a) Means a location, other than one exempted under OAR 735-150-0020, that is more than 500 feet from any other business location of the dealer, and which is operated under the same name as the main business location; and

(b) Includes any lot within a manufactured home park upon which a manufactured structure is displayed or sold by a vehicle dealer.

(2) For purposes of this rule, OAR chapter 735, division 024, division 152, ORS Chapters 819 and 822, "Auto Recycler" has the same meaning as "wrecker" as defined under OAR 735-152-0010 and means a person issued a wrecker certificate under ORS 822.110.

(3) "Advertise" means to offer a vehicle for sale or to communicate to the public that a person is acting as a vehicle dealer, by any oral, written, or graphic means including, but not limited to, handbills, the Internet, newspapers, signs, television, billboards, radio, and telephone directories.

(4) "Agent" means any dealer possessing a current valid vehicle dealer certificate issued under ORS 822.020, who accepts applications and fees for the titling and the registration of vehicles sold by the dealer and who performs such other duties related to the titling and registration of vehicles as DMV authorizes under the rules set forth in Division 150.

(5) "Business day" means Monday through Saturday and does not include Sundays or State of Oregon and Federal legal holidays.

(6) "Cancellation" has the same meaning as "revocation" as defined in section (26) of this rule.

(7) "Certified dealer" means a dealer who holds a valid dealer certificate issued under ORS Chapter 822.

(8) "Circumstances beyond the dealer's control", as used in ORS 822.045(3)(b), OAR 735-150-0050(5) means:

(a) That the dealer could not get the title from any state and the prior security interest holder was paid in full by the dealer; and

(b) The delay was a result of the security interest holder failing to release title; or

(c) DMV may consider the follow mitigating circumstances, if those circumstances result in the physical destruction of, or inaccessibility to vehicle records necessary to prove compliance with ORS 822.045(1) and OAR 735-150-0050(5):

(A) The direct result of clearly-established fraud or other criminal activity against the vehicle dealer, as determined in a criminal or civil action in a court of law or independently corroborated by a report of a law enforcement agency or insurer or the sworn testimony or affidavit of an accountant or the person who actually engaged in the criminal activity. This mitigating circumstance does not apply if the dealer is the perpetrator of the wrongdoing described in this paragraph; or

(B) The direct result of fire, flood or other calamitous event, resulting in physical destruction of, or inaccessibility to vehicle records to prove compliance with ORS 822.045(1) and OAR 735-150-0050(5).

(9) "Closure" means a vehicle dealership that no longer has legal authority to conduct dealer-related activity. For example, a dealer's certificate issued under ORS 822.020 is expired, cancelled, suspended or revoked.

(10) "Date of sale," or use of similar terms to indicate the day that the sale occurred, means the date on which the purchaser takes possession of the vehicle except, for those sales made by auto auction companies which only allow certified dealers to act as purchasers. With respect to auto auctions and for purposes of consignor payment under ORS 822.060(1)(d), "date of sale" means, the date upon which the consigning party delivers the necessary title documents to the purchasing dealer.

(11) "Dealer" means a person who engages in any of the activities described in ORS 822.005, except those persons exempted by ORS 822.015.

(12) "Dealership," "place of business" or "business location" means a location within the State of Oregon where activities specified in ORS 822.005 take place.

(13) "Designated dealer" means a certified dealer who has been authorized to act as an agent of DMV under OAR 735-150-0040.

(14) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(15) "DMV Administrator" means the administrator of the Driver and Motor Vehicles Services Division of the Oregon Department of Transportation.

(16) "Employee" means:

(a) A person over whom a dealer exercises the type of control typically associated with an employer, including but not limited to:

(A) Determining the frequency, method and amount of compensation;

(B) Determining whether the person's work is continuous or intermittent;

(C) Determining the hours or frequency of a person's work; or

(D) Retaining the ability to terminate the relationship.

(b) A real estate salesperson who engages in the sale of mobile homes or manufactured housing and whose vehicle certificate is held by a broker.

(17) "Good faith effort" as used in ORS 822.045(3)(a) means an action satisfactory to DMV that a vehicle dealer complied with the requirements set forth in OAR 735-150-0050(1) and (2).

(a) DMV will determine that the dealer's efforts are in good faith if written documentation is provided that verifies:

(A) Action(s) was taken by the dealer within ten (10) days of sale to resolve problems with providing transfer of ownership; and

(B) The dealer provided complete and timely information to the customer concerning any problems encountered and actions being taken to resolve them.

(b) DMV will not accept a good faith effort by a dealer if, prior to sale of the vehicle, the dealer knows or reasonably should know that title transfer could not be completed within 30 days.

(18) "Location," "main business location" or "main dealership" means a location identified and listed as the dealer's main business location on the most current application for vehicle dealer certificate and includes:

(a) The location in a manufactured home park of a single manufactured structure consigned to a vehicle dealer by the owner who has not released ownership in the manufactured structure to the dealer;

(b) A lot within a manufactured home park upon which a manufactured structure is displayed or sold by a vehicle dealer.

(19) "Manufactured home park" has the same meaning as manufactured dwelling park as defined in ORS 446.003(27).

(20) "Normal business hours" means all times during which a dealer engages in any of the activities described in ORS 822.005, except as exempted by ORS 822.015.

(21) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation or any other legal or commercial entity.

(22) "Permanent revocation" means to permanently revoke a vehicle dealer certificate and the right to apply for a vehicle dealer certificate.

(23) "Probation" means a period of time specified by DMV during which a vehicle dealer may continue to operate, but only under the terms or conditions established by DMV.

(24) "Principal" means an owner, partner, corporate officer or other person who controls or manages the business organization or the employees or agents of the business organization.

(25) "Rebuilder" means a person engaged in conducting a "vehicle rebuilding business" as specified in ORS 822.070.

(26) "Revocation" means to void and terminate a vehicle dealer certificate. Unless permanently revoked, DMV will specify the period of time before the person subject to the revocation may apply for a new vehicle dealer certificate.

(27) "Sanction" means an action taken against a vehicle dealer by DMV in cases of non-compliance, fraud, misuse or abuse of privileges granted by a vehicle dealer certificate pursuant to a violation of the Oregon Vehicle Code or any rule adopted by DMV relating to vehicle dealers or the operation of a vehicle dealership.

(28) "Suspension" means a period of time specified by DMV during which a vehicle dealer is prohibited from:

(a) Buying, selling, brokering, trading or exchanging any vehicle. This includes, but is not limited to, providing information about price, quality, availability, payment terms, or any other information specific to the sale of a vehicle; and

(b) Acting as DMV's agent.

(29) "Violation" means any violation by a person or vehicle dealer of the Oregon Vehicle Code or any rules adopted by DMV in accordance with ORS 822.009(1) & (2).

(30) "Warning" means a documented oral warning to the principal of a dealership or a written correction notice issued to the principal or an employee of the dealership.

Stat. Auth.: ORS 184.616, 184.619 & 822.035

Stats. Implemented: ORS 822.005 - 822.080

Hist.: MV 7-1987, f. & ef. 7-13-87; MV 39-1989, f. & cert. ef. 10-3-89; MV 8-1991, f. & cert. ef. 7-19-91; MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 17-2002, f. & cert. ef. 9-20-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0015

Dealer Applications

(1) An applicant for a vehicle dealer certificate under ORS 822.020 or a renewal under ORS 822.040 must submit the following to the DMV Business Regulation Section:

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(a) A completed and signed DMV Application for Vehicle Dealer Certificate form;

(b) A completed and signed DMV Surety Bond form;

(c) A completed and signed DMV Certificate of Insurance form or DMV Certificate of Exemption form;

(d) State-issued picture identification (a copy of driver license or identification card) for each owner, partner, principal corporate officer, etc.;

(e) All applicable fees; and

(f) The following documentation certifying completion of the education and test requirements prescribed by ORS 822.027:

(A) A certificate of education completion issued by an authorized education provider as evidence that the applicant has completed the education requirements under ORS 822.027(1); or

(B) A completed and signed DMV Education Requirements Certification of Exemption form, if an applicant is exempt from the education and test requirements under ORS 822.027(2).

(2) In addition to the requirements of section (1) of this rule, the applicant must submit a completed and signed DMV Supplemental Dealer/Rebuilder Dealer Certificate form for each additional business location other than the dealer's primary business location.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 822.025 & 822.040

Stats. Implemented: ORS 802.012, 822.025 & 822.040

Hist.: DMV 4-1996, f. & cert. ef. 7-26-96; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0020

Exemptions From Vehicle Dealer Certification Requirement

(1) A person who rents or leases space to a vehicle dealer who holds a current valid certificate is not a dealer as defined in OAR 735-150-0010(11).

(2) The following apply where there is a formal display of vehicles, such as an auto show, by a group of dealers for a period of ten (10) days or less:

(a) Except as otherwise provided in this section and ORS 822.015(9), a dealer participating in a display must either be a certified vehicle dealer or a manufacturer of vehicles not engaged in sales to the public;

(b) A person who only rents or leases space to a participating dealer does not need a vehicle dealer certificate;

(c) A certified vehicle dealer does not need a supplemental certificate; and

(d) This section does not apply to RV shows held in accordance with OAR 735-150-0045.

(3) The exemption in ORS 822.015(2) will be narrowly construed to exempt from dealer regulatory requirements only those persons who engage in buying, selling or exchanging vehicles as a mere incident to their personal ownership and use of those vehicles. This includes a business or corporate entity that holds such vehicles primarily for its own transportation needs, but not primarily for sale or exchange. No person may apply for certificates of title for the purpose of avoiding dealer regulatory requirements while dealing in vehicles.

(4) A person is not a rebuilder if that person:

(a) Is an employee of a certified vehicle dealer; or

(b) Is engaged solely in the repair of damaged vehicles at the request of the registered owner(s) of the vehicle(s).

(5) An employee of a dealer as defined in OAR 735-150-0010(16) is not required to have a separate dealer certificate in order to buy or sell vehicles on behalf of his or her employer.

(6) A dealer certificate is not required for the sale or display of a manufactured structure exempted from title and registration requirements under ORS 820.510.

(7) A certified vehicle dealer does not need a supplemental certificate for the location of an auction conducted by the dealer. This exemption applies when all the following conditions exist:

(a) Vehicles sold at the auction are consigned to the dealer;

(b) Vehicles are sold on the basis of the highest bid or most favorable offer;

(c) The auction does not exceed three (3) consecutive days; and

(d) The dealer does not own the property where the auction is conducted. If the dealer rents or leases the property where the auction is conducted, the rent/lease period must not exceed three (3) consecutive days.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.015 & 822.035

Stats. Implemented: ORS 822.015

Hist.: MV 7-1987, f. & ef. 7-13-87; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0024

Investigation of Certificate Applications

(1) DMV will investigate applications for original or renewal vehicle dealer certificates on a random basis to determine whether the information contained in the application is accurate and complete and may do so whenever DMV has reason to believe the application is not accurate or complete.

(2) DMV will investigate all applications for original or renewal vehicle dealer certificates to determine if any of the principals of the applicant dealer are or have been financially or operationally involved with any other dealer whose certificate or right to apply for a certificate is currently or has been on probation, suspended, canceled or revoked.

(3) Pursuant ORS 822.035(1), (8), and (9), DMV will investigate an applicant who indicates on the vehicle dealer certificate application that his or her vehicle dealer certificate has been revoked or is currently suspended in another jurisdiction.

(4) DMV may inspect the location from which the applicant proposes to transact business in order to ensure compliance with the requirements of OAR 735-150-0030 and with any restrictions imposed by any local governing body.

(5) DMV may, at any time during or after the application process, investigate to certify compliance with the requirements of ORS 822.025.

(6) DMV may investigate any other matters related to an application as it deems necessary within the limits of its authority.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035 & 822.050

Stats. Implemented: ORS 822.035

Hist.: MV 8-1991, f. & cert. ef. 7-19-91; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0027

Refusal to Issue or Renew Vehicle Dealer Certificate

(1) DMV will not issue an original or renewal vehicle dealer certificate to any applicant when it determines the application is incomplete or information contained in the application is false.

(2) DMV will not issue an original or renewal vehicle dealer certificate to any applicant when it determines a principal of the applicant dealer is financially or operationally involved with any dealership whose certificate or right to apply for a certificate is currently suspended, canceled or revoked. Additionally, DMV will not issue an original or renewal vehicle dealer certificate to any applicant when it determines a principal of the applicant dealer was within one (1) year of the date of the application financially or operationally involved with any dealership whose certificate or right to apply for a certificate is currently suspended, canceled or revoked.

(3) DMV will issue an original or renewal vehicle dealer certificate on a probationary basis when it determines a principal of the applicant dealer is financially or operationally involved with any other dealer whose certificate or right to apply for a certificate is currently on probation. The probationary status of the new certificate will expire and attain regular status on the same date the probation period ends for the other dealership.

(4) As provided in ORS 822.035(8) and (9), DMV will not issue a vehicle dealer certificate under ORS 822.020 to an applicant who has been issued a similar certificate from another jurisdiction that has been revoked or is currently suspended unless the applicant possesses a current, valid vehicle dealer certificate issued under ORS 822.020. Nothing in this section precludes a vehicle dealer who holds a current, valid vehicle dealer certificate issued under ORS 822.020 from obtaining a vehicle dealer certificate under ORS 822.020 or a supplemental certificate under ORS 822.040 or to renew a certificate under ORS 822.040.

(5) DMV will not issue an original or renewal vehicle dealer certificate until such time as it is satisfied the applicant meets all requirements for issuance of a certificate found in ORS chapter 822 and OAR chapter 735, division 150.

(6) DMV will not issue an original vehicle dealer certificate to an applicant whose business name is identical to or indistinguishable from an existing dealer name. DMV may consider geographic location and other factors at its discretion when determining the ability to distinguish between two similarly named dealerships.

(7) When DMV refuses to issue a vehicle dealer certificate, DMV will retain the fees submitted with the application to cover the cost of processing the application.

(8) An applicant who has been refused issuance of a vehicle dealer certificate is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(9) The refused applicant's request for a hearing must be submitted in writing to and received by DMV within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a certificate, pending the outcome of the hearing. In the case of a refusal to renew, the dealer may continue to operate under the old certificate in accor-

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dance with ORS 183.430(1), pending the outcome of the hearing, except when the agency finds that such continued operation would constitute a serious danger to the public health or safety and extends the hearing request period to 90 days in accordance with ORS 183.430(2).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035 & 822.050

Stats. Implemented: ORS 822.050

Hist.: MV 8-1991, f. & cert. ef. 7-19-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0030

Dealer Location Regulations

(1) Except as permitted under section (2) of this rule, each business location established by a dealer must:

(a) Have sufficient space to display one or more vehicles of the type the dealer has been issued a certificate to sell;

(b) Provide a means for the public to contact the dealer or an employee of the dealer at all times during the dealer's normal business hours;

(c) Display an exterior sign, permanently affixed to the land or a building, that identifies the dealership by the name printed on the vehicle dealer certificate, with letters clearly visible to the major avenue of traffic; and

(d) Display, in a publicly accessible and conspicuous manner, the vehicle dealer certificate.

(2) Where zoning or local ordinance prevent compliance, DMV may exempt a dealer from the requirements of subsections (1)(a), (b), or (c) of this rule if the dealer:

(a) Submits a written request for the exemption(s) to DMV documenting why an exemption should be granted;

(b) Agrees to an on-site inspection if required by DMV to determine the validity of the request and to seek reasonable alternatives to the exemption(s) requested; and

(c) Complies with any alternative proposed by DMV that substantially meets the requirements for the exemption requested.

(3) All locations from which a rebuilder conducts a "vehicle rebuilding business" as described in ORS 822.070 must be listed on an application for a vehicle dealer certificate as either the main business location or a supplemental business location. Each location must comply with the requirements of section (1) of this rule unless an exemption under section (2) of this rule is granted.

(4) The following apply to dealer locations, unless exempt under OAR 735-150-0020:

(a) A dealer must have a certificate or supplemental certificate for each location where the dealer sells or displays vehicles for sale. A dealer who uses a supplemental place of business, must have a supplemental certificate from DMV before business can be conducted at the supplemental location;

(b) A dealer who moves a place of business or changes the business name must submit a completed and signed DMV Application to Correct Dealer/Rebuilder Vehicle Dealer Certificate and obtain a corrected dealer certificate before business can be conducted; and

(c) A dealer must have a certificate or supplemental certificate for each location where a manufactured structure is displayed for sale when the structure is owned by the dealer and is part of the inventory held for sale in the dealer's stock. "Inventory" may include, but is not limited to, a manufactured structure delivered from the manufacturer or a manufactured structure which the dealer has purchased or taken in on trade.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.025, 822.035 & 822.040

Stats. Implemented: ORS 822.020, 822.035 & 822.040

Hist.: MV 7-1987, f. & ef. 7-13-87; Administrative Renumbering 3-1988, Renumbered from 735-071-0057; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0035

Dealer Records

(1) The original records required to be maintained by dealers pursuant to all applicable provisions of ORS Chapter 822 and OAR chapter 735, division 150 or documenting compliance with any of these provisions, must be maintained for a period of two (2) years on the premises of the main business location. Where a dealer has an additional (or supplemental) location pursuant to a valid supplemental certificate, all original records required to be maintained for that particular location must be maintained for two (2) years either at the main business location or at the additional (or supplemental) location, at the option of the dealer. For good cause shown or upon a showing of a business necessity, DMV, in its sole discretion, may authorize a dealer to maintain its dealer records at a location within the State of Oregon other than that required by this section.

(2) In addition to the requirements described in section (1) of this rule, dealer records must be maintained for an additional three-year period in any

location within the State of Oregon that is convenient for the dealer. During this three-year period the dealer may, at the dealer's option, maintain the original dealer records or an exact copy of the original records in hard copy, on film, or electronically. If first approved by DMV, an exact copy of the dealer's original records may be stored in some other manner during this three-year period.

(3) Dealer records subject to this rule must be maintained in a manner allowing for timely and efficient retrieval of any record requested by DMV or a police officer for inspection. DMV or a police officer may require that any record printed or completed in a language other than English be accompanied by a copy translated into English.

(4) DMV may inspect dealer records including books, contracts, documents, letters and records of any type, including electronic and paper records, of any certified vehicle dealer when DMV is investigating a potential violation of Oregon Vehicle Code.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035 & 822.042

Stats. Implemented: ORS 822.035, 822.042 & 822.045

Hist.: DMV 10-2001, f. & cert. ef. 6-14-01; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0037

Records; Satisfying Prior Interest; Providing Clear Title

ORS 822.045(1)(k) requires a dealer to whom any interest in a vehicle or camper is transferred to satisfy all prior interests, except inventory financing security interests for which the dealer is the debtor, in the vehicle or camper within specific time periods. To verify compliance with ORS 822.045(1)(k), dealers must maintain the following records in compliance with OAR 735-150-0035:

(1) Records sufficient to identify the date of the transfer of any interest(s) in a vehicle from a vehicle consumer to the dealer.

(2) For a dealer selling a vehicle to another dealer, records that clearly indicate the date that the selling dealer:

(a) Received clear title to the vehicle and from whom it was received; and

(b) Advised the buying dealer that clear title was available for pickup by, or was delivered to, the buying dealer.

(3) For a dealer buying a vehicle from another dealer, records that clearly indicate the date that the:

(a) Selling dealer advised the buying dealer that clear title was available for pickup; and

(b) Buying dealer actually obtained clear title from the selling dealer.

(4) Records that clearly indicate compliance with the provisions of ORS 822.045(1)(k), (A) and (B), requiring the satisfaction, within 15 days of the transfer to the dealer of any interest in a vehicle or camper, or, for dealer to dealer transactions only, within 15 days of the receipt by the buying dealer of clear title from the selling dealer, of the following prior interests:

(a) The interest of any person from whom the dealer purchased or obtained the vehicle or camper;

(b) The interest of any person from whom a vehicle consumer leased the vehicle or camper; and

(c) Except as otherwise described in this rule, all security interests in the vehicle or camper entered into before the date of transfer of the vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035 & 822.042, 822.045

Stat. Implemented: ORS 822.009, 822.035, 822.042, 822.045 & 822.045

Hist.: DMV 20-2002, f. & cert. ef. 10-14-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0039

Qualifications for Designation of Dealer as Agent

A dealer who possesses a valid Oregon vehicle dealer certificate issued pursuant to ORS 822.020 or renewed pursuant to ORS 822.040 must meet the qualifications in section (1) through (3) of this rule in order to be appointed and to continue to act as DMV's agent and to perform the duties permitted by OAR 735-150-0040(4):

(1) A dealer, including any principal if a corporation, partner if a partnership, or member if an LLC, must not:

(a) Be currently suspended as a vehicle dealer in Oregon;

(b) Have been convicted of any felony, including a conviction based on a plea of nolo contendere, in any jurisdiction within the prior 10 years;

(c) Have been convicted of any misdemeanor, including a conviction based on a plea of nolo contendere, in connection with selling or otherwise dealing in motor vehicles, or for fraud, identity theft, misrepresentation, forgery or conversion, in any jurisdiction within the prior 10 years;

(d) Have been found to have committed a violation of Oregon Vehicle Code, state or federal law, rule, or regulation related to fraud, misrepresentation, forgery or conversion within the prior 10 years; or

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(e) Have been found liable in a civil action in which a judgment is issued for committing any act of fraud, conversion or misrepresentation within the prior 10 years.

(2) A dealer must remain in continued compliance with the provisions of ORS 822.025(3) and (5).

(3) A dealer, including any principal if a corporation, partner if a partnership, or member if an LLC, must not issue DMV a dishonored check or other form of non-negotiable payment.

Stat. Auth.: ORS 184.616, 184.619, 802.031, 802.031, 822.035, 822.042
Stats. Implemented: ORS 822.020, 822.025, 822.035, 822.040, 822.042, 822.045
Hist.: DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0040

Designation of Dealers as Agents

(1) Persons issued a dealer certificate under ORS 822.020 and who meet the qualifications set forth in OAR 735-150-0039, are designated as DMV's agent pursuant to ORS 802.031 and may perform the duties of an agent as identified in section (4) of this rule.

(2) Snowmobile dealers and Class I and Class III all-terrain vehicle dealers are designated as agents of DMV pursuant to ORS 802.031.

(3) DMV may impose sanctions against a dealer's agent status as provided in OAR 735-150-0120.

(4) DMV's agent may:

(a) Accept applications and fees for titles and registrations of vehicles they sell, as provided in OAR 735-150-0050;

(b) Perform vehicle identification number inspections on vehicles they sell, as provided in OAR 735-022-0070 when the vehicle has been registered or titled in another jurisdiction subject to the limitations of OAR 735-022-0070;

(c) Issue temporary registration permits for unregistered vehicles they sell, as provided in ORS 803.625 and OAR 735-150-0060;

(d) Issue trip permits for unregistered vehicles they sell, as provided for in OAR 735-150-0070 and 735-150-0080;

(e) Issue 10-day trip permits for registered vehicles they sell, as provided in ORS 803.600, OAR 735-150-0070, 735-150-0080 and 735-034-0010. When issuing a 10-day trip permit as described in this subsection, a vehicle dealer:

(A) Must insure the Oregon registration stickers have been removed in accordance with ORS 803.600;

(B) May not issue more than two permits for the same motor vehicle; and

(C) Must require the person applying for the permit to provide the insurance company name and policy number on the permit, and sign the certificate on the permit stating that the motor vehicle is covered by an insurance policy that meets the requirements of ORS 806.080 and will continue to be covered as long as the permit is valid.

(f) Issue manufactured structure trip permits for manufactured structures they sell or transport, as provided in OAR 735-140-0140 and 735-150-0090; and

(g) Accept applications and fees for transfers of registration plates except as provided in section (9) of this rule.

(5) A dealer who, on behalf of a purchaser, accepts an application, collects fees and obtains registration plates, stickers and temporary registration, as applicable, must ensure delivery of the items obtained to the purchaser. Within five working days of receipt from DMV the dealer must:

(a) Deliver the items to the purchaser;

(b) Mail the items to the purchaser; or

(c) Advise the purchaser the items are at the dealership and, if the purchaser agrees, arrange for the purchaser to pick up the items at the dealership.

(6) The dealer must document in the dealer's records the actions taken by the dealer to notify the purchaser or to deliver the registration plates, stickers and temporary registration.

(7) No dealer may, as a result of a dispute between the purchaser and dealer or for any other reason, withhold registration plates or stickers or temporary registration from the purchaser.

(8) Designated agents must only charge document, title transfer and registration fees in the amount authorized by Oregon Revised Statutes and Oregon Administrative Rule when collecting such fees on behalf of DMV.

(9) A dealer may not accept applications and fees for the transfer of plates under subsection (4) (g) of this rule if the dealer determines that the plates that the purchaser wants to transfer are not from a current issue of plates, are not customized plates described under ORS 805.240 or are so old, damaged, mutilated or otherwise rendered illegible as to be not useful for purposes of identification.

Stat. Auth.: ORS 184.616, 184.619, 802.031, 803.530, 803.600, 803.625, 821.060, 821.080, 803.600

Stats. Implemented: ORS 802.031, 803.565, 803.600, 803.602, 803.645, 821.060, 821.080, 822.005, 822.080, 803.600

Hist.: MV 2-1983, f. 3-10-83, ef. 5-1-83; MV 4-1983, f. 10-5-83, ef. 10-15-83; MV 1-1984, f. & ef. 1-10-84; MV 2-1985, f. & ef. 1-30-85; MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0007; MV 39-1989, f. & cert. ef. 10-3-89; MV 8-1991, f. & cert. ef. 7-19-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 5-1998(Temp), f. & cert. ef. 4-30-98 thru 10-26-98; DMV 13-1998, f. & cert. ef. 10-15-98; DMV 7-2000, f. & cert. ef. 8-10-00; DMV 28-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 9-2004, f. & cert. ef. 5-24-04; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0045

Special Rules Concerning Recreational Vehicle Dealers

(1) The purpose of this rule is to:

(a) Establish a process for issuing recreational vehicle (RV) show licenses and establish a fee for RV show licenses; and

(b) Clarify ORS 822.025(9) concerning maintenance of a service facility by RV dealers.

(2) Nothing in this rule is intended to limit or conflict with any other rule or law governing RV dealers.

(3) **Definitions.** As used in this rule and ORS 822.082 through 822.084:

(a) "Primary purpose" means that at least 51% of the RV service facility's income-producing activity is derived from the service and repair of recreational vehicles, as shown by gross service receipts;

(b) "Prominently display" means clearly and conspicuously posted in plain view in the area most frequently visited by the public and legible at a distance of six feet or more. For example, the main entrance of an RV show or the main lobby of an RV dealer;

(c) "Recreational vehicle service facility" means a permanent facility listed on the vehicle dealer's certificate and having the primary purpose of servicing and repairing RVs;

(d) "RV" means a recreational vehicle, as defined in ORS 446.003(37); and

(e) "Show license" means a license issued by DMV pursuant to ORS 822.084.

(4) **Application for show license.** The show organizer must submit an application for a show license to DMV, Business Regulation Section, no sooner than 60 days before the first day of the proposed show, and not later than 30 days before the first day of the proposed show. The show license application must be on a form provided by DMV and must include the following:

(a) The name, address and telephone number of the show organizer;

(b) The total number of days of the show, the date(s), location and times of the show;

(c) The date of the application for the show license;

(d) For each dealer displaying at the show the following information as listed in the dealer's main location application:

(A) The name under which the business is conducted;

(B) The street address, city and county of the dealer;

(C) The dealer number; and

(D) The expiration date of the dealer certification.

(e) That the show will include two or more recreational vehicle dealers, one of whose place of business as listed in the dealer's main location application is located more than 50 miles from the site of the show and the number of dealers participating in the RV show;

(f) Whether or not the public will be charged an admission fee;

(g) A show license application may be amended to add or delete show participants, or to correct information if submitted to DMV Business Regulation Section no later than 30 days before the date of a prospective show. In the event a participant printed on a show license is unable to attend or withdraws from the show after the 30th day, the organizer must mark a line on the approved show license using black ink through the name of that participant.

(5) **Issuance and Display of License.** DMV will issue a show license to the organizer, authorizing the listed dealers to participate in the RV show if the application is complete and all requirements are met. The show license must be conspicuously posted at the main entrance to the RV show for each day of the show and must be available for inspection by DMV.

(6) **Fees.** An application fee in the amount of \$32 must be submitted with the completed application. DMV will retain an application-processing fee of \$12 to cover its administrative costs if the application is denied.

(7) **Service Facility.** Vehicle dealers that sell new RVs must maintain, within Oregon, a recreational vehicle service facility that has the primary purpose of servicing and repairing recreational vehicles. The location of the recreational vehicle service facility must be prominently displayed at the RV dealer's sales site. In order to meet the requirement that the vehicle dealer "maintain" a recreational vehicle service facility, the dealer must

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own or lease the service facility and directly conduct the servicing and repair operation, without subcontracting.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035, 822.040 & 822.084
Stats. Implemented: ORS 184.616, 184.619, 802.010, 822.035, 822.040 & 822.084
Hist.: DMV 26-2001 f. 12-14-01, cert. ef. 1-1-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0050

Acceptance and Submission of Application and Fees

(1) Dealers who accept an application and collect fees to title or register a vehicle must submit them to DMV within 30 calendar days of the transfer of interest in the vehicle. This includes all fees and documents required to obtain title and, if applicable, registration on behalf of the purchaser.

(2) If fees are not collected, a dealer must within 25 calendar days of the date of transfer furnish to the new owner the title or other acceptable ownership documents. This includes all the documents needed to apply for title to the vehicle.

(3) Snowmobile dealers who sell snowmobiles that are subject to title and registration requirements must collect fees and submit to DMV title and registration applications on behalf of the purchaser. Class I ATV dealers who sell ATVs that are subject to title and registration requirements must collect fees and submit title and registration applications to DMV on behalf of the purchaser. If a snowmobile or Class I ATV being sold by a dealer is exempt from Oregon title and registration, section (2) of this rule applies.

(4) A dealer who does not comply with sections (1) or (2) of this rule must provide written notice of delay to all owners and parties of interest within 25 business days of the date of transfer of title or interest. The notice of delay must contain:

- (a) The reason for the delay;
- (b) The anticipated extent of the delay; and

(c) A statement of the rights and remedies available to the purchaser if the delay becomes unreasonably extended. DMV will consider "unreasonably extended" to mean 45 calendar days from the date of sale. The statement must inform the purchaser of his or her right to file complaint against the dealer with DMV if the delay goes beyond 45 days from date of purchase.

(5) A dealer must maintain records that show compliance with the requirements of this rule. If a dealer does not comply with the requirements of sections (1) or (2) of this rule, the dealer's records must contain sufficient documentation to establish that the dealer made a good faith effort to comply and that the dealer's inability to comply is due to circumstances beyond the dealer's control.

(6) A dealer must refund any collected fee that exceeds the appropriate fee within five (5) calendar days of discovery.

Stat. Auth.: ORS 184.616, 802.031, 821.060, 802.010, 821.080, 822.035 & 822.042
Stats. Implemented: ORS 821.060, 821.080, 822.035 & 822.042
Hist.: MV 2-1983, f. 3-10-83, ef. 5-1-83; MV 4-1983, f. 10-5-83, ef. 10-15-83; MV 1-1984, f. & ef. 1-10-84; MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0008; MV 39-1989, f. & cert. ef. 10-3-89; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 1-1997, f. & cert. ef. 1-17-97; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0060

Issuance of Temporary Registration Permits

(1) A designated dealer who collects and submits title and registration fees to DMV on behalf of a purchaser may issue temporary registration permits as provided for in ORS 803.625 for vehicles or campers that the dealer sells, pending receipt of permanent registration plates from DMV. A temporary registration permit may not be issued unless both title fees and registration fees have been collected and a combined title and registration application is to be submitted to DMV by the dealer on behalf of the owner.

(2) A temporary registration permit may not be issued by a designated dealer until a Department of Environmental Quality (DEQ) Certificate of Compliance, if needed, has been obtained. A trip permit may be issued as provided in OAR 735-150-0070(1)(b) and (6)(b) if the vehicle must be taken to a DEQ inspection station.

(3) Temporary registration permits must be obtained in bulk from the Salem DMV Headquarters, 1905 Lana Avenue NE, Salem, OR 97314. There is no charge for temporary registration permits. A designated dealer may not charge a fee for the issuance of a temporary registration permit.

(4) Temporary registration permits are valid for a period not to exceed 90 consecutive days from the date they are issued or until plates and, if applicable, stickers are received from DMV and placed on the vehicle, whichever occurs first. A dealer may not extend the expiration date of a temporary registration permit or issue a subsequent permit to extend the registration period of the initial permit.

(5) A designated dealer must comply with the following requirements when issuing temporary registration permits:

(a) Legibly complete each temporary registration permit with the following information:

(A) The name and address of the person(s) or business registering as the owner(s) of the vehicle. The name and address must only be recorded on the issuer's copy and DMV's copy of the permit and must not be recorded on the purchaser's (windshield) copy of the permit;

(B) The driver license number and the state of issuance for the person(s) registering as the owner(s) of the vehicle, unless the person does not have a driver license or the permit is issued to a business. The driver license number must only be recorded on the issuer's copy and DMV's copy of the permit and must not be recorded on the purchaser's (windshield) copy of the permit;

(C) The vehicle description, including year, make, body style and identification number;

(D) A written signature of the employee who issued the permit. Initials are not acceptable;

(E) The effective date and expiration date of the permit. The permit must only be issued for a period not to exceed 90 consecutive days, including the effective date of the permit;

(F) Dealer certificate number; and

(G) The title fee and registration fee collected on behalf of DMV.

(b) DMV's copy of the temporary registration permit attached to, and submitted with, the application for title and registration.

(c) At the time of issuance, notify an owner who pays a plate transfer fee under section (1) of this rule to not attach the registration plates from their old vehicle to the vehicle or camper sold by the dealer before receiving an updated registration card from DMV.

(6) To be valid, the owner's (window) copy of a temporary registration permit must be affixed to the vehicle for which the permit is issued as specified by DMV on the permit.

(7) The DMV (issuer's) copy of the temporary registration permit must remain attached in the permit book. Once all permits have been issued from a book, the book and issuer's copies must be returned to DMV.

(8) Alteration of a temporary registration permit will automatically void the permit.

(9) When a temporary registration permit is voided for any reason, the owner's (window) copy and DMV's (issuer's) copy of the permit, together with a written explanation about why the permit was voided, must be left in the book and must be returned to DMV as described in section (7) of this rule. If either copy of the permit is unavailable for submission to DMV, a written explanation as to why the copy is unavailable must be included with the book.

(10) Except as permitted in section (11) of this rule, temporary registration permits (or books of permits) may not be loaned to another dealer or person or issued for vehicles sold by another dealer or individual.

(11) A dealer who delivers a vehicle to a purchaser and submits applications and fees for title and registration in the purchaser's name on behalf of another dealer who sold the vehicle to the purchaser, may issue a temporary registration permit for the vehicle as provided by this rule. The application and supporting documents must accurately reflect the name and address of the dealer who sold the vehicle. The temporary registration permit must show the name and dealer number of the issuing dealer and the words "Delivery Only" must be clearly written on the DMV and issuer's copies of the permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.031, 803.625, 803.640, 822.035
Stats. Implemented: ORS 803.625
Hist.: MV 2-1983, f. 3-10-83, ef. 5-1-83; MV 4-1983, f. 10-5-83, ef. 10-15-83; MV 1-1984, f. & ef. 1-10-84; MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0011; MV 6-1989, f. & cert. ef. 1-27-89; DMV 9-1995, f. & cert. ef. 8-18-95; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 3-2000(Temp), f. & cert. ef. 4-24-00 thru 10-20-00; DMV 7-2000, f. & cert. ef. 8-10-00; DMV 23-2002, f. & cert. ef. 11-18-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0080

Requirements for Issuing Trip Permits

Designated dealers must comply with the following requirements when issuing trip permits:

(1) Each copy of the trip permit must be completed with the following information:

(a) Name, address, driver license number and state of issue of the person issued the permit. A recreational vehicle trip permit must only be issued to the owner of the vehicle listed on the permit. This information may not be displayed on the (window) copy of the permit;

(b) If the applicant does not have a driver license or if the permit is issued to a business, nothing will be displayed on the purchaser's (window)

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copy of the permit to identify to whom the permit was issued. The name and address information is recorded on all other copies of the permit;

(c) A complete vehicle description, including year, make, body style and identification number;

(d) A written signature, including the full first and last name of the employee who issued the permit;

(e) Dealer certificate number;

(f) The effective date and expiration date of the permit; and

(g) The applicant's signature certifying:

(A) The insurance company name and policy number for the motor vehicle;

(B) The motor vehicle is covered by an insurance policy that meets the requirements of ORS 806.080 and will continue to be covered as long as the permit is valid;

(C) For a recreational vehicle trip permit, that the applicant has not been issued recreational vehicle trip permits that when included with the permit being applied for, would grant more than 10 days vehicle operation for the preceding 12 months.

(2) Except as specified in section (3) of this rule, DMV's copy of the trip permit must be mailed or delivered to DMV within five (5) days of the date the permit was issued.

(3) Alteration of the effective date, ownership information or vehicle description will automatically void a trip permit. When a trip permit is voided for any reason, the purchaser's (window) copy and DMV's copy of the permit and a written explanation about why the permit was voided must be mailed or delivered to DMV on the date the permit is voided. A refund of the prepaid permit fee will be made if DMV is satisfied that the permit was properly voided and not used for operation of the vehicle. If either copy of the permit is unavailable for submitting to DMV, the explanation must state why the copy is unavailable.

(4) The remaining (issuer's) copy of the trip permit must be retained by the dealer.

(5) Trip permits (or books of permits) may not be loaned to another dealer or individual or issued for vehicles sold by another dealer or individual.

(6) Unused trip permits may be returned to DMV for a refund of fees paid.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.600

Stats. Implemented: ORS 803.600 – 803.650

Hist.: MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0215; MV 2-1989, f. & cert. ef. 1-3-89; MV 13-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 28-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 8-2002, f. & cert. ef. 4-12-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0090

Bulk Sales of Manufactured Structure Trip Permits to Designated Dealers and Certified Transporters

(1) Dealers designated as agents under OAR 735-150-0040 may issue trip permits for manufactured structures they sell or transport.

(2) A transporter issued a certificate under ORS 822.310 must be designated under this rule as an agent of DMV for the purpose of issuing manufactured structure trip permits.

(3) A transporter may issue manufactured structure trip permits for manufactured structures they transport.

(4) Dealers and transporters who choose to issue manufactured structure trip permits must purchase them in bulk in advance from the DMV Headquarters, 1905 Lana Avenue NE, Salem Oregon, 97314.

(5) Dealers and transporters may charge and retain a fee for manufactured structure trip permits they issue. The fee may not exceed the fee for a manufactured structure trip permit under ORS 803.645.

(6) Manufactured structure trip permits may not be loaned to another dealer, transporter, or individual.

(7) Unused manufactured structure trip permits that remain intact in the permit book may be returned to DMV for a refund of the fees paid.

(8) Dealers and transporters must comply with the procedures and requirements of ORS 803.600, 820.560, and OAR 735-140-0140 when issuing and completing manufactured structure trip permits.

(9) When a manufactured structure trip permit is voided for any reason, all copies of the permit, including the purchaser's copy, must be returned to DMV headquarters, 1905 Lana Avenue NE, Salem Oregon, 97314. A written explanation of why the permit was voided must be submitted with the voided permit. A refund of the prepaid permit fee will be made if DMV is satisfied that the permit was properly voided and not used to transport a manufactured structure.

(10) A dealer or transporter who issues a manufactured structure trip permit must:

(a) Place the permit on the manufactured structure as required by OAR 735-140-0140; and

(b) Deliver to DMV a copy of the manufactured structure trip permit with applicable proof of taxes paid to DMV within 10 days of the movement of the manufactured structure (ORS 820.560).

Stat. Auth.: ORS 184.616, 184.619, 802.031, 803.600 & 820.560

Stats. Implemented: ORS 802.031, 803.600, 820.560 & 822.310

Hist.: MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0220; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0105

Late Renewal of Dealer License

(1) A dealer will be considered to have made timely application for renewal if the dealer:

(a) Submits an application to renew his or her vehicle dealer certificate within 15 days of the expiration of the dealer's most recent vehicle dealer certificate and the application contains a surety bond and any required insurance showing coverage for the dealer continuously since the expiration date of the dealer's most recent vehicle dealer certificate; or

(b) Submits an application to renew a vehicle dealer certificate more than 15 days after the expiration of the dealer's most recent vehicle dealer certificate, but within 45 days of its expiration and the application contains a surety bond and any required insurance showing coverage for the dealer continuously since the expiration date of the vehicle dealer certificate. A dealer who submits a renewal application under this subsection, will be assessed a late fee of \$100 in addition to the renewal fee.

(2) A dealer who continues business operations and has not submitted an application to renew a vehicle dealer certificate within 45 days after the expiration of the dealer's most recent vehicle dealer certificate will be considered in violation of ORS 822.005 and subject to civil penalties as established by OAR 735-150-0160.

(3) A dealer may avoid the penalties in subsection (1)(b) and section (2) of this rule by showing that mitigating circumstances prevented the dealer from timely filing the renewal application. For purposes of this section, mitigating circumstances include but are not limited to:

(a) The dealer took action to renew the license on a date reasonably calculated to complete the process in a timely manner; and

(b) The delay in renewal was due to circumstances beyond the dealer's ability to control.

Stat. Auth.: ORS 183.430, 802.010, 802.030, 802.370, 803.600, 803.625, 821.060, 821.080 & 822.005 – 822.080

Stats. Implemented: ORS 822.040

Hist.: MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0110

Dealer Offenses Subject to Civil Penalty or Sanction

In addition to any other penalties provided by law, a dealer will be subject to the civil penalties or sanctions in OAR 735-150-0120 to 0140 if the dealer:

(1) Allows or assists a person who is not an employee of the dealer to imply or represent an affiliation with the vehicle dealership in order to engage in any activity pursuant to ORS 822.005.

(2) Fails to submit all taxes or fees due this state, another state or a political subdivision in connection with the sale or transfer of a vehicle.

(3) Signs a name or allows any other person to sign a name of the owner, security interest holder, or lessor on a certificate of title, salvage title or any motor vehicle document used by DMV in the transfer of title without first obtaining a properly signed Power of Attorney. This section does not apply to a dealer who as an owner, security interest holder or lessor signs their own name on a certificate of title, salvage title or any motor vehicle document used by DMV in the transfer of title.

(4) Purchases, sells, disposes of or has in the dealer's possession, any vehicle that the dealer knows or with reasonable diligence should have known has been stolen or appropriated without the consent of the owner.

(5) Fails to comply with state or federal laws, rules or regulations pertaining to the construction or safety of motor homes, trailers, campers or manufactured structures.

(6) Buys, sells, receives, disposes of, conceals or has in the dealer's possession any vehicle or component from which an identification number has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle.

(7) Violates any provision of state or federal law, rule or regulation concerning odometer tampering, repair, readings or notices.

(8) Prints or produces or causes to be printed or produced any certificate of title or certificate of registration without authority, or holds or uses any such certificate or assignment knowing that it has been printed or purchased without authority.

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(9) Commits any offense specified in ORS 822.045.

(10) Acts as a vehicle dealer anytime between the day DMV receives notice of cancellation of bond or insurance and the day the vehicle dealer presents proof to DMV of another bond or certificate of insurance.

(11) Issues a temporary registration permit to a person not domiciled in Oregon or who is otherwise not subject to or eligible for Oregon registration.

(12) Fails to notify DMV on a form or in a format approved by DMV within seven (7) calendar days of receipt of a vehicle in inventory, that a vehicle has been transferred to the dealer.

(13) Fails to immediately remove registration plates from vehicles registered in other jurisdictions that are in the dealer's inventory. The dealer may retain the plates until the vehicle is sold.

(14) Fails to destroy registration plates removed from vehicles registered in other jurisdictions at the time of sale if the vehicle is to be titled in Oregon or in a jurisdiction other than that in which the vehicle was previously registered. If the vehicle will be re-registered in the former jurisdiction, the plates may be placed back on the vehicle following the sale.

(15) Completes or allows an employee to complete a DMV Vehicle Identification Number (VIN) Inspection form without physically inspecting the vehicle for its vehicle identification number.

(16) Sells a vehicle of a type not authorized by the dealer's certificate.

(17) Fails to comply with any provision of ORS 822.060 through 822.065 concerning consignment sales.

(18) Makes a false statement of material fact in:

- (a) An application for a dealer certificate or attachments thereof;
- (b) Any investigation by DMV or law enforcement; or
- (c) Any DMV document.

(19) Commits a felony by violating ORS 822.605.

(20) Fails to maintain records described in OAR 735-150-0050(5) or fails to make those records available to DMV, law enforcement personnel or investigators of the Oregon Department of Justice upon their request.

(21) Fails to comply with the requirements of the Oregon Vehicle Code with reference to notices or reports of the transfer of vehicles or campers.

(22) Allows or permits the unlawful use of any certificate or registration plate.

(23) Falsely certifies under ORS 822.033 that the dealer is exempt from filing a certificate of insurance as required by ORS 822.020 or 822.040.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.370, 803.600, 803.625, 821.060, 821.080 & 822.035

Stats. Implemented: ORS 822.005 - 822.080

Hist.: MV 3-1980, f. 2-15-80, ef. 4-1-80; Suspended by MV 5-1980(Temp), f. & ef. 4-2-80; MV 4-1981, f. 4-1-81, ef. 4-10-81; MV 7-1982, f. & ef. 3-3-82; MV 7-1987, f. & ef. 7-13-87; MV 1-1988, f. & cert. ef. 1-5-88; Administrative Renumbering 3-1988, Renumbered from 735-071-0003; MV 39-1989, f. & cert. ef. 10-3-89; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 18-2002, f. & cert. ef. 9-20-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0120

Sanctions

(1) DMV may impose sanctions when it determines that a dealer has violated any provision of the Oregon Vehicle Code or rules adopted by DMV relating to:

- (a) The operation of a vehicle dealership; or
 - (b) Vehicle title and registration.
- (2) Sanctions imposed may be against any or all of the following:
- (a) A vehicle dealer's certificate;
 - (b) A dealer's status as DMV's agent; or
 - (c) An owner, partner, corporate officer or other principal of the dealership.

(3) Factors DMV may consider in determining the sanctions to impose include:

- (a) The severity of a violation or its impact on the public;
- (b) The number of similar or related violations;
- (c) Whether a violation was willful or intentional;
- (d) The history of all sanctions, civil penalties and oral or written warnings issued or imposed by DMV against the dealer or principals of the dealership.

(4) If DMV determines that a sanction is warranted, the type of sanction imposed may include one or more of the following:

- (a) Probation under conditions set by DMV pertaining to the dealer's authority to act as an agent of DMV for up to one (1) year;
- (b) Suspension of the dealer's authority to act as an agent of DMV for up to one (1) year;
- (c) Permanent revocation of the dealer's authority to act as an agent of DMV;

(d) Probation under conditions set by DMV, for up to three (3) years;

(e) Suspension of the dealer's vehicle dealer certificate and the right to apply for a certificate for up to three (3) years including the right to renew the certificate until the period of suspension has been served;

(f) Permanent revocation of the dealer's vehicle dealer certificate;

(g) Cancellation of the dealer's vehicle dealer certificate;

(h) Suspension of the right of a principal of a dealership to apply for a vehicle dealer certificate for a different vehicle-related business or in a different business name for up to three (3) years;

(i) Permanent revocation of the right of a principal of a dealership to apply for a vehicle dealer certificate for a different vehicle-related business or in a different business name;

(j) Immediate suspension as provided in ORS 183.430(2).

(5) A dealer or principal whose vehicle dealer certificate or privileges have been placed on probation, suspended, canceled or revoked is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(6) Except as provided for in sections (7) and (8) of this rule, a dealer's request for a hearing must be submitted in writing to, and received by DMV within 20 days of the date of the notice of penalty. A hearing request received in a timely manner will result in a withdrawal of the penalty, pending the outcome of the hearing.

(7) In the instance of an immediate suspension as provided by, ORS 183.430(2) a dealer's request for a hearing must be submitted in writing to, and received by DMV within 90 days of the date of notice of suspension. A hearing request received in a timely manner will not result in a withdrawal of the suspension, pending the outcome of the hearing.

(8) In the instance of cancellation as provided by ORS 822.050(2) or (3) for failure to satisfy the bond or insurance requirements established by ORS 822.030 and 822.033, a dealer's request for a hearing must be submitted in writing to, and received by DMV within 90 days of the date of the notice of cancellation. A hearing request received in a timely manner will not result in a withdrawal of cancellation, pending the outcome of the hearing.

(9) When a timely request for a hearing is not received, the dealer will have defaulted, waived the right to a hearing and DMV's file will then constitute the record of the case.

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

Stat. Auth.: ORS 183.430, 802.010, 802.030, 802.370, 803.600, 803.625, 821.060, 821.080 & 822.005 - 822.080

Stats. Implemented: ORS 822.050

Hist.: MV 2-1983, f. 3-10-83, ef. 5-1-83; MV 4-1983, f. 10-5-83, ef. 10-15-83; MV 1-1984, f. & ef. 1-10-84; MV 7-1987, f. & ef. 7-13-87; Administrative Renumbering 3-1988, Renumbered from 735-071-0013; MV 8-1991, f. & cert. ef. 7-19-91; MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0130

Civil Penalty Consideration; Certified Vehicle Dealers

(1) A dealer who violates any provision of the Oregon Vehicle Code or any rule adopted by DMV relating to vehicle dealers or the operation of a vehicle dealership may incur, in addition to any other penalty or sanction provided by law, a civil penalty in an amount of not more than \$1,000 for each violation.

(2) DMV will assess a penalty amount determined by DMV to be appropriate for the particular violation. In determining an appropriate penalty amount, DMV may use the schedule set forth in OAR 735-150-0140 as a guideline and may consider the following:

- (a) The severity of the violation or its impact on the public;
- (b) The number of similar or related violations;
- (c) Whether a violation was willful or intentional;

(d) The prior history of all civil penalties and sanctions imposed by DMV against the dealer or principals of the dealership;

(e) The number of violations compared to the volume of transactions at the dealership; or

(f) Other circumstances determined by DMV to be applicable to the particular violation.

(3) Upon review of the criteria listed in section (2) of this rule, and prior to the issuance of a final order, DMV may reassess a civil penalty amount and agree to a civil penalty amount other than that assessed in the Notice of Imposition of Civil Penalty. After review of the criteria listed in section (2) of this rule DMV may:

(a) Cancel, refuse to renew, or refuse to issue a certificate to any person who fails to pay a civil penalty assessed by DMV; or

(b) Waive the imposition of a civil penalty, or modify the amount, and request that a dealer attend specialized training, as determined by DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.035

Stats. Implemented: ORS 183.430, 822.009, 822.045, 822.050

ADMINISTRATIVE RULES

Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 8-2000, f. & cert. ef. 8-10-00; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0140

Schedule of Civil Penalties for Certified Dealers

DMV adopts the following civil penalty schedule as a guide to the imposition of civil penalties pursuant to ORS 822.009. While this schedule is the primary source used to determine the amount of the civil penalty, a civil penalty assessed against a certified dealer may be modified in accordance with the provisions of OAR 735-150-0130. As used in this rule, an offense will be considered a second or subsequent offense if a dealer was notified in writing within the three (3) previous years of the occurrence of the same offense:

(1) Failure to comply with any provision of OAR 735-150-0030(1) through (3), concerning dealer location regulations:

- (a) For the first violation: warning;
 - (b) For the second violation: \$250;
 - (c) For the third violation: \$500;
 - (d) For the fourth and subsequent violation(s): \$1,000.
- (2) Failure to comply with the provisions of OAR 735-150-0030(4)

concerning dealer location regulations:

- (a) For the first violation: \$500;
 - (b) For the second and subsequent violation(s): \$1,000.
- (3) Failure to comply with OAR 735-150-0040(5), (6) or (7), concerning the delivery of registration items:

- (a) For the first violation: warning;
 - (b) For the second violation: \$250;
 - (c) For the third violation: \$500;
 - (d) For the fourth and subsequent violation(s): \$1,000.
- (4) Failure to comply with any provision of OAR 735-150-0050, concerning acceptance and submission of title or registration application fees:

- (a) For the first violation: warning;
 - (b) For the second violation: \$250;
 - (c) For the third violation: \$500;
 - (d) For the fourth and subsequent violation(s): \$1,000.
- (5) Failure to comply with any provision of OAR 735-150-0060, concerning issuance of temporary registration permits:

- (a) For the first violation: warning;
 - (b) For the second violation: \$50;
 - (c) For the third violation: \$100;
 - (d) For the fourth and subsequent violation(s): \$250.
- (6) Failure to comply with any provision of OAR 735-150-0070, concerning trip permits issued by dealers:

- (a) For the first violation: warning;
 - (b) For the second violation: \$50;
 - (c) For the third violation: \$100;
 - (d) For the fourth and subsequent violation(s): \$250.
- (7) Failure to comply with any provision of OAR 735-150-0080, concerning requirements for issuing light vehicle or recreational vehicle trip permits:

- (a) For the first violation: warning;
 - (b) For the second violation: \$50;
 - (c) For the third violation: \$100;
 - (d) For the fourth and subsequent violation(s): \$250.
- (8) Failure to comply with any provision of OAR 735-150-0090, concerning issuing of manufactured structure trip permits:

- (a) For the first violation: warning;
 - (b) For the second violation: \$250;
 - (c) For the third violation: \$500;
 - (d) For the fourth and subsequent violation(s): \$1,000.
- (9) Failure to comply with OAR 735-150-0110(1), prohibiting a dealer from allowing a person not employed by the dealership to engage in dealer activity:

- (a) For the first violation: \$250;
 - (b) For the second violation: \$500;
 - (c) For the third and subsequent violation(s): \$1,000.
- (10) Failure to comply with OAR 735-150-0110(2), concerning failing to submit all taxes and fees:

- (a) For the first violation: \$250;
 - (b) For the second violation: \$500;
 - (c) For the third and subsequent violation(s): \$1,000.
- (11) Failure to comply with OAR 735-150-0110(3), concerning a dealer who signs a name or allows any other person to sign a name of an owner, security interest holder or lessor on title or transfer documents without a Power of Attorney:

- (a) For the first violation: \$500;

(b) For the second and subsequent violation(s): \$1,000.

(12) Failure to comply with OAR 735-150-0110(4), concerning dealing in stolen vehicles. For the first and subsequent violation(s): \$1,000.

(13) Failure to comply with OAR 735-150-0110(6), concerning altered vehicle identification numbers:

- (a) For the first violation: \$1,000;
- (b) For the second and subsequent violation(s): \$1,000.

(14) Failure to comply with OAR 735-150-0110(7), concerning odometers, except violations of ORS 815.410, 815.420 and 815.430:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(15) Violation of ORS 815.410, 815.420 and 815.430, concerning odometer tampering and notices: For the first and subsequent violation(s): \$1,000.

(16) Failure to comply with OAR 735-150-0110(8), concerning fraudulent title or registration documents. For the first and subsequent violation(s): \$1,000.

(17) Except as otherwise provided in OAR 735-150-0140, the following apply for any violation of ORS 822.045, including the failure to comply with OAR 735-150-0110(10), concerning acting as a vehicle dealer any time between the day DMV receives notice of cancellation of bond or insurance and the day the vehicle dealer presents proof to DMV of another bond or certificate of insurance:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(18) \$1,000 civil penalty for the first and subsequent violation(s) of ORS 822.045(1)(d), (e) or (k) or OAR 735-150-0039.

(19) Failure to comply with OAR 735-150-0110(11), concerning issuance of temporary registration permits to persons not eligible:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(20) Failure to comply with OAR 735-150-0110(12), concerning failure to notify DMV of a vehicle transferred to the dealer:

- (a) For the first violation: warning;
- (b) For the second violation: \$50;
- (c) For the third violation: \$100;
- (d) For the fourth violation: \$250;
- (e) For the fifth and subsequent violation(s): \$500.

(21) Failure to comply with OAR 735-150-0110(13), concerning failure to remove foreign registration plates:

- (a) For the first violation: warning;
- (b) For the second violation: \$50;
- (c) For the third violation: \$100;
- (d) For the fourth and subsequent violation(s): \$250.

(22) Failure to comply with OAR 735-150-0110(14), concerning failure to destroy foreign registration plates:

- (a) For the first violation: warning;
- (b) For the second violation: \$50;
- (c) For the third violation: \$100;
- (d) For the fourth and subsequent violation(s): \$250.

(23) Failure to comply with OAR 735-150-0110(15), concerning the physical inspection of vehicle identification numbers:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(24) Failure to comply with OAR 735-150-0110(16), concerning sale of vehicles of a type not allowed:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(25) Failure to comply with ORS 822.060(1)(a), (b), (c), (e), (h) or (i), concerning consignment sales:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

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(26) Violations of ORS 822.060(1)(d), (f) or (g) or 822.065, concerning consignment sales:

- (a) For the first violation: \$500;
- (b) For the second and subsequent violation(s): \$1,000.

(27) Failure to comply with OAR 735-150-0110(18) concerning making a false statement of material fact:

- (a) For the first violation: \$500;
- (b) For the second and subsequent violation(s): \$1,000.

(28) Any violation of the Oregon Vehicle Code or OAR chapter 735 not otherwise classified in this rule:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(29) Violations of ORS 822.047(1), (2) or (3) concerning requirements of broker contract:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(30) Violations of OAR 735-150-0035 concerning dealer records:

- (a) For the first violation: warning;
- (b) For the second violation: \$500;
- (c) For the third and subsequent violation(s): \$1,000.

(31) Violations of OAR 735-150-0045 and, ORS 822.082 through 822.084 concerning special rules and statutory provisions for RV dealers:

(a) For a certified dealer or person acting as a show organizer that conducts a show without a license:

- (A) For the first violation: \$250;
- (B) For the second violation: \$500;
- (C) For the third and subsequent violation(s): \$1000.

(b) For failing to display a show license at a show:

- (A) For the first violation: \$250;
- (B) For the second violation: \$500;
- (C) For the third and subsequent violation(s): \$1000.

(c) For a certified dealer or person acting as a show organizer that fails to include a dealer in a show license application:

- (A) For the first violation: \$250;
- (B) For the second violation: \$500;
- (C) For the third and subsequent violation(s): \$1000.
- (d) For selling a new RV without maintaining a service facility:

- (A) For the first violation: \$250;
- (B) For the second violation: \$500;
- (C) For the third and subsequent violation(s): \$1000.

(e) For selling a new RV while maintaining a service facility that is not primarily engaged in the service and repair of RVs:

- (A) For the first violation: \$250;
- (B) For the second violation: \$500;
- (C) For the third and subsequent violation(s): \$1000.

(f) For failing to prominently display the location of the dealer's service facility at a sales facility or RV show:

- (A) For the first violation: Warning;
- (B) For the second violation: \$500;
- (C) For the third and subsequent violation(s): \$1000.

(g) For subcontracting a service facility rather than directing the service operation:

- (A) For the first violation: \$250;
- (B) For the second violation: \$500;
- (C) For the third and subsequent violation(s): \$1000.

(h) For a certified dealer or person acting as a show organizer that conducts a show beyond the scope of the show license. For example, for additional days or hours:

- (A) For the first violation: \$250;
- (B) For the second violation: \$500;
- (C) For the third and subsequent violation(s): \$1000.

(i) For submitting an application that contains a false statement or omission of material fact:

- (A) For the first violation: \$250;
- (B) For the second violation: \$500;
- (C) For the third and subsequent violation(s): \$1000.

(j) Except as otherwise provided in OAR 735-150-0140, the following apply for any violation of OAR 735-150-0045 and ORS 822.082 to 822.084:

- (A) For the first violation: \$250;
- (B) For the second violation: \$500;

(C) For the third and subsequent violation(s): \$1000.

(32) Violation of OAR 735-150-0055 concerning charging document processing fees for submitting titles and registrations to DMV:

- (a) For the first violation: \$250;
- (b) For the second violation: \$500;
- (c) For the third and subsequent violation(s): \$1000.

(33) Violation of OAR 735-150-0037 concerning records; satisfying prior interest; providing clear title:

- (a) For the first violation: Warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1000.

(34) Violation of OAR 735-150-0110(22), concerning the unlawful use of any certificate or registration plate:

- (a) For the first violation: \$100;
- (b) For the second violation: \$500;
- (c) For the third violation: \$750;
- (d) For the fourth and subsequent violation(s): \$1000.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.009 & 822.035

Stats. Implemented: ORS 822.009, 822.035 & 822.045

Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 12-1998(Temp), f. & cert. ef. 9-14-98; DMV 12-1998(Temp), f. & cert. ef. 9-14-98 thru 3-12-99; DMV 2-1999, f. & cert. ef. 2-19-99; DMV 8-2000, f. & cert. ef. 8-10-00; DMV 10-2001, f. & cert. ef. 6-14-01; DMV 22-2001(Temp), f. & cert. ef. 10-17-01 thru 4-14-02; DMV 26-2001 f. 12-14-01, cert. ef. 1-1-02; DMV 18-2002, f. & cert. ef. 9-20-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0160

Civil Penalty Considerations; Acting as a Dealer Without a Certificate

Any person not issued a vehicle dealer certificate under ORS 822.020, who violates ORS 822.005(1) or any DMV rule relating to the sale of vehicles, will incur, in addition to any other penalty provided by law, a civil penalty not to exceed \$5,000 for each vehicle:

(1) DMV will assess penalties in accordance with the schedule set forth in OAR 735-150-0170.

(2) The Business Regulation Section of DMV may evaluate the appropriateness of the amount of a civil penalty assessed in individual cases and may agree to payment of an amount other than originally assessed. In making such an evaluation, the Business Regulation Section may consider:

- (a) The severity of the violation or its impact on the public;
- (b) The number of similar or related violations;
- (c) Whether the violations were willful or intentional; and
- (d) Any other consideration DMV deems appropriate.

(3) DMV will refuse to issue a certificate under ORS 822.020 to any person who fails to pay a civil penalty.

Stat. Auth.: ORS 184.616 & 184.619, 802.010

Stats. Implemented: ORS 822.005 & 822.009

Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 30-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 2-2002, f. & cert. ef. 2-15-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0180

Mobile Structure, Notice of Civil Action

(1) DMV may post a notice of civil action upon any manufactured structure held in the inventory of a person acting as a vehicle dealer without a certificate. The notice must contain the following information:

(a) The person offering the manufactured structure for sale currently is the subject of a judicial or administrative proceeding to determine if the seller holds a current valid dealer certificate as required by ORS 822.005(1);

(b) That it may be unlawful for the person to sell the manufactured structure to a retail customer;

(c) Any person removing the posted notice without authorization by DMV is subject to a civil penalty not to exceed \$5,000; and

(d) An address and telephone number of the DMV office where further information may be obtained.

(2) DMV will authorize removal of the notice of civil action within ten (10) days after any one of the following:

(a) The dismissal or termination of the proceeding used to determine if the seller holds a current valid dealer certificate as required by ORS 822.005;

(b) The person has fully paid a civil penalty and is otherwise in compliance with the provisions of ORS Chapter 822; or

(c) DMV finds that the manufactured structure is being offered by a person who holds a valid vehicle dealer certificate or a person exempted by the provisions of ORS 822.015 from the certification requirement.

(3) DMV will levy a civil penalty against any person who unlawfully removes a notice posted in accordance with section (1) of this rule. DMV

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will consider the provisions of OAR 735-150-0160 in levying the civil penalty.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.007 & ORS 822.075
Stats. Implemented: ORS 822.009 & 822.075
Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; DMV 2-2002, f. & cert. ef. 2-15-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0190

Contested Case Hearings and Disposition

(1) The Business Regulation Section of DMV may, in accordance with ORS 183.415(5), make an informal disposition of any contested case prior to the conclusion of any hearing, resulting from a sanction or civil penalty assessed under OAR chapter 735, division 150. This disposition may include a stipulation, agreed settlement, consent order or default order.

(2) An informal disposition by stipulation, agreed settlement or consent order must be in writing, signed by any party to the contested case and incorporated into the final order.

(3) The administrative law judge presiding at a contested case hearing may not adjust the amount of a civil penalty imposed by DMV under OAR 735-150-0130 or 735-150-0160.

Stat. Auth.: ORS 183.430, 184.616, 184.619, 802.010 & 803.625
Stats. Implemented: ORS 183.415 & 822.005 - 822.080
Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 9-1992, f. & cert. ef. 8-17-92; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 8-2000, f. & cert. ef. 8-10-00; DMV 30-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0205

Liquidation of Dealer Inventory Upon Closure of Dealership

(1) Upon the closure of any vehicle dealership, a dealer, or former dealer:

(a) Must immediately provide DMV Business Regulation Section a complete inventory of all vehicles in possession of the dealer, or former dealer, at the time of closure. The inventory must be in writing and must include, a description of each vehicle including; vehicle identification number, vehicle make, model and year. The inventory list must be submitted with a written plan to DMV to liquidate the vehicles and a proposed time frame in which to do so; and

(b) Is strictly prohibited from adding to, or making a sale from the inventory in anyway other than as described in subsection (2) of this rule.

(2) Upon the written approval of the DMV Business Regulation Section, all vehicles listed as inventory under section (1) of this rule must be liquidated by one of the following means:

(a) The wholesale of the vehicles to another certified dealer, or by consignment to a certified auto auction authorized to wholesale vehicles to other dealers; or

(b) Titling a limited number of vehicles in the name of the former dealer, subject to the requirements of ORS 822.015; or

(c) Any combination of (a) or (b).

(3) A dealer or former dealer described under this rule must maintain a record of all vehicles that are liquidated including:

(a) The date and specific method(s), as described under section (2) of this rule, used to liquidate each vehicle;

(b) If a vehicle is liquidated to another dealer, or certified auto auction, the name, certificate number and address of each dealer or auction to whom the vehicle was liquidated; and

(c) A description of each vehicle including, the vehicle identification number, make, model and year.

(d) This section also applies to inventoried vehicles that are not liquidated because they are subject to flooring agreements and have, or will be returned or surrendered to the financial institution or manufacturer holding an inventory financing security interest.

Stat. Auth.: ORS 184.616, 184.619, 802.010, & 822.035
Stats. Implemented: ORS 822.035
Hist.: DMV 20-2004, f. & cert. ef. 8-20-04

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Department of Veterans' Affairs Chapter 274

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

Filed with Sec. of State: 8-18-2004

Certified to be Effective: 8-19-04 thru 10-4-04

Notice Publication Date:

Rules Amended: 274-020-0341

Rules Suspended: 274-020-0341(T)

Subject: This Temporary rule amends and supersedes the Temporary OAR filed on August 5, 2004 and effective August 6, 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.

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-020-0341

Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

(a) Four percent on all loans through August 21, 1969;

(b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

(A) Effective August 22, 1969, 5.2 percent;

(B) Effective September 4, 1969, 6.9 percent;

(C) Effective December 10, 1969, 7.1 percent;

(D) Effective April 8, 1970, 6.8 percent;

(E) Effective August 19, 1970, 6.4 percent;

(F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

(a) Effective May 27, 1971, 5.9 percent on all loans;

(b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;

(c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;

(d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(f) Effective January 1, 1983, 6.7 percent on loans for which applications were received on or after July 1, 1979, and on or before December 31, 1980;

(g) Effective January 1, 1983, 8.2 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981;

(h) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(i) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed before October 15, 1982.

(3) As provided by ORS 407.325, the interest rate on variable rate personal property loans shall be as follows:

(a) Effective May 30, 1975, 7.9 percent on personal property and leaseholds. Leaseholds were defined as real property on October 4, 1977, with rates established as provided in section (2) of this rule;

(b) Effective November 1, 1981, 13 percent on loans for which applications were received on or after August 24, 1981;

(c) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(d) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(e) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds disbursed before October 15, 1982;

(4) Effective January 1, 1986, the interest rate on certain loans shall be changed as follows:

(a) The interest rate on 6.2 percent loans becomes 7.2 percent;

(b) The interest rate on 6.7 percent loans becomes 7.7 percent;

(c) The interest rate on 7.9 percent loans becomes 8.9 percent;

(d) The interest rate on 8.2 percent loans becomes 9.2 percent.

(5) As provided by ORS 407.327, the interest rate on loans made on or after:

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(a) April 15, 1992, shall be fixed and shall be 7.6 percent on loans for which applications were received on or after April 8, 1992.

(b) August 17, 1992, shall be fixed and shall be 7 percent on loans with a maturity date of 15 years or less, and 7.3 percent on loans with a maturity date in excess of 15 years.

(c) April 1, 1993, shall be fixed and shall be 6.7 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(d) November 1, 1993, shall be fixed and shall be 6.0 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

(A) 5.95 percent with an origination fee of 1.0 percent;

(B) 5.79 percent with an origination fee of 1.5 percent; or

(C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) ODVA's Veterans' Loan Program 1990 loans.

(i) 5.55 percent with an origination fee of 1.0 percent;

(ii) 5.39 percent with an origination fee of 1.5 percent; or

(iii) 5.25 percent with an origination fee of 2.0 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans.

(i) 5.95 percent with an origination fee of 1.0 percent;

(ii) 5.79 percent with an origination fee of 1.5 percent; or

(iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows.

(A) ODVA's Veterans' Loan Program 1990 loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 4.99 percent with an origination fee of 1.5 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:

(i) 5.25 percent with an origination fee of 1.0 percent; or

(ii) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(v) July 25, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.375 percent with an origination fee of 1.0 percent; or

(B) 5.25 percent with an origination fee of 1.5 percent. (Temporary)

(w) August 1, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.50 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(x) August 15, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.75 percent with an origination fee of 1.0 percent; or

(B) 5.625 percent with an origination fee of 1.5 percent.

(y) October 8, 2003 shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.5 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(z) January 22, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.125 percent with an origination fee of 1.0 percent; or

(B) 5.0 percent with an origination fee of 1.5 percent. (Temporary)

(aa) March 26, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.0 percent with an origination fee of 1.0 percent; or

(B) 4.875 percent with an origination fee of 1.5 percent.

(bb) April 08, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.25 percent with an origination fee of 1.0 percent; or

(B) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(cc) April 29, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.50 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(dd) May 11, 2004, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.75 percent with an origination fee of 1.0 percent; or

(B) 5.625 percent with an origination fee of 1.5 percent. (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-

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81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92; DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA -1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03; DVA 6-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 10-17-03; DVA 7-2003(Temp), f. 7-31-03, cert. ef. 8-1-03 thru 10-17-03; DVA 8-2003(Temp), f. 8-14-03, cert. ef. 8-15-03 thru 10-17-03; DVA 10-2003, f. & cert. ef. 9-23-03; DVA 13-2003(Temp), f. & cert. ef. 10-8-03 thru 4-5-04; DVA 2-2004(Temp), f. 1-21-04, cert. ef. 1-22-04 thru 4-5-04; DVA 4-2004, f. 3-25-04, cert. ef. 3-26-04; DVA 5-2004(Temp), f. 4-6-04, cert. ef. 4-8-04 thru 10-4-04; DVA 7-2004(Temp), f. 4-28-04, cert. ef. 4-29-04 thru 10-4-04; DVA 8-2004(Temp), f. 5-10-04, cert. ef. 5-11-04 thru 10-4-04; 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

Adm. Order No.: DVA 11-2004
Filed with Sec. of State: 8-25-2004
Certified to be Effective: 8-25-04
Notice Publication Date: 8-1-04
Rules Amended: 274-040-0015

Subject: 274-040-0015 is being amended to further clarify the guidelines regarding admission to the Oregon Veterans' Home (OVH). The admission process is being amended to include a) veterans who do not currently reside in the State of Oregon, b) a spouse/surviving spouse of a veteran, and c) the surviving parents all of whose children dies while serving in the Armed Forces of the United States.

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-040-0015

Eligibility for Admission to the Oregon Veterans' Home

(1) To be eligible for admission to the Oregon Veterans' Home (Home), an applicant must be:

(a) A veteran as defined by **United States Code, Title 38, section 101**, as currently adopted (This publication is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, and is available for public review Monday through Friday between the hours of 8 a.m. and 5 p.m.); or

(b) Spouse or surviving spouse as defined by **United States Code, Title 38, section 3.50**, as currently adopted (This publication is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, and is available for public review Monday through Friday between the hours of 8 a.m. and 5 p.m.); or

(c) A parent, all of whose children died while serving in the Armed Forces of the United States.

(2) An applicant must also:

(a) Be able to pay the resident's portion of the cost of care;

(b) Require nursing home care as determined by a physician;

(c) Not require medical care for which the Home is not equipped or staffed to provide;

(d) Not have violent traits which may prove dangerous to the applicant, residents of the Home, staff or others, provided however, that nothing in this section shall be interpreted to prevent the admission of residents diagnosed with Alzheimer's Disease or other dementia for whom the facility is equipped and prepared to provide care for common behavior problems and recommended behavior management, and that no one shall be denied admission on the basis of being a potential danger to self or others unless that condition is documented by the attending physician.

(3) Eligible applicants, as determined by the Director of Veterans' Affairs (Director) will be scheduled for admission to the Home (or placed on a waiting list if no beds are available) based on the date that all of the required application materials have been received and level of care require-

ments can be satisfied, or in such other order as may be deemed appropriate by the Director.

(4) Priority for admission to the Home is as follows:

(a) Medal of Honor recipients;

(b) Resident Oregon veterans;

(c) Non-resident veterans;

(d) Other applicants as defined in sections (1)(b) and (1)(c) above.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 406.030, 406.050, 408.510, 408.520 & 408.530

Stats. Implemented: ORS 406.030, 406.040 & 406.050

Hist.: DVA 3-1998, f. & cert. ef. 3-13-98; DVA 14-2003(Temp), f. & cert. ef. 11-14-03 thru 2-14-04; DVA 15-2003, f. & cert. ef. 12-31-03; DVA 11-2004, f. & cert. ef. 8-25-04

Employment Department, Child Care Division Chapter 414

Adm. Order No.: CCD 4-2004

Filed with Sec. of State: 8-20-2004

Certified to be Effective: 8-22-04

Notice Publication Date: 7-1-04

Rules Adopted: 414-001-0010

Subject: The Employment Department, Child Care Division, is adopting:

OAR 414-001-0010 to clarify that "actual and necessary travel expenses" includes payment of child care expenses.

Rules Coordinator: Richard L. Luthe—(503) 947-1724

414-001-0010

Expenses

As used in ORS 657A.620, "actual and necessary travel expenses" includes, but is not limited to, payment of expenses for child care.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657A.620

Hist.: CCD 4-2004, f. 8-20-04 cert. ef. 8-22-04

Health Licensing Office Chapter 331

Adm. Order No.: HLO 8-2004(Temp)

Filed with Sec. of State: 8-20-2004

Certified to be Effective: 8-20-04 thru 2-16-05

Notice Publication Date:

Rules Amended: 331-505-0010

Subject: The proposed rule reinstates a "duplicate fee" and is necessary to correct a discrepancy in filing the permanent rule changes effective July 1, 2004. There was an inadvertent omission of the duplicate fee required to replace a license that has been misplaced, lost, destroyed or damaged. The omission occurred as a result of reformatting the fee schedule and overlooking inclusion of the duplicate fee in the section.

Rules Coordinator: Patricia C. Allbritton—(503) 378-8667, ext. 4322

331-505-0010

Fees

(1) Applicants and licensees are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Health Licensing Office are as follows:

(a) APPLICATION:

(A) Practitioner license: \$100;

(B) Electrology facility license: \$50;

(C) Tattooing facility license: \$100

(D) Demonstration permit: \$25

(E) Temporary facility Permit: \$25;

(b) PRACTITIONER LICENSE:

(A) Initial issuance and renewal of electrologist license: \$125;

(B) Initial issuance and renewal of permanent coloring or tattooing license: \$175;

(c) FACILITY LICENSE:

(A) Initial issuance and renewal of electrology facility license: \$150;

(B) Initial issuance and renewal of permanent coloring or tattooing facility license: \$250;

(d) EXAMINATION:

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- (A) Electrology — written: \$50;
 - (B) Electrology — practical: \$100;
 - (C) Permanent Coloring or Tattooing — written: \$50;
 - (D) Permanent Coloring or Tattooing — skills assessment: \$100;
 - (e) PERMITS:
 - (A) Demonstration permit: \$50;
 - (B) Temporary facility permit: \$50;
 - (f) OTHER FEES:
 - (A) Late fee: \$10;
 - (B) Reactivation fee: \$50;
 - (C) Annual renewal for suspended license: \$50;
 - (D) Duplicate license: \$25.
- Stat. Auth.: ORS 676.605, 676.615, 690.415
Stats. Implemented: ORS 676.605, 676.615, 690.415
Hist.: HD 16-1988, f. & cert. ef. 7-15-88; HD 4-1991, f. 3-15-91, cert. ef. 4-1-91; HD 24-1993, f. 12-30-93, cert. ef. 1-1-94; OHD 14-1998, f. 12-9-98, cert. ef. 12-15-98; HDLP 1-1999, f. 1-26-99, cert. ef. 2-1-99, Renumbered from 333-305-0155; HLO 5-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 8-2004(Temp), f. & cert. ef. 8-20-04 thru 2-16-05

Oregon Commission on Children and Families
Chapter 423

Adm. Order No.: OCCF 1-2004

Filed with Sec. of State: 9-15-2004

Certified to be Effective: 9-15-04

Notice Publication Date: 8-1-04

Rules Adopted: 423-045-0025, 423-045-0030, 423-045-0035

Rules Amended: 423-001-0000, 423-001-0006, 423-005-0005, 423-005-0015, 423-005-0020, 423-010-0010, 423-010-0021, 423-010-0023, 423-010-0024, 423-010-0026, 423-010-0027, 423-010-0028, 423-010-0036, 423-010-0040, 423-045-0010, 423-045-0015, 423-045-0020

Subject: Administrative Rules are being revised to reflect changes since the last rule revision in 2001. Proposed revised rules include: aligning Healthy Start with the Healthy Families America model, changing Child Care Development Fund eligible expenditures and Court Appointed Special Advocates program requirements to match interagency agreements and federal requirements, implementing the Basic Capacity allocation for Local Commission operations, clarifying Medicaid administration expenditures, limiting requirements for certain biennial bidding processes, deleting rules for programs that are no longer funded, deleting quarterly reporting requirements of Local Commissions, deleting carry over policy and revising end-of-biennium fiscal reporting requirements, refining comprehensive planning requirements to clarify local involvement and plan updates, and incorporating policy changes adopted by the State Commission through its standing Emerging Issues Committee. Numerous other changes of a grammatical nature also are included.

Rules Coordinator: Marsha Clark—(503) 373-1283

423-001-0000

Notice of Proposed Rule

(1) Except when adopting temporary rules pursuant to ORS 183.335(5), the Oregon Commission on Children and Families, prior to the adoption, amendment or repeal of any administrative rule under ORS Chapter 183, will give notice of the proposed action so interested citizens have a reasonable opportunity to be informed and to comment.

(2) The Oregon Commission on Children and Families will routinely send notices of proposed rule actions at least 28 days before the effective date of the rule to:

- (a) All Local Commissions on children and families;
- (b) All Boards of County Commissioners;
- (c) Persons on the Agency's mailing list established pursuant to ORS 183.335(7);
- (d) Anyone who requests such notices;
- (e) The Secretary of State, for publication in the Secretary's Bulletin;
- (f) The Associated Press, and the Capitol Press Room; and
- (g) Other persons, agencies, or organizations that the Oregon Commission on Children and Families believes to have an interest in a particular rule or rule action.

(3) The Oregon Commission on Children and Families will send copies of the proposed rule to the legislators specified in ORS 183.335(14) at least 49 days before the effective date of the rule.

(4) The Oregon Commission on Children and Families will send copies of the proposed rule to interested persons as requested.

(5) When copies of rules or proposed rules are mailed, the Agency may charge fees to defray costs of one or more of the following:

- (a) Maintenance of mailing lists;
- (b) Materials; and
- (c) Printing, handling and mailing of materials.

Stat. Auth.: ORS 183, 417.705 - 417.797

Stats. Implemented:

Hist.: JSC 2-1980, f. & ef. 4-10-80; JSC 1-1982, f. & ef. 5-19-82; JSC 1-1984, f. 12-28-84, ef. 1-1-85; CCYS 3-1990, f. & cert. ef. 12-24-90 (and corrected 3-5-91); CCF 2-1994(Temp), f. & cert. ef. 3-10-94; CCF 3-1994, f. & cert. ef. 5-18-94; CCF 1-1995, f. & cert. ef. 8-11-95; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-001-0006

Definitions

As used in OAR Chapter 423:

(1) "Agency" means the State Commission acting through the staff of the Oregon Commission on Children and Families as defined in ORS 417.735(6).

(2) "Basic capacity" means an allocation to Local Commissions that provides for the basic functions of a Local Commission office which include the following functions:

(a) Managing resources (includes general office support, fiscal and budget management, program evaluation, and staff development),

(b) Facilitation and coordination of meetings and forums,

(c) Coordinated, comprehensive planning in accordance with ORS 417.775, and

(d) The provision of technical assistance to their communities.

(3) "Best practice" or "proven practice of effectiveness" means research-based or evidence-based programs, core components, and principles that have been shown to reliably produce measurable and sustainable improvements in productivity, efficiency, or effectiveness.

(4) "BOCC" or "Board of County Commissioners" means the governing body of a county as defined in ORS 203.030 and includes a county court as defined in ORS 203.111.

(5) "Budget allocation" means an allocation of funds from the State Commission to the Board of County Commissioners pursuant to an Intergovernmental Agreement per ORS 417.705 through 417.797 and 419A.170.

(6) "Budget distribution" means a budget created by Local Commission staff in a format prescribed by the Agency. The budget distribution demonstrates, by grant stream, the projected budget for all activities proposed by the Local Commission and approved by the Board of County Commissioners.

(7) "Collaborative funding process" means allowing all interested parties to have an opportunity to participate in a funding process intended to use resources in the most effective and efficient manner based on the local coordinated, comprehensive plan.

(8) "Community mobilization" means government and private efforts to increase community awareness and to facilitate the active participation of citizens and organizations in projects and issues that will have positive impact on the well-being of children, families and communities.

(9) "County" means a county or two or more counties, which have combined to provide services to children, youth and families under ORS 417.705 to 417.797 and 419A.170.

(10) "Direct costs" means those costs that can be identified specifically and directly with a particular program or project, such as a particular federal grant or a direct activity or program of the organization.

(11) "Direct Services" means those services provided directly to a child or family or group of children or families to maintain or enhance their well-being, or the management, administration or fiscal responsibility of programs that have direct contact with children or families. Direct services do not include services that are contracted out to other parties pursuant to ORS 417.775.

(12) "Early Childhood System Planning" means planning developed to describe the system, process and services that families can voluntarily access and that is part of and consistent with the Local Plan. The planning includes goals and strategies to achieve the early childhood benchmarks and intermediate outcomes.

(13) "Expended" means the payment of goods delivered or services rendered or liquidation of an obligation.

(14) "Indirect Costs" means those costs that have been incurred for common or joint purposes and cannot be readily identified with or directly allocated to a particular program or project of the organization. Examples of indirect costs include building and equipment depreciation, rent and facilities maintenance costs, general and administrative expenses, and per-

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sonnel administration and accounting where those costs are distributed to projects or programs through a formula or cost allocation method.

(15) "Initiatives" means those time-limited activities that a Local Commission undertakes to promote community mobilization.

(16) "Innovative program or practice" means a program or practice that demonstrates success when outcomes are evaluated over time and draws on research-based principles and ideas from best programs and practices.

(17) "Layperson" means a person whose primary income is not derived from offering direct service to children and youth or from administering a program for children or youth.

(18) "Local Commission" means a local commission on children and families appointed pursuant to ORS 417.760.

(19) "Local Plan" means the local coordinated, comprehensive plan for children and families that is developed pursuant to ORS 417.775 and includes identification of connections in state and local planning processes and provisions for a local continuum of social supports. The Local Plan includes planning for the early childhood system, alcohol and drug prevention and treatment, and high-risk juvenile crime prevention, and references mental health and public health service plans.

(20) "Locally invested funds" includes Children, Youth and Families, Great Start and Youth Investment grant streams.

(21) "Oregon Commission on Children and Families (OCCF)" means the totality of the service system described in ORS 417.705 to 417.797, and 419A.170, including the State Commission on Children and Families (ORS 417.730), the State Commission-appointed director and staff (ORS 417.735), the local commissions on children and families (ORS 417.760) and specific program areas.

(22) "Partners for Children and Families" means the formal collaboration among state agencies and affected local agencies that works to combine planning and data requirements and coordinate policies and the provision of services to children and families.

(23) "Perinatal" means the period on or around the time of childbirth.

(24) "Primary health care" for purposes of Healthy Start means linkage and referral to health care resources and assisting families to establish a medical home for primary health care.

(25) "Prenatal" means the period of time from conception to the onset of labor.

(26) "Provider" means a program or service described in ORS 417.705 through 417.797 and 419A.17 that has been approved for funding by the Local Commission and the Board of County Commissioners.

(27) "Provider allocation" means those funds awarded by a county to a public or private agency or person to achieve an outcome within the county's Local Plan.

(28) "Staff director" or "director" means an upper level managerial position that provides a minimum of .5 FTE effort toward the following:

(a) Overall responsibility for daily operations of the Local Commission office;

(b) Leadership, advocacy, and key management operations of Local Commission work;

(c) Direct access to the Board of County Commissioners/County Court; and

(d) Responsibility for building and supporting the leadership capacity of the Local Commission members.

(29) "State Commission" means the Oregon Commission on Children and Families' appointed members established pursuant to 417.730.

(30) "Services for children and families" does not include services provided by the Department of Education or school districts that are related to curriculum or instructional programs as defined in ORS 417.705.

Stat. Auth.: ORS 183, ORS 417.705 - 417.797, & 419A.170

Stats. Implemented:

Hist.: OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04; OCCF 1-2004, f. & cert. ef. 9-15-04

423-005-0005

Conduct of State and Local Commission Meetings

(1) All meetings of the State Commission, its subcommittees and advisory committees, and Local Commissions and their subcommittees are subject to the provisions of the Oregon Public Meetings Law, ORS 192.610 to 192.690.

(2) The State Commission will meet at least once every three months at a place, day and hour determined by the State Commission in compliance with ORS 417.740(3).

Stat. Auth.: ORS 183 & 417.740(3)

Stats. Implemented:

Hist.: JSC 1-1984, f. 12-28-84, f. 1-1-85; JSC 1-1986, f. & ef. 12-29-86; CCYS 3-1990, f. & cert. ef. 12-24-90 (and corrected 3-5-91); CCF 2-1994(Temp), f. & cert. ef. 3-10-94; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-005-0015

Qualification and Appointment of State Commission Members

(1) The majority of State Commission members must be laypersons. The term of office of each member is four years. An appointed member whose term has expired is eligible for reappointment. Reappointment will be considered upon the member's request. If there is a vacancy in an appointed position for any cause, the Governor may make an appointment that becomes immediately effective for the unexpired term.

(2) The Governor selects a chairperson for the State Commission who must be a layperson. The State Commission selects one of its members as vice chairperson.

Stat. Auth.: ORS 417.730 & 417.740

Stats. Implemented:

Hist.: ; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-005-0020

Responsibilities of State Commission

(1) In partnership with other planning bodies, the State Commission sets guidelines for Local Commissions to conduct local coordinated, comprehensive planning. These planning bodies include, but are not limited to, local and state agencies and agencies or organizations providing services for children, youth or families. Representatives from Local Commissions may participate in the development of the planning guidelines document and representation from small, medium and large counties will be encouraged. The guidelines will be included in a planning document developed by the Partners for Children and Families. In conjunction with other planning bodies and agencies providing social supports, the State Commission uses the Local Plans to advise other state agencies, the Legislative Assembly and the Governor, concerning possible solutions to problems facing children of all ages and families.

(2) The State Commission leads a process to compile, analyze and review all findings from the Local Plans. This process includes representatives from other identified state agencies and findings may be considered by those agencies in designing future economic resources and services and in the coordination of services offered by those agencies.

(3) The State Commission encourages the development of innovative projects, based on proven practices of effectiveness, for the benefit of children and families, including support for the statewide rollout of programs demonstrating proven practices of effectiveness.

(4) The State Commission provides information on research and successful local strategies to elected officials, state agencies, Local Commissions and the public.

(5) The State Commission makes recommendations to the Commission for Child Care for the development of the State's biennial child care plan. These recommendations will be made in conjunction with input from Local Commissions as part of their local contracted child care program(s).

(6) In consultation with other agencies that serve children and families, the State Commission identifies high-level and intermediate outcomes relating to children and families and monitors the progress of Local Plans in meeting intermediate outcome targets.

(7) The State Commission ensures that services are integrated and evaluated according to their outcomes.

(8) The State Commission will establish a uniform data collection system for counties and other state agencies serving children and families.

Stat. Auth.: ORS 417.705 - 417.797

Stats. Implemented:

Hist.: OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-010-0010

Purpose

(1) The purpose of these rules is to assist counties in the development of Local Plans for services to children of all ages and their families, to describe how plans may be modified or amended and to set forth the requirements counties will meet to receive budget allocations.

(2) These rules are the minimum standards for the establishment and funding of Local Commission activities to children, youth and their families under ORS 417.705 through 417.797.

Stat. Auth.: ORS 183 & 417.705 - 417.797

Stats. Implemented:

Hist.: JSC 3-1980, f. & ef. 4-10-80; JSC 1-1984, f. 12-28-84, ef. 1-1-85; CCYS 3-1990, f. & cert. ef. 3-5-91; CCF 2-1994(Temp), f. & cert. ef. 3-10-94; CCF 3-1994, f. & cert. ef. 5-18-94; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-010-0021

Guidelines for Developing Local Plans

(1) The Local Commission will lead, coordinate and facilitate the development and preparation of a single Local Plan for coordinating com-

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munity programs, strategies and services for children ages 0 through 18 and their families. The purpose of the Local Plan is to create positive outcomes for children and families, mobilize communities, and coordinate programs, strategies and services among community groups, government agencies, private providers and other entities.

(2) The local planning process will follow a format contained in a document prescribed by the State Commission. The Planning Guide document may be obtained by contacting the Agency office.

(3) The Local Plan will be approved by the local BOCC prior to submitting the plan to the Agency. Counties will submit their Plans to the Agency for review and approval on a timetable established by the Agency.

(4) Submission of a county's Local Plan and proposed budget distribution will be considered the application for the county allocation of funds appropriated to the Agency. Counties that submit a one-year budget must submit a second-year budget prior to the beginning of the second year of the biennium which will be considered the county allocation application for the second year.

(5) The proposed budget distribution will identify the applicable portion(s) of the Local Plan for each funding area represented in the budget.

Stat. Auth.: ORS 183, 417.705 - 417.797 & 419A.170

Stats. Implemented:

Hist.: JSC 1-1984, f. 12-28-84, ef. 1-1-85; JSC 1-1986, f. & ef. 12-29-86; CCYS 3-1990, f. & cert. ef. 12-24-90 (and corrected 3-5-91); CCF 2-1994(Temp), f. & cert. ef. 3-10-94; CCF 3-1994, f. & cert. ef. 5-18-94; CCF 1-1995, f. & cert. ef. 8-1-95; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-010-0023

Categorization & Limitation of Local Commission Costs

(1) Basic Capacity:

(a) The State Commission determines a biennial allocation of funds to assist Local Commissions in the costs associated with meeting the intent of the Partnership Agreement and the Components Document. County Basic Capacity allocations may be used for activities in accordance to the limitations in 423-010-0023(5) for costs associated with operating an office, which include functions such as policy and planning, evaluation of state and local outcomes, information systems, fiscal and budget, communications, personnel, reception, general correspondence, contracting processes, mapping systems, designing and assessing strategies, and other related functions of the Local Commission office. Basic Capacity may also be used for costs associated with the monitoring of contracts, quality control, and the measurement of outcomes to determine the efficiency and effectiveness of an activity.

NOTE: Copies of the Partnership Agreement and the Components Document are available from the Agency.

(b) Each county will employ at least 2.0 full-time equivalent (FTE) Local Commission staff, either as employees or contractors, from the Basic Capacity allocation to meet the requirements of OAR 423-010-0023(1)(a).

(c) The Executive Committee of the State Commission may waive the 2.0 full-time equivalent staff requirement only when the following criteria have been met:

(A) A plan for staffing is submitted to the Agency that includes a detailed description of how the staffing plan meets the requirements of the Partnership Agreement and accomplishes critical areas of the Components Document and documents in-kind, volunteer assistance or other methods to meet those requirements.

(B) A review is completed by the Agency of past performance of the Local Commission, including meeting timelines, monitoring and compliance requirements, and quality of plans and outcomes.

(C) A written description is provided to the Agency that demonstrates that there is no real or perceived conflict of interest or conflict with ORS 417.775(2)(a), which prohibits Local Commissions from providing direct services.

(D) Letters or other form of written communication that support the waiver request are provided from community partners from formal and informal systems that work regularly with the Local Commission in accomplishing its work.

(E) Written evidence of the Local Commission recommendation and BOCC support.

(F) If the Local Commission disagrees with the decision of the Executive Committee, it may request reconsideration of the decision at the next regularly scheduled meeting of the Executive Committee. Following that, the Local Commission may appeal the decision to the State Commission at its next regularly scheduled meeting.

(d) Funds remaining in the Basic Capacity allocation after meeting the requirement of 423-010-0023(1)(a) may be used for Community Mobilization or programs or services to children and families that are identified in the Local Plan.

(e) Basic Capacity appropriations cannot be carried from one biennium to the next pursuant to OAR 423-010-0027(7) and (8), but will revert to the State if not obligated or expended at the end of the biennium.

(2) Community Mobilization: Counties may allocate funds for the purposes of community mobilization activities and strategies from locally invested funds as defined in OAR 423-001-006 (20). All community mobilization activities and strategies funded with locally invested funds must use proven practices of effectiveness and outcomes data must be reported for each activity and strategy.

(3) Medicaid (Title XIX): Local Commissions may allocate a combined total of 5 percent of Medicaid (Title XIX) earned income for administration and community mobilization. There is no limit to the amount that can be allocated to service providers so long as the Medicaid (Title XIX) earnings are reinvested in the program from which they were earned.

(4) Local Commissions may allocate up to a total of 4 percent of Healthy Start General Fund for contract management functions.

(5) Limitation on Usage:

(a) Consistent with the terms and conditions in the Intergovernmental Agreement, all budget allocations will be directly related to at least one strategy in the Local Plan, meet the purpose and restrictions of each program area and grant stream, and have measurable outcomes.

(b) Service provider contracts: Counties may allocate funds to providers for the cost of services or activities to children and families, however all services or activities must be identified in the Local Plan.

(c) Services and programs funded by another federal or state funding source cannot be funded with OCCF dollars when blending of those funds are not allowed by state or federal agreements or when duplication will occur.

(d) County Indirect/Direct Cost Assessment: Counties may assess direct and indirect charges from the Basic Capacity funding stream at an assessment no higher than 10 percent of the total annual Local Commission allocation from the Agency less funding streams expressly disallowed by state or federal statute or rule. This rule is subject to monitoring and review by the Agency.

(6) A Local Commission may not provide direct services for children, youth and families or the management, administration or fiscal responsibility of programs that have direct contact with children or families. However a Local Commission may provide direct services for children, youth or families for a period not to exceed six months under the following conditions:

(a) The Local Commission determines that there is an emergency;

(b) A local activity provider discontinues providing the services in the county or region; or

(c) The Local Commission determines no provider is able to offer the services in the county or region. The State Commission will not allow an extension beyond six months. Local Commissions not in compliance with this section will be subject to withholding of funds as noted in OAR 423-010-0027(9).

(7) Agency Approval: Budget allocations effectuated pursuant to the Intergovernmental Agreement and amendments will be subject to Agency review and approval.

Stat. Auth.: ORS 417.705 - 417.797

Stats. Implemented: ORS 417.705 - 417.797

Hist.: CCF 3-1994, f. & cert. ef. 5-18-94; CCF 1-1995, f. & cert. ef. 8-1-95; CCF 1-1997, f. 12-15-97, cert. ef. 12-19-97; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-010-0024

Program Purposes and Restrictions

Activities and initiatives will have measurable outcomes and support county goals adopted in the Local Plan. These outcomes will be reported using the format and timeline prescribed by the Agency. It is the intent of the State Commission that activities and initiatives will be provided in a culturally competent and gender-specific manner that reflects the population, needs and resources of the county. The following purposes and restrictions will apply to county allocations:

(1) Program Area: Great Start.

(a) Age: Prenatal services to expectant mothers, children 0 through eight years of age and the children's families.

(b) Service Areas: Programs and services that promote outcomes identified in the Local Plan including, but not limited to, research-based early childhood programs and services in county settings that meet the needs of the community.

(2) Program Area: Child Care and Development Fund.

(a) Age: 0 up to 13 years of age, except children with special needs 0 up to 18 years of age.

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(b) Service areas: Program and services that promote outcomes identified in the comprehensive plan to:

(A) Stabilize the supply of child care.

(B) Increase the availability of quality hard to find care including infant/toddler, school age, odd hours, sick care and/or care for children with special needs.

(C) Improve the quality of child care.

(D) Meet local and statewide standards for child care availability for low income working parents and/or student parents.

(c) Highest priority will be given to areas where school districts are eligible for Chapter 1 grants, areas with high concentrations of poverty, and areas of high and low population density.

(d) Emphasis should be placed on the following hard to find child care as identified in the Local Plan:

(A) School age

(B) Infant/toddler

(C) Non-traditional hour

(D) Sick child

(E) Special Needs

(e) Local Commissions can use funds to expand existing half day Head Start, Oregon Pre-Kindergarten and preschool programs to include half-day child care.

(f) Local Commissions can use Child Care and Development Fund for efforts to develop and maintain a child care system that is based on best practice, high standards and is research based.

(g) The Child Care and Development Fund can not be used for:

(A) Head Start, Oregon Pre-Kindergarten, half day preschool, respite and "drop in" child care programs.

(B) Contracted child care slots or scholarships for children from low-income families,

(C) Purchase of real estate or build new or existing facilities,

(D) Any purpose not directly related to child care supply and quality,

(E) Support of targeted populations that are already funded by or eligible to receive funds from Child Care Development Fund, which include child care for migrant and seasonal farm workers, teen parent programs and parents in alcohol or drug treatment programs.

(h) Child Care and Development Funds can not be used for community planning, community mobilization, or in duplication of services provided by other programs funded by Child Care and Development Fund, unless written authorization is obtained from the Agency.

(3) Program Area: Children, Youth and Families Fund:

(a) Age: 0-through 18 and their families.

(b) Service Area: Programs and services supported with Children, Youth and Families Funds will be used to promote outcomes identified in the local comprehensive plans. These funds must support research-based services, systems, initiatives, and programs. These funds are intended to allow maximum flexibility by counties to fund those areas of highest priority.

(4) Program Area: Court Appointed Special Advocates (CASA).

(a) Age: 0 through 18 years of age.

(b) Service areas: CASA programs provide for the recruitment, training, support and supervision of CASA. See OAR 423-045-0030 through 423-045-0035.

(5) Program Area: Youth Investment.

(a) Age: Ages 13 through 18 years, although 11 and 12 year olds may be included where appropriate.

(b) Service Areas: Services to non-delinquent youth who are chronically acting out or are victims of neglect. Programs and services will promote outcomes identified in the Local Plan. Youth are considered chronically acting out when they are exhibiting school behavior problems, are out of parental control, are runaway and homeless, or are exhibiting other risk factors. Youth are non-delinquent if they have no history of, or current involvement with, the juvenile justice system, or have been diverted from the juvenile justice system. Youth who have been referred to a juvenile department for a criminal activity, or who have been placed on an informal accountability agreement are not considered to be non-delinquent for purposes of this funding. These funds must support research-based services, systems, initiatives and programs.

(6) Program Area: Healthy Start.

(a) Age: Children prenatal through five and their families.

(b) Service Areas: Provide funding for voluntary family support services following the Healthy Families America model. See OAR 423-045-0005 through 423-045-0015.

(7) Program Area: Family Preservation and Support.

(a) Age: All children and their families.

(b) Service Areas:

(A) Family Preservation Services: Family preservation services refers to services for children and families designed to protect children from harm and help families (including foster, adoptive, and extended families) at risk or in crisis, including:

(i) Pre-placement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families, where possible. Examples of programs may include Intensive Family Treatment, Domestic Violence prevention programs, or other pre-placement preventative programs for families at risk of foster care placement.

(ii) Service programs designed to help children, where appropriate, return to families from which they have been removed; or be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement. Examples of programs may include family preservation services to assist in re-unification of families.

(iii) Service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement. Examples of programs may include family-centered service programs that provide follow-up care to families re-united with their child.

(iv) Respite care of children to provide temporary relief for parents and other caregivers (including foster parents). Example of programs may include Family Respite Care.

(v) Services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition. Example of programs may include Parenting Skill Building.

(vi) Case management services designed to stabilize families in crisis such as transportation, assistance with housing and utility payments, and access to adequate health care. Example of acceptable programs could include Community Safety Net.

(B) Family Support Services: Family support services means community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a stable and supportive family environment, and otherwise to enhance child development. Family support services may include:

(i) Services, including in-home visits, parent support groups, and other programs designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition. Example of programs may include Parenting Classes, Parent-to-Parent Support, and In-Home Visitation classes.

(ii) Respite care of children to provide temporary relief for parents and other caregivers. Example of program may include Family Respite Care.

(iii) Structured activities involving parents and children to strengthen the parent-child relationship. Example of program may include Healthy Start.

(iv) Drop-in centers to afford families opportunities for informal interaction with other families and with program staff. Example of program may include Family Resource Centers.

(v) Transportation, information and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education literacy programs, legal services, and counseling and mentoring services. Example of programs may include Dial-a-ride, Child Care Referral, and Outreach Centers.

(vi) Early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs. Example of programs may include Healthy Start.

(8) Program Area: Relief Nurseries:

(a) Age: Children 0 up to six at risk and their families.

(b) Service Areas: Programs to include therapeutic early childhood programs and parent education, training and support for families with children at risk for child abuse and neglect.

(c) Relief Nurseries programs are required to provide 25 percent in matching local community financial support, as part of the base operating budget.

(d) Local Commissions are not required to do a competitive process for Relief Nurseries every biennium. Local Commissions may consider a competitive or collaborative funding process when significant deficits in

ADMINISTRATIVE RULES

program operations and services are found or when changes in stability of service delivery system present new possibilities for these services.

Stat. Auth.: ORS 417.705 - 417.797, 419A.170

Stats. Implemented: ORS 417.705 - 417.900, 419A.170

Hist.: CCF 3-1994, f. & cert. ef. 5-18-94; CCF 1-1995, f. & cert. ef. 8-1-95; CCF 1-1997, f. 12-15-97, cert. ef. 12-19-97; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-010-0026

Plan Approval

(1) The State Commission may delegate authority to the Agency to approve plans, plan updates and plan amendments, or budgets. If a Local Commission contests an Agency recommendation or decision, the Local Commission may appeal the recommendation or decision to the State Commission.

(2) Local Plans will be for six years in duration from the time of approval by the State Commission, updated formally every two years, and reviewed by local partners annually. Local Commissions will provide documentation of the local review through letter to the Agency stating when the local review occurred and who participated. Plan updates will follow a format and process developed by the Partners for Children and Families and the State Commission. Representatives from Local Commissions may participate in the development of the format and process. During the six year plan duration, a plan may be amended as needed by the county to respond to new issues or opportunities. The Agency will review plan amendments following a similar process as the plan approval. (3) The State Commission will review and approve the Local Plan and amendments, except for any portions pertaining to alcohol and drug prevention and treatment plans, local mental health service plans and public health plans, in conjunction with other child- and family-serving state agencies as noted in ORS 417.735(4). All plans and plan amendments must meet the following minimum requirements:

(a) Signed by the Board of County Commissioners,

(b) Meets guidelines developed through state and local agency collaboration and provided in advance to counties, and

(c) Demonstrates that appropriate systems and planning connections were met, such as inclusion of diverse populations and broad involvement by citizens and organizations.

(4) Under the conditions outlined in ORS 417.735(4), the State Commission may disapprove a Local Plan in whole or in part only upon making specific findings that the Local Plan substantially fails to conform to the principles, characteristics and values identified in ORS 417.710-417.725 and 417.735(4), for failure to address the elements required in OAR 423-010-0026(3), or that the Local Plan fails to conform with the planning process requirements of ORS 417.775. If the State Commission disapproves a Local Plan in part or whole, the State Commission will provide the Local Commission with written comments on the areas of the Local Plan that led to the disapproval within 90 days of the receipt of the plan. If the State Commission disapproves only part of the Local Plan, the remainder of the Local Plan may be implemented. The Agency will provide technical assistance for remedying the deficiencies in the planning process or the local early childhood system planning. The State Commission will set a date by which the Local Plan or the deficient portion thereof will be revised and resubmitted.

(5) The State Commission approval or disapproval will not apply to the components of the Local Plan or amendments that relate to local alcohol and drug prevention and treatment planning, local public health or mental health service plans, or high-risk juvenile crime prevention planning.

(6) Following approval of a Plan or plan amendment, the State Commission, or its delegate, will send to the BOCC a notification of plan approval, including any special conditions attached to the approval and any actions required before disbursement of funds to implement the plan.

Stat. Auth.: ORS 183, 417.705 - 417.797

Stats. Implemented:

Hist.: JSC 1-1984, f. 12-28-84, ef. 1-1-85; JSC 1-1986, f. & ef. 12-29-86; CCYS 3-1990, f. & cert. ef. 12-24-90 (and corrected 3-5-91); CCF 2-1994(Temp), f. & cert. ef. 3-10-94; CCF 3-1994, f. & cert. ef. 5-18-94; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-010-0027

Budgetary Allocations

(1) Release of Funds: The Agency may disburse funds to counties in conjunction with the beginning of each fiscal year or periodically throughout the year pursuant to an Intergovernmental Agreement that has been fully executed by the State Commission and the county. A county will request funds on a form prescribed by the Agency. The Agency may withhold funds from a county that is not in compliance with the requirements specified in these rules or the terms of the Intergovernmental Agreement

including any amendments thereto. Any funds disbursed to a county under an approved Intergovernmental Agreement will be used only for those services and purposes set forth in ORS 417.705 through 417.797, 419A.170, the Intergovernmental Agreement and these Administrative Rules.

(2) All applicable federal, state, and local laws including, but not limited to, OMB A-87 Cost Principles for State, Local, and Indian Tribal Governments, Single Audit Act of 1996, OMB A-133 Audits of State, Local Governments and Non-Profit Organizations, Title VI of the Civil Rights Act of 1964, and Title II of the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and the Pro-Child Act of 1995 must be followed. Local Commission budget allocations and Intergovernmental Agreements will be approved and monitored by the Agency. Primary emphasis of county allocations will be on the delivery of resources to children, youth or families.

(3) The BOCC will sign an Intergovernmental Agreement document with the Agency. The county will not use the grant monies to reimburse any person or entity for expenditures made, or to pay for any expenses incurred, prior to the effective date of the Intergovernmental Agreement.

(4) Budget Amendments: A county will notify the Agency of any change in a budget previously approved by the Agency by submitting a Budget Distribution in a format prescribed by the Agency. The Budget Distribution will be approved in writing by the Agency (or its delegate), Local Commission chairperson, or, if authorized by the Local Commission, the Local Commission director, and BOCC before funds can be expended pursuant to the Intergovernmental Agreement.

(5) Reverting Funds: Any Grant monies, State or Federal, disbursed to a county that are not obligated or expended by the county in accordance with the Intergovernmental Agreement by the end of the biennium, must be returned to the Agency unless the Agency permits such funds to be carried over or extended as follows:

(a) The Local Commission has submitted to the Agency a Budget Distribution, and request for a carryover or extension in a format set by the Agency, describing the proposed use of those monies, consistent with ORS 417.705 through 417.797 and 419A.170; and

(b) The proposed use provides that the funds will be expended within the first 90 days of the next biennium.

(c) The Agency may deny a request for carryover or extension from a Local Commission if the Agency finds any of the following concerning the prior biennium activities or the proposed use(s):

(A) The Local Commission is found to be using funds, or proposes to use the funds, for purposes other than those authorized pursuant to the Local Plan or Intergovernmental Agreement;

(B) The Local Commission on Children and Families failed to submit timely, accurate, or complete fiscal reports or activity reports as required in OAR 423-010-0027(8); or failed to make timely corrections that remedied report deficiencies upon review and notice from the Agency;

(C) The Local Commission's operations failed to comply with federal or state statute, administrative rule or the Intergovernmental Agreement between the county and the Agency;

(D) The Local Commission's request for carryover or extension is in excess of 1/8 of the prior biennium funding stream allocation for that county.

(d) Before submission to the Agency, the Budget Distribution and request for carryover or extension must be approved and certified by the Local Commission chairperson or, if authorized by the Local Commission, the Local Commission director and BOCC.

(e) Funds not expended within the first 90 days of the next biennium will be returned to the State. Federal funds will be re-allocated at a statewide level. General funds will revert to the State treasury.

(6) Contractual Agreements: For funds allocated to the county by the Agency, a county will enter into a formal contractual agreement with any other agency, entity or person for expenditure of those funds. The contract for provider allocations should specify both desired and measurable outcomes that will measure success in achieving outcomes that are part of the Local Plan. The contract will also require that providers follow the requirements set forth in 7 and 8 of this rule.

(7) Fiscal Reports and Activity Reports:

(a) For funds allocated to the county by the Agency, all public and private agencies and persons receiving funding allocations will file reports with the Local Commission on the provider's fiscal and activity information as evidence of meeting the county's contractual agreement between the county and the provider. Reports will be submitted as required in the Intergovernmental Agreement.

ADMINISTRATIVE RULES

(b) A request for a waiver, for the current reporting period, must be submitted in writing to the Agency. The Local Commission must remit a letter to include:

(A) Stating the hardship reason for the waiver (e.g. staff turnover, serious illness);

(B) Specifying the date reports will be sent to the Agency; and

(C) Assurance the next reports will be in by the next reporting period due date. The Agency must receive the request for waiver before the reporting due date. No funds will be released until all reports are received. Local Commissions that are unable to meet the due dates in at least three out of four consecutive reporting periods will receive funds on a reimbursement basis.

(c) The Local Commission will send to the Agency a fiscal and activity report on a form prescribed by the Agency. The reports will be certified by the BOCC or its delegate.

(d) The Local Commission will file with the Agency a final fiscal report for all funds received from the Agency in a biennium on a form prescribed by the Agency by November 1 of each odd-numbered year. The final fiscal report must be certified by the BOCC or its delegate.

(8) Records Management: All public and private agencies and persons receiving funding allocations from the Agency will retain all fiscal and program monitoring records of a funded program for a period not less than specified in OAR chapter 166, divisions 40 and 100 (County Records Retention). Records will be available for Agency, county and state audit upon request. A county or provider may be required to retain records for longer than specified in rule if an audit is in progress or discrepancies found in a previous audit have not been resolved. Such records will be subject to any applicable county regulations concerning retention of records and auditing procedures.

(9) Withholding of funds: The Agency may withhold funds from a county that is not in compliance with the federal, state, or local law or the Intergovernmental Agreement. Under the following conditions, the Agency may withhold funds from Local Commission:

(A) The Local Commission is found to be using funds for purposes other than those authorized pursuant to the Local Plan or Intergovernmental Agreement;

(B) The Local Commission failed to submit timely, accurate, or complete fiscal reports or activity reports as required in OAR 423-10-0027(7);

(C) The Local Commission's operations failed to comply with federal or state statute, administrative rule, or the Agreement between the Local Commission and the Agency or between the BOCC on behalf of the Local Commission and the Agency; or

(D) The Local Commission's activities have not achieved outcomes consistent with the best practices within that funding stream.

Stat. Auth.: ORS 417.705 - 417.797, 419A.170

Stats. Implemented: ORS 417.705 - 417.900, 419A.170

Hist.: CCF 3-1994, f. & cert. ef. 5-18-94; CCF 1-1995, f. & cert. ef. 8-1-95; CCF 1-1997, f. 12-15-97, cert. ef. 12-19-97; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-010-0028

Local Commission Funding Allocations

A Local Commission may make funding allocations anytime during the course of the biennium. A Local Commission will use a competitive or collaborative funding process to solicit and select proposals for program allocations at least once during the course of the biennium, except as stated in Division 45 of these Administrative Rules. Local Commissions are required to comply with all applicable federal, state and local procurement requirements, and where appropriate the State Commission encourages the use of collaborative funding processes.

Stat. Auth.: ORS 417.705 - 417.797, 419A.170

Stats. Implemented: ORS 417.705 - 417.900, 419A.170

Hist.: CCF 1-1997, f. 12-15-97, cert. ef. 12-19-97; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-010-0036

Capital Expenditures; Ownership of Property

(1) Equipment and other capital expenditure items, with a value of over \$5,000, purchased by a county or a provider with county funds allocated from the Agency will be the property of the county and subject to county policies on capital expenditures and equipment. When activity funding ends or an activity is terminated for any reason, the equipment purchased with funds allocated under the Act will revert to the county, except that, on the recommendation of the Local Commission, the Board of County Commissioners may allow the former provider to retain the equipment if it will continue to be used effectively in the provision of services to children, youth or families.

(2) Nothing in this rule will be interpreted to mean that Local Commission will retain inventory records on equipment with a value of \$5,000 or less.

Stat. Auth.: ORS 183, 417.705 - 417.797 & 419A.170

Stats. Implemented:

Hist.: JSC 1-1984, f. 12-28-84, ef. 1-1-85; CCYS 3-1990, f. & cert. ef. 12-24-90 (and corrected 3-5-91); CCF 2-1994(Temp), f. & cert. ef. 3-10-94; CCF 3-1994, f. & cert. ef. 5-18-94; CCF 1-1995, f. & cert. ef. 8-1-95; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-010-0040

Prohibition Against Replacement of County Funds

Except as otherwise provided in ORS 417.780, funds received by a county from the Agency will not be used to replace county general funds or used to replace other state funding currently being used by the county for existing programs for children, youth or families.

Stat. Auth.: ORS 417.705 - 417.797, 419A.170

Stats. Implemented: ORS 417.705 - 417.900, 419A.170

Hist.: JSC 1-1984, f. 12-28-84, ef. 1-1-85; CCYS 3-1990, f. & cert. ef. 12-24-90 (and corrected 3-5-91); CCF 2-1994(Temp), f. & cert. ef. 3-10-94; CCF 3-1994, f. & cert. ef. 5-18-94; CCF 1-1995, f. & cert. ef. 8-1-95; CCF 1-1997, f. 12-15-97, cert. ef. 12-19-97; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-045-0010

Purpose

The purpose of these rules is to assist counties in the implementation and operation of Healthy Start program services. The Healthy Start program seeks to ensure healthy, thriving children and strong, nurturing families by offering a range of voluntary and non-stigmatizing services ranging from universal basic short-term services to long-term intensive home visiting. Healthy Start offers these services in and around the time of birth, targeting first-birth families at a minimum. Healthy Start services follow evidence-based practices designed to achieve appropriate early childhood benchmarks, following the Healthy Families America model. These rules are the minimum standards for the establishment, operations, evaluation, and funding of Healthy Start program services under ORS 417.795.

Stat. Auth.: ORS 417.705 - 417.797

Stats. Implemented: ORS 417.705 - 417.797

Hist.: OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-045-0015

Program Restrictions

(1) Systems Requirements:

(a) Healthy Start services will be consistent with the local early childhood system planning.

(b) Healthy Start programs will collaborate with local health departments, other providers of prenatal and perinatal services, and the Local Commission to identify and build upon existing services for families and to prioritize additional services if needed (i.e.: mental health, drug and alcohol, and early intervention). If collaboration does not occur, the Department of Human Services and the Agency will provide technical assistance to promote improved collaboration.

(c) Healthy Start programs actively participate in local community efforts to implement the early childhood system of supports and services towards the achievement of desired outcomes, working to maximize the effective use of available resources and to avoid duplication of services.

(d) Local Commissions are not required to engage in a competitive bidding process to select providers for Healthy Start services each biennium. Local Commissions may conduct a competitive or collaborative funding process when significant deficits in program operations and services are found or when changes in the stability of service delivery systems present new options for these services.

(2) Age: Children ages prenatal through five and their families.

(3) Service Area: Provide funding for voluntary family support services, including but not limited to screening and follow-up services such as resource referral, further assessment, and intensive home visiting following the Healthy Families America model.

(4) Program Requirements:

(a) Through June, 2005, Healthy Start Programs will make progress toward full compliance with ORS 417.795 as operationalized by the 2004 Healthy Start Implementation Manual: Statewide Program Policies and Procedures. All Healthy Start programs are required to be in full compliance by July, 2005.

NOTE: Copies of the Healthy Families America model and of the Healthy Start Implementation Manual are available from the Agency.

(b) Programs will develop site specific procedure manuals to further specify local program operations. Local procedure manuals will be submitted to the Agency at intervals specified by the Agency.

ADMINISTRATIVE RULES

(c) Services provided by Healthy Start program are voluntary. Service providers will obtain express written consent before any services are offered.

(d) Local Healthy Start programs will assure that parents have given express written consent prior to any release of information.

(e) Healthy Start program services will not be a part of a mandated plan for families. Mandated plans include plans developed by the Department of Human Services Self Sufficiency and Child Welfare services.

(f) Local Healthy Start Programs will:

(A) Participate in the independent statewide program evaluation;

(B) Participate in statewide training for supervisors, family support workers, and family assessment workers;

(C) Participate in quarterly meeting and trainings for program managers and supervisors;

(D) Meet statewide and local early childhood system quality assurance standards;

(E) Participate in the Healthy Families America site self-assessment, as part of ongoing quality assurance;

(F) Ensure that voluntary home visiting services through Healthy Start are coordinated with home visiting services offered by the local health department and other programs.

(5) Program Budget Requirements:

(a) All programs are required to participate in federal Medicaid (Title XIX) Administrative Claiming, following program procedures provided by the Agency.

(A) Medicaid earnings, except as described in 423-010-0023(3), must be used to maintain or expand Healthy Start program core services, as defined in the Healthy Start Program Implementation Manual.

(B) Programs will report on the use of their Medicaid (Title XIX) funds to the Agency at intervals specified by the Agency.

(C) All program staff will attend training provided by the Agency prior to participation in Medicaid (Title XIX) Administrative Claiming and annually thereafter.

(b) Local programs will demonstrate a 20 percent local match as part of the base operating budget of their programs. Match will be reported to the Agency at the intervals specified by the Agency. This leverage may be in any combination of cash, cash equivalent, in-kind or volunteer hours.

(c) The Local Commission will monitor the local Healthy Start programs to ensure fiscal and programmatic integrity.

(d) If, for any reason, a current provider stops providing contracted services prior to the end of the contract, the Local Commission will notify the Agency 45 days prior to signing a new provider contract so that the Agency can provide program specific training and technical assistance. The Local Commission and the Agency may mutually agree to a notice period of less than 45 days if necessitated by specific local circumstances.

(e) The Agency will manage the Title XIX Medicaid Administrative Claiming program in accordance with all state and federal rules and regulations.

Stat. Auth.: ORS 417.705 - 417.797

Stats. Implemented: ORS 417.705 - 417.797

Hist.: OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-045-0020

Purpose

Each Local Commission on Children and Families, as part of the Local Plan for the county or region, will coordinate voluntary local early childhood system planning that focuses on the needs of children who are zero through eight years of age and their families.

Stat. Auth.: ORS 417.705 - 417.797

Stats. Implemented: ORS 417.705 - 417.797

Hist.: OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04

423-045-0025

System Requirements

(1) The Commission will involve in the planning process parents, youth, and community members and representatives of local providers of early childhood services that reflect diversity of the county or region, including but not limited to:

(a) Hospitals and the health profession;

(b) Local Intergovernmental coordinating councils;

(c) Oregon prekindergarten programs;

(d) Contractors who are designated by the Superintendent of Public Instruction to be responsible for the administration of early childhood special education and early intervention services in a service area;

(e) Community corrections agencies;

(f) Mental health service providers;

(g) County health departments;

(h) Healthy Start Family Support services programs;

(i) Alcohol and drug treatment programs;

(j) Child care providers;

(k) Local Child Care Resource and Referral agencies;

(l) Developmental disability service providers;

(m) The kindergarten through grade 12 education community;

(n) Faith-based organizations; and

(o) Other providers of prenatal and perinatal services.

(2) The early childhood system planning developed by each Local Commission will:

(a) provide for the coordination of early childhood programs by creating a process to connect children and families with the most appropriate supports;

(b) Include a description of how the components of the voluntary early childhood system of services will be implemented in the county or region;

(c) Build on existing programs;

(d) Identify ways to maximize the use of volunteers and other community resources; and

(e) Ensure that diverse populations within a community receive services that are culturally and gender appropriate.

(3) The voluntary early childhood system planning will work to achieve the early childhood benchmarks and intermediate outcomes jointly identified by the State Commission on Children and Families, the Department of Education and the Department of Human Services, with input from early childhood partners.

(4) The voluntary early childhood system will include the following components:

(a) A process to identify as early as possible children and families who would benefit from early childhood services;

(b) A plan to support the identified needs of the child and family that coordinates case management personnel and the delivery of services to the child and family; and

(c) Services to support children who are zero through eight years of age and their families who give their express written consent. These services include:

(A) Screening, assessment and home visiting services;

(B) Specialized or targeted home visiting services;

(C) Community-based services such as relief nurseries, family support programs and parent education programs;

(D) High quality child care;

(E) Preschool and other early education services;

(F) Health services for children and pregnant women;

(G) Mental health services;

(H) Alcohol and drug treatment;

(I) Developmental disability services; and

(J) Other state and local services.

(5) Local voluntary early childhood services will be guided by the 2004 Quality Assurance Guidelines established jointly by the State Commission on Children and Families, the Department of Education and the Department of Human Services, with input from early childhood partners. A copy of the Quality Assurance Guidelines is available from the Agency.

Stat. Auth.: ORS 417.705 - 417.797, & 419A.170

Stats. Implemented: ORS 417.705 - 417.797

Hist.: OCCF 1-2004, f. & cert. ef. 9-15-04

423-045-0030

Purpose

The purpose of these rules is to assist counties in the implementation and operation of Court Appointed Special Advocate Programs (CASA). CASA Programs seek to ensure healthy, thriving children and strong, nurturing families by advocating for the best interests of children involved in juvenile court proceedings due to abuse or neglect. Court Appointed Special Advocates are volunteers, appointed to a child by the Court and remain a consistent advocate for the child for the duration of the court case, securing a safe and permanent family as quickly as possible. These rules are the minimum standards for the establishment, operations, evaluation, and funding of CASA Programs under ORS 419A.170.

Stat. Auth.: ORS 417.705 - 417.797, & 419A.170

Stats. Implemented: ORS 419A.170

Hist.: OCCF 1-2004, f. & cert. ef. 9-15-04

423-045-0035

Program Restrictions

(1) Systems Requirements:

ADMINISTRATIVE RULES

(a) CASA Programs will promote outcomes consistent with the local comprehensive community plan that reflect the best interest of abused and neglected children.

(b) CASA Programs will promote culturally competent and gender specific services consistent with Agency guidelines.

(c) CASA Programs will, in conjunction with the local Commissions: identify existing services; prioritize additional services necessary (i.e.: mental health, drug and alcohol); and maximize the use of community resources that support families to achieve the desired outcomes for the child.

(d) Local Commissions are not required to do a competitive process for CASA Programs every biennium. Local Commissions may consider a competitive or collaborative funding process when significant deficits in program operations and services are found or when changes in stability of service delivery system present new possibilities for these services.

(2) Age: Children from birth to 18.

(3) Service Area: CASA Programs provide for the recruitment, training, support and supervision of Oregon Court Appointed Special Advocates.

(4) Program Requirements: CASA Programs will operate in accordance with ORS 419A.170, be members in good standing of the National Court Appointed Special Advocate Association and demonstrate compliance with the Standards for National CASA Association Member Programs (effective 9/2002 or subsequent versions), and any other standards adopted by the State Commission; these provide a blueprint for the CASA approach and identify quality assurance standards. The CASA approach is based on research and proven strategies and includes direct contact with the child as appropriate to the case.

Stat. Auth.: ORS 417.705 - 417.797 & 419A.170
Stats. Implemented: ORS 419A.170
Hist.: OCCF 1-2004, f. & cert. ef. 9-15-04

Oregon Department of Education
Chapter 581

Adm. Order No.: ODE 29-2004(Temp)
Filed with Sec. of State: 9-15-2004
Certified to be Effective: 9-15-04 thru 2-25-05
Notice Publication Date:
Rules Amended: 581-021-0041

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

581-021-0041
Form and Protocol for Sports Physical Examinations

The State Board of Education adopts by reference the form entitled "School Sports Pre-Participation Examination June 2004" that must be used to document the physical examination and the document entitled "School Sports Pre-Participation Examination Protocol June 2004" that sets out the protocol for conducting the physical examination.

Stat. Auth.: ORS 326-051
Stats. Implemented: ORS 336.479
Hist.: ODE 24-2002, f. & cert. ef. 11-15-02; ODE 29-2004(Temp), f. & cert. ef. 9-15-04 thru 2-25-05

Adm. Order No.: ODE 30-2004
Filed with Sec. of State: 9-15-2004
Certified to be Effective: 9-20-04
Notice Publication Date: 4-1-04
Rules Adopted: 581-021-0110

Subject: The rule will extend the requirement for districts to have policies establishing "zero-tolerance" for tobacco and tobacco products to include students, staff and visitors. The rule will reduce student exposure to environmental tobacco smoke as well as reinforce

a clear no use message to students by eliminating images of adults using tobacco on school grounds.

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

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-021-0110
Tobacco Free Schools

(1) For the purpose of this rule "tobacco" is defined to include any lighted or unlighted cigarette, cigar, pipe, bidi, clove cigarette, and any other smoking product, and spit tobacco, also known as smokeless, dip, chew, and snuff, in any form.

(2) No student, staff member, or school visitor is permitted to smoke, inhale, dip, or chew or sell tobacco at any time, including non-school hours:

(a) In any building, facility, or vehicle owned, leased, rented, or chartered by the school district, school, or public charter school; or

(b) On school grounds, athletic grounds, or parking lots.

(3) No student is permitted to possess a tobacco product:

(a) In any building, facility, or vehicle owned, leased, rented, or chartered by the school district, school, or public charter school; or

(b) On school grounds, athletic grounds, or parking lots.

(4) By January 1, 2006, school districts must establish policies and procedures to implement and enforce this rule for students, staff and visitors.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Hist.: ODE 30-2004, f. 9-15-04, cert. ef. 9-20-04

Oregon Economic and Community Development Department
Chapter 123

Adm. Order No.: EDD 22-2004
Filed with Sec. of State: 8-19-2004
Certified to be Effective: 8-19-04
Notice Publication Date: 7-1-04
Rules Adopted: 123-027-0056, 123-027-0156, 123-027-0161, 123-027-0166, 123-027-0171, 123-027-0201
Rules Amended: 123-027-0040, 123-027-0050, 123-027-0060, 123-027-0070
Rules Repealed: 123-027-0080
Rules Ren. & Amended: 123-027-0100 to 123-027-0106, 123-027-0110 to 123-027-0211

Subject: This filing is intended to make permanent the temporary rules filed February 3, 2004. The Department is amending this division to incorporate new legislation from the 2003 session, clean up the text, and rearrange the format of the rule.

The Marine Navigation Fund rules provide procedures, standards and criteria for Oregon ports to receive Federal funding for dredging and dredging-related projects and for non-federal projects that may not qualify for federal funding but qualify under an expanded set of criteria. The 2003 legislature provided funds for non-federal projects for the first time and with that funding provided more detailed requirements.

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

123-027-0040

Definitions

For the purposes of these rules, the following terms will have the following definitions, unless the text clearly indicates otherwise:

(1) "Department" means the State of Oregon Economic and Community Development Department.

(2) "Director" means the Director of the Economic and Community Development Department.

(3) "Federally authorized project," means a project that has been authorized or qualifies for federal funding from the United States Army Corps of Engineers.

(4) "Non-federal project" means a navigation project that is eligible under these rules but does not qualify for federal funding from the United States Army Corps of Engineers.

(5) "Fund" means the Marine Navigation Improvement Fund.

ADMINISTRATIVE RULES

(6) "Project" means studies, necessary permits, dredging, acquisition, modification and maintenance of dredge disposal sites and construction of a new navigation improvement project that is sponsored by a port and is eligible for assistance from the Fund. A project can be either a federally authorized project or a non-federally authorized project.

(7) "Non-Federal Share" means that portion of a project cost not paid for by the United States Army Corps of Engineers.

(8) "Port" means a port incorporated under ORS Chapter 777 or 778, and may be known as a "port authority" or "port district."

(9) "State of Oregon" means State of Oregon government departments or agencies.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 777.262 - 777.267

Hist.: EDD 5-1993, f. & cert. ef. 4-19-93; EDD 14-2002, f. & cert. ef. 6-21-02; EDD 7-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; Administrative correction 8-18-04; EDD 22-2004, f. & cert. ef. 8-19-04

123-027-0050

Project Eligibility, Priority and Funding

Federally Authorized Projects must meet the following criteria: First priority for assistance from the Fund shall be given to projects that meet the following criteria:

(1) Congress authorized the project;

(2) The project is listed in the Port's business or strategic plan;

(3) The project has confirmed positive benefit/cost ratios as required by the National Economic Development Plan and has completed all federally required studies and

(4) The project is sponsored by a port.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 777.262 - 777.267

Hist.: EDD 5-1993, f. & cert. ef. 4-19-93; EDD 14-2002, f. & cert. ef. 6-21-02; EDD 7-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; Administrative correction 8-18-04; EDD 22-2004, f. & cert. ef. 8-19-04

123-027-0056

Application Requirements

The Port must notify the Department of a potential federally authorized project at the time it initiates the project with the United States Army Corps of Engineers. The Port must submit written documentation to the Department evidencing its participation with the United States Army Corps of Engineers in a project. The written documentation must:

(1) Describe the nature and purpose of the project, including: proposed project scheduling; project term; estimated project cost; the Port's estimated non-federal share of the total project cost; and, the required schedule for payment of the Applicant's non-federal share of the total project cost;

(2) Contain federal documents that authorize the project, including Reconnaissance/Feasibility Studies;

(3) Contain a copy of the Port's proposed Local Cost Share Agreement with the United States Army Corps of Engineers for undertaking and carrying out the project.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110

Stats. Implemented: ORS 777.262-777.267

Hist.: EDD 22-2004, f. & cert. ef. 8-19-04

123-027-0060

Application Review and Approval

Based upon a review of the information described in OAR 123-027-0055, the Department will determine whether the project is eligible for assistance from the Fund. If the documentation is not adequate to determine eligibility, the Department will require the Port to submit additional information as may be necessary.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 777.262 - 777.267

Hist.: EDD 5-1993, f. & cert. ef. 4-19-93; EDD 14-2002, f. & cert. ef. 6-21-02; EDD 7-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; Administrative correction, 8-18-04; EDD 22-2004, f. & cert. ef. 8-19-04

123-027-0070

Approval and Award

(1) The Department and the Port will execute a contract prior to disbursement of moneys from the Fund. The contract will be in a form and content as provided by the Department.

(2) Payments from the Fund will be disbursed in accordance with the executed contract.

(3) The Port must provide the Department with a written report, records, and detailed accounting of costs in the format required by the Department:

(a) Within 30 days following the close of each federal fiscal year;

(b) Within 90 days following final completion of a project.

(c) Any amount disbursed from the Fund and not used for a project must be returned to the Department.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 777.262 - 777.267

Hist.: EDD 5-1993, f. & cert. ef. 4-19-93; EDD 14-2002, f. & cert. ef. 6-21-02; EDD 7-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; Administrative correction 8-18-04; EDD 22-2004, f. & cert. ef. 8-19-04

123-027-0106

Project Eligibility

Non-federally authorized projects that meet the following criteria are also eligible for assistance from the Fund:

(1) The project is listed in a Port's business or strategic plan;

(2) The project is ready to begin in the biennium for which funding is requested;

(3) The project is a new water project that directly supports, or provides access to, a federally authorized navigation improvement project or a federally authorized navigation channel; and

(4) The project meets the criteria of a freight project, or a commercial/recreation project:

(a) Freight projects are those that facilitate transportation for at least 5,000 tons of freight or cargo annually;

(b) Commercial/recreation projects support at least 1,000 use days annually as evidenced by information from the State Marine Board, the Ports Reporting System, the U.S. Coast Guard, or other similar source of reliable data, or be necessary to support the operation of at least one tour boat.

(5) Navigation facilities that can't meet the criteria listed in sections (3) and (4) may still qualify for funding if:

(a) The proposed improvement project is designed to facilitate usage to a level that exceeds the criteria in subsection (4)(b); or

(b) Usage of the proposed improvement project is reasonably forecasted to meet the criteria in subsection (4)(b) within the first two years of operation and usage is forecasted to exceed the minimum criteria thereafter.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110

Stats. Implemented: ORS 777.262 - ORS 777.267

Hist.: EDD 14-2002, f. & cert. ef. 6-21-02; Renumbered from 123-027-0100 by EDD 22-2004, f. & cert. ef. 8-19-04

123-027-0156

Application Requirements

(1) An eligible port district may submit an application after consulting with Department staff on a preliminary determination of eligibility and otherwise following the Department's procedures for submitting applications.

(2) The application must be in the form provided by the Department and must contain or be accompanied by such information as the Department may require. The Department will process only completed applications.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110

Stats. Implemented: ORS 777.262 - ORS 777.267

Hist.: EDD 22-2004, f. & cert. ef. 8-19-04

123-027-0161

Application Review and Approval

(1) The application must be in the form provided and must contain or be accompanied by such information as the Department may require. The Department will process only completed applications.

(2) To approve an application for assistance from the fund, the Department must make the determinations as follows:

(a) The project is an eligible project. If the Department determines that the applicant and/or the proposed project do not meet the requirements of this section, the Department may reject an application or require further documentation from the applicant;

(b) The requisite need for the project has been demonstrated in the application or the local planning process;

(c) The loan security includes the pledge of revenues and/or other funds, and is sufficient, when considered with other security, to assure repayment;

(d) The applicant is willing and able to enter into a contract with the Department for repayment of the loan; and

(e) Moneys in the fund are or will be available for the project.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110

Stats. Implemented: ORS 777.262 - ORS 777.267

Hist.: EDD 22-2004, f. & cert. ef. 8-19-04

ADMINISTRATIVE RULES

123-027-0166

Funding

(1) Funding for projects will be limited to funds appropriated by the Legislative Assembly.

(2) Projects eligible under section 0105(1) of this rule may be awarded loan or grant funding of up to the amount of the local share.

(3) Projects eligible under 0105(1)(d) may be awarded loan or grant funding of up to 75 percent of the project cost. A 25 percent local match is required. In-kind services from the Port may be no more than 10 percent of the total project cost.

(4) Projects eligible under 00105(1)(e) may be awarded loan or grant funding of up to 50 percent of the project cost. A 50 percent local match is required. In-kind services from the Port may be no more than 10 percent of the total project cost.

(5) The port must secure and be able to provide upon request, a land use compatibility statement from the appropriate jurisdiction(s) for the project.

(6) Interest rates will be determined during the financial review. Loan term will not exceed 25 years.

(7) Grants may be available after September 1, 2004, if money is still available in the Fund and a loan is not feasible due to the financial hardship of the port, under the following circumstances:

(a) Job creation and/or retention will be a direct result of the project;

(b) There is an urgent need for environmental remediation and the Department's financial analysis determines that the Port's borrowing capacity is insufficient to finance the project;

(c) The project deals with critical public safety issues and the Department's financial analysis determines that the Port's borrowing capacity is insufficient to finance the project; or

(d) There is imminent threat that the Port will lose permits and the Department's financial analysis determines that the Port's borrowing capacity is insufficient to finance the project.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110

Stats. Implemented: ORS 777.262 - ORS 777.267

Hist.: EDD 22-2004, f. & cert. ef. 8-19-04

123-027-0171

Approval and Award

(1) The Department and the Port will execute a contract prior to disbursement of moneys from the Fund. The contract will be in a form and content as provided by the Department.

(2) Payments from the fund will be disbursed in accordance with the executed contract.

(3) The Port must provide the Department with written reports, records, and an accounting of detailed costs for a project as described in the contract.

(4) Any amount disbursed from the Fund and not used for a project must be returned to the Department

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110

Stats. Implemented: ORS 777.262 - ORS 777.267

Hist.: EDD 22-2004, f. & cert. ef. 8-19-04

123-027-0201

Sanctions

(1) The Department may invoke sanctions against recipients as listed in the contract, if it finds that significant corrective actions are necessary to protect the integrity of the Project funds, and those corrective actions are not, or will not be, made within a reasonable time. The Department will not impose sanctions until the recipient has been notified in writing of deficiencies and has been given a reasonable time to respond and correct the deficiencies noted.

(2) One or more of the following sanctions may be imposed by the Department; bar a recipient from applying for future assistance; revoke an existing award; withhold unexpended funds; require return of unexpended funds or repayment of expended funds; withhold other state funds such as state-shared revenues; and, other remedies that may be incorporated into Grant or Loan contracts.

(3) The remedies set forth in this rule are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the contract.

Stat. Auth.: ORS 285.075(5) & ORS 285A.110

Stats. Implemented: ORS 777.262 - ORS 777.267

Hist.: EDD 22-2004, f. & cert. ef. 8-19-04

123-027-0211

Appeals and Exceptions

(1) Appeals of local government decisions regarding a Project must be made at the local level.

(2) The Director will consider appeals of the Department's funding decisions. Only the Port may appeal. Appeals must be submitted in writing to the Director within 30 days of the event or action that is being appealed. The Director's decision is final.

(3) The Director may waive non-statutory requirements of this program if it is demonstrated such a waiver would serve to further the goals and objectives of the program.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110

Stats. Implemented: ORS 777.262-ORS 777.267

Hist.: EDD 14-2002, f. & cert. ef. 6-21-02; Renumbered from 123-027-0110 by EDD 22-2004, f. & cert. ef. 8-19-04

Oregon State Library Chapter 543

Adm. Order No.: OSL 1-2004

Filed with Sec. of State: 8-17-2004

Certified to be Effective: 9-1-04

Notice Publication Date: 7-1-04

Rules Amended: 543-060-0030, 543-060-0040

Subject: SB 12, enacted by the 2003 Regular Session of the Oregon Legislative Assembly, eliminates reimbursements to libraries that make interlibrary loans, and establishes matching grants or other assistance for purposes of licensing electronic databases and facilitating statewide ground delivery of library materials. OAR 543-060-0000 through 543-060-0060 was amended and adopted on December 12, 2003. Program changes require amending OAR 543-060-0030 and 543-060-0040.

Rules Coordinator: James B. Scheppke—(503) 378-4243, 243

543-060-0030

Statewide Database Licensing Process

(1) Eligibility: Any public, academic, school library or resource sharing system as defined above is eligible to participate in the program if the following criteria are met:

(a) The library or resource sharing system provides interlibrary loans without charge to requesting in-state public, academic, school libraries and resource sharing systems.

(b) The public, academic library or resource sharing system is a signatory to and abides by the "Interlibrary Loan Code for Oregon Libraries."

(c) The library or resource sharing system certifies the above criteria are met and agrees to participate in the Statewide Database Licensing Program.

(2) The Statewide Database Licensing Advisory Committee shall be appointed by the Library Services and Technology Act (LSTA) Advisory Council.

(a) Role: The Statewide Database Licensing Advisory Committee shall advise the LSTA Advisory Council and the Oregon State Library staff in request for proposal development and database product evaluation, and provide ongoing database product assessment and customer feedback. The Statewide Database Licensing Advisory Committee shall also advise the LSTA Advisory Council on the appropriate percentage allocation of periodicals database costs to public, academic and school libraries.

(b) Membership of the Statewide Database Licensing Advisory Committee: One representative from the LSTA Advisory Council; three public library representatives, one each from libraries serving populations over 100,000, between 25,000-100,000, and 25,000 or less; three academic library representatives, one each from a community college, Oregon University System, and private academic institution; one representative from a resource sharing system; and, two school library representatives, one representing the Oregon Education Technology Consortium (OETC) and one from a school library. Orbis Cascade Alliance will have one representative serving in a non-voting, ex officio capacity. In making appointments the LSTA Advisory Council will seek representatives with experience in database licensing and the use of databases.

(c) Terms of appointment: Terms shall be for three years, except initial terms shall be staggered. The LSTA Advisory Council representative shall serve a two year term.

(d) Meetings: The Statewide Database Licensing Advisory Committee shall meet at least twice each calendar year, and may meet more often as needed.

(3) Request for proposal process: The Oregon State Library shall be the fiscal agent for the program and shall use Federal funds under the Library Services and Technology Act to subsidize the program. Oregon

ADMINISTRATIVE RULES

State Library shall work with the Department of Administrative Services to procure periodical and newspaper full text databases.

(4) Database subsidy process:

(a) The Oregon State Library administers the database subsidy process.

(b) Participating libraries and resource sharing systems shall be billed annually, in July, for periodicals database charges for the upcoming service year. Invoices to participants represent the difference in the subsidized annual costs paid by the State Library and the cost to the participants.

(5) Formula for periodicals database subsidy to public, academic libraries or resource sharing systems: Once a determination has been made of the percentage allocation of periodicals database cost among school, public and academic libraries, the costs will be further allocated to participants in the following manner:

(a) The public library or resource sharing system cost is based on the population served during the previous year, as determined by the State Library.

(b) The academic library cost is based on the student enrollment during the previous academic year, as determined by official sources, such as the Integrated Postsecondary Education Data System (IPEDS), and the Oregon Community College Unified Reporting System (OCCURS). Community college FTE will be adjusted for terms to arrive at an average annual full time enrollment.

(c) Individual library periodicals database costs per year of \$225 or less are subsidized in full by the State Library. Periodicals database costs per year of more than \$225 are subsidized at 50% of the total annual periodicals database costs. Participants will be billed for the 50% unsubsidized portion of total annual periodicals database costs.

(6) Formula for periodicals database costs to school libraries:

(a) The annual database contract costs to school libraries, as determined by the LSTA Advisory Council and State Library Board of Trustees, shall be allocated in consultation with the Oregon Education Technology Consortium. The full school cost shall be supported with LSTA funds for years 2004-2005, and 2005-2006.

(b) Oversight of annual billing to school libraries shall be negotiated between the State Library and the Oregon Education Technology Consortium.

(7) Formula for newspaper database subsidy: All eligible public, school, and academic libraries, or resource sharing systems accessing the full text newspaper database are subsidized in full by the State Library.

(8) Statewide database expenditure plan: An annual budget for the Statewide Database Licensing Program shall be recommended by the Library Services and Technology Act Advisory Council to the State Library Board of Trustees and shall be adopted by the State Library Board of Trustees.

Stat. Auth.: 357.209

Stats. Implemented: ORS 357.206

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 1-2004, f. 8-17-04 cert. ef. 9-1-04

543-060-0040

Calendar

The Statewide Database Licensing Program in Request for Proposal years shall follow a calendar of events as listed below:

(1) The Request for Proposal shall be issued no later than January in a year requiring proposal development, and responses shall be received no later than March.

(2) Request for Proposal evaluations shall be completed by the Statewide Database Licensing Advisory Committee within 60 days of receipt of responses.

(3) Recommendations by the Statewide Database Licensing Advisory Committee to the Library Services and Technology Act Advisory Council shall be made prior to its May meeting.

(4) The Library Services and Technology Act Advisory Council shall review the database recommendations at its May meeting, and make recommendations to the State Library Board of Trustees in June.

(5) Participating libraries shall be notified of anticipated costs for that subscription year after the Board meeting, invoiced in July, and payments shall be due in August or as determined by the vendor contract.

Annual invoicing in non-Request for Proposal years shall follow a calendar of events as listed below:

— Recommendations by the Statewide Database Licensing Advisory Committee to the Library Services and Technology Act Advisory Council shall be made prior to its May meeting. Participating libraries will be notified of anticipated costs for that subscription year after the meeting.

— The Library Services and Technology Act Advisory Council shall review the database recommendations at its May meeting, and make recommendations to the State Library Board of Trustees in June.

— Participating libraries shall be invoiced in July, and payments shall be due in

August or as determined by the vendor contract.

Stat. Auth.: ORS 357.209

Stats. Implemented: ORS 357.206, ORS 357.209 & ORS 357.212

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 1-2004, f. 8-17-04 cert. ef. 9-1-04

Oregon University System, Portland State University Chapter 577

Adm. Order No.: PSU 1-2004

Filed with Sec. of State: 8-20-2004

Certified to be Effective: 8-20-04

Notice Publication Date: 6-1-04

Rules Amended: 577-060-0020

Subject: This amendment establishes additional fees, charges, fines, and deposits for general services for the 2004-2005 fiscal year.

Rules Coordinator: Ellen Ann Baecker—(503) 725-3443

577-060-0020

Schedule of Fees for General Services and Other Charges

The Schedule of Fees for General Services and Other Charges for the 2004-2005 Fiscal Year are hereby adopted by reference by Portland State University.

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

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 352.360

Hist.: PSU 16(Temp), f. 8-24-77, ef. 9-1-77; PSU 18, f. & ef. 10-4-77; PSU 19(Temp), f. & ef. 10-11-77; PSU 20, f. & ef. 11-18-77; PSU 3-1978(Temp), f. 6-19-78, ef. 7-1-78; PSU 7-1978, f. & ef. 9-5-78; PSU 1-1979, f. & ef. 9-17-79; PSU 3-1980, f. & ef. 9-4-80; PSU 2-1981, f. & ef. 9-10-81; PSU 3-1982, f. & ef. 9-3-82; PSU 1-1983, f. & ef. 2-8-83; PSU 2-1983, f. 6-22-83, ef. 7-1-83; PSU 1-1984, f. 6-8-84, ef. 7-1-84; PSU 1-1985, f. 6-26-85, f. 7-1-85; PSU 1-1986, f. 6-25-86, ef. 7-1-86; PSU 1-1987, f. 6-19-87, ef. 7-1-87; PSU 3-1987(Temp), f. & ef. 8-11-87; PSU 5-1987, f. & ef. 10-27-87; PSU 5-1988, f. & cert. ef. 7-18-88; PSU 7-1988(Temp), f. & cert. ef. 11-29-88; PSU 3-1989, f. & cert. ef. 7-26-89; PSU 5-1990, f. & cert. ef. 7-5-90; PSU 2-1991(Temp), f. & cert. ef. 6-28-91; PSU 3-1991, f. & cert. ef. 8-7-91; PSU 4-1991(Temp), f. & cert. ef. 12-4-91; PSU 1-1992, f. & cert. ef. 1-17-92; PSU 2-1992, f. & cert. ef. 6-16-92 (and corrected 6-19-92); PSU 1-1993, f. & cert. ef. 6-11-93; PSU 2-1993(Temp), f. & cert. ef. 7-13-93; PSU 3-1993(Temp), f. & cert. ef. 7-30-93; PSU 4-1994, f. & cert. ef. 11-3-94; PSU 1-1995, f. & cert. ef. 8-9-95; PSU 1-1996(Temp), f. 1-18-96, cert. ef. 3-1-96; PSU 3-1996, f. & cert. ef. 6-27-96; PSU 1-1997, f. & cert. ef. 8-1-97; PSU 4-1998, f. & cert. ef. 9-17-98; PSU 4-1999, f. & cert. ef. 8-11-99; PSU 2-2000, f. & cert. ef. 8-1-00; PSU 1-2001, f. & cert. ef. 8-14-01; PSU 2-2003, f. 6-27-03, cert. ef. 7-1-03; PSU 4-2003(Temp), f. & cert. ef. 11-18-03 thru 5-14-04; PSU 1-2004, f. & cert. ef. 8-20-04

Oregon University System, University of Oregon Chapter 571

Adm. Order No.: UO 5-2004

Filed with Sec. of State: 9-13-2004

Certified to be Effective: 9-14-04

Notice Publication Date: 8-1-04

Rules Amended: 571-003-0025

Subject: Adds gender expression and gender identity to basis upon which grievances alleging prohibited discrimination may be filed.

Rules Coordinator: Deb Eldredge—(541) 346-3082

571-003-0025

Prohibited Discrimination, Discriminatory Harassment, and Sexual Harassment

Using arbitrary or capricious grounds to make available or to deny educational or professional opportunity to other members of the University community is unprofessional conduct and may constitute prohibited discrimination under the University's and the Oregon State Board of Higher Education's rules. Prohibited discrimination including discriminatory harassment and sexual harassment of students, faculty, or staff by other members of the University community is prohibited both by law and this rule. Unwelcome sexual activity by persons abusing positions of economic, supervisory, or academic power is inherently oppressive. Discriminatory harassment, including sexual harassment, regardless of the relative power of the harasser, is disruptive of the workplace and campus life, and it acts to deny its object equal opportunity as a student or an employee. Discriminatory harassment, including sexual harassment, shall not be tolerated at the University of Oregon:

(1) Definitions:

(a) Members of the University community are defined as students, faculty, and staff except for purposes of grievances alleging disability discrimination against the grievant where the definition of "University com-

ADMINISTRATIVE RULES

munity” is broadened to include members of the public applying for admission as students, attending or participating (or desirous of attending or participating) in programs on University owned or leased property, applying for employment, or otherwise having business to transact in University facilities (this broadened definition does not apply to the second sentence of the introductory paragraph of this rule);

(b) For purposes of timeliness, “filed” means a signed grievance delivered to a University official authorized to receive grievances which are initiated under OAR 571-003-0025(4)-(6);

(c) Prohibited discrimination is defined as any act that either in form or operation, and whether intended or unintended, unreasonably discriminates among individuals on the basis of age, disability, national origin, race, marital status, religion, gender, gender identity, gender expression or sexual orientation: “Unintentional discrimination” is a concept applicable only to situations where a policy, requirement, or regularized practice, although neutral on its face, can be shown to have disparately impacted members of a protected class. The concept is inapplicable to sexual or other forms of harassment which, by definition, result from volitional actions.

(d) Discriminatory harassment is defined as any conduct that either in form or operation unreasonably discriminates among individuals on the basis of age, disability, national origin, race, marital status, religion, gender, gender identity, gender expression or sexual orientation, and that is sufficiently severe or pervasive that it interferes with work or academic performance because it has created an intimidating, hostile, or degrading working or academic environment for the individual who is the object of such conduct, and where the conduct would have such an effect on a reasonable person of the alleged victim’s status. Discriminatory harassment will not be found in the decision to select, include, or assign course or reading materials or curricular content or in the consideration of research topics or investigatory questions within the educational and research activities of University employees and students. However, if specific behaviors or actions opportunistically recur in an educational setting and can be shown by clear and convincing evidence to have been calculated to inflict harm on one or more of the participants, this exception shall not apply.

(e) Sexual harassment is a type of gender discrimination which is defined as:

(A) Any sexual advance, any request for sexual favors, or other verbal or physical conduct of a sexual nature when:

(i) Submission to such advances, requests, or conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic experience; or

(ii) Submission to or rejection of such advances, requests, or conduct by an individual is used as a basis or condition for employment and/or academic decisions affecting such individual; or

(iii) Such conduct is unwelcome and sufficiently severe or pervasive that it interferes with work or academic performance because it has created an intimidating, hostile, or offensive working or academic environment for the individual who is the object of such conduct, and where the conduct would have such an effect on a reasonable woman (if the object is a woman) or a reasonable man (if the object is a man).

(B) Sexual harassment will not be found in the decision to select, include, or assign course or reading materials or curricular content or in the consideration of research topics or investigatory questions within the educational and research activities of University employees and students. However, if specific behaviors or actions opportunistically recur in an educational setting and can be shown by clear and convincing evidence to have been calculated to inflict harm on one or more of the participants, this exception shall not apply.

(f) In the case of allegations of disability “complainant” shall be broadened to include members of the public applying for admission as students, attending (or desirous of attending) events or participating (or desirous of participating) in programs on University owned or leased property, applying for employment, or otherwise having business to transact in University facilities.

(2) University Employees’ Responsibilities in Dealing with Allegations of Prohibited Discrimination or Sexual Harassment: The University has the responsibility to prevent prohibited discrimination from occurring in its work-places and its academic, research, public, and student service programs:

(a) University employees with credible evidence that any form of prohibited discrimination is occurring have the responsibility to inform their supervisors or the Office of Affirmative Action. Credible evidence is evidence of the kind that prudent people would rely on in making important personal or business decisions;

(b) Staff in the Office of Affirmative Action shall provide information about available complaint processes, services for complainants, and assistance with resolving complaints to any University employee who makes a report of alleged discriminatory behavior so that these employees may pass on this advice to those involved who may need this information;

(c) In making such reports, University employees may retain their anonymity;

(d) Staff in the Office of Affirmative Action will advise potential complainants of the options available to them, including applicable internal formal and informal complaint and resolution processes, as well as the possibility of filing with an external agency. Potential complainants shall receive the addresses and phone numbers of external governmental agencies with authority to deal with their complaints, as well as information about any time limitations on access to outside agencies’ processes.

(3) Discrimination Grievance Counselor: As required by OAR 580-015-0090, the University has appointed a discrimination grievance counselor who is the Director of the Office of Affirmative Action and Equal Opportunity (hereinafter referred to in this rule as the Director). The Director shall assist students and others in formulating and following up complaints of alleged discrimination.

(4) Formal Complaint Processes:

(a) All members of the University community considering filing a formal complaint alleging prohibited discrimination or sexual harassment are encouraged to contact the Office of Affirmative Action for information and advice. Potential complainants may remain anonymous. Affirmative Action staff will work for resolution through informal processes if that is what the complainant desires, or will assist in making a formal complaint and setting it into the formal complaint process applicable to the complainant;

(b) Faculty and officers of administration who believe they have been subjected to prohibited discrimination or sexual harassment by any employee or agent of the University may file formal complaints under the faculty grievance process as set forth in this division;

(c) Members of recognized collective bargaining units at the University of Oregon who believe they have been subjected to prohibited discrimination or sexual harassment by any employee or agent of the University may file formal complaints under the grievance process set forth in the applicable collective bargaining agreement;

(d) Students who believe they have been subjected to prohibited discrimination or sexual harassment by any employee or agent of the University may file formal complaints under the Oregon State Board of Higher Education’s discrimination complaint process, OAR 580-015-0090 et seq.;

(e) Anyone who believes he or she has been subjected to prohibited discrimination or sexual harassment by any University student while on campus or at a University-sponsored event may file formal complaints with the Coordinator of Student Conduct;

(f) A complainant alleging disability discrimination who is not faculty, staff, or a student shall have the grievance investigated by the Human Rights Investigator of the Office of Affirmative Action and Equal Opportunity, with the Investigator’s report to go to the appropriate Vice President (who may consult with the Affirmative Action Administrative Council before disposition) who shall promptly and equitably decide the grievance and issue a report of the decision to the complainant and to the person (or unit) grieved against.

(g) When a University officer, other than the University’s designated discrimination grievance counselor, receives a properly filed formal grievance or complaint alleging prohibited discrimination or sexual harassment, that officer shall:

(A) Inform the Director that a complaint has been received and name the complainant and respondent;

(B) Request Affirmative Action staff assistance in investigating, seeking resolutions and/or advising the individuals concerned about established procedures; and

(C) keep the Director informed as the complaint or grievance is processed and decided.

(h) For purposes of this rule, “University officer” is defined as any faculty member with appointment as an officer of instruction, administration, or research;

(i) When the Director learns of a formal complaint through the channels described in subsection (g) of this section, he or she shall provide the complainant information about the availability of complaint channels through outside agencies, along with these agencies’ names, addresses, and telephone numbers and a description of any applicable time limitations.

(5) Informal Complaint and Resolution Processes:

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(a) Faculty, staff, or students who believe they have been subjected to prohibited discrimination or sexual harassment are encouraged to contact the Affirmative Action Office for information, advice, and assistance in resolving the problem;

(b) Faculty, staff, or students who believe they have been subjected to prohibited discrimination or sexual harassment may contact the University Ombud Officer for information, advice, and assistance in resolving the problem;

(c) Faculty, staff, or students who believe they have been subjected to prohibited discrimination or sexual harassment may use any appropriate informal grievance resolution process set out in this division, may secure the assistance of mediators, counselors, or advocates as provided or at the complainant's expense, and/or may attempt any informal resolution appropriate to the particular circumstances;

(d) Individuals seeking informal resolution of a problem of alleged prohibited discrimination or sexual harassment or who merely wish to discuss their experience with an officer of the University, may request anonymity, and need not reveal their identity to the alleged offender. However, when the circumstances are such that, assuming the allegations are true, the health or safety of individuals is at risk, University officers have the responsibility to take such steps as are reasonably necessary to prevent injury. In some cases, that may mean that a complainant's identity must be revealed.

(6) University Officers' and Supervisors' Responsibilities as Participants in Informal Complaint and Resolution Processes: When any University officer (as defined in subsection (4)(h) of this rule) is called upon to assist in the informal resolution of a complaint of prohibited discrimination or sexual harassment, he or she shall:

(a) Take steps to assure that complainants understand their rights, know where they can seek psychological, procedural, or advocacy help, and take reasonable steps to assist complainants to resolve the problem. Professional advice and information on how to advise and assist individuals who feel victimized by prohibited discrimination or sexual harassment is available from the Affirmative Action Office;

(b) Ask the complainant if he or she is willing to participate in an investigation of the allegations, understanding that anonymity cannot be guaranteed in most investigative situations. If the complainant is not so willing; then

(c) Ask the complainant if she or he is willing to act as a witness if the University decides to instigate disciplinary procedures against the alleged offender. If the complainant is not so willing, then

(d) Notify the Affirmative Action Office in general terms that an allegation of prohibited discrimination or sexual harassment has been made. No information that would identify either the complainant or the alleged offender should be communicated to the Affirmative Action Office, unless the situation rises to one described in subsection (5)(d) of this rule. Available information about the parties or the setting in which the alleged prohibited discrimination or sexual harassment took place should be given to Affirmative Action to the extent that it does not breach the confidentiality of the complainant or the alleged wrong-doer;

(e) If the complainant would be willing to participate in an investigation of the allegations or act as a witness in the event of any future formal charges, the University officer shall notify the Affirmative Action Office that an informal complaint of alleged prohibited discrimination/sexual harassment has been received and name both the complainant and the respondent. If the complainant is willing, the University officer should help set up a meeting for the complainant with Affirmative Action staff to discuss the situation;

(f) Report back to the Office of Affirmative Action about any action taken to achieve informal resolution of the problem.

(7) Record Keeping Requirements: The Director shall:

(a) Maintain a confidential file of all formal complaints and grievances alleging prohibited discrimination or sexual harassment by University employees. Such files shall include the final decision made in the grievance process;

(b) Maintain a confidential file of all informal complaints alleging prohibited discrimination or sexual harassment by University employees made by complainants who participate in investigations or are willing to act as witnesses. The file shall include information about any resolution reached through informal processes and any findings made regarding the allegations of discrimination;

(c) Maintain a statistical record of the complaints filed and their outcomes as described in subsections (a) and (b) of this section, which includes the characteristics of complainants and respondents, including student, staff, or faculty status, home department, and where the discrimination or

harassment was alleged to take place: in the classroom, laboratory, or other instructional context, in the workplace, or off campus;

(d) Maintain a statistical record of the number of informal complaints of prohibited discrimination/sexual harassment that are reported, in which the complainant declined to participate as a witness in any future action against the alleged offender;

(e) After a period of five years, destroy those files applicable to allegations of discrimination or sexual harassment in which the complainant wished merely to report and not participate in investigations or disciplinary proceedings, and those files in which no prohibited discrimination or sexual harassment was found, when in the interim, no such subsequent allegations against that particular employee are made;

(f) After a period of seven years, destroy the files applicable to allegations of discrimination or sexual harassment in which prohibited behavior was found, when in the interim, no such subsequent allegations against that particular employee are made;

(g) Four years after an employee against whom complaints of discrimination or sexual harassment have been filed resigns, retires, or dies, destroy any files applicable to the complaints that were not destroyed under subsections (e) and (f) of this section.

(8) Reporting Requirements: The Director shall:

(a) On at least an annual basis, issue a statistical report to the President, the University of Oregon News Bureau, and the Oregon Daily Emerald of the number and kinds of discrimination and sexual harassment complaints received and how they were resolved. No names of individuals involved or other identifying information may be released in this report. Data relating to allegations of sexual harassment shall be reported separately from other forms of prohibited discrimination. Further break-downs by category may be used if confidentiality can be preserved and if doing so will make the figures more meaningful to the public;

(b) Report to the President that a second or subsequent complaint of prohibited discrimination or sexual harassment has been lodged against a particular employee when there is a discrimination or sexual harassment file being maintained in the Affirmative Action Office naming the employee as the respondent in a formal or informal complaint.

(9) Protection of Complainants, Prohibition Against Retaliation:

(a) Employee complainants may request to be transferred for the duration of the complaint proceeding. Student complainants may request to change or drop a course while the complaint is in process. Complainants may request, and the University may propose, that other actions be taken that are appropriate and reasonably likely to diminish conflict or relieve the stress involved in complaint processes;

(b) A complainant shall have the option of withdrawing the complaint at any time prior to the issuance of a final decision under the selected grievance process, or may choose to file the complaint with an outside agency at any time;

(c) Retaliation by any University student or employee against any person participating in good faith in any discrimination, sexual harassment, or other complaint process, whether informal or formal, is strictly forbidden. Retaliation is considered unprofessional behavior and is therefore proscribed conduct under Oregon State Board Rules and is cause for sanctions more severe than a written reprimand. Retaliation is also a violation of the Student Conduct Code and is cause for sanctions imposed under the provisions of that Code.

(10) Sanctions: After following the appropriate disciplinary procedures affording students and employees required due process, the University may impose sanctions as follows:

(a) Faculty and officers of administration found to have engaged in prohibited discrimination or sexual harassment may be subject to a written reprimand to be included in the personnel file or other sanctions for cause under the provisions of OAR 580-021-0320 et seq. and/or to evaluations of less than fully satisfactory service. If a proven or stipulated incident of prohibited discrimination or sexual harassment occurs after the delivery of a written reprimand or an evaluation of less than fully satisfactory service arising out of such conduct, procedures to impose further sanctions for cause shall be instituted under OAR 580-021-0330 et seq. Possible sanctions include suspension or termination of employment;

(b) Students found to have engaged in prohibited discrimination or sexual harassment may be subject to sanctions including suspension or expulsion under the Student Conduct Code;

(c) Classified staff members found to have engaged in prohibited discrimination or sexual harassment may be subject to written reprimand to be included in personnel files or further sanctions in accord with the progressive discipline concept in accordance with any applicable collective bar-

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gaining agreements. Such sanctions include suspension, reduction of pay, and termination of service.

Stat. Auth.: ORS 351.070 & 352.004
Stats. Implemented: ORS 659.150 - 659.160; 46 USC sec. 12112, 12132 & 12182
Hist.: UOO 3-1983, f. & cert. ef. 5-31-83; UOO 7-1993, f. & cert. ef. 6-2-93; UOO 1-1994, f. 5-31-94, cert. ef. 6-1-94; UOO 1-1997, f. & cert. ef. 2-3-97; UO 5-2004, f. 9-13-04, cert. ef. 9-14-04

Parks and Recreation Department
Chapter 736

Adm. Order No.: PRD 10-2004

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 9-10-04

Notice Publication Date: 4-1-04

Rules Amended: 736-100-0010, 736-100-0020, 736-100-0030, 736-100-0040, 736-100-0050, 736-100-0060, 736-100-0070, 736-100-0080

Subject: These eight rules set the Department's overall goals and guiding principles, covering recreation, heritage resources, natural resource management and financial principles.

Rules Coordinator: Jo Bell—(503) 986-0719

736-100-0010

Goal Two — Promote outdoor recreation in Oregon.

The Oregon Parks and Recreation Department is the state's principal advocate, leader and source of expertise and support for outdoor recreation.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.010 & 390.117
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03; PRD 10-2004, f. & cert. ef. 9-10-04

736-100-0020

Goal Three — Advance the principles of conservation and sustainability in land management, development and business practices

The Commission and the Department hold a public trust to protect Oregon's park system, including the Willamette River Greenway, State Scenic Waterways and ocean shores. The Department practices sustainable natural resource management that balances the need to assure future generations enjoy similar benefits.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.010 & 390.117
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03; PRD 10-2004, f. & cert. ef. 9-10-04

736-100-0030

Goal Four — Preserve Oregon's rich cultural heritage and broaden public understanding of Oregon's historic places and events

The cultural history of Oregon — structures, landmarks, and special places — extends beyond the boundaries of park properties. The Heritage Conservation Division safeguards this public trust.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.010 & 390.117
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03; PRD 10-2004, f. & cert. ef. 9-10-04

736-100-0040

Goal One — Acquire properties that build upon the diversity and strength of our current system

The Oregon state park system is a rich mosaic of Oregon's natural resources, scenic landscapes and history. In 1998, voters sent a clear message of support for the enhancement of that mosaic through the development, conservation and expansion of Oregon's park system for future generations.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.010 & 390.117
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03; PRD 10-2004, f. & cert. ef. 9-10-04

736-100-0050

Goal Five — Deliver world-class experiences to park visitors

World-class experiences create vivid memories that enrich the lives of our visitors, and deepen their understanding of Oregon's natural, historical and cultural resources. Bringing those experiences to life requires a fundamentally strong park system, with varied, ample and appealing places to visit, enthusiastic, professional staff, and a special commitment to high-quality interpretive experiences.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.010 & 390.117
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03; PRD 10-2004, f. & cert. ef. 9-10-04

736-100-0060

Goal Six — Promote access to Oregon's beaches, trails and waterways

Oregon's park properties belong to the people. The Commission is entrusted with ensuring reasonable access to park lands for all while simultaneously considering resource protection and local land use goals. In particular, access to Oregon's beaches, scenic waterways, trail corridors and other public open spaces demands consistent advocacy, planning and consensus building to ensure enhancement and growth.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.010 & 390.117
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03; PRD 10-2004, f. & cert. ef. 9-10-04

736-100-0070

Goal Seven — Provide varied, high-quality camping and other overnight experiences

Camping is a cornerstone of the Oregon state park experience. Demand for camping and other overnight stays in parks is increasing and becoming more varied, and the Department must respond quickly and creatively to that demand.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.010 & 390.117
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03; PRD 10-2004, f. & cert. ef. 9-10-04

736-100-0080

Goal Eight — Seek sufficient and stable operational and long-term funding

While Oregon voters accorded the Department a greater measure of financial stability and sufficiency in 1998 through a dedicated share of the state lottery, the Department's revenue sources are diverse. The Department will not become over-reliant on any one funding source, and the Commission acknowledges need for continued fund-raising, leveraged or shared acquisition partnerships and lean, efficient operations.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.010 & 390.117
Hist.: PRD 1-2003, f. 1-29-03 cert. ef. 2-1-03; PRD 10-2004, f. & cert. ef. 9-10-04

Adm. Order No.: PRD 11-2004

Filed with Sec. of State: 9-15-2004

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Rules Adopted: 736-019-0000, 736-019-0020, 736-019-0040, 736-019-0060, 736-019-0080, 736-019-0100, 736-019-0120

Subject: The proposed rule will set forth the scope and purpose, definitions, policy, criteria for acquisition, sources of funding, acquisition practices and use of third parties in connection with the Department's land acquisition and land exchange transactions.

Rules Coordinator: Jo Bell—(503) 986-0719

736-019-0000

Scope and Purpose

This division implements the statutory mandate in ORS 390.112 to describe criteria for the acquisition and development of new historic sites, parks and recreation areas. The purpose of this division is to establish a methodology for consideration of land acquisition and land exchange that will allow the Parks and Recreation Department to:

- (1) Identify and acquire the best representative landscapes and most significant cultural sites in Oregon for the purpose of protecting the State's most valuable resources;
- (2) Ensure the general public's access to and enjoyment of these sites as compatible with OPRD cultural and sustainability policies;
- (3) Ensure that the themes of Oregon's natural and human history are woven into the master development plans of new and existing properties; and
- (4) Foster appreciation and enjoyment of outdoor recreation resources by conserving, developing and maintaining waterways, scenic roads, high-way corridors, trails and State recreation areas.

Stat. Auth.: ORS 390.121 & 390.124
Stats. Implemented: ORS 390.112 & 390.121
Hist.: PRD 11-2004, f. & cert. ef. 9-15-04

736-019-0020

Definitions

As used in this division, unless the context requires otherwise:

- (1) "Acquisition" means obtaining title to real property or any right or interest therein, or an interest in timber or other assets, by purchase, agreement, donation, exchange, gift, devise, or by exercise of eminent domain.

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(2) "Commission" means the State Parks and Recreation Commission.

(3) "Department" means the State Parks and Recreation Department.

(4) "Director" means the State Parks and Recreation Department Director.

(5) "Exchange" means the simultaneous, mutual transfer of an interest in land, timber or other assets of equal value between willing parties.

(6) "Other assets" means cash or forms of consideration other than land or an interest in timber, including but not limited to access rights, mineral rights, and water rights.

(7) "Third party" means any person other than the Department or the owner(s) of property that is the subject of an acquisition.

Stat. Auth.: ORS 390.121 & 390.124

Stats. Implemented: ORS 390.112 & 390.121

Hist.: PRD 11-2004, f. & cert. ef. 9-15-04

736-019-0040

Policy

The Department shall use sound principles of real estate acquisition when acquiring or exchanging real property, comply with all federal and state laws pertaining to real property acquisition, and ensure the prudent use of public monies in its real property transactions. The Department aspires to:

(1) Ensure that the discharge of its fiduciary responsibility for the use of public funds receives the highest priority.

(2) Seek to preserve the public's confidence in our business practices and stewardship of real estate assets.

(3) Conduct real estate transactions in an atmosphere of openness, honesty and integrity with land owners and the public, and maintain the confidentiality of such transactions to the extent allowed by law when it serves the public interest or to avoid harm to private citizens' interests.

(4) Balance the need for and benefits of public open space with impacts on local tax revenue and private economic opportunity.

Stat. Auth.: ORS 390.121 & 390.124

Stats. Implemented: ORS 390.112 & 390.121

Hist.: PRD 11-2004, f. & cert. ef. 9-15-04

736-019-0060

Criteria for Acquisition

(1) The Department will:

(a) Establish and maintain a list of properties of interest. The Department may purchase properties on that list as they become available, subject to the availability of funds.

(b) Consider park master plans adopted pursuant to ORS 195.120 that the State Trails Plan, the Willamette Greenway Plan or other plans adopted by the Commission identify as desired and needed land purchases to fulfill the plans.

(c) Acquire properties as specifically directed by Acts of the Oregon Legislature.

(d) Acquire other properties that contribute to the established goals of the Department but were not previously included on a list of properties of interest or identified in a Department plan.

(2) The purpose of the Department and the public's interests are served when an acquisition satisfies one or more of the following objectives:

(a) Protects areas of outstanding natural, scenic, cultural, historic and recreational significance for the enjoyment and education of present and future generations.

(b) Consolidates state park parcels, trail systems or greenways so that more efficient management and administration of the state park system is made possible.

(c) Provides a buffer to adjacent or nearby development that may diminish the recreation or conservation values of a state park parcel.

(d) Provides access to recreation areas for management or protection of state park parcels.

(3) The acquisition or exchange of all real property shall be consistent with the Department's purpose and its long-range planning goals, and shall be prioritized through a rating system. The rating system will evaluate an acquisition or exchange's significance as it relates to the Department's mission, development and operational costs, geographic distribution, diversity of values, public demand, and other factors connected to property feasibility as a state park. The Commission will periodically review the rating system.

(4) The Department will look favorably at opportunities for acquisitions and exchanges that enhance the overall management of existing park lands.

Stat. Auth.: ORS 390.121 & 390.124

Stats. Implemented: ORS 390.112 & 390.121

Hist.: PRD 11-2004, f. & cert. ef. 9-15-04

736-019-0080

Sources of Funding

The Department will:

(1) Purchase lands with appropriations granted by the Legislature.

(2) Use proceeds from land sales to purchase other lands pursuant to ORS 390.121(3).

(3) Accept donated private funds and donated lands.

(4) Seek state, federal and private grants for land purchases when appropriate.

(5) Employ land exchanges when the land traded away is less suitable for open space and recreation than the land received.

Stat. Auth.: ORS 390.121 & 390.124

Stats. Implemented: ORS 390.112 & 390.121

Hist.: PRD 11-2004, f. & cert. ef. 9-15-04

736-019-0100

Acquisition Practices

(1) The Department will:

(a) Engage in land purchases and land sales in which the value of the land is established by an up-to-date appraisal prepared by an independent professional appraiser or a qualified government employee.

(b) Obtain an independent review of appraisals when the appraised value exceeds \$250,000.00.

(c) Consult with local taxing entities of government when a land purchase has potential to cause a significant loss of property tax revenue.

(d) Seek to purchase from willing sellers as the preferred method of buying land.

(e) Exercise the greatest of restraint in using the power of eminent domain consistent with the spirit and intent of the laws authorizing such power.

(f) Acquisitions and exchanges shall be made only with approval of the Commission.

(g) The Director may pay up to \$10,000.00 for an option or earnest money agreement if there is a high degree of certainty, without committing a future Legislature, that the funds to complete the subject purchase will be forthcoming. Option payments in excess of \$10,000.00 shall only be made if approved by the Commission.

(h) The Department will utilize sound business principles in securing appraisals and conducting negotiations, and shall complete its due diligence in connection with all real property acquisitions and exchanges, including the request for and review of title searches, hazardous material assessments, agreements with third parties intended to facilitate an acquisition by the Department, and any other documents necessary to make the best decision regarding a land purchase or exchange.

(2) In addition to the practices describe in section (1) of this rule, when acquiring ownership of or interests in lands abutting, adjacent or contiguous to the ocean shore for state recreation areas or access where such lands are held in private ownership, the department will also consider the criteria provided in ORS 390.630.

Stat. Auth.: ORS 390.121 & 390.124

Stats. Implemented: ORS 390.112 & 390.121

Hist.: PRD 11-2004, f. & cert. ef. 9-15-04

736-019-0120

Use of Third Parties

The Department may seek the assistance of well qualified third parties, including private land trusts, only when the third party is needed to serve as a purchaser and holder of property until public funds are available or when acquisition of property from a private owner is possible only through the use of such a third party as an intermediary.

Stat. Auth.: ORS 390.121 & 390.124

Stats. Implemented: ORS 390.112 & 390.121

Hist.: PRD 11-2004, f. & cert. ef. 9-15-04

Public Utility Commission Chapter 860

Adm. Order No.: PUC 12-2004(Temp)

Filed with Sec. of State: 8-31-2004

Certified to be Effective: 8-31-04 thru 2-26-05

Notice Publication Date:

Rules Adopted: 860-016-0021

Rules Amended: 860-016-0020

Subject: Establishes a process to allow carriers the ability to provide promotional discounts following an expedited review by the Commission.

Rules Coordinator: Ruth Eyerly—(503) 378-8287

ADMINISTRATIVE RULES

860-016-0020

Agreements Arrived at through Negotiation

(1) Upon receiving a request for interconnection, services, or network elements pursuant to Section 251 of the Act, the affected telecommunications carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier.

(2) The negotiating parties may ask a mediator outside the Commission to help them reach agreement. If they request the Commission to mediate, the Commission will use an Administrative Law Judge (ALJ) or a member of the utility Staff to mediate. Only the negotiating parties and the mediator will participate in mediation sessions.

(3) After the parties reach agreement under Section 252(a) of the Act, they shall file an application with the Commission seeking approval of the agreement, or for approval of an amendment to an approved agreement on file with the Commission. The application shall include an original plus two copies of the negotiated agreement and a completed Carrier-to-Carrier Agreement Checklist. A copy of the checklist is available on the Commission's Internet website. The parties may also include any other supporting information with their application.

(4) The negotiating parties shall also submit a copy of the negotiated agreement and a copy of the checklist in electronic format compatible with Adobe Acrobat Reader or Rich Text Format. The electronic copy may be an unsigned version of the negotiated agreement. The Commission will provide notice of the application by posting the checklist and the agreement on its Internet website.

(5) Except as provided in OAR 860-016-0021, the public may file written comments within 21 days of the filing date of the application, unless the Commission establishes a different time limit in an individual case.

(6) The Commission will accept or reject the agreement within 90 days, with written findings as to any deficiencies. The grounds for rejection are that the agreement:

- (a) Discriminates against a carrier not a party to the agreement; or
- (b) Is not consistent with the public interest, convenience, and necessity. Applicable Commission policies will be a factor in public interest, convenience, and necessity determinations.

Stat. Auth.: ORS 183 & 756

Stats. Implemented: 47 USC 252

Hist.: PUC 8-1998, f. & cert. ef. 4-8-98; PUC 25-2001, f. & cert. ef. 11-5-01; PUC 6-2002, f. & cert. ef. 2-13-02; PUC 12-2004(Temp), f. & cert. ef. 8-31-04 thru 2-26-05

860-016-0021

Wholesale Promotions

(1) A carrier intending to provide a wholesale promotion that would modify the terms of existing carrier-to-carrier agreements must provide the Commission notice of the offering at least 15 days prior to the effective date of the promotion. The notice shall include:

- (a) Language used to describe the promotion;
- (b) The terms and conditions to be used for the promotional offering; and
- (c) A description of the means used to notify carriers of the promotion.

(2) The carrier shall file an original plus two copies of the notice and a completed Carrier-to-Carrier Agreement Checklist. The carrier shall also submit a copy of the notice and checklist in electronic format compatible with Adobe Acrobat Reader or Rich Text Format. The Commission will post the notice and checklist on its Internet website.

(3) The public may file written comments on the promotional offering within 10 days of the filing date of the notice, unless the Commission establishes a different time limit in an individual case.

(4) The Commission will acknowledge the promotional offering unless it finds that the offering, if filed as an amendment to an interconnection agreement, would be subject to rejection under OAR 860-016-0020(6).

(5) If another carrier accepts the promotional offering, the carrier offering the promotion and the accepting carrier shall file any required amendment to an existing carrier-to-carrier agreement for approval pursuant to OAR 860-016-0020. Any such amendment entered into during the identified promotional period and submitted for Commission approval within 10 days of execution will be deemed timely filed.

(6) The Commission will accept or reject an amendment adopting the terms of the promotional offering within 10 days, pursuant to standards set forth in OAR 860-016-0020.

Stat. Auth.: ORS 183 & 756

Stats. Implemented: 47 USC 252

Hist.: PUC 12-2004(Temp), f. & cert. ef. 8-31-04 thru 2-26-05

Adm. Order No.: PUC 13-2004

Filed with Sec. of State: 8-31-2004

Certified to be Effective: 8-31-04

Notice Publication Date: 7-1-04

Rules Adopted: 860-038-0275

Rules Amended: 860-038-0005, 860-038-0220, 860-038-0480

Subject: The amended rules change the name of the Portfolio Advisory Committee; modify the service period for portfolio options; establish permanent rules for direct access declaration windows; and facilitate better tracking of public purpose charges for self-directing customers.

Rules Coordinator: Ruth Eyerly—(503) 378-8287

860-038-0005

Definitions for Direct Access Regulation

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) "Portfolio Options Committee" means a group appointed by the Commission, consisting of representatives from Commission Staff, the Oregon Department of Energy, and the following:

- (a) Local governments;
- (b) Electric companies;
- (c) Residential consumers;
- (d) Public or regional interest groups; and
- (e) Small nonresidential consumers.

(3) "Affiliate" means a corporation or person who has an affiliated interest, as defined in ORS 757.015, with a public utility.

(4) "Aggregate" means combining retail electricity consumers into a buying group for the purchase of electricity and related services. "Aggregator" means an entity that aggregates.

(5) "Ancillary services" means those services necessary or incidental to the transmission and delivery of electricity from resources to retail electricity consumers, including but not limited to scheduling, frequency regulation, load shaping, load following, spinning reserves, supplemental reserves, reactive power, voltage control and energy balancing services.

(6) "Commission" means the Public Utility Commission of Oregon.

(7) "Common costs" means costs that cannot be directly assigned to a particular function.

(8) "Competitive operation" means any activities related to the provision of electricity services conducted by the electric company's nonregulated operation or the electric company's affiliate.

(9) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an electric cooperative.

(10) "Cost-of-service consumer" means a retail electricity consumer who is eligible for a cost-of-service rate under ORS 757.603.

(11) "Default supplier" means an electric company that has a legal obligation to provide electricity services to a consumer, as determined by the Commission.

(12) "Direct access" means the ability of a retail electricity consumer to purchase electricity and certain ancillary services directly from an entity other than the distribution utility.

(13) "Direct service industrial consumer" means an end-user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.

(14) "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.

(15) "Distribution utility" means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.

(16) "Divestiture" means the sale of all or a portion of an electric company's ownership share of a generation asset to a third party.

(17) "Economic utility investment" means all Oregon allocated investments made by an electric company that offers direct access under ORS 757.600 to 757.667, including plants and equipment and contractual or other legal obligations, properly dedicated to generation or conservation, that were prudent at the time the obligations were assumed but the full benefits of which are no longer available to consumers as a direct result of ORS

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757.600 to 757.667, absent transition credits. "Economic utility investment" does not include costs or expenses disallowed by the Commission in a prudence review or other proceeding, to the extent of such disallowance, and does not include fines or penalties authorized and imposed under state or federal law.

(18) "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.

(19) "Electric company operational information" means information relating to the interconnection of customers to an electric company's transmission or distribution systems, trade secrets, competitive information relating to internal processes, market analysis reports, market forecasts, and information about an electric company's transmission or distribution system, operations, or plans or strategies for expansion.

(20) "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.

(21) "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.

(22) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity, measured in kilowatts, or both.

(23) "Electricity services" means electricity distribution, transmission, generation, or generation-related services.

(24) "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" does not include an electric utility selling electricity to retail electricity consumers in its own service territory. An ESS can also be an aggregator.

(25) "Emergency default service" means a service option provided by an electric company to a nonresidential consumer that requires less than five business days' notice by the consumer or its electricity service supplier.

(26) "Fully distributed cost" means the cost of an electric company good or service calculated in accordance with the procedures set forth in OAR 860-038-0200.

(27) "Functional separation" means separating the costs of the electric company's business functions and recording the results within its accounting records, including allocation of common costs.

(28) "Joint marketing" means the offering (including marketing, promotion, and/or advertising) of retail electric services by an electric company in conjunction with its competitive operation to consumers either through contact initiated by the electric company, its affiliate, or through contact initiated by the consumer.

(29) "Large nonresidential consumer" means a nonresidential consumer whose kW demand at any point of delivery is greater than 30 kW during any two months within a prior 13-month period.

(30) "Load" means the amount of electricity delivered to or required by a retail electricity consumer at a specific point of delivery.

(31) "Local energy conservation" means conservation measures, projects, or programs that are installed or implemented within the service territory of an electric company.

(32) "Low-income weatherization" means repairs, weatherization and installation of energy efficient appliances and fixtures for low-income residences for the purpose of enhancing energy efficiency.

(33) "Market transformation" means a lasting structural or behavioral change in the marketplace that increases the adoption of energy efficient technologies and practices.

(34) "Multi-state electric company" means an electric company that provided regulated retail electric service in a state in addition to Oregon prior to January 1, 2000.

(35) "Municipal electric utility" means an electric distribution utility owned and operated by or on behalf of a city.

(36) "Net system power mix" means the mix of all power generation facilities in the state or region, less all specific purchases from generation facilities in the state or region, as determined by Oregon Department of Energy.

(37) "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.

(38) "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 July 23, 1999. "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 July 23, 1999.

(39) "Nonresidential consumer" means a retail electricity consumer who is not a residential consumer.

(40) "Oregon Department of Energy" means the Oregon Department of Energy created under ORS 469.030.

(41) "Ongoing valuation" means the process of determining transition costs or benefits for a generation asset by comparing the value of the asset output at projected market prices for a defined period to an estimate of the revenue requirement of the asset for the same time period.

(42) "One-time administrative valuation" means the process of determining the market value of a generation asset over the life of the asset, or a period as established by the Commission, using a process other than divestiture.

(43) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

(44) "Oregon share" means, for a multi-state electric company, an interstate allocation based upon a fixed allocation or method of allocation established in a Resource Plan or, in the case of an electric company that is not a multi-state electric company, 100 percent.

(45) "People's utility district" has the meaning given that term in ORS 261.010.

(46) "Portfolio" means a set of product and pricing options for electricity.

(47) "Proprietary consumer information" means any information compiled by an electric company on a consumer in the normal course of providing electric service that makes possible the identification of any individual consumer by matching such information with the consumer's name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges, billing records, or any other information that the consumer has expressly requested not be disclosed. Information that is redacted or organized in such a way as to make it impossible to identify the consumer to whom the information relates does not constitute proprietary consumer information.

(48) "Qualifying expenditures" means those expenditures for 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, provided that the Oregon Department of Energy may establish by rule a limit on the maximum above-market cost for renewable energy that is allowed as a credit.

(49) "Registered dispute" means an unresolved issue affecting a retail electricity consumer, an ESS, or an electric company that is under investigation by the Commission's Consumer Services Division but is not the subject of a formal complaint.

(50) "Regulated charges" means charges for services subject to the jurisdiction of the Commission.

(51) "Regulatory assets" means assets that result from rate actions of regulatory agencies.

(52) "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; and

(d) Hydroelectric facilities located outside protected areas as defined by federal law in effect on July 23, 1999.

(53) "Residential consumer" means a retail electricity consumer that resides at a dwelling primarily used for residential purposes. "Residential consumer" does not include retail electricity consumers in a dwelling typically used for residency periods of less than 30 days, including hotels, motels, camps, lodges, and clubs. As used in this section, "dwelling" includes but is not limited to single-family dwellings, separately metered apartments, adult foster homes, manufactured dwellings, recreational vehicles, and floating homes.

(54) "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 July 23, 1999, whether or not each end user purchases the electricity from the electric utility. For purposes of this definition, a new retail electricity consumer means a retail electricity consumer that is unaffiliated with the retail electricity consumer previously served after March 1, 2002, at the site.

(55) "Self-directing consumer" means a retail electricity consumer that has used more than one average megawatt of electricity at any one site

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in the prior calendar year or an aluminum plant that averages more than 100 average megawatts of electricity use in the prior calendar year, that has received final certification from the Oregon Department of Energy for expenditures for new energy conservation or new renewable energy resources and that has notified the electric company that it will pay the public purpose charge, net of credits, directly to the electric company in accordance with the terms of the electric company's tariff regarding public purpose credits.

(56) "Serious injury to person" has the meaning given in OAR 860-024-0050.

(57) "Serious injury to property" has the meaning given in OAR 860-024-0050.

(58) "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) Buildings and structures 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 and structures; and

(C) Land shall be considered to be 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.

(59) "Small nonresidential consumer" means a nonresidential consumer that is not a large nonresidential consumer.

(60) "Special contract" means a rate agreement that is justified primarily by price competition or service alternatives available to a retail electricity consumer, as authorized by the Commission under ORS 757.230.

(61) "Structural separation" means separating the electric company's assets by transferring assets to an affiliated interest of the electric company.

(62) "Total transition amount" means the sum of an electric company's transition costs and transition benefits.

(63) "Traditional allocation methods" means, in respect to a multi-state electric company, inter-jurisdictional cost and revenue allocation methods relied upon in such electric company's last Oregon rate proceeding completed prior to December 31, 2000.

(64) "Transition benefits" means the value of the below-market costs of an economic utility investment.

(65) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic utility investment.

(66) "Transition costs" means the value of the above-market costs of an uneconomic utility investment.

(67) "Transition credit" means a credit that returns to consumers all or a portion of the benefits from an economic utility investment.

(68) "Transmission grid" means the interconnected electrical system that transmits energy from generating sources to distribution systems and direct service industries.

(69) "Unbundling" means the process of assigning and allocating a utility's costs into functional categories.

(70) "Uneconomic utility investment" means all Oregon allocated investments made by an electric company that offers direct access under ORS 757.600 to 757.667, including plants and equipment and contractual or other legal obligations, properly dedicated to generation, conservation and work-force commitments, that were prudent at the time the obligations were assumed but the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed by the Commission in a prudence review or other proceeding, to the extent of such disallowance and does not include fines or penalties as authorized by state or federal law.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 17-2000, f. & cert. ef. 9-29-00; PUC 2-2001, f. & cert. ef. 1-5-01; PUC 21-2001(Temp), f. & cert. ef. 9-11-01 thru 3-10-02; PUC 23-2001, f. & cert. ef. 10-1-01; PUC 5-2002, f. & cert. ef. 2-8-02; PUC 11-2002, f. & cert. ef. 3-8-02; PUC 18-2002, f. & cert. ef. 10-17-02; PUC 13-2004, f. & cert. ef. 8-31-04

860-038-0220

Portfolio Options

(1) An electric company must provide each residential consumer who is connected to its distribution system with a portfolio of product and pricing options. An eligible customer may enroll in or exit renewable resource options at any time, subject to any switching fees approved by the Commission under subsection (8)(e) of this rule. The minimum term for customers enrolling in a market-based option is 12 months. Portfolio options will not be offered to large nonresidential consumers.

(2) Sections (3) through (8) of this rule apply to residential portfolio product and pricing options.

(3) By July 1 of each year, the Portfolio Options Committee will recommend portfolio options to the Commission that will be effective January 1 of the following year. Each recommended portfolio option shall specify a service period from 12 months to 36 months. The Commission is not bound by the recommendations of the Portfolio Options Committee.

(4) The portfolio must include at least one product and rate that reflects renewable energy resources and one market-based rate. The Portfolio Options Committee will recommend the resource content of each renewable energy resource product. At least one renewable energy resource product will contain "significant new" resources. The Portfolio Options Committee will recommend a definition of "significant" based on an evaluation of resource availability, resource cost, and other factors. The portfolio options may include options for the collection of funds for future renewable resource purchases or collection of funds for energy related environmental mitigation measures such as salmon recovery.

(5) Each electric company is responsible for administering the options, including but not limited to marketing and billing.

(6) Each electric company must acquire the renewable supply resources necessary to provide the renewable energy resources product through a Commission-approved bidding process or other Commission-approved means. Each electric company may acquire the resources necessary to provide the other product and pricing options at its discretion.

(7) Four months prior to the implementation of the portfolio product and pricing options an electric company must file tariffs for its portfolio options.

(8) This section applies to residential and small nonresidential product and pricing options. An electric company must develop portfolio rates as follows:

(a) The portfolio rates must be based on the unbundled costs identified through the application of OAR 860-038-0200;

(b) The portfolio rates for any class of customer must be based on the unbundled costs to serve that class;

(c) The portfolio rates must include any additional electric company costs that are incurred when a consumer chooses to be served under the portfolio rate option;

(d) The portfolio rates must exclude electric company costs that are avoided when a consumer chooses to be served under the portfolio rate option;

(e) An electric company may impose nonrecurring charges to recover the administrative costs of changing suppliers or rate options; and

(f) Rates must be established so that costs associated with the development or offering of rate options are assigned to the retail electricity consumers eligible to choose such rate options.

(9) This section applies to small nonresidential portfolio product and pricing options. The Portfolio Options Committee will recommend portfolio product and pricing options, if any, to the Commission for approval. The electric company must implement small nonresidential portfolio product and pricing options adopted by the Commission.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 17-2000, f. & cert. ef. 9-29-00; PUC 21-2001(Temp), f. & cert. ef. 9-11-01 thru 3-10-02; PUC 11-2002, f. & cert. ef. 3-8-02; PUC 13-2004, f. & cert. ef. 8-31-04

860-038-0275

Direct Access Annual Announcement and Election Period

(1) On November 15 of each year (or the next business day if November 15 falls on a Saturday, Sunday, or legal holiday as defined by ORS 187.010), each electric company must announce the prices to be charged for electricity services in the next calendar year. The date on which the electric companies are required to announce such prices is "the Announcement Date."

(2) Electric companies must allow retail electricity customers that are eligible for direct access at least five business days after the Announcement Date to choose service under a cost-of-service rate option or to purchase

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electricity from either an electricity service supplier through direct access or an electric company through a standard rate offer.

(3) At least five business days before the Announcement Date, electric companies and electricity service suppliers must announce, and post on their websites, estimates of prices for electricity services in the subsequent calendar year or subsequent contract period if different than a calendar year:

(a) All electric companies and electricity service suppliers must continuously post the estimated prices announced under this rule on their websites until the Announcement Date.

(b) Electric companies' estimated prices will be the companies' estimates of the electricity service prices that will be in effect for the calendar year subsequent to the Announcement Date.

(c) Electricity service suppliers will determine estimated prices that will allow electricity consumers to compare the estimated prices of the electric company and electricity service supplier for the subsequent calendar year, or contract period if different than a calendar year.

(d) Announcing estimated prices as required by this rule creates no obligation on the part of the electric companies and/or electricity service suppliers to provide electricity service to any consumer at the estimated prices.

(e) If an electricity service supplier does not intend to sell electricity services in the subsequent calendar year or contract period, the electricity service supplier must announce, and post on a web site, that it does not intend to sell electricity services in the subsequent calendar year or contract period.

(4) Thirty days prior to the Announcement Date, electric companies and electricity service suppliers shall provide to the Commission a URL address for a website where the individual electric company or electricity service supplier will post prices and announcements as prescribed by this rule. The Commission will post the URL addresses on its website.

(5) At least once each year, electric companies must offer customers a multi-year direct access program with an associated fixed transition adjustment.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.600 - 757.667
Hist.: PUC 13-2004, f. & cert. ef. 8-31-04

860-038-0480

Public Purposes

(1) Each electric company that offers direct access to its retail electricity consumers and each electricity service supplier that provides electricity services to direct access consumers in the electric company's service territory will collect a public purpose charge from its retail electricity consumers for 10 years beginning on the date direct access is first offered.

(2) Except as provided in section (6) of this rule, electric companies and electricity service suppliers will bill and collect from each of their retail electricity consumers a public purpose charge equal to 3 percent of the total revenues billed to those consumers for electricity services, distribution, ancillary services, metering and billing, transition charges, and other types of costs that were included in electric rates on July 23, 1999.

(3) The electricity service suppliers will remit monthly to each electric company the public purpose charges they collect from the customers of each electric company.

(4) The electricity service suppliers will remit monthly the public purpose charges collected from direct service industrial consumers they serve to the electric company in whose service territory the direct service industrial site is located.

(5) The electric company whose territory abuts the greatest percentage of the site of an aluminum plant that averages more than 100 average megawatts of electricity use per year will collect monthly from the aluminum company a public purpose charge. The aluminum company will remit to the appropriate electric company a public purpose charge equal to 1 percent of the total revenue from the sale of electricity services to the aluminum plant from any source. Annually, the aluminum company will submit to the electric company an affidavit from a certified public accountant verifying that the costs for electricity services at the site of the aluminum plant and the remittance of the public purpose charges are accurate for the previous calendar year.

(6) A retail electricity consumer, including an aluminum plant as described in section (5) of this rule, may receive credits against its public purpose charges for qualifying expenditures incurred for new energy conservation and the above-market costs of new renewable energy resources at any site if the following qualifications for becoming a self-directing consumer are met:

(a) The consumer has used more than one average megawatt of electricity at any such site in the prior calendar year;

(b) The consumer has received final certification from the Oregon Department of Energy for expenditures for new energy conservation and/or new renewable energy resources; and

(7) Self-directing consumers may not claim a public purpose credit for energy conservation measures that were started prior to January 1, 2000. For energy conservation measures that were started on or after January 1, 2000, 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 was certified by the Oregon Department of Energy after July 23, 1999, but 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; provided that, 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.

(c) For purposes of this subsection, "started" means that a contract has been executed to install or implement an energy conservation measure.

(8) The Oregon Department of Energy will establish specific rules and procedures that are consistent with these rules for qualifying a self-directing consumer's expenditures.

(9) The electric company will apply the self-direction credit, determined by the Oregon Department of Energy, toward the consumer's public purpose obligation.

(10) Each electric company will establish five separate accounts for the public purpose charges to be funded from its collections of public purpose charges as follows:

(a) Energy conservation in schools;

(b) New cost-effective local energy conservation and new market transformation;

(c) Above-market costs of new renewable energy resources;

(d) New low-income weatherization; and

(e) Construction and rehabilitation of low-income housing.

(11) Each electric company will allocate the public purpose funds it collects (billed less uncollectible amounts) from electricity service suppliers and consumers to the five public purpose accounts as follows:

(a) Energy conservation in schools — 10.0 percent;

(b) Local and market transformation conservation — 56.7 percent;

(c) Renewable energy resources — 17.1 percent;

(d) Low-income weatherization — 11.7 percent; and

(e) Low-income housing — 4.5 percent.

(12) Each electric company will adjust the accounts for the credits returned to self-directing customers for conservation or renewable resource expenditures certified by the Oregon Department of Energy.

(13) Each electric company will distribute funds from the public purpose accounts at least monthly as follows:

(a) The funds for conservation in schools to the education service districts located in its service territory;

(b) The funds for local and market transformation conservation as directed by the Commission;

(c) The funds for renewable energy resources as directed by the Commission;

(d) The funds for low-income weatherization to the Housing and Community Services Department; and

(e) The funds for low-income housing to the Housing and Community Services Department Revolving Account.

(14) Each electric company will determine by January 1 of each year the allocation of public purpose funds for schools to the Education Service Districts according to the following methodology:

(a) From the Department of Education, collect current total weighted average daily membership (ADMw) as defined in ORS 327.013 and average daily membership (ADM) for each Education Service District that contains schools served by the electric company;

(b) For each of the Education Service Districts, compute the ratio of ADM in schools served by the electric company to total ADM;

(c) For each Education Service District, multiply its total ADMw by the ratio of ADM in schools served by the electric company to total ADM.

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The result is an estimate of ADMw in schools served by the electric company;

(d) Add the estimates of ADMw for each Education Service District; and

(e) Compute the percentage of the total ADMw represented by each Education Service District. These are the percentages that will be used to allocate the public purpose funds for schools to Education Service Districts for the 12-month period with the exception of 2002 where the funds will be allocated for a 10-month period beginning March 1, 2002. After 2002, the 12-month period will begin on January 1 of each year.

(15) The electric company may be reimbursed for the reasonable administrative costs it incurs to collect and distribute the public purpose funds. Those administrative costs will be deducted from the total amount of public purpose funds collected by the electric company before the funds are allocated to the five public purpose accounts. The electric company will also pay from the total public purpose funds collected or from a specific fund any other administrative costs the Commission directs to be paid for implementation of the public purpose requirements. The entities responsible for administering the public purpose funds will pay for their costs of implementing the public purpose requirements from the public purpose funds they receive from the electric company.

(16) The electric companies and the administrators of the public purpose funds will collect sufficient information so that biennial reports can be made to the Legislature on what has been accomplished with the public purpose funds and how those funds have benefited the consumers of each electric company. Specifically, information must be collected so that the reporting requirements of ORS 757.617 can be fulfilled.

(a) Each electric company must report the total funds collected by source (that is, electric company customers, electricity service suppliers and self-directing consumers) for public purposes, the amounts distributed to the administrators of each public purpose fund, and its administrative costs;

(b) Each administrator of public purpose funds must report, at a minimum:

- (A) The amount of funds received;
- (B) The amount of funds spent;
- (C) Its administrative costs; and
- (D) Its results, for example, measures installed, projects funded, energy saved, homes weatherized, and low-income homes built/rehabilitated.

Stat. Authority: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.600 - 757.667
Hist.: PUC 1-2001, f. & cert. ef. 1-5-01; PUC 2-2001, f. & cert. ef. 1-5-01; PUC 11-2002, f. & cert. ef. 3-8-02; PUC 13-2004, f. & cert. ef. 8-31-04

Adm. Order No.: PUC 14-2004

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Rules Amended: 860-027-0300

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

Rules Coordinator: Ruth Eyerly—(503) 378-8287

860-027-0300

Use of Deferred Accounting by Energy and Large Telecommunications Utilities

(1) As used in this rule:

(a) "Amortization" means the inclusion in rates of an amount which has been deferred under ORS 757.259 or 759.200 and which is designed to eliminate, over time, the balance in an authorized deferred account. Amortization does not include the normal positive and negative fluctuations in a balancing account;

(b) "Deferred Accounting" means recording the following in a balance sheet account, with Commission authorization for later reflection in rates:

(A) Electric, gas, and steam heat utilities: a current expense or revenue associated with current service, as allowed by ORS 757.259; or

(B) Large telecommunications utilities: an amount allowed by ORS 759.200.

(2) Expiration: Any authorization to use a deferred account shall expire 12 months from the date the deferral is authorized to begin. If a

deferral under ORS 757.259 or 759.200 is reauthorized, the reauthorization shall expire 12 months from the date the reauthorization becomes effective.

(3) Contents of Application: Application for deferred accounting, by an energy or large telecommunications utility or a customer, shall include:

(a) A description of the utility expense or revenue for which deferred accounting is requested;

(b) The reason(s) deferred accounting is being requested and a reference to the section(s) of ORS 757.259 or 759.200 under which deferral may be authorized;

(c) The account proposed for recording of the amounts to be deferred and the account which would be used for recording the amounts in the absence of approval of deferred accounting;

(d) An estimate of the amounts to be recorded in the deferred account for the 12-month period subsequent to the application; and

(e) A copy of the notice of application for deferred accounting and list of persons served with the notice.

(4) Reauthorization: Application for reauthorization to use a deferred account shall be made not more than 60 days prior to the expiration of the previous authorization for the deferral. Application for reauthorization shall include the requirements set forth in subsections (3)(a) through (3)(e) of this rule and, in addition, the following information:

(a) A description and explanation of the entries in the deferred account to the date of the application for reauthorization; and

(b) The reason(s) for continuation of deferred accounting.

(5) Exceptions: Authorization under ORS 757.259 or 759.200 to use a deferred account is necessary only to add amounts to an account, not to retain an existing account balance and not to amortize amounts which have been entered in an account under an authorization by the Commission. Interest, once authorized to accrue on unamortized balances in an account, may be added to the account without further authorization by the Commission, even though authorization to add other amounts to an account has expired.

(6) Notice of Application: The applicant shall serve a notice of application upon all persons who were parties in the energy or large telecommunications utility's last general rate case. If the applicant is other than an energy or large telecommunications utility, the applicant shall serve a copy of the application upon the affected utility. A notice of application shall include:

(a) A statement that the applicant has applied to the Commission for authorization to use deferred accounting; or for an order requiring that deferred accounting be used by an energy or large telecommunications utility;

(b) A description of the utility expense or revenue for which deferred accounting is requested;

(c) The manner in which an interested person can obtain a copy of the application;

(d) A statement that any person may submit to the Commission written comment on the application by the date set forth in the notice, which date may be no sooner than 25 days from the date of the application; and

(e) A statement that the granting of the application will not authorize a change in rates, but will permit the Commission to consider allowing such deferred amounts in rates in a subsequent proceeding.

(7) Public Meetings: Unless otherwise ordered by the Commission, applications for use of deferred accounting will be considered at the Commission's public meetings.

(8) Reply Comments: Within ten days of the due date for comments on the application from interested persons, the applicant, and the energy or large telecommunications utility if the utility is not the applicant, may file reply comments with the Commission, and shall serve those comments on persons who have filed the initial comments on the application.

(9) Amortization: Amortization in rates of a deferred amount shall only be allowed in a proceeding, whether initiated by the energy or large telecommunications utility or another party. The Commission may authorize amortization of such amounts only for utility expenses or revenues for which the Commission previously has authorized deferred accounting. Upon request for amortization of a deferred account, the energy or large telecommunications utility shall provide the Commission with its financial results for a 12-month period or for multiple 12-month periods to allow the Commission to perform an earnings review. The period selected for the earnings review will encompass all or part of the period during which the deferral took place or must be reasonably representative of the deferral period. Unless authorized by the Commission to do otherwise:

(a) An electric, gas, or steam heat utility shall request that amortizations of deferred accounts commence no later than one year from the date that deferrals cease for that particular account; and

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(b) In the case of ongoing balancing accounts, the electric, gas, or steam heat utility shall request amortization at least annually, unless amortization of the balancing account is then in effect; or

(c) A large telecommunications utility shall request amortization of deferred accounts as soon as practical after the deferrals cease but no later than in its next rate proceeding.

(10) An electric utility customer may prepay under ORS 757.259(11) all or a portion of its obligation of deferred power supply expense. The obligation must be calculated as the customer's pro rata share of the utility's total energy usage within the state of Oregon during 2001, multiplied by the unrecovered deferral balance at the time of prepayment. When such customer has prepaid its obligation in full, the customer may no longer be charged the power supply adjustment related to the deferral.

Stat. Auth.: ORS 183.756, 757 & 759

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

Hist.: PUC 11-1988, f. & cert. ef. 6-9-88 (Order No. 88-597); PUC 2-1990, f. & cert. ef. 3-2-90 (Order No. 90-235); PUC 12-1997, f. & cert. ef. 10-30-97; PUC 4-1998, f. & cert. ef. 2-24-98; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 6-2004(Temp), f. & cert. ef. 3-24-04 thru 9-20-04; PUC 14-2004, f. & cert. ef. 9-7-04

**Secretary of State,
Archives Division
Chapter 166**

Adm. Order No.: OSA 4-2004

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Subject: Repeals the current general records retention schedule for county and special district records and adopts a new records retention schedule for county and special district records. Rules for Law Enforcement are not adopted at this time.

Rules Coordinator: Julie Yamaka—(503) 373-0701, ext. 240

166-150-0005

Administrative Records

(1) **Activity and Room Scheduling Records** Records documenting scheduling and reservations related to public participation and use of various agency activities, events, classes and facilities. Includes schedules, logs, lists, requests, and similar records. (Minimum retention: 1 year)

(2) **Activity Reports, General** Daily, weekly, monthly, or similar reports documenting the activities of employees. Useful for compiling annual reports, planning and budgeting, monitoring work progress and other purposes. Usually tracks type of activity, employees and/or volunteers involved, time spent on activity, work completed, and related information in narrative or statistical form. (Minimum retention: 2 years)

(3) **Annual Reports** Reports documenting the program or primary functional activities and accomplishments of the office for the previous year. These are often compiled from monthly, quarterly, or other subsidiary activity reports. Usually includes statistics, narratives, graphs, diagrams, and similar information. (Minimum retention: Permanent)

(4) **Audit Records, Internal** Records document the examination of the agency's fiscal condition, internal control, and compliance policies and procedures. Records may also document performance or other financially

related audits by agency or contracted auditors. Records may include audit reports, supporting documentation, comments, and correspondence. (Minimum retention: 10 years)

(5) **Calendars and Scheduling Records** Records documenting and facilitating routine planning, scheduling, and similar actions related to meetings, appointments, trips, visits, and other activities. Includes calendars, appointment books, notes, telephone messages, diaries, and similar records. Depending on content, some telephone messages and similar records may merit inclusion in related program or project files. This applies to records that contain significant information that is not summarized or otherwise included in reports or similar documents. *Calendar and Scheduling information written in personal day planners or recorded on handheld electronic organizers (i.e. PalmPilots) may be public records under ORS Chapter 192. Information contained in electronic organizers is subject to the same retention as the paper record unless the information is kept in another format for the duration of the retention period.* (Minimum retention: 1 year)

(6) **Citizen Awards** Awards presented by the agency to honor volunteers for civic contributions. May include award nominations, award certificates, presentation or ceremony records and photographs, lists of past recipients, and related records. Some records in this series may have historic value. *For appraisal assistance contact the Oregon State Archives.* (Minimum retention: 6 years)

(7) **Contracts, Leases, and Agreements** Documents the duly executed and binding contractual agreements between the agency and other parties. May include contracts, exhibits, bid documents, change orders, proposals, and significant related correspondence. Types of contracts include purchase of equipment and supplies, interagency, personal service, capital construction (documenting building construction, alterations, or repair), grant funding, and others. Information in contracts usually includes contract number, certificate of required insurance, dates, terms, parties involved, period covered, and signatures. (Minimum retention: (a) Construction contract records: 10 years after substantial completion, as defined by ORS 12.135(3) (b) Collective bargaining contract records: Permanent (c) Other contracts, leases and agreements: 6 years after expiration) *Caution: Agencies who enter into contracts with the federal government must ensure that their contracts and agreements meet federal requirements specified in the Code of Federal Regulations.*

(8) **Correspondence, Administrative** Records document communications received or sent, which contain significant information about an agency's programs and require a response, usually discussing or explaining an agency's policies, procedures, and or position on a particular issue. Records may include but are not limited to letters, memoranda, notes, enclosures, and attachments. (Minimum retention: 5 years)

(9) **Correspondence, Ephemeral** Series documents communications received or sent which do not contain significant information about an agency's programs (Correspondence, Administrative and/or Correspondence, Policy and Historical), fiscal status (Correspondence, Financial), or routine agency operations (Correspondence, General.) Messages often include junk mail, spam, messages sent or received via a listserv, and general/informational mailings. Ephemeral Correspondence does not require a response and generally includes, but is not limited to, advertising circulars, desk notes, memoranda, and other records of a preliminary or informational nature. (Minimum retention: Retain until read)

(10) **Correspondence, General Series** documents communications received or sent which do not contain significant information about an agency's programs but do require a response but are usually routine in nature. Records include letters sent and received, memoranda, notes, transmittals, acknowledgments, routine requests for information or publications, enclosures, and attachments. (Minimum retention: 1 year)

(11) **Correspondence, Policy and Historical** Correspondence, memoranda, and similar records that state or form the basis of policy, set important precedents, or record historic events related to the organization or operation of the agency. Includes letters sent and received, memoranda, notes, reports, studies, and other records. SEE ALSO other correspondence series for records that do not document policy or historical events. (Minimum retention: Permanent)

(12) **Fax Reports** Records document facsimile transactions of the agency. Reports may also be used for billing purposes. Information includes date and time fax transmitted or received and recipient/sender's fax number. (Minimum retention: (a) Retain if used for billing: 3 years (b) Retain all other reports: 1 year)

(13) **Intergovernmental Agreements** Agreements entered into by the agency with the state, school districts, service districts, cities, or other governmental units. Often refers to consolidating departments, jointly provid-

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ing administrative officers, and sharing facilities or equipment. Major agreements usually set funding responsibilities, fee apportionment, duration of agreement, rights to terminate agreement, and transfers of property, personnel, and employment benefits. Also includes intergovernmental agreements for common services, equipment, maintenance, etc. (Minimum retention: (a) Significant and historic agreements: Permanent (b) Other agreements: 6 years after expiration)

(14) **Key and Keycard Records** Records document the issuance of keys and keycards to staff to enable access to buildings and sites. Records may include but are not limited to key inventories, key issue forms, key replacement records, and key disposal records. (Minimum retention: (a) Retain access and entry logs 3 years (b) Retain other records 2 years after key is turned in)

(15) **Legislative Tracking Records** Series used to monitor legislation that may have an impact on an agency's current operations or policies. Records include concept statements, proposals, bill logs, fiscal/organizational impact analysis papers, copies of bills, testimony summaries, committee reports, agendas, and correspondence. (Minimum retention: 2 years)

(16) **Lobbyist Records** Records document lobbyist and lobbyist employer activities and are used to report to these activities to the Government Standards and Practices Commission. Records may include but are not limited to expenditure reports, registration statements, termination records, guidelines, and correspondence. (Minimum retention: (a) Retain expenditure reports 4 years (b) Retain all other records 5 years after last activity)

(17) **Mailing Lists** Lists compiled to facilitate billing, community outreach, and other functions of the agency. Information usually includes name of individual or group, address, name and title of contact person, phone number, comments, and similar data. (Minimum retention: Until superseded or obsolete)

(18) **Meeting Records, Governing Body** Records documenting the proceedings of any regularly scheduled, special, executive session, or emergency meeting of any governing body, as described in Oregon's Public Meetings Law (ORS 192.610 to 192.710), that is under agency jurisdiction. These typically consist of boards, commissions, advisory councils, task forces, and similar groups. Records may include minutes, agendas, exhibits, resolutions, staff reports, indexes, meeting packets, tape recordings, and related documentation and correspondence. SEE ALSO Meeting Records, Staff and Meeting Records, in this section and Board, Commission, and Committee in the County Court and Commissioners Records section. (Minimum retention: (a) Minutes, agendas, resolutions, indexes, and exhibits (not retained permanently elsewhere in county records): Permanent (b) Retain executive session minutes: 10 years (c) Audio or visual recordings: 1 year after minutes prepared and approved (d) Other records and exhibits not pertinent to minutes: 5 years)

(19) **Meeting Records, Staff** Records documenting meetings within government which are not subject to Oregon's Public Meetings Law (ORS 192.610 to 192.710). These routine staff meetings deal with tasks and actions within existing policies and procedures. Records may include minutes, notes, reports, and related items. Some records may merit inclusion in other record series with longer retention periods if the subject matter of the meeting adds significant information to that series. (Minimum retention: 2 years)

(20) **Mitigation Program Records** Records document the establishment and maintenance of the agency mitigation programs, plans, and procedures. Records may include mitigation plans and strategies, policies, procedures, seismic surveys and structural upgrade records of agency facilities, project reports, hazard mitigation grant records, and related documentation, which may include capital improvement records. SEE ALSO the Emergency Management section. (Minimum retention: (a) Adopted plans: Permanent (b) Other records: for the life of the structure)

(21) **News/Press Releases** Prepared statements, announcements, news conference transcripts, and similar records issued to the news media. Subjects include the adoption of new programs, termination of old programs, policy shifts, changes in the status of elected officials or senior administrative personnel, and others. Also may include news releases announcing routine events or actions carried out within the scope of existing policies. (Minimum retention: (a) Policy and historic news/press releases: Permanent (b) Routine news/press releases: 2 years)

(22) **Notary Public Log Books** Records documenting notarial transactions completed by a notary public and employed by a government agency. Agencies may retain logbooks by agreement with the notary after their separation from employment. Agencies retaining notary public log books without notary agreements should consult their legal counsel and/or

the Secretary of State, Corporation Division for retention instruction. (Minimum retention: 7 years after date of commission expiration)

(23) **Organizational Records** Records documenting the arrangement and administrative structure of an agency. Includes charts, statements, studies, and similar records. May also include studies to determine the merit and feasibility of reorganization plans, as well as other major studies related to the administrative hierarchy. (Minimum retention: 2 years after superseded)

(24) **Passport Transmittal Records** Records document the processing of passport applications. May include but is not limited to calendars, copies of transmittals sent to the United States Passport Office. Information includes daily and weekly totals of passports processed, applicants' names, amount paid, and departure date. (Minimum retention: 1 year)

(25) **Permit and License Records, Agency-Issued** Records documenting agency review, background investigations, recommendations and other actions related to permits and licenses issued for various activities not specified elsewhere in this general schedule. Permits may include but are not limited to those for taxi cab drivers, dances, parades, rocket launching, second hand dealers, alarm system dealers, liquor licenses, keeping live-stock, and solicitors. Usually includes applications, background investigation reports, permits, licenses, and related records. (If a specific permitting function is included in another records series under a program or functional area such as public works or law enforcement in this general schedule, the retention period specified in that program or functional area supersedes the retention period listed in this series.) (Minimum retention: (a) Retain fee permits of license records: 3 years after expiration, revocation, or denial (b) Retain free permits or license records: 2 years after expiration, revocation, or denial)

(26) **Planning Records** Series documents long-range plans and the development of an agency's mission statement and work objectives. Records include strategic plans, mission statements, preliminary drafts, work notes, and related correspondence. (Minimum retention: (a) Mission Statements and plans: 20 years (b) Other records: five years)

(27) **Policy and Procedure Guidelines and Manuals** Written instructions, rules, and guidelines in manual form documenting current and past authorized agency policies and procedures. Used for new employee orientation and for ongoing reference. Also useful in establishing past policies or procedures in liability cases, personnel disputes, and other instances. Includes manuals documenting the procedures of departments with higher risk or exposure to liability such as police, fire, emergency medical services, public works, etc. This series also includes routine documentation and basic clerical instructional procedures covering such subjects as formatting letters, data entry, telephone etiquette, and others. Information often includes policy and procedure numbers, revision dates, subject identification, narrative description, authorization information, and effective date. The minimum retention periods refer only to agency-generated manuals. Manuals from other sources should be retained as needed or as mandated by a specific regulating body (federal or state agency, etc.), usually until superseded or obsolete. SEE ALSO Policy Statements and Directives; and Correspondence, Policy and Historical in this section. SEE ALSO Technical Manuals, Specifications, and Warranties in the Public Works-Operations and Maintenance section for published technical manuals and related materials. (Minimum retention: (a) Routine clerical manuals: 2 years after superseded or obsolete (b) Manuals relating to specific construction and/or engineering projects: 10 years after substantial completion, as defined by ORS 12.135(3) (c) One copy of all other manuals: Permanent)

(28) **Policy Statements and Directives** Series documents review, assessment, development, and authorization of an agency's formal policies and procedures that have been approved by a governing body. Records may include authorizing bulletins and advisories, mission and goal statements, manuals, and final policy statements and directives. Information often includes policy and procedure numbers, revision dates, subject identification, narrative description, authorization information, and effective date. SEE ALSO Policy and Procedure Guidelines and Manuals in this section. (Minimum retention: 20 years after superseded or obsolete)

(29) **Polygraph Examiners Licensing Records** Documents statutory requirement that each polygraph examiner shall register with the County Clerk and that the Clerk shall maintain a list of examiners. Includes name of examiner and business address. (Minimum retention: 60 years)

(30) **Postal Records** Records documenting transactions with the U.S. Postal Service and private carriers. Includes postage meter records, receipts for registered and certified mail, insured mail, special delivery receipts and forms, loss reports, and related items. (Minimum retention: 3 years)

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(31) **Professional Membership Records** Records documenting institutional or agency-paid individual memberships and activities in professional organizations. (Minimum retention: 3 years)

(32) **Public Notice Records** Records documenting compliance with laws requiring public notice of government activities. Subjects include assessments, elections, land use changes, public meetings and hearings, sale of property, and others. Records include public or legal notices, certificates, affidavits of publication, and similar documents. SEE ALSO Competitive Bid Records in the Financial section for public notices related to bid openings and awards. (Minimum retention: 3 years)

(33) **Publications** Published records produced by or for the agency or any of its departments or programs and made available to the public. Includes newsletters, pamphlets, brochures, leaflets, reports, studies, proposals, and similar published records. Does not include publications received from federal, state, private, or other sources – these publications and extra copies of agency-produced publications should be retained as needed. (Minimum retention: (a) Policy and historic publications: Permanent (b) All others: Until superseded or obsolete)

(34) **Reports and Studies** Records document special reports or studies conducted on nonfiscal aspects of an agency's programs, services, or projects, compiled by agency personnel, or by consultants under contract that are not noted elsewhere in this schedule. Includes final report distributed either internally or to other entities and the work papers used to compile the report or study. (Minimum retention: 5 years)

(35) **Requests and Complaints** Records documenting complaints or requests concerning a variety of agency responsibilities not specified elsewhere in this general schedule. Information often includes name, phone number, and address of person making request or complaint, narration of request or complaint, name of person responding to request or complaint, dates of related activities, and other data. (If a specific request or complaint is listed in another records series under a functional area such as law enforcement in this general schedule, the retention period specified in that functional area supersedes the retention period listed in this series.) SEE ALSO Correspondence, General in this section for routine requests for information or publications and Liability Claims Records in the Risk Management section. (Minimum retention: 2 years after last action)

(36) **Resolutions** Formal statements of decisions or expressions of opinions adopted by the agency. Information includes date, number, and text. SEE ALSO Meeting Records, Governing Body in the County Court and County Commissioners Records section. (Minimum retention: Permanent)

(37) **Routing and Job Control Records** Records used to control the routine flow of documents and other items and actions in and between offices in the agency. Includes routing slips, job control records, status cards, receipts for records charged out, batch slips, and similar records. (Minimum retention: 1 year)

(38) **Security Records** Series documents security provided for agency buildings and grounds. Records include surveillance records, security logs, sign-in sheets, security reports, incident reports, and related records. SEE ALSO Fire and Security Alarm System Records in the Fire and Emergency Medical Services section; Computer System Security Records in the Information and Records Management section; or Alarm Records and Surveillance Tapes in the Law Enforcement section. (Minimum retention: 2 years)

(39) **Seminar and Conference Records, Agency-Sponsored** Records documenting the design and implementation of agency sponsored seminars, conferences, workshops, conventions, and similar gatherings. Often includes class descriptions, instructional materials, course outlines, enrollment and attendance records, reports, speeches, planning documentation, and related records. For records documenting registration billings and related fiscal actions, see the Financial Records section. (Minimum retention: (a) Significant program records: 5 years (b) Class enrollment and attendance records: 2 years (c) Other records: 1 year)

(40) **Seminar and Conference Records, Non-Agency Sponsored** Records documenting activities of seminars, conferences, workshops, conventions, and similar gatherings not sponsored by the agency but attended by agency officials or personnel. May include staff reports, instructional materials, recommendations, related correspondence and memoranda, and similar records. (Minimum retention: 2 years)

(41) **Special District Charters** Constitution, bylaws, and all amendments to agency charters approved by voters or the State Legislature. Generally includes original charter, amendments, and related significant records. (Minimum retention: Permanent)

(42) **Special District Codes** Codified ordinances passed by a special district. Provides reference to all laws for both information and enforce-

ment. Information may include ordinance numbers, amending ordinance numbers, code numbers, and text. (Minimum retention: Permanent)

(43) **Special District Ordinances** Legislative action of a special district to regulate, require, prohibit, govern, control, or supervise any activity, business, conduct, or condition authorized by Oregon Revised Statutes. Ordinances typically include a title, preamble, ordaining clause, subject clause, penalty for violation (when applicable), effective date, authorizing signature and seal. May also include indexes calendars, and documentation presented to support action. (Minimum retention: Permanent)

(44) **Special Event and Celebration Records** Records documenting agency-sponsored celebrations of special and historic occasions such as centennials, pioneer days, and similar events. Provides a record of planning and promotional efforts, public attendance and response, major speeches and dedications, and other significant aspects of the celebration. These significant records may include studies, publications, photographs, attendance summaries, final reports, and other significant documents. This series also includes routine documentation related to implementing the promotion and organization of the event. These often include lists, rosters, correspondence, memoranda, volunteer information, and related records. Records may also include scrapbooks, but does not include newsclippings. Newsclippings are not public records and may be discarded. (Minimum retention: (a) Records documenting significant aspects of the event: Permanent (b) Other records: 2 years after event)

(45) **Surveys, Polls, and Questionnaires** Records documenting the measurement of public opinion by or for the agency related to various issues, actions, and concerns. May include surveys, polls, questionnaires, summaries, abstracts and significant related records. Examples of summaries include studies which incorporate the significant results of public opinion surveys, abstracts of questionnaires designed to determine the skills and interests of citizens volunteering for agency service, and other records which distill survey data into summary form. (Minimum retention: (a) Summary reports and abstracts: 3 years (b) Other records: Until summary report is completed or 3 years, whichever is sooner)

(46) **Telecommunications Logs** Records document the tracking and status of telephone, voice mail, and facsimile (FAX) communications called or received. Information may include time and date of call, name of caller, phone number called or received, nature of call, and actions taken and results of the call. (Minimum retention: 1 year)

(47) **Visitor Logs** Records document visitors to county buildings. Records name include visitors' names, visitor badges issued, and entrance and exit times. (Minimum retention: 1 year)

(48) **Work Orders** Records documenting requests and authorizations, according to existing contracts or agreements, for needed services and repairs to agency property and equipment. May include copy center work orders, printing orders, telephone service and installation requests, repair authorizations, and similar records. (Minimum retention: (a) Retain work completed by county personnel: 1 year (b) Retain work completed by outside vendors: 3 years)

(49) **Work Schedules and Assignments** Records documenting the scheduling and assigning of shifts, tasks, projects, or other work to agency employees. Useful for budget and personnel planning and review, assessing employee work performance, and other purposes. May include calendars, schedules, lists, charts, rosters, and related records. (Minimum retention: 5 years)

(50) **Year 2000 (Y2K) Planning Records** Records document the planning and development of agency Y2K contingency plans. Records may include but are not limited to meeting minutes, correspondence, draft plans, work notes, plan test results, and final plan. Information includes type of systems vulnerable to Y2K, level of priority, and party responsible for system solution or troubleshooting. (Minimum retention: 5 years)

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 192.170 & 357.805 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0010 Airport

(1) **Activity Reports, Airport** Records documenting various indicators of activity associated with the agency airport. Subjects may include arrivals and departures, type of aircraft served, number of passengers, amount of cargo, amount of fuel use, activities of related operations such as restaurants, gift shops, and car rental outlets, as well as others. (Minimum retention: (a) Annual reports: Permanent (b) Other reports: 2 years)

(2) **Airport Certification Records** Records documenting certifications, licenses, or permits from the Federal Aviation Administration (FAA) or other federal or state agencies. Includes any documentation bearing directly on the application for issuance or renewal. Federal Aviation

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Administration related records include agency prepared airport certification manuals for airports servicing aircraft with seating capacities of more than 30 passengers, as well as airport certification specifications for "limited" airports. Manuals include procedures for the maintenance of paved and unpaved areas, lighting systems, and traffic and wind direction indicators. They also include procedures for selfinspection, rescue and fire fighting, and the control of hazardous substances and ground vehicles, as well as plans for snow and ice control, emergencies, wildlife hazard management, and others. (Minimum retention: (a) Certification manuals or specifications: Permanent (b) Other records: 2 years after expiration)

(3) **Airport Security Program Records** Records documenting the agency airport's objectives, methods, and procedures designed to prevent or reduce illegal activities or interference with civil aviation. Program contents include a description of the airport, master security plan, planned improvements, procedures in case of hijackings or bomb threats, security gate information, airport statistics, and related subjects. (Minimum retention: (a) Program records described in 14 CFR 107.3: Permanent (b) Other records: 2 years after superseded or obsolete)

(4) **Airport Self-Inspection Reports** Reports and related records documenting Federal Aviation Administration (FAA) mandated inspections by airport staff to assure safe conditions. These generally are performed daily or more frequently if unusual conditions caused by construction, weather, or any accident or incident are present. Inspections include runway, ramp, and taxiway conditions, fire and reserve facilities, bird hazards, wind indicating devices, standby power system, and lighting. (Minimum retention: (a) Reports documenting incidents: 2 years (b) Other reports: 6 months)

(5) **Civil Aviation Register** Series documents civil airplane registrations as listed by the Federal Aviation Administration. The register is updated on a monthly basis and is used for reference. Information includes description of aircraft including make, model, size, and weight. Also includes name and address of registrant. (Minimum retention: Until superseded or obsolete)

(6) **Complaint Records, Airport** Records documenting complaints or requests related to noise or other aspects of airport operations. Information often includes name, phone number, and address of person making complaint, name of person receiving and/or responding to complaint, description of complaint, resolution (if any), and other data. (Minimum retention: 2 years after last action)

(7) **Law Enforcement Action Records** Records documenting various types of security actions taken by the airport as described in 14 CFR 107.23(b). Examples include documents showing the number and type of firearms, explosives, and incendiaries discovered during any passenger screening process, and the method of detection of each; the number of acts and attempted acts of piracy; the number of bomb threats received, real and simulated bombs found, and actual bombings on the airport; as well as the number of detentions and arrests, and the immediate disposition of each person detained or arrested. (Minimum retention: 2 years)

(8) **Maps, Aviation** Series provides visual cartographic documentation that aids in airport functioning. Used for reference in the planning process. Contains maps, plats, charts, field notes, terrain sketches, and related records. Types of maps include topological maps of roads, ditches, fences, and subterranean pipes and tanks. Also includes zoning and noise contour maps. (Minimum retention: Until superseded or obsolete)

(9) **Navigational Facilities Maintenance and Operation Reports** Records documenting the maintenance and operation of various types of airport navigational equipment. Examples include nondirectional radio beacon facilities, instrument landing system facilities, simplified directional facility, distance measuring equipment, VHF marker beacons, interim standard microwave landing system, microwave landing system, and others. Includes meter readings and adjustment records, facility maintenance logs, radio equipment operation records, technical performance records, and other documents. See applicable record series in the Public Works, Operations and Maintenance section for records not related to navigational facilities. (Minimum retention: 2 years after equipment permanently removed from service)

(10) **Noise Compatibility Program Records** Records documenting agency development of a noise compatibility program to moderate the impact of noise in areas surrounding the airport. Includes studies, reports, noise exposure and other maps, hearing records, public statements, and related documents. Program information includes a description and analysis of alternate measures, program measures to reduce or eliminate non-compatible land uses, a description of public participation, actual and anticipated effect of the program, and other summaries and descriptions.

(Minimum retention: (a) Program records described in 14 CFR 150.23(e): Permanent (b) Other records: 5 years after program approved)

(11) **Notice To Airmen (NOTAM) Reports** Reports the notification of air carriers as to changes in airport conditions. Subjects include construction, maintenance, surface irregularities, snow, ice, water, light malfunctions, unresolved wildlife hazards, and others. Includes Notice to Airmen (NOTAM) forms. Information includes date and time of issue, message from airport manager, and distribution data. (Minimum retention: 1 year after notice expired)

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0015

Assessment and Taxation Records

(1) **Additional Tax Due and Valuation Notices** Used to notify property owners of disqualification of specially assessed property or errors made in the valuation process. Types of disqualifications include farm, forest, historical, residential or commercial zone, and others. Types of valuation changes include omitted property, clerical error, and others. Records notifying property owners of adjudicated notices may include name, address, value, tax assessed, tax year, and reason for disqualification or change. (Minimum retention: 3 years after entered on tax roll)

(2) **Annual Tax Certification Records** Record of certified levies to be collected for each taxing district which was placed on the tax roll and is filed with the County Clerk. Summarizes taxes levied by property type and levy type. May include the following information by district: levies, value, offsets, tax rates, tax losses, add taxes, and percentage of distribution. (Minimum retention: 6 years)

(3) **Appraisal Records** Record of land and building appraisals including all elements used to determine the value of the property. May include property identification number and legal description, owner name and address, diagram cards, appraisal activity log, current value, remarks, sales and building permit history, roll value history, sketch notes, appeal history, construction detail, improvement valuation, land valuation, and special use valuation. Also may include records documenting valuation by year. (Minimum retention: 2 years)

(4) **Assessment and Tax Roll** Official record of assessments, tax levied, and changes to the tax roll on all properties. May include name, address, assessed value, real market value, taxes levied, legal description, situs address, code area, property class, and any changes made since previous tax roll. May also include additional tax rolls previously maintained for deferred homesteads, yield tax, reforestation, additional tax on timber, and others. (Minimum retention: (a) Years through 1905: Permanent (b) Years ending in 0 and 5 after 1905: Permanent (c) Years 1906 and later (except years ending in 0 and 5): 50 years)

(5) **Assessment Appeal Records** Notification to the Assessor that a property owner disagrees with the assessed value of the property. May include Board of Property Tax Appeals, Department of Revenue, or tax magistrate petitions and orders. May also include correspondence relating to the appeal. Original petition, evidence, and order are filed with the County Clerk or the Department of Revenue. (Minimum retention: 2 years)

(6) **Assessment Rolls** Compilation of real and personal property values as established by May 1 of each calendar year. Used to generate taxes in the following tax year. These records were created prior to the legislative change combining the assessment and tax rolls. May include name, address, location, account numbers, legal description, and valuation. (Minimum retention: If Tax Rolls do not exist for the belowspecified time periods, or if the tax and appraisal function is documented in one record for a particular time period, use the following: (a) Years through 1905: Permanent (b) Years ending in 0 and 5 after 1905: Permanent (c) Years 1906 and later (except years ending in 0 and 5): 50 years (d) If separate Tax Rolls exist for the above specified time periods: 6 years)

(7) **Assessor's Maps** Cartographic records produced and maintained by the Assessor outlining the boundaries of each land parcel subject to separate assessment within the county, with the parcel's tax lot or account number shown on the parcel. May include code area boundaries and the assigned code area numbers. (Minimum retention: Retain until superseded or obsolete)

(8) **Bankruptcy Records** Monitors the actions of U.S. Bankruptcy Courts as it pertains to the assessing and collecting of property taxes. May include notification from the court, request for relief of automatic stay, reorganization and payment plans, discharges, and related correspondence. (Minimum retention: 2 years after case closed)

(9) **Department of Motor Vehicles Form 113** Used to certify that taxes have been paid on manufactured structures so that they can be moved,

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sold, or dismantled. Information may include owner name and address, property location, appraised value, taxes due and taxes paid. This program is scheduled to move to Building Codes in May 2005. (Minimum retention: (a) Tax Collector information: 1 year (b) Assessor information: Life of the structure)

(10) **Disqualified Tax Payments** Used to document the collection of taxes for properties that have been disqualified as having a special assessment. Information may include property owner name and address, tax year, market or non special assessment value, farm use value, tax rate, number of years for rate, total additional tax per year, total tax due, reason for disqualification, and disqualification value. (Minimum retention: 7 years)

(11) **Exemption Claims** Applications by war veterans or veteran's widows and qualifying exempt organizations for total or partial property tax exemption. May include applications, marriage licenses, death certificates, military service discharge records, bylaws, rental agreements, and other records. (Minimum retention: 2 years after superseded or exemption disqualified)

(12) **Foreclosure Records** Documents the actions of the Tax Collector during foreclosure and redemption of real property. May include declarations of delinquency, notifications to property owner and lien holders, official publication lists, applications for final judgment and decree, final judgment and decree, record of lien holders, redemption certificates, deeds of foreclosed property, and related correspondence. (Minimum retention: 6 years after property deeded to county or redeemed by recorded interest holder)

(13) **Homeowner's Property Tax Relief Records** Applications for property tax reduction based on legislatively mandated amounts distributed through the Department of Revenue. May include applications, adjustment, fund transfer, denial, and disqualification records. (Minimum retention: 2 years)

(14) **Journal VouchersRoll** Changes Assessor's copy of request to Tax Collector to change or correct the tax roll in counties where separate records are maintained. May indicate value, tax code, exemptions and other changes. May include vouchers, opinion and order from Department of Revenue, Board of Property Tax Appeals orders, and tax court and supreme court orders. (Minimum retention: 6 years, or until real property tax rolls of the year affected by the voucher have been foreclosed and the foreclosed property deeded to the agency)

(15) **Partition Plats and Subdivision Plats** Used to document that taxes have been paid on properties prior to the partition/subdivision development. Information may include parcel description, name of partition or subdivision, tax lot information, number of parcels and acres, and amount of taxes paid. (Minimum retention: 2 years)

(16) **Personal Property Delinquent Tax Records** Notification by individual correspondence or official publication to property owner of intent to issue a judgment lien on personal property for nonpayment of taxes. Also used to record or release lien against owner of property on tax roll. Lien is recorded and retained by the County Clerk. Includes owner name, type of personal property, account number, years and amounts delinquent, and authorizing signature. (Minimum retention: 2 years after the associated liens are issued)

(17) **Personal Property Returns Documents** the value all business machinery and equipment within the county to determine the valuation of personal property for taxing purposes. May include name of taxpayer/business, address, location, signatures, and purchase price and date purchased of business machinery. (Minimum retention: 6 years)

(18) **Ratio Studies** Used to update appraisal values between reappraisals of property. May include sales data cards, sales verifications, sales ratio report, and supporting documents. Information on report may include property sales by neighborhood or reappraisal areas, ratio of sales to property values, previous study statistics, and individual sales listings. (Minimum retention: 6 years)

(19) **Refund Records** Used to record the overpayment of taxes and then to document that notification was to over payers requesting information on who the refund should be issued to. Information may include account name and number, property location, tax lot number, amount of overage, cause of overage, and deadline for response. (Minimum retention: 6 years)

(20) **Revenue (Department of) Reports** Reports sent to the Department of Revenue summarizing information placed on the tax roll and providing detail of expenditures supporting reimbursement for operational expenses. Reports may include Summary of Assessments and Levies (SAL) Report, Property Tax Program Grant Document Detail Report, and Tax Collection YearEnd Report. (Minimum retention: 6 years)

(21) **Senior and Disabled Citizens Tax Deferral Applications** Applications by senior citizens to defer property taxes or special assessments. Disqualification occurs with death of applicant, property sale, or exceeding income limit. Taxes are paid by the state with lien attached to property. Applications may include name, address, location, account number, legal description, deed references, and authorizing signatures. This series may also include applications for delay of foreclosure. (Minimum retention: 2 years after disqualified or lien satisfied)

(22) **Special Valuation Applications** Requests for special assessment of properties on the basis of special use. Uses include forest land, farmland, historic properties, enterprise zones, and single family residence in commercial zones. Applications and worksheets may include name, address, account number, number of acres in use, farm income documentation, historic designation, year assessed, and real market value (RMV) of property. (Minimum retention: 6 years after disqualified)

(23) **Tax Collection and Distribution Records** Records summary of taxes collected and distributed. May include date of collection and distribution, amount distributed, percentage of collection and distribution, year of tax, and adjustments. (Minimum retention: (a) Percentage Distribution Schedule: 25 years (b) All other records: 3 years)

(24) **Tax Lot Cards Records** contain official descriptions of real property and are used to track land ownership and lot size and also may serve as a deed reference. Records include tax lot number; the location of the land in reference to township, range, and section; and a description and record of changes to the property, acreage, and land owner. (Minimum retention: Permanent)

(25) **Tax Payment Records** Records individual payments made by taxpayers on an account. May include county name, fiscal year for which taxes entered, address, code area, date paid, amount, and property for which taxes paid. (Minimum retention: 7 years)

(26) **Tax Statement Requests** Authorization for lender to pay property taxes on individual properties. Provides lender information on assessed values and levied taxes on individual properties. May include account number, lender name and loan number. (Minimum retention: 2 years)

(27) **Tax Turnover Records** Documents amounts paid to each taxing district based on the Tax Collection and Distribution schedule calculated by the Tax Collector. Includes date of distribution, district name, and amount distributed. May also include percentage of collection and distribution, year of tax, and adjustments. (Minimum retention: 6 years)

(28) **Taxing District Records** Notification to the Assessor from city, fire, school, and other special districts to levy taxes. Includes records received from districts such as notifications to levy taxes, categorizations of levies, resolutions from governing body to levy taxes, detail budgets, and public notices. Also may include tax rate computation sheets and other records used or created by the Assessor in calculating the tax rates. (Minimum retention: (a) Notice of Property Tax Levy and Certification of Categorization: 6 years (b) All other records: 2 years)

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0020

Building

(1) **Building Activity Records** Reports or statistical compilations tracking building activity on a monthly and annual basis. Used to plan budgets and staffing, as well as to monitor growth and chart building trends. Usually tracks number of permits issued, type of activity, value of projects, fees collected, and related information. May consist of reports compiled for the U.S. Bureau of the Census. (Minimum retention: (a) Retain reports summarizing activities on an annual basis: Permanently (b) Retain other reports: 2 years)

(2) **Building Board of Appeals Records** Records of appeals to decisions made by the agency staff regarding alternate building materials or methods of construction. The board interprets building code and requirements. Often includes staff reports, applications to appeal, minutes, exhibits, and related significant correspondence and memoranda. (Minimum retention: (a) Retain minutes, agendas, resolutions, indexes, and exhibits (not retained permanently elsewhere in county records): Permanently (b) Retain audio or visual recordings: 1 year after minutes prepared and approved (c) Retain other records and exhibits not pertinent to minutes: 5 years)

(3) **Building Code Violation Records** Building department documentation related to violations of building, electrical, sign, heating, plumbing, and related codes. May include notices of infractions, summons, complaints, compliance agreements, log books, compliance information, and

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related significant correspondence and memoranda. (Minimum retention: 10 years after last action)

(4) **Building Inspection Records** Records documenting on-site visits by inspectors. Usually includes comments noted as construction progress. (Minimum retention: (a) Final inspections: For the life of the structure (b) All other inspections: 2 years)

(5) **Building Permit Applications** Applications from property owners to erect new structures, including signs, or make structural modifications to existing ones. Information usually includes name, address, phone number, and signature of applicant, permit number, type and location of building, name of builder or contractor, legal description, description of work, and value of construction. (Minimum retention: (a) If permit issued: 2 years (b) If no permit issued: 180 days)

(6) **Building Permits** Permits granted to property owners to erect new structures, including signs, or make structural to existing ones. Serves as official authorization for construction including installation of plumbing, electrical, and mechanical equipment and other related work. (Minimum retention: (a) Retain permits for completed structures: for the life of the structure (b) Retain demolition permits: 10 years after demolition (c) Retain other permits: 2 years after revoked or expired)

(7) **Building Plans, Nonresidential Blueprints** and specifications submitted by building contractors or owners applying for a permit to build commercial, industrial, or apartment structures. Used for enforcement of building codes and reference for later modifications. Includes specifications of type, grade, and brand, of materials used, as well as details related to temporary facilities, security, job cleanup, deadlines, and other conditions. Often includes change orders or plan modifications submitted after permit approved. (Minimum retention: (a) If permit issued and structure completed: 10 years after substantial completion (as defined by ORS 12.135(3)) (b) If no permit issued: 180 days (c) If permit issued, but structure not started, completed, or permit expired: 180 days after expiration date)

(8) **Building Plans, Publicly-Owned Structures** Blueprints and specifications submitted by building contractors or government agencies applying for a permit to construct government buildings. Used for enforcement of building codes and reference for later modifications. Includes specifications of type, grade, and brand of materials used as well as details related to temporary facilities, job cleanup, deadlines, and other conditions. May also include change orders or plan modifications submitted after permit approved. (Minimum retention: (a) If permit issued and structure completed: For the life of the structure (b) If no permit issued: 180 days (c) If permit issued, but structure not started, completed, or permit expired: 180 days after expiration date)

(9) **Building Plans, Residential** Blueprints, drawings, and specifications submitted by building contractors or owners applying for a permit to build residential structures. Used for enforcement of building codes and reference for later modifications. Often includes specifications of type, grade, and brand of materials, as well as details related to temporary facilities, security, job cleanup, deadlines, and other conditions. May include change orders or plan modifications submitted after permit approved. (Minimum retention: (a) If permit issued and structure completed 2 years after substantial completion (as defined by ORS 12.135(3)) (b) If no permit issued: 180 days (c) If permit issued, but structure not started, completed, or permit expired 2 years)

(10) **Certificates of Occupancy Certificates** recognizing compliance with the minimum standards set by state and local laws for structures. Usually includes building name and location, city or county, occupancy, classification, load limit, date issued, and fee. (Minimum retention: For the life of the structure)

(11) **Registered Contractor Lists** Lists issued quarterly by the State Construction Contractors Board verifying registration by contractors with the Board. Used to ensure compliance with state requirements regarding insurance, bonding, etc. before the issuance of building permits. Includes registration number, name of contractor, county code, type of building trade, and related information. (Minimum retention: Until superseded or obsolete)

(12) **Unsafe Building Records** Records documenting the demolition, boarding, or other actions related to structures determined to be unsafe. Includes structures determined to be unsafe due to the manufacture of illegal drugs. Also documents related repairs or actions to remedy deficiencies. Used for reference and litigation. Usually includes complaints, building inspection reports, letters to property owners, and demolition documents. May also include photographs, copies of contracts and payment records, and related significant records. (Minimum retention: 5 years after final action)

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0025

Community Corrections Records

(1) **Alcohol Diversion Evaluator Records** Series documents the evaluation of clients for referral to a program that will provide appropriate information or rehabilitation services. Records may include evaluation results, a written narrative summary of the interview, a copy of the client's driving record, documentation of the client's Blood Alcohol Content (BAC) at the time of the DUII (Driving Under the Influence of Intoxicants) arrest, a copy of the Diagnostic and Referral Report, and copies of reports on the client filed with the Office of Alcohol and Drug Abuse Programs. Information may include client's name, diagnosis, and status in diversion programs. (Minimum retention: 7 years following date of completion or discontinuance of treatment services)

(2) **Case Assignment and Report Log** Series is used to assign and track new cases, reports, and transfers. It is used as a defacto index to parole/probation case files. Records include listings of new probations, paroles, temporary transfer requests, special reports, early terminations, revocations, and the name of the assigned officer. (Minimum retention: 3 years)

(3) **Community Service Work Records** Series documents community service performed in lieu of or in addition to criminal sentencing. Records may include judges orders for bench parole, other court orders, and requirements for fulfilling community service order. Information includes offender's name, date of sentence, hours of community service, and dates and times of community service. (Minimum retention: 6 months after case closed)

(4) **Offender Case Files** Series documents the supervision, management, and tracking of offenders in the community corrections program. Records may include face sheets, court orders, Board of Parole and PostPrison Supervision orders, commutations, death certificates, expungement, presentence investigations, parole officer notes, police reports, sanction hearing documentation, and community risk assessments. Department of Corrections (DOC) Information Systems Division maintains statewide record copy of information on the Corrections Information System. As stated in OAR 291-070-0080(1) DOC requires certain documents to be transferred to DOC Central Records, as they are created, for maintenance as state-wide record copy. (Minimum retention: (a) Retain felony offender case files: 2 years after case closed (b) Retain all other case files: 1 year after case closed)

Stat. Auth.: ORS 192 & ORS 357
Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0030

Counsel

(1) **Civil Case Files** Documentation of pending and closed cases filed by the agency and against the agency. Often contains complaints, summons, investigations, reports, attorney's notes, photographs, orders and judgments, dispositions, pleadings, medical reports, and important related records. (Minimum retention: 10 years after case closed or dismissed, or date of last action)

(2) **Criminal Case Files, Attorney** Records related to the prosecution of criminal cases by the attorney's office. May include copies of citations, law enforcement reports, driving records, DUII documents and tape recordings, complaints, subpoenas, motions, judgments, copies of records from other courts, and related significant material. (Minimum retention: 10 years after case closed or dismissed, or date of last action)

(3) **Dispute Resolution Records** Records documenting personnel disputes resolved through mediation or arbitration instead of pursuing action through the court system. May include pleadings, investigation reports, dispositions, and related records. (Minimum retention: 3 years)

(4) **Land Use Board of Appeals (LUBA) Case Files** Records related to land use decisions made by the agency that have been appealed to and reviewed by the Land Use Board of Appeals. May include staff reports, land use orders, pleadings, briefs, and related significant records. SEE ALSO Board of Commissioners Records in the County Administration Records section. (Minimum retention: 10 years after final decision)

(5) **Legal Opinions** Formal opinions rendered by the attorney's office for various agency departments or the governing body. Documents the rationale for policy and maintains consistency in related issues. Information usually includes date, department requesting opinion, and the text of the opinion. (Minimum retention: (a) Formal opinions: Permanent (b) Informal opinions: 10 years)

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(6) **Tort Claim Notices** Records documenting the notification given to the agency of potential suits against it. ORS 30. 275 requires these to be filed with the agency before a potential claimant can bring certain actions against the agency. (Minimum retention: 3 years after closure of claim)

(7) **Victim/Witness Assistance Program Records** Documents showing the administration of victim/witness assistance programs. Generally includes reports, activity logs, expense statements, records documenting state action, and significant related memoranda and correspondence. (Minimum retention: 5 years)

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0035

County Clerk – Elections

(1) **Absentee Ballot Requests** Used to enter a citizen's request for a ballot to be sent to them for the purpose of voting, without going to their designated polling place, or to change their current status as an absentee voter. Information includes voter name, address of residence, mailing address, and witness signature for illiterates making their mark. (Minimum retention: 1 year)

(2) **Abstract of Votes (Record of Elections)** Documents election results for General, Primary, Emergency, and Special Elections. Information includes candidate name/ballot title, precinct name, total votes per candidate/ballot title, total per precinct, under/over votes, and certification by County Clerk or election official. (Minimum retention: Permanent)

(3) **Ballots** Documents ballots and stubs of ballots of voters who voted in Primary, General, Emergency, and Special District elections. Includes ballots cast at polls, by votebymail, or by absentee request. Used to register and count votes. Information contains numbers that correspond to a candidate or "yes" or "no" on an issue. May also include written challenge statements and replacement affidavits. (Minimum retention: (a) Special District and Emergency Election: 90 days after last date to contest election (b) Primary and General Election: 2 years after last date to contest election)

(4) **Contribution and Expenditure Reports** Documents contributions and expenditures by candidates or political action committees. Includes statement of organization, amount, source, and detail of expenditures over the amount of fifty dollars. May also include receipts for expenditures. (Minimum retention: (a) Statement of Organization: Permanent (b) All other records: 4 years after the date required to file update reports)

(5) **Election Filings** Documents all necessary papers required to be filed by a candidate or governing body for primary, general, emergency, and special elections. May include petition of nomination, declaration of candidacy, certification of nomination, filing forms for county voters pamphlet, notice of measure election, and withdrawal of candidates. (Minimum retention: 4 years)

(6) **Election Preparation Records** Used to prepare and administrate elections within each precinct in the county. Records may include such information as number of ballots going to each precinct, number and type of pages for each voting machine for each precinct, listing of issues and candidates by precinct order, guides to preparing voting machines, ballot layout records, and public certification test notice. Also may include guides to assist Election Board personnel in reconciling votes cast with eligible voters. (Minimum retention: 2 years)

(7) **Election Security Plan** Records document the clerk's compliance with ORS 254.074 in which they clearly outline, in writing, the county's procedures for ensuring a secure elections process. Information in the plan includes but is not limited to a written security agreement entered into with any vendor handling ballots; security procedures for transporting ballots; security procedures at official places of deposit for ballots; security procedures for processing ballots; security procedures governing election observers; security procedures for ballots located in county elections work areas, buildings and storage areas; security procedures for vote tally systems, including computer access to vote tally systems; and postelection ballot security. These plans are required to be filed with the Secretary of State by the January 31 in each calendar year or one business day after any revision is made to the county elections security plan. (Minimum retention: 5 years)

(8) **Help America Vote Act Identification Records** Records are used to verify the identity of a person registering to vote exists and their residence in the county they are attempting to register to vote in. Records include but are not limited to current and valid photo identification containing voter name and address, or a current copy of a utility bill, bank statement, government check, paycheck, or other government document that shows their name and address. The address listed must match the resi-

dence or mailing address submitted on their voter registration card. (Minimum retention: Retain until verified by county elections official)

(9) **Initiative, Referendum, and Recall Records** Documents the initiative, referendum, and recall process by which voters propose laws and amendments to the State Constitution, refer an act of the Legislature or other governing body to a vote of the electorate, or recall a public official. Includes petitions, signature sheets, summaries of signature verification, text of proposed law, amendment, or response from public. (Minimum retention: (a) Signature sheets: 6 years after election if measure is approved (b) Signature sheets if measure is not approved: 90 days after election or 90 days after deadline for sufficient signatures (c) All other records: Permanent)

(10) **Legal Notices and Publications** Documents required preelection legal notices by the County Clerk. May include publication of ballot title, notice of election, sample ballot, and the county voters pamphlet. (Minimum retention: (a) County Voters Pamphlet (One copy): Permanent (b) All other records: 4 years)

(11) **Poll Books** Records issuance of ballot to eligible voter in an election. Includes name of elector, party affiliation, home address, ballot number, precinct number, and signature of voter. Cover includes number of voters casting ballots for the election and names, signatures, and oaths of Election Board members. May also include certificates of registration. (Minimum retention: (a) Records created prior to 1931: Permanent (b) All other records: 2 years)

(12) **Registration List Authorizations** Documents the request and authorization for transmittal of voter registration information to citizens. Record consists of request and authorization for list of electors for a particular political boundary. (Minimum retention: 2 years)

(13) **Secretary of State Reports** Documents required reports to the Office of the Secretary of State summarizing election registration, participation, and costs. May include Special District Election Report, Election Equipment Amortization Worksheet, Average Ballots Cast Worksheet, Allocated Cost Worksheet, and Local Elections Billing Worksheet. (Minimum retention: 2 years)

(14) **VotebyMail Records** Records are used to prepare, administer and abstract elections conducted by mail. Records include: Ballots counted, duplicated, rejected and/or defective; Envelopes returned signed envelopes, nondeliverable envelopes, and secrecy envelopes; and other documents used to prepare, administer and abstract elections conducted by mail. (Minimum retention: (a) Retain counted, duplicated, rejected and/or defective ballots 22 months for elections containing federal candidates and 90 days after the last day to contest the election for all other elections (b) Retain returned signed envelopes 2 years for elections containing federal candidates and 90 days after the last day to contest for all other elections (c) Retain secrecy and nondeliverable envelopes for 60 days after the last day to contest for all elections regardless of federal/nonfederal candidates (d) Retain all other documents used to prepare, administer and abstract elections conducted by mail 2 years following the election to which it relates)

(15) **Voter Registration Records** Documents registration or cancellation of registration of eligible voters. Voter Registration Cards include the following information: name, signature, mailing and residence address, previous registration information, if ever registered in Oregon, date (and place) of birth, (parents names, spouse name,) affirmation of citizenship, state residency, (telephone number) and political party. May also include records canceling or making inactive voter registration such as the notice of deceased list from Secretary of State, notice of change of address from Department of Motor Vehicles, U.S. Postal Service notice, and related correspondence. (Minimum retention: 2 years after cancelled)

(16) **Voters Pamphlet** Records document the compilation, publication, and distribution of the County Voters' Pamphlet for primary, general, and statewide special elections. The County Voters' Pamphlet contains candidate statements, candidate photographs, ballot measure arguments, explanatory and fiscal impact statements of ballot measures, and other information to assist voters. (Minimum retention: (a) Retain 1 copy permanently (b) Retain pamphlet preparation records: 4 years after election, destroy)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0040

County Clerk – General

(1) **Board of Property Tax Appeals Meeting Records** Documents the proceedings of the Board of Property Tax Appeals. Includes copy of order appointing board members, oaths of office of members, verification of training, delegation of legal counsel, affidavit of publication, record of

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appointment of board appraiser, agendas, date of meeting, list of those present who present evidence and a short discussion of the evidence presented, all material presented as evidence, all motions and who made them, results of all votes and how each member voted, petitions, authorizations to represent, defective petition notices, copy of hearing notice mailed to petitioner, recommendations and orders made by the board, and summary of actions. The following information is entered into the journal of the county governing body: date members appointed, positions to which the members were appointed, and a record of the date the board convened and the date the board adjourned. (Minimum retention: 6 years)

(2) **Budgets (Taxing Districts)** Documents budgets required to be filed by taxing districts within the county for the purpose of making them available for public inspection. Budget documents may include budget overview, budget policies, organization charts, budget detail reports, and summary schedules (Minimum retention: (a) County budget: Permanent (b) Other taxing district budgets: 2 years)

(3) **County Charter** Constitution, bylaws, and all amendments to agency charters approved by voters or the State Legislature. Generally includes original charter, amendments, and related significant records. (Minimum retention: Permanent)

(4) **County Code** Codified ordinances passed by the county. Provides reference to all laws for both information and enforcement. Information may include ordinance numbers, amending ordinance numbers, code numbers, and text. (Minimum retention: Permanent)

(5) **Court Records (Circuit and District)** Consists of Circuit or District court records in the official custody of the County Clerk which were not transferred to the Office of State Court Administrator. These records document court functions and responsibilities prior to the administrative change in 1981. May include, but are not limited to, Adoption Records, Change of Name Records, Civil and Domestic Case Files, Criminal Case Files, Delayed Birth Case Files, Mentally Ill or Deficient Case Files, Probate Records, Guardianship Records, Conservatorship Records, Court Reporter Notes, Journal or Order Records, Judgment Dockets, Naturalization and Immigration Records, and related indexes. (Minimum retention: Refer to the Oregon Judicial Department, Office of State Court Administrator, for retention and disposition information)

(6) **Deed Instruments** Documents conveyance or encumbrance of an interest in real property. May include deeds; condominiums, plats, and partition plants; leases; contracts; easements; covenants, conditions, restrictions; options, and affidavits. Depending on local filing practices, this series also may be included as part of a Book of Records. (Minimum retention: Permanent)

(7) **Deeds to Agency Owned Land** Recorded evidence of agency ownership of public lands and right-of-ways. Exhibits may include maps and legal descriptions, title transfers, and significant related correspondence. Information typically includes a description of property, signatures of previous owner and agency representative, and date of transfer. (Minimum retention: 3 years after property is no longer owned by the county)

(8) **Easements** Recorded grants by property owners to the agency for use of private property for public uses. Examples consist of street, utility, bikeway, sewer, storm drain, and landscaping easements. May include maps or other exhibits. Information includes property owner's name and signature, location of property, type of easement, terms, and date of signing. (Minimum retention: Permanent)

(9) **Fee Records** Records documenting billing and collection of fees or assessments for instruments received for recording. Information includes date and time of reception, name of grantor, name of grantee, to whom delivered, and fees received. (Minimum retention: 3 years)

(10) **Filed but Not Recorded Records** Records documenting records that are required to be filed, but not recorded with the county clerk. Records may include but are not limited to quarantine orders, lost property notices, affidavits of publication, meeting notices, and hearing notices. (Minimum retention: 2 years)

(11) **General Index (Direct and Indirect)** Documents statutory requirement to create a direct and indirect index at least once a year of recorded instruments. May include date and time of reception, names of grantor, names of grantee, nature of instrument, volume and page where recorded, remarks, and brief description of tract. Depending on local filing practices, this series also may be included as part of a Book of Records. (Minimum retention: Permanent)

(12) **Lien Instruments** The County Clerk Lien Record documents orders or warrants assessing a civil penalty issued by state or federal agencies or others. Serves as a public notice of an encumbrance judgment docket for civil penalties and has the effect of a judgment entered in a circuit

court docket. The order or warrant becomes a lien upon any interest in real property or against an individual whom the order is issued. Information may include name of person incurring the penalty, name of officer or agency issuing, amount of civil penalty including penalty interest and other charges, date received and recorded, and full or partial satisfactions. Also may include other liens such as construction liens, chattel liens, and hospital liens which may not be included in the County Clerk Lien Record. Depending on local filing practices, this series also may be included as part of a Book of Records. (Minimum retention: (a) County Clerk Lien Record: Permanent (b) Other Statutory Lien Records: 10 years)

(13) **Marriage Records** Documents licenses issued and solemnization of marriages. Includes (Health Division, Vital Records Unit) Record of Marriage, Consent to the Marriage of a Minor, Affidavit that there is no Parent or Guardian in Oregon, Waiver of Waiting Period, and related records. Also may include the copy of the marriage license if the County Clerk performed the ceremony. (Minimum retention: Permanent)

(14) **Miscellaneous Recordings (Not Authorized by Statute)** Documents recordings of various instruments not authorized by statute. Historically, this series may be referred to as Miscellaneous Records, and may include recordings of documents which were authorized by statute but that recorded events which occurred outside the county. Examples of records currently filed in this series include: not notarized earnest money agreements, personal papers, legal instruments, and other miscellaneous writings. (Minimum retention: (a) Records created prior to 1965: Permanent (b) All other records: 10 years)

(15) **Mortgage Instruments** Documents conveyance of lands to secure the payment of a debt. May include mortgages, trust deeds, weatherization liens, senior citizen tax deferrals, Uniform Commercial Code (UCC) filings, and supporting records. (Minimum retention: Permanent)

(16) **Municipal Corporation Claims** Documents description of property in which a municipal corporation claims assessment liens for local improvement. May include property description, record owner, and date of notice. (Minimum retention: 6 years after satisfaction)

(17) **Oaths of Office** Signed oaths taken by various elected and appointed officials before discharging duties of office. Information typically includes date, name, office held, text, and signatures. May also include certificate of election. (Minimum retention: 6 years after expiration)

(18) **Property or Goods Finders Record** Documents requirement that a person who finds money or goods valued at \$100 or more must give notice in writing to the County Clerk. The finder becomes the owner of the property or goods if not claimed by a specified time period. Includes description of property or goods, date, and location found. (Minimum retention: 2 years)

(19) **Public Notification of County Contracts** Documents statutory requirement for the County Clerk to list all contracts entered into by the county for the year covered by the report in counties not having a County Accountant. Includes name of contractor, work contracted for, amount of the work contracted for, whether bonds were required, and the amount and whether let privately or by public bidding. May also include certified statement documenting assets and liabilities of the county, claim and warrant report, sheriff collection reports, and treasurer's collection report. (Minimum retention: 10 years)

(20) **Public Recordings: (Authorized by Statute)** Documents recordings of various instruments authorized by statute for the purpose of making a public record. Examples include bulk transfers, cooperative agreements, military discharge records, mining claims, occupation and professional licenses, power of attorney, and water rights records. This series may be referred to as the Book of Records. (Minimum retention: Permanent)

(21) **Special District Records** Documents the formation, merger, operation, and dissolution of special districts within the county. May include ordinances, orders, formation records, annexations, maps, petitions, and assessments required to be filed in the Office of County Clerk. (Minimum retention: Permanent)

(22) **Undeliverable Recorded Instruments** Documents recordings returned as undeliverable. The primary reason for nondelivery is incorrect disposition information provided by the person recording instrument. Examples include wrong address given, forwarding information incorrect, or not picked up at office as previously specified. (Minimum retention: 1 year)

Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

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County Court and Commissioners Records

(1) **Annexation Records** Records documenting the annexation of areas into boundaries. Used to determine legal areas in which permitting, elections, taxation, and other services will be provided. May include description of property annexed, effective date of annexation, map of area annexed, and approval from Department of Revenue. May also include staff reports, petitions, service district withdrawal records, surveys, boundary commission recommendations and judgments, census reports, franchise notices, maps, and important related correspondence and memoranda. (Minimum retention: Permanent)

(2) **Board of Commissioners or County Court Meeting Records** Official proceedings of regularly scheduled, special, executive session, and emergency meetings of the governing body. Includes date, time, and location of meeting, names of members present and absent, subjects discussed, statements of intent, and records of actions taken. (Minimum retention: (a) Retain minutes, agendas, resolutions, indexes, and exhibits not retained permanently elsewhere in agency records: Permanent (b) Retain executive session minutes: 10 years (c) Retain audio or visual recordings: 1 year after minutes prepared and approved (d) Other records and exhibits not pertinent to minutes: 5 years)

(3) **Ordinances** Legislative action of the Board of Commissioners or County Court to regulate, require, prohibit, govern, control, or supervise any activity, business, conduct, or condition authorized by Oregon Revised Statutes. Ordinances typically include a title, preamble, ordaining clause, subject clause, penalty for violation (when applicable), effective date, authorizing signature and seal. May also include indexes calendars, and documentation presented to support action. (Minimum retention: Permanent)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0050

County Fair Records

(1) **Annual Fair Advertising and Promotion Records** Series is used to prepare and produce promotional materials, and to document promotions, advertising campaigns and public relations efforts for the annual County Fair. Series also documents categories of exhibit competitions, entry requirements, and prizes offered for 4-H and Open Class exhibits. Records may include fair programs, exhibitor's handbooks (premium books), schedules of events, passes, newsletters, news clippings, pasteups, drawings, copies of ads, photographs, slides, videotapes, sound recordings, story scripts, posters, brochures, flyers, and correspondence. (Minimum retention: (a) Fair programs and exhibitor's handbooks (premium books): Permanent (b) All other records: 2 years)

(2) **Commercial Vendor Records** Series documents vendor reservations for exhibit booth space at the County Fair. Records may include reservation forms, cash receipts, and exhibitor rosters. (Minimum retention: 4 years)

(3) **Communications Equipment Licensing Records** Series documents Federal Communications Commission (FCC) authorization for the County Fair to operate a radio station and use radio frequencies. Records include radio station applications and licenses, frequency coordination requests, vendor brochures, radio warranties, and correspondence. (Minimum retention: 1 year after permit expires)

(4) **Exhibit Entry, Judging and Award Records** Series documents all activities related to judging and awards for adult, 4-H and Future Farmers America (FFA), and open class County Fair exhibits. Records include press releases, entry forms, entrant rosters, judging sheets, award listings, brochures, booth duty schedules, questionnaires, photographs, news clippings, and correspondence. Records may also include receipts for fees received and awards paid. (Minimum retention: 4 years)

(5) **Exit Polls and Postfair Survey Records** Series is used to research and develop marketing and planning strategies. Records may include polls and surveys, objective statements, methodology documents, sampling variability, summaries, exit poll analysis, tables and graphs. (Minimum retention: 5 years)

(6) **Fairgrounds Development Records** Series documents the development of the County Fairgrounds and physical facilities. Records may include correspondence, drawings, blueprints, maps, permits, contracts, deeds, real estate appraisals, studies and reports, budget reports, long-range development plans, warranties, photographs, and correspondence. (Minimum retention: Permanent)

(7) **First Aid Reports** Series documents first aid treatment of fairgoers, employees, exhibitors, vendors or others, and may be used to report to

the county or other parties. Series does not cover workers' compensation claims and related records. The reports show report number, patient name, injury or illness, treatment description, date, time, and the name of the doctor, nurse or EMT. (Minimum retention: 2 years)

(8) **Gambling Winnings Statements** Series is used to report to Internal Revenue Service (IRS) gambling winners and amounts paid by the County Fair on horse racing bets. Records include statements (IRS W-2G) and transmittal forms (IRS 1096). (Minimum retention: 4 years)

(9) **Miscellaneous Fairgrounds Event Files** Series documents various events at the fairgrounds which are not documented in other record series. Records may include calendars of events, minor repair and construction projects records, security and law enforcement plans, camping regulations, minor personal injury or property damage reports, and correspondence. (Minimum retention: 6 years after event)

(10) **Non-Fair Advertising and Promotion Records** Series is used to prepare and produce promotional materials, and to document promotions, advertising campaigns and public relations efforts for non-fair events at the fairgrounds. Records may include event programs and schedules, passes, newsletters, news clippings, paste-ups, drawings, copies of ads, photographs, slides, videotapes, sound recordings, story scripts, posters, brochures, flyers, and correspondence. (Minimum retention: 2 years)

(11) **Non-Fair Event Records** Series documents planning and preparation for non-fair events at county fair facilities. Records include ticket distribution/sales, contracts and agreements, and other related records. (Minimum retention: 6 years after event occurs or is cancelled)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0055

County Health – Developmental Disabilities Records

(1) **Adult Foster Home Provider** Series documents the administration of a system of adult foster homes which provide care for developmentally disabled clients in residential settings. Adult foster homes are licensed annually and, therefore, subject to an annual inspection and evaluation process in order to maintain the license to provide foster care. Series may include records such as license applications; inspection reports; fire drill records; facility information; references; progress notes; correspondence; meeting notes; financial records; annual license evaluation; annual agreement or contract; and a copy of the annual license. (Minimum retention: 6 years after expiration of contract or agreement)

(2) **Developmental Disabilities Intake Reports** Series documents the initial contact with a potential client in order to determine if the person is eligible for developmental disability programs. Series may include records such as an information sheet; application; signed release forms for other records such as school records, psychological reports, social security, and skill assessments; progress notes; letter of decision; and appeals of the decision. If the person is eligible for service, the intake report file becomes part of the Developmental Disabilities Service Records. (Minimum retention: (a) If eligible for DD programs: Transfer to Developmental Disabilities Service Records (b) All other cases: 10 years)

(3) **Developmental Disabilities Service Records** Series documents services provided to persons with developmental disabilities. This county agency is the entry point for all developmentally disabled eligible persons and determines the needs and appropriate programs for the client. Services include intake and case management, crisis services, and family support services. Services such as residential, vocational, and transportation services, may be contracted out. Information contained in the records may include applications for service; referrals; progress notes; medical records; individual service plans (ISP); diagnostic and evaluation results; and financial and legal records. (Minimum retention: (a) Individual Service Plans: 10 years (b) All other records if death date is known: 7 years after date of death (c) All other records if case is closed, inactive, or death date is unknown: 70 years)

(4) **Family Support Records** Series documents the screening of applications for financial aid to support the families of clients in developmental disability programs. Series includes the application and other records including progress notes, financial information, family assessment, and treatment and support plans. (Minimum retention: 5 years)

(5) **Protective Service Reports** Series documents investigations of clients over the age of 18 and enrolled in developmental disability programs who are suspected of having received physical or sexual abuse. Records may include investigation reports, police reports, and interview notes. A copy of the report goes to the State Mental Health and Developmental Disabilities Services Division. (Minimum retention: (a)

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Interview notes for substantiated criminal findings: 10 years (b) Interview notes for unsubstantiated findings: 3 years (c) Reports: 20 years)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0060

County Health – Mental Health Records

(1) **Mental Health Reports** Series documents internal reviews conducted by mental health services providers to document their activities. Series may include reports concerning quality assurance reviews and random reviews of cases to insure compliance with federal regulations or staffing reviews of serious incidents, such as the death of a client. (Minimum retention: 5 years after last service or until 21st birthday whichever is longer)

(2) **Mental Health Service Records** Series documents the diagnosis and treatment services provided to children, adults, or families with emotional problems or mental illness. Services provided may include outpatient treatment and residential services; crisis services; and coordination of regional and local inpatient services including commitment and discharge. Series may include records such as a history of previous service; referrals; testing and evaluation reports; treatment plans; progress notes; correspondence; enrollment, fee, and billing records; legal records; permission to treat; medical assessment including laboratory and other tests, emergency room services, and medication and prescription records; and school reports. (Minimum retention: 6 years after last service or until 21st birthday, whichever is longer)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0065

County Health – Public/Community Health Records

(1) **Alcohol and Drug Service Records** Series documents services provided to clients in alcohol and drug treatment programs. These services may include residential treatment and care, outpatient services, detoxification, DUII education and treatment, sex offender treatment, methadone treatment, and other services. Series may consist of clinical records or patient files including assessment records, treatment plans, progress notes, treatment reviews, termination reports, and medical records. (Minimum retention: 6 years after last service or until 21st birthday, whichever is longer)

(2) **Board of Health Reports** Series documents the activities of the county health departments such as public or community health, mental health, environmental health, family mediation, alcohol and drug, developmental disabilities, deputy medical examiner, and fiscal administration. Series includes semi-annual reports to the County Board of Health prepared by the various departments. The reports summarize department activities, and discuss concerns and problems of future importance. Series may also contain reports on special topics such as AIDS and other issues. Reports may be sent to the Board of County Commissioners. (Minimum retention: (a) Reports filed with County Commissioners: 10 years (b) Reports not filed with County Commissioners: Permanent)

(3) **Car Seat Rental Service Records** Series documents the rental of car seats for infants and young children. Information contained in the records may include name, weight, and date of birth of child; name and address of recipient; signatures; witnesses; conditions for loan; car seat number; and related documentation. (Minimum retention: (a) If car seat returned: Until return of car seat (b) If car seat is not returned: 5 years)

(4) **Communicable Disease Intake Report** Series is used to identify persons with communicable diseases such as sexually transmitted diseases, HIV, tuberculosis, food-borne diseases, and others. Information contained in the report may include name of disease, patient identification, name of physician, symptoms, laboratory results, and other related data. Information from this intake report may be transferred to the investigation report or the intake report may be attached to the investigation report. (Minimum retention: 1 year)

(5) **Communicable Disease Investigation Reports** Series documents investigations into reports of communicable diseases. The investigation form is used by nurses to compile information about persons with a communicable disease. Information contained in the investigation reports (there are forms for different diseases) may include patient identification; demographics; sources of report; basis of diagnosis including clinical data, laboratory data and report, and epilinkage; infection timeline indicating exposure and communicable periods; and other related data. The Notice of a Disease or Condition form may contain disease, patient identification, date of onset of disease, names and addresses of physician and person

reporting, and other related data. Copies of both forms are sent to the Oregon Health Division. (Minimum retention: (a) Investigation Form: 5 years (b) Notice of a Disease or Condition Form: 3 years)

(6) **Communicable Disease Log** Series documents communicable diseases by providing a summary of information taken from the intake report. Information contained in the log may include type of disease, patient name, date of report, and other related data. Series is used for quick reference and to compile statistics. (Minimum retention: 5 years)

(7) **Complaint Correspondence** Records document formal and informal complaints involving extended investigation and/or litigation concerning environmental health issues; staff or division policies; or other perceived health problems in the community. Records may include letters, memorandum, hearing transcripts, Board of County Commissioner minutes, and other records which document or add significant information to the complaint. (Minimum retention: 10 years after resolution)

(8) **Health Insurance Portability and Accountability Act (HIPAA) Disclosure Notices** Records document notification to clients about the agency's practices regarding client medical records and information under HIPAA. Records include notification forms and related records. (Minimum retention: 6 years after last service)

(9) **HIV Test Records** Series documents the results of anonymous or confidential HIV tests. Information contained in the records may include test results, demographic information, patient history, number of test results, and other related data. Anonymous testing programs do not give the name of the patient, and may include only a client number and demographic information such as race, age, and sex. Confidential programs include the name and address of the patient which is then kept confidential. (Minimum retention: 2 years)

(10) **Immunization and Injection Records** Series documents immunizations received by a patient. Services may include immunizations for infants, children, and adults; TB skin tests; flu and pneumonia shots; and overseas immunizations for travelers. Information contained in the records may include name and date of birth of patient; name, address, and phone number of parent/ guardian; type of vaccine; dose number; date; and other related data. Records may include ITARS (Immunization Tracking and Recall System) documentation. (Minimum retention: (a) Immunization records: 10 years (b) ITARS records: 25 years from date of last service (c) Other records: 6 years after last service or until 21st birthday, whichever is longer)

(11) **Immunization Authorization Records** Series documents authorizations and parental/guardian consent for children and other patients to receive immunizations. Information contained in the records may include name and address of person receiving immunization; name and signature of patient or parent/guardian; date vaccinated; manufacturer and lot number of vaccine; site of injection; signature of provider; and other related data. (Minimum retention: 10 years)

(12) **Immunization Cards** Series used to enter information about immunizations given to clients in the county's immunization database. Information includes type of vaccine, PPD results, and a clients contraindications of precautions regarding a specific vaccine. Vaccines include Measles, Mumps, Rubella; Diphtheria/Pertussis/Tetanus; Polio; Immune Globulin; Hepatitis A; Hepatitis B; Haemophilus Influenza Type B; Influenza; Pneumococcal; and Varicella. (Minimum retention: Until entered into system and verified)

(13) **Interpreter Service Records** Series documents the scheduling of interpreters for needed county departments, and the services provided for payment purposes. Records may include interpreter scheduling and request forms, on-call invoices, timesheets, and related records. (Minimum retention: 2 years)

(14) **Laboratory Logs** Series documents laboratory tests performed for patients. Types of laboratory tests may include hematocrits, urinalysis, GC cultures, wet mounts, serologies, blood typing and Rh factor, and pregnancy tests. Information contained in the logs may include name of patient, date, name of test, results of test, date of results, name of person who performed the test, and other related data. (Minimum retention: 2 years)

(15) **Maternal-Child Health (Children and Family) Service Referral Reports** Series documents referrals involving maternal-child health concerns from other providers, such as physicians or hospitals. Information contained in the reports may include the name and address of the family; name and age of child; reason for referral; history and concerns; and any actions or services provided by the referral agency. If services are provided to the patient, the referral report becomes part of the Public Health Service Records. (Minimum retention: (a) If services provided: Transfer to Public Health Service Records (b) All other cases: 2 years)

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(16) **Medicaid Financial Screening Records** Series documents the screening of clients who appear eligible for Medicaid for a final eligibility determination by Adult and Family Services (AFS). Records contained in the series include Medicaid Financial Screening Form, which indicates the client's income status, lists of clients, and AFS forms which indicate the client's personal data as it applies to eligibility, client's understanding of rights and responsibilities, effective date of eligibility pending client's provision of appropriate documentation, narrative notes completed by screeners, information on insurance already held by client, and information relating to injuries caused by automobile accidents. (Minimum retention: 2 years)

(17) **Medical Examiner Case Files** Series documents investigations into deaths by the county medical examiner, coroner, or other designated official. Series contains records on any deceased person that requires medical examiner involvement. Records include the autopsy report and the medical examiners report. Records may also include other data that is considered significant as to the manner of death such as a police report, family interview, personal identification, and disposition of unclaimed funds. (Minimum retention: (a) Pre-1965 Coroner's Reports: Permanent (b) Post-1965 case files: 25 years (c) No case file developed: 5 years)

(18) **Pharmacy Logs** Series documents the dispensing or issuing of drugs such as birth control pills or antibiotics. Information contained in the log may include identification number, client name, date, name of drug, dosage, number of pills, initials of person dispensing the drug, and other related data. (Minimum retention: 3 years)

(19) **Public Health Service Index (Master Patient Index) Cards** Series provides an index to patients and the services provided to them. Information contained in the index may include patient name, address, and birthdate; services provided; program; first date of service; dates admitted and discharged; health record number; and other related data. Separate indexes may be kept for different programs. (Minimum retention: 25 years after date of last service)

(20) **Public Health Service Records** Series documents the services given to a patient. Series contains records for patients in specialized programs such as the Women, Infants, and Children (WIC) nutrition program; clinical services (including tuberculosis, HIV, sexually transmitted diseases, hepatitis, and immunizations); dental services; serowellness; family planning and pregnancy testing; car-seat rental; maternal-child health nursing services concerning high risk pregnancies, high risk infants, or young children with major health problems or disabilities; and public health field nursing services which may include counseling, teaching, and referral services concerning maternal and child health care, pregnancy and postpartum health, child development, parenting skills, and Sudden Infant Death Syndrome (SIDS). Series may include correspondence; reports; professional notations; laboratory reports; treatment and x-ray authorizations; release of information; clinical or medical records including client identification, progress notes, and records of visits; and other related data. (Minimum retention: (a) Outpatient physical therapy and speech-language pathology service records: 6 years after last service or until 21st birthday, whichever is longer (b) Dental patient records: 7 years after last service (c) All other outpatient service records: 6 years after last service)

(21) **Sero-Positive Wellness Program Charts** Series documents the services and treatment provided to people with HIV. Information contained in the charts may include a record of service and treatment, laboratory results, work plans, and other related data. The records are used for counseling and education purposes. The records may be transferred to the Oregon Health Division upon closure, or they may become part of the patient's clinical file in the Public Health Service Records. (Minimum retention: 6 years after last service)

(22) **Sexually Transmitted Disease Epidemiological Reports** Series documents the investigation into sexually transmitted diseases. Information is compiled on two forms. The Confidential Sexually Transmitted Disease Case Report contains information such as patient identification; diagnosis, site, and treatment of disease; provider name and address; and other related data. The Field Report (a form provided by the U.S. Department of Health & Human Services) contains information such as patient identification; exposure, referral, examination, and treatment information; interview notes; and other identifying or medical information. Copies of both records may be forwarded to the Oregon Health Division. Individuals who are seen and treated at STD clinics will have a clinical file in the Public Health Service Records. (Minimum retention: (a) If patient is treated: transfer to Public Health Service Records (b) If patient is not treated: 5 years)

(23) **Tuberculosis Client Records (Tuberculosis Registry)** Series documents patients with active and inactive cases of tuberculosis. Records may contain information such as patient identification; source of specimen;

drug treatment information such as dosage and dates; dates the case was opened and closed; epidemiological reports; and other related data. (Minimum retention: (a) Active cases where death date is known: retain for life of individual (b) Active cases where death date is unknown: retain for 70 years after last service (c) Inactive cases with patients on preventive drug therapy: 6 years after last service)

(24) **Tuberculosis Negative Cases Epidemiological Reports** Series documents service to patients with negative tuberculosis tests, that is, patients with positive skin tests who do not have the disease and have not received treatment. Information contained in the reports may include patient name, date, x-ray report, skin test results, and other related data. (Minimum retention: 2 years; destroy reports when recorded in Tuberculosis Client Records (Registry))

(25) **Tuberculosis X-Ray Authorization Records** Series documents authorizations and parental consent for children and other patients to receive tuberculosis x-rays. Information contained in the records may include patient identification, demographics, PPD test results, name of radiology lab, and related documentation. (Minimum retention: 6 years after last service)

(26) **Tuberculosis X-Ray Records** Series documents x-rays used to screen and diagnose cases of tuberculosis. Records may include registration cards and x-ray film. Information contained in the records may include patient identification, demographics, medical history, x-ray results, assessment of condition, treatment plan, drugs ordered, and related documentation. (Minimum retention: (a) Active cases where death date is known: Retain for life of individual (b) Active cases where death date is unknown: Retain for 70 years after last service (c) Inactive cases with patients on preventive drug therapy: 6 years after last service)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0070

County Health – Sanitation and Waste Management Records

(1) **Food Handlers Registration Records** Series documents the registration of food handlers such as cooks, chefs, waiters, and cafeteria workers. Information contained in the records may include name, address, phone number, and signature of food handler; place of employment; current communicable diseases; result of examination; and other related data. (Minimum retention: 1 year after expiration or non-renewal of registration)

(2) **Franchised Service Provider Case Files** Series documents the issuance of certificates for franchised garbage haulers providing services for medical or bio-hazard material, hazardous material, or municipal waste; special services; or recyclers. Case files may include correspondence, applications, bonds, maps of service area, and other related data. (Minimum retention: 3 years after expiration of franchise)

(3) **Franchised Service Provider Financial Review Records** Series documents the annual or periodic review of financial records. Information contained in the records may include number and type of customers, tonnage of recycled material collected, labor costs, money collected, and other related data. The report and recommendations for proposed new or changed rates are forwarded to the Solid Waste Advisory Committee and the County Board of Commissioners. (Minimum retention: 8 years)

(4) **Franchised Service Provider Performance Review Records** Series documents the periodic performance review of holders of franchised service provider certificates. Records may include complaints received by phone or mail, inspections, report, recommendations, and other related data. A copy of the report is forwarded to the Solid Waste Advisory Committee. (Minimum retention: 3 years after expiration of franchise)

(5) **Land Fill Case Files** Series documents the regulation and certification of landfills. Case files may include correspondence; certificates; site plans; site assessments; operations plans; regulations or material to accept; special recommendations; violations; franchise fee records; and other related data. Records also may include a periodic review of land fills; a report which is forwarded to the Solid Waste Advisory Committee; Oregon Department of Environmental Quality site plans, operational plans, and permits; correspondence with DEQ concerning compliance conditions; and land fill records monitoring ground water, surface water, land fill gas, and storm water according to federal regulations. (Minimum retention: (a) Periodic review and report to SWAC: 5 years (b) Case files for sites not chosen: 15 years (c) Case files for all other sites: 30 years after closure)

(6) **Nuisance Violation Records** Series documents nuisance violations and complaints. Types of complaints or nuisances include complaints of solid waste nuisances; accumulations on private property of household garbage, junk, or abandoned vehicles; bad odors; solid or hazardous waste or garbage problems; pesticide misuse allegations; electromagnetic fields;

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standing or stagnant water; rodent and insect problems; housing concerns such as substandard housing, unclean living conditions, home drug lab contamination, asbestos, lead issues (paint, food, water), radon worries, formaldehyde, carbon monoxide, illnesses thought to be caused by indoor air, sewage or drinking water issues; and other environmental concerns. Series may include complaints; investigation reports; inspections and assessments; warrants; citations, warnings, or other enforcement actions; correspondence; and other documentation. (Minimum retention: 5 years)

(7) **Private Well Water Sample Records** Series documents the analysis of water samples collected from private wells. Information contained in the report on the water supply system may include dates; fees; assessor's map information; address; owner's and purchaser's names; information supplied by the seller such as plot plan, well log, and problems; results of the investigation; and other related data. A copy of the laboratory report may be attached to the report. (Minimum retention: 1 year)

(8) **Public Facilities Sanitation Records** Series documents the inspection and licensing of public facilities such as swimming pools, restaurants, school and daycare food services, tourist and travelers facilities; vending facilities including mobile units, commissaries, vending machines, and warehouses; and profit and non-profit temporary restaurants. Series may include applications; inspection reports listing type of inspection, any deficiencies, inspection score, date and time of inspection, and signatures; copies of the licenses issued; and other related data. Series may include a plan review. A copy of each license is forwarded to the Oregon Health Division. (Minimum retention: (a) Temporary restaurants: 1 year after date of event (b) Closed facilities: 2 years after closure (c) Other facilities: 7 years)

(9) **Regulation Violation and Challenge Records** Series documents the violations and challenges to regulations concerning franchises, haulers and collectors, and flow control. Series may include reports, complaints, inspections and assessments of the site and of records, the citation, and other related data. (Minimum retention: 5 years)

(10) **Septic System Sanitation Records** Series documents subsurface, individual sewage disposal (septic) systems. Series may include application; building site inspection report; site map; site evaluation; construction permit and application; plot plan; correspondence; approval or denial of permit; copy of permit; and other related data. Series may also include repair and alteration permits and records. (Minimum retention: 20 years after abandonment notification)

(11) **Special and Hazardous Waste Records** Series documents the activities of programs to handle special and hazardous waste materials such as petroleum contaminated soil, industrial wastes, manufacturing by-products and wastes, chemical spills and spill cleanup material, and medical wastes. Records may include case files for special wastes that have been accepted for disposal; and rules, ordinances, regulations, criteria, and standards adopted by the agency for the control and acceptance of special and hazardous wastes. (Minimum retention: 30 years)

(12) **Waste Management Annual Plans and Reports** Series documents annual plans, which contain implementation goals and objectives designed to meet state and regional mandates concerning landfills; disposal and transfer stations; hauling and collection of wastes; recycling including waste reduction, refuse, composting, and resource recovery; and regulations. Series also documents annual reports to state and local entities and biannual reports to the Environmental Protection Agency. Reports document the program or primary functional activities and accomplishments of the office for the previous year. They are often compiled from monthly, quarterly, or other subsidiary activity reports. Information contained in the plans and reports may include statistics, narratives, graphs, diagrams, and other related data. (Minimum retention: (a) Annual Reports: 50 years (b) Annual Plans: 20 years)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0075

County Health – Vital Statistics

(1) **Birth Abstracts Series** documents selected information abstracted from the birth certificate. The abstract may include name of the child and parent(s), sex of child, place and date of birth, residence address of parent(s), and alphabetical index. (Minimum retention: 2 years)

(2) **Birth Records Series** is used to record births occurring within the county. Series contains certificates, indexes, and other records listing births. Information contained in the records may include name of child, mother, and father, state of residence of parents, and name of physician or attendant. (Minimum retention: (a) Through 1915: Permanent (b) After 1915: retain

the original record 1 week, then send to the Oregon Health Division (c) After 1915: retain copies 6 months)

(3) **Death Abstracts Series** documents selected information abstracted from the death certificate. The abstract may include name of the decedent, place and date of death, name of the decedent's spouse, if any, and alphabetical index. (Minimum retention: 2 years)

(4) **Death Records Series** is used to record deaths occurring within the county. Series contains certificates, indexes, and other records listing deaths, including fetal deaths or stillbirths. Information contained in the records may include name, address, place of death, spouse, cause of death, attendant, date of death, date of birth, sex, race, and cemetery. (Minimum retention: (a) Through 1915: Permanent (b) After 1915: retain original record 1 week, then send to the Oregon Health Division (c) After 1915: retain copies 6 months)

(5) **Paternity Affidavits Series** establishes paternity by identifying the natural father of a child born out-of-wedlock. The affidavit includes the name, birthdate, and birthplace of child; name and birthdate of mother; name, birthdate, and state of birth of father; new name of child to appear on the birth certificate; signatures of mother and father; and certification with seal of notary. (Minimum retention: Transfer to Oregon Health Division)

(6) **Report and Abstract of Birth and Death Cards** Documents abstracted information from official death and birth certificates. Used for reference to requests for information about recent births and deaths. All information duplicated on official certificates held by the Health Division, Vital Statistics section. (Minimum retention: 2 years)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0080

County Juvenile Department Records

(1) **Delinquent Case Files, Adjudicated (Formal)** Series documents cases of minors who fall under the jurisdiction of the Juvenile Department because they have committed an act, which would be a criminal offense if done by an adult, and whose cases are adjudicated by the Juvenile Court. Records may include but are not limited to police reports, correspondence, formal accountability agreements, intake assessments, referrals from other agencies, school records, psychological evaluations, fingerprints, disposition records, counselor's record of client contact, social histories, card files, court reports, court orders, petitions and pleadings, risk assessments, referrals to residential placement centers, and related documentation. SEE ALSO Juvenile Temporary Custody Records in the Law Enforcement section. (Minimum retention: (a) Until court ordered expunction (ORS 419A.262) (b) If the crime is defined by ORS 419A.260(J): Retain until court ordered expunction (c) If case not expunged: Until the individual is 25 years of age and the case closed for 3 years)

(2) **Delinquent Case Files, Informal** Series documents cases of children who fall under the jurisdiction of the Juvenile Department, but whose cases have not been adjudicated by the Juvenile Court. Minors are referred to the department by the police if they have committed an act that would constitute a criminal offense if committed by an adult. Informal delinquent cases are those cases in which no official court action was taken and may include cases that were not legally sufficient to adjudicate and therefore no action was taken by the District Attorney. Records include but are not limited to police reports, correspondence, formal accountability agreements, intake assessments, referrals from other agencies, school records, psychological evaluations, fingerprints, victim restitution records. Supervision fee records are transferred to the offender's case file after the case has been terminated. SEE ALSO Juvenile Temporary Custody Records in the Law Enforcement section. (Minimum retention: (a) Until court ordered expunction (ORS 419A.262) (b) If case is not expunged: Until the individual is 18 years of age and the case has been closed for 3 years)

(3) **Dependency Case Files** Series documents cases involving children who have been placed in the custody and/or supervision of the State Office for Services to Children and Families by the Juvenile Court because of their welfare was endangered. Although the county Juvenile Department may not provide services, they maintain a file on the child for informational purposes, in case the child later becomes involved in criminal activities, or because the court directs the Juvenile Department to perform investigations such as home studies or custody studies. The Juvenile Department may act as liaison between the court and the State Office for Services to Children and Families for assisting in the legal intervention for the child. Records may include but are not limited to petitions, citizen review board reports, court reviews, legal correspondence from attorneys, working notes, related documentation, and correspondence. (Minimum retention: (a) Until

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court ordered expunction (ORS 419A.262) (b) If case is not expunged: Until case closed for 10 years or individual is 23 years of age)

(4) **Detention Use Reports** Series documents the use of detention facilities by the Juvenile Department. The log which tracks use of detention facilities is compiled monthly and may include but is not limited to the name of the youth, reason for detention, dates of detention and release, and the name of the probation officer assigned to the youth. Statistics are used for budgeting purposes and for reporting to the community and to the county commissioners. (Minimum retention: Until the individual is 18 years of age)

(5) **Informal Restitution Records** Series documents the payment of restitution to victims in informal cases involving children who fall under the jurisdiction of the Juvenile Department, but whose cases have not been adjudicated by the Juvenile Court. Records may include but are not limited to the name and address of the youth, name and address of the victim, amount owed, payment schedule, and related documentation. When the case is terminated, victim restitution records are placed in the offender's case file. (Minimum retention: 3 years after payment or deemed uncollectible)

(6) **Supervision Fees** Series documents payment of supervision fees paid by the youth to the Juvenile Department upon order of the court. Records include payment information and are transferred to the youth's case file when the case is terminated. (Minimum retention: 3 years after payment or deemed uncollectible)

(7) **Special Programs (Diversion Programs)** Series describes programs that are implemented by county juvenile departments that act as diversions to first and second time misdemeanor offenders. The programs are individual to each respective county department and may not exist in every county juvenile department. Programs may include but are not limited to assault diversion, trespass diversion, anger management and conflict resolution, work crew programs, victim offender mediation, and intake programs for low-risk offenders. (Minimum retention: Until the individual is 18 years old)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0085

County Museums and Historical Societies Records

(1) **Annual Reports** Series provides a record of the primary functional activities and accomplishments of the museum and historical society for the previous year. Reports may include narratives, statistics; graphs; diagrams; member lists; descriptions of programs; events and exhibits; and annual financial statements. (Minimum retention: Permanent)

(2) **Board Member Personnel Records** Series documents the appointment or election and subsequent personnel actions for board members. Records may include appointment letters, resumes, applications, personnel action forms, job descriptions, and employee data sheets. (Minimum retention: 10 years after final term expires)

(3) **Board of Director's Records** Series documents the activities and decisions of the board responsible for governing museum and historical society operations or for advising its operations. Records may include minutes, agendas, tape recordings, and Board Committee records. Records may also include constitution and by-laws, intergovernmental agreements, organization charts, draft and approved budgets. (Minimum retention: (a) Retain minutes, agendas, resolutions, indexes, and exhibits (not retained permanently elsewhere in agency records): Permanently (b) Retain audio or visual recordings: 1 year after minutes prepared and approved (c) Retain exhibits not pertinent to minutes: 5 years)

(4) **Committee Records** Series documents the activities, decisions, and reports of staff committees that oversee or advise programs or functions of the museum and historical society. Committees may include but are not limited to acquisitions, finance, membership, exhibits, education, and facility. Records may include committee agendas, minutes, proposed budgets, reports and correspondence. (Minimum retention: 10 years)

(5) **Copyright and Reproduction Records** Series provides a record of the activities, policies and procedures related to copyright ownership and reproduction of museum owned objects and publications, and of the museum's use of items owned by other organizations. Series also documents agreements with other parties for private or commercial use, reproduction, publication and sale of written materials and photographs of museum owned objects and publications. Records may include reproduction, resale and publication policies and procedures, contracts and agreements, use restriction forms, photograph release forms, photographic service request forms, requests for permission to reproduce or publish photographs or documents, fee schedules, correspondence, and work orders for purchase of

printed materials. (Minimum retention: (a) Fee schedules and work orders: 3 years (b) All other records: 5 years after superseded or expired)

(6) **Development Program Records** Series provides a record of administration of the museum and historical society development program. The development program raises funds and other resources for support of the organization and its programs through cultivation of individual, corporate, government and foundation support and special events. The program also develops, submits and reports on grants. Records may include publicity and promotion records, reports, budgets, grant records, fund raising event and project records, records of gifts in kind and financial donations, mailing lists, bulk mailing records, and correspondence. (Minimum retention: (a) Endowment records: 10 years after funds disbursed and account audited (b) All other records: 5 years)

(7) **Director's Records** Series provides a record of the administrative activities of the museum director such as executive leadership of the organization, financial and personnel management, policy development, budget development and approval, public contact and lobbying. Records may include correspondence, memos, policies, statistical and narrative reports, draft budget data, and financial reports. (Minimum retention: 5 years)

(8) **Exhibit Records** Series documents the planning, development, installation and maintenance of temporary and permanent on-site and off-site exhibitions, research of materials and objects, and publication of exhibits. Records may include exhibit contracts, design and installation records, permanent and temporary exhibit inventory listings, exhibit catalogs, photographs and slides, exhibit scheduling records, brochures, research records, price lists, and correspondence. (Minimum retention: (a) Brochures, exhibit catalogs, installation photographs and slides, and inventory lists: Permanent (b) All other records: 10 years after exhibit ends)

(9) **Loans and Collections Insurance Records** Series documents insurance coverage as part of risk management for museum collections and loan objects. Records may include insurance policies, riders, certificates of insurance, correspondence, damage and loss claims, and reports. (Minimum retention: (a) Damage loss and claim records: 5 years after claim paid and resolved (b) All other records: 5 years after superseded or expired)

(10) **Member Records** Series documents administration of the museum and historical society's membership program and the status of its membership. Records may include publicity and promotion records, individual member records, membership rosters, reports, membership drive records, mailing lists, address changes, bulk mailing records, and correspondence. (Minimum retention: (a) Individual member records: 5 years after membership ends (b) Address changes: until entered and verified (c) All other records: 5 years)

(11) **Permanent Collection Records** Series documents the accession, use, care, maintenance, storage and disposition of objects in the permanent collection. Series also provide a record of deaccession of objects no longer in the collection. Records may include acquisition and deaccession policies and procedures, appraisal and authenticity records, accession and catalog worksheets, hardcopy and/or electronic catalog records, accession records, deaccession records, deeds of gift, donor records, temporary custody receipts, inventory and location records, condition/conservation records, photographs of objects, conservation records, collections use records, and library shelf lists and finding aids. (Minimum retention: (a) Catalog worksheets: until entered in catalog records and verified (b) Inventory and location records: until superseded or obsolete (c) Temporary custody receipts: until accessioned, or disposition of object (d) All other records: Permanent)

(12) **Research Inquiry and Response Records** Series provides a record of research requests received and responses made to them by museum staff. Records may include written or electronic inquiries and responses. Information may include name of researcher, subject of inquiry or request, and reply. (Minimum retention: 1 year)

(13) **Temporary Loan Records** Series documents the processing and documentation of incoming objects loaned from outside sources and objects being loaned out from the permanent collection. Records may include policies and procedures, loan requests and agreements, facilities reports, insurance records, descriptions of objects received or loaned out, inspection and conditions reports, acknowledgments and receipts, lender lists, photographs and videotapes of objects, inventory listings, deeds of gift, packing and shipping records, damage reports, and insurance reports. Records may also include U.S. and foreign customs forms. (Minimum retention: (a) Policies, procedures and facility reports: 2 years after superseded or obsolete (b) All other records: 5 years after object returned or insurance claim paid)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

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166-150-0090

County Veterans Service Offices Records

(1) **Contact and Inquiry Index Records** Series used to assign, track and retrieve information about claimants seeking veterans' benefits through county Veterans Services Officers. Some contacts do not result in formal action. Records consist of index cards or information sheets, or an electronic index. Information may include veteran's name, birth date, social security number, service number, claim numbers, date file started, dates actions performed, power of attorney designee, beneficiaries names, file status (active/inactive), death date, date file closed and related information. (Minimum retention: 10 years after final case activity)

(2) **Death Certificates** Series provides a record of the death of a veteran and is used to help determine eligibility of heirs and dependents for veterans benefits and to provide copies to heirs and dependents and for reference. Records include copies of death certificates which show deceased name, certificate number, date of birth, date and location of death, cause of death, and certifying signatures. Records may be kept separately or in Veterans Case Files. (Original State of Oregon Death Certificates are at the Oregon Health Division.) (Minimum retention: 20 years)

(3) **Military Discharge Records** Series used to verify and document a veteran's discharge from military service and to determine eligibility to apply for veterans' benefits. Records consist of DD 214 forms and a manual or electronic index. Information includes name, service dates, branch, military history, service number, birth date, Social Security Number, discharge terms, and related information. Records may be kept separately or in Veterans Case Files. (Minimum retention: 75 years after discharge)

(4) **Statistical Reports** Series documents activity levels for various services provided to veterans. Records are used to report to state and federal veterans' departments, county commissioners and others, to prepare budgets, and for research. Records consist of statistical reports. Information may include various categories of services and numbers of activities performed, such as phone, mail and in person inquiries, office visits, home and nursing home visits, interviews, files opened/closed, claims filed, counseling provided and referrals. (Minimum retention: 10 years)

(5) **Veterans' Case Files** Series used to document activities and services performed for veterans and their dependents, heirs and beneficiaries. Series also provides a record of documentation received regarding the eligibility of veterans for state and federal benefits. Records may include but are not limited to interview worksheets; biographical and service information about the veteran and family; interview and contact records (file face sheets); military, Veterans Administration, and civilian medical records; copies of applications and claim forms; military service records including form DD 214s; income verification; residence verification; release authorizations; medal award forms; state and federal benefits award and denial notices; VA claims deadlines sheets; inquiry status sheet; transmittal sheets; copies of service records; copies of marriage and death certificates; loan records; and correspondence. (Minimum retention: (a) DD214s: 75 years after discharge (b) Death Certificates: 20 years (c) Service and medical records: 20 years (d) All other records: 10 years after last activity)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0095

District Attorney Records

It should be noted that the District Attorney in each Oregon County is an official employee of the State. Due to the status of the District Attorney position, the State Archives would recommend utilizing the State General Records Retention Schedule for all financial records produced in county District Attorney offices.

(1) **Attorney General Opinions** Records document Attorney General Opinions and attorney's letters of advice. Records may include but are not limited to requests for opinions; opinions; letters of advice; copies of legislative bills, statutes, and administrative rules; and correspondence. The Department of Justice maintains the statewide record copy of Attorney General Opinions. (Minimum retention: 5 years)

(2) **Case or Docketed Files Records** document criminal cases tried and filed by the District Attorney for the county. Records may contain but are not limited to police reports, copies of court documents, computerized criminal histories, District Attorney notes, court exhibits, and related correspondence. Information may include defendant's name, date of birth, address and social security number; victim's name, date of birth, address and social security number; and description of the crime and crime scene. (Minimum retention: (a) Retain cases of murder, treason, or Class A felony, with a judgment of guilty: 60 years or 3 years after sentence expires, whichever is longer (b) Retain all other felonies, with a judgment of guilty:

3 years after sentence expires (c) Retain felony cases, dismissed or with judgment of not guilty: 3 years (d) Retain misdemeanor cases: 3 years after termination (e) Retain violation cases: 1 year after termination (f) Retain support enforcement cases: 3 years after all support paid)

(3) **Civil Forfeiture and Asset Seizure Files Records** document cases involving seizure of assets for civil forfeiture. Records contain police reports, District Attorney notes, legal pleadings and notices, descriptions and pictures of property and/or cash, and Asset Forfeiture Oversight Advisory Committee forms and reports. Records may contain information regarding the incident leading to seizure, owner's and interested parties' personal information, and statistical and budget information. (Minimum retention: 5 years)

(4) **Denied Prosecution Files** Series documents correspondence between District Attorney's office and an outside investigative agency (police department) concerning the inability to prosecute cases based on a lack of evidence. These documents are generated in response to police investigations and consist mainly of correspondence and case descriptions. (Minimum retention: 1 year)

(5) **District Attorney Opinions** Series documents official recommendations, advice or opinions of the District Attorney issued to local officials. Records may include requests for opinions, opinions, letters of advice, and grand jury notes. Topics may include establishment, modification or discontinuance of policies or services, and studies, plans, research, or discussions of facilities, services, or issues in the criminal justice system. (Minimum retention: Permanent)

(6) **Grand Jury Records** Series describes the documents produced by the Grand Jury in relation to individual cases. The records document the progress and deliberations within the grand jury. Grand Jury Proceedings may include notes, votes, subpoenas, and dockets. These records are not released into the general criminal files and are retained separately from the respective criminal files. (Minimum retention: (a) Retain notes, votes, and dockets: 10 years (b) Retain subpoenas and member lists: 1 year)

(7) **Grand Jury Reports** Series documents reports filed by the grand jury at the completion of the mandated tours of public institutions and courts. ORS 132.440 requires that the grand jury inquire into the condition and management of every correctional and juvenile facility in the county as defined in ORS 162.135 at least once a year. Information may include tour date, facility name, and any findings of the grand jury. (Minimum retention: (a) Retain reports not filed with the courts: 20 years (b) Retain reports filed with the court: 2 years)

(8) **Indictment Returned Lists** Series documents lists of grand jury indictments returned, schedules of people awaiting grand jury hearings, or cases pending hearings or trial. Information may include names of people awaiting hearings, and names of cases pending or of returned indictments. (Minimum retention: 2 years)

(9) **Investigation Files Records** document criminal cases investigated, but not tried, by the District Attorney. Records may contain but are not limited to police reports, computerized criminal histories, District Attorney notes, grand jury notes, and related correspondence. Information may include suspect's name, date of birth, address and social security number; victim's name, date of birth, address and social security number; and description of the crime and crime scene. (Minimum retention: (a) Retain cases of murder or treason: Permanent (b) Retain class A felony cases: 25 years (c) Retain class B felony cases: 10 years (d) Retain class C felony cases and support enforcement cases: 5 years (e) Retain accident and death investigations: 3 years (f) Retain misdemeanor cases: 2 years (g) Retain violations cases: 1 year)

(10) **Mental Commitment Hearing Files** Records document cases involving incidents or possibly crimes involving mentally ill persons. Records may include police reports, mental health evaluations and referrals, legal pleadings, commitment orders, District Attorney notes, subpoenas, and correspondence. Information may include person's personal information, a victim's personal information (if applicable), and/or witness information. (Minimum retention: 5 years)

(11) **MultiDisciplinary Team Records** Records document the activities and management of the county Multi-Disciplinary Team (MDT). Respective MDTs may have members from city, county, or state agencies. Records may include grant and account records, meeting minutes, annual reports and budgets, member lists, interagency agreements, and correspondence. (Minimum retention: 5 years)

(12) **Official Business Register** Series documents the scheduling and status of actions, suits, or legal proceedings involving the District Attorney. Information may include names of individuals or cases, dates or court events, grand jury dockets, and cases scheduled. (Minimum retention: 25 years)

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(13) **Public Records Disclosure Request** Records Series documents public appeals to the District Attorney when initial requests for access to public documents was initially denied. Records may include but are not limited to requests for disclosure, types of records requested, request logs, notation of transfer to another district, approvals, denials, copies of petitions to the District Attorney for review of disclosure denials, District Attorney Orders to grant or deny disclosure, correspondence, and related documentation. (Minimum retention: (a) Approved requests: 2 years (b) Denied requests: 2 years after last action)

(14) **State Breathalyzer Permits** Series documents the maintenance of copies of the state breathalyzer permits issued to local law enforcement personnel by the state to perform breathalyzer tests. Information includes name of individual permit issued to, date of issuance, and expiration date. (Minimum retention: Retain most current copy)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0100

Emergency Management Records

(1) **Alert and Notification Records** Records documenting any written emergency warnings/notifications issued by the county, the Oregon Emergency Management Division, National Oceanic and Atmospheric Agency (NOAA), or the Federal Emergency Management Agency (FEMA). Subjects may include landslides, earthquakes, windstorms, floods, fires, and other hazards. (Minimum retention: 30 days)

(2) **Civil Preparedness Guidance (CPG) and State and Local Guide (SLG) Records** Records issued by the Federal Emergency Management Agency (FEMA) to provide guidance to state and local agencies on appropriate elements of emergency management programs. These guidelines (known as CPGs or SLGs) provide mandatory policies and procedures for federally funded emergency management programs. (Minimum retention: Until superseded or obsolete)

(3) **Disaster Preparedness Planning and Recovery Records** Records documenting plans and procedures for the continuity of government in case of a major disaster which has destroyed or compromised the operations of the agency. Components of the recovery plan include but are not limited to physical plant repair and restoration; equipment restoration; electronic data restoration including steps to reload data, recover data, and reconnect networks; reestablish telephone connections; essential records protection; and related procedures and needs dealing with risk management, public relations, and financial issues. (Minimum retention: Until superseded or obsolete)

(4) **Emergency Exercise Records** Records documenting emergency training exercises performed on a regular basis, as required by the State and Local Assistance and Emergency Management Assistance Programs. Documentation usually includes statements of purpose, scenario narratives, major and detailed sequences of events, messages and inputs (simulation material), evaluation points, critique and follow-up actions reports, lists of players, and names of controllers and evaluators. (Minimum retention: 4 years after annual or final expenditure report submitted)

(5) **Emergency and Disaster Incident Records** Records documenting actions taken with respect to emergency planning and response activities during and after emergency incidents. Used for planning, analysis, and reference. Types of incidents may include floods, storms, hazardous material releases, fires, public utility failures, earthquakes, and others. Records often include photographs, damage reports, response reports, incident action plans, resource ordering and tracking records, financial documentation, logs, messages, notes, and related documents. (Minimum retention: (a) Designated or declared emergencies: Permanent (b) Non-designated emergencies: 5 years)

(6) **Emergency Management Assistance Activity Reports** Reports documenting the agency's emergency management work plan. These are created on a quarterly basis as required by the Federal Emergency Management Agency (FEMA). The reports provide a narrative of emergency management program elements that were accomplished annually, along with supporting documentation (samples of completed work). Subjects include personnel, equipment, current projects, progress reports, training, and others. (Minimum retention: 3 years after annual or final expenditure report submitted)

(7) **Emergency Management Assistance Staff Pattern Records** Records documenting the agency's personnel involved in the emergency management program. It is submitted annually to the Oregon Emergency Management Division and is the basis for determining eligibility for funded staffing support for Emergency Management Assistance jurisdictions. Records include appropriate Federal Emergency Management Agency

(FEMA) forms and related documents. (Minimum retention: 3 years after annual or final expenditure report submitted)

(8) **Emergency Operations and Management Plans Records** documenting the development, implementation, and updating of emergency operations and management plans. The plans are required by the federal government as part of a Comprehensive Cooperative Agreement (CCA) and must be reevaluated and updated at least every four years. Records often include adopted plans, notes, outlines, drafts, correspondence, and related documents. SEE ALSO Disaster Preparedness Planning and Recovery Records in this section. (Minimum retention: (a) Adopted plans: Until superseded or obsolete (b) Other records: 3 after annual or final expenditure report submitted)

(9) **Hazard Analysis Records** Records documenting potential natural and manmade hazards in an area. The Federal Emergency Management Agency (FEMA) requires documentation for federally funded Emergency Management Assistance jurisdictions. Types of hazards include earthquakes, droughts, fires, floods, nuclear incidents, and others. Records include government forms and related documents. Information includes geographic descriptions of locations, definitions of hazards, vulnerability identifications, hazard histories, potential maximum threats, probabilities, and related data. (Minimum retention: 30 years)

(10) **Hazard Shelter Records** Records documenting the condition of buildings designated to be used as hazard shelters in case of emergency. Used for emergency planning and reference. Records may include documents issued by federal and state emergency management agencies, as well as related materials such as sketches and photographs. Information usually includes address, building name, structural dimensions, building composition, potential occupancy, inspection results, and related data. (Minimum retention: Until superseded or obsolete)

(11) **Public Education Program and Publications Records** Records related to the design and implementation of emergency management educational and outreach programs and presentations provided to the public by the agency. Often includes class descriptions, instructional materials, course outlines, class enrollment and attendance records, reports, speeches, audio-visual records, brochures, pamphlets, booklets, newsletters, and related documents. (Minimum retention: (a) Reports, booklets, newsletters, and speeches: Permanent (b) Brochures, pamphlets, and leaflets: Until superseded or obsolete (c) Retain program development records: 5 years (d) Retain class enrollment and attendance records 2 years (e) Retain other records: 1 year)

(12) **Resource Lists, Emergency Management** Lists documenting emergency resources such as manpower, equipment, supplies, and services. Includes names, daytime and nighttime phone numbers, and addresses of suppliers and vendors as well as contact names. (Minimum retention: Until superseded or obsolete)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0105

Equipment and Property Records

(1) **Building Records** Series documents building configuration and may also document real property equipment installed, hazardous chemicals used, radiation hazards housed in the building, and emergency response procedures. Records may include asbuilts, remodeling, major repair, and engineering blueprints, chemical identification data, and safety materials such as copies of Material Safety Data Sheets (MSDS). (Minimum retention: Life of structure)

(2) **Damaged/Stolen Property Records** Used to prepare reports relating to damaged or stolen property. Records may include yearly risk report, restoration fund inventory report, policy manual, property transfer report, self-insurance manual, real property report, money and negotiable securities report and a general risk survey. (Minimum retention: 4 years)

(3) **Deed Instruments** Documents conveyance or encumbrance of an interest in real property. May include deeds; condominiums, plats, and partition plants; leases; contracts; easements; covenants, conditions, restrictions; options, and affidavits. Depending on local filing practices, this series also may be included as part of the County Clerk's Public Recordings. (Minimum retention: (a) Retain Instruments recorded as part of County Clerk's Public Recordings: until property no longer owned by the agency (b) Retain Instruments not recorded with the County Clerk: Permanently)

(4) **Deeds to Agency-Owned Land** Recorded evidence of agency ownership of public lands and right-of-ways. Exhibits may include maps and legal descriptions, title transfers, and significant related correspondence. Information typically includes a description of property, signatures of previous owner and agency representative, and date of transfer.

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Depending on local filing practices, this series also may be included as part of the County Clerk's Public Recordings. (Minimum retention: 3 years after property is no longer owned by the agency)

(5) **Easements** Recorded grants by property owners to the agency for use of private property for public uses. Examples consist of street, utility, bikeway, sewer, storm drain, and landscaping easements. May include maps or other exhibits. Information includes property owner's name and signature, location of property, type of easement, terms, and date of signing. Depending on local filing practices, this series also may be included as part of the County Clerk's Public Recordings. (Minimum retention: (a) Retain Easements recorded as part of County Clerk's Public Recordings: until property no longer owned by the agency (b) Retain Easements not recorded with the County Clerk: Permanently)

(6) **Fuel Records** Records documenting the amount of gasoline, diesel, and oil used by agency-owned vehicles. Often includes logs, reports, and related documents. (Minimum retention: 2 years)

(7) **Equipment Calibration Records** Records documenting the maintenance and calibration of equipment and instruments used to undertake and monitor technical operations. Useful to verify equipment reliability and for reference by regulatory agencies. May include logs, reports, and related records. Information often includes date, type of equipment maintained or calibrated, tests performed, repairs needed, comments, and related data. (Minimum retention: Life of equipment)

(8) **Equipment Maintenance Records** Records may include purchase orders, lease agreements, warranties, vendor statements, service contracts, charge call bills, fax activity reports, property disposition requests, invoices for equipment repair, purchase request forms, and memoranda. SEE ALSO Vehicle Maintenance Records in this section. (Minimum retention: 1 year after equipment disposed of)

(9) **Property Dedication Records** Recorded dedication of private property for public uses such as transportation facilities (streets, sidewalks, bikeways) and parks. May include dedication agreements, maps, correspondence, and important related materials. (Minimum retention: Permanent)

(10) **Property Disposition Records** Records documenting disposition of agency-owned non-real property, usually through public auction, competitive bidding, or destruction. Information often includes date, department, description of item, value, disposition, reason for disposition, condition, and authorization. SEE ALSO Real Property Transaction Records in this section and Grant Records in the Financial Records section for documents related to the disposition of real property. (Minimum retention: 3 years after disposition of property)

(11) **Property Vacation Records** Recorded property vacations, including streets, alleys, easements, public utilities, subdivisions, and right-of-ways. May include petitions to vacate, maps, descriptions of property, staff reports, approval orders, and related significant correspondence. (Minimum retention: Permanent)

(12) **Real Property Transaction Records** Records documenting acquisitions, dispositions, and reallocations of real property and right-of-ways by the agency for urban renewal projects, parks, sewers, streets, water lines, traffic signals, and other reasons. Records may include offer letters, options, agreements of short duration, staff reports, appraisal reports and reviews, inspection reports, letters of transmittal, summaries, and related records. SEE ALSO Deeds to Agency-Owned Land in the Clerk – Recording section. (Minimum retention: 10 years after substantial completion)

(13) **Technical Manuals Specifications, and Warranties** Owners manuals and warranties for agency-owned vehicles and equipment. Manuals often include specifications, operating instructions, and safety information. Warranties include terms of coverage for repair or replacement of equipment. (Minimum retention: (a) Manuals: Until disposition of vehicle or equipment (b) Warranties: Until expiration)

(14) **Vehicle Maintenance and Repair Records** Records document the maintenance and repair history of all agency-owned vehicles. Records may include reports, summaries, and similar records usually compiled from daily work records on a monthly or quarterly basis. Information often includes a description of work completed, parts and supplies used, date of service, date purchased, price, vehicle number, make and model, and other data. SEE ALSO Contracts and Agreements in the Administrative Records section for contract records related to private companies maintaining and repairing agency-owned vehicles. SEE ALSO Daily Work Records in the Public Works-Operations and Maintenance section and Work Orders in this section. (Minimum retention: 2 years after disposition of vehicle)

(15) **Vehicle Title and Registration Records** Records documenting ownership and registration of all agency vehicles with the Oregon Division

of Motor Vehicles. (Minimum retention: (a) Retain titles until vehicle is sold or disposed of (b) Retain registration records until superseded or disposition of vehicle)

(16) **Vehicle Usage and Expense Records** Records documenting usage and expenses associated with agency-owned vehicles. Used for maintenance, budgeting, and planning. Information may include vehicle number, make, and model, beginning and ending mileage, driver's name and signature, fuel used, repairs needed, and other data. (Minimum retention: 3 years)

(17) **Waivers of Remonstrance** Agreements made by private citizens/property owners to forego their rights to remonstrate (oppose/protest) against certain agency actions in exchange for other considerations. Often relates to the extension of water or sewer service beyond certain areas that later may be annexed or formed into local improvement districts. Waivers usually include name and signature of grantor, location of property, purpose of document, date, and signature of agency representative. (Minimum retention: 6 years after expiration)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0110

Financial Records

(1) **Accounts Payable Records** Records documenting payment of agency bills for general accounts excluding grants. Includes reports, invoices, statements, vouchers, purchase orders, payment authorizations, receipt records, canceled checks or warrants, and similar records. SEE ALSO Grant Records in this section for records documenting expenditure of grant funds. (Minimum retention: 3 years)

(2) **Accounts Receivable Records** Records documenting revenues owed to the agency by vendors, citizens, organizations, governments, and others to be credited to general accounts excluding grants. Also documents billing and collection of moneys. May include reports, receipts, invoices, awards, logs, lists, summaries, statements, and similar records. Information often includes, receipt amount, date, invoice number, name, account number, account balance, adjustments, and similar data. SEE ALSO Grant Records in this section for records documenting receipt of grant funds. (Minimum retention: 3 years after collected or deemed uncollectible)

(3) **Administrative and Financial Improvement Records** Records documenting the non-technical and financial administration of assessable and non-assessable county improvements including capital improvements, local improvement districts (LID), urban renewal, and economic improvement districts. Records often include affidavits of posting, notices or proposed assessment, certificates of mailing, interested party letters, bid quotes, reports, and awards, expense reports, purchase orders, requisitions, cost analyses, construction and maintenance bonds and insurance, and related administrative and financial records not located elsewhere in this schedule. SEE ALSO Assessment Dockets, Ledgers, and Registers; Bond Authorization Records; and other record series in the Financial section for records documenting legislative actions such as resolutions of intent to assess and ordinances for improvements. (Minimum retention: (a) Retain records of project cost: 3 years after disposal or replacement of facility, structure, or system (b) Retain all other improvements 10 years after substantial completion (as defined by ORS 12.135(3)))

(4) **Audit Reports, External** Records documenting annual audits of the financial position of the agency conducted by external auditors in accordance with statutory requirements described in ORS 297.405 through 297.555. Subjects include accounting principles and methods, the accuracy and legality of transactions, accounts, etc., and compliance with requirements, orders, and regulations of other public bodies pertaining to the financial condition or operation of the agency. Information includes accountant's summary, combined financial statements, schedules, balance sheet details, comments, recommendations, and related data. SEE ALSO Internal Audit Records in the Administrative section. (Minimum retention: Permanent)

(5) **Balance Status and Projection Reports** Reports created for internal use documenting the status of funds, bank accounts, investments, and other accountings of agency funds. Includes budget allotment and fund reconciliation reports. Also includes projection records related to future receipts and disbursements. Reports are generated on a daily, weekly, monthly, quarterly or similar basis. Information includes date, account balances, type and summary of activity, and related data. (Minimum retention: 3 years)

(6) **Competitive Bid Records** Records documenting the publicizing, evaluation, and awarding of quoted bids to vendors and other individuals or organizations. Records may include RFP's and RFI's and provides record-

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ed evidence of accepted and rejected bids. May include bid exemption documents, bid and quote lists, notices of bid opening and award, comparison summaries, spreadsheets, tabulation worksheets, bid advertising records, tally sheets, bid specifications, correspondence, and related records. SEE ALSO Purchasing Records in this section. (Minimum retention: (a) Retain accepted bids 10 years after substantial completion (as defined by ORS 12.135(3)) (b) Retain other accepted bids: 6 years after bid awarded or canceled (c) Retain rejected bids and bid exemptions: 2 years)

(7) **Bond Records (Employee)** Records documenting the posting of fidelity, performance, or position bonds to guarantee the honest and faithful performance of elected officials, individual employees, or groups of employees. Details of bonds vary, however information usually includes name and position(s) of individual or group, amount of coverage, effective and expired dates, and related data. (Minimum retention: 6 years after expiration)

(8) **Budget (Adopted) Records** Documenting the final annual financial plan approved by a governing body for all agency expenditures. Information may include budget message, financial summaries, revenues and expenditures, operating programs, debt service, position and wage analysis, overhead allocations, organization charts, previous actual and budgeted amounts, and related data. Duplicate copies should be retained as needed. (Minimum retention: (a) County budgets filed with the County Clerk: Permanent (b) Special district and other budgets: 2 years)

(9) **Budget Preparation Records** Records documenting the preparation of department budget requests presented to the specified governing body. May include staff reports, budget instructions, worksheets, surveys, allotment reports, spending plans, contingency plans, budget proposals, financial forecasting reports, and similar records. (Minimum retention: 2 years)

(10) **Correspondence, Financial** Correspondence, memoranda, and similar records which add significant information about the financial status of the agency. May be useful for audits or for recovering money owed to the agency. Includes letters sent and received, memoranda, notes, and related records. SEE ALSO Grant Records in this section for correspondence documenting grant funds and Correspondence, General in the Administrative section for records that do not add significant information about the financial status of the agency. (Minimum retention: (a) Accounts receivable correspondence: 3 years after collected or deemed uncollectable (b) Other correspondence: 3 years)

(11) **Credit Slips** Slips issued to citizens who have withdrawn from agency-sponsored classes or activities and are due credit for all or part of fees paid. Information usually includes name of class or activity, date, expiration date, name and address of citizen, and related data. (Minimum retention: 3 years after credit expired or redeemed)

(12) **Financial Impact Analysis Records** Records documenting the financial analysis of various agency practices. Useful for planning future budget proposals. Records include reports, studies, worksheets, and similar records. Subjects may include the impact of specific ballot measures, proposals to increase permit fees, sick leave use analysis, and the agency's relationship with various utilities. (Minimum retention: 3 years)

(13) **Financial Reports** Reports documenting the general financial condition and operation of the agency. Includes information on the value of all agency owned property and an accounting of all income and expenditures in relation to the final budget. Records may include monthly, quarterly, annual and similar reports. (Minimum retention: (a) Annual reports: Permanent (b) Other reports: 3 years)

(14) **General Ledgers Records** documenting the summary of accounts reflecting the financial position of the agency. Information often includes debit, credit, and balance amounts per account, budget, fund, and department numbers, and totals for notes receivable, interest income, amounts due from other funds, federal grants received, bank loans received, cash in escrow, deferred loans received, cash, encumbrances, revenue, accounts receivable, and accounts payable, as well as other data. (Minimum retention: (a) Year end ledgers: 10 years (b) Other general ledgers: 3 years)

(15) **Gift and Contribution Records** Records documenting gifts and contributions given to the agency by sources outside of government. Records may include memorial donation records related to money to be used by the agency in the name of an individual. Often contains donor and acknowledgement letters, acquisition lists itemizing purchases with contributed money (books, art, equipment, etc.) checks, receipts, and related records. (Minimum retention: (a) For retention of conditional gift, contribution and donation records: see Contracts and Agreements in the Administrative Records section (b) Retain other records: 3 years)

(16) **Grant Records** Records document the application, evaluation, awarding, administration, monitoring, and status of grants in which the

agency is the recipient, grantor, allocator, or administrator. Grants may come from federal or state governments or foundations or other funding sources. Records may include but are not limited to applications including project proposals, summaries, objectives, activities, budgets, exhibits, and award notification; grant evaluation records and recommendations concerning grant applications; grant administration records including progress reports, budgets, project objectives, proposals, and summaries; records documenting allocation of funds; contracts; records monitoring project plans and measuring achievement; equipment inventories; financial reports, accounting records, audit reports, expenditure reports, and related correspondence and documentation. (Minimum retention: (a) Retain final reports from significant grants to the county: Permanently (b) Retain records documenting the purchase and/or disposal of real property: 10 years after substantial completion (as defined by ORS 12.135(3)), or 3 years after final disposition, or as specified in agreement, whichever is longer (c) Retain other grant records: 3 years after annual or final expenditure report submitted and approved or, as specified in agreement, whichever is longer (d) Retain unsuccessful grant applications: 1 year after rejection or withdrawal)

(17) **Improvement Records, Administrative and Financial** Records documenting the non-technical and financial administration of assessable and non-assessable agency improvements including local improvement districts and economic improvement districts. Records often include affidavits of posting, notices of proposed assessment, certificates of mailing, interested party letters, bid quotes, reports, and awards, expense reports, purchase orders, requisitions, cost analyses, construction and maintenance bonds and insurance, and related administrative and financial records not located elsewhere in this schedule. (Minimum retention: (a) Assessable improvements: 10 years after substantial completion or 3 years after final payment of assessment by property owner, whichever is longer (b) Non-assessable improvements: 10 years after substantial completion)

(18) **Inventory Records** Inventory records documenting the capitalized assets and expendable property of the agency. Examples of capitalized assets may include but are not limited to buildings, real estate, infrastructure assets, vehicles, equipment, and furniture. Examples of expendable assets include office supplies and other small, office purchases. Information often contains asset number, description, purchase order number, location of asset, date received, purchase price, replacement cost, depreciation, and related data. This record series applies to routine control inventories. SEE ALSO Grant Records for inventories of property purchased with grant funds. For inventories documenting other special uses, see Historic Structure Inventory Records in the Planning and Development section; Bridge Inspection Records in the Public Works-Engineering section; and Property and Evidence Control and Disposition Records in the Law Enforcement section. (Minimum retention: (a) Retain records of capitalized assets: 3 years after disposal or replacement of asset (b) Retain records of expendable property: 3 years or until superseded, whichever is longer)

(19) **Petty Cash Fund Records** Records document petty cash activity for the agency. Records include requests and authorizations to establish petty cash funds, ledgers, statements, requests for disbursements, copies of receipts and invoices. (Minimum retention: 3 years)

(20) **Purchasing Records** Records documenting orders, authorizations, and evidence of receipt of the purchase of goods and services by the agency. Includes purchase orders and requests, purchase authorizations, requisitions, contract release orders, material and cost specifications, central stores or printing orders, telephone service orders, and similar records. SEE ALSO Competitive Bid Records in this section; and Grant Records in this section for records documenting expenditure of grant funds and Improvement Administrative and Financial Records in this section for related purchasing records. (Minimum retention: 3 years)

(21) **Signature Authorization Records** Records documenting the authorization of designated employees to sign fiscal and contractual documents. Useful as an aid for management control over expenditures. Information usually includes authorization date, name, sample signature, position, remarks, conditions, and related data. (Minimum retention: 6 years after authorization superseded or expired)

(22) **Subsidiary Ledgers, Journals, and Registers** Records documenting details of transactions such as those related to receipts and expenditures on a daily, monthly, quarterly or similar basis. Includes journals, ledgers, registers, day books, and other account books that provide backup documentation to the general ledger. May include details of revenues, expenditures, encumbrances, cash receipts, warrants, and others. Information often includes date, payee, purpose, fund credited or debited, check number, and similar or related data. SEE ALSO Grant Records in this section for records documenting transaction of grant funds. (Minimum

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retention: (a) Year end payroll register: 75 years (b) Trust fund ledgers: 3 years after trust fund closed (c) Other subsidiary ledgers, journals, and registers: 3 years)

(23) **Travel Records, Employee Records** documenting requests, authorizations, reimbursements, and other actions related to employee travel. Includes expense reports and receipts, vouchers, requests, authorizations, and related documents. Retention applies to private vehicle usage as well. Information often includes estimated costs, prepayments, final costs, destination, method of transportation, travel dates, approval signatures, and related data. (Minimum retention: 3 years)

(24) **Vendor Lists** Lists documenting vendors providing goods and services to the agency. Information usually includes vendor name of person or company, address, and phone number, name of contact person, as well as a description of goods or services provided. (Minimum retention: Until superseded or obsolete)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0115

Fire and Emergency Medical Services

(1) **Activity Reports, Fire and Emergency Medical Services (EMS)** Individual Shift, project, or other activity reports or logs filed on a daily, weekly, monthly, or similar basis. Useful for reference, performance monitoring, compiling annual reports, planning and budgeting, and briefing subsequent shifts. Information usually includes name, shift, date, description of activities, and various statistical categories for tracking department emergency responses, training, public outreach, inspections, maintenance, and other work. (Minimum retention: 2 years)

(2) **Ambulance Licensing Records** Records documenting application by the agency to the Oregon Health Division for licenses to operate ambulances. May also include records related to applications submitted to the agency by private ambulance services for operation in areas that have ordinances regulating ambulance services as defined in ORS 823.220. Records often include applications, licenses, affidavits of compliance, certificates of insurance, bonds, and related documents. Information includes name and address, person, or company, and a description of the ambulance, including make, year, registration number, as well as related data. (Minimum retention: 2 years after denial, revocation, or expiration)

(3) **Automobile Display Permits** Permits issued to allow the display of automobiles or any vehicles which carry fuel inside public or commercial buildings. Permits usually include date of display or expiration date, location, name, address, and telephone number of person or organization requesting the permit, conditions related to the display, comments, and other information. (Minimum retention: 2 years after permit denied, revoked or expired)

(4) **Base Camp Expenditure Records** Series documents expenses incurred for operation of base camps. Used to monitor costs of operations and for budget preparation. Contains base camp cost report, unit operational cost report, base camp/food service report, recorder food supplies and staples report, and related records. Includes date, unit, items requested, quantity purchased, cost, and related information. (Minimum retention: 4 years)

(5) **Burning Permits** Permits issued to individuals for open air burning within the area serviced by the agency fire department. Information may include name, phone number, address, amount and location of burn, fire protection equipment and conditions required, date, and signatures of permittee and issuing officer. (Minimum retention: 2 years after denial, revocation, or expiration)

(6) **Emergency Equipment Procurement Case Records** Series is used to record information on the use of civil defense equipment from the federal government by the county. Contains loan agreement, project application, procurement agreement, transfer order, and transfer report. Includes date, type of equipment, equipment numbers, location, reason for loan, maintenance information, and related information. (Minimum retention: 3 years after equipment returned or disposed of)

(7) **Emergency Medical Incident Records** Records documenting services provided by the agency fire and emergency medical services department to sick or injured people. May include pre-hospital care reports, medical aid liability release forms, and related documents. Information often includes name and address of patient, location of incident, description of illness or injury, actions taken, and related data. (Minimum retention: 10 years)

(8) **Explosives Storage and Use Permits** Records documenting the issuance of permits authorizing the use of explosives for construction and demolition projects, fireworks, theatrical pyrotechnics, and other applica-

tions. Records may include permits, applications, insurance verifications, and related documents. Information often includes name and address of permittee, location of use, amount and type of explosives used, conditions, and related data. (Minimum retention: 2 years after permit denied, revoked, or expired)

(9) **Fire and Security Alarm System Records** Records documenting the agency fire department role in issuing permits, testing, and maintaining fire and security alarms that connect to an agency alarm system. May include permits, applications, malfunction reports, maintenance reports, and related documents. Permit information often includes name and address of property owner, name and address of company installing the system, permit number, alarm location, and date. Maintenance information often includes date, malfunction (if any), tests conducted, corrective actions taken, location of alarm, and related data. (Minimum retention: (a) Permit records: 2 years after expiration (b) Other records: 2 years)

(10) **Fire Investigation Records** Records documenting investigations conducted by the agency fire department. May include investigative reports, supplemental reports, photographs, maps, drawings, correspondence, memoranda, laboratory reports, notes, and other significant related records. (Minimum retention: (a) Records documenting fires involving loss of life: 75 years (b) Other records: 10 years)

(11) **Fire Reports Reports** documenting each fire responded to by the agency fire department. These reports are required by the State Fire Marshal. Subjects include cause, casualties, and property loss. Information includes date, run number, location of fire, weather conditions, owner's name and address, property damage, loss estimate, and other data. Includes additional reports if injuries occurred. (Minimum retention: 10 years)

(12) **Grass and Weed Control Records** Records documenting agency enforcement of regulations designed to help prevent fires caused by overgrown grass, weeds, or shrubs. May include complaints, inspection reports, notices, violations, contractor mowing bills, receipts, and related records. Information includes name of property owner, address of property, name of complainant, date and expiration of notice, name of fire personnel inspecting property, date, time, and method of grass and weed removal, charges, signature of contractor, and related data. (Minimum retention: 3 years after last action or final payment)

(13) **Hazardous Material Emergency Incident Records** Records documenting agency response to hazardous material emergencies. Subjects usually pertain to spills and other accidental releases. Includes reports, complaints, and similar documents. Information often includes location, date and time, type of pollutant, extent of pollution, cause, action taken, person reporting pollution, witnesses, related injuries, name and address of responsible party and related data. (Minimum retention: Permanent)

(14) **Hazardous Substance Employer Survey Summaries** Records documenting the storage and use of hazardous materials within the area served by the fire department. Usually consists of summaries of employer surveys conducted by the State Fire Marshal as well as related records generated by the agency. Information includes employer name and location, emergency phone numbers and procedures, location, type, and quantity of hazardous substances, and related data. State employer surveys are updated each year. (Minimum retention: Until superseded or obsolete)

(15) **Inspection and Occupancy Records** Records documenting fire prevention inspections performed periodically by the agency fire department. Inspections determine if any violations of fire code are present in premises within the area served by the department. Usually filed by address. Inspection records may include reports, notices, citations, and related documents. Information often includes occupancy name, location, person contacted, violations found, inspector's name, number of days to correct violations, comments, and other data. Also may include occupancy and pre-fire planning records such as floor plans, sketches, reports, lists, and related documents. Information often includes address, name of property owner, description and fire history of property, name of occupant, potential hazards or exposures, regulated substances, fire escapes, water supply, sprinklers, roof construction, and other data useful in fire fighting situations. (Minimum retention: Retain current and previous inspection reports or 10 years whichever is longer)

(16) **Maps, Fire and Emergency Medical Services** Maps and related records maintained by the agency fire department for address location reference and for tracking various trends such as fire frequency and location, arson fires, and others. Includes lists, books, and other methods of address location. Some maps may have historic value. For appraisal assistance, contact the State Archives. (Minimum retention: Until superseded, obsolete, or no longer needed)

(17) **Public Education Program Records, Fire and EMS** Records related to the design and implementation of educational and other outreach

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programs provided to the public by the agency fire department. Often includes class descriptions, instructional materials, course outlines, class enrollment and attendance records, reports, speeches, and related records. (Minimum retention: (a) Class enrollment and attendance records: 2 years (b) Other records: Until superseded or obsolete)

(18) **Public Education Publications, Fire and EMS Publications** created by the agency fire department and distributed to the public as part of the department's public education program or other outreach effort. Often used in conjunction with presentations. Subjects may include CPR, electric wiring, fire prevention, fire safety for children, Christmas fire safety, and others. (Minimum retention: (a) Retain brochures, pamphlets, and leaflets: until superseded or obsolete (b) Retain one copy of all others: Permanently)

(19) **Regulated Substances Storage and Use Records** Records documenting the storage and use of regulated substances such as gasoline, crude oil, fuel oil, and diesel oil. May include applications, permits, inspection reports and related records for agency regulation of above ground storage tanks as well as reports of substance releases from underground storage tanks. Agencies that administer their own underground storage tank program as described in ORS 466.730 may have additional records such as underground storage tank applications, permits, inspection reports, and related documents. SEE ALSO Inspection and Occupancy Records in this section for regulated substance storage and use records related to structures. (Minimum retention: (a) Records related to underground storage tanks: 25 years after tank removed (b) Records related to above ground storage tanks: 5 years)

(20) **Search and Rescue Mission Case Files** Series records information about search and rescue missions undertaken by the county. Records include Oregon search and rescue mission report, criminal complaint (incident) report, mission roster, lost/missing person report, equipment involved, description of events, and related information. (Minimum retention: 3 years)

(21) **Search and Rescue Unit Case Records** Series records administrative and general information about individual search and rescue units. Contains monthly membership update, membership roster, operational cost report, volunteer activity report, volunteer's personal expense record, and related records. Information includes unit number, personnel names and addresses, hours worked, activities, expenses incurred, and related information. (Minimum retention: 6 years)

(22) **Search Rosters** Series tracks movements of participants of search and rescue missions. Includes name, date, location, time in and out, and related information. (Minimum retention: 3 years)

(23) **State Fire Marshal Exemption Records** Records documenting partial or full agency exemption from statutes, rules, and regulations administered by the State Fire Marshal. Exemptions are granted if the agency enacts and enforces adequate regulations to conform with state and national fire standards defined in ORS 476.030(4). Certificates are renewed every two years. Usually includes applications, supporting documentation, reports, exemption certificate, and related documents. (Minimum retention: 2 years after denial, revocation, or expiration)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0120

Housing and Community Development Records

(1) **Community Development Project Records** Records related to the assessment, funding determination, planning, design, and construction of various homeowner improvement projects, including facilities, structures, and systems. Records include work plan, and specifications, bid and contract information, project management/monitoring records, feasibility studies, plans, amendments, inspector reports, change orders, status reports, and related records. May be useful for litigation, reference, or budget planning. (Minimum retention: 10 years after substantial completion, or 3 years after final disposition, or as specified in agreement, whichever is longer)

(2) **Environmental Review Records** Records documenting individual environmental impact review studies for Community Development projects, as mandated by the Department of Housing and Urban Development (HUD), in accordance with the National Environmental Policy Act (NEPA). Records include duplicate materials from project records, environmental assessment, evaluation, and determinations, reporting information to HUD, supporting documentation and related records. (Minimum retention: Permanent)

(3) **Housing Authority Bylaws, Rules, and Policies** Documents defining the powers and purposes of the housing authority, as well as implementation policies in accordance with federal and state laws. Includes

bylaws. May also include rules and policies on confidentiality, purchasing, tenant grievances, and other subjects. (Minimum retention: Permanent)

(4) **Housing Authority Individual Tenant History Records** Files documenting the history of individual tenant and housing authority actions from application to separation from the program. May contain application, landlord references, rental agreements, leases, periodic reexamination and hardship data, income verification, billing statements, maintenance requests, damage complaints, eviction notices, grievance hearing records, and significant related material. (Minimum retention: 5 years after separation from program)

(5) **Housing Authority Program Management Records** Records documenting the activities and status of various programs administered by the housing authority (Section 8, etc.). Records may include staff meeting records and reports, waiting lists, maintenance records, tenant statistics, and related significant records generated in the administration of housing authority programs not specified elsewhere in the schedule. (Minimum retention: 3 years after annual or final expenditure report submitted)

(6) **Housing Authority Property Management Records** Records documenting the actions of the housing authority in managing housing not owned by the agency. May include applications for funding, subgrants, insurance policies, contracts, and non-profit organization records such as articles of incorporation, bylaws, budgets, minutes, agendas, as well as related significant records. (Minimum retention: 6 years after expiration)

(7) **Housing Authority Rejected Assistance Application Records** Rejected applications and related records from individuals seeking assistance from the housing authority. Application information may include name, age, occupation, social security number, size of unit needed, assets, annual income, and related information. Records may also include verification forms and related significant records. (Minimum retention: 3 years)

(8) **Housing Development Project Records** The Housing Development Program utilizes funding from the federal HOME Investment Partnership Program to expand the supply of decent and affordable housing, particularly rental housing, for very low- and low-income citizens. Records related to the assessment, funding determination, planning, design, and construction of various housing development projects, including facilities, structures, and systems, as well as documentation on the acquisition of existing housing structures for housing. Information includes work plan, and specifications, bid and contract information, project management/monitoring records, feasibility studies, plans, amendments, inspector reports, change orders, status reports, and related records. (Minimum retention: 10 years after substantial completion of new structures or acquisition of existing housing units)

(9) **Housing Rehabilitation Loan Records** County Housing Rehabilitation Programs provide low-income homeowners with loans for needed and critical home repairs. To qualify for the program, a household's total annual gross income must be below HUD's Section 8 income limits. Series documents client application, verification of income, credit report information, deeds of trust, project specifications and work plan, copy of agency agreement with homeowner, financial information by loan type; DPL, CHIP, or Rental Rehabilitation, Cancelled Housing Rehabilitation and related records/correspondence. (Minimum retention: (a) Deferred Payment Loans (DPL): 5 years after homeowner leaves home, sells home, transfers the title, refinances the mortgage, or a change of use (b) County Home Improvement Program Loans (CHIP): 5 years after loan pay-off or foreclosure (c) Rental Rehab Loans: 5 years after loan pay-off or foreclosure (d) Cancelled Housing Rehabilitation Loans: 10 years after loan cancellation)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0125

Information and Records Management Records

(1) **Computer System Maintenance Records** Records document the maintenance of computer systems and are used to ensure compliance with any warranties or service contracts; schedule regular maintenance and diagnose system or component problems; and document systems backups. Records may include but are not limited to computer equipment inventories, hardware performance reports, component maintenance records (invoices, warranties, maintenance logs, correspondence, maintenance reports, and related records), system backup reports and procedures, and backup tape inventories, and related documentation. SEE ALSO Technical Manuals, Specifications, and Warranties in the Public Works-Operations and Maintenance section. (Minimum retention: (a) Records related to system or component repair or service: Life of the system or component (b)

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Records related to regular or essential records backups: 1 year after superseded or obsolete)

(2) **Computer System Program Documentation** Records document the addition, modification, or removal of software from a computer system. Records usually fall into six categories: (a) Records that document operating systems; (b) Records that document the in-house creation and modification of application programs; (c) Records that document the structure and form of data sets; (d) Records that document the use of commercial software packages; (e) records that document the structure of the system; and (f) Records that document system-to-system communication. Records may include but are not limited to system overviews, operation logs, job listings, operator instruction manuals, system development logs, system specifications and changes (including narrative and flow chart descriptions), conversion notes, data set logs, data set inventories, data set record layouts, hard copies of tables, data dictionaries, data directories, programming logs, program specifications and changes, record layouts, user views, control program table documentation, program listings, commercial software manuals, and related correspondence and documentation. SEE ALSO Software Management Records in this section. (Minimum retention: (a) Retain migration plans: until superseded or obsolete (b) Retain other records: 1 year after system superseded or obsolete)

(3) **Computer System Security Records** Records documenting the security of the computer systems. Includes employee access requests, passwords, access authorizations, encryption keys, and related documentation. (Minimum retention: 3 years after superseded)

(4) **Computer System Wiring Records** Records documenting the wiring of the computer network system. Includes blueprints or drawings of building computer system wiring, cables, computer equipment connections, and related documentation. (Minimum retention: Current plus previous version)

(5) **Filing System Records** Records document the establishment, maintenance, alteration, or abolition of filing systems. Records may include but are not limited to include master file lists, organizational charts, program descriptions, and correspondence. (Minimum retention: 3 years after superseded or abolished)

(6) **Forms Development Records** Records document the development of new or revised forms. Records may include but are not limited to sample forms, drafts, revisions, form logs/listings, proposals, authorizations and illustrations. (Minimum retention: Until superseded or obsolete)

(7) **Information Service Subscription Records** Records document subscriptions to information services. Records may include but are not limited to subscriptions, invoices, and correspondence. (Minimum retention: 3 years)

(8) **Information System Planning and Development Records** Records document the planning and development of information systems. Although these records typically document computerized information systems, they may also document manual filing systems and microfilm systems. The records are used to insure that planned systems will help the institution fulfill its missions, are cost-effective, conform to adopted information standards, and integrate with existing institution information systems. Records may vary according to the level of documentation required for each system, but may include information technology plans, feasibility studies, cost-benefit analyses, institution studies and surveys, information management project records, system specifications and revisions, software evaluations, component proposals, technical literature, vendor literature and proposals, and correspondence. (Minimum retention: (a) Implemented systems: Life of the system (b) Unimplemented systems: 3 years)

(9) **Microfilm and Imaging Quality Control Records** Records document that microfilm or digital images produced by or for counties and special districts conforms to the specifications required by Oregon Administrative Rules (OAR) Chapter 166. Records may include but are not limited to microfilmed and digitally imaged records lists, microfilm reel indexes, service bureau transmittals, film inspection reports, methylene blue certifications, camera/processor/duplicator inspection reports, equipment and operator logs, and correspondence. (Minimum retention: Same as related microfilm or digital images)

(10) **Records Management Records** Records document the authorized retention, scheduling, inventory, and disposition of public records. Records may include but are not limited to records retention schedules, inventory worksheets, schedule authorizations, procedure guidelines, transmittals, destruction authorizations, reports, and correspondence. (Minimum retention: (a) Destruction records: Permanent (b) Record retention schedules: 5 years after superseded (c) Other records: 5 years)

(11) **Software Management Records** Records document the use of software in information systems to insure that institution software packages

are compatible, that license and copyright provisions are complied with, and that upgrades are obtained in a timely manner. Records may include but are not limited to software purchase records, software inventories, software licenses, site licenses, and correspondence. (Minimum retention: 2 years after software disposed of or upgraded)

(12) **Telecommunications System Management Records** Records document the creation, modification, or disposition of telecommunications systems. Records may include but are not limited to equipment records, Federal Communications Commission records, repair order forms, system planning records, telecommunications maintenance contracts, telecommunications service orders, and correspondence. (Minimum retention: (a) Repair and service orders: 4 years (b) Other records: 1 year after system superseded or obsolete)

(13) **User Support Records** Records documenting troubleshooting and problem-solving assistance provided by information systems personnel to users of the systems (computer, telecommunications, etc.) Records may include assistance requests, resolution records, and related documentation. Information may include name of requester, date, time, location, and description of problem and resolution. (Minimum retention: 1 year)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

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Justice and Family Courts

(1) **Civil Files** Series documents cases heard in the Justice Court relating to small claims and civil filings up to \$2500.00. Records include original charge, filing of plaintiff, hearing records, satisfaction, penalty bio-sheet, records of payment, correspondence, motions, judgments, orders, and petitions. (Minimum retention: (a) Retain records prior to 1940 permanently (b) Retain records after 1940 6 years as long as there is no outstanding judgment)

(2) **Couples Counseling/Mediation Client Files** Records document the counseling and mediation process for couples experiencing marital problems or who have formally filed for separation or dissolution. Record may contain information on couples' history, financial information, session notes, reports to the Court, if applicable, and summarizations of any agreements reached by the couple through mediation. (Minimum retention: 6 years after completion of counseling/mediation sessions or dissolution of marriage)

(3) **Criminal Files** Series documents cases heard in the Justice Court relating to misdemeanors, criminal felonies arraigned and if in custody, and violations. Records include original charge, filing of plaintiff, hearing records, satisfaction, penalty bio-sheet, records of payment, correspondence, motions, judgments, orders, and petitions. (Minimum retention: (a) Retain records prior to 1940: Permanently (b) Retain records after 1940: 6 years as long as there is no outstanding judgment)

(4) **Docket Books** Series used to track cases through the Justice Court. Information includes docket number, plaintiff and defendant names, date filed, and scheduled hearing and trial dates. (Minimum retention: (a) Retain records prior to 1940: Permanently (b) Retain records after 1940: 6 years as long as there is no outstanding judgment)

(5) **Marriage Records** Documents licenses issued and solemnization of marriages by the Justice Court. Includes (Health Division, Vital Records Unit) Record of Marriage, Consent to the Marriage of a Minor, Affidavit that there is no Parent or Guardian in Oregon, Waiver of Waiting Period, and related records. The official copy of the marriage license is filed with the county clerk. (Minimum retention: (a) Retain Clerk's copy: Permanent (b) Retain court copy: 1 year after filed with the clerk)

(6) **Parent Education Client Files Records** document the classes for parents who file for divorce or separation or changes in custody or visitation. Records include payment history, class attendance information, and copy of completion certificate. (Minimum retention: 6 years after class completion)

(7) **Search Warrants** Series documents an official order issued by the Justice Court to legally search private property to aid in the investigation of law enforcement officials. Information includes judge's name, date, and purpose of warrant. (Minimum retention: Retain 2 years after warrant served or recalled by the court)

(8) **Traffic Citations** Series is used to document the full payment of traffic fines in court. Information includes citation number, amount paid, whom citation issued to, infraction type, issuing officer, and receipts. (Minimum retention: Retain 3 years after citation paid in full)

(9) **Youth and Family Mediation Case Records** Record documents mediation provided to families and youths for conflict resolution. Record may contain family and youth backgrounds and histories, any criminal his-

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ories, mediator session and case notes and reports, and court reports if applicable. (Minimum retention: Until youth(s) reach 21 years of age)

Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

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Library

(1) **Accession Records** Information related to library acquisitions. Documentation for book accessions usually includes author, title, publisher, jobber, year purchased, purchase price, and other bibliographic and accession data. Non-book media contain other pertinent information. (Minimum retention: Until superseded or obsolete)

(2) **Borrower Registration Records** Records used to grant citizens library cards and privileges as well as to control circulation of library holdings. Individual borrower registration information may include name, address, telephone number, date of birth, signature, expiration date, identification number, and related data. (Minimum retention: Until superseded or 1 year after expiration)

(3) **Catalogs** Finding aids which provide patrons with access to library holdings by subject, title, keyword, and author. Usually includes author's name, title of book or other media, call number, bibliographic description, and related information. (Minimum retention: Until superseded or obsolete)

(4) **Circulation Records** Records documenting information pertinent to the circulation of materials such as books, magazines, record albums, compact disks, dvd's, audio and video tapes, and computer software. May include patron identification, date circulated and date due. (Minimum retention: Until transaction is completed)

(5) **Inter-library Loan Records** Records documenting materials borrowed and loaned by the library through an interlibrary loan program in response to patron and other library requests. May include requests, notices, tracking logs, and other records. (Minimum retention: 6 months after materials returned to owner library)

(6) **Library Publications** Publications distributed to the public to advertise library services, programs, and activities. May include brochures, newsletters, activities calendars, bookmobile schedules, special events flyers, and other records. (Minimum retention: (a) Retain brochures, pamphlets, and leaflets until superseded or obsolete (b) Retain one copy of all others permanently)

(7) **Master Shelf Lists/Inventories** Records document inventories of all library holdings, including volumes and titles added or withdrawn from the collection. Usually arranged by call number, showing title, author, accession number, publisher, date bought, cost, and number of copies. Used as an inventory control by library personnel. (Minimum retention: Until superseded or obsolete)

(8) **Library Reports** Statistical and narrative monthly reports documenting collection, registration, circulation, lost books, children's programs, and other activities. Useful in program planning and budget preparation. May include various reports such as circulation statistics by category (non-fiction, fiction, magazines, etc.), books reserved, photocopies made, overdue notices mailed, borrowers registered, and volunteer hours. May also include narrative reports addressing new activities, services, events, and issues. (Minimum retention: (a) Retain reports summarizing activities on an annual basis: Permanently (b) Retain other reports: 2 years)

(9) **Oregon State Library Annual Reports** Agency copy of a report filed with the Oregon State Library in satisfaction of ORS 357.520 to monitor library programs. Includes statistics on circulation, patrons served, interlibrary loan transactions, children's programs, and other subjects. (Minimum retention: Permanent)

(10) **Overdue Book Records** Records used to monitor status of overdue books and other media. Also used to notify patrons to return overdue library materials. Often includes notices and lists. Lists document long overdue materials and can be useful in collection action. (Minimum retention: Until materials returned, or debts reconciled or deemed uncollectible)

Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

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9-1-1/Public Safety Answering Point Records

(1) **Briefing Records** Records document internal communication between supervisors and shift workers or between staff on different shifts to alert them to problems, issues, or activities. Records may include but are not limited to briefing logs, teletype messages, and bulletins from other agencies. (Minimum retention: 7 days)

(2) **Data Management System Records** Records document the maintenance and update of current information used to provide and direct incident response within a 9-1-1/public safety answering point service area. Information may include but is not limited to address data, response unit's assignments, response codes, responsible person data, and related documentation. (Minimum retention: Until superseded or obsolete)

(3) **Dispatch Incident Records** Records document specific incidents when a call is received by the 9-1-1/public safety answering point and subsequent response activities. Information may include but is not limited to caller's name; address, and telephone number; details of incident or complaint; call taker/dispatcher name; which agency responded and when; and incident disposition. Additional information received through an enhanced system is the Automatic Number Identification and Automatic Location Identification (ANI/ALI) which includes the telephone subscriber name, subscriber's telephone number, and subscriber's telephone service location. (Minimum retention: 2 years)

(4) **Enhanced 911 Service Plans** Records document the planning, development, and implementation of enhanced 9-1-1/public safety answering point systems. Plans and any subsequent amendments are required to be submitted to the Oregon State Police, Emergency Management Division for approval. The plan may be periodically revised and updated. Records may include but are not limited to preliminary and final plans, drafts and worksheets, correspondence, and other records described in OAR 104-080-0020. (Minimum retention: (a) Approved plans and amendments: 5 years after superseded or obsolete (b) Preliminary plans, drafts, worksheets, and supporting materials: Until plan approved by Oregon State Police, Emergency Management Division)

(5) **Master Street Address Guide (MSAG) Maintenance Forms** Records document the 9-1-1/public safety answering point's notification to the phone service provider about the addition of new streets or revision to existing streets on the Master Street Address Guide (MSAG). The MSAG is maintained by the phone service provider or its independent contractor. Forms are usually maintained by the agency's MSAG Coordinator. Information may include but is not limited to new or updated address, customer, and responder information. (Minimum retention: 2 years)

(6) **Master 24-Hour Audio Files** Files document recorded incoming emergency and non-emergency calls; law enforcement, fire, and emergency medical services dispatches; radioactivity; and 9-1-1/public safety answering point calls. Files are maintained on a 24-hour basis. (Minimum retention: 7 months)

Note: Specific recordings of incidents may warrant longer retention for legal reasons

(7) **Operational Logs Records** document chronological tracking of activities related to 9-1-1/public safety answering point operations. Records may include but are not limited to radio logs, telephone logs, tow logs, and criminal background check request logs. (Minimum retention: 1 year)

(8) **Premise Information Records** Records document information about specific premises or locations that emergency responders need to know in advance of arrival at an incident site. Information may include but is not limited to hazardous materials storage locations, whether building plans were submitted to the fire department, unique information about buildings such as utility shutoffs, and related documentation. (Minimum retention: 2 years, or until renewed, superseded, or expired, whichever is sooner)

(9) **Quality Assurance Records** Records document the evaluation, analysis, and assessment about the performance and quality of services provided by the 9-1-1/public safety answering point system. Records may include but are not limited to system evaluations, system performance reports, satisfaction surveys and questionnaires, quality improvement reports and recommendations, quality assurance committee minutes, and related documentation. (Minimum retention: (a) Survey instruments: 2 years, or until summary report completed, whichever is sooner (b) Other records: 2 years)

(10) **Statistical Reports** Records document the compilation of statistical data about the actions and activities of the 9-1-1/public safety answering point system. Data may be compiled on a daily, weekly, monthly, quarterly, and/or annual basis and may be used for analysis, evaluation, and budget development purposes. Information may include but is not limited to data about response times, number of calls received and dispatched, and responses by individual agency. (Minimum retention: (a) Data instruments used to compile statistics: Until statistical report completed (b) Daily and weekly reports: Until compiled into monthly reports (c) Monthly and quarterly reports: 1 year (d) Annual reports: 10 years)

(11) **System Error/Malfunction Records** Records document 9-1-1/public safety answering point electronic systems errors or malfunctions and subsequent corrective action. Records may include but are not limited

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to enhanced system error reports, trouble logs, work orders, correspondence, and related documentation. (Minimum retention: 2 years)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0150

Parks and Recreation

(1) **Chemical Application Records** Records documenting the application of chemicals such as pesticides, herbicides, and fertilizers to parks and other property. Information usually includes date used, weather conditions, application area, chemical applied, mix ratio, and coverage rate. (Minimum retention: 3 years after application)

(2) **Park and Facility Inspection Records** Records documenting periodic inspection of parks and facilities to check for damage and recommend repairs and maintenance. Includes inspections of play equipment, lighting, sidewalks, restrooms, storage areas, picnic tables, swimming pools, and other property and equipment. Records often include inspection worksheets or checklists, reports, and related documents. Information includes property or equipment location and description, type of inspection, recommended repair, dates of inspection, and other data. (Minimum retention: 2 years)

(3) **Park and Facility Use Permits** Permits issued to individuals or organizations for special uses of parks and facilities. Examples include fun runs, bicycle races, events with more than a specified number of participants, events including amplified sound, and those at which alcoholic beverages will be served. May also include other special use permits such as for the use of metal detectors and other equipment on park property. (Minimum retention: 2 years after denial, revocation, or expiration of permit)

(4) **Park Caretaker Records** Records documenting the maintenance, construction, operation, and rehabilitation of county parks, waysides, and recreational areas. The park caretaker provides visitors with park-related information through distribution of publications and educational presentations. The caretaker may also issue permits and collect fees, and issue citations and written warnings. SEE ALSO Permit and License Records, Agency-Issued in Administrative section. (Minimum retention: 3 years after caretaker separation)

(5) **Participant Registration and Attendance Records** Records documenting registration and attendance of participants in various agency sponsored events, activities, and classes. Records may include registration forms or cards, class or activity rosters, and related documents. Information usually includes name, dates, and times of class or activity, fee paid, and name, address, phone number, and signature of participant. Further information may include pertinent medical data, date of birth, signature of parent or guardian, and more. (Minimum retention: 3 years)

(6) **Rental and Loan Records** Records documenting the rental or loan of agency owned facilities or equipment. Examples include short term rental of facilities and structures as well as rental or loan of sports equipment, tools, gardening implements, and other items. Records often include applications, calendars, lists, receipts, and related documents. Information usually includes name, address, and phone number of renter or borrower, description of facility or equipment, date and time rental or loan expires, signature, and other data. (Minimum retention: 3 years)

(7) **Swimming Pool Operation and Maintenance Records** Records documenting the operation and maintenance of agency swimming pools. Information includes results of pool water quality tests described in OAR 333-060-0200(3), date and time of filter backwash, dates during which the pool was emptied and/or cleaned, and periods of recirculation equipment operation and/or malfunction and repair. May also include records documenting inspection and maintenance of safety equipment. (Minimum retention: 2 years after facility closes)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

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Payroll Records

(1) **Deduction Authorization Records** Records documenting employee application and authorization for voluntary payroll deductions, direct bank deposits, and related actions. Payroll deductions are directly deposited or remitted to the authorized financial institution, insurance company, or other agency or vendor. Records may include insurance applications, enrollment cards, deduction authorizations, approval notices, deduction terminations, and related records. (Minimum retention: 3 years after superseded, terminated, or employee separates)

(2) **Deduction Registers** Registers or records serving the same function of documenting voluntary and/or required deductions from the gross pay of agency employees. Types of deductions include federal income and social security taxes, state tax, workers' compensation, union dues, insurance, deferred compensation, credit union, parking permit, prewritten checks, garnishments, levies, charitable contributions, and others. Information may include employee name and number, pay period, social security number, total deductions, net pay, check number, and related data. (Minimum retention: (a) Registers documenting state and federal taxes: 5 years (b) Other registers: 3 years)

(3) **Employee Time Records** Records documenting hours worked, leave hours accrued, and leave hours taken by agency employees. Information usually includes employee name and social security number, hours worked, type and number of leave hours taken, total hours, dates, and related data. SEE ALSO Leave Applications in this section. (Minimum retention: 4 years)

(4) **Federal and State Tax Records** Records, in addition to those itemized in this section, used to report the collection, distribution, deposit, and transmittal of federal and state income taxes as well as social security tax. Examples include the federal miscellaneous income statement (1099), request for taxpayer identification number and certificate (W-9), employer's quarterly federal tax return (941, 941E), tax deposit coupon (8109), and similar federal and state completed forms. (Minimum retention: (a) For the retention of records documenting expenditure of grant funds: see Grant Records in the Financial section (b) Retain other records: 4 years)

(5) **Garnishment Records** Records documenting requests and court orders to withhold wages from employee earnings for garnishments, tax levies, support payments, and other reasons. Usually includes original writs of garnishment, orders to withhold for the Oregon Department of Human Resources, federal or state tax levies, recapitulations of amounts withheld, and related records. Information usually includes employee name and number, name of agency ordering garnishment, amount, name of party to whom payment is submitted, dates, and related data. (Minimum retention: 3 years after resolution)

(6) **Leave Applications** Applications or requests submitted by employees for sick, vacation, compensatory, personal business, family and medical leave, long term leave, and other leave time. Information usually includes employee name, department, date, leave dates requested, type of leave requested, and related data. SEE ALSO Employee Time Records in this section. (Minimum retention: 3 years)

(7) **Leave Balance Reports** Reports documenting individual employee accrual and use of sick, vacation, compensatory, personal business, family and medical leave, and other leave time. Information usually includes employee name and number, social security number, leave beginning balance, leave time accrued, leave time used, ending balance, and related data. SEE ALSO Employee Benefits Records in the Personnel section. (Minimum retention: (a) Year-end leave balance reports: 75 years after date of hire (b) Other reports: 4 years)

(8) **Payroll Administrative Reports** Reports, statistical studies, and other records designed and used for budget preparation, projections, workload and personnel management, research, and general reference. Often consists of recapitulation reports organizing wages, deductions, and other data into categories such as quarter-to-date, year-to-date, fiscal year-to-date, department, division, section, employee/employer contributions, and others. (Minimum retention: 3 years)

(9) **Payroll Registers** Registers or records serving the same function of documenting the earnings, deductions, and withholdings of agency employees. Information usually includes employee name and number, social security number, hours worked, rate, overtime, vacation value, leave taken or accrued, various allowances, gross pay, federal and state withholding, voluntary deductions, net pay, and related data. (Minimum retention: (a) Retain year-end, or month-end if no year-end payroll registers: 75 years (b) Retain other payroll registers: 3 years)

(10) **Unemployment Compensation Claim Records** Records documenting claims submitted by former agency employees for unemployment compensation. Usually includes claims, notices, reports, and related records. May also include records generated by the appeal of claim determinations. (Minimum retention: 3 years)

(11) **Unemployment Reports** Records documenting employee earnings on a quarterly basis. Used to document costs and charges in the event of an unemployment compensation claim. Information includes employee name, social security number, quarterly earnings, days worked, totals, and other data. (Minimum retention: 3 years)

(12) **Wage and Tax Statements** Annual statements documenting individual employee earnings and withholdings for state and federal

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income taxes and social security tax. Also known as federal tax form W-2. Information includes agency name and tax identification number, employee name and social security number, wages paid, amounts withheld, and related data. (Minimum retention: 5 years)

(13) **Withholding Allowance Certificates** Certificates documenting the exemption status of individual agency employees. Also described as W-4 forms. Information includes employee name and address, social security number, designation of exemption status, and signature. (Minimum retention: 5 years after superseded or employee separates)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

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Personnel Records

(1) **Affirmative Action Records** Records documenting agency compliance with the statutes and regulatory requirements of the U.S. Equal Employment Opportunity Commission. May include plans, updates, policy statements, reports, and supporting information. (Minimum retention: (a) Plans, updates, and policy statements: Permanent (b) Other records: 3 years)

(2) **Benefits Continuation Records** Records document notifications to employees or dependents informing them of their rights to continue insurance coverage after termination of during disability or family leave. Continuation may be under COBRA or another provision. Notice is also sent to a third party administrator who administers the extended coverage. The records typically consist of notices sent and correspondence. Records may be filed with the Employee Benefits Records or Employee Personnel Records. SEE ALSO Employee Payroll Records in the Payroll section. (Minimum retention: 3 years after employee separation of eligibility expired)

(3) **Collective Bargaining Records** Records documenting negotiations between the agency and employee representatives. May include contracts, reports, negotiation notes, arbitration findings, cost analyses, minutes, tape recordings, and related significant records. (Minimum retention: (a) Contracts and minutes: 75 years after contract expires (b) Other records: 6 years after contract expired)

(4) **Comparable Worth Study Records** Records documenting the analysis, study, and resolution of pay equity, alleged job discrimination, and related issues involving the agency and its employees. May include job content questionnaire summaries, position allocation reports, personnel reclassification studies, job category listings, study outlines, graphs, tables, and significant related records. (Minimum retention: (a) Final study or report: Permanent (b) Other records: 5 years)

(5) **Criminal Background Check Records** Records document the pre-employment or periodic criminal records checks performed on prospective or current staff, faculty, and volunteers. Records may include but are not limited to a log recording when background checks are done and whom they are done on, and a fingerprint-based criminal history verification form documenting the result of a criminal history background check coordinated by the Oregon Law Enforcement Data System (LEDS). The form includes name and other personally identifiable information, indication of existence or absence of criminal record, and related documentation. (Minimum retention: (a) Retain background check log: until superseded or obsolete (b) Retain all other records: 90 days)

(6) **Disciplinary Action Records** Records documenting termination, suspension, progressive disciplinary measures, and other actions against employees. May include statements, investigative records, interview and hearing records, findings, and related records. May be filed with Employee Personnel Records. (Minimum retention: (a) Retain investigations resulting in termination: 10 years after employee separation (b) Retain investigations resulting in disciplinary action or exoneration: 3 years after resolution (c) Retain unfounded investigations: 3 years)

(7) **Drug Testing Records** Records document the testing of current and prospective employees for controlled substances prohibited by policy, procedure, or statute. Records may include but are not limited to the documentation of test results, the collection process, the random sample process, and those documenting the decision to administer reasonable suspicion drug testing. (Minimum retention: (a) Retain positive test results: 5 years (b) Retain negative test results: 1 year)

(8) **Employee Benefits Records** Records document an individual agency employee's benefit information such as selection of insurance plans, retirement, pension, and disability plans, flexible benefits, deferred compensation plans, and other benefit program information. Records may include but are not limited to plan selection and application forms, enrollment records, contribution and deduction summaries, personal data records,

authorizations, beneficiary information, year-end leave balance reports, and related documentation. Records may be filed with the Employee Personnel Record. SEE ALSO Payroll Section. (Minimum retention: (a) Year-end leave balance reports and official copy of retirement enrollment records: 75 years after date of hire (b) Other records: 3 years after employee separation or eligibility expired)

(9) **Employee Medical Records** Records document an individual employee's work related medical history. These records are not personnel records and must be kept physically separate from employee personnel records — in a separate location, as required by the Americans with Disabilities Act. Records may include but are not limited to medical examination records (pre-employment, pre-assignment, periodic, or episodic), X-rays, records of significant health or disability limitations related to job assignments, documentation of work related injuries or illnesses, hearing test records, hazard exposure records, drug testing records, first-aid incident records, physician statements, release consent forms, and related correspondence. SEE ALSO Hazard Exposure Records in this section. (Minimum retention: (a) Hazard exposure records: 30 years after separation (29 CFR 1910.1020) (b) Other records: 6 years after separation)

(10) **Employee Personnel Records** Records document an individual employee's work history. Records may include but are not limited to applications; notices of appointment; employment applications; training and certification records; records of health limitations; salary schedules; tuition reimbursement records; personnel actions; performance appraisal evaluations; letters of commendation and recommendation; letters of reprimand; notices of disciplinary action; notices of layoff; letters of resignation; home address and telephone disclosures; emergency notification forms; grievance and complaint records; and related correspondence and documentation. SEE ALSO Disciplinary Action Records; Employee Benefits Records; Employee Medical Records; Grievance and Complaint Records; Recruitment and Selection Records; and Volunteer Worker Records in this section. SEE ALSO Oaths of Office in the County Clerk-General section. (Minimum retention: (a) Retain letters of reprimand and notices of disciplinary action 3 years (b) Retain all other records 6 years after separation)

(11) **Employee Recognition Records** Recognition of employees for special service to the agency. May include service awards, recognition certificates, commendations, award nominations, lists of past recipients, and presentation or ceremony records and photographs. Some records in this series may have historic value. For appraisal assistance contact the Oregon State Archives. SEE ALSO Employee Suggestion Award Records in this section. (Minimum retention: 6 years)

(12) **Employee Suggestion Award Records** Records documenting an employee suggestion program where employees may submit suggestions that improve effectiveness, efficiency, and economy in agency operations. Employees may receive awards for adopted suggestions. Records may include suggestion forms and evaluations, award information, and related documentation. SEE ALSO Employee Recognition Records in this section. (Minimum retention: (a) Adopted suggestions: 2 years (b) Suggestions not adopted: 1 year)

(13) **Employment Eligibility Verification Forms (I-9)** Records document the filing of U.S. Immigration and Naturalization Service Form I-9 form that verifies that an applicant or employee is eligible to work in the United States. Information includes employee information and verification data such as citizenship or alien status and signature, and employer review and verification data such as documents that establish identity and eligibility, and employer's signature certifying that documents have been checked. (Minimum retention: 3 years after date of hire or 1 year after employee separation, whichever is longer (8 CFR 274a.2))

(14) **Equal Employment Opportunity Compliance Records** Reports and records maintained by the agency with 15 or more employees in compliance with the U.S. Equal Opportunity Commission regulations. Contains EEO-4 reports and all records related to the completion of the reports. (Minimum retention: 3 years)

(15) **Equal Employment Opportunity Complaint Records** Case files maintained in relation to discrimination complaints made against the agency. Records may include complaints, reports, exhibits, withdrawal notices, copies of decisions, hearings and meetings records, and related documentation and correspondence. (Minimum retention: 3 years after final decision issued)

(16) **Equal Employment Opportunity Policy Development Records** Records documenting the adoption and administration of agency programs to set personnel policies and procedures within the scope of the Civil Rights Act of 1964 and the Equal Employment Opportunity Act of 1972. May contain anti-discrimination committee meeting records and reports, workplace analyses, discrimination complaint policies and proce-

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dures, and related records. (Minimum retention: (a) Plans, updates, and policy statements: Permanent (b) Other records: 3 years)

(17) **Grievance and Complaint Records** Grievances or complaints filed by current employees, terminated employees, applicants, or private citizens regarding employment practices. Often relates to interpretations and alleged violations of employment contracts. Records often include complaints, investigation records, interview and hearing reports, arbitrator's findings and decisions, tape recordings, and related records. (Minimum retention: 3 years)

(18) **Hazard Exposure Records** Records document an agency employee's exposure to hazardous conditions such as chemicals, toxic substances, bloodborne pathogens, biological agents, bacteria, virus, fungus, radiation, noise, dust, heat, cold, vibration, repetitive motion, or other dangerous work related conditions. *These records are not personnel records and should be maintained in an Employee Medical File.* Records may include but are not limited to hearing test records, radiation measurement records, blood test or other laboratory results, incident reports, first-aid records, X-rays, work station air sampling reports, and correspondence. SEE ALSO Employee Medical Records in this section. (Minimum retention: 30 years after separation (29 CFR 1910.1020))

(19) **Hearing Test Records** Records documenting employee participation in the State Hearing Conservation Program as required by the Oregon Workers' Compensation Division. The program applies to employees exposed to working conditions that may impair hearing. Contains measurement records that include audiogram number, employee's name and department, technician's name, date tested, and remarks. Also contains hearing test results which include employee's name, department, job classification, length of service, phone number, date of birth, previous hearing condition, exposure to sound levels, results of noise exposure and audiometer tests, comments, and related information. (Minimum retention: Until employee separation (29 CFR 1910.95))

(20) **Layoff Records** Series documents procedures and computations used in laying off agency employees. May include service credit computations, service credit lists, and layoff ranking lists. Related records may be filed in Employee Personnel Files. (Minimum retention: 3 years)

(21) **Photo Identification Records** Photographs and other records used to identify agency employees, private security personnel, contract workers, and others. May include photographs taken for agency identification cards, driver's license photographs, and information such as name, date of birth, physical description, identification number, driver's license number, and other data. (Minimum retention: Until superseded or obsolete)

(22) **Position Description, Classification, and Compensation Records** Records document the description, classification, reclassification, and compensation of agency jobs and positions, a process also known as desk auditing. Usually includes details of duties and responsibilities of each position, time percentage breakdowns of tasks, skills and abilities needed for each position, and related records documenting the development, modification, or redefinition of each job or position. Records often include reports, job analyses, interview data, selection criteria, authorizations, agreements, and significant related records. (Minimum retention: 3 years after superseded or obsolete)

(23) **Recruitment and Selection Records** Records document the recruitment and selection of agency employees. Records may also document the recruitment and selection of contracted service providers such as attorneys, auditors, insurance agents, labor consultants, and others. Records may include but are not limited to job announcements and descriptions, applicant lists, applications and resumes, position advertisement records, civil service and other examination records, classification specifications, affirmative action records, interview questions, interview and application scoring notes, applicant background investigation information, letters of reference, civil service records, position authorization forms, certification of eligibles, recruitment summary records (job announcement, position description, documentation relating to the announcement and test, and test items and rating levels), and related correspondence and documentation. SEE ALSO Employee Personnel Records and Employment Eligibility Verification Forms (I-9) in this section. (Minimum retention: (a) Retain announcement records, position description, and records documenting creation of test and rating scale 10 years (b) Retain unsolicited applications and resumes 3 months if not returned to solicitor (c) Retain unsuccessful applications and other records 3 years after position filled or recruitment cancelled)

(24) **Training Program Records** Records related to the design and implementation of training programs provided to employees by the agency. May include class descriptions, instructor certifications, planning documentation, instructional materials, course outlines, class enrollment and

attendance records, and related significant records. (Minimum retention: (a) Significant program records: 5 years (b) Class enrollment and attendance records: 2 years (c) Other records: 1 year)

(25) **Volunteer Program Records** Records documenting the activities and administration of volunteer programs and volunteers in the agency. May include volunteer hour statistics, volunteer program publicity records, insurance requirement information, inactive volunteer files, and related records. SEE ALSO Volunteer Worker Records in this section for records related to individual volunteers. (Minimum retention: Retain 5 years)

(26) **Volunteer Worker Records** Records documenting work performed for the agency by citizens without compensation for their services. May include agreements, applications, skill test results, training documentation, task assignment and monitoring records, and related information. (Minimum retention: 3 years after separation)

Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0165 Planning

(1) **Comprehensive Plan Records** Records indicating the types of uses and activities allowed in particular land designations. Used to guide long term growth and development and to comply with state and federal laws. Usually contains public hearings records, plans, amendments, staff reports, periodic review records, maps, photographs, and other significant records. (Minimum retention: Permanent)

(2) **Conditional Use Records** Applications and decisions related to requests for certain land uses within a zone that require special review and approval. May include applications, site plans, zoning maps, staff reports, administrative action reports, and related significant records. (Minimum retention: 10 years after expiration, revocation, or discontinuance of use)

(3) **Design and Development Review Records** Architectural reviews of exterior renovations or new construction within particular geographical areas. Used to ensure integration of visual architectural standards. May include design review board or commission records such as minutes, agendas, and exhibits. Records also may include applications, site plans, staff reports, maps, review and appeal records, tape recordings, and related significant documents. *Three dimensional exhibits such as sample boards of brick, tile, and other building materials are not public records.* (Minimum retention: (a) Retain minutes, agendas, resolutions, indexes, and exhibits (not retained permanently elsewhere in agency records): Permanently (b) Retain audio or visual recordings: 1 year after minutes prepared and approved (c) Retain exhibits not pertinent to minutes: 5 years (d) Retain all other records if permit issued and structure completed: 2 years after substantial completion (as defined by ORS 12.135(3)) (e) Retain if no permit issued: 180 days (f) Retain if permit issued, but structure not started or completed: 2 years)

(4) **Enterprise Zone Records** Records documenting the creation and management of enterprise zones by the agency or in conjunction with other agencies. Designation used to encourage business growth by providing tax, permit, and regulatory relief to development within the zone. May include reports, applications for zone status, nominations for federal status, and significant related records. (Minimum retention: (a) Retain reports summarizing results or activities permanently (b) Retain other records 4 years after zone designation expires)

(5) **Flood Plain Permit Records** Permits issued for construction within a flood plain zone. Records also may include elevation certificates, applications, review records, check lists, and other significant documents. Permit information usually includes date, permit holder's name and address, U.S. map number, type of structure, and related data. (Minimum retention: (a) Retain permits and elevation certificates, 10 years after the life of the structure or area determined not to be a flood plain, whichever is longer (b) Retain other records 10 years)

(6) **Historic Structures Inventory Records** Records documenting the results of inventory projects to designate historic properties within a particular geographic area. Inventory is in conjunction with Oregon Land Conservation and Development Commission Goal 5 procedures. Information usually includes street address, legal description, neighborhood, owner's name and address, date constructed, historic and architectural significance, and references used. (Minimum retention: Until superseded or obsolete)

(7) **Historic Structures Rehabilitation Project Reviews** Routine reviews of proposals for rehabilitation of structures that have been designated historically significant or are 50 years old. Used to meet grant funding conditions and to protect the historical integrity of structures. Reviews often include address of structure, legal description, owner's name and

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address, proposed work, rehabilitation specialist's evaluation, violations noted, photographs, and related information. May also contain significant related correspondence. (Minimum retention: 3 years after project closed)

(8) **Land Use Hearings Officer Records** Records documenting appeals to the agency's hearings officer and decisions reached concerning variances and changes to the zoning code and comprehensive plan. May refer to conditional uses, zone changes, partitions, code variances, and other proposed actions. Records may include applications, hearings minutes, findings of fact, agendas, exhibits such as maps, reports, photographs, etc., tape recordings, and significant related records. (Minimum retention: (a) Retain minutes, agendas, resolutions, indexes, and exhibits (not retained permanently elsewhere in agency records): Permanent (b) Retain audio or visual recordings: 1 year after minutes prepared and approved (c) Retain exhibits not pertinent to minutes: 5 years)

(9) **Neighborhood/Citizen Association Charters and Bylaws** Charters and bylaws documenting the creation and organization of neighborhood associations designed to meet citizen involvement requirements and goals set by state and federal agencies concerned with urban development and land use issues. Usually includes articles of incorporation, amendments, and significant related records. (Minimum retention: Permanent)

(10) **Partition Records** Records documenting the partitioning of land into two or three parcels. Includes both major and minor partitions. Records often contain applications, staff reports, technical notes, approval orders, maps, and related significant records. (Minimum retention: (a) If approved and agency conditions met: Permanent (b) If not: 10 years after expiration or revocation)

(11) **Sign Review Records** Records documenting planning department review of sign construction. Often contains descriptions, drawings, photographs, reports, applications, and related significant records. (Retention: For the life of the structure)

(12) **Subdivision Records** Records documenting actions on requests to divide one piece of land into four or more lots. Often includes applications, site locations, descriptions of requests, site plans, staff reports, appeals reports, decision statements, maps, and related significant records. Records documenting actions on requests to divide one piece of land into four or more lots. Often includes applications, site locations, descriptions of requests, site plans, inspection reports, appeals reports, decision statements, maps, photographs, bonds and assurances, insurance records, engineering reports, test records, and related significant records. (Minimum retention: (a) If approved and agency conditions met: Permanent (b) If not: 10 years after expiration or revocation)

(13) **Temporary Use Records** Records documenting action on permits for temporary activities in commercial and industrial zones such as allowing temporary placement of structures incidental to construction. Records often contain applications, permits, staff reports, technical notes, approval orders, and other significant documents. (Minimum retention: 5 years after permit expiration)

(14) **Urban Renewal Plans and Reports** Plans and reports mandated by ORS 457.085 to provide descriptions and justifications for proposed development in urban renewal areas within a particular geographic area. Includes plans, amendments, reports, hearings records, impact statements, feasibility studies, maps, relocation studies, and related significant records. (Minimum retention: Permanent)

(15) **Urban Renewal Project Records** Records documenting individual renewal projects within urban renewal areas. Projects include but are not limited to construction, demolition, and rehabilitation of buildings, streets, and utilities. May include project area committee documents, reports, and related records, project plans, design reviews, maps, photographs, consultant studies, feasibility studies, agreements, and other significant records. Some records may have historic value. (Minimum retention: (a) Retain agreements: 10 years after substantial completion (as defined by ORS 12.135(3)) (b) Retain other records: 50 years)

(16) **Variance Records** Applications and decisions in cases of minor deviations from zone code requirements. Often includes applications, site locations, description of requests, site plans, zoning maps, staff reports, and significant related records. (Minimum retention: 10 years after expiration, revocation, or discontinuance of use)

(17) **Zone Change Records** Applications and decisions related to rezoning land within the scope of an existing comprehensive plan. Often includes applications, staff reports, technical notes, approval orders, and related significant records. (Minimum retention: (a) Applications, findings of fact, and decision documents: Permanent (b) Other records: 10 years after approval or denial)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 – 192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0170

Public Works Records – Engineering

(1) **Aerial Photographs** Color and black and white photographs and negatives documenting topographical and physical features of a particular geographic area. Useful for planning and land management purposes. Information often includes date, location, frame sequence numbers, and other descriptive information. (Minimum retention: Permanent)

(2) **Bench Mark Records** Bench marks placed by the agency or the United States Geological Survey to denote elevations above sea level. Records may include books, maps, cards, and other documents. Information includes location monument number, elevation, description, and related data. Usually filed numerically by bench mark number. (Minimum retention: Permanent)

(3) **Bridge Inspection Records** Records related to bridge inspections required by the United States Department of Transportation 23 CFR 650.305. Inspections generally are done every two years. Records may include reports prepared in accordance with federal standards, photographs, correspondence and significant related documents. May also include bridge inventory records described in 23 CFR 650.311. (Minimum retention: 2 years after bridge removed from service)

(4) **Engineering Project Technical Records** Records related to the planning, design, and construction of various agency improvement projects, including facilities, structures, and systems. Examples include those documenting both assessable and non-assessable improvements such as but not limited to streets, sidewalks, traffic lights, street lights, bikeways, water lines and wells, water and wastewater treatment facilities, buildings, and sewers. May be useful for litigation, reference, or budget planning. Records often include impact statements, feasibility studies, plans, amendments, policy and procedure manuals, field test and laboratory reports, inspector reports, change orders, status reports, and related records. (Minimum retention: 10 years after substantial completion, as defined by ORS 12.135(3))

(5) **Maps, Plans, and Drawings Maps**, plans, and drawings created by the agency or contracted specifically for the agency. These include various types of maps such as system schematic, as built, topographic, planimetric, orthophoto, resource, and others. System schematic maps represent locational and other information about major systems such as water and sewer. Other maps are often derived from aerial photographs and represent physical features such as building footprints, edge of pavement, and contours. Series also includes as built plans, drawings, and details documenting agency engineering and construction projects. (Minimum retention: (a) Final versions: Permanent (b) Working maintenance maps: Until superseded or obsolete (c) Non-agency created maps: Until superseded or obsolete)

(6) **Master Plans Records** Documenting the present and projected needs of the agency for water, sewer, storm drainage, street, bikeway, and other systems. Often includes an implementation schedule for construction. Records often include plans, reports, evaluations, cost analyses, drawings, and significant related documents. Subjects may include rates, inventory evaluations, system rehabilitation or replacement, distribution of services, and others. (Minimum retention: Permanent)

(7) **Right-of-Way Permit Records** Permits issued for private use or construction on public right-of-ways such as streets, sidewalks, and adjacent land. Examples of activities may include house moving, and block parties and other uses. Information can include owner's name, address, and phone number, contractor's name, address, and phone number, location and description of activity, permit conditions, fee amount, date, signatures, and related data. (Minimum retention: (a) Construction related records: 10 years after substantial completion (as defined by ORS 12.135(3)) of project (b) Retain other records: 2 years after expiration, revocation, or discontinuance of use)

(8) **Wetlands Conservation Planning Records** Records documenting the identification, delineation and management of wetlands on agency property or right-of-ways. May include plans, amendments, annual reports, consultant reports, and significant related records. Wetlands conservation plans include descriptions, maps, inventories, and assessments of wetlands, as well as mitigation plans, policies, specifications, and monitoring provisions for managing wetlands. See ORS 196.678 for further description. (Minimum retention: Permanent)

(9) **Wetlands Removal and Fill Permits Records** documenting agency application and receipt of permits regulating the removal or fill of material from wetlands on agency property or right-of-ways. Permits are issued by the Oregon State Division of Lands for up to five years before renewal is required. Includes applications, permits, and significant related records. Applications may include maps, project plans, spoils disposal plans, public use and need analyses, impact studies, and related records.

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Permits may include approvals and any attached conditions. (Minimum retention: 30 years)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 – 192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0175

Public Works Records – Operations and Maintenance

(1) **Backflow Prevention Device Test Records** Records documenting test results on backflow prevention devices designed to protect the water system from pollution related to substances backing into water lines. Information usually includes date, type and size of device, serial number, location, test records, line pressure, name of tester, name and address of device owner, and related data. (Minimum retention: 10 years)

(2) **Buildings and Grounds Maintenance and Repair Records** Records of all maintenance and repairs to buildings and grounds owned or leased by the agency. Used to verify that repairs were made. May include summaries, logs, reports, and similar records usually compiled from daily work records on a monthly or quarterly basis. Information often includes location, narrative of work completed, materials used, personnel completing work, authorization, dates of activities, and related data. SEE ALSO Daily Work Records in this section, and Administrative and Financial Improvement Records in the Financial section. (Minimum retention: (a) Records requiring engineering stamps: 2 years after life of structure (b) Other records: 2 years)

(3) **Cross Connection Control Survey Records** Records documenting the monitoring of potential or actual water system health hazards from pollution entering water pipes from other pipes. Records may include reports, surveys, checklists, and related documents. Information often includes address, contact person, business name, date, inspector, type of facility, description of protection, comments, corrections made, and other data. (Minimum retention: 1 year after disconnection or 10 years, whichever is longer)

(4) **Delivery Tickets** Tickets issued by suppliers to verify delivery of supplies or materials (concrete, road base, gravel, topsoil, etc.) Information usually includes date, time, amount and type of supplies received, and related data. (Minimum retention: 2 years)

(5) **Fill and Leaf Delivery Records** Records documenting citizen requests and agency delivery of fill material and leaves to private property. Often includes conditions, signature, address, and phone number of property owner, number of loads requested, desired dumping location, and related information. (Minimum retention: 2 years)

(6) **Hydrant Records** Records documenting the location, specifications, maintenance, testing, and repair of water hydrants in the water system. May include lists, charts, logs, reports, and related records. Information often includes location, make, description (main size, valve size, flow capacity, etc.), maintenance and repair narratives, dates, authorizations, and related data. (Minimum retention: (a) Location and specification records: Until hydrant permanently removed from service (b) Maintenance, test, and repair records: 2 years)

(7) **Permit-Required Confined Space Program Records** Records document OSHA program outlined in CFR 29.1910.146(e)(6) requiring employers to issue safety permits for employees entering potentially hazardous confined spaces, such as sewers. Records include permit, preentry testing data, field notations, and observations. (Minimum retention: 1 year)

(8) **Sewer and Storm Drainage Maintenance and Repair Records** Records documenting the maintenance and repair of agency sewers and storm drains. May include summaries, reports, and similar records usually compiled from daily work records on a monthly or quarterly basis. Information often includes location, narrative of work completed, amount and type of material used, personnel completing work, dates of activities, authorization, and related data. SEE ALSO Permit-Required Confined Space Program Records in this section. (Minimum retention: (a) Records requiring an engineering stamp: 2 years after sewer or storm drain permanently removed from service (b) Other records: 2 years)

(9) **Sewer Smoke Test Records** Records documenting smoke tests undertaken to verify hookup to main sewer lines, check condition of pipes, or determine effectiveness of backflow prevention devices. Information often includes maps or diagrams of lines tested, location of leaks detected, inspector's name, pipe size, and related data. (Minimum retention: 10 years)

(10) **Sewer Television/Videoscan Inspection Records** Reports documenting television inspections used to determine the condition of sewer lines. Inspections locate problems and defects so that corrective measures can be taken. Often consists of periodic inspections of existing lines, final inspections of newly constructed lines, and inspections at the end of war-

ranty periods. Records usually contain videotapes and written reports. Information often includes date, type of inspection, conditions found, repairs needed, distances from manholes, and related data. (Minimum retention: (a) Written reports: 10 years or until superseded or obsolete, whichever is first (b) Video tapes: 1 year after written report submitted)

(11) **Temporary Access/Construction Easement Records** Records documenting temporary easements allowing entrance and work on property not owned by the easement holder. Permits usually apply to agency crews and utility workers. Information can include applicant name, address, and phone number, contractor name and license number, utility involved, location, description of work, security deposit, surface restoration material used, signature, date, comments, permit number, and related data. (Minimum retention: 5 years after easement expires)

(12) **Valve Maintenance Records** Records documenting the location, specifications, maintenance, and repair of valves in the water and sewer systems. May include lists, charts, drawings, reports, logs, and related records. Information often includes valve location, identification number, run of pipe, size, make, year installed, depth, turns to open and normal position, narratives of valve maintenance and repair, tests run, personnel completing work, dates, and related data. (Minimum retention: (a) Location and specification records: Until valve permanently removed from service (b) Maintenance and repair records: 5 years)

(13) **Water Line Maintenance and Repair Records** Records documenting the maintenance and repair of agency-owned water lines. May include reports, summaries, and similar documents usually compiled from daily work records on a monthly or quarterly basis. Information often includes, location, narrative of work completed, amount and type of materials used, personnel completing work, dates of activities, authorization, and related data. (Minimum retention: (a) Records requiring an engineering stamp: 2 years after water line permanently removed from service (b) Other records: 10 years)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 – 192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0180

Public Works Records – Public Utilities

(1) **Utility Account Change Records** Records documenting routine information changes to customer accounts. Includes name, address, and similar change orders for current and final accounts. (Minimum retention: 2 years)

(2) **Utility Application/Disconnect Records** Applications completed by customers requesting water, sewer, power, garbage, or other agency provided services. Information usually includes customer's name, address, and phone number, meter information, date, and approval signatures. (Minimum retention: 3 years)

(3) **Utility Billing Adjustment Records** Records documenting adjustments to customer water, sewer, power, garbage, or other agency provided service billings for debits, credits, refunds, returned checks, and related reasons. Information usually includes customer's name and address, type of adjustment, justification, amount changed, authorizing signatures, and other data. (Minimum retention: 3 years)

(4) **Utility Customer Security Deposit Records** Records documenting customer payment of a security deposit to receive water, sewer, power, garbage, or other services. Information usually includes date, amount of deposit, customer's name, address, and account number, date account closed, refund date, amount of deposit confiscated, reason for confiscation, and related data. (Minimum retention: 3 years after refund or last action)

(5) **Utility Installation and Connection Records** Records documenting the connection of specific properties to water, sewer, power, or similar systems. Does not apply to temporary stoppages or disconnections service. May include applications, permits, and similar records. Information often includes applicant's name and address, permit number, fee charged, service level, type of structure, pipe size, meter size and number, and related data. (Minimum retention: 2 years after physical disconnection)

(6) **Utility Line Location Request Records** Records documenting requests and agency action to locate underground lines in the vicinity of a construction site. Information often includes name of person requesting location; planned and actual date and time of location; notations of water, sewer, storm drains, and other line locations; name and signature of person locating lines; and related data. (Minimum retention: 2 years)

(7) **Utility Meter Installation, Maintenance and Repair Records** Records documenting the installation, maintenance, and repair of agency operated water and power meters. May include logs, summaries, and similar records usually compiled from daily work records on a monthly or quar-

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terly basis. Information often includes address, narrative of work completed, personnel completing work, dates, and related data. (Minimum retention: 5 years)

(8) **Utility Meter Test and Calibration Records** Records documenting the testing and calibration of agency operated water and power meters for accuracy. May include logs, reports, lists, charts, and similar records. Information can include address, test and calibration results, repairs needed, comments, and related data. (Minimum retention: Life of the equipment)

(9) **Utility Service Bill Remittance Stubs** Bill stubs received with payments for water, sewer, power, garbage, and other agency provided services. These document receipt and posting of customer payments. Information usually includes account number, name, service address, payment received, and receipt date and number. (Minimum retention: 3 years)

(10) **Utility Service Billing Register Records** Documenting transactions on the water, sewer, power, garbage, or other agency provided service account of each customer. Useful for reference to assure accurate customer billings. Information often includes customer's name, service address, meter reading, water or power usage, utility changes, payments, adjustments, prior balance due, current balance due, and related data. (Minimum retention: 3 years)

(11) **Utility Service Meter Books Records** Documenting the readings of customer water or power meters by agency employees for billing purposes. Information usually includes name of meter reader, meter reading, date read, account number, billing code, final reading, reason for turnover, meter changes, and related data. (Minimum retention: 3 years)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0185

Public Works Records – Traffic Engineering and Maintenance Records

(1) **Alternative Transportation Committee Meeting Records** Records documenting the proceedings of the board of committee responsible for making recommendations to the county on alternative transportation issues, as described in Oregon's Public Meetings Law (ORS 192.610 to 192.710). Alternative modes of transportation include walking, public transit, and bicycling among others. Committee may provide input on footpath development as well. Records usually include minutes, agendas, exhibits, tape recordings, and related items. Subjects may include design, location, construction maintenance, projected needs, and development of master plans for alternative transportation mediums. (Minimum retention: (a) Retain minutes, agendas, resolutions, indexes, and exhibits (not retained permanently elsewhere in county records); Permanently (b) Retain audio or visual recordings: 1 year after minutes prepared and approved (c) Retain other records and exhibits not pertinent to minutes: 5 years)

(2) **Bridge and Culvert Maintenance and Repair Records** Records documenting maintenance and repairs on bridges and culverts. Includes pedestrian and bicycle bridges. May include summaries, reports, logs, and related records usually compiled from daily work records on a monthly or quarterly basis. Information often includes location, narrative of work completed, materials used, personnel completing work, authorization, dates of activities, and related data. SEE ALSO Daily Work Records in this section. (Minimum retention: (a) Records with engineering stamps documenting structural maintenance or repairs: 2 years after bridge or culvert permanently removed from service (b) Other records: 2 years)

(3) **Crosswalk Records** Records documenting the location and use of crosswalks. Useful in determining the need for and placement of existing and proposed crosswalks. May include reports, maps, studies, and related records. (Minimum retention: 2 years after superseded or obsolete)

(4) **Railroad Crossing Records** Records documenting agency activities in relation to railroad crossings. Records may include crossing plans and drawings, Oregon Public Utility Commission (PUC)/Oregon Dept. of Transportation (ODOT) public hearings records and rulings, reports and studies, accident records, and related documentation and correspondence. Records may also include documentation of corrective action taken in response to PUC/ODOT inspection reports. Oversight responsibility of railroad and rail safety responsibilities was transferred from the PUC to ODOT in 1995. (Minimum retention: Permanent)

(5) **Speed Zone Records** Records documenting the establishment and review of speed zones. Includes zones set by the Oregon State Speed Control Board and those established by the agency under OAR 701-010-0010. Records may include reports, photographs, proposals, orders, maps, accident summaries, and related documents. Considerations include pedes-

trian and bicycle movements, environmental impact, adjacent land use, and other factors. (Minimum retention: 2 years after superseded or obsolete)

(6) **Street Banner Records** Records documenting proposals for and installations of banners on streets, often in relation to civic events or celebrations. Records may include plans, maps, proposals, reports, applications, and other documents. Applications usually include applicant's name, address, and phone number, organization name, banner message, display period requested, signature of official approving permit, and related information. (Minimum retention: 2 years)

(7) **Street and Road Condition Inventory Records** Inventory records documenting the condition of streets, roads, curbs, shoulders, sidewalks, bikeways, alleys, etc. Useful for reference and planning. Information can include street or road name, location, year surveyed, constructed, and surfaced, bed and surface type, surface size, condition, and other data. (Minimum retention: 5 years after annual audit report issued)

(8) **Street Light Inventory Records** Inventory records of all street lights in an area. Information can include addresses, pole numbers, and map numbers of lights, types of lights, dates of purchase and installation, notes, and other data. (Minimum retention: Until superseded or obsolete)

(9) **Street Light Maintenance and Repair Records** Records documenting maintenance and repairs on street lights. May include reports, summaries, and similar records usually compiled from daily work records on a monthly or quarterly basis. Information often includes location, narrative of work completed, equipment repaired or replaced, supplies used, personnel completing work, authorization, dates of activities, and related data. SEE ALSO Daily Work Records in this section. (Minimum retention: 3 years after annual audit report issued)

(10) **Street Light Request and Survey Records** Records documenting requests by citizens for the installation of street lights, as well as surveys to assess need and feasibility. Often includes request forms, correspondence, surveys, reports, and related records. (Minimum retention: 2 years after last action)

(11) **Street Maintenance and Repair Records** Records documenting maintenance and repairs of agency-owned streets and sidewalks. May include reports, summaries, and similar documents usually compiled from daily work records on a monthly or quarterly basis. Information often includes location, narrative of work completed, amount of materials used, personnel involved, authorization, dates of activities, and related data. SEE ALSO Daily Work Records in this section. (Minimum retention: (a) Records requiring an engineering stamp: 10 years after substantial completion (as defined by ORS 12-135(3)) (b) Other records: 2 years)

(12) **Street Surface Maintenance Records** Records documenting routine and special street sweeping, cleaning, snow removal, sanding, leaf removal, and similar work. Often includes reports, summaries and similar records. Information can include date and time, area covered, broom down time and mileage, traveling time and mileage, operator's name, equipment used, amount of sand applied, amount of leaves removed, weather conditions, and related data. (Minimum retention: 3 years)

(13) **Traffic Accident Analysis Records** Records documenting the study of traffic accidents. Useful in identifying hazardous locations and determining possible corrective action. Records may include various statistical data on accidents related to fixed objects, parked automobiles, complicated intersections, bridges, pedestrians, streets/highways/roads, and other factors. May also include records of individual accidents documenting site, date, direction, driver's sex and age, weather, vehicle type, and related information. SEE ALSO Survey Field Records in the County Surveyor Records section. (Minimum retention: (a) Reports and summaries: 10 years (b) Other records: 5 years)

(14) **Traffic Control Equipment Maintenance and Repair Records** Records documenting maintenance and repair of traffic signals and signs in an area. May include reports, summaries, and similar records. Information often includes location, narrative of work completed, equipment repaired or replaced, supplies used, personnel completing work, dates of activities, and related data. (Minimum retention: (a) Traffic signals: 3 years after equipment permanently removed from service (b) Traffic signs: 3 years)

(15) **Traffic Control Equipment Inventory Records** Records documenting the location, type, and use traffic control equipment. Often includes an inventory of all traffic signs and signal equipment. Also may include information noting the timing intervals of traffic signals for red, green, yellow, and pedestrian cycles, type of equipment, date of purchase and installation, location, notes, and other data. (Minimum retention: 2 years after superseded or obsolete)

(16) **Traffic Research and Study Records** Records documenting data gathering and analysis concerning traffic patterns, speed, direction, and other topics. May include information on vehicles, bicycles, and pedes-

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trians for a given location and period of time. Usually includes machine and manual traffic counts, reports, summaries, and related records. SEE ALSO Engineering Project Technical Records in the Public Works-Engineering section. (Minimum retention: (a) Reports and summaries: 10 years (b) Other records: Until information is summarized or obsolete)

(17) **Transit System Records** Records documenting the location of transit system stops, stations, and crossings in a particular geographic area. Also may contain records related to agency review and approval or denial of individual stops or crossings proposed by a transit district. These may include reports, traffic surveys, decision statements, notifications to affected property owners, and related records. (Minimum retention: (a) Review records: 2 years after denied or approved and stop or crossing removed (b) Transit system maps: Until superseded or obsolete)

(18) **Truck Route Records** Records documenting the designation of truck routes for transporting goods within and through a particular geographical area. May include reports, maps, studies, and related documents. Subjects often include hazardous materials, triple trailer trucks, log trucks, buses, and others. (Minimum retention: 2 years after superseded or obsolete)

Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0190

Public Works Records – Wastewater Treatment

(1) **Annual Inspection Records** Records documenting annual inspections of agency wastewater treatment operations by the Oregon Department of Environmental Quality to monitor compliance with National Pollution Discharge System (NPDES) permit conditions. May include reports and supporting documentation. Information includes date, location, areas evaluated during inspection, summary of findings, pretreatment requirements review, sampling checklists, flow measurements, laboratory assurance checklists, and related data. (Minimum retention: (a) Reports: Permanent (b) Other records: 5 years)

(2) **Confined Spaces Permits Records** used to document that employers have issued permits according to the requirements outlined in 29 CFR 1910.146 relating to the testing for hazardous materials in confined spaces (sewers). Permits must be issued prior to employees' entrance into the confined space. Records may include but are not limited to permit, preentry testing data, field notations and observations. In addition, the employer is required to make note of any problems encountered during an entry operation on the pertinent permit so that appropriate revisions to the permit space program can be made. (Minimum retention: 1 year (29 CFR 1910.146 (e) (6)))

(3) **Discharge Monitoring Records** Records documenting the amount of pollution discharged from the agency's wastewater treatment facility. Reports are submitted to the U.S. Environmental Protection Agency and the Oregon Department of Environmental Quality. May also include supporting documentation. Information includes date, period covered, permit number, discharge number, frequency of analysis, sample type, and average and maximum quantities and concentrations of solids, ammonia, chlorine, nitrogen, and other chemicals, as well as other data. (Minimum retention: (a) Reports: Permanent (b) Other records: 5 years)

(4) **Hazardous Situation Permits Records** document the issuance of a permit by the employer notifying employees that they may be exposed to hazardous substances and/or conditions in confined spaces, most notably a sewer. Records include permit, pre-entry testing data, field notations and observations. (Minimum retention: 1 year after permit cancelled (29 CFR 1910.146 (e) (6)))

(5) **Industrial Pre-treatment Permits** Permits issued by the agency to private industries allowing the discharge of specific pollutants under controlled conditions. Often contains applications, permits, addenda, modifications, and related supporting documentation. Information may include influent and effluent limits, chemical analysis data, water flow, test and recording requirements, definitions and acronyms, compliance schedules, and related data. (Minimum retention: (a) Permits, addenda, and modifications: Permanent (b) Other records: 5 years after expiration or revocation)

(6) **Mobile Waste Hauler Dumping Records** Records documenting the dumping of septic pumpings and other wastes from various sources at the agency waste treatment facility. Usually includes logs, manifests, and similar documents. Information often includes name and signature of hauler, quantity of wastes dumped, location at which wastes were pumped, and related data. (Minimum retention: 5 years)

(7) **National Pollution Discharge Elimination System Permits Records** documenting the application for and issuance of a permit to the agency under the Clean Water Act allowing discharge of specific pollutants

under controlled conditions. Often contains applications, permits, addenda, modifications, and related supporting documentation. Information includes influent and effluent limits, chemical analysis records, water flow, test and recording requirements, definitions and acronyms, compliance schedules, and related data. (Minimum retention: (a) Permits, addenda, and modifications: Permanent (b) Other records: 5 years after expiration or revocation)

(8) **Sewage Sludge Application Site Logs** Logs documenting the agricultural application of sewage sludge to approved sites. OAR 340-050-0035(1) requires that agencies maintain these logs permanently. Subjects include agronomic loading calculations related to maximum application of nitrogen in pounds per acre per year, and ultimate site life loading calculations tracking the amount of heavy metals applied. (Minimum retention: Permanent)

(9) **Sewage Sludge Management Plans** Plans submitted to the Oregon Department of Environmental Quality by the agency to engage in sludge disposal or application activity. Information includes method of sludge removal, land application or disposal sites, sludge stability determination methods, projected sludge storage basin use, sludge analyses, application rates, and heavy metal limitations. (Minimum retention: Permanent)

(10) **Strip and Circle Chart Records** Records documenting the continuous monitoring of various wastewater treatment operations. May include strip charts, circle charts, and similar monitoring records. Information often pertains to pump flows, influent and effluent water flows, secondary total flow, influent pH, chlorine residue, and related subjects. (Minimum retention: 3 years)

(11) **Wastewater Treatment Operations Records** Program records not listed elsewhere in this schedule which document wastewater treatment operations. Created on a daily, monthly, and annual basis. Usually consists of reports, logs, log sheets, and related records. (Minimum retention: (a) Annual reports: Permanent (b) Other records: 5 years)

(12) **Water Pollution Control Facilities (WPCF) Permit Records** Records documenting the application for and issuance of a Water Pollution Control Facilities permit to the agency by the Oregon Department of Environmental Quality. The permit authorizes the agency to construct and operate a disposal system with no discharge to navigable waters. Examples include sewage lagoons, septic tanks, and drain fields. Records often include applications, permits, addenda, modifications, and related supporting documentation. (Minimum retention: (a) Permit, addenda, and modifications: Permanent (b) Other records: 5 years after expiration or revocation)

Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0195

Public Works Records – Water Treatment

(1) **Consumer Confidence Reports** Records documenting the presence of any contaminants in county water over the course of a year. Reports are mailed to county residences and businesses receiving county water. (Minimum retention: 5 years)

(2) **Non-Compliance Corrective Action Records** Records documenting action taken by the agency to correct violations of primary drinking water regulations. May include reports, logs, and related records. (Minimum retention: 3 years after last action (40 CFR 141.33))

(3) **Sanitary Survey Records** Records documenting surveys examining the overall condition of the agency water system. May be conducted by the agency, private consultants, or county, state, or federal agencies. Records may include written reports, summaries, and related significant documents. (Minimum retention: (a) Retain reports: Permanently (b) Retain other records 5 years)

(4) **Secondary Contaminant Reports** Reports documenting the analysis of water samples to determine the level of secondary contaminants. Secondary contaminants are those which at levels generally found in drinking water do not present a health risk but may affect taste, odor, and color of water, as well as stain plumbing fixtures and interfere with water treatment processes. Information may include date, report number, analyst, time of sample collection, contaminant levels, and related data. (Minimum retention: 10 years)

(5) **Variance and Exception Record** Records documenting variances and exceptions granted to the agency by regulatory agencies concerning water treatment operations. Information may include date, conditions of variance or exception, expiration date, and related data. (Minimum retention: 5 years after expiration or revocation of variance or exception)

(6) **Water Bacteriological Quality Analysis Reports** Reports documenting water samples taken from various locations throughout the water system and supply sources for bacteriological tests. Information includes

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location, collection date, person taking samples, sample type, analysis date, laboratory name, person performing analysis, analytical method used, and the results of the analysis. (Minimum retention: 5 years)

(7) **Water Chemical and Radiological Analysis Records** Documenting water samples taken from various locations throughout the water system and supply sources for chemical and radiological tests. Information includes location, collection date, person collecting sample, sample type, analysis date, laboratory name, person conducting analysis, analytical method used, and results of the analysis. (Minimum retention: 10 years)

(8) **Water Consumption Reports** Reports documenting statistics of daily water consumption. Useful for prediction of future flows and peak demands. Information may include water consumption in millions of gallons and cubic feet from treatment plants, springs, artesian wells, pumped wells, and reservoirs. (Minimum retention: (a) Annual reports: Permanent (b) Information summarized in annual report: 1 year (c) Information not summarized in annual report: 10 years)

(9) **Water Quality Complaint Records** Records documenting complaints received from the public about the quality of agency provided water. Information often includes name, address, and phone number of complainant, nature of complaint, location, description of water, name of person responding to complaint, narrative of investigation, and resolution. (Minimum retention: 3 years after last action)

(10) **Water Treatment Operations Records** Program records not listed elsewhere in this schedule that document water treatment operations. Created on a daily, monthly, and annual basis. Usually consists of reports, logs, log sheets, and related records. Subjects may include amount and types of chemicals used, filter rates, and others. (Minimum retention: (a) Annual reports: Permanent (b) Other records: 5 years)

(11) **Water Turbidity Reports** Reports documenting the analysis of water samples to determine the level of cloudiness caused by suspended particles. Information may include date, report number, analyst, time of sample collection, turbidity unit values for routine and check samples, and related data. (Minimum retention: 10 years)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0200

Risk Management Records

(1) **Contractor Liability Insurance Verification Records** Letters or certificates of coverage provided by insurance companies declaring that specific contractors are covered by appropriate liability insurance. Information usually includes insurance company name and address, issue date, expiration date, amount of coverage, type of coverage, special provisions, signature of insurance company representative, and related data. (Minimum retention: (a) If related to county or special district improvement project: 10 years after substantial completion, (as defined by ORS 12.135(3)) (b) Other records: 6 years after expiration)

(2) **Contractor Performance Bond Records** Records documenting the posting of performance guarantees or surety bonds by contractors performing work for the agency. May include letters, certificates, copies of bonds, and similar records. Information usually includes name of individual or company covered, amount of coverage, effective and expires dates, name of bonding agent, authorized signatures, and related data. (Minimum retention: (a) If related to county or special district improvement project: 10 years after substantial completion, (as defined by ORS 12.135(3)) (b) Other bond records: 6 years after expiration)

(3) **Hazard Communications Program Records** Records documenting participation in the Hazard Communications Program as required by the Oregon Occupational Safety and Health Administration (OR-OSHA). These records may be useful as documentation for exposure and other claims because they include chemical content, safe handling instructions, and other facts about a product at a given time in the past. Usually includes plans, reports, and material safety data sheets (MSDS). Information included in the material safety data sheets includes product name, manufacturer's address and phone number, hazardous ingredients contained, ingredient description, carcinogenicity, quantity of ingredients, fire and explosion data, health hazard data, radioactivity data, spill and leak pressures, safe handling and use information, special use precautions and related data. (Minimum retention: 75 years after superseded or obsolete)

(4) **Hazardous Substance Employer Survey Records** Series documents the locations, quantities, and individuals responsible for specific hazardous chemicals housed by an agency. This record is sent to the State Fire Marshal. Records include hazardous chemical compositions, lot numbers, and emergency disposition instructions. (Minimum retention: Until superseded or obsolete)

(5) **Incident Reports** Series documents incidents which result in an investigation of fraud. Information includes correspondence documenting incident, investigation report, and resolution/final determination. (Minimum retention: 5 years)

(6) **Injury Reports, Public Use Records** Documenting injuries sustained by non-employees on county or special district property such as parks, courthouses, libraries, and administrative buildings. Information usually includes date, time, location, and description of injury, name, address, phone number, sex, and age of injured person, witnesses, date reported, and related data. (Minimum retention: (a) If claim filed: See Liability Claims Records (b) If no claim filed: 3 years)

(7) **Insurance Fund Claims** Series documents requests for payment of insurance claims from insurers. Records may include Auto/Liability/Property Claim Reports, estimates of repairs, accident reports, police reports, and correspondence. (Minimum retention: 5 years)

(8) **Insurance Policy Records** Records documenting the terms and conditions of insurance policies between the agency and insurers. Types of insurance include liability, property, group employee health and life, motor vehicle, workers' compensation, flood, and others. Records usually include policies, endorsements, rate change notices, agent of record, and related documents. (Minimum retention: (a) Group employee health and life, property, and liability insurance: 75 years after expiration if no claims pending (b) Other insurance: 6 years after expiration if no claims pending)

(9) **Liability Claims Records** Records documenting various types of liability claims filed against the agency. These include personal injury, property damage, motor vehicle accident, false arrest, and others. Records often include reports, photographs, summaries, reviews, notices, audio and videotapes, transcriptions of recorded statements, memoranda, correspondence, and related documents. (Minimum retention: (a) If action taken: 10 years after case closed, dismissed, or date of last action (b) If no action taken: 3 years)

(10) **Liability Waivers Records** Documenting the release of the agency from liability related to various activities that include citizen involvement. Examples include but are not limited to riding in police or emergency medical services vehicles, participating in agency sponsored runs or other activities such as recreational classes including canoeing, kayaking, tennis, basketball, and others. Information usually includes release terms, date, signatures, and related information. (Minimum retention: 3 years)

(11) **Master Material Safety Data Records** Series documents all hazardous chemicals used and held by an agency. Records include hazardous materials safety sheets, safety instructions, and emergency instructions. (Minimum retention: Until superseded or obsolete)

(12) **Occupational Injury and Illness Records** Series is used to provide the Oregon Occupational Safety and Health Administration (OR-OSHA) with workers' compensation claim information about agency employees. Records may include logs and summaries, serious injury reports, injury cost reports, and annual occupational injuries and illnesses surveys. (Minimum retention: 6 years)

(13) **Personnel Accident Incident Reports** Series used to report employee accidents to agency supervisors. Records may include SAIF accident reports, accident reports, occupational injury report and investigation, and employee identification and physical assessment form. (Minimum retention: 10 years after case closed)

(14) **Property Damage Records** Reports, photographs, and other records documenting damage to agency property such as signs, trees, picnic tables, buildings, fountains, and fences. Information often includes type and location of property damaged, description of damage, date and time of damage (if known), name and address of individual who caused damage (if known), value of damage, billing costs, and related data. (Minimum retention: (a) If litigated: see Civil Case Files in the Counsel or District Attorney section for retention (b) If not litigated: 3 years after date of last action)

(15) **Risk Factor Evaluation Records** Series is used to assess various risk factors for an agency and determine appropriate insurance needs. Records may include studies, worksheets, yearly risk reports, restoration fund inventory reports, policy manuals, property transfer reports, self insurance manuals, real property reports, money and negotiable securities reports, a general risk survey and correspondence. (Minimum retention: 4 years)

(16) **Safety Inspection and Compliance Records** Series provides a record of safety inspections and documents agency compliance with state and local safety regulations. Records may include reports on building, fire alarm system, elevator, and boiler inspections performed by state and local agencies as well as citations received by the agency. Also includes follow-up actions and correspondence. (Minimum retention: 10 years)

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(17) **Safety Program Records** Records document the agency's program to promote a safe work environment for its employees. Records may include safety policies, plans and procedures, workplace safety committee records, reports on inspections conducted by the safety officer, evacuation rosters and reports, and related documentation and correspondence. (Minimum retention: (a) Retain safety policies, plans, and procedures: 5 years after superseded or obsolete (b) Retain inspection reports, evaluations and recommendations: 10 years (c) Retain committee minutes, exhibits, and agendas: 3 years (d) Retain other records: 5 years)

(18) **State Accident Insurance Fund (SAIF) Claim Records** Series documents job-related injury and illness compensation claims made by agency employees to the State Accident Insurance Fund and the resulting claim disposition. Records may include case histories, employer's payroll reports, SAIF premium reports, hearing transcripts, notices of claim acceptance, injury reports, supervisor's accident investigation reports, SAIF injury report summaries, opinions and orders, appeal letters, claim adjustment documentation, physician's reports, cost statements, and associated correspondence. (Minimum retention: 6 years after claim closure)

(19) **State Accident Insurance Fund (SAIF) Injury Reports** Series documents the information submitted to the State Accident Insurance Fund about personal injuries incurred by agency employees. (Minimum retention: 1 year)

(20) **Vehicle Accident Records** Records documenting accidents involving agency vehicles. May include dispatch reports with information such as name and address of parties involved, date and time, complaint, description of damage, and other data. Records may also contain motor vehicle accident reports which include the driver's name, address, phone number, date of birth, and driver's license number, as well as passenger and witness names, description of events, make and model of vehicle(s), vehicle identification number, and related data. Photographs and correspondence also may be part of these records. (Minimum retention: (a) If litigated: SEE Civil Case Files in Legal Counsel section (b) If not litigated: 3 years)

(21) **Workers' Compensation Claim Records** Records documenting the processing of individual employee claims of job related injuries or illnesses, but not those describing actual medical conditions. Includes records satisfying the procedural requirements of the State Workers' Compensation Division and the State Workers' Compensation Board, as well as those of (depending on agency arrangements) the State Accident Insurance Fund (SAIF), private insurance providers, or selfinsurance. Records may include claim disposition notices, claim reporting and status forms; injury reports; determination orders; insurance premium data; hearing requests; safety citations; inspection reports; medical status updates and reports; investigation reports; reimbursement and payment records; and related correspondence and documentation. SEE ALSO Employee Medical Records in the Personnel section for records describing the job related injury or illness and the related subsequent medical condition of the employee. These often include workers' compensation accident reports, medical reports, vocational rehabilitation evaluations, disability determinations and related records. (Minimum retention: (a) Records describing injuries and illnesses: SEE Employee Medical Records in the Personnel Records section (b) Other records: 6 years after claim closed or final action)

(22) **Workers' Compensation Program Records** Series used to provide a record of an agency's occupational injury/accident claims, safety compliance inspections, insurance coverage, and related reimbursement issues. Records may include claim disposition notices, claim reporting/status forms, injury reports, WCD Determination Orders, insurance premium data, hearing requests, safety citations, inspection reports, medical status updates, investigation records, and correspondence. (Minimum retention: 6 years)

Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0205 Surveyor Records

(1) **Bench Marks Records** Records document bench marks placed by the United States Geological Survey, United States Corps of Engineers, Oregon Department of Transportation, a city surveyor's office, or the County Surveyor's office to denote elevations above sea level. Records may include books, maps, cards, and other documents. Information contained in the records includes location, monument number, elevation, description, and related data. Series may include horizontal control surveys. Records are usually filed numerically by bench mark number. (Minimum retention: Permanent)

(2) **Corner Restoration (Bearing Tree) Records** Records identify specific characteristics of government corners and their accessories. Records may include the original description of the corner; description of the new corner; dates and names of witnesses; field notes or diagrams of the corner, brass cap, or accessories; and photographs. (Minimum retention: Permanent)

(3) **County Road Records** Records document the official description of county roads determined by surveying and mapping county roads and city streets which are extensions or segments of county roads. Records include road surveyor field notes, field books, maps, and road registers. Information may include legal description of the road; road name and number; plans and profiles; and may also include records of the petition and resolution process and reference to corner and road monuments. (Minimum retention: Permanent)

(4) **Land Division Plats** Plats are used to create the title identity to a piece of land and may include subdivision, partition, condominium, or cemetery plats. Records include map and accompanying survey narrative, property description, declaration by owner, dedication of streets to public use, and approval by public bodies. Records may also include plat and partition checking files which include subdivision guarantees, closure sheets, fee checks and receipts, findings, and decisions. The plats are produced by registered professional land surveyors. The original is filed with the County Clerk and generally a true and exact copy is filed with the County Surveyor. (Minimum retention: Permanent)

(5) **Records of Survey Records** identify land boundaries and disclose the finding, establishment, or restoration of survey corners or monuments. Records include maps and accompanying survey narrative and description of corners. The surveys are produced by registered professional land surveyors and then reviewed, accepted, and filed by the County Surveyor. Records may be called Bearing Tree Records or Survey Maps and may include donation land claims and other federal land grant surveys such as GLO (General Land Office) or BLM (Bureau of Land Management) surveys. Records may also include the Global Positioning System (GPS) and other surveys produced with new technologies and required to be filed with the County Surveyor. (Minimum retention: Permanent)

(6) **Reference Maps** Maps may include copies of highway, railroad, topographical, flood plain, and other maps used for reference. (Minimum retention: Retain until superseded or obsolete)

(7) **Survey Field Records** Records include detailed field notes and other records related to surveys done for boundary work, local improvement districts, special requests, and other purposes such as dams, canals, and power lines. Field records may include investigative surveys made of crime or accident scenes at the request of law enforcement officials; notes on traverses, boundary and right-of-way location, construction (including levels, cuts, and grades), and other information; as well as sketches related to the survey. Records may also include post monumentation records including deposits, requests for release of funds, and interior corner monumentation documents. (Minimum retention: (a) Boundary and right-of-way location records: Permanent (b) All other records: 10 years after substantial completion of project)

Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005 -192.170 & 357.805 - 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0210 Treasurer/Controller

(1) **Bancroft Bond Records** Documents long-term property owner financing of assessments levied for county improvements. May include applications for installment financing, receipts of payment of property assessment, and foreclosure records. (Minimum retention: (a) Bond Receipts: 2 years (b) All other records: two years after final payment, redemption, sale, or action)

(2) **Bank Transaction Records** Records documenting the current status and transaction activity of agency funds held at banks. May include account statements, deposit and withdrawal slips, checks, and related records. Information includes bank and account numbers, transaction dates, beginning balance, check or deposit amount, document numbers, adjustments, description of transaction, ending balance, and related data. SEE ALSO the Financial Records section. (Minimum retention: 3 years)

(3) **Bond Expenditure Reports** Records documenting all information relating to the expenditures of bond proceeds, including the bond principle and interest. Also includes earning process of investments, checks issued and related information. SEE ALSO the Financial Records section. (Minimum Retention: 3 years)

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(4) **Bonds and Coupons, Paid Records** documenting paid bonds and coupons issued for capital improvements financed by property tax levies, special assessments, and utilities user payments. Debt types include general obligation, special assessment, water and sewer, tax allocation, and others. The paid (canceled or redeemed) bonds and coupons are received from paying agents and include bond number, maturity date, series number, interest payable date, dollar amount, sale conditions, and related information. Series includes related information contained in official transcripts. SEE ALSO the Financial Records section. (Minimum retention: 3 years)

(5) **Bonds Issued Registers** Registers or similar records documenting all agency bond issues and related information. Useful for ensuring accurate information about the overall indebtedness of the agency. Information often includes bond number, date paid, place of payment, maturity date, date registered, and related data. SEE ALSO the Financial Records section. (Minimum retention: 3 years after final payment)

(6) **Investment Records** Records documenting and tracking various investments made by the agency. Often contains bank statements documenting investment information, journal entries, confirmations of purchase of U.S. Treasury Bills, confirmations of deposit in local investment pool, and deposit slips, correspondence, and memoranda related to specific investments. SEE ALSO the Financial Records section. (Minimum retention: 3 years)

(7) **Revenue Sharing Records** Evidence of receipt and administration of federal and/or state revenue sharing funds including those from state liquor and cigarette taxes. Used to track how funds are spent, for budgeting future funds and for other uses. May include transmittals, affidavits of publication, planned and actual use reports, supporting documentation used to qualify for revenue sharing funds, and related records. (Minimum retention: 3 years)

(8) **Tax Turnover Records** Documents amounts paid to each taxing district based on the Tax Collection and Distribution schedule calculated by the Tax Collector. Includes date of distribution, district name, and amount distributed. May also include percentage of collection and distribution, year of tax, and adjustments. SEE ALSO the Financial Records section. (Minimum retention: 6 years)

(9) **Trust Fund Records** Records documenting bequests to the agency or funds held in trust by the agency for specific parties. Used to determine trust fund spending for reporting to trustees. May include wills, other legal documents, expenditure records, chronologies, resolutions establishing trust funds by the agency, records documenting subject matter approved for purchase, acquisition lists, and related records. Some records may have historic value. SEE ALSO the Financial Records section. (Minimum retention: Records not duplicated elsewhere in agency records: 3 years after trust fund closed)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

166-150-0215

Vector Control Records

(1) **Aerial Spray Reports** Reports documenting the acreage sprayed by air, the amount of chemical used to spray, and the cost of air time and materials used. Includes pounds used per acre, date and time, area maps, plane rate, pilot, application cost, total cost, invoice number, and operator. (Minimum retention: 3 years)

(2) **Chemical Inventory Records** Records documenting chemicals stored and used by Vector Control for use in their rodent and mosquito control programs. Records include asset transfer forms, product inventories, chemical use records, acquisition records, correspondence, and related records. (Minimum retention: 3 years (ORS 634.146))

(3) **Field Technicians Daily Reports** Records documenting pest breeding sources and daily work performed by the field technician. These reports include copies of topographic maps and other data collected by field technicians (Minimum retention: 3 years)

(4) **Field/Operational Data Maps** Maps documenting pest breeding sources, in order to determine locations for field technicians. These maps are updated yearly, and depict all known pest breeding sources within the geographic areas. (Minimum retention: 3 years)

(5) **Fish Stocking Permits Records** documenting the distribution of fish to county residents for mosquito larvae control. Permits are required by the State Department of Fish and Wildlife and governed by OAR 635-007-0620. Permits show recipient's name and address, shipping location, number transferred, and authorizing signatures. Also includes an annual list of stocking done. (Minimum retention: (a) Stocking list: retain 5 years (b) Other records retain 10 years)

(6) **Pest Breeding Site Monitoring Records** Records documenting Vector Control's monitoring of sites likely to breed mosquitoes and other pests. Records include breeding site master list, storm drain master list, daily checking record, monthly checking summary, larvae and mosquito sampling records, and related records. (Minimum retention: Permanent)

(7) **Pest Complaints Records** documenting citizen complaints about pests, Vector Control's response, spraying, etc. Common complaints include sites likely to breed mosquitoes and other pests, rats on property, sewer breaks, dog feces, and illegal dumping. Records include standard complaint form, inspector assignment form, recheck form, hearing officer order, notice of violation, notice of civil penalty assessment, abatement notice, hearing notice, inspector's report, phone messages, evidence (usually photographs), and related records. Information includes type of complaint, complainant's name and address, description of complaint, date of complaint, inspection date, inspector's name, and description of complaint resolution. (Minimum retention: 5 years)

(8) **Pesticide Application Records** Records documenting the application of pesticides to agency buildings or grounds as required by the Oregon Department of Agriculture (ODA). Records may include but are not limited to pesticide applicator license information, lists of pesticides used, amount of pesticides used, dates of application, applicator notes, and work orders. (Minimum retention: 2 years after report submitted to ODA, destroy)

(9) **Pesticide And Application Equipment Technical Information Records** documenting proper use of pesticides and their chemical makeup. Includes technical information sheets issued by manufacturers, application and use information, equipment specifications, reports and articles about the use of certain pesticides, and related correspondence. (Minimum retention: 30 years)

(10) **Pesticide Use Plans** Used to fulfill state Department of Fish and Wildlife requirements concerning the application of pesticides. Plan shows type(s) of pesticide applications, area of application(s), proposed date of application(s), reasons for use, predicted environmental impact, and related information. (Minimum retention: Permanent)

(11) **Specified Animal Permit Records** Records documenting permits issued for certain animals (bees, exotic animals, domesticated animals, and livestock). Records include copy of annual permit, application, and copies of fee receipts. May also include complaint, notice of violation, inspection records, and related correspondence. (Minimum retention: (a) Retain fee records: 3 years (b) Retain all other records: 6 years after permit revoked or non-renewal)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 –192.170 & 357.805 – 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04

Secretary of State, Corporation Division Chapter 160

Adm. Order No.: CORP 2-2004

Filed with Sec. of State: 9-1-2004

Certified to be Effective: 9-1-04

Notice Publication Date: 8-1-04

Rules Amended: 160-040-0202

Subject: This rule delineates the factors that the Secretary of State may use to determine if a record is within the scope of ORS Chapter 79, in accordance with ORS Ch. 79.0516(2)(h). In general, the kinds of collateral included in the Uniform Commercial Code fall within the scope of Ch. 79; those that are not included, such as birth certificates and driver's licenses, are outside the scope.

The purpose of the rule is to prevent the noncommercial use of UCC filings for harassment and fraud.

Rules Coordinator: Kristine T. Hume—(503) 986-2356

160-040-0202

Rejection Reasons

(1) The reasons for rejecting a filing submitted to the filing officer shall be those listed in Oregon Revised Statute Ch. 79.0516 and as delineated in the Jurisdictions Guidelines for Accepting a UCC Record for Filing Chart, published by the International Association of Commercial Administrators.

(2) For the purposes of ORS 79.0516(2)(h), collateral "within the scope of this chapter" shall include:

(a) Interest accounts (79.0310);

(b) Tangible chattel paper (79.0312);

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- (c) Electronic chattel paper (79.0312);
- (d) Commercial tort claim (79.0310);
- (e) Certain consumer goods interests (79.0310);
- (f) Negotiable documents (79.0312);
- (g) Equipment (79.0310);
- (h) Farm products (79.0310);
- (i) Certain general intangible transactions (79.0310);
- (j) Instruments (79.0312);
- (k) Inventory (79.0310);
- (l) Interests in investment property created by debtor other than broker or intermediary (79.0312).

(3) For the purposes of ORS 79.0516(2)(h), factors that indicate "the record is being filed for a purpose not within the scope of this chapter" shall include, but are not limited to:

- (a) Collateral description/attachments that contain:
 - (A) Birth Certificate, Certificate of Live Birth, etc.
 - (B) Driver's License.
 - (C) Treasury Account number.
 - (D) Employer ID number.
 - (E) Private Setoff Account number.
 - (F) Marriage Certificate number.
 - (G) Bill of Exchange.
 - (H) Dollar amount(s) that are disproportionately large
 - (b) References to:
 - (A) Public Policy HJR-192, Public Law 73-10.
 - (B) House Joint Resolution 192 of June 1933.
 - (C) UCC 1-103, UCC 1-104, UCC 10-104, UCC 1-201 (39), UCC 3-419, UCC-401.
 - (c) Words and phrases:
 - (A) "Exempt from Levy."
 - (B) "Exempt from all taxes, burden, charges and duty" or parts thereof.
 - (C) "Accepted for value."
 - (D) "Actual and Constructive Notice."
 - (E) "Strawman."
 - (F) "Non negotiable Notice of Transfer."
 - (G) "Notice of Dishonor."
- Stat. Auth.: 2001 SB 171 Sec. 97.9-526
Stats. Implemented: 2001 SB 171 Sec. 87.9-516
Hist.: CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 1-2002, f. 11-15-02, cert. ef. 12-1-02; CORP 2-2004, f. & cert. ef. 9-1-04

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

Adm. Order No.: ELECT 7-2004
Filed with Sec. of State: 9-10-2004
Certified to be Effective: 9-10-04
Notice Publication Date: 8-1-04
Rules Adopted: 165-020-0430

Subject: This proposed rule assigns position numbers and adjusts the terms of office of the district commissioners of the newly formed Joelson Road District, a special district formed in Douglas County at the May 18, 2004, Primary Election. The terms must be adjusted to provide for future elections in May of odd-numbered years, as provided in ORS 255.335.

Rules Coordinator: Brenda Bayes—(503) 986-1518

**165-020-0430
Adjusting the Terms of Office for Joelson Road District Commissioners**

(1) This rule assigns position numbers and adjusts the terms of office for the office of district commissioner for the Joelson Road District, a Douglas County special district created by election at the May 18, 2004 primary election. The district's first commissioners were elected to four year terms without assignment of position numbers. The terms must be adjusted to expire on odd-numbered years to conform to the regular district election schedule in ORS 255.335.

(2) The commissioners are assigned the following position numbers and length of terms:

- (a) Position 1: Dennis Hutchinson, term to expire June 30, 2007;
- (b) Position 2: George E. Gilliland, term to expire June 30, 2007;
- (c) Position 3: Patricia Hutchison, term to expire June 30, 2005.

(3) Following the expiration of these adjusted terms, each position will be filled by election at the regular district election for a four year term.
Stat. Auth.: ORS 246.150, 255.325
Stats. Implemented: ORS 255.335
Hist.: ELECT 7-2004, f. & cert. ef. 9-10-04

**Teacher Standards and Practices Commission
Chapter 584**

Adm. Order No.: TSPC 5-2004
Filed with Sec. of State: 8-25-2004
Certified to be Effective: 8-25-04
Notice Publication Date: 7-1-04
Rules Adopted: 584-052-0030, 584-052-0031, 584-052-0032, 584-052-0033

Rules Amended: 584-060-0181
Subject: 584-052-0030 - 0033 Establishes eligibility, procedures and appeal rights for alternative assessment.

584-060-0181 Creates clarity and places restrictions on the Substitute Teaching License.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

**584-052-0030
Eligibility for Alternative Assessment**

(1) Candidates for any licensure may petition the Commission for alternative assessment in lieu of subject-matter tests when all of the following conditions have been met:

(a) The candidate's primary language is not English; or the candidate has a documented disability that cannot be accommodated through special ETS testing provisions.

(b) The candidate is sponsored in the alternative assessment either by a teacher preparation institution or the candidate's employing school district.

(c) The candidate has taken the appropriate subject-matter test at least twice without passing. At least one of the attempts must be taken under special accommodations through the appropriate testing service unless the candidate can show that she or he was denied special accommodations. A candidate who has been denied may petition the commission to consider their particular disability. The commission will generally recognize disabilities subject to the Americans with Disabilities Act.

(d) The candidate has met the basic skills requirements through:

- (A) The California Basic Skills Test (CBEST); or
- (B) The Praxis I Pre-Professional Skills Test; or
- (C) Commission-approved alternative college coursework.

(e) The candidate has either completed a teacher preparation program or is within two terms or one semester of completing an Oregon teacher preparation program or the candidate is employed in an Oregon school district on a license valid for the assignment; and

(f) The candidate has current fingerprints on file with the commission.

(2) Eligible candidates for alternative assessment must submit a portfolio of evidence for evaluation by the commission. If denied, the portfolio becomes permanent property of the commission so candidates should not use original materials that cannot be replaced. Candidates may not access evidence in the portfolio once it is accepted by the commission for evaluation.

(3) The portfolio must be submitted at least two weeks prior to the commission meeting in order to be considered. The commission reserves the right to accept late applications for submission only when extenuating circumstances have been demonstrated.

(4) Prior to submission to the commission, the portfolio will be reviewed by commission staff for completeness and timeliness. In addition, the commission staff will compute grade point averages prior to submission to the commission.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176
Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04

**584-052-0031
Portfolio Evidence for Alternative Assessment**

All portfolio for licensure must contain the following items of evidence:

- (1) A statement of professional goals of the candidate;
- (2) A completed and signed form indicating district or institutional sponsorship of the alternative assessment;

ADMINISTRATIVE RULES

(3) A completed and signed form indicating the candidate's information related to the testing experience, and why the candidate is seeking alternative assessment;

(4) A completed and signed affidavit attesting to candidates eligibility and the authenticity of the work presented;

(5) A copy of evidence that the Basic Skills requirement has been met such as score reports or transcripts evidencing passage or commission approved coursework;

(6) Copies of the two failed attempts at the test for which the candidate is seeking waiver;

(7) A copy of the admission ticket from ETS indicating that at least one of the tests was taken with special accommodations;

(8) Three letters of recommendation from work or education experience directly related to the candidate's teaching ability.

(9) One work sample;

(10) Student teaching and/or practicum evaluations;

(11) Copies of transcripts from all college preparation completed; and

(12) Resume or Curriculum Vitae.

(13) Optional items may include photographs of class projects or other items that the candidate believes supports the candidate's competency in the subject matter.

Stat. Auth.: ORS 342

ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176

Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04

584-052-0032

Procedure for Initial Commission Review of the Portfolio

The portfolio will be assessed by at least two commissioners and in cases of a split vote, it will be read by three commissioners on the following elements:

(1) Completeness and appropriateness of materials required in OAR 584-052-0031; and

(2) Evaluation of the teaching work samples submitted shall be based on the following:

(a) Unit Goals;

(b) Instructional Plans;

(c) Data on Pupil Learning;

(d) Interpretation of Data;

(e) Use of Data.

(3) The rubric for Evaluation of administrator work samples submitted shall be developed no later than November 1, 2004:

(4) The rubric for evaluation of school counselor work samples submitted shall be developed no later than November 1, 2004.

(5) The rubric for evaluation of school psychology work samples submitted shall be developed no later than November 1, 2004.

(6) Portfolios shall not be reviewed by commissioners that have a connection to the teacher preparation institution or school district sponsoring the candidate.

(7) The portfolio will be reviewed by the Commission's Licensure Committee which will make a recommendation to the full commission regarding whether a candidate has passed the alternative assessment. The committee may recommend any one of the following actions related to the submitted portfolio:

(a) Recommend waiver of the subject-matter test; or

(b) Recommend denial of the subject-matter test; or

(c) Recommend issuance of an alternate license; or

(d) Recommend postponing action until additional information can be obtained; or

(e) Refer to the commission without a recommendation; or

(f) Take such other action as is deemed appropriate.

(8) Candidates who have been denied waiver of the subject-matter tests as a result of the alternative assessment will be provided with the results of the assessment, comments from the commissioners and the reasons for the denial.

(9) The Commission may delegate the responsibility for evaluation of the work samples at any time to persons who possess the necessary qualifications as determined by the TSPC Licensure Committee.

Stat. Auth.: ORS 342

ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176

Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04

584-052-0033

Appeals of Commission Denials of Alternative Assessment

The Commission will accept only one resubmission of an alternative assessment portfolio for further evaluation under the following conditions:

(1) The candidate requests a second evaluation accompanied by documentation of continued advocacy and support from a teacher preparation institution or school district; and

(2) The candidate provides new information, data and/or documentation to address the reasons for denial of the original submission; and

(3) The resubmitted materials are received by TSPC no later than two weeks prior to the next commission meeting.

(4) On appeal, candidates may only resubmit those materials specifically related to the initial denial of the alternative assessment.

(5) The commission will review the original portfolio submitted and compare the supplementary materials submitted by the candidate on appeal.

(6) The portfolio will be read by two commissioners, and in cases of a split vote it will be read by three commissioners who did not participate in the original portfolio submission.

Stat. Auth.: ORS 342

ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176

Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04

584-060-0181

Substitute Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Substitute Teaching License. This license, issued for three years and renewable, is valid at any level for replacing in any specialty a teacher who is temporarily unable to work.

(2) To be eligible for a Substitute Teaching License, the applicant must have a bachelor's degree or higher from a regionally accredited institution or approved foreign equivalent related to teaching at one or more levels, demonstrate knowledge of applicable civil rights laws, and furnish fingerprints in the manner prescribed by the commission. An applicant without an approved first aid card must obtain one within 90 days of receiving the license.

(3) Awarding of a higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure.

(4) If the applicant has held an unrestricted license for full-time teaching in any state or completed an approved teacher education program in any state, the Substitute Teaching License will not be restricted as to employer or number of days taught. However, the holder of a Substitute Teaching License may not continuously replace an individual teacher absent for more than three consecutive months without obtaining a full-time license.

(5) If the applicant has not held an unrestricted license for full-time teaching in any state or completed an approved teacher education program in any state, a Restricted Substitute Teaching License will be issued and will be restricted to 60 days total use during each school year within a district that has applied for it jointly with the teacher.

(6) Upon application for a Restricted Substitute Teaching License, the co-applicant district must describe its particular need in relation to the co-applicant teacher's qualifications summarized on a submitted resume, and the district must attest that circumstances prevent hiring a suitable teacher holding another license of any kind appropriate for the role to be filled.

(7) To be eligible for renewal of the Substitute Teaching License or the Restricted Substitute Teaching License, an applicant must obtain a passing score as currently specified by the commission on a test of basic verbal and computational skills, unless the applicant held an Oregon educator license before 1985 or has a regionally accredited doctor's degree. The applicant must also obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws at the conclusion of a course or workshop approved by the commission.

(8) A district may apply for an emergency extension to either a Substitute Teaching License or a Restricted Substitute Teaching License if they are unable to obtain a regularly licensed teacher for the position beyond the allowed timelines stated in subsections (4) and (5) above. The Executive Director may approve a reasonable extension upon proof of the emergency.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.123, 342.125, 342.126, 342.127 & 342.165

Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 9-1999, f. & cert. ef. 11-22-99; TSPC 5-2004, f. & cert. ef. 8-25-04

Adm. Order No.: TSPC 6-2004

Filed with Sec. of State: 8-25-2004

Certified to be Effective: 8-25-04

Notice Publication Date: 6-1-04

ADMINISTRATIVE RULES

Rules Adopted: 584-017-0042, 584-036-0067, 584-060-0002, 584-060-0162, 584-100-0037

Rules Amended: 584-036-0055, 584-040-0005, 584-050-0042, 584-060-0001, 584-060-0005, 584-060-0161, 584-100-0026, 584-100-0036

Subject: Adopt:

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

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

584-060-0002 Establishes definitions to apply within Division 060 on Twenty-First Century Teaching Licenses.

584-060-0162 Establishes a Restricted Transitional Teaching License.

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

Amend:

584-036-0055 Updates fees and clarifies expedited service requests.

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

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

584-060-0001 Revises the purpose of Twenty-First Century Teaching License.

584-060-0005 States teachers issued licenses prior to January 15, 1999, are entitled to the rights granted by law and the rules of the Commission under which the license was issued.

584-060-0161 Revises the requirements for a Transitional Teaching License.

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

584-100-0036 Requires highly qualified secondary teachers to meet the HOUSSE requirements defined in OAR 584-100-0037.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-017-0042

Waivers for Student Teaching Requirements

(1) An institution may grant a waiver of the student teaching requirements pursuant to OAR 584-017-0045(2) in the event a candidate for teacher licensure is unable to complete the student teaching timeline requirements contained within OAR 584-017-0180(3) due to an unforeseen disruption of school district operations.

(2) In order to grant the waiver, the institution must submit a waiver to the Executive Director for approval pursuant to OAR 584-017-0040 which includes the following:

(a) A stipulation that the conditions contained within OAR 584-017-0045(2) for each candidate waiver have been met;

(b) Identity of the school district where the student teacher is placed; and

(c) The number of candidates affected by the early closures.

(3) The institution must report all the above information within the 2003-2004 annual report to TSPC.

(4) Institutions who grant a waiver pursuant to this rule shall not be considered to have made a minor or major modification to their approved program for the 2003-2004 academic year.

(5) The Executive Director shall provide the Commission with all requested and approved temporary waivers pursuant to this rule.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.147

Hist.: TSPC 1-2004(Temp), f. & cert. ef. 3-17-04 thru 9-12-04; TSPC 6-2004, f. & cert. ef. 8-25-04

584-036-0055

Fees, Forfeiture, and Expedited Service

All fees are assessed for evaluation of the application and are not refundable. The Commission issues the appropriate license at no additional cost if the applicant qualifies for it within 90 days following evaluation of the application. After 90 days, the applicant may attempt to satisfy the same requirements without paying another fee but must file a new application form. After one year, the applicant must pay another fee, file a new application, and satisfy all license requirements in effect at the time of filing.

(1) The fee for evaluating an application for a license based upon completion of an Oregon approved program is \$75.

(2) The fee for evaluating an application for a license not based upon completion of an Oregon approved program is \$90.

(3) The fee for evaluating an application for renewal of a license is \$75.

(4) The fee for each duplicate license is \$10.

(5) The fee for evaluating an application to add one or more endorsements or authorization levels to a currently valid license is \$75. No additional fee is required to add an endorsement in conjunction with an application for renewal or reinstatement of a license.

(6) The fee to evaluate an application for reinstatement of an expired license is \$75 plus a late application fee of \$15 for each month or portion of a month that the license has been expired to a maximum of \$150 total.

(7) The fee for evaluating an application for reinstatement of a suspended license is \$75.

(8) The fee for evaluating an application for reinstatement of a revoked license is \$150 in addition to the \$75 application fee.

(9) Forfeiture for a check which the applicant's bank will not honor is \$25, unrelated to any evaluation fees. The total amount due shall be paid in cash at the Commission's office or by a Money Order.

(10) There is no fee for evaluating licensure applications submitted on behalf of teachers participating in exchange programs or on Congressional appointment from foreign countries.

(11) The fee for alternative assessment in lieu of the test of educational specialty is \$200. (12) The fee for assessment of competence through the Beginning Teacher Assessment Program is \$400.

(13) An employer and an applicant may jointly submit any license application, which must include the C-1, C-3, with a request for expedited service accompanied by an additional service fee of \$100. Qualified applicants will be authorized to perform all duties of the position requested within two working days of such application. This authorization is conditional upon determination that all requirements for the license have been met. The Commission may limit the number of applications from an employing district to a maximum of 100 in any two-day period.

(14) An applicant may submit any license application with a request for expedited service accompanied by an additional service fee of \$100. Qualified applicants will be issued a license as quickly as all conditional elements of the license are satisfied.

(15) The fee for registration of a charter school teacher is \$50, which includes the \$42 for required criminal records and fingerprinting costs.

(16) The fee for renewal of a charter school registration is \$15.

(17) The fee for a criminal records check including fingerprinting is \$42.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200, 342.400 & 342.985

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 4-1983, f. 5-17-83, ef. 7-1-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 4-1985, f. 10-4-85, ef. 1-1-86; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 5-1988, f. 10-6-88, cert. ef. 1-15-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1994, f. 7-19-94, cert. ef. 10-15-94; TS 5-1994, f. 9-29-95, cert. ef. 10-15-94; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 1-2003, f. & cert. ef. 1-13-03; TSPC 6-2004, f. & cert. ef. 8-25-04

584-036-0067

Temporary One-Year Extension of Initial Licenses

(1) Any licensed educator who possesses an Initial Teaching License (584-060-0011), an Initial School Counselor License (584-070-0011), an Initial School Psychologist License (584-070-0211) or an Initial Administrator License (584-080-0011) that was granted on or before October 3, 2003, is granted one extra year on the life of their license to complete the Continuing Licensure requirements.

(2) The TSPC will administer this extension internally by issuing a letter to the licensees who are entitled to the one year extension and altering the expiration date on their license within the TSPC database. Some license holders may receive the extra year upon renewal of their license.

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(3) An educator can check on her or his expiration date by accessing their records on the TSPC Web site on or after June 1, 2004.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.136

Hist.: TSPC 1-2004(Temp), f. & cert. ef. 3-17-04 thru 9-12-04; TSPC 6-2004, f. & cert. ef. 8-25-04

584-040-0005

Standard Teaching License Requirements

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Standard Teaching License.

(2) The Standard Teaching License is issued for five years and is renewable repeatedly under conditions specified below. It is valid for regular teaching at one or more designated authorization levels in one or more designated specialties and for substitute teaching at any level in any specialty.

(3) The applicant must provide verification of successful teaching experience in Oregon schools while holding a Basic Teaching License or a Five-Year Regular License valid for the assignment in one of the following ways:

(a) Effective January 1, 1990, three years of one-half time or more experience is required; or

(b) For persons holding a Basic Teaching License prior to January 1, 1990, two years of experience or three years of one-half time or more experience, whichever is less.

(4) The applicant must provide evidence of one of the following:

(a) Completion of an approved Standard Teaching License program which culminates with forty-five quarter hours of upper-division or graduate study beyond the bachelor's degree and includes the following:

(i) Verification of completion of the professional preparation described in OAR 584-040-0008 unless the application is for a Standard Teaching License with a standard special education endorsement, in which case the professional preparation in OAR 584-040-0008 is not required; and

(ii) Evidence of completion of the academic preparation for one of the standard endorsements outlined in OAR 584-040-0010 through 584-040-0300 in a field in which the basic endorsement is held, or completion of two of the basic subject matter endorsements outlined in OAR 584-038-0010 through 584-038-0280. Fifteen of the quarter hours that are required for the endorsement(s) must be at graduate level; or

(b) Completion of a master's degree in education, subject-matter, school administration, school counseling or school psychology from an approved teacher education institution; or

(c) Completion of an inservice program offered by an approved teacher education program granting credit for the experience, culminating in either a master's degree or 45 quarter hours of upper-division or graduate study beyond the bachelor's degree.

(5) An applicant who does not complete the requirements of (4)(a)(ii) above, will not be given a Standard Endorsement, but would retain any Basic Endorsement that the applicant holds.

(6) The applicant must have a passing score on a test of knowledge of U.S. and Oregon civil rights laws at the conclusion of a course or workshop approved by the commission.

(7) The applicant must verify recent education experience in one of the following ways during the three-year period immediately preceding application:

(a) Completion of an approved teacher education program; or

(b) Beginning and completion in a public school or regionally accredited private school in a U.S. jurisdiction of at least one academic year as a full-time licensed educator or two consecutive years as a half-time licensed educator on any license appropriate for the assignment, or equivalent experience as in a state or federal school; or

(c) Receipt of 6 semester hours or 9 quarter hours of academic credit, germane to teaching licensure, from a regionally accredited college or university; or

(d) Completion of one hundred eighty days of teaching in Oregon schools on a teaching license valid for the assignment; or

(e) Compliance with provisions of OAR 584-048-0020, or

(f) A combination of such experience and credit may be submitted in satisfaction of this requirement in which one quarter hour of preparation equals 20 days of successful experience.

(8) The Standard Teaching License may be renewed under the provisions of 584-048-0035 together with completion of the professional development requirements as described in 584-090-0005.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 4-1983, f. 5-17-83, ef. 7-1-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 4-1985, f. 10-4-85, ef. 1-1-86; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1987, f. & ef. 3-3-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 3-1988, f. & cert. ef. 4-7-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1994, f. 7-19-94, cert. ef. 10-15-94; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 1-2004(Temp), f. & cert. ef. 3-17-04 thru 9-12-04; TSPC 6-2004, f. & cert. ef. 8-25-04

584-050-0042

Reporting Changes of Name or Address

A license holder must report changes of name and/or address to the Commission within 90 days of such change. Reports shall include, but not be limited to the following information and documentation:

(1) Changes of address may be made by telephone or in writing. Changes of address must include the educator's name, social security number, and old and new residence addresses.

(2) Notification of a new married or assumed name must be in writing and must include the educator's old and new names, social security number, and one of the following documents:

(a) Employing superintendent's signature on the Professional Educational Experience Report Form verifying the change of name; or

(b) Photocopy of the marriage certificate or court order establishing the change of name; or

(c) Any other legal document indicating the name change including but not limited to: a driver's license, credit card, social security card.

(3) If the educator reverts to a name previously established with the Commission, the report must be in writing and must include the educator's old and new names and social security number. In this case, documentation from a court is not required.

(4) If the educator requests a new license bearing the new name, a new application and duplicate license fee are required.

(5) The Commission may send notice to an educator at the address the educator provides in writing to the Commission. The Commission may complete service of notice under ORS 342.143(4) or 342.176(5), by mailing the notice through certified mail addressed to the educator's address on file with the Commission and such mailing shall be deemed conclusive evidence of service.

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

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 2-1990, f. 6-1-90, cert. ef. 6-14-90; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 6-2004, f. & cert. ef. 8-25-04

584-060-0001

Purpose

(1) These rules establish a licensure program that supports the Oregon Educational Act for the 21st Century (ORS Chapter 329) and is consistent with the redesign of teacher work to accomplish objectives for Oregon schools. This licensure program has the following characteristics:

(a) The authorization levels of licensure align with developmental levels of students. Licenses are issued for four levels: early childhood, elementary, middle level and high school. Teachers are authorized for broad assignments at each level to facilitate integration of curriculum and use of multi-disciplinary teams.

(b) The curriculum of teacher preparation affirms the dignity and worth of all students and assists students from diverse cultural and ethnic backgrounds to meet State content standards and district standards.

(c) Provisions are made for entry into teaching from a variety of backgrounds including: business and industry, teaching experience in other settings, as well as traditional four-year, five-year and fifth-year teacher education programs.

(2) Oregon's licensure program embraces the value and worth of an educator as a professional. The professional teacher will direct her or his long-term career goals and choose the appropriate route to continuing licensure. However, certain endorsement programs shall require additional coursework and practica experience in order to be added to a professional teaching license.

(3) The initial licensure program is designed so that candidates will engage in active reflection and interpretation of the candidate's teaching effectiveness as part of the initial teaching licensure preparation program.

(4) Continuing licensure will include a combination of additional knowledge and experience beyond initial licensure that is relevant to the teacher's long-term professional goals.

(5) Continuing professional development (CPD) is integral to the entire licensure program. During the first year of teaching, CPD is promoted by assignment of a mentor teacher. (See ORS 329.790 to 329.820.) While holding the Initial Teaching License a teacher's professional development is fostered through options outlined in OAR 584-060-0022 leading

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to the Continuing Teaching License. Thereafter, individualized professional development plans are incorporated into requirements for the renewal of the Continuing Teaching License.

(6) Oregon's licensure program is compatible with requirements of the National Board for Professional Teaching Standards, in accordance with ORS 342.121, and teachers are encouraged to seek voluntary national certification as evidence of exemplary professional development.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-143, 342.153, 342.165 & 342.223-232

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 6-2004, f. & cert. ef. 8-25-04

584-060-0002

Definitions for Division 060

(1) "Alternative Assessment:" Procedures established by the Commission for candidates seeking licensure who fail to achieve a passing score on required subject matter or specialty area licensure tests for endorsement or authorization.

(2) "Application:" A request for an Oregon license authorizing service in public schools or a request for reinstatement or renewal of such license. As used in these rules, "application" includes the Application Form, C-1, the fee, and all supporting documents necessary for the evaluation for the license. A copy of the C-1 can be found on TSPC's Web page at: www.tspc.state.or.us.

(3) "Appropriately Assigned:" Assignments for administrator, teacher, supervisor, school counselor, school psychologist, or school nurse duties for which the person involved holds the proper license, endorsements and authorizations. See OAR 584-060-0081.

(4) "Approved Institution:" A U.S. regionally accredited institution of higher education approved to prepare licensed personnel by a U.S. governmental jurisdiction in which the institution is located. See definition of "Regional Accrediting Associations" at OAR 584-005-0005(99).

(5) "Approved Programs:" An Oregon program of educator preparation approved by TSPC and offered by a regionally accredited Oregon institution. As it applies to out-of-state programs, a program approved by the licensure body of any U.S. governmental jurisdiction authorized to approve educator preparation programs.

(6) "Authorization Level:" The grade levels in which a person may teach, i.e., early childhood, elementary, middle level and high school as defined in OAR 584-060-0051.

(7) "Basic Skills Tests:" Tests of basic reading, writing and mathematics as approved by the commission. These tests may only be waived if the applicant possesses a regionally accredited doctor's degree or was licensed in Oregon prior to 1985.

(8) "Completion of Approved Program:" The applicant has met the institution's academic requirements and any additional state or federal requirements and has obtained the institution's recommendation for licensure.

(9) "Endorsement:" The subject matter or specialty education field and/or grade authorization in which the individual is licensed to teach.

(10) "National Board for Professional Teaching Standards (NBPTS):" A professional board established to award a National Teaching Certificate to qualified educators.

(11) "Out of State Licenses or Certificates:" A certificate or license valid for full-time employment which is at least equivalent to the Oregon license being requested and is issued by one of the United States, a U.S. jurisdiction (American Samoa, Commonwealth of Northern Marianas, District of Columbia, Guam, Puerto Rico, and Virgin Islands), or the U.S. Department of Defense.

(12) "Personal Qualifications:" Personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator.

(13) "Private Schools:" A private school, preprimary through grade twelve, registered with the Oregon Department of Education in compliance with provisions of ORS 345.525 and 345.535 or approved or registered by another U.S. jurisdiction or government.

(14) "Regional Accrediting Associations:" Colleges and universities approved for teacher education must be accredited by the appropriate regional association at the time the degree or program is completed. The regional associations are: New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, The Higher Learning Commission; Northwest Commission on Colleges and Universities; Middle States Association of Colleges and Schools, Commission on Higher Education; Southern Association of Colleges and Schools, Commission on Colleges;

or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.

(15) "Renewal:" Extension of validity of a current license. An application for renewal must be submitted prior to the expiration date stated on the license. See OAR 584 Div 048.

(16) "Teacher:" Includes all licensed employees in the public schools or employed by an education service district who have direct responsibility for instruction, coordination of educational programs or supervision or evaluation of teachers and who are compensated for their services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455.

(17) "Year of Experience:" A period of at least eight consecutive months of full-time work or two consecutive years of one-half time or more while holding a license valid for the assignment. Related to "successful experience".

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

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165 & 342.223 - 342.232

Hist.: TSPC 6-2004, f. & cert. ef. 8-25-04

584-060-0005

Effective Date and Conflict Resolution

(1) Teachers issued licenses prior to January 15, 1999, are entitled to the rights granted by law and the rules of the Commission under which the license was issued.

(2) Effective January 15, 1999, licenses for teachers will be issued under the rules set forth in this division. In cases of conflict, these rules supersede numerically preceding divisions unless the interpretation would reduce or diminish rights teachers acquired who were licensed prior to January 15, 1999.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-143, 342.153, 342.165 & 342.223-232

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 6-2004, f. & cert. ef. 8-25-04

584-060-0161

Transitional Teaching License Requirements

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Transitional Teaching License.

(2) This license is issued for one year and is non-renewable except under extraordinary conditions described below in subsection (7) of this rule.

(3) This license is valid for regular teaching with any employer at one or more designated levels in one or more designated specialties and for substitute teaching at any level in any specialty.

(4) Upon expiration of the Transitional Teaching License, recipients of this license must meet the requirements of the Initial Teaching License for which they may apply at any time. Applicants are not eligible for a Restricted Transitional License.

(5) To be eligible for a Transitional Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator; and

(b) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure; and

(c) Complete an initial teacher education program in any state-approved teacher preparation program in any U.S. jurisdiction, or completion of a foreign program evaluated as satisfactory by an Oregon institution approved to offer the corresponding program. Oregon graduates are not eligible for a Transitional Teaching License; and

(d) Demonstrate knowledge of applicable civil rights laws. An applicant from out of state may submit an affidavit for the first Oregon license assuring that the applicant has read Discrimination and the Oregon Educator and has completed the self-study questions. The applicant must complete the course or workshop prior to any further licensure; and

(e) Furnish fingerprints in the manner prescribed by the commission. (See OAR 584-036-0062 for Criminal Records Check Requirement); and

(f) Obtain an approved first aid card within 90 days of receiving the license.

(6) Applicants who have completed programs from states other than Oregon will be required to submit a C-2 form, in addition to transcripts,

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verifying completion of the teacher education program. A teaching license issued by the U.S. Department of Defense will be considered as a license from another state. Completion of alternative routes teaching programs through school districts or other avenues are subject to Executive Director approval.

(7) When the Executive Director determines that extenuating circumstances have prevented the applicant from completing requirements for the Initial Teaching License, a restricted extension may be issued for up to one year upon joint application from an educator and the employing district. The applicant must provide an explanation of the circumstances which make the request necessary. The co-applicant district must ensure that the applicant will meet all requirements for the Initial Teaching License upon expiration of the restricted Transitional Teaching License.

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

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.123, 342.125, 342.126, 342.127 & 342.165

Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 9-1999, f. & cert. ef. 11-22-99; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 6-2004, f. & cert. ef. 8-25-04

584-060-0162

Restricted Transitional Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Restricted Transitional Teaching License.

(2) This license is issued for three years and is non-renewable.

(3) This license is valid for teaching with the requesting employer only at the designated level and/or specialty specifically requested by the employer. This license may not be transferred to another employer without a specific request from the new district.

(4) Upon expiration of the Restricted Transitional Teaching License, recipients of this license must meet all the requirements of the Initial Teaching License for which they may apply at any time.

(5) To be eligible for a Restricted Transitional Teaching License, the applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator; and

(b) Hold a bachelor's degree or higher from a regionally accredited institution or approved foreign equivalent. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure; and

(c) Demonstrate knowledge of applicable civil rights laws. An applicant from out of state may submit an affidavit for the first Oregon license assuring that the applicant has read *Discrimination and the Oregon Educator* and has completed the self-study questions. The applicant must complete the course or workshop prior to any further licensure; and

(d) Furnish fingerprints in the manner prescribed by the commission. (See OAR 584-036-0062 for Criminal Records Check Requirement); and

(e) Obtain an approved first aid card within 90 days of receiving the license; and

(f) Submit a letter from the employing district describing the particular need in relation to the applicant's teacher qualifications summarized on a submitted resume. The district must agree to provide a mentor and attest that circumstances prevent hiring a suitable teacher holding an unrestricted full-time license appropriate for the assignment to be filled.

(6) When the Executive Director determines that extenuating circumstances have prevented the applicant from completing requirements for the Initial Teaching License, an extension for up to one year may be issued upon joint application from an educator and the employing district. The applicant must provide an explanation of the circumstances which make the request necessary. The co-applicant district must ensure that the applicant will meet all requirements for the Initial Teaching License upon expiration of the Restricted Transitional Teaching License.

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

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.143, 342.153, 342.165 & 342.223- 342.232

Hist.: TSPC 6-2004, f. & cert. ef. 8-25-04

584-100-0026

Highly Qualified Middle Level Teacher Not New to the Profession

A teacher who has been teaching on an approved license in a U.S. jurisdiction for a total of three or more complete school years must meet the following criteria:

(1) Hold a Basic, Standard, Initial, Continuing, Five-Year Elementary (grades five and six), Five-Year Secondary, or Preliminary Teaching License and satisfy one of the following:

(a) Pass the prescribed rigorous state exam; or

(b) Hold an undergraduate major in the subject area(s); or
(c) Hold a graduate degree in the subject area(s); or
(d) Complete coursework equivalent to an undergraduate major; or
(e) Hold advanced certification or credentialing; or
(f) Meet the HOUSSE requirements as defined in OAR 584-100-0037.

(2) Be properly assigned in the subject area in a departmental classroom in grades seven or eight.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04; TSPC 6-2004, f. & cert. ef. 8-25-04

584-100-0036

Highly Qualified Secondary (grades 9-12) Teacher Not New to the Profession

A teacher who has been teaching on an approved license in a U.S. jurisdiction for a total of three or more complete school years must meet the following criteria:

(1) Hold a Basic, Standard, Initial, Continuing, in the core academic area(s) taught; or

(2) Hold a Preliminary Teaching License contained in OAR 584-100-0045; or

(3) Meet the HOUSSE requirements as defined in OAR 584-100-0037; and

(4) Be properly assigned in the subject area in a departmental classroom in grades nine through twelve.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04; TSPC 6-2004, f. & cert. ef. 8-25-04

584-100-0037

Highly Objective Uniform State Standard of Evaluation for Middle-Level and Secondary Teachers

(1) Teachers with three years or more experience may meet the definitions of Highly Qualified Teacher through meeting one of the following combinations of years of experience teaching a core academic subject and college coursework or professional development relevant to the core academic subject:

(a) Have taught on an approved license in the subject area for at least three complete school years; and have completed twenty-four quarter or sixteen semester hours from a regionally accredited college or university in the subject area; or

(b) Have taught on an approved license in the subject area for at least four complete school years, and have completed twenty-one quarter or fourteen semester hours from a regionally accredited college or university in the subject area; or

(c) Have taught on an approved license in the subject area for at least five complete school years, and have completed eighteen quarter or twelve semester hours from a regionally accredited college or university in the subject area; or

(d) Have taught on an approved license in the subject area for at least six complete school years, and have completed fifteen quarter or ten semester hours from a regionally accredited college or university in the subject area; or

(e) Have taught on an approved license in the subject area for at least seven complete school years, and have completed twelve quarter or eight semester hours from a regionally accredited college or university in the subject area; or

(f) Have taught on an approved license in the subject area for at least eight or more complete school years, and have completed nine quarter or six semester hours from a regionally accredited college or university in the subject area.

(2) Professional development directly relevant to the core academic subject may be substituted for college coursework and will be considered equivalent to the coursework under the following conditions:

(a) Twenty hours of continuing professional development is equal to one quarter hour of college credit; or thirty hours of continuing professional development is equal to one semester hour of college credit.

(b) School district personnel authorized to certify professional development must verify that the professional development is *directly relevant* to the core academic subject in which the teacher is seeking to meet the definition of being "highly qualified." "Directly relevant" means that upon scrutiny, the professional development is more content related than pedagogy related.

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(3) The teacher must only teach the subject at least one period or more for the designated complete school years and be properly assigned in grade four or above under Oregon's administrative rules. (See OAR 584-100-0006(3) for definition of complete school year. See OAR 584-060-0081 for Conditional Assignment in Teaching.)

(4) A high school teacher who meets the academic and experience requirements in subsection (1) above, may only be considered highly qualified for up to three years without having the actual core-academic subject endorsement *only* if the teacher is on an approved conditional assignment permit (CAP). The highly qualified designation will be removed if the endorsement is not obtained within three years after applying for the highly qualified status.

(5) Special education, alternative education and English for speakers of other languages teachers may meet the highly qualified definitions with the standards set forth in subsection (1) above.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04; TSPC 6-2004, f. & cert. ef. 8-25-04

Adm. Order No.: TSPC 7-2004
Filed with Sec. of State: 8-25-2004
Certified to be Effective: 8-25-04
Notice Publication Date: 4-1-04
Rules Amended: 584-017-0185

Subject: Amends teacher work sample requirements to include differentiation of instruction.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-017-0185

Evidence of Effectiveness

(1) The unit assures that candidates provide evidence of effectiveness to foster student learning.

(2) Each student teacher preparing for an Initial Teaching License assembles and analyzes two work samples to document the candidate's ability to demonstrate knowledge, skills and competencies as designated in OAR 584-017-0100. If a candidate is seeking more than one authorization level, one work sample must be completed for each authorization level. Work samples include:

(a) Context of the school and classroom is explained, learners with special needs, TAG learners, ESOL learners and learners from diverse cultural and social backgrounds are described, adaptations for their learning needs are discussed, and prerequisite skills required for the unit are considered.

(b) Goals for the unit of study, which is generally two to five weeks in length, that vary in kind and complexity, but that include concept attainment and application of knowledge and skills;

(c) Instructional plans to accomplish the learning goals of the group(s) of students that include differentiation of instruction for all students listed in (a);

(d) Data on learning gains resulting from instruction, analyzed for each student, and summarized in relation to students' level of knowledge prior to instruction;

(e) Interpretation and explanation of the learning gains, or lack thereof; and

(f) A description of the uses to be made of the data on learning gains in planning subsequent instruction and in reporting student progress to the students and their parents.

(3) Each candidate preparing for a Continuing Teaching License assembles a collection of evidence that documents the candidate's advanced knowledge, skills and competencies as designated in OAR 584-017-0160. The collection of evidence includes:

(a) Long term goals of study based on content goals and district standards that determine the knowledge and skills each student needs;

(b) Instructional plans that incorporate knowledge of subject matter, the developmental levels of the students and research-based educational practices that are sensitive to individual differences and diverse cultures;

(c) Evidence of the ability to establish a classroom climate that is conducive to learning for all students;

(d) Data on student progress toward attainment of long term goals, refinement of plans for instruction and establishment of alternative goals for students when necessary;

(e) Evidence of collaboration with parents, colleagues and community members to provide assistance to students and their families to promote learning;

(f) Evidence of the use of emerging research on teaching, learning and school improvement; and

(g) Evidence of participation in designing, evaluating and improving opportunities for teaching

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120, 342.147 & 342.165
Hist.: TSPC 4-2001, f. & cert. ef. 9-21-01; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 7-2004, f. & cert. ef. 8-25-04

Adm. Order No.: TSPC 8-2004(Temp)

Filed with Sec. of State: 9-10-2004

Certified to be Effective: 9-10-04 thru 3-9-05

Notice Publication Date:

Rules Adopted: 584-070-0130, 584-070-0410, 584-080-0171

Rules Amended: 584-060-0210

Subject: Allows 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

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

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

ADMINISTRATIVE RULES

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

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.

(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

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122-070-0060	12-4-03	Amend	1-1-04	123-025-0012	2-3-04	Adopt(T)	3-1-04
122-070-0065	12-4-03	Adopt	1-1-04	123-025-0012	8-2-04	Adopt	9-1-04
122-070-0070	12-4-03	Amend	1-1-04	123-025-0015	2-3-04	Amend(T)	3-1-04
122-070-0080	12-4-03	Amend	1-1-04	123-025-0015	8-2-04	Amend	9-1-04
123-001-0700	7-27-04	Adopt	9-1-04	123-025-0017	2-3-04	Amend(T)	3-1-04
123-001-0725	7-27-04	Adopt	9-1-04	123-025-0017	8-2-04	Amend	9-1-04
123-001-0750	7-27-04	Adopt	9-1-04	123-025-0021	2-3-04	Amend(T)	3-1-04
123-006-0005	12-23-03	Amend(T)	2-1-04	123-025-0021	8-2-04	Amend	9-1-04
123-006-0005	6-15-04	Amend(T)	7-1-04	123-025-0023	2-3-04	Amend(T)	3-1-04
123-006-0005	8-5-04	Amend	9-1-04	123-025-0023	8-2-04	Amend	9-1-04
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123-006-0010	8-5-04	Repeal	9-1-04	123-025-0025	8-2-04	Amend	9-1-04
123-006-0015	12-23-03	Amend(T)	2-1-04	123-025-0030	2-3-04	Amend(T)	3-1-04
123-006-0015	6-15-04	Amend(T)	7-1-04	123-025-0030	8-2-04	Amend	9-1-04
123-006-0015	8-5-04	Amend	9-1-04	123-027-0035	2-3-04	Amend(T)	3-1-04
123-006-0020	6-15-04	Amend(T)	7-1-04	123-027-0040	2-3-04	Amend(T)	3-1-04
123-006-0020	8-5-04	Amend	9-1-04	123-027-0040	8-19-04	Amend	10-1-04
123-006-0025	6-15-04	Amend(T)	7-1-04	123-027-0050	2-3-04	Amend(T)	3-1-04
123-006-0025	8-5-04	Amend	9-1-04	123-027-0050	8-19-04	Amend	10-1-04
123-006-0041	12-23-03	Adopt(T)	2-1-04	123-027-0055	2-3-04	Adopt(T)	3-1-04
123-006-0051	12-23-03	Adopt(T)	2-1-04	123-027-0056	8-19-04	Adopt	10-1-04
123-020-0000	2-21-04	Adopt(T)	3-1-04	123-027-0060	2-3-04	Amend(T)	3-1-04
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123-020-0025	2-21-04	Amend(T)	3-1-04	123-027-0155	2-3-04	Adopt(T)	3-1-04
123-020-0025	8-2-04	Am. & Ren.	9-1-04	123-027-0156	8-19-04	Adopt	10-1-04
123-020-0030	2-21-04	Amend(T)	3-1-04	123-027-0160	2-3-04	Adopt(T)	3-1-04
123-020-0030	8-2-04	Am. & Ren.	9-1-04	123-027-0161	8-19-04	Adopt	10-1-04
123-020-0035	2-21-04	Amend(T)	3-1-04	123-027-0165	2-3-04	Adopt(T)	3-1-04
123-020-0035	8-2-04	Am. & Ren.	9-1-04	123-027-0166	8-19-04	Adopt	10-1-04
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123-020-0040	8-2-04	Am. & Ren.	9-1-04	123-027-0171	8-19-04	Adopt	10-1-04
123-020-0050	2-21-04	Suspend	3-1-04	123-027-0200	2-3-04	Adopt(T)	3-1-04
123-020-0050	8-2-04	Repeal	9-1-04	123-027-0201	8-19-04	Adopt	10-1-04
123-020-0100	8-2-04	Adopt	9-1-04	123-027-0210	2-3-04	Adopt(T)	3-1-04
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123-023-0251	5-24-04	Repeal	7-1-04	123-030-0004	8-2-04	Amend	9-1-04
123-023-0301	5-24-04	Am. & Ren.	7-1-04	123-030-0010	2-3-04	Amend(T)	3-1-04
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123-030-0030	8-2-04	Amend	9-1-04	123-055-0200	2-3-04	Amend(T)	3-1-04
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123-030-0050	2-3-04	Amend(T)	3-1-04	123-055-0240	8-2-04	Amend	9-1-04
123-030-0050	8-2-04	Amend	9-1-04	123-055-0300	2-3-04	Amend(T)	3-1-04
123-035-0000	2-3-04	Adopt(T)	3-1-04	123-055-0300	8-2-04	Amend	9-1-04
123-035-0000	8-2-04	Adopt	9-1-04	123-055-0340	2-3-04	Amend(T)	3-1-04
123-035-0005	2-3-04	Adopt(T)	3-1-04	123-055-0340	8-2-04	Amend	9-1-04
123-035-0005	8-2-04	Adopt	9-1-04	123-055-0400	2-3-04	Amend(T)	3-1-04
123-035-0010	2-3-04	Adopt(T)	3-1-04	123-055-0400	8-2-04	Amend	9-1-04
123-035-0010	8-2-04	Adopt	9-1-04	123-055-0420	2-3-04	Amend(T)	3-1-04
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123-042-0020	2-3-04	Amend(T)	3-1-04	123-055-0440	2-3-04	Amend(T)	3-1-04
123-042-0020	8-2-04	Amend	9-1-04	123-055-0440	8-2-04	Amend	9-1-04
123-042-0030	2-3-04	Amend(T)	3-1-04	123-055-0460	2-3-04	Amend(T)	3-1-04
123-042-0030	8-2-04	Amend	9-1-04	123-055-0460	8-2-04	Amend	9-1-04
123-042-0040	2-3-04	Amend(T)	3-1-04	123-055-0525	2-3-04	Amend(T)	3-1-04
123-042-0040	8-2-04	Amend	9-1-04	123-055-0525	8-2-04	Amend	9-1-04
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123-042-0060	2-3-04	Suspend	3-1-04	123-055-0620	2-3-04	Amend(T)	3-1-04
123-042-0060	8-2-04	Repeal	9-1-04	123-055-0620	8-2-04	Amend	9-1-04
123-042-0070	2-3-04	Amend(T)	3-1-04	123-055-0900	2-3-04	Amend(T)	3-1-04
123-042-0070	8-2-04	Amend	9-1-04	123-055-0900	8-2-04	Amend	9-1-04
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123-042-0075	8-2-04	Repeal	9-1-04	123-057-0110	8-2-04	Amend	9-1-04
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123-042-0080	8-2-04	Amend	9-1-04	123-057-0130	8-2-04	Amend	9-1-04
123-042-0130	8-2-04	Repeal	9-1-04	123-057-0170	2-3-04	Amend(T)	3-1-04
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123-042-0150	8-2-04	Amend	9-1-04	123-057-0210	2-3-04	Amend(T)	3-1-04
123-042-0160	2-3-04	Amend(T)	3-1-04	123-057-0210	8-2-04	Amend	9-1-04
123-042-0160	8-2-04	Amend	9-1-04	123-057-0230	2-3-04	Amend(T)	3-1-04
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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
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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
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125-125-0050	9-1-04	Adopt	8-1-04	137-003-0690	1-1-04	Amend	1-1-04
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125-125-0100	9-1-04	Adopt	8-1-04	137-004-0800	12-9-03	Amend	1-1-04
125-125-0150	3-5-04	Adopt(T)	4-1-04	137-008-0000	12-9-03	Amend	1-1-04
125-125-0150	9-1-04	Adopt	8-1-04	137-008-0010	12-9-03	Amend	1-1-04
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125-125-0250	9-1-04	Adopt	8-1-04	137-025-0045	5-19-04	Adopt	7-1-04
125-125-0300	3-5-04	Adopt(T)	4-1-04	137-025-0115	5-19-04	Adopt	7-1-04
125-125-0300	9-1-04	Adopt	8-1-04	137-025-0117	5-19-04	Adopt	7-1-04
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125-125-0400	3-5-04	Adopt(T)	4-1-04	137-025-0180	4-1-04	Amend	4-1-04
125-125-0400	9-1-04	Adopt	8-1-04	137-025-0180	5-19-04	Amend	7-1-04
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125-125-0450	9-1-04	Adopt	8-1-04	137-025-0182	5-19-04	Adopt	7-1-04
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137-003-0501	1-1-04	Amend	1-1-04	137-025-0188	5-19-04	Adopt	7-1-04
137-003-0510	1-1-04	Amend	1-1-04	137-025-0189	5-19-04	Adopt	7-1-04
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137-003-0530	1-1-04	Amend	1-1-04	137-030-0010	3-1-05	Repeal	10-1-04
137-003-0535	1-1-04	Amend	1-1-04	137-030-0011	3-1-05	Repeal	10-1-04
137-003-0540	1-1-04	Amend	1-1-04	137-030-0012	3-1-05	Repeal	10-1-04
137-003-0545	1-1-04	Amend	1-1-04	137-030-0013	3-1-05	Repeal	10-1-04
137-003-0555	1-1-04	Amend	1-1-04	137-030-0014	3-1-05	Repeal	10-1-04
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137-030-0065	3-1-05	Repeal	10-1-04	137-040-0565	3-1-05	Repeal	10-1-04
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137-030-0075	3-1-05	Repeal	10-1-04	137-040-0590	3-1-05	Repeal	10-1-04
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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
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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
137-030-0135	3-1-05	Repeal	10-1-04	137-046-0130	3-1-05	Adopt	10-1-04
137-030-0140	3-1-05	Repeal	10-1-04	137-046-0200	3-1-05	Adopt	10-1-04
137-030-0145	3-1-05	Repeal	10-1-04	137-046-0210	3-1-05	Adopt	10-1-04
137-030-0155	3-1-05	Repeal	10-1-04	137-046-0300	3-1-05	Adopt	10-1-04
137-035-0000	3-1-05	Repeal	10-1-04	137-046-0310	3-1-05	Adopt	10-1-04
137-035-0010	3-1-05	Repeal	10-1-04	137-046-0320	3-1-05	Adopt	10-1-04
137-035-0020	3-1-05	Repeal	10-1-04	137-046-0400	3-1-05	Adopt	10-1-04
137-035-0030	3-1-05	Repeal	10-1-04	137-046-0410	3-1-05	Adopt	10-1-04
137-035-0040	3-1-05	Repeal	10-1-04	137-046-0420	3-1-05	Adopt	10-1-04
137-035-0050	3-1-05	Repeal	10-1-04	137-046-0430	3-1-05	Adopt	10-1-04
137-035-0060	3-1-05	Repeal	10-1-04	137-046-0440	3-1-05	Adopt	10-1-04
137-035-0065	3-1-05	Repeal	10-1-04	137-046-0450	3-1-05	Adopt	10-1-04
137-035-0070	3-1-05	Repeal	10-1-04	137-046-0460	3-1-05	Adopt	10-1-04
137-035-0080	3-1-05	Repeal	10-1-04	137-046-0470	3-1-05	Adopt	10-1-04
137-040-0000	3-1-05	Repeal	10-1-04	137-046-0480	3-1-05	Adopt	10-1-04
137-040-0005	3-1-05	Repeal	10-1-04	137-046-0500	3-1-05	Adopt	10-1-04
137-040-0010	3-1-05	Repeal	10-1-04	137-047-0000	3-1-05	Adopt	10-1-04
137-040-0015	3-1-05	Repeal	10-1-04	137-047-0100	3-1-05	Adopt	10-1-04
137-040-0017	1-2-04	Amend	2-1-04	137-047-0250	3-1-05	Adopt	10-1-04
137-040-0017	3-1-05	Repeal	10-1-04	137-047-0255	3-1-05	Adopt	10-1-04
137-040-0020	3-1-05	Repeal	10-1-04	137-047-0257	3-1-05	Adopt	10-1-04
137-040-0021	3-1-05	Repeal	10-1-04	137-047-0260	3-1-05	Adopt	10-1-04
137-040-0025	3-1-05	Repeal	10-1-04	137-047-0261	3-1-05	Adopt	10-1-04
137-040-0030	3-1-05	Repeal	10-1-04	137-047-0262	3-1-05	Adopt	10-1-04
137-040-0031	3-1-05	Repeal	10-1-04	137-047-0263	3-1-05	Adopt	10-1-04
137-040-0035	3-1-05	Repeal	10-1-04	137-047-0265	3-1-05	Adopt	10-1-04
137-040-0045	3-1-05	Repeal	10-1-04	137-047-0270	3-1-05	Adopt	10-1-04
137-040-0500	1-2-04	Amend	2-1-04	137-047-0275	3-1-05	Adopt	10-1-04
137-040-0500	3-1-05	Repeal	10-1-04	137-047-0280	3-1-05	Adopt	10-1-04
137-040-0510	1-2-04	Amend	2-1-04	137-047-0285	3-1-05	Adopt	10-1-04
137-040-0510	3-1-05	Repeal	10-1-04	137-047-0290	3-1-05	Adopt	10-1-04
137-040-0520	1-2-04	Amend	2-1-04	137-047-0300	3-1-05	Adopt	10-1-04
137-040-0520	3-1-05	Repeal	10-1-04	137-047-0310	3-1-05	Adopt	10-1-04
137-040-0530	3-1-05	Repeal	10-1-04	137-047-0320	3-1-05	Adopt	10-1-04
137-040-0540	3-1-05	Repeal	10-1-04	137-047-0330	3-1-05	Adopt	10-1-04
137-040-0550	1-2-04	Amend	2-1-04	137-047-0400	3-1-05	Adopt	10-1-04
137-040-0550	3-1-05	Repeal	10-1-04	137-047-0410	3-1-05	Adopt	10-1-04
137-040-0560	1-2-04	Amend	2-1-04	137-047-0420	3-1-05	Adopt	10-1-04

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137-047-0440	3-1-05	Adopt	10-1-04	137-049-0280	3-1-05	Adopt	10-1-04
137-047-0450	3-1-05	Adopt	10-1-04	137-049-0290	3-1-05	Adopt	10-1-04
137-047-0460	3-1-05	Adopt	10-1-04	137-049-0300	3-1-05	Adopt	10-1-04
137-047-0470	3-1-05	Adopt	10-1-04	137-049-0310	3-1-05	Adopt	10-1-04
137-047-0480	3-1-05	Adopt	10-1-04	137-049-0320	3-1-05	Adopt	10-1-04
137-047-0490	3-1-05	Adopt	10-1-04	137-049-0330	3-1-05	Adopt	10-1-04
137-047-0500	3-1-05	Adopt	10-1-04	137-049-0340	3-1-05	Adopt	10-1-04
137-047-0525	3-1-05	Adopt	10-1-04	137-049-0350	3-1-05	Adopt	10-1-04
137-047-0550	3-1-05	Adopt	10-1-04	137-049-0360	3-1-05	Adopt	10-1-04
137-047-0575	3-1-05	Adopt	10-1-04	137-049-0370	3-1-05	Adopt	10-1-04
137-047-0600	3-1-05	Adopt	10-1-04	137-049-0380	3-1-05	Adopt	10-1-04
137-047-0610	3-1-05	Adopt	10-1-04	137-049-0390	3-1-05	Adopt	10-1-04
137-047-0620	3-1-05	Adopt	10-1-04	137-049-0400	3-1-05	Adopt	10-1-04
137-047-0630	3-1-05	Adopt	10-1-04	137-049-0410	3-1-05	Adopt	10-1-04
137-047-0640	3-1-05	Adopt	10-1-04	137-049-0420	3-1-05	Adopt	10-1-04
137-047-0650	3-1-05	Adopt	10-1-04	137-049-0430	3-1-05	Adopt	10-1-04
137-047-0660	3-1-05	Adopt	10-1-04	137-049-0440	3-1-05	Adopt	10-1-04
137-047-0670	3-1-05	Adopt	10-1-04	137-049-0450	3-1-05	Adopt	10-1-04
137-047-0700	3-1-05	Adopt	10-1-04	137-049-0460	3-1-05	Adopt	10-1-04
137-047-0710	3-1-05	Adopt	10-1-04	137-049-0470	3-1-05	Adopt	10-1-04
137-047-0720	3-1-05	Adopt	10-1-04	137-049-0490	3-1-05	Adopt	10-1-04
137-047-0730	3-1-05	Adopt	10-1-04	137-049-0600	3-1-05	Adopt	10-1-04
137-047-0740	3-1-05	Adopt	10-1-04	137-049-0610	3-1-05	Adopt	10-1-04
137-047-0745	3-1-05	Adopt	10-1-04	137-049-0620	3-1-05	Adopt	10-1-04
137-047-0750	3-1-05	Adopt	10-1-04	137-049-0630	3-1-05	Adopt	10-1-04
137-047-0760	3-1-05	Adopt	10-1-04	137-049-0640	3-1-05	Adopt	10-1-04
137-047-0800	3-1-05	Adopt	10-1-04	137-049-0650	3-1-05	Adopt	10-1-04
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137-048-0110	3-1-05	Adopt	10-1-04	137-049-0670	3-1-05	Adopt	10-1-04
137-048-0120	3-1-05	Adopt	10-1-04	137-049-0680	3-1-05	Adopt	10-1-04
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137-048-0220	3-1-05	Adopt	10-1-04	137-049-0820	3-1-05	Adopt	10-1-04
137-048-0230	3-1-05	Adopt	10-1-04	137-049-0830	3-1-05	Adopt	10-1-04
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137-048-0260	3-1-05	Adopt	10-1-04	137-049-0860	3-1-05	Adopt	10-1-04
137-048-0300	3-1-05	Adopt	10-1-04	137-049-0870	3-1-05	Adopt	10-1-04
137-048-0310	3-1-05	Adopt	10-1-04	137-049-0880	3-1-05	Adopt	10-1-04
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137-049-0120	3-1-05	Adopt	10-1-04	137-055-1020	1-5-04	Amend	2-1-04
137-049-0130	3-1-05	Adopt	10-1-04	137-055-1070	7-1-04	Amend	8-1-04
137-049-0140	3-1-05	Adopt	10-1-04	137-055-1140	4-1-04	Amend	5-1-04
137-049-0150	3-1-05	Adopt	10-1-04	137-055-1160	1-5-04	Amend	2-1-04
137-049-0160	3-1-05	Adopt	10-1-04	137-055-1180	7-1-04	Amend	8-1-04
137-049-0200	3-1-05	Adopt	10-1-04	137-055-1320	4-1-04	Amend	5-1-04
137-049-0210	3-1-05	Adopt	10-1-04	137-055-1340	4-1-04	Repeal	5-1-04
137-049-0220	3-1-05	Adopt	10-1-04	137-055-1360	4-1-04	Amend	5-1-04
137-049-0230	3-1-05	Adopt	10-1-04	137-055-1600	4-1-04	Amend	5-1-04
137-049-0240	3-1-05	Adopt	10-1-04	137-055-2040	7-1-04	Amend	8-1-04
137-049-0250	3-1-05	Adopt	10-1-04	137-055-2140	4-1-04	Amend	5-1-04
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137-055-3300	4-1-04	Amend	5-1-04	137-060-0021	2-11-04	Repeal	3-1-04
137-055-3360	1-5-04	Amend	2-1-04	137-060-0022	2-11-04	Repeal	3-1-04
137-055-3400	1-5-04	Amend	2-1-04	137-060-0023	2-11-04	Repeal	3-1-04
137-055-3420	1-5-04	Amend	2-1-04	137-060-0024	2-11-04	Repeal	3-1-04
137-055-3420	7-1-04	Amend	8-1-04	137-060-0025	2-11-04	Repeal	3-1-04
137-055-3430	7-1-04	Adopt	8-1-04	137-060-0026	2-11-04	Repeal	3-1-04
137-055-3440	1-5-04	Amend	2-1-04	137-060-0030	2-11-04	Repeal	3-1-04
137-055-3480	4-1-04	Amend	5-1-04	137-060-0031	2-11-04	Repeal	3-1-04
137-055-3485	7-1-04	Adopt	8-1-04	137-060-0032	2-11-04	Repeal	3-1-04
137-055-3490	1-5-04	Amend	2-1-04	137-060-0033	2-11-04	Repeal	3-1-04
137-055-3660	1-5-04	Adopt	2-1-04	137-060-0034	2-11-04	Repeal	3-1-04
137-055-4060	1-5-04	Amend	2-1-04	137-060-0035	2-11-04	Repeal	3-1-04
137-055-4080	1-5-04	Amend	2-1-04	137-060-0036	2-11-04	Repeal	3-1-04
137-055-4100	1-5-04	Amend	2-1-04	137-060-0040	2-11-04	Repeal	3-1-04
137-055-4110	1-5-04	Adopt	2-1-04	137-060-0041	2-11-04	Repeal	3-1-04
137-055-4120	1-5-04	Amend	2-1-04	137-060-0042	2-11-04	Repeal	3-1-04
137-055-4120	7-1-04	Amend	8-1-04	137-060-0043	2-11-04	Repeal	3-1-04
137-055-4130	1-5-04	Amend	2-1-04	137-060-0044	2-11-04	Repeal	3-1-04
137-055-4140	1-5-04	Repeal	2-1-04	137-060-0045	2-11-04	Repeal	3-1-04
137-055-4160	1-5-04	Amend	2-1-04	137-060-0100	2-11-04	Adopt	3-1-04
137-055-4180	1-5-04	Amend	2-1-04	137-060-0110	2-11-04	Adopt	3-1-04
137-055-4200	1-5-04	Repeal	2-1-04	137-060-0120	2-11-04	Adopt	3-1-04
137-055-4220	1-5-04	Repeal	2-1-04	137-060-0130	2-11-04	Adopt	3-1-04
137-055-4240	1-5-04	Repeal	2-1-04	137-060-0140	2-11-04	Adopt	3-1-04
137-055-4260	1-5-04	Repeal	2-1-04	137-060-0150	2-11-04	Adopt	3-1-04
137-055-4280	1-5-04	Repeal	2-1-04	137-060-0160	2-11-04	Adopt	3-1-04
137-055-4440	1-5-04	Amend	2-1-04	137-060-0200	2-11-04	Adopt	3-1-04
137-055-4450	1-5-04	Adopt	2-1-04	137-060-0210	2-11-04	Adopt	3-1-04
137-055-4520	1-5-04	Amend	2-1-04	137-060-0220	2-11-04	Adopt	3-1-04
137-055-5020	1-5-04	Amend	2-1-04	137-060-0230	2-11-04	Adopt	3-1-04
137-055-5025	1-5-04	Adopt	2-1-04	137-060-0240	2-11-04	Adopt	3-1-04
137-055-5030	7-1-04	Adopt	8-1-04	137-060-0250	2-11-04	Adopt	3-1-04
137-055-5040	1-5-04	Amend	2-1-04	137-060-0260	2-11-04	Adopt	3-1-04
137-055-5040	7-1-04	Amend	8-1-04	137-060-0300	2-11-04	Adopt	3-1-04
137-055-5045	7-1-04	Adopt	8-1-04	137-060-0310	2-11-04	Adopt	3-1-04
137-055-5110	1-5-04	Amend	2-1-04	137-060-0320	2-11-04	Adopt	3-1-04
137-055-5110	7-1-04	Amend	8-1-04	137-060-0330	2-11-04	Adopt	3-1-04
137-055-5220	1-5-04	Amend	2-1-04	137-060-0340	2-11-04	Adopt	3-1-04
137-055-5510	1-5-04	Adopt	2-1-04	137-060-0350	2-11-04	Adopt	3-1-04
137-055-5510	7-1-04	Amend	8-1-04	137-060-0360	2-11-04	Adopt	3-1-04
137-055-6020	1-5-04	Amend	2-1-04	137-060-0400	2-11-04	Adopt	3-1-04
137-055-6020	7-1-04	Amend	8-1-04	137-060-0410	2-11-04	Adopt	3-1-04
137-055-6025	1-5-04	Amend	2-1-04	137-060-0420	2-11-04	Adopt	3-1-04
137-055-6110	1-5-04	Amend	2-1-04	137-060-0430	2-11-04	Adopt	3-1-04
137-055-6210	7-1-04	Adopt	8-1-04	137-060-0440	2-11-04	Adopt	3-1-04
137-055-6220	7-1-04	Amend	8-1-04	137-060-0450	2-11-04	Adopt	3-1-04
137-055-7180	7-1-04	Amend	8-1-04	137-084-0001	1-29-04	Adopt	3-1-04
137-055-7190	7-1-04	Adopt	8-1-04	137-084-0005	1-29-04	Adopt	3-1-04
137-060-0010	2-11-04	Repeal	3-1-04	137-084-0010	1-29-04	Adopt	3-1-04
137-060-0011	2-11-04	Repeal	3-1-04	137-084-0020	1-29-04	Adopt	3-1-04
137-060-0012	2-11-04	Repeal	3-1-04	137-084-0030	1-29-04	Adopt	3-1-04
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137-060-0014	2-11-04	Repeal	3-1-04	137-085-0010	2-1-04	Adopt(T)	3-1-04
137-060-0015	2-11-04	Repeal	3-1-04	137-085-0020	2-1-04	Adopt(T)	3-1-04
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137-085-0050	2-1-04	Adopt(T)	3-1-04	141-045-0031	1-1-04	Amend	1-1-04
137-105-0001	5-25-04	Adopt	7-1-04	141-045-0041	1-1-04	Amend	1-1-04
137-105-0010	5-25-04	Adopt	7-1-04	141-045-0061	1-1-04	Amend	1-1-04
137-105-0020	5-25-04	Adopt	7-1-04	141-045-0100	1-1-04	Amend	1-1-04
137-105-0030	5-25-04	Adopt	7-1-04	141-045-0105	1-1-04	Amend	1-1-04
137-105-0040	5-25-04	Adopt	7-1-04	141-045-0115	1-1-04	Amend	1-1-04
141-030-0010	1-1-04	Amend	1-1-04	141-045-0120	1-1-04	Amend	1-1-04
141-030-0015	1-1-04	Amend	1-1-04	141-045-0121	1-1-04	Amend	1-1-04
141-030-0025	1-1-04	Amend	1-1-04	141-045-0122	1-1-04	Amend	1-1-04
141-030-0034	1-1-04	Amend	1-1-04	141-045-0123	1-1-04	Amend	1-1-04
141-030-0035	1-1-04	Amend	1-1-04	141-045-0124	1-1-04	Amend	1-1-04
141-030-0036	1-1-04	Amend	1-1-04	141-045-0125	1-1-04	Amend	1-1-04
141-030-0037	1-1-04	Amend	1-1-04	141-045-0126	1-1-04	Amend	1-1-04
141-030-0038	1-1-04	Repeal	1-1-04	141-045-0130	1-1-04	Amend	1-1-04
141-030-0039	1-1-04	Am. & Ren.	1-1-04	141-045-0150	1-1-04	Amend	1-1-04
141-030-0039	1-1-04	Amend	1-1-04	141-045-0155	1-1-04	Amend	1-1-04
141-030-0040	1-1-04	ReNUMBER	1-1-04	141-045-0160	1-1-04	Amend	1-1-04
141-030-0045	1-1-04	Adopt	1-1-04	141-045-0170	1-1-04	Amend	1-1-04
141-035-0005	1-1-04	Amend	1-1-04	141-045-0180	1-1-04	Amend	1-1-04
141-035-0010	1-1-04	Repeal	1-1-04	141-045-0185	1-1-04	Amend	1-1-04
141-035-0011	1-1-04	Adopt	1-1-04	141-084-0010	6-11-04	Repeal	7-1-04
141-035-0012	1-1-04	Adopt	1-1-04	141-084-0020	6-11-04	Repeal	7-1-04
141-035-0013	1-1-04	Amend	1-1-04	141-084-0030	6-11-04	Repeal	7-1-04
141-035-0015	1-1-04	Amend	1-1-04	141-084-0040	6-11-04	Repeal	7-1-04
141-035-0016	1-1-04	Adopt	1-1-04	141-084-0050	6-11-04	Repeal	7-1-04
141-035-0018	1-1-04	Adopt	1-1-04	141-084-0060	6-11-04	Repeal	7-1-04
141-035-0020	1-1-04	Amend	1-1-04	141-084-0070	6-11-04	Repeal	7-1-04
141-035-0025	1-1-04	Amend	1-1-04	141-084-0080	6-11-04	Repeal	7-1-04
141-035-0030	1-1-04	Amend	1-1-04	141-084-0090	6-11-04	Repeal	7-1-04
141-035-0035	1-1-04	Amend	1-1-04	141-084-0100	6-11-04	Repeal	7-1-04
141-035-0040	1-1-04	Amend	1-1-04	141-085-0005	5-21-04	Amend	7-1-04
141-035-0045	1-1-04	Amend	1-1-04	141-085-0006	5-21-04	Amend	7-1-04
141-035-0047	1-1-04	Amend	1-1-04	141-085-0010	11-26-03	Amend	1-1-04
141-035-0048	1-1-04	Amend	1-1-04	141-085-0010	5-21-04	Amend	7-1-04
141-035-0050	1-1-04	Amend	1-1-04	141-085-0015	5-21-04	Amend	7-1-04
141-035-0055	1-1-04	Amend	1-1-04	141-085-0018	5-21-04	Amend	7-1-04
141-035-0060	1-1-04	Amend	1-1-04	141-085-0020	5-21-04	Amend	7-1-04
141-035-0065	1-1-04	Amend	1-1-04	141-085-0022	5-21-04	Amend	7-1-04
141-035-0068	1-1-04	Adopt	1-1-04	141-085-0023	5-21-04	Adopt	7-1-04
141-035-0070	1-1-04	Amend	1-1-04	141-085-0024	5-21-04	Amend	7-1-04
141-035-0075	1-1-04	Adopt	1-1-04	141-085-0025	5-21-04	Amend	7-1-04
141-040-0005	1-1-04	Amend	1-1-04	141-085-0027	11-26-03	Amend	1-1-04
141-040-0010	1-1-04	Amend	1-1-04	141-085-0027	5-21-04	Amend	7-1-04
141-040-0020	1-1-04	Amend	1-1-04	141-085-0028	11-26-03	Amend	1-1-04
141-040-0030	1-1-04	Amend	1-1-04	141-085-0028	5-21-04	Amend	7-1-04
141-040-0035	1-1-04	Amend	1-1-04	141-085-0029	11-26-03	Amend	1-1-04
141-040-0040	1-1-04	Amend	1-1-04	141-085-0029	5-21-04	Amend	7-1-04
141-040-0200	1-1-04	Amend	1-1-04	141-085-0031	5-21-04	Amend	7-1-04
141-040-0211	1-1-04	Amend	1-1-04	141-085-0034	5-21-04	Amend	7-1-04
141-040-0212	1-1-04	Amend	1-1-04	141-085-0036	5-21-04	Amend	7-1-04
141-040-0214	1-1-04	Amend	1-1-04	141-085-0064	5-21-04	Amend	7-1-04
141-040-0220	1-1-04	Amend	1-1-04	141-085-0066	5-21-04	Amend	7-1-04
141-045-0005	1-1-04	Amend	1-1-04	141-085-0070	5-21-04	Amend	7-1-04
141-045-0010	1-1-04	Amend	1-1-04	141-085-0075	11-26-03	Amend	1-1-04
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141-085-0080	5-21-04	Amend	7-1-04	141-088-0000	6-11-04	Amend	7-1-04
141-085-0085	5-21-04	Amend	7-1-04	141-088-0010	6-11-04	Amend	7-1-04
141-085-0090	5-21-04	Amend	7-1-04	141-088-0020	6-11-04	Amend	7-1-04
141-085-0095	5-21-04	Amend	7-1-04	141-088-0035	6-11-04	Adopt	7-1-04
141-085-0096	11-26-03	Amend	1-1-04	141-088-0040	6-11-04	Adopt	7-1-04
141-085-0096	5-21-04	Amend	7-1-04	141-088-0050	6-11-04	Adopt	7-1-04
141-085-0115	11-26-03	Amend	1-1-04	141-088-0060	6-11-04	Adopt	7-1-04
141-085-0115	5-21-04	Amend	7-1-04	141-088-0070	6-11-04	Adopt	7-1-04
141-085-0121	11-26-03	Amend	1-1-04	141-088-0080	6-11-04	Adopt	7-1-04
141-085-0121	5-21-04	Amend	7-1-04	141-088-0090	6-11-04	Adopt	7-1-04
141-085-0126	11-26-03	Amend	1-1-04	141-088-0100	6-11-04	Adopt	7-1-04
141-085-0126	5-21-04	Amend	7-1-04	141-088-0110	6-11-04	Adopt	7-1-04
141-085-0131	11-26-03	Amend	1-1-04	141-088-0120	6-11-04	Adopt	7-1-04
141-085-0131	5-21-04	Amend	7-1-04	141-088-0130	6-11-04	Adopt	7-1-04
141-085-0136	5-21-04	Amend	7-1-04	141-088-0140	6-11-04	Adopt	7-1-04
141-085-0141	11-26-03	Amend	1-1-04	141-088-0150	6-11-04	Adopt	7-1-04
141-085-0141	5-21-04	Amend	7-1-04	141-088-0160	6-11-04	Adopt	7-1-04
141-085-0146	11-26-03	Amend	1-1-04	141-088-0170	6-11-04	Adopt	7-1-04
141-085-0146	5-21-04	Amend	7-1-04	141-088-0180	6-11-04	Adopt	7-1-04
141-085-0151	11-26-03	Amend	1-1-04	141-089-0100	5-21-04	Amend	7-1-04
141-085-0151	5-21-04	Amend	7-1-04	141-089-0105	5-21-04	Amend	7-1-04
141-085-0156	11-26-03	Amend	1-1-04	141-089-0110	5-21-04	Amend	7-1-04
141-085-0156	5-21-04	Amend	7-1-04	141-089-0115	5-21-04	Amend	7-1-04
141-085-0161	11-26-03	Amend	1-1-04	141-089-0120	5-21-04	Amend	7-1-04
141-085-0161	5-21-04	Amend	7-1-04	141-089-0130	5-21-04	Amend	7-1-04
141-085-0166	5-21-04	Amend	7-1-04	141-089-0135	5-21-04	Amend	7-1-04
141-085-0171	5-21-04	Amend	7-1-04	141-089-0140	5-21-04	Amend	7-1-04
141-085-0176	11-26-03	Amend	1-1-04	141-089-0145	5-21-04	Amend	7-1-04
141-085-0176	5-21-04	Amend	7-1-04	141-089-0150	5-21-04	Amend	7-1-04
141-085-0240	5-21-04	Amend	7-1-04	141-089-0155	5-21-04	Amend	7-1-04
141-085-0244	5-21-04	Amend	7-1-04	141-089-0165	5-21-04	Amend	7-1-04
141-085-0248	5-21-04	Amend	7-1-04	141-089-0170	5-21-04	Amend	7-1-04
141-085-0254	5-21-04	Amend	7-1-04	141-089-0175	5-21-04	Amend	7-1-04
141-085-0256	5-21-04	Amend	7-1-04	141-089-0180	11-26-03	Amend	1-1-04
141-085-0257	5-21-04	Amend	7-1-04	141-089-0180	5-21-04	Amend	7-1-04
141-085-0262	5-21-04	Amend	7-1-04	141-089-0185	5-21-04	Amend	7-1-04
141-085-0263	11-26-03	Amend	1-1-04	141-089-0190	5-21-04	Amend	7-1-04
141-085-0263	5-21-04	Amend	7-1-04	141-089-0200	5-21-04	Amend	7-1-04
141-085-0264	5-21-04	Amend	7-1-04	141-089-0205	5-21-04	Amend	7-1-04
141-085-0266	5-21-04	Amend	7-1-04	141-089-0210	5-21-04	Amend	7-1-04
141-085-0400	5-21-04	Amend	7-1-04	141-089-0215	5-21-04	Amend	7-1-04
141-085-0406	5-21-04	Amend	7-1-04	141-089-0225	5-21-04	Amend	7-1-04
141-085-0410	11-26-03	Amend	1-1-04	141-089-0230	5-21-04	Amend	7-1-04
141-085-0410	5-21-04	Amend	7-1-04	141-089-0240	5-21-04	Amend	7-1-04
141-085-0421	11-26-03	Amend	1-1-04	141-089-0245	5-21-04	Amend	7-1-04
141-085-0421	5-21-04	Amend	7-1-04	141-089-0250	5-21-04	Amend	7-1-04
141-085-0425	5-21-04	Amend	7-1-04	141-089-0255	5-21-04	Amend	7-1-04
141-085-0430	11-26-03	Amend	1-1-04	141-089-0260	5-21-04	Amend	7-1-04
141-085-0430	5-21-04	Amend	7-1-04	141-089-0265	5-21-04	Amend	7-1-04
141-085-0436	5-21-04	Amend	7-1-04	141-089-0275	5-21-04	Amend	7-1-04
141-085-0440	5-21-04	Amend	7-1-04	141-089-0280	5-21-04	Amend	7-1-04
141-085-0450	11-26-03	Adopt	1-1-04	141-089-0285	5-21-04	Amend	7-1-04
141-085-0450	5-21-04	Adopt	7-1-04	141-089-0290	5-21-04	Amend	7-1-04
141-085-0640	5-21-04	Amend	7-1-04	141-089-0295	5-21-04	Amend	7-1-04
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141-089-0400	5-21-04	Amend	7-1-04	150-183.341(2)	7-31-04	Amend	9-1-04
141-089-0405	5-21-04	Amend	7-1-04	150-183.341(4)	7-31-04	Adopt	9-1-04
141-089-0410	5-21-04	Amend	7-1-04	150-183.390	7-31-04	Repeal	9-1-04
141-089-0415	5-21-04	Amend	7-1-04	150-294.175(2)-(A)	12-31-03	Adopt	2-1-04
141-089-0420	5-21-04	Amend	7-1-04	150-294.175(2)-(B)	12-31-03	Adopt	2-1-04
141-089-0430	5-21-04	Amend	7-1-04	150-294.187	12-31-03	Amend	2-1-04
141-089-0500	5-21-04	Amend	7-1-04	150-294.211(26)	12-31-03	Renumber	2-1-04
141-089-0505	5-21-04	Amend	7-1-04	150-294.311(30)	7-31-04	Amend	9-1-04
141-089-0510	5-21-04	Amend	7-1-04	150-294.352(8)	7-31-04	Amend	9-1-04
141-089-0515	5-21-04	Amend	7-1-04	150-294.435(1)-(C)	12-31-03	Adopt	2-1-04
141-089-0520	5-21-04	Amend	7-1-04	150-305.220(1)	12-31-03	Amend	2-1-04
141-089-0530	5-21-04	Amend	7-1-04	150-305.220(2)	12-31-03	Amend	2-1-04
141-089-0550	5-21-04	Adopt	7-1-04	150-306.115	12-31-03	Amend	2-1-04
141-089-0555	5-21-04	Adopt	7-1-04	150-308.156(5)-(B)	12-31-03	Amend	2-1-04
141-089-0560	5-21-04	Adopt	7-1-04	150-308.159	12-31-03	Adopt	2-1-04
141-089-0565	5-21-04	Adopt	7-1-04	150-308.219	12-31-03	Amend	2-1-04
141-089-0570	5-21-04	Adopt	7-1-04	150-308.250	12-31-03	Amend	2-1-04
141-089-0575	5-21-04	Adopt	7-1-04	150-309.026(2)	7-31-04	Renumber	9-1-04
141-089-0580	5-21-04	Adopt	7-1-04	150-309.100(3)-(B)	12-31-03	Amend	2-1-04
141-089-0585	5-21-04	Adopt	7-1-04	150-309.100(3)-(C)	12-31-03	Amend	2-1-04
141-089-0590	5-21-04	Adopt	7-1-04	150-309.110(1)-(A)	12-31-03	Amend	2-1-04
141-089-0595	5-21-04	Adopt	7-1-04	150-309.110(1)-(B)	12-31-03	Amend	2-1-04
141-089-0600	5-21-04	Adopt	7-1-04	150-309.110(1)-(D)	12-31-03	Adopt	2-1-04
141-089-0605	5-21-04	Adopt	7-1-04	150-309.110(1)-(E)	12-31-03	Adopt	2-1-04
141-089-0610	5-21-04	Adopt	7-1-04	150-309.115(1)-(C)	12-31-03	Adopt	2-1-04
141-089-0615	5-21-04	Adopt	7-1-04	150-309.115(2)-(f)	12-31-03	Renumber	2-1-04
141-090-0005	5-21-04	Amend	7-1-04	150-311.205(1)(b)	12-31-03	Renumber	2-1-04
141-090-0010	5-21-04	Amend	7-1-04	150-311.205(1)(c)-(A)	12-31-03	Renumber	2-1-04
141-090-0015	5-21-04	Amend	7-1-04	150-311.205(1)(c)-(C)	12-31-03	Am. & Ren.	2-1-04
141-090-0020	11-26-03	Amend	1-1-04	150-311.672(1)(a)	12-31-03	Amend	2-1-04
141-090-0020	5-21-04	Amend	7-1-04	150-311.708	12-31-03	Amend	2-1-04
141-090-0025	5-21-04	Amend	7-1-04	150-311.806-(A)	12-31-03	Amend	2-1-04
141-090-0030	11-26-03	Amend	1-1-04	150-312.040(1)(b)	12-31-03	Amend	2-1-04
141-090-0030	5-21-04	Amend	7-1-04	150-314.280-(N)	7-31-04	Amend	9-1-04
141-090-0035	5-21-04	Amend	7-1-04	150-314.295	12-31-03	Adopt	2-1-04
141-090-0040	5-21-04	Amend	7-1-04	150-314.385(c)-(B)	12-31-03	Amend	2-1-04
141-090-0045	5-21-04	Amend	7-1-04	150-314.415(1)(b)	12-31-03	Am. & Ren.	2-1-04
141-090-0050	5-21-04	Amend	7-1-04	150-314.415(1)(c)	12-31-03	Am. & Ren.	2-1-04
141-090-0055	5-21-04	Amend	7-1-04	150-314.505-(A)	12-31-03	Amend	2-1-04
141-102-0000	5-21-04	Amend	7-1-04	150-314.610(1)-(A)	12-31-03	Amend	2-1-04
141-102-0010	5-21-04	Amend	7-1-04	150-314.610(1)-(B)	12-31-03	Amend	2-1-04
141-102-0020	5-21-04	Amend	7-1-04	150-314.610(1)-(C)	12-31-03	Amend	2-1-04
141-102-0030	5-21-04	Amend	7-1-04	150-314.615-(F)	12-31-03	Amend	2-1-04
141-102-0040	5-21-04	Amend	7-1-04	150-314.650	7-31-04	Amend	9-1-04
141-102-0045	5-21-04	Amend	7-1-04	150-314.655(2)-(B)	12-31-03	Amend	2-1-04
150-118.010(2)	5-1-04	Adopt(T)	6-1-04	150-314.665(5)	7-31-04	Adopt	9-1-04
150-118.010(2)	7-31-04	Adopt	9-1-04	150-314.665(6)(c)	12-31-03	Adopt	2-1-04
150-118.010(2)(T)	7-31-04	Repeal	9-1-04	150-314.840	12-31-03	Amend	2-1-04
150-118.010(7)	5-1-04	Adopt(T)	6-1-04	150-315.113	12-31-03	Adopt	2-1-04
150-118.010(7)	7-31-04	Adopt	9-1-04	150-315.148(5)	7-31-04	Repeal	9-1-04
150-118.010(7)(T)	7-31-04	Repeal	9-1-04	150-315.164	7-31-04	Amend	9-1-04
150-137.300(3)	7-31-04	Adopt	9-1-04	150-315.262	12-31-03	Amend	2-1-04
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150-316.272(T)	7-31-04	Repeal	9-1-04	150-321.434(2)	12-31-03	Repeal	2-1-04
150-316.282(4)	7-31-04	Adopt	9-1-04	150-321.435(2)	7-31-04	Repeal	9-1-04
150-316.369	7-31-04	Amend	9-1-04	150-321.515	12-31-03	Repeal	2-1-04
150-316.777	7-31-04	Amend	9-1-04	150-321.580	7-31-04	Repeal	9-1-04
150-317.013	7-31-04	Amend	9-1-04	150-321.609(1)	7-31-04	Amend	9-1-04
150-317.018	7-31-04	Amend	9-1-04	150-321.609(2)-(A)	7-31-04	Amend	9-1-04
150-320.305	6-25-04	Adopt	8-1-04	150-321.609(2)-(C)	7-31-04	Amend	9-1-04
150-321.005	12-31-03	Amend	2-1-04	150-321.609(2)-(D)	7-31-04	Amend	9-1-04
150-321.045	12-31-03	Amend	2-1-04	150-321.706	9-15-04	Adopt	10-1-04
150-321.257(10)	7-31-04	Repeal	9-1-04	150-321.706(2)	7-31-04	Adopt	9-1-04
150-321.257(5)	7-31-04	Repeal	9-1-04	150-321.706(4)	7-31-04	Adopt	9-1-04
150-321.267	7-31-04	Repeal	9-1-04	150-321.706(7)	7-31-04	Adopt	9-1-04
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150-321.282(1)-(C)	12-31-03	Repeal	2-1-04	150-321.712(1)	7-31-04	Adopt	9-1-04
150-321.282(1)-(D)	12-31-03	Repeal	2-1-04	150-321.810	7-31-04	Repeal	9-1-04
150-321.282(1)-(E)	12-31-03	Repeal	2-1-04	150-321.812	7-31-04	Renumber	9-1-04
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150-321.282(4)(a)-(B)	7-31-04	Repeal	9-1-04	150-321.950	12-31-03	Repeal	2-1-04
150-321.282(5)	12-31-03	Repeal	2-1-04	150-323.105	7-31-04	Amend	9-1-04
150-321.282(6)	7-31-04	Repeal	9-1-04	150-323.107	7-31-04	Adopt	9-1-04
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177-091-0070	12-19-03	Adopt	2-1-04	255-070-0001	1-14-04	Amend	2-1-04
177-091-0080	12-19-03	Adopt	2-1-04	255-075-0079	6-14-04	Amend(T)	7-1-04
177-091-0090	12-19-03	Adopt	2-1-04	255-080-0005	6-14-04	Amend	7-1-04
177-091-0100	12-19-03	Adopt	2-1-04	255-080-0005	9-3-04	Amend(T)	10-1-04
177-091-0110	12-19-03	Adopt	2-1-04	255-080-0011	9-3-04	Amend(T)	10-1-04
177-099-0050	2-23-04	Amend(T)	4-1-04	257-070-0005	7-15-04	Amend(T)	8-1-04
177-099-0050	5-26-04	Amend	7-1-04	257-070-0010	7-15-04	Amend(T)	8-1-04
177-200-0070	7-1-04	Amend	8-1-04	257-070-0015	7-15-04	Amend(T)	8-1-04
191-010-0000	8-1-04	Amend	8-1-04	257-070-0025	7-15-04	Amend(T)	8-1-04
199-001-0040	8-4-04	Adopt	9-1-04	257-070-0040	7-15-04	Amend(T)	8-1-04
199-010-0025	8-4-04	Amend	9-1-04	259-008-0005	4-23-04	Amend	6-1-04
199-010-0035	8-4-04	Amend	9-1-04	259-008-0010	12-22-03	Amend	2-1-04
199-010-0060	8-4-04	Amend	9-1-04	259-008-0011	1-20-04	Amend	3-1-04
199-010-0075	8-4-04	Amend	9-1-04	259-008-0011	4-23-04	Amend	6-1-04
199-010-0080	8-4-04	Amend	9-1-04	259-008-0020	4-23-04	Amend	6-1-04
199-010-0085	8-4-04	Amend	9-1-04	259-008-0025	12-22-03	Amend	2-1-04
199-010-0095	8-4-04	Amend	9-1-04	259-008-0025	4-23-04	Amend	6-1-04
199-010-0100	8-4-04	Amend	9-1-04	259-008-0030	4-23-04	Amend	6-1-04
213-001-0000	1-1-04	Amend	2-1-04	259-008-0060	1-20-04	Amend	3-1-04
213-001-0005	1-1-04	Amend	2-1-04	259-008-0060	4-23-04	Amend	6-1-04

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259-008-0067	4-23-04	Amend	6-1-04	291-015-0130	8-9-04	Adopt	9-1-04
259-008-0068	1-16-04	Adopt	3-1-04	291-015-0135	8-9-04	Adopt	9-1-04
259-008-0070	4-23-04	Amend	6-1-04	291-015-0140	8-9-04	Adopt	9-1-04
259-009-0005	4-23-04	Amend	6-1-04	291-015-0145	8-9-04	Adopt	9-1-04
259-009-0010	4-23-04	Amend	6-1-04	291-015-0150	8-9-04	Adopt	9-1-04
259-009-0062	4-9-04	Amend(T)	5-1-04	291-062-0010	1-14-04	Suspend	2-1-04
259-009-0062	4-23-04	Amend	6-1-04	291-062-0010	7-12-04	Repeal	8-1-04
259-009-0065	4-23-04	Adopt	6-1-04	291-062-0020	1-14-04	Suspend	2-1-04
259-009-0067	4-23-04	Amend	6-1-04	291-062-0020	7-12-04	Repeal	8-1-04
259-009-0087	4-23-04	Amend	6-1-04	291-062-0030	1-14-04	Suspend	2-1-04
259-012-0035	4-23-04	Amend	6-1-04	291-062-0030	7-12-04	Repeal	8-1-04
259-045-0010	4-23-04	Repeal	6-1-04	291-062-0040	1-14-04	Suspend	2-1-04
259-060-0020	4-23-04	Amend	6-1-04	291-062-0040	7-12-04	Repeal	8-1-04
259-060-0300	4-23-04	Amend	6-1-04	291-062-0050	1-14-04	Suspend	2-1-04
274-001-0000	4-16-04	Amend	6-1-04	291-062-0050	7-12-04	Repeal	8-1-04
274-001-0005	4-16-04	Amend	6-1-04	291-062-0060	1-14-04	Suspend	2-1-04
274-020-0341	1-22-04	Amend(T)	3-1-04	291-062-0060	7-12-04	Repeal	8-1-04
274-020-0341	3-26-04	Amend	5-1-04	291-062-0070	1-14-04	Suspend	2-1-04
274-020-0341	4-8-04	Amend(T)	5-1-04	291-062-0070	7-12-04	Repeal	8-1-04
274-020-0341	4-29-04	Amend(T)	6-1-04	291-062-0080	1-14-04	Suspend	2-1-04
274-020-0341	5-11-04	Amend(T)	6-1-04	291-062-0080	7-12-04	Repeal	8-1-04
274-020-0341	8-6-04	Amend(T)	9-1-04	291-062-0100	1-14-04	Adopt(T)	2-1-04
274-020-0341	8-19-04	Amend(T)	10-1-04	291-062-0100	7-12-04	Adopt	8-1-04
274-020-0341(T)	1-22-04	Suspend	3-1-04	291-062-0110	1-14-04	Adopt(T)	2-1-04
274-020-0341(T)	3-26-04	Repeal	5-1-04	291-062-0110	7-12-04	Adopt	8-1-04
274-020-0341(T)	4-29-04	Suspend	6-1-04	291-062-0120	1-14-04	Adopt(T)	2-1-04
274-020-0341(T)	5-11-04	Suspend	6-1-04	291-062-0120	7-12-04	Adopt	8-1-04
274-020-0341(T)	8-6-04	Suspend	9-1-04	291-062-0130	1-14-04	Adopt(T)	2-1-04
274-020-0341(T)	8-19-04	Suspend	10-1-04	291-062-0130	7-12-04	Adopt	8-1-04
274-020-0388	1-15-04	Amend(T)	2-1-04	291-062-0140	1-14-04	Adopt(T)	2-1-04
274-020-0388	2-24-04	Amend	4-1-04	291-062-0140	7-12-04	Adopt	8-1-04
274-020-0388(T)	2-24-04	Repeal	4-1-04	291-062-0150	1-14-04	Adopt(T)	2-1-04
274-040-0015	12-31-03	Amend	2-1-04	291-062-0150	7-12-04	Adopt	8-1-04
274-040-0015	8-25-04	Amend	10-1-04	291-062-0160	1-14-04	Adopt(T)	2-1-04
274-040-0015(T)	12-31-03	Repeal	2-1-04	291-062-0160	7-12-04	Adopt	8-1-04
274-040-0030	12-31-03	Amend	2-1-04	291-064-0060	12-2-03	Amend	1-1-04
274-040-0030(T)	12-31-03	Repeal	2-1-04	291-117-0005	7-19-04	Amend	9-1-04
291-001-0020	12-12-03	Amend	1-1-04	291-117-0008	7-19-04	Amend	9-1-04
291-001-0025	12-12-03	Amend	1-1-04	291-117-0010	7-19-04	Repeal	9-1-04
291-001-0070	12-12-03	Repeal	1-1-04	291-117-0020	1-20-04	Amend(T)	3-1-04
291-013-0010	1-27-04	Amend(T)	3-1-04	291-117-0020	7-19-04	Repeal	9-1-04
291-013-0100	1-27-04	Amend(T)	3-1-04	291-117-0030	7-19-04	Repeal	9-1-04
291-013-0215	1-27-04	Amend(T)	3-1-04	291-117-0040	7-19-04	Repeal	9-1-04
291-015-0005	8-9-04	Repeal	9-1-04	291-117-0050	7-19-04	Repeal	9-1-04
291-015-0010	8-9-04	Repeal	9-1-04	291-117-0060	7-19-04	Repeal	9-1-04
291-015-0012	8-9-04	Repeal	9-1-04	291-117-0070	7-19-04	Adopt	9-1-04
291-015-0020	8-9-04	Repeal	9-1-04	291-117-0080	7-19-04	Adopt	9-1-04
291-015-0030	8-9-04	Repeal	9-1-04	291-117-0090	7-19-04	Adopt	9-1-04
291-015-0045	8-9-04	Repeal	9-1-04	291-117-0100	7-19-04	Adopt	9-1-04
291-015-0055	8-9-04	Repeal	9-1-04	291-117-0110	7-19-04	Adopt	9-1-04
291-015-0100	8-9-04	Adopt	9-1-04	291-117-0120	7-19-04	Adopt	9-1-04
291-015-0105	8-9-04	Adopt	9-1-04	291-117-0130	7-19-04	Adopt	9-1-04
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291-015-0115	8-9-04	Adopt	9-1-04	291-153-0005	5-14-04	Amend(T)	6-1-04
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291-180-0060	8-11-04	Suspend	9-1-04	291-180-0550	8-11-04	Amend(T)	9-1-04
291-180-0065	8-11-04	Suspend	9-1-04	291-180-0560	8-11-04	Amend(T)	9-1-04
291-180-0070	8-11-04	Suspend	9-1-04	291-180-0570	8-11-04	Amend(T)	9-1-04
291-180-0071	8-11-04	Suspend	9-1-04	291-180-0580	8-11-04	Amend(T)	9-1-04
291-180-0072	8-11-04	Suspend	9-1-04	291-180-0590	8-11-04	Amend(T)	9-1-04
291-180-0073	8-11-04	Suspend	9-1-04	291-180-0600	8-11-04	Amend(T)	9-1-04
291-180-0075	8-11-04	Suspend	9-1-04	291-180-0610	8-11-04	Amend(T)	9-1-04
291-180-0080	8-11-04	Suspend	9-1-04	291-180-0620	8-11-04	Amend(T)	9-1-04
291-180-0085	8-11-04	Suspend	9-1-04	291-180-0630	8-11-04	Amend(T)	9-1-04
291-180-0090	8-11-04	Suspend	9-1-04	309-018-0100	3-1-04	Repeal	4-1-04
291-180-0095	8-11-04	Suspend	9-1-04	309-018-0110	3-1-04	Repeal	4-1-04
291-180-0101	8-11-04	Amend(T)	9-1-04	309-018-0120	3-1-04	Repeal	4-1-04
291-180-0111	8-11-04	Amend(T)	9-1-04	309-018-0130	3-1-04	Repeal	4-1-04
291-180-0120	8-11-04	Amend(T)	9-1-04	309-018-0140	3-1-04	Repeal	4-1-04
291-180-0130	8-11-04	Amend(T)	9-1-04	309-018-0150	3-1-04	Repeal	4-1-04
291-180-0140	8-11-04	Amend(T)	9-1-04	309-018-0160	3-1-04	Repeal	4-1-04
291-180-0150	8-11-04	Amend(T)	9-1-04	309-018-0170	3-1-04	Repeal	4-1-04
291-180-0160	8-11-04	Amend(T)	9-1-04	309-018-0180	3-1-04	Repeal	4-1-04
291-180-0170	8-11-04	Amend(T)	9-1-04	309-018-0190	3-1-04	Repeal	4-1-04
291-180-0180	8-11-04	Amend(T)	9-1-04	309-041-0300	1-1-04	Repeal	2-1-04
291-180-0190	8-11-04	Amend(T)	9-1-04	309-041-0305	1-1-04	Repeal	2-1-04
291-180-0200	8-11-04	Amend(T)	9-1-04	309-041-0310	1-1-04	Repeal	2-1-04
291-180-0210	8-11-04	Amend(T)	9-1-04	309-041-0315	1-1-04	Repeal	2-1-04
291-180-0220	8-11-04	Amend(T)	9-1-04	309-041-0320	1-1-04	Repeal	2-1-04
291-180-0230	8-11-04	Amend(T)	9-1-04	309-041-0325	9-10-04	Repeal	10-1-04
291-180-0240	8-11-04	Amend(T)	9-1-04	309-041-0330	9-10-04	Repeal	10-1-04
291-180-0250	8-11-04	Amend(T)	9-1-04	309-041-0335	9-10-04	Repeal	10-1-04
291-180-0260	8-11-04	Amend(T)	9-1-04	309-041-0375	1-1-04	Repeal	2-1-04
291-180-0270	8-11-04	Amend(T)	9-1-04	309-041-0400	1-1-04	Repeal	2-1-04
291-180-0280	8-11-04	Amend(T)	9-1-04	309-041-0405	1-1-04	Repeal	2-1-04
291-180-0290	8-11-04	Amend(T)	9-1-04	309-041-0410	1-1-04	Repeal	2-1-04
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
291-180-0530	8-11-04	Amend(T)	9-1-04	309-041-1750	12-28-03	Am. & Ren.	2-1-04

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309-049-0100	1-1-04	Repeal	2-1-04	330-090-0110	7-1-04	Amend	8-1-04
309-049-0105	1-1-04	Repeal	2-1-04	330-090-0120	1-21-04	Amend	3-1-04
309-049-0110	1-1-04	Repeal	2-1-04	330-090-0120	7-1-04	Amend	8-1-04
309-049-0115	1-1-04	Repeal	2-1-04	330-090-0130	1-21-04	Amend	3-1-04
309-049-0120	1-1-04	Repeal	2-1-04	330-090-0130	7-1-04	Amend	8-1-04
309-049-0130	1-1-04	Repeal	2-1-04	330-090-0135	1-21-04	Amend	3-1-04
309-049-0135	1-1-04	Repeal	2-1-04	330-090-0135	7-1-04	Amend	8-1-04
309-049-0140	1-1-04	Repeal	2-1-04	330-090-0140	1-21-04	Amend	3-1-04
309-049-0145	1-1-04	Repeal	2-1-04	330-090-0140	7-1-04	Amend	8-1-04
309-049-0150	1-1-04	Repeal	2-1-04	330-090-0150	1-21-04	Amend	3-1-04
309-049-0155	1-1-04	Repeal	2-1-04	330-090-0150	7-1-04	Amend	8-1-04
309-049-0160	1-1-04	Repeal	2-1-04	331-001-0000	2-13-04	Adopt	3-1-04
309-049-0165	1-1-04	Repeal	2-1-04	331-001-0010	2-13-04	Adopt	3-1-04
309-049-0170	1-1-04	Repeal	2-1-04	331-001-0020	2-13-04	Adopt	3-1-04
309-049-0175	1-1-04	Repeal	2-1-04	331-010-0000	2-13-04	Adopt	3-1-04
309-049-0180	1-1-04	Repeal	2-1-04	331-010-0010	2-13-04	Adopt	3-1-04
309-049-0185	1-1-04	Repeal	2-1-04	331-010-0020	2-13-04	Adopt	3-1-04
309-049-0190	1-1-04	Repeal	2-1-04	331-010-0030	2-13-04	Adopt	3-1-04
309-049-0193	1-1-04	Repeal	2-1-04	331-010-0040	2-13-04	Adopt	3-1-04
309-049-0195	1-1-04	Repeal	2-1-04	331-020-0000	2-13-04	Adopt	3-1-04
309-049-0200	1-1-04	Repeal	2-1-04	331-020-0010	2-13-04	Adopt	3-1-04
309-049-0205	1-1-04	Repeal	2-1-04	331-020-0020	2-13-04	Adopt	3-1-04
309-049-0207	1-1-04	Repeal	2-1-04	331-020-0030	2-13-04	Adopt	3-1-04
309-049-0210	1-1-04	Repeal	2-1-04	331-020-0040	2-13-04	Adopt	3-1-04
309-049-0215	1-1-04	Repeal	2-1-04	331-020-0050	2-13-04	Adopt	3-1-04
309-049-0220	1-1-04	Repeal	2-1-04	331-020-0060	2-13-04	Adopt	3-1-04
309-049-0225	1-1-04	Repeal	2-1-04	331-020-0070	2-13-04	Adopt	3-1-04
330-070-0010	1-21-04	Amend	3-1-04	331-030-0000	2-13-04	Adopt	3-1-04
330-070-0013	1-21-04	Amend	3-1-04	331-030-0010	2-13-04	Adopt	3-1-04
330-070-0014	1-21-04	Amend	3-1-04	331-030-0020	2-13-04	Adopt	3-1-04
330-070-0020	1-21-04	Amend	3-1-04	331-030-0030	2-13-04	Adopt	3-1-04
330-070-0021	1-21-04	Amend	3-1-04	331-100-0000	7-1-04	Repeal	8-1-04
330-070-0022	1-21-04	Amend	3-1-04	331-100-0005	7-1-04	Repeal	8-1-04
330-070-0024	1-21-04	Amend	3-1-04	331-100-0020	7-1-04	Repeal	8-1-04
330-070-0025	1-21-04	Amend	3-1-04	331-100-0030	7-1-04	Repeal	8-1-04
330-070-0026	1-21-04	Amend	3-1-04	331-105-0000	7-1-04	Repeal	8-1-04
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330-070-0040	1-21-04	Amend	3-1-04	331-105-0020	7-1-04	Amend	8-1-04
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330-070-0055	1-21-04	Amend	3-1-04	331-110-0010	7-1-04	Amend	8-1-04
330-070-0059	1-21-04	Adopt	3-1-04	331-110-0055	7-1-04	Amend	8-1-04
330-070-0060	1-21-04	Amend	3-1-04	331-115-0020	7-1-04	Amend	8-1-04
330-070-0062	1-21-04	Amend	3-1-04	331-115-0030	7-1-04	Amend	8-1-04
330-070-0063	1-21-04	Amend	3-1-04	331-115-0040	7-1-04	Repeal	8-1-04
330-070-0064	1-21-04	Adopt	3-1-04	331-115-0050	7-1-04	Repeal	8-1-04
330-070-0070	1-21-04	Amend	3-1-04	331-115-0060	7-1-04	Amend	8-1-04
330-070-0073	1-21-04	Amend	3-1-04	331-115-0070	7-1-04	Repeal	8-1-04
330-070-0073	8-2-04	Amend	9-1-04	331-120-0000	7-1-04	Amend	8-1-04
330-070-0085	1-21-04	Amend	3-1-04	331-120-0020	7-1-04	Amend	8-1-04
330-070-0089	1-21-04	Amend	3-1-04	331-120-0030	7-1-04	Amend	8-1-04
330-070-0091	1-21-04	Amend	3-1-04	331-125-0000	7-1-04	Amend	8-1-04
330-070-0097	1-21-04	Amend	3-1-04	331-125-0010	7-1-04	Amend	8-1-04
330-090-0105	1-21-04	Amend	3-1-04	331-125-0020	7-1-04	Amend	8-1-04
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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
331-200-0020	7-1-04	Repeal	8-1-04	331-410-0020	7-1-04	Amend	8-1-04
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
331-205-0020	7-1-04	Amend	8-1-04	331-410-0060	7-1-04	Amend	8-1-04
331-205-0030	7-1-04	Amend	8-1-04	331-410-0065	7-1-04	Amend	8-1-04
331-210-0000	7-1-04	Amend	8-1-04	331-410-0070	7-1-04	Repeal	8-1-04
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331-215-0020	7-1-04	Amend	8-1-04	331-415-0020	7-1-04	Amend	8-1-04
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331-215-0040	7-1-04	Amend	8-1-04	331-420-0020	7-1-04	Amend	8-1-04
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331-220-0050	7-1-04	Amend	8-1-04	331-430-0030	7-1-04	Amend	8-1-04
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331-225-0030	7-1-04	Amend	8-1-04	331-505-0000	7-1-04	Amend	8-1-04
331-225-0040	7-1-04	Amend	8-1-04	331-505-0010	7-1-04	Amend	8-1-04
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331-225-0070	7-1-04	Amend	8-1-04	331-505-0030	7-1-04	Repeal	8-1-04
331-225-0080	7-1-04	Amend	8-1-04	331-505-0040	7-1-04	Repeal	8-1-04
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331-225-0150	7-1-04	Amend	8-1-04	331-515-0050	7-1-04	Repeal	8-1-04
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331-400-0020	7-1-04	Repeal	8-1-04	331-520-0030	7-1-04	Amend	8-1-04
331-400-0030	7-1-04	Repeal	8-1-04	331-520-0040	7-1-04	Amend	8-1-04
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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
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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
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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
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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
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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
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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
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331-565-0060	7-1-04	Amend	8-1-04	332-001-0020	7-1-04	Repeal	8-1-04
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331-570-0000	7-1-04	Amend	8-1-04	332-015-0010	7-1-04	Amend	8-1-04
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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
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332-030-0020	7-1-04	Repeal	8-1-04	333-015-0045(T)	8-19-04	Repeal	10-1-04
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333-003-0110	7-30-04	Adopt	9-1-04	333-015-0070	5-7-04	Adopt(T)	6-1-04
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333-005-0010	3-29-04	Adopt	5-1-04	333-015-0080(T)	8-19-04	Repeal	10-1-04
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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
333-012-0063	4-9-04	Adopt	5-1-04	333-020-0147	12-16-03	Adopt	2-1-04
333-012-0065	4-9-04	Amend	5-1-04	333-020-0149	12-16-03	Adopt	2-1-04
333-012-0067	4-9-04	Adopt	5-1-04	333-020-0150	12-16-03	Amend	2-1-04
333-012-0070	4-9-04	Amend	5-1-04	333-020-0151	12-16-03	Adopt	2-1-04
333-013-0006	1-2-04	Repeal	2-1-04	333-020-0153	12-16-03	Adopt	2-1-04

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333-020-0155	12-16-03	Amend	2-1-04	333-029-0105	4-9-04	Amend	5-1-04
333-020-0160	12-16-03	Amend	2-1-04	333-029-0105(T)	4-9-04	Repeal	5-1-04
333-020-0165	12-16-03	Amend	2-1-04	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	333-054-0000	1-5-04	Amend	2-1-04
333-025-0002	7-1-04	Am. & Ren.	8-1-04	333-054-0000(T)	1-5-04	Repeal	2-1-04
333-025-0002(5)-(9)	7-1-04	Am. & Ren.	8-1-04	333-054-0010	1-5-04	Amend	2-1-04
333-025-0004(1)-(10)	7-1-04	Am. & Ren.	8-1-04	333-054-0010(T)	1-5-04	Repeal	2-1-04
333-025-0004(11)-(13)	7-1-04	Am. & Ren.	8-1-04	333-054-0020	1-5-04	Amend	2-1-04
333-025-0005	7-1-04	Am. & Ren.	8-1-04	333-054-0020(T)	1-5-04	Repeal	2-1-04
333-025-0006	7-1-04	Am. & Ren.	8-1-04	333-054-0030	1-5-04	Amend	2-1-04
333-025-0007	7-1-04	Am. & Ren.	8-1-04	333-054-0030(T)	1-5-04	Repeal	2-1-04
333-025-0007(5)-(10)	7-1-04	Am. & Ren.	8-1-04	333-054-0040	1-5-04	Amend	2-1-04
333-025-0008	7-1-04	Am. & Ren.	8-1-04	333-054-0040(T)	1-5-04	Repeal	2-1-04
333-025-0009	7-1-04	Am. & Ren.	8-1-04	333-054-0050	1-5-04	Amend	2-1-04
333-025-0012	7-1-04	Am. & Ren.	8-1-04	333-054-0050(T)	1-5-04	Repeal	2-1-04
333-025-0014	7-1-04	Am. & Ren.	8-1-04	333-054-0060	1-5-04	Amend	2-1-04
333-025-0018	7-1-04	Repeal	8-1-04	333-054-0060(T)	1-5-04	Repeal	2-1-04
333-025-0027	7-1-04	Am. & Ren.	8-1-04	333-054-0070	1-5-04	Amend	2-1-04
333-025-0029	7-1-04	Am. & Ren.	8-1-04	333-054-0070(T)	1-5-04	Repeal	2-1-04
333-025-0030	7-1-04	Repeal	8-1-04	333-054-0090	1-5-04	Repeal	2-1-04
333-025-0040	7-1-04	Am. & Ren.	8-1-04	333-054-0100	1-5-04	Adopt	2-1-04
333-025-0050	7-1-04	Am. & Ren.	8-1-04	333-054-0100(T)	1-5-04	Repeal	2-1-04
333-025-0065	7-1-04	Am. & Ren.	8-1-04	333-055-0015	3-23-04	Amend	5-1-04
333-025-0070	7-1-04	Repeal	8-1-04	333-055-0030	3-23-04	Amend	5-1-04
333-025-0075	7-1-04	Am. & Ren.	8-1-04	333-055-0035	3-23-04	Amend	5-1-04
333-025-0080	7-1-04	Repeal	8-1-04	333-061-0020	4-9-04	Amend(T)	5-1-04
333-025-0090	7-1-04	Repeal	8-1-04	333-061-0020	5-1-04	Amend	8-1-04
333-025-0095	7-1-04	Repeal	8-1-04	333-061-0020(T)	5-1-04	Repeal	8-1-04
333-025-0100	3-23-04	Adopt	5-1-04	333-061-0025	4-9-04	Amend(T)	5-1-04
333-025-0100(T)	3-23-04	Repeal	5-1-04	333-061-0025	5-1-04	Amend	8-1-04
333-025-0105	3-23-04	Adopt	5-1-04	333-061-0025(T)	5-1-04	Repeal	8-1-04
333-025-0105(T)	3-23-04	Repeal	5-1-04	333-061-0034	4-9-04	Amend(T)	5-1-04
333-025-0110	3-23-04	Adopt	5-1-04	333-061-0034	5-1-04	Amend	8-1-04
333-025-0110(T)	3-23-04	Repeal	5-1-04	333-061-0034(T)	5-1-04	Repeal	8-1-04
333-025-0115	3-23-04	Adopt	5-1-04	333-061-0057	4-9-04	Amend(T)	5-1-04
333-025-0115(T)	3-23-04	Repeal	5-1-04	333-061-0057	5-1-04	Amend	8-1-04
333-025-0120	3-23-04	Adopt	5-1-04	333-061-0057(T)	5-1-04	Repeal	8-1-04
333-025-0120(T)	3-23-04	Repeal	5-1-04	333-061-0058	4-9-04	Adopt(T)	5-1-04
333-025-0125	3-23-04	Adopt	5-1-04	333-061-0058	5-1-04	Adopt	8-1-04
333-025-0125(T)	3-23-04	Repeal	5-1-04	333-061-0058(T)	5-1-04	Repeal	8-1-04
333-025-0130	3-23-04	Adopt	5-1-04	333-061-0060	4-9-04	Amend(T)	5-1-04
333-025-0130(T)	3-23-04	Repeal	5-1-04	333-061-0060	5-1-04	Amend	8-1-04
333-025-0135(T)	3-23-04	Repeal	5-1-04	333-061-0060(T)	5-1-04	Repeal	8-1-04
333-025-0140(T)	3-23-04	Repeal	5-1-04	333-061-0061	4-9-04	Amend(T)	5-1-04
333-025-0145(T)	3-23-04	Repeal	5-1-04	333-061-0061	5-1-04	Amend	8-1-04
333-025-0150(T)	3-23-04	Repeal	5-1-04	333-061-0061(T)	5-1-04	Repeal	8-1-04
333-025-0155(T)	3-23-04	Repeal	5-1-04	333-061-0064	4-9-04	Adopt(T)	5-1-04
333-025-0160(T)	3-23-04	Repeal	5-1-04	333-061-0064	5-1-04	Adopt	8-1-04
333-029-0105	2-13-04	Amend(T)	3-1-04	333-061-0064(T)	5-1-04	Repeal	8-1-04

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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
333-061-0245(T)	5-1-04	Repeal	8-1-04	333-064-0025(T)	12-8-03	Repeal	1-1-04
333-061-0250	4-9-04	Amend(T)	5-1-04	333-064-0030	12-8-03	Amend	1-1-04
333-061-0250	5-1-04	Amend	8-1-04	333-064-0030(T)	12-8-03	Repeal	1-1-04
333-061-0250(T)	5-1-04	Repeal	8-1-04	333-064-0035	12-8-03	Amend	1-1-04
333-061-0255	4-9-04	Suspend	5-1-04	333-064-0035(T)	12-8-03	Repeal	1-1-04
333-061-0255	5-1-04	Repeal	8-1-04	333-064-0040	12-8-03	Amend	1-1-04
333-061-0260	4-9-04	Amend(T)	5-1-04	333-064-0040(T)	12-8-03	Repeal	1-1-04
333-061-0260	5-1-04	Amend	8-1-04	333-064-0060	12-8-03	Amend	1-1-04
333-061-0260(T)	5-1-04	Repeal	8-1-04	333-064-0060(T)	12-8-03	Repeal	1-1-04
333-061-0265	4-9-04	Amend(T)	5-1-04	333-064-0065	12-8-03	Amend	1-1-04
333-061-0265	5-1-04	Amend	8-1-04	333-064-0065(T)	12-8-03	Repeal	1-1-04
333-061-0265(T)	5-1-04	Repeal	8-1-04	333-064-0070	12-8-03	Adopt	1-1-04
333-061-0270	4-9-04	Amend(T)	5-1-04	333-064-0070	7-1-04	Amend	8-1-04
333-061-0270	5-1-04	Amend	8-1-04	333-064-0070(T)	12-8-03	Repeal	1-1-04
333-061-0270(T)	5-1-04	Repeal	8-1-04	333-150-0000	2-13-04	Amend(T)	3-1-04
333-061-0272	4-9-04	Adopt(T)	5-1-04	333-150-0000	4-9-04	Amend	5-1-04

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333-157-0045	2-13-04	Amend(T)	3-1-04	333-175-0010	6-18-04	Repeal	8-1-04
333-157-0045	4-9-04	Amend	5-1-04	333-175-0011	6-18-04	Adopt	8-1-04
333-157-0045(T)	4-9-04	Repeal	5-1-04	333-175-0020	6-18-04	Repeal	8-1-04
333-157-0050	2-13-04	Suspend	3-1-04	333-175-0021	6-18-04	Adopt	8-1-04
333-157-0050	4-9-04	Repeal	5-1-04	333-175-0030	6-18-04	Repeal	8-1-04
333-157-0060	2-13-04	Suspend	3-1-04	333-175-0031	6-18-04	Adopt	8-1-04
333-157-0060	4-9-04	Repeal	5-1-04	333-175-0041	6-18-04	Adopt	8-1-04
333-157-0090	2-13-04	Suspend	3-1-04	333-175-0051	6-18-04	Adopt	8-1-04
333-157-0090	4-9-04	Repeal	5-1-04	333-175-0061	6-18-04	Adopt	8-1-04
333-162-0300	2-13-04	Amend(T)	3-1-04	333-175-0071	6-18-04	Adopt	8-1-04
333-162-0300	4-9-04	Amend	5-1-04	333-175-0081	6-18-04	Adopt	8-1-04
333-162-0300(T)	4-9-04	Repeal	5-1-04	333-175-0091	6-18-04	Adopt	8-1-04
333-162-0930	2-13-04	Amend(T)	3-1-04	333-175-0101	6-18-04	Adopt	8-1-04
333-162-0930	4-9-04	Amend	5-1-04	333-175-0111	6-18-04	Adopt	8-1-04
333-162-0930(T)	4-9-04	Repeal	5-1-04	333-505-0007	2-6-04	Amend	3-1-04
333-162-1005	2-13-04	Adopt(T)	3-1-04	333-535-0040	3-17-04	Suspend	5-1-04
333-162-1005	4-9-04	Adopt	5-1-04	333-535-0040	5-26-04	Repeal	7-1-04
333-162-1005(T)	4-9-04	Repeal	5-1-04	333-535-0041	3-17-04	Adopt(T)	5-1-04
333-170-0010	2-13-04	Amend(T)	3-1-04	333-535-0041	5-26-04	Adopt	7-1-04
333-170-0010	4-9-04	Amend	5-1-04	333-535-0041(T)	5-26-04	Repeal	7-1-04
333-170-0010(T)	4-9-04	Repeal	5-1-04	333-535-0060	3-17-04	Repeal	5-1-04
333-170-0020	2-13-04	Amend(T)	3-1-04	333-535-0061	3-17-04	Adopt	5-1-04
333-170-0020	4-9-04	Amend	5-1-04	333-536-0000	2-6-04	Adopt(T)	3-1-04
333-170-0020(T)	4-9-04	Repeal	5-1-04	333-536-0000	6-25-04	Adopt	8-1-04
333-170-0030	2-13-04	Amend(T)	3-1-04	333-536-0000(T)	6-25-04	Repeal	8-1-04
333-170-0030	4-9-04	Amend	5-1-04	333-536-0005	2-6-04	Adopt(T)	3-1-04
333-170-0030(T)	4-9-04	Repeal	5-1-04	333-536-0005	6-25-04	Adopt	8-1-04
333-170-0040	2-13-04	Amend(T)	3-1-04	333-536-0005(T)	6-25-04	Repeal	8-1-04
333-170-0040	4-9-04	Amend	5-1-04	333-536-0010	2-6-04	Adopt(T)	3-1-04
333-170-0040(T)	4-9-04	Repeal	5-1-04	333-536-0010	6-25-04	Amend	8-1-04
333-170-0050	2-13-04	Amend(T)	3-1-04	333-536-0010(T)	6-25-04	Repeal	8-1-04
333-170-0050	4-9-04	Amend	5-1-04	333-536-0015	2-6-04	Adopt(T)	3-1-04
333-170-0050(T)	4-9-04	Repeal	5-1-04	333-536-0015	6-25-04	Adopt	8-1-04
333-170-0060	2-13-04	Amend(T)	3-1-04	333-536-0015(T)	6-25-04	Repeal	8-1-04
333-170-0060	4-9-04	Amend	5-1-04	333-536-0020	2-6-04	Adopt(T)	3-1-04
333-170-0060(T)	4-9-04	Repeal	5-1-04	333-536-0020	6-25-04	Adopt	8-1-04
333-170-0070	2-13-04	Amend(T)	3-1-04	333-536-0020(T)	6-25-04	Repeal	8-1-04
333-170-0070	4-9-04	Amend	5-1-04	333-536-0025	2-6-04	Adopt(T)	3-1-04
333-170-0070(T)	4-9-04	Repeal	5-1-04	333-536-0025	6-25-04	Adopt	8-1-04
333-170-0080	2-13-04	Amend(T)	3-1-04	333-536-0025(T)	6-25-04	Repeal	8-1-04
333-170-0080	4-9-04	Amend	5-1-04	333-536-0030	2-6-04	Adopt(T)	3-1-04
333-170-0080(T)	4-9-04	Repeal	5-1-04	333-536-0030	6-25-04	Adopt	8-1-04
333-170-0090	2-13-04	Amend(T)	3-1-04	333-536-0030(T)	6-25-04	Repeal	8-1-04
333-170-0090	4-9-04	Amend	5-1-04	333-536-0035	2-6-04	Adopt(T)	3-1-04
333-170-0090(T)	4-9-04	Repeal	5-1-04	333-536-0035	6-25-04	Adopt	8-1-04
333-170-0100	2-13-04	Amend(T)	3-1-04	333-536-0035(T)	6-25-04	Repeal	8-1-04
333-170-0100	4-9-04	Amend	5-1-04	333-536-0040	2-6-04	Adopt(T)	3-1-04
333-170-0100(T)	4-9-04	Repeal	5-1-04	333-536-0040	6-25-04	Adopt	8-1-04
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

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333-536-0055	6-25-04	Adopt	8-1-04	335-070-0030	5-26-04	Amend	7-1-04
333-536-0055(T)	6-25-04	Repeal	8-1-04	335-070-0060	2-6-04	Amend	3-1-04
333-536-0060	2-6-04	Adopt(T)	3-1-04	335-070-0060	5-26-04	Amend	7-1-04
333-536-0060	6-25-04	Adopt	8-1-04	335-095-0020	2-6-04	Amend	3-1-04
333-536-0060(T)	6-25-04	Repeal	8-1-04	335-095-0020	5-26-04	Amend	7-1-04
333-536-0065	2-6-04	Adopt(T)	3-1-04	335-095-0030	2-6-04	Amend	3-1-04
333-536-0065	6-25-04	Adopt	8-1-04	335-095-0030	5-26-04	Amend	7-1-04
333-536-0065(T)	6-25-04	Repeal	8-1-04	337-020-0010	4-15-04	Adopt	5-1-04
333-536-0070	2-6-04	Adopt(T)	3-1-04	337-021-0050	4-15-04	Repeal	5-1-04
333-536-0070	6-25-04	Adopt	8-1-04	338-001-0000	7-1-04	Repeal	8-1-04
333-536-0070(T)	6-25-04	Repeal	8-1-04	338-001-0005	7-1-04	Repeal	8-1-04
333-536-0075	2-6-04	Adopt(T)	3-1-04	338-001-0008	7-1-04	Repeal	8-1-04
333-536-0075	6-25-04	Adopt	8-1-04	338-001-0010	7-1-04	Repeal	8-1-04
333-536-0075(T)	6-25-04	Repeal	8-1-04	338-001-0015	7-1-04	Repeal	8-1-04
333-536-0080	2-6-04	Adopt(T)	3-1-04	338-005-0000	7-1-04	Repeal	8-1-04
333-536-0080	6-25-04	Adopt	8-1-04	338-005-0010	7-1-04	Repeal	8-1-04
333-536-0080(T)	6-25-04	Repeal	8-1-04	338-005-0020	7-1-04	Amend	8-1-04
333-536-0085	2-6-04	Adopt(T)	3-1-04	338-005-0030	7-1-04	Amend	8-1-04
333-536-0085	6-25-04	Adopt	8-1-04	338-010-0015	3-1-04	Amend(T)	4-1-04
333-536-0085(T)	6-25-04	Repeal	8-1-04	338-010-0015	7-1-04	Amend	8-1-04
333-536-0090	2-6-04	Adopt(T)	3-1-04	338-010-0017	7-1-04	Amend	8-1-04
333-536-0090	6-25-04	Adopt	8-1-04	338-010-0025	3-1-04	Amend(T)	4-1-04
333-536-0090(T)	6-25-04	Repeal	8-1-04	338-010-0025	7-1-04	Amend	8-1-04
333-536-0095	2-6-04	Adopt(T)	3-1-04	338-010-0030	3-1-04	Amend(T)	4-1-04
333-536-0095	6-25-04	Adopt	8-1-04	338-010-0030	7-1-04	Amend	8-1-04
333-536-0095(T)	6-25-04	Repeal	8-1-04	338-010-0033	7-1-04	Amend	8-1-04
333-536-0100	2-6-04	Adopt(T)	3-1-04	338-010-0035	3-1-04	Amend(T)	4-1-04
333-536-0100	6-25-04	Adopt	8-1-04	338-010-0035	7-1-04	Amend	8-1-04
333-536-0100(T)	6-25-04	Repeal	8-1-04	338-010-0038	7-1-04	Amend	8-1-04
333-560-0010	1-16-04	Amend	3-1-04	338-010-0050	3-1-04	Amend(T)	4-1-04
333-560-0110	8-19-04	Amend	10-1-04	338-010-0050	7-1-04	Amend	8-1-04
333-560-0120	8-19-04	Amend	10-1-04	338-010-0060	7-1-04	Repeal	8-1-04
333-635-0000	1-16-04	Repeal	3-1-04	338-020-0000	7-1-04	Amend	8-1-04
333-635-0010	1-16-04	Repeal	3-1-04	338-020-0030	7-1-04	Amend	8-1-04
333-635-0020	1-16-04	Repeal	3-1-04	338-020-0050	7-1-04	Amend	8-1-04
333-635-0030	1-16-04	Repeal	3-1-04	338-020-0060	7-1-04	Repeal	8-1-04
333-675-0000	3-11-04	Amend	4-1-04	338-030-0000	7-1-04	Repeal	8-1-04
333-675-0010	3-11-04	Am. & Ren.	4-1-04	338-030-0010	7-1-04	Repeal	8-1-04
333-675-0020	3-11-04	Amend	4-1-04	338-030-0020	7-1-04	Amend	8-1-04
333-675-0030	3-11-04	Amend	4-1-04	338-030-0030	7-1-04	Repeal	8-1-04
333-675-0040	3-11-04	Amend	4-1-04	338-030-0040	7-1-04	Repeal	8-1-04
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334-010-0010	2-23-04	Amend	4-1-04	339-005-0000	6-3-04	Amend	7-1-04
334-010-0015	2-23-04	Amend	4-1-04	339-010-0023	6-3-04	Amend	7-1-04
334-010-0017	2-23-04	Amend	4-1-04	339-020-0030	6-3-04	Amend	7-1-04
334-010-0025	2-23-04	Amend	4-1-04	339-020-0050	6-3-04	Amend	7-1-04
334-010-0050	2-23-04	Amend	4-1-04	340-011-0005	12-12-03	Amend	1-1-04
334-010-0050	3-16-04	Amend(T)	5-1-04	340-011-0035	12-12-03	Am. & Ren.	1-1-04
335-005-0015	5-26-04	Amend	7-1-04	340-011-0097	12-12-03	Am. & Ren.	1-1-04
335-005-0025	2-6-04	Amend	3-1-04	340-011-0098	12-12-03	Am. & Ren.	1-1-04
335-005-0025	5-26-04	Amend	7-1-04	340-011-0103	12-12-03	Am. & Ren.	1-1-04
335-010-0050	5-26-04	Adopt	7-1-04	340-011-0106	12-12-03	Renumber	1-1-04
335-010-0060	5-26-04	Adopt	7-1-04	340-011-0107	12-12-03	Am. & Ren.	1-1-04
335-010-0070	5-26-04	Adopt	7-1-04	340-011-0122	12-12-03	Renumber	1-1-04
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340-011-0132	12-12-03	Am. & Ren.	1-1-04	340-041-0174	12-9-03	Adopt	1-1-04
340-011-0136	12-12-03	Am. & Ren.	1-1-04	340-041-0175	12-9-03	Adopt	1-1-04
340-011-0520	12-12-03	Adopt	1-1-04	340-041-0180	12-9-03	Adopt	1-1-04
340-011-0535	12-12-03	Adopt	1-1-04	340-041-0184	12-9-03	Adopt	1-1-04
340-011-0545	12-12-03	Adopt	1-1-04	340-041-0185	12-9-03	Adopt	1-1-04
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340-011-0555	12-12-03	Adopt	1-1-04	340-041-0194	12-9-03	Adopt	1-1-04
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340-011-0585	12-12-03	Adopt	1-1-04	340-041-0201	12-9-03	Adopt	1-1-04
340-016-0055	6-8-04	Amend(T)	7-1-04	340-041-0202	12-9-03	Repeal	1-1-04
340-035-0035	6-11-04	Amend	7-1-04	340-041-0204	12-9-03	Adopt	1-1-04
340-035-0110	6-11-04	Adopt	7-1-04	340-041-0205	12-9-03	Repeal	1-1-04
340-041-0001	12-9-03	Amend	1-1-04	340-041-0207	12-9-03	Adopt	1-1-04
340-041-0002	12-9-03	Adopt	1-1-04	340-041-0215	12-9-03	Repeal	1-1-04
340-041-0002	5-28-04	Amend	7-1-04	340-041-0220	12-9-03	Adopt	1-1-04
340-041-0004	12-9-03	Adopt	1-1-04	340-041-0224	12-9-03	Adopt	1-1-04
340-041-0006	12-9-03	Repeal	1-1-04	340-041-0225	12-9-03	Adopt	1-1-04
340-041-0007	12-9-03	Adopt	1-1-04	340-041-0230	12-9-03	Adopt	1-1-04
340-041-0009	12-9-03	Adopt	1-1-04	340-041-0234	12-9-03	Adopt	1-1-04
340-041-0016	12-9-03	Adopt	1-1-04	340-041-0235	12-9-03	Adopt	1-1-04
340-041-0021	12-9-03	Adopt	1-1-04	340-041-0242	12-9-03	Repeal	1-1-04
340-041-0026	12-9-03	Repeal	1-1-04	340-041-0245	12-9-03	Repeal	1-1-04
340-041-0027	12-9-03	Am. & Ren.	1-1-04	340-041-0250	12-9-03	Adopt	1-1-04
340-041-0028	12-9-03	Adopt	1-1-04	340-041-0254	12-9-03	Adopt	1-1-04
340-041-0031	12-9-03	Adopt	1-1-04	340-041-0255	12-9-03	Repeal	1-1-04
340-041-0032	12-9-03	Adopt	1-1-04	340-041-0256	12-9-03	Adopt	1-1-04
340-041-0033	12-9-03	Adopt	1-1-04	340-041-0260	12-9-03	Adopt	1-1-04
340-041-0033	5-28-04	Amend	7-1-04	340-041-0264	12-9-03	Adopt	1-1-04
340-041-0034	12-9-03	Repeal	1-1-04	340-041-0265	12-9-03	Adopt	1-1-04
340-041-0036	12-9-03	Adopt	1-1-04	340-041-0270	12-9-03	Repeal	1-1-04
340-041-0046	12-9-03	Adopt	1-1-04	340-041-0271	12-9-03	Adopt	1-1-04
340-041-0053	12-9-03	Adopt	1-1-04	340-041-0274	12-9-03	Adopt	1-1-04
340-041-0057	12-9-03	Adopt	1-1-04	340-041-0275	12-9-03	Adopt	1-1-04
340-041-0061	12-9-03	Adopt	1-1-04	340-041-0282	12-9-03	Repeal	1-1-04
340-041-0061	5-28-04	Amend	7-1-04	340-041-0285	12-9-03	Repeal	1-1-04
340-041-0101	12-9-03	Adopt	1-1-04	340-041-0286	12-9-03	Adopt	1-1-04
340-041-0103	12-9-03	Adopt	1-1-04	340-041-0289	12-9-03	Adopt	1-1-04
340-041-0104	12-9-03	Adopt	1-1-04	340-041-0290	12-9-03	Adopt	1-1-04
340-041-0120	12-9-03	Repeal	1-1-04	340-041-0295	12-9-03	Repeal	1-1-04
340-041-0121	12-9-03	Adopt	1-1-04	340-041-0300	12-9-03	Adopt	1-1-04
340-041-0122	12-9-03	Adopt	1-1-04	340-041-0304	12-9-03	Adopt	1-1-04
340-041-0124	12-9-03	Adopt	1-1-04	340-041-0305	12-9-03	Adopt	1-1-04
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
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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
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340-041-0350	12-9-03	Adopt	1-1-04	340-048-0035	4-15-04	Repeal	5-1-04
340-041-0362	12-9-03	Repeal	1-1-04	340-048-0037	4-15-04	Adopt	5-1-04
340-041-0365	12-9-03	Repeal	1-1-04	340-048-0040	4-15-04	Am. & Ren.	5-1-04
340-041-0375	12-9-03	Repeal	1-1-04	340-048-0200	4-15-04	Am. & Ren.	5-1-04
340-041-0385	12-9-03	Repeal	1-1-04	340-200-0040	12-12-03	Amend	1-1-04
340-041-0442	12-9-03	Repeal	1-1-04	340-200-0040	4-14-04	Amend	5-1-04
340-041-0445	12-9-03	Repeal	1-1-04	340-214-0400	12-12-03	Adopt	1-1-04
340-041-0455	12-9-03	Repeal	1-1-04	340-214-0410	12-12-03	Adopt	1-1-04
340-041-0470	12-9-03	Repeal	1-1-04	340-214-0420	12-12-03	Adopt	1-1-04
340-041-0482	12-9-03	Repeal	1-1-04	340-214-0430	12-12-03	Adopt	1-1-04
340-041-0485	12-9-03	Repeal	1-1-04	340-220-0030	7-29-04	Amend	9-1-04
340-041-0495	12-9-03	Repeal	1-1-04	340-220-0040	7-29-04	Amend	9-1-04
340-041-0522	12-9-03	Repeal	1-1-04	340-220-0050	7-29-04	Amend	9-1-04
340-041-0525	12-9-03	Repeal	1-1-04	340-224-0010	4-14-04	Amend	5-1-04
340-041-0535	12-9-03	Repeal	1-1-04	340-224-0030	4-14-04	Amend	5-1-04
340-041-0562	12-9-03	Repeal	1-1-04	340-224-0050	4-14-04	Amend	5-1-04
340-041-0565	12-9-03	Repeal	1-1-04	340-224-0070	4-14-04	Amend	5-1-04
340-041-0575	12-9-03	Repeal	1-1-04	340-224-0080	4-14-04	Amend	5-1-04
340-041-0580	12-9-03	Repeal	1-1-04	340-225-0020	4-14-04	Amend	5-1-04
340-041-0602	12-9-03	Repeal	1-1-04	340-225-0050	4-14-04	Amend	5-1-04
340-041-0605	12-9-03	Repeal	1-1-04	340-225-0090	4-14-04	Amend	5-1-04
340-041-0615	12-9-03	Repeal	1-1-04	340-228-0400	12-12-03	Adopt	1-1-04
340-041-0642	12-9-03	Repeal	1-1-04	340-228-0410	12-12-03	Adopt	1-1-04
340-041-0645	12-9-03	Repeal	1-1-04	340-228-0420	12-12-03	Adopt	1-1-04
340-041-0655	12-9-03	Repeal	1-1-04	340-228-0430	12-12-03	Adopt	1-1-04
340-041-0682	12-9-03	Repeal	1-1-04	340-228-0440	12-12-03	Adopt	1-1-04
340-041-0765	12-9-03	Repeal	1-1-04	340-228-0450	12-12-03	Adopt	1-1-04
340-041-0775	12-9-03	Repeal	1-1-04	340-228-0460	12-12-03	Adopt	1-1-04
340-041-0802	12-9-03	Repeal	1-1-04	340-228-0470	12-12-03	Adopt	1-1-04
340-041-0805	12-9-03	Repeal	1-1-04	340-228-0480	12-12-03	Adopt	1-1-04
340-041-0815	12-9-03	Repeal	1-1-04	340-228-0490	12-12-03	Adopt	1-1-04
340-041-0842	12-9-03	Repeal	1-1-04	340-228-0500	12-12-03	Adopt	1-1-04
340-041-0845	12-9-03	Repeal	1-1-04	340-228-0510	12-12-03	Adopt	1-1-04
340-041-0855	12-9-03	Repeal	1-1-04	340-228-0520	12-12-03	Adopt	1-1-04
340-041-0882	12-9-03	Repeal	1-1-04	340-228-0530	12-12-03	Adopt	1-1-04
340-041-0885	12-9-03	Repeal	1-1-04	350-011-0006	6-1-04	Amend	6-1-04
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340-041-0925	12-9-03	Repeal	1-1-04	350-120-0015	4-1-04	Adopt	4-1-04
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410-007-0220	3-1-04	Adopt	4-1-04	410-050-0540	6-15-04	Adopt(T)	7-1-04
410-007-0230	3-1-04	Adopt	4-1-04	410-050-0550	6-15-04	Adopt(T)	7-1-04
410-007-0240	3-1-04	Adopt	4-1-04	410-050-0560	6-15-04	Adopt(T)	7-1-04
410-007-0250	3-1-04	Adopt	4-1-04	410-050-0570	6-15-04	Adopt(T)	7-1-04
410-007-0260	3-1-04	Adopt	4-1-04	410-050-0580	6-15-04	Adopt(T)	7-1-04
410-007-0270	3-1-04	Adopt	4-1-04	410-050-0590	6-15-04	Adopt(T)	7-1-04
410-007-0280	3-1-04	Adopt	4-1-04	410-120-0000	10-1-04	Amend	10-1-04
410-007-0290	3-1-04	Adopt	4-1-04	410-120-1140	10-1-04	Amend	10-1-04
410-007-0300	3-1-04	Adopt	4-1-04	410-120-1160	4-1-04	Amend	4-1-04
410-007-0310	3-1-04	Adopt	4-1-04	410-120-1160	10-1-04	Amend	10-1-04
410-007-0320	3-1-04	Adopt	4-1-04	410-120-1195	1-1-04	Amend	2-1-04
410-007-0330	3-1-04	Adopt	4-1-04	410-120-1200	4-1-04	Amend	4-1-04
410-007-0340	3-1-04	Adopt	4-1-04	410-120-1210	8-1-04	Amend	9-1-04
410-007-0350	3-1-04	Adopt	4-1-04	410-120-1230	6-19-04	Amend(T)	7-1-04
410-007-0360	3-1-04	Adopt	4-1-04	410-120-1230	8-1-04	Amend	9-1-04
410-007-0370	3-1-04	Adopt	4-1-04	410-120-1260	10-1-04	Amend	10-1-04
410-007-0380	3-1-04	Adopt	4-1-04	410-120-1280	4-1-04	Amend	4-1-04
410-009-0000	5-26-04	Repeal	7-1-04	410-120-1295	3-22-04	Amend	5-1-04
410-009-0005	5-26-04	Repeal	7-1-04	410-120-1295	3-23-04	Amend(T)	5-1-04
410-009-0010	5-26-04	Repeal	7-1-04	410-120-1295	6-1-04	Amend	7-1-04
410-009-0015	5-26-04	Repeal	7-1-04	410-120-1340	4-1-04	Amend	4-1-04
410-009-0020	5-26-04	Repeal	7-1-04	410-120-1360	4-1-04	Amend	4-1-04
410-009-0025	5-26-04	Repeal	7-1-04	410-120-1390	6-1-04	Adopt(T)	7-1-04
410-009-0030	5-26-04	Repeal	7-1-04	410-120-1520	4-1-04	Amend	4-1-04
410-009-0035	5-26-04	Repeal	7-1-04	410-120-1540	4-1-04	Amend	4-1-04
410-009-0040	5-26-04	Repeal	7-1-04	410-120-1570	4-1-04	Amend	4-1-04
410-050-0100	5-1-04	Adopt(T)	6-1-04	410-120-1960	10-1-04	Amend	10-1-04
410-050-0110	5-1-04	Adopt(T)	6-1-04	410-121-0000	4-1-04	Amend	4-1-04
410-050-0120	5-1-04	Adopt(T)	6-1-04	410-121-0021	12-1-03	Adopt	1-1-04
410-050-0130	5-1-04	Adopt(T)	6-1-04	410-121-0021	7-1-04	Amend	8-1-04
410-050-0140	5-1-04	Adopt(T)	6-1-04	410-121-0030	3-1-04	Amend	4-1-04
410-050-0150	5-1-04	Adopt(T)	6-1-04	410-121-0030	5-1-04	Amend	6-1-04
410-050-0160	5-1-04	Adopt(T)	6-1-04	410-121-0030	6-1-04	Amend	7-1-04
410-050-0170	5-1-04	Adopt(T)	6-1-04	410-121-0030	8-1-04	Amend	9-1-04
410-050-0180	5-1-04	Adopt(T)	6-1-04	410-121-0033	2-1-04	Adopt	3-1-04
410-050-0190	5-1-04	Adopt(T)	6-1-04	410-121-0040	12-1-03	Amend	1-1-04
410-050-0200	5-1-04	Adopt(T)	6-1-04	410-121-0040	12-15-03	Amend(T)	1-1-04
410-050-0210	5-1-04	Adopt(T)	6-1-04	410-121-0040	3-1-04	Amend	4-1-04
410-050-0220	5-1-04	Adopt(T)	6-1-04	410-121-0040	10-1-04	Amend	10-1-04
410-050-0230	5-1-04	Adopt(T)	6-1-04	410-121-0040(T)	3-1-04	Repeal	4-1-04
410-050-0240	5-1-04	Adopt(T)	6-1-04	410-121-0060	4-1-04	Amend	4-1-04
410-050-0250	5-1-04	Adopt(T)	6-1-04	410-121-0061	4-1-04	Amend	4-1-04
410-050-0400	6-15-04	Adopt(T)	7-1-04	410-121-0100	4-1-04	Amend	4-1-04
410-050-0410	6-15-04	Adopt(T)	7-1-04	410-121-0135	4-1-04	Amend	4-1-04
410-050-0420	6-15-04	Adopt(T)	7-1-04	410-121-0140	12-1-03	Amend	1-1-04
410-050-0430	6-15-04	Adopt(T)	7-1-04	410-121-0140	4-1-04	Amend	4-1-04
410-050-0440	6-15-04	Adopt(T)	7-1-04	410-121-0143	4-1-04	Amend	4-1-04
410-050-0450	6-15-04	Adopt(T)	7-1-04	410-121-0144	4-1-04	Amend	4-1-04
410-050-0460	6-15-04	Adopt(T)	7-1-04	410-121-0145	4-1-04	Amend	4-1-04
410-050-0470	6-15-04	Adopt(T)	7-1-04	410-121-0146	3-15-04	Amend	3-1-04
410-050-0480	6-15-04	Adopt(T)	7-1-04	410-121-0146	3-15-04	Amend(T)	4-1-04
410-050-0490	6-15-04	Adopt(T)	7-1-04	410-121-0147	4-1-04	Amend	4-1-04
410-050-0500	6-15-04	Adopt(T)	7-1-04	410-121-0148	4-1-04	Amend	4-1-04
410-050-0510	6-15-04	Adopt(T)	7-1-04	410-121-0150	4-1-04	Amend	4-1-04
410-050-0520	6-15-04	Adopt(T)	7-1-04	410-121-0154	4-1-04	Repeal	4-1-04

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410-121-0157	3-30-04	Amend	5-1-04	410-122-0203	4-1-04	Amend	5-1-04
410-121-0157	4-4-04	Amend(T)	3-1-04	410-122-0203	7-1-04	Amend	8-1-04
410-121-0157	5-14-04	Amend(T)	6-1-04	410-122-0204	7-1-04	Amend	8-1-04
410-121-0157	7-1-04	Amend	8-1-04	410-122-0205	4-1-04	Amend	5-1-04
410-121-0157	9-10-04	Amend(T)	10-1-04	410-122-0205	7-1-04	Amend	8-1-04
410-121-0157(T)	7-1-04	Repeal	8-1-04	410-122-0206	7-1-04	Amend	8-1-04
410-121-0160	3-15-04	Amend	3-1-04	410-122-0207	7-1-04	Amend	8-1-04
410-121-0160	3-15-04	Amend(T)	4-1-04	410-122-0208	7-1-04	Amend	8-1-04
410-121-0160	4-15-04	Amend	4-1-04	410-122-0209	4-1-04	Amend	5-1-04
410-121-0180	4-1-04	Repeal	4-1-04	410-122-0209	7-1-04	Amend	8-1-04
410-121-0185	4-1-04	Amend	4-1-04	410-122-0210	4-1-04	Amend	5-1-04
410-121-0190	4-1-04	Amend	4-1-04	410-122-0210	7-1-04	Amend	8-1-04
410-121-0200	4-1-04	Amend	4-1-04	410-122-0220	7-1-04	Amend	8-1-04
410-121-0300	12-1-03	Amend(T)	1-1-04	410-122-0240	7-1-04	Amend	8-1-04
410-121-0300	2-1-04	Amend	3-1-04	410-122-0250	7-1-04	Amend	8-1-04
410-121-0300	5-14-04	Amend(T)	6-1-04	410-122-0255	7-1-04	Amend	8-1-04
410-121-0300	7-1-04	Amend	8-1-04	410-122-0260	7-1-04	Amend	8-1-04
410-121-0300(T)	7-1-04	Repeal	8-1-04	410-122-0280	7-1-04	Amend	8-1-04
410-121-0320	2-1-04	Amend	3-1-04	410-122-0300	7-1-04	Amend	8-1-04
410-121-0420	4-1-04	Amend	4-1-04	410-122-0320	7-1-04	Amend	8-1-04
410-121-0580	4-1-04	Amend	4-1-04	410-122-0325	7-1-04	Amend	8-1-04
410-121-0625	4-1-04	Amend	4-1-04	410-122-0330	7-1-04	Amend	8-1-04
410-122-0000	7-1-04	Amend	8-1-04	410-122-0340	4-1-04	Amend	5-1-04
410-122-0010	7-1-04	Adopt	8-1-04	410-122-0340	7-1-04	Amend	8-1-04
410-122-0010	10-1-04	Amend	10-1-04	410-122-0360	7-1-04	Amend	8-1-04
410-122-0020	7-1-04	Amend	8-1-04	410-122-0365	4-1-04	Amend	5-1-04
410-122-0030	4-1-04	Amend	5-1-04	410-122-0365	7-1-04	Amend	8-1-04
410-122-0030	7-1-04	Repeal	8-1-04	410-122-0375	4-1-04	Amend	5-1-04
410-122-0040	3-15-04	Amend	3-1-04	410-122-0375	7-1-04	Amend	8-1-04
410-122-0040	3-15-04	Amend(T)	4-1-04	410-122-0380	4-1-04	Amend	5-1-04
410-122-0040	4-1-04	Amend	5-1-04	410-122-0380	7-1-04	Amend	8-1-04
410-122-0040	5-1-04	Amend	5-1-04	410-122-0400	7-1-04	Amend	8-1-04
410-122-0040	7-1-04	Amend	8-1-04	410-122-0420	7-1-04	Amend	8-1-04
410-122-0055	8-1-04	Adopt	9-1-04	410-122-0470	7-1-04	Amend	8-1-04
410-122-0060	4-1-04	Amend	5-1-04	410-122-0475	7-1-04	Amend	8-1-04
410-122-0060	7-1-04	Repeal	8-1-04	410-122-0480	7-1-04	Amend	8-1-04
410-122-0080	4-1-04	Amend	5-1-04	410-122-0500	7-1-04	Amend	8-1-04
410-122-0080	7-1-04	Amend	8-1-04	410-122-0510	7-1-04	Amend	8-1-04
410-122-0080	8-1-04	Amend	9-1-04	410-122-0520	7-1-04	Amend	8-1-04
410-122-0085	8-1-04	Adopt	9-1-04	410-122-0525	4-1-04	Amend	5-1-04
410-122-0105	4-1-04	Repeal	5-1-04	410-122-0525	7-1-04	Amend	8-1-04
410-122-0120	4-1-04	Repeal	5-1-04	410-122-0530	7-1-04	Amend	8-1-04
410-122-0140	4-1-04	Repeal	5-1-04	410-122-0530	8-1-04	Amend	9-1-04
410-122-0180	4-1-04	Amend	5-1-04	410-122-0540	4-1-04	Amend	5-1-04
410-122-0180	7-1-04	Amend	8-1-04	410-122-0540	7-1-04	Amend	8-1-04
410-122-0182	7-1-04	Adopt	8-1-04	410-122-0560	4-1-04	Amend	5-1-04
410-122-0184	7-1-04	Adopt	8-1-04	410-122-0560	7-1-04	Amend	8-1-04
410-122-0186	7-1-04	Adopt	8-1-04	410-122-0580	4-1-04	Amend	5-1-04
410-122-0190	4-1-04	Amend	5-1-04	410-122-0580	7-1-04	Amend	8-1-04
410-122-0190	7-1-04	Amend	8-1-04	410-122-0590	7-1-04	Amend	8-1-04
410-122-0190	10-1-04	Amend	10-1-04	410-122-0600	7-1-04	Amend	8-1-04
410-122-0200	4-1-04	Amend	5-1-04	410-122-0620	4-1-04	Amend	5-1-04
410-122-0200	7-1-04	Amend	8-1-04	410-122-0620	7-1-04	Amend	8-1-04
410-122-0202	4-1-04	Amend	5-1-04	410-122-0625	4-1-04	Amend	5-1-04
410-122-0202	7-1-04	Amend	8-1-04	410-122-0625	7-1-04	Amend	8-1-04

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410-122-0640	7-1-04	Amend	8-1-04	410-125-0580	10-1-04	Repeal	10-1-04
410-122-0660	4-1-04	Amend	5-1-04	410-125-0620	10-1-04	Amend	10-1-04
410-122-0660	7-1-04	Amend	8-1-04	410-125-0640	10-1-04	Amend	10-1-04
410-122-0678	7-1-04	Amend	8-1-04	410-125-0641	10-1-04	Amend	10-1-04
410-122-0680	7-1-04	Amend	8-1-04	410-125-0680	10-1-04	Repeal	10-1-04
410-122-0700	4-1-04	Amend	5-1-04	410-125-0700	10-1-04	Repeal	10-1-04
410-122-0700	7-1-04	Amend	8-1-04	410-125-0720	10-1-04	Amend	10-1-04
410-122-0720	7-1-04	Amend	8-1-04	410-125-2000	4-1-04	Amend	4-1-04
410-123-1060	8-1-04	Amend	9-1-04	410-125-2000	10-1-04	Amend	10-1-04
410-123-1085	8-1-04	Amend	9-1-04	410-125-2020	10-1-04	Amend	10-1-04
410-123-1240	10-1-04	Amend	10-1-04	410-125-2030	10-1-04	Amend	10-1-04
410-123-1260	10-1-04	Amend	10-1-04	410-125-2040	10-1-04	Amend	10-1-04
410-123-1490	10-1-04	Amend	10-1-04	410-125-2060	10-1-04	Amend	10-1-04
410-123-1670	8-1-04	Adopt	9-1-04	410-125-2080	10-1-04	Amend	10-1-04
410-124-0000	10-1-04	Amend(T)	10-1-04	410-127-0055	8-1-04	Amend	9-1-04
410-125-0000	10-1-04	Amend	10-1-04	410-127-0080	1-1-04	Amend	2-1-04
410-125-0020	10-1-04	Amend	10-1-04	410-127-0100	10-1-04	Repeal	10-1-04
410-125-0030	10-1-04	Amend	10-1-04	410-127-0120	10-1-04	Repeal	10-1-04
410-125-0040	10-1-04	Amend	10-1-04	410-129-0080	12-1-03	Amend	1-1-04
410-125-0041	10-1-04	Amend	10-1-04	410-129-0080	10-1-04	Amend	10-1-04
410-125-0045	10-1-04	Amend	10-1-04	410-129-0100	4-1-04	Amend	4-1-04
410-125-0047	8-1-04	Adopt	9-1-04	410-129-0100	10-1-04	Amend	10-1-04
410-125-0047	9-1-04	Amend(T)	10-1-04	410-129-0120	10-1-04	Repeal	10-1-04
410-125-0050	10-1-04	Amend	10-1-04	410-129-0140	10-1-04	Repeal	10-1-04
410-125-0055	8-1-04	Repeal	9-1-04	410-129-0195	8-1-04	Amend	9-1-04
410-125-0080	4-1-04	Amend	4-1-04	410-129-0200	4-1-04	Amend	4-1-04
410-125-0080	8-1-04	Amend	9-1-04	410-129-0260	4-1-04	Amend	4-1-04
410-125-0085	10-1-04	Amend	10-1-04	410-130-0000	4-1-04	Amend	4-1-04
410-125-0100	10-1-04	Amend	10-1-04	410-130-0160	10-1-04	Amend	10-1-04
410-125-0101	10-1-04	Amend	10-1-04	410-130-0163	8-1-04	Adopt	9-1-04
410-125-0102	10-1-04	Amend	10-1-04	410-130-0180	4-1-04	Amend	4-1-04
410-125-0103	10-1-04	Amend	10-1-04	410-130-0200	4-1-04	Amend	4-1-04
410-125-0115	3-15-04	Amend(T)	4-1-04	410-130-0200	10-1-04	Amend	10-1-04
410-125-0115	5-1-04	Amend	6-1-04	410-130-0220	4-1-04	Amend	4-1-04
410-125-0115(T)	5-1-04	Repeal	6-1-04	410-130-0220	10-1-04	Amend	10-1-04
410-125-0120	10-1-04	Amend	10-1-04	410-130-0240	4-1-04	Amend	4-1-04
410-125-0121	3-15-04	Amend(T)	4-1-04	410-130-0240	10-1-04	Amend	10-1-04
410-125-0121	5-1-04	Amend	6-1-04	410-130-0245	10-1-04	Amend	10-1-04
410-125-0121(T)	5-1-04	Repeal	6-1-04	410-130-0255	4-1-04	Amend	4-1-04
410-125-0124	10-1-04	Amend	10-1-04	410-130-0255	10-1-04	Amend	10-1-04
410-125-0140	10-1-04	Amend	10-1-04	410-130-0580	10-1-04	Amend	10-1-04
410-125-0141	1-1-04	Amend	2-1-04	410-130-0585	4-1-04	Amend	4-1-04
410-125-0150	10-1-04	Amend	10-1-04	410-130-0587	4-1-04	Amend	4-1-04
410-125-0165	10-1-04	Amend	10-1-04	410-130-0595	10-1-04	Amend	10-1-04
410-125-0181	1-1-04	Amend	2-1-04	410-130-0680	4-1-04	Amend	4-1-04
410-125-0181	3-15-04	Amend(T)	4-1-04	410-130-0700	4-1-04	Amend	4-1-04
410-125-0181	5-1-04	Amend	6-1-04	410-131-0120	10-1-04	Amend	10-1-04
410-125-0181(T)	5-1-04	Repeal	6-1-04	410-131-0160	1-1-04	Amend	2-1-04
410-125-0195	1-1-04	Amend	2-1-04	410-131-0160	10-1-04	Amend	10-1-04
410-125-0220	10-1-04	Amend	10-1-04	410-131-0200	10-1-04	Amend	10-1-04
410-125-0225	4-1-04	Repeal	4-1-04	410-131-0220	10-1-04	Repeal	10-1-04
410-125-0240	10-1-04	Repeal	10-1-04	410-131-0240	10-1-04	Repeal	10-1-04
410-125-0260	10-1-04	Repeal	10-1-04	410-131-0275	8-1-04	Amend	9-1-04
410-125-0360	10-1-04	Amend	10-1-04	410-131-0280	4-1-04	Amend	4-1-04
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410-133-0090	12-15-03	Amend(T)	1-1-04	410-141-0500	1-1-04	Amend	2-1-04
410-133-0090	2-1-04	Amend	3-1-04	410-141-0520	1-1-04	Amend	2-1-04
410-136-0040	10-1-04	Amend	10-1-04	410-141-0520	4-1-04	Amend(T)	4-1-04
410-136-0160	10-1-04	Amend	10-1-04	410-141-0520	5-1-04	Amend	6-1-04
410-136-0200	10-1-04	Amend	10-1-04	410-141-0520	8-1-04	Amend	9-1-04
410-136-0240	10-1-04	Amend	10-1-04	410-141-0520	10-1-04	Amend	10-1-04
410-136-0440	10-1-04	Amend	10-1-04	410-141-0520	10-1-04	Amend(T)	10-1-04
410-136-0800	10-1-04	Amend	10-1-04	410-142-0300	12-1-03	Amend	1-1-04
410-138-0000	10-1-04	Amend	10-1-04	410-142-0300	10-1-04	Amend	10-1-04
410-138-0020	10-1-04	Amend	10-1-04	410-146-0000	10-1-04	Amend	10-1-04
410-138-0040	10-1-04	Amend	10-1-04	410-146-0020	10-1-04	Amend	10-1-04
410-138-0060	10-1-04	Amend	10-1-04	410-146-0021	10-1-04	Amend	10-1-04
410-138-0080	10-1-04	Amend	10-1-04	410-146-0025	10-1-04	Amend	10-1-04
410-138-0100	10-1-04	Repeal	10-1-04	410-146-0040	10-1-04	Amend	10-1-04
410-138-0300	10-1-04	Amend	10-1-04	410-146-0080	8-1-04	Amend	9-1-04
410-138-0320	10-1-04	Amend	10-1-04	410-146-0120	10-1-04	Amend	10-1-04
410-138-0340	10-1-04	Amend	10-1-04	410-146-0380	8-1-04	Adopt	9-1-04
410-138-0360	10-1-04	Amend	10-1-04	410-146-0400	10-1-04	Adopt	10-1-04
410-138-0380	10-1-04	Amend	10-1-04	410-146-0420	10-1-04	Adopt	10-1-04
410-138-0400	10-1-04	Repeal	10-1-04	410-146-0440	10-1-04	Adopt	10-1-04
410-138-0500	10-1-04	Amend	10-1-04	410-146-0460	10-1-04	Adopt	10-1-04
410-138-0520	10-1-04	Amend	10-1-04	410-147-0000	10-1-04	Amend	10-1-04
410-138-0530	10-1-04	Adopt	10-1-04	410-147-0060	10-1-04	Amend	10-1-04
410-138-0540	10-1-04	Amend	10-1-04	410-147-0085	8-1-04	Amend	9-1-04
410-138-0560	10-1-04	Amend	10-1-04	410-147-0120	8-1-04	Amend	9-1-04
410-140-0060	10-1-04	Amend	10-1-04	410-147-0125	8-1-04	Adopt	9-1-04
410-140-0080	10-1-04	Amend	10-1-04	410-147-0140	10-1-04	Amend	10-1-04
410-140-0115	8-1-04	Amend	9-1-04	410-147-0200	10-1-04	Amend	10-1-04
410-140-0115	10-1-04	Amend	10-1-04	410-147-0220	10-1-04	Amend	10-1-04
410-140-0160	10-1-04	Amend	10-1-04	410-147-0320	10-1-04	Amend	10-1-04
410-140-0380	10-1-04	Amend	10-1-04	410-147-0340	10-1-04	Amend	10-1-04
410-141-0000	6-1-04	Amend(T)	7-1-04	410-147-0360	10-1-04	Amend	10-1-04
410-141-0000	8-1-04	Amend	9-1-04	410-147-0610	10-1-04	Amend	10-1-04
410-141-0080	6-1-04	Amend(T)	7-1-04	410-148-0000	4-1-04	Amend	4-1-04
410-141-0080	8-1-04	Amend	9-1-04	410-148-0020	4-1-04	Amend	4-1-04
410-141-0140	6-1-04	Amend(T)	7-1-04	410-148-0020	10-1-04	Amend	10-1-04
410-141-0140	8-1-04	Amend	9-1-04	410-148-0080	4-1-04	Amend	4-1-04
410-141-0260	6-1-04	Amend	7-1-04	410-148-0080	10-1-04	Amend	10-1-04
410-141-0261	6-1-04	Amend	7-1-04	410-148-0090	8-1-04	Amend	9-1-04
410-141-0262	6-1-04	Amend	7-1-04	410-148-0100	10-1-04	Amend	10-1-04
410-141-0263	6-1-04	Amend	7-1-04	410-148-0120	4-1-04	Amend	4-1-04
410-141-0264	6-1-04	Amend	7-1-04	410-148-0260	4-1-04	Amend	4-1-04
410-141-0265	6-1-04	Amend	7-1-04	410-148-0280	4-1-04	Amend	4-1-04
410-141-0266	6-1-04	Amend	7-1-04	410-148-0300	4-1-04	Amend	4-1-04
410-141-0280	6-1-04	Amend(T)	7-1-04	411-009-0000	3-1-04	Repeal	4-1-04
410-141-0280	8-1-04	Amend	9-1-04	411-009-0005	3-1-04	Repeal	4-1-04
410-141-0300	6-1-04	Amend(T)	7-1-04	411-009-0015	3-1-04	Repeal	4-1-04
410-141-0300	8-1-04	Amend	9-1-04	411-009-0021	3-1-04	Repeal	4-1-04
410-141-0410	10-1-04	Amend	10-1-04	411-009-0040	3-1-04	Repeal	4-1-04
410-141-0420	3-23-04	Amend(T)	5-1-04	411-009-0050	3-1-04	Repeal	4-1-04
410-141-0420	6-1-04	Amend	7-1-04	411-009-0060	3-1-04	Repeal	4-1-04
410-141-0420	6-1-04	Amend(T)	7-1-04	411-009-0070	3-1-04	Repeal	4-1-04
410-141-0420	8-1-04	Amend	9-1-04	411-009-0080	3-1-04	Repeal	4-1-04
410-141-0480	1-1-04	Amend	2-1-04	411-009-0090	3-1-04	Repeal	4-1-04

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411-009-0110	3-1-04	Repeal	4-1-04	411-055-0101	4-1-04	Amend	5-1-04
411-015-0005	4-27-04	Amend	6-1-04	411-055-0111	4-1-04	Amend	5-1-04
411-015-0010	4-27-04	Amend	6-1-04	411-055-0115	4-1-04	Amend	5-1-04
411-015-0015	3-23-04	Amend(T)	5-1-04	411-055-0121	4-1-04	Amend	5-1-04
411-015-0015	4-27-04	Amend	6-1-04	411-055-0131	4-1-04	Amend	5-1-04
411-015-0015	7-7-04	Amend(T)	8-1-04	411-055-0141	4-1-04	Amend	5-1-04
411-015-0015	8-6-04	Amend(T)	9-1-04	411-055-0151	4-1-04	Amend	5-1-04
411-015-0015(T)	4-27-04	Repeal	6-1-04	411-055-0151	8-1-04	Amend	9-1-04
411-015-0100	4-27-04	Amend	6-1-04	411-055-0161	4-1-04	Amend	5-1-04
411-015-0100	8-6-04	Amend(T)	9-1-04	411-055-0170	4-1-04	Amend	5-1-04
411-027-0000	8-1-04	Amend(T)	9-1-04	411-055-0180	4-1-04	Amend	5-1-04
411-030-0002	6-7-04	Amend	7-1-04	411-055-0190	4-1-04	Amend	5-1-04
411-030-0020	12-11-03	Amend(T)	1-1-04	411-055-0200	4-1-04	Amend	5-1-04
411-030-0020	6-7-04	Amend	7-1-04	411-055-0210	4-1-04	Amend	5-1-04
411-030-0033	12-11-03	Amend(T)	1-1-04	411-055-0220	4-1-04	Amend	5-1-04
411-030-0033	6-7-04	Amend	7-1-04	411-055-0230	4-1-04	Amend	5-1-04
411-030-0040	12-11-03	Amend(T)	1-1-04	411-055-0240	4-1-04	Amend	5-1-04
411-030-0040	6-7-04	Amend	7-1-04	411-055-0250	4-1-04	Amend	5-1-04
411-030-0050	6-7-04	Amend	7-1-04	411-055-0260	4-1-04	Amend	5-1-04
411-030-0060	12-11-03	Amend(T)	1-1-04	411-055-0270	4-1-04	Amend	5-1-04
411-030-0060	6-7-04	Repeal	7-1-04	411-055-0280	4-1-04	Amend	5-1-04
411-030-0065	12-11-03	Amend(T)	1-1-04	411-056-0005	2-4-04	Amend	3-1-04
411-030-0065	6-7-04	Repeal	7-1-04	411-056-0007	2-4-04	Amend	3-1-04
411-030-0070	6-7-04	Amend	7-1-04	411-056-0010	3-23-04	Amend(T)	5-1-04
411-030-0080	6-7-04	Amend	7-1-04	411-056-0018	8-1-04	Amend	9-1-04
411-031-0020	6-1-04	Adopt	7-1-04	411-056-0018	3-23-04	Amend(T)	5-1-04
411-031-0030	6-1-04	Adopt	7-1-04	411-056-0018	8-1-04	Amend	9-1-04
411-031-0040	6-1-04	Adopt	7-1-04	411-056-0030	3-23-04	Amend(T)	5-1-04
411-031-0050	6-1-04	Adopt	7-1-04	411-056-0030	8-1-04	Amend	9-1-04
411-032-0000	5-28-04	Amend	7-1-04	411-070-0032	8-1-04	Adopt(T)	9-1-04
411-032-0001	5-28-04	Amend	7-1-04	411-070-0359	5-28-04	Amend(T)	7-1-04
411-032-0005	5-28-04	Amend	7-1-04	411-070-0428	5-28-04	Amend(T)	7-1-04
411-032-0010	5-28-04	Amend	7-1-04	411-070-0440	5-28-04	Suspend	7-1-04
411-032-0015	5-28-04	Amend	7-1-04	411-070-0441	5-28-04	Adopt(T)	7-1-04
411-032-0020	5-28-04	Amend	7-1-04	411-070-0446	5-28-04	Suspend	7-1-04
411-032-0044	5-28-04	Amend	7-1-04	411-070-0465	5-28-04	Amend(T)	7-1-04
411-040-0000	6-1-04	Amend	7-1-04	411-071-0000	9-1-04	Amend	10-1-04
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
411-055-0005	4-1-04	Amend	5-1-04	411-071-0025	9-1-04	Amend	10-1-04
411-055-0010	4-1-04	Amend	5-1-04	411-071-0027	9-1-04	Amend	10-1-04
411-055-0015	4-1-04	Amend	5-1-04	411-071-0030	9-1-04	Amend	10-1-04
411-055-0019	4-1-04	Amend	5-1-04	411-071-0035	9-1-04	Amend	10-1-04
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
411-055-0034	4-1-04	Amend	5-1-04	411-071-0050	9-1-04	Amend	10-1-04
411-055-0039	4-1-04	Amend	5-1-04	411-071-0055	9-1-04	Repeal	10-1-04
411-055-0039	8-1-04	Amend	9-1-04	411-071-0060	9-1-04	Amend	10-1-04
411-055-0045	4-1-04	Amend	5-1-04	411-071-0065	9-1-04	Renumber	10-1-04
411-055-0051	4-1-04	Amend	5-1-04	411-071-0070	9-1-04	Amend	10-1-04
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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411-071-0095	9-1-04	Amend	10-1-04	411-320-0110	8-3-04	Amend	9-1-04
411-071-0100	9-1-04	Amend	10-1-04	411-320-0120	1-1-04	Adopt	2-1-04
411-071-0105	9-1-04	Amend	10-1-04	411-320-0130	8-3-04	Amend	9-1-04
411-071-0110	9-1-04	Amend	10-1-04	411-320-0140	1-1-04	Adopt	2-1-04
411-071-0115	9-1-04	Amend	10-1-04	411-320-0150	8-3-04	Amend	9-1-04
411-085-0000	8-1-04	Amend	9-1-04	411-320-0160	1-1-04	Adopt	2-1-04
411-085-0005	8-1-04	Amend	9-1-04	411-320-0170	8-3-04	Amend	9-1-04
411-085-0010	8-1-04	Amend	9-1-04	411-320-0180	1-1-04	Adopt	2-1-04
411-085-0013	8-1-04	Amend	9-1-04	411-320-0190	8-3-04	Amend	9-1-04
411-085-0015	8-1-04	Amend	9-1-04	411-320-0200	1-1-04	Adopt	2-1-04
411-085-0020	8-1-04	Amend	9-1-04	411-325-0010	8-3-04	Amend	9-1-04
411-085-0025	8-1-04	Amend	9-1-04	411-325-0020	1-1-04	Adopt	2-1-04
411-085-0030	8-1-04	Amend	9-1-04	411-325-0030	8-1-04	Amend	9-1-04
411-085-0040	8-1-04	Amend	9-1-04	411-325-0040	1-1-04	Adopt	2-1-04
411-085-0050	8-1-04	Amend	9-1-04	411-325-0050	8-1-04	Amend	9-1-04
411-085-0060	8-1-04	Amend	9-1-04	411-325-0060	1-1-04	Adopt	2-1-04
411-085-0200	8-1-04	Amend	9-1-04	411-325-0070	8-1-04	Amend	9-1-04
411-085-0210	8-1-04	Amend	9-1-04	411-325-0080	1-1-04	Adopt	2-1-04
411-085-0220	8-1-04	Amend	9-1-04	411-325-0090	8-1-04	Amend	9-1-04
411-085-0300	8-1-04	Amend	9-1-04	411-325-0100	1-1-04	Adopt	2-1-04
411-085-0310	8-1-04	Amend	9-1-04	411-325-0110	8-1-04	Amend	9-1-04
411-085-0320	8-1-04	Amend	9-1-04	411-325-0120	1-1-04	Adopt	2-1-04
411-085-0330	8-1-04	Amend	9-1-04	411-325-0130	8-1-04	Amend	9-1-04
411-085-0340	8-1-04	Amend	9-1-04	411-325-0140	1-1-04	Adopt	2-1-04
411-085-0350	8-1-04	Amend	9-1-04	411-325-0150	8-1-04	Amend	9-1-04
411-085-0360	8-1-04	Amend	9-1-04	411-325-0160	1-1-04	Adopt	2-1-04
411-085-0370	8-1-04	Amend	9-1-04	411-325-0170	8-1-04	Amend	9-1-04
411-086-0100	8-1-04	Amend	9-1-04	411-325-0180	1-1-04	Adopt	2-1-04
411-086-0250	8-1-04	Amend	9-1-04	411-325-0190	8-1-04	Amend	9-1-04
411-200-0010	3-24-04	Amend	5-1-04	411-325-0200	1-1-04	Adopt	2-1-04
411-200-0010	6-23-04	Amend	8-1-04	411-325-0210	8-1-04	Amend	9-1-04
411-300-0100	6-1-04	Amend	7-1-04				
411-300-0110	12-11-03	Amend(T)	1-1-04				
411-300-0110	6-1-04	Amend	7-1-04				
411-300-0170	6-1-04	Amend	7-1-04				
411-300-0210	6-1-04	Amend	7-1-04				
411-300-0220	6-1-04	Amend	7-1-04				
411-320-0010	1-1-04	Adopt	2-1-04				
411-320-0010	8-3-04	Amend	9-1-04				
411-320-0020	1-1-04	Adopt	2-1-04				
411-320-0020	8-3-04	Amend	9-1-04				
411-320-0030	1-1-04	Adopt	2-1-04				
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411-320-0040	1-1-04	Adopt	2-1-04				
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411-320-0080	1-1-04	Adopt	2-1-04				
411-320-0080	8-3-04	Amend	9-1-04				
411-320-0090	1-1-04	Adopt	2-1-04				
411-320-0090	8-3-04	Amend	9-1-04				

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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	413-010-0750	1-1-04	Amend	2-1-04
411-325-0410	1-1-04	Adopt	2-1-04	413-015-0115	8-1-04	Amend	9-1-04
411-325-0410	8-1-04	Amend	9-1-04	413-015-0200	8-1-04	Amend	9-1-04
411-325-0420	1-1-04	Adopt	2-1-04	413-015-0205	8-1-04	Amend	9-1-04
411-325-0420	8-1-04	Amend	9-1-04	413-015-0210	8-1-04	Amend	9-1-04
411-325-0430	1-1-04	Adopt	2-1-04	413-015-0220	8-1-04	Amend	9-1-04
411-325-0430	8-1-04	Amend	9-1-04	413-015-0305	8-1-04	Amend	9-1-04
411-325-0440	1-1-04	Adopt	2-1-04	413-015-0400	8-1-04	Amend	9-1-04
411-325-0440	8-1-04	Amend	9-1-04	413-015-0405	8-1-04	Amend	9-1-04
411-325-0450	1-1-04	Adopt	2-1-04	413-015-0505	8-1-04	Amend	9-1-04
411-325-0450	8-1-04	Amend	9-1-04	413-015-0510	8-1-04	Amend	9-1-04
411-325-0460	1-1-04	Adopt	2-1-04	413-015-0700	8-1-04	Amend	9-1-04
411-325-0460	8-1-04	Amend	9-1-04	413-015-0710	8-1-04	Amend	9-1-04
411-325-0470	1-1-04	Adopt	2-1-04	413-015-0725	8-1-04	Amend	9-1-04
411-325-0470	8-1-04	Amend	9-1-04	413-040-0200	1-1-04	Amend	2-1-04
411-325-0480	1-1-04	Adopt	2-1-04	413-040-0205	1-1-04	Adopt	2-1-04
411-330-0010	12-28-03	Adopt	2-1-04	413-040-0210	1-1-04	Amend	2-1-04
411-330-0020	12-28-03	Adopt	2-1-04	413-040-0215	1-1-04	Adopt	2-1-04
411-330-0030	12-28-03	Adopt	2-1-04	413-040-0220	1-1-04	Repeal	2-1-04
411-330-0040	12-28-03	Adopt	2-1-04	413-040-0230	1-1-04	Amend	2-1-04
411-330-0050	12-28-03	Adopt	2-1-04	413-040-0240	1-1-04	Amend	2-1-04
411-330-0060	12-28-03	Adopt	2-1-04	413-040-0250	1-1-04	Am. & Ren.	2-1-04
411-330-0070	12-28-03	Adopt	2-1-04	413-040-0260	1-1-04	Amend	2-1-04
411-330-0080	12-28-03	Adopt	2-1-04	413-040-0265	1-1-04	Adopt	2-1-04
411-330-0090	12-28-03	Adopt	2-1-04	413-040-0270	1-1-04	Amend	2-1-04
411-330-0100	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
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414-061-0000	12-7-03	Amend	1-1-04	414-600-0070	12-7-03	Suspend	1-1-04
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
414-300-0210	12-28-03	Amend	2-1-04	416-030-0030	5-14-04	Repeal	6-1-04
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
414-350-0235	12-28-03	Amend	2-1-04	416-030-0110	5-14-04	Repeal	6-1-04
414-400-0050	8-1-04	Amend	9-1-04	416-105-0000	5-14-04	Adopt	6-1-04
414-500-0010	8-1-04	Amend	9-1-04	416-105-0010	5-14-04	Adopt	6-1-04
414-500-0020	8-1-04	Amend	9-1-04	416-105-0020	5-14-04	Adopt	6-1-04
414-500-0030	12-28-03	Amend	2-1-04	416-105-0030	5-14-04	Adopt	6-1-04
414-500-0030	8-1-04	Amend	9-1-04	416-105-0040	5-14-04	Adopt	6-1-04
414-500-0050	8-1-04	Amend	9-1-04	416-110-0000	5-14-04	Repeal	6-1-04
414-500-0060	8-1-04	Amend	9-1-04	416-110-0010	5-14-04	Repeal	6-1-04
414-500-0080	8-1-04	Amend	9-1-04	416-110-0020	5-14-04	Repeal	6-1-04
414-600-0000	12-7-03	Suspend	1-1-04	416-110-0030	5-14-04	Repeal	6-1-04
414-600-0000	3-28-04	Repeal	5-1-04	416-150-0000	5-14-04	Amend	6-1-04
414-600-0010	12-7-03	Suspend	1-1-04	416-150-0010	5-14-04	Amend	6-1-04
414-600-0010	3-28-04	Repeal	5-1-04	416-150-0020	5-14-04	Amend	6-1-04
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
414-600-0030	3-28-04	Repeal	5-1-04	416-180-0000	5-14-04	Amend	6-1-04
414-600-0040	12-7-03	Suspend	1-1-04	416-180-0010	5-14-04	Amend	6-1-04
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
414-600-0060	12-7-03	Suspend	1-1-04	416-180-0050	5-14-04	Amend	6-1-04

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416-440-0000	7-30-04	Repeal	9-1-04	436-001-0201	4-1-04	Amend	4-1-04
416-440-0010	5-14-04	Repeal	6-1-04	436-001-0205	4-1-04	Repeal	4-1-04
416-440-0030	5-14-04	Repeal	6-1-04	436-001-0210	4-1-04	Amend	4-1-04
416-450-0000	7-30-04	Amend	9-1-04	436-001-0225	4-1-04	Amend	4-1-04
416-450-0010	7-30-04	Amend	9-1-04	436-001-0226	4-1-04	Amend	4-1-04
416-450-0040	7-30-04	Amend	9-1-04	436-001-0231	4-1-04	Repeal	4-1-04
416-450-0050	7-30-04	Amend	9-1-04	436-001-0240	4-1-04	Amend	4-1-04
416-450-0060	7-30-04	Amend	9-1-04	436-001-0255	4-1-04	Repeal	4-1-04
416-450-0070	7-30-04	Adopt	9-1-04	436-001-0260	4-1-04	Amend	4-1-04
423-001-0000	9-15-04	Amend	10-1-04	436-001-0265	1-1-04	Amend(T)	1-1-04
423-001-0006	9-15-04	Amend	10-1-04	436-001-0265	4-1-04	Amend	4-1-04
423-005-0005	9-15-04	Amend	10-1-04	436-001-0275	4-1-04	Amend	4-1-04
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
423-010-0010	9-15-04	Amend	10-1-04	436-001-0300	4-1-04	Adopt	4-1-04
423-010-0021	9-15-04	Amend	10-1-04	436-009-0003	4-1-04	Amend	4-1-04
423-010-0023	9-15-04	Amend	10-1-04	436-009-0004	4-1-04	Amend	4-1-04
423-010-0024	9-15-04	Amend	10-1-04	436-009-0005	4-1-04	Amend	4-1-04
423-010-0026	9-15-04	Amend	10-1-04	436-009-0008	1-1-04	Amend(T)	1-1-04
423-010-0027	9-15-04	Amend	10-1-04	436-009-0008	4-1-04	Amend	4-1-04
423-010-0028	9-15-04	Amend	10-1-04	436-009-0010	4-1-04	Amend	4-1-04
423-010-0036	9-15-04	Amend	10-1-04	436-009-0015	1-1-04	Amend(T)	1-1-04
423-010-0040	9-15-04	Amend	10-1-04	436-009-0015	4-1-04	Amend	4-1-04
423-045-0010	9-15-04	Amend	10-1-04	436-009-0020	4-1-04	Amend	4-1-04
423-045-0015	9-15-04	Amend	10-1-04	436-009-0022	4-1-04	Amend	4-1-04
423-045-0020	9-15-04	Amend	10-1-04	436-009-0025	4-1-04	Amend	4-1-04
423-045-0025	9-15-04	Adopt	10-1-04	436-009-0030	4-1-04	Amend	4-1-04
423-045-0030	9-15-04	Adopt	10-1-04	436-009-0040	4-1-04	Amend	4-1-04
423-045-0035	9-15-04	Adopt	10-1-04	436-009-0050	4-1-04	Amend	4-1-04
436-001-0000	4-1-04	Amend	4-1-04	436-009-0060	1-1-04	Amend(T)	1-1-04
436-001-0001	4-1-04	Amend	4-1-04	436-009-0060	4-1-04	Amend	4-1-04
436-001-0003	4-1-04	Amend	4-1-04	436-009-0070	1-1-04	Amend(T)	1-1-04
436-001-0004	4-1-04	Amend	4-1-04	436-009-0070	4-1-04	Amend	4-1-04
436-001-0005	4-1-04	Amend	4-1-04	436-009-0080	1-1-04	Amend(T)	1-1-04
436-001-0007	4-1-04	Amend	4-1-04	436-009-0080	4-1-04	Amend	4-1-04
436-001-0008	4-1-04	Amend	4-1-04	436-009-0090	4-1-04	Amend	4-1-04
436-001-0025	4-1-04	Repeal	4-1-04	436-010-0003	4-1-04	Amend	4-1-04
436-001-0030	4-1-04	Amend	4-1-04	436-010-0005	1-1-04	Amend(T)	1-1-04
436-001-0045	4-1-04	Repeal	4-1-04	436-010-0005	4-1-04	Amend	4-1-04
436-001-0055	4-1-04	Repeal	4-1-04	436-010-0008	1-1-04	Amend(T)	1-1-04
436-001-0065	4-1-04	Repeal	4-1-04	436-010-0008	4-1-04	Amend	4-1-04
436-001-0090	4-1-04	Repeal	4-1-04	436-010-0210	1-1-04	Amend(T)	1-1-04
436-001-0105	4-1-04	Repeal	4-1-04	436-010-0210	4-1-04	Amend	4-1-04
436-001-0110	4-1-04	Amend	4-1-04	436-010-0220	1-1-04	Amend(T)	1-1-04
436-001-0120	4-1-04	Repeal	4-1-04	436-010-0220	4-1-04	Amend	4-1-04
436-001-0135	4-1-04	Repeal	4-1-04	436-010-0230	1-1-04	Amend(T)	1-1-04
436-001-0140	4-1-04	Repeal	4-1-04	436-010-0230	4-1-04	Amend	4-1-04
436-001-0150	4-1-04	Amend	4-1-04	436-010-0240	1-1-04	Amend(T)	1-1-04
436-001-0155	4-1-04	Amend	4-1-04	436-010-0240	4-1-04	Amend	4-1-04
436-001-0160	4-1-04	Amend	4-1-04	436-010-0250	1-1-04	Amend(T)	1-1-04
436-001-0170	4-1-04	Amend	4-1-04	436-010-0250	4-1-04	Amend	4-1-04
436-001-0171	4-1-04	Repeal	4-1-04	436-010-0265	1-1-04	Amend(T)	1-1-04
436-001-0175	4-1-04	Repeal	4-1-04	436-010-0265	4-1-04	Amend	4-1-04
436-001-0185	4-1-04	Amend	4-1-04	436-010-0270	1-1-04	Amend(T)	1-1-04
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436-010-0275	4-1-04	Amend	4-1-04	436-030-0125	2-29-04	Amend	4-1-04
436-010-0280	1-1-04	Amend(T)	1-1-04	436-030-0125(T)	2-29-04	Repeal	4-1-04
436-010-0280	4-1-04	Amend	4-1-04	436-030-0135	1-1-04	Amend(T)	1-1-04
436-010-0340	1-1-04	Amend(T)	1-1-04	436-030-0135	2-29-04	Amend	4-1-04
436-010-0340	4-1-04	Amend	4-1-04	436-030-0135(T)	2-29-04	Repeal	4-1-04
436-010-0350	4-1-04	Repeal	4-1-04	436-030-0145	1-1-04	Amend(T)	1-1-04
436-015-0008	1-1-04	Amend(T)	1-1-04	436-030-0145	2-29-04	Amend	4-1-04
436-015-0008	6-29-04	Amend	7-1-04	436-030-0145(T)	2-29-04	Repeal	4-1-04
436-015-0030	1-1-04	Amend(T)	1-1-04	436-030-0155	2-29-04	Amend	4-1-04
436-015-0030	6-29-04	Amend	7-1-04	436-030-0165	1-1-04	Amend(T)	1-1-04
436-015-0040	6-29-04	Amend	7-1-04	436-030-0165	2-29-04	Amend	4-1-04
436-015-0050	1-1-04	Amend(T)	1-1-04	436-030-0165(T)	2-29-04	Repeal	4-1-04
436-015-0050	6-29-04	Amend	7-1-04	436-030-0175	2-29-04	Amend	4-1-04
436-015-0060	1-1-04	Amend(T)	1-1-04	436-030-0185	1-1-04	Amend(T)	1-1-04
436-015-0060	6-29-04	Amend	7-1-04	436-030-0185	2-29-04	Amend	4-1-04
436-015-0070	1-1-04	Amend(T)	1-1-04	436-030-0185(T)	2-29-04	Repeal	4-1-04
436-015-0070	6-29-04	Amend	7-1-04	436-030-0575	2-29-04	Amend	4-1-04
436-015-0090	1-1-04	Amend(T)	1-1-04	436-030-0580	2-29-04	Amend	4-1-04
436-015-0090	6-29-04	Amend	7-1-04	436-030-0581	2-29-04	Repeal	4-1-04
436-015-0130	6-29-04	Repeal	7-1-04	436-035-0500	1-21-04	Amend(T)	3-1-04
436-030-0002	2-29-04	Amend	4-1-04	436-035-0500	4-19-04	Amend(T)	6-1-04
436-030-0003	1-1-04	Amend(T)	1-1-04	436-035-0500	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
436-030-0023	2-29-04	Adopt	4-1-04	436-050-0160	1-1-04	Amend	1-1-04
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436-030-0035	2-29-04	Amend	4-1-04	436-050-0175	1-1-04	Amend	1-1-04
436-030-0035(T)	2-29-04	Repeal	4-1-04	436-050-0180	1-1-04	Amend	1-1-04
436-030-0036	2-29-04	Amend	4-1-04	436-050-0185	1-1-04	Amend	1-1-04
436-030-0038	2-29-04	Amend	4-1-04	436-050-0190	1-1-04	Amend	1-1-04
436-030-0045	2-29-04	Am. & Ren.	4-1-04	436-050-0195	1-1-04	Amend	1-1-04
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436-030-0065	2-29-04	Amend	4-1-04	436-050-0210	1-1-04	Amend	1-1-04
436-030-0066	2-29-04	Amend	4-1-04	436-050-0220	1-1-04	Amend	1-1-04
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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	436-085-0003	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
436-060-0195	2-29-04	Amend	4-1-04	437-001-0203	11-26-03	Amend	1-1-04
436-060-0200	2-29-04	Amend	4-1-04	437-001-0265	11-26-03	Amend	1-1-04
436-060-0210	2-29-04	Repeal	4-1-04	437-001-0270	11-26-03	Amend	1-1-04
436-060-0500	2-29-04	Amend	4-1-04	437-001-0430	11-26-03	Amend	1-1-04
436-070-0008	1-1-04	Amend	1-1-04	437-001-0700	11-26-03	Amend	1-1-04
436-075-0008	1-1-04	Amend	1-1-04	437-001-0765	11-26-03	Amend	1-1-04
436-080-0001	1-1-04	Amend	1-1-04	437-002-0100	9-15-04	Amend	10-1-04
436-080-0002	1-1-04	Amend	1-1-04	437-002-0120	7-1-04	Amend	5-1-04
436-080-0003	1-1-04	Amend	1-1-04	437-002-0133	7-1-04	Repeal	5-1-04
436-080-0005	1-1-04	Amend	1-1-04	437-002-0220	12-5-03	Amend	1-1-04
436-080-0006	1-1-04	Amend	1-1-04	437-002-0240	9-15-04	Amend	10-1-04
436-080-0010	1-1-04	Amend	1-1-04	437-002-0300	9-15-04	Amend	10-1-04
436-080-0020	1-1-04	Amend	1-1-04	437-002-0340	5-20-04	Amend	7-1-04
436-080-0030	1-1-04	Amend	1-1-04	437-003-0001	12-5-03	Amend	1-1-04
436-080-0040	1-1-04	Amend	1-1-04	437-003-0001	1-1-04	Amend	2-1-04
436-080-0050	1-1-04	Repeal	1-1-04	437-003-0754	1-1-04	Repeal	2-1-04

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437-003-1760	1-1-04	Repeal	2-1-04	441-049-1031	11-26-03	Amend(T)	1-1-04
437-007-0220	6-7-04	Amend	7-1-04	441-049-1031	5-19-04	Amend	7-1-04
437-007-0600	6-7-04	Amend	7-1-04	441-049-1041	11-26-03	Amend(T)	1-1-04
437-007-0605	6-7-04	Amend	7-1-04	441-049-1041	5-19-04	Amend	7-1-04
437-007-0615	6-7-04	Amend	7-1-04	441-049-1051	11-26-03	Amend(T)	1-1-04
437-007-0650	6-7-04	Amend	7-1-04	441-049-1051	5-19-04	Amend	7-1-04
437-007-0655	6-7-04	Amend	7-1-04	441-065-0001	11-26-03	Adopt(T)	1-1-04
437-007-0660	6-7-04	Amend	7-1-04	441-065-0001	5-19-04	Adopt	7-1-04
437-007-0690	6-7-04	Amend	7-1-04	441-065-0015	11-26-03	Amend(T)	1-1-04
437-007-0725	6-7-04	Amend	7-1-04	441-065-0015	5-19-04	Amend	7-1-04
438-005-0040	9-1-04	Amend	8-1-04	441-065-0020	11-26-03	Amend(T)	1-1-04
438-005-0050	9-1-04	Amend	8-1-04	441-065-0020	5-19-04	Amend	7-1-04
438-005-0055	9-1-04	Amend	8-1-04	441-065-0035	11-26-03	Amend(T)	1-1-04
438-006-0064	1-1-04	Adopt	1-1-04	441-065-0035	5-19-04	Amend	7-1-04
438-009-0010	9-1-04	Amend	8-1-04	441-065-0170	11-26-03	Amend(T)	1-1-04
438-009-0015	9-1-04	Amend	8-1-04	441-065-0170	5-19-04	Amend	7-1-04
438-012-0017	9-1-04	Adopt	8-1-04	441-065-0180	11-26-03	Amend(T)	1-1-04
438-012-0018	9-1-04	Amend	8-1-04	441-065-0180	5-19-04	Amend	7-1-04
438-012-0020	9-1-04	Amend	8-1-04	441-065-0270	11-26-03	Amend(T)	1-1-04
438-012-0030	9-1-04	Amend	8-1-04	441-065-0270	5-19-04	Amend	7-1-04
438-012-0032	9-1-04	Amend	8-1-04	441-075-0020	11-26-03	Amend(T)	1-1-04
438-012-0035	9-1-04	Amend	8-1-04	441-075-0020	5-19-04	Amend	7-1-04
438-012-0055	9-1-04	Amend	8-1-04	441-095-0030	11-26-03	Amend(T)	1-1-04
438-012-0060	9-1-04	Amend	8-1-04	441-095-0030	5-19-04	Amend	7-1-04
438-012-0090	9-1-04	Amend	8-1-04	441-175-0002	11-26-03	Adopt(T)	1-1-04
438-012-0095	9-1-04	Amend	8-1-04	441-175-0002	5-19-04	Adopt	7-1-04
438-012-0100	9-1-04	Amend	8-1-04	441-175-0010	1-1-04	Amend	2-1-04
438-012-0110	9-1-04	Adopt	8-1-04	441-175-0015	11-26-03	Amend(T)	1-1-04
438-015-0011	9-1-04	Adopt	8-1-04	441-175-0015	5-19-04	Amend	7-1-04
438-015-0110	1-1-04	Adopt	1-1-04	441-175-0035	1-1-04	Repeal	2-1-04
438-022-0005	9-1-04	Amend	8-1-04	441-175-0055	1-1-04	Amend	2-1-04
438-022-0010	9-1-04	Amend	8-1-04	441-175-0060	11-26-03	Amend(T)	1-1-04
440-020-0010	1-1-04	Adopt	2-1-04	441-175-0060	5-19-04	Amend	7-1-04
440-020-0015	1-1-04	Adopt	2-1-04	441-175-0080	11-26-03	Amend(T)	1-1-04
440-055-0000	1-1-04	Repeal	2-1-04	441-175-0080	5-19-04	Amend	7-1-04
440-055-0005	1-1-04	Repeal	2-1-04	441-175-0085	11-26-03	Amend(T)	1-1-04
440-055-0008	1-1-04	Adopt	2-1-04	441-175-0085	5-19-04	Amend	7-1-04
440-100-0010	1-1-04	Adopt	2-1-04	441-175-0100	11-26-03	Amend(T)	1-1-04
441-001-0005	1-1-04	Adopt	2-1-04	441-175-0100	5-19-04	Amend	7-1-04
441-001-0005	8-5-04	Amend	9-1-04	441-175-0120	11-26-03	Amend(T)	1-1-04
441-001-0010	1-1-04	Adopt	2-1-04	441-175-0120	5-19-04	Amend	7-1-04
441-001-0020	1-1-04	Adopt	2-1-04	441-175-0130	11-26-03	Amend(T)	1-1-04
441-001-0030	1-1-04	Adopt	2-1-04	441-175-0130	1-1-04	Amend	2-1-04
441-001-0040	1-1-04	Adopt	2-1-04	441-175-0130	5-19-04	Amend	7-1-04
441-001-0050	1-1-04	Adopt	2-1-04	441-175-0160	11-26-03	Amend(T)	1-1-04
441-002-0005	1-1-04	Adopt	2-1-04	441-175-0160	5-19-04	Amend	7-1-04
441-002-0010	1-1-04	Adopt	2-1-04	441-175-0165	11-26-03	Amend(T)	1-1-04
441-002-0020	1-1-04	Adopt	2-1-04	441-175-0165	5-19-04	Amend	7-1-04
441-002-0030	1-1-04	Adopt	2-1-04	441-175-0171	11-26-03	Amend(T)	1-1-04
441-002-0040	1-1-04	Adopt	2-1-04	441-175-0171	5-19-04	Amend	7-1-04
441-035-0045	11-26-03	Amend(T)	1-1-04	441-195-0010	5-19-04	Amend	7-1-04
441-035-0045	5-19-04	Amend	7-1-04	441-195-0020	5-19-04	Amend	7-1-04
441-049-1001	11-26-03	Adopt(T)	1-1-04	441-195-0030	5-19-04	Amend	7-1-04
441-049-1001	5-19-04	Adopt	7-1-04	441-195-0035	1-1-04	Repeal	2-1-04
441-049-1021	11-26-03	Amend(T)	1-1-04	441-505-3020	8-5-04	Amend	9-1-04

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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	459-005-0250	1-1-04	Adopt	1-1-04
441-730-0010	8-5-04	Amend	9-1-04	459-005-0320	1-22-04	Repeal	3-1-04
441-730-0030	1-1-04	Amend	2-1-04	459-007-0001	12-15-03	Amend	1-1-04
441-730-0080	8-5-04	Amend	9-1-04	459-007-0001(T)	12-15-03	Repeal	1-1-04
441-730-0100	8-5-04	Amend	9-1-04	459-007-0003	12-15-03	Adopt	1-1-04
441-730-0160	8-5-04	Amend	9-1-04	459-007-0005	4-15-04	Adopt	5-1-04
441-730-0270	8-5-04	Amend	9-1-04	459-007-0030	4-15-04	Repeal	5-1-04
441-730-0275	8-5-04	Amend	9-1-04	459-007-0040	12-15-03	Amend	1-1-04
441-740-0030	1-1-04	Adopt	2-1-04	459-007-0040(T)	12-15-03	Repeal	1-1-04
441-810-0200	1-1-04	Adopt	2-1-04	459-007-0050	12-15-03	Amend	1-1-04
441-810-0210	1-1-04	Adopt	2-1-04	459-007-0050	6-15-04	Amend	7-1-04
441-810-0220	1-1-04	Adopt	2-1-04	459-007-0050(T)	12-15-03	Repeal	1-1-04
441-810-0230	1-1-04	Adopt	2-1-04	459-007-0060	12-15-03	Amend	1-1-04
441-810-0240	1-1-04	Adopt	2-1-04	459-007-0060(T)	12-15-03	Repeal	1-1-04
441-810-0250	1-1-04	Adopt	2-1-04	459-007-0070	4-1-04	Amend	1-1-04
441-810-0260	1-1-04	Adopt	2-1-04	459-007-0080	4-1-04	Amend	1-1-04
441-830-0010	8-5-04	Amend	9-1-04	459-007-0090	4-1-04	Amend	1-1-04
441-830-0020	8-5-04	Amend	9-1-04	459-007-0095	12-15-03	Adopt	1-1-04
441-830-0030	8-5-04	Amend	9-1-04	459-007-0100	12-15-03	Repeal	1-1-04
441-830-0040	8-5-04	Amend	9-1-04	459-007-0210	4-15-04	Repeal	5-1-04
441-860-0010	8-5-04	Amend	9-1-04	459-007-0300	4-15-04	Amend	5-1-04
441-860-0020	1-1-04	Amend	2-1-04	459-007-0510	4-15-04	Amend	5-1-04
441-860-0050	1-1-04	Amend	2-1-04	459-007-0520	4-15-04	Repeal	5-1-04
441-860-0060	8-5-04	Amend	9-1-04	459-009-0100	1-1-04	Amend	2-1-04
441-860-0070	8-5-04	Amend	9-1-04	459-009-0110	1-1-04	Repeal	2-1-04
441-860-0090	8-5-04	Amend	9-1-04	459-010-0055	7-1-04	Amend	7-1-04
441-865-0040	8-5-04	Amend	9-1-04	459-011-0100	1-22-04	Amend	3-1-04
441-870-0050	8-5-04	Amend	9-1-04	459-011-0110	1-22-04	Amend	3-1-04
441-875-0040	8-5-04	Amend	9-1-04	459-013-0280	7-1-04	Adopt	7-1-04
441-880-0010	8-5-04	Amend	9-1-04	459-013-0280	7-1-04	Adopt(T)	5-1-04
441-880-0020	8-5-04	Amend	9-1-04	459-013-0300	12-15-03	Adopt	1-1-04
441-880-0030	8-5-04	Amend	9-1-04	459-017-0060	12-15-03	Amend(T)	1-1-04
441-880-0040	8-5-04	Amend	9-1-04	459-017-0060	6-15-04	Amend	7-1-04
441-880-0050	1-1-04	Adopt	2-1-04	459-035-0050	1-1-04	Amend	1-1-04
441-880-0050	8-5-04	Amend	9-1-04	459-045-0001	11-20-03	Amend	1-1-04
441-910-0060	8-5-04	Amend	9-1-04	459-045-0001(T)	11-20-03	Repeal	1-1-04
441-910-0095	8-5-04	Amend	9-1-04	459-045-0030	7-1-04	Amend	7-1-04
441-910-0110	8-5-04	Amend	9-1-04	459-060-0001	12-15-03	Amend	1-1-04
441-910-0120	8-5-04	Amend	9-1-04	459-060-0010	12-15-03	Amend	1-1-04
443-015-0010	5-1-04	Amend	6-1-04	459-060-0020	12-15-03	Amend	1-1-04
445-050-0005	2-15-04	Amend	2-1-04	459-070-0001	2-18-04	Adopt	4-1-04
445-050-0020	2-15-04	Amend	2-1-04	459-070-0100	1-1-04	Adopt	2-1-04
445-050-0030	2-15-04	Amend	2-1-04	459-070-0110	1-1-04	Adopt	2-1-04
445-050-0040	2-15-04	Amend	2-1-04	459-070-0900	2-18-04	Adopt(T)	4-1-04
445-050-0050	2-15-04	Amend	2-1-04	459-070-0900	5-19-04	Adopt	7-1-04
445-050-0060	2-15-04	Amend	2-1-04	459-075-0010	2-18-04	Adopt	4-1-04
445-050-0080	2-15-04	Amend	2-1-04	459-075-0030	1-1-04	Adopt	2-1-04
445-050-0090	2-15-04	Amend	2-1-04	459-075-0100	1-22-04	Adopt	3-1-04
445-050-0155	2-15-04	Amend	2-1-04	459-075-0150	2-18-04	Adopt	4-1-04
459-001-0000	6-15-04	Amend	7-1-04	459-080-0010	1-1-04	Adopt	1-1-04
459-005-0001	11-20-03	Amend	1-1-04	459-080-0100	1-22-04	Adopt	3-1-04
459-005-0001	12-15-03	Amend	1-1-04	459-080-0150	6-21-04	Adopt(T)	7-1-04
459-005-0001	5-21-04	Amend(T)	5-1-04	459-080-0200	1-1-04	Adopt(T)	1-1-04
459-005-0001	6-15-04	Amend	7-1-04	459-080-0200	5-19-04	Adopt	7-1-04

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461-025-0311	1-1-04	Amend	2-1-04	461-135-0300	7-1-04	Amend	8-1-04
461-101-0010	4-1-04	Amend	5-1-04	461-135-0301	12-1-03	Amend(T)	1-1-04
461-101-0010	7-1-04	Amend	8-1-04	461-135-0301	4-1-04	Amend	5-1-04
461-110-0210	7-1-04	Amend	8-1-04	461-135-0301	5-1-04	Amend(T)	6-1-04
461-110-0330	1-1-04	Amend	2-1-04	461-135-0301(T)	4-1-04	Repeal	5-1-04
461-110-0330	7-1-04	Amend	8-1-04	461-135-0310	7-1-04	Amend	8-1-04
461-110-0350	12-17-03	Amend(T)	2-1-04	461-135-0320	7-1-04	Amend	8-1-04
461-110-0350	4-1-04	Amend	5-1-04	461-135-0340	7-1-04	Amend	8-1-04
461-110-0390	4-1-04	Amend	5-1-04	461-135-0350	7-1-04	Amend	8-1-04
461-110-0630	4-1-04	Amend	5-1-04	461-135-0400	1-1-04	Amend	2-1-04
461-110-0630	7-1-04	Amend	8-1-04	461-135-0400	4-1-04	Amend	5-1-04
461-110-0750	4-1-04	Amend	5-1-04	461-135-0401	1-1-04	Amend	2-1-04
461-115-0015	1-1-04	Amend	2-1-04	461-135-0401	4-1-04	Amend	5-1-04
461-115-0015	4-1-04	Amend	5-1-04	461-135-0700	1-1-04	Amend(T)	2-1-04
461-115-0030	7-1-04	Amend	8-1-04	461-135-0700	4-1-04	Amend	5-1-04
461-115-0430	7-1-04	Amend	8-1-04	461-135-0700	4-15-04	Amend(T)	5-1-04
461-115-0530	7-1-04	Amend	8-1-04	461-135-0700	7-1-04	Amend	8-1-04
461-115-0651	7-1-04	Amend	8-1-04	461-135-0700(T)	1-1-04	Suspend	2-1-04
461-115-0651	9-7-04	Amend(T)	10-1-04	461-135-0701	4-1-04	Amend	5-1-04
461-115-0705	1-1-04	Amend	2-1-04	461-135-0705	4-1-04	Amend	5-1-04
461-120-0120	1-1-04	Amend	2-1-04	461-135-0730	1-1-04	Amend	2-1-04
461-120-0125	1-1-04	Amend(T)	2-1-04	461-135-0730	4-1-04	Amend(T)	5-1-04
461-120-0125	4-1-04	Amend	5-1-04	461-135-0730	7-1-04	Amend	8-1-04
461-120-0125	4-9-04	Amend(T)	5-1-04	461-135-0750	7-1-04	Amend	8-1-04
461-120-0125	5-11-04	Amend(T)	6-1-04	461-135-0760	7-1-04	Repeal	8-1-04
461-120-0125	7-1-04	Amend	8-1-04	461-135-0780	1-1-04	Amend	2-1-04
461-120-0125(T)	1-1-04	Suspend	2-1-04	461-135-0780	7-1-04	Amend	8-1-04
461-120-0125(T)	5-11-04	Suspend	6-1-04	461-135-0830	1-1-04	Amend	2-1-04
461-120-0210	7-1-04	Amend	8-1-04	461-135-0832	1-1-04	Amend	2-1-04
461-120-0330	7-1-04	Amend	8-1-04	461-135-0845	2-5-04	Amend(T)	3-1-04
461-120-0340	1-1-04	Amend	2-1-04	461-135-0845	7-1-04	Amend	8-1-04
461-120-0345	1-1-04	Amend	2-1-04	461-135-0847	1-1-04	Adopt	2-1-04
461-120-0345	1-1-04	Amend	2-1-04	461-135-1070	7-1-04	Amend(T)	8-1-04
461-120-0345	4-1-04	Amend	5-1-04	461-135-1102	7-1-04	Adopt	8-1-04
461-120-0345	7-1-04	Amend	8-1-04	461-135-1110	7-1-04	Amend	8-1-04
461-120-0510	4-1-04	Amend	5-1-04	461-135-1120	1-1-04	Amend	2-1-04
461-120-0510	7-1-04	Amend	8-1-04	461-135-1120	2-19-04	Amend(T)	4-1-04
461-120-0630	7-1-04	Amend	8-1-04	461-135-1120	7-1-04	Amend	8-1-04
461-125-0510	4-1-04	Amend	5-1-04	461-135-1130	12-1-03	Amend(T)	1-1-04
461-125-0510	6-1-04	Amend(T)	7-1-04	461-135-1130	1-1-04	Amend	2-1-04
461-125-0600	4-1-04	Repeal	5-1-04	461-135-1130	1-1-04	Amend	2-1-04
461-125-0610	4-1-04	Repeal	5-1-04	461-135-1130	2-19-04	Amend(T)	4-1-04
461-125-0650	4-1-04	Repeal	5-1-04	461-135-1130	4-1-04	Amend	5-1-04
461-125-0660	4-1-04	Repeal	5-1-04	461-135-1130	4-1-04	Amend(T)	5-1-04
461-125-0690	4-1-04	Repeal	5-1-04	461-135-1130	7-1-04	Amend	8-1-04
461-125-0890	4-1-04	Repeal	5-1-04	461-135-1130(T)	12-1-03	Suspend	1-1-04
461-125-0910	4-1-04	Repeal	5-1-04	461-135-1130(T)	4-1-04	Repeal	5-1-04
461-125-0930	4-1-04	Repeal	5-1-04	461-135-1220	4-1-04	Amend	5-1-04
461-130-0327	7-1-04	Amend	8-1-04	461-135-1230	4-1-04	Amend	5-1-04
461-130-0328	7-1-04	Amend	8-1-04	461-135-1235	4-1-04	Amend	5-1-04
461-130-0330	7-1-04	Amend	8-1-04	461-140-0040	7-1-04	Amend	8-1-04
461-135-0010	1-1-04	Amend	2-1-04	461-140-0110	7-1-04	Amend	8-1-04
461-135-0085	7-1-04	Amend	8-1-04	461-140-0120	4-1-04	Amend	5-1-04
461-135-0170	7-1-04	Amend	8-1-04	461-140-0120	7-1-04	Amend	8-1-04
461-135-0180	1-1-04	Repeal	2-1-04	461-140-0130	4-1-04	Amend	5-1-04

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461-145-0001	7-1-04	Amend(T)	8-1-04	461-160-0030	9-7-04	Amend(T)	10-1-04
461-145-0040	4-1-04	Amend	5-1-04	461-160-0055	9-7-04	Amend(T)	10-1-04
461-145-0050	4-1-04	Amend	5-1-04	461-160-0060	4-1-04	Amend	5-1-04
461-145-0105	7-1-04	Adopt	8-1-04	461-160-0140	7-1-04	Amend	8-1-04
461-145-0120	7-1-04	Amend	8-1-04	461-160-0160	7-1-04	Amend	8-1-04
461-145-0150	4-1-04	Amend	5-1-04	461-160-0430	7-1-04	Amend	8-1-04
461-145-0190	4-1-04	Amend	5-1-04	461-160-0500	4-1-04	Amend	5-1-04
461-145-0200	7-1-04	Amend	8-1-04	461-160-0510	4-1-04	Repeal	5-1-04
461-145-0230	7-1-04	Amend	8-1-04	461-160-0520	4-1-04	Repeal	5-1-04
461-145-0240	7-1-04	Amend	8-1-04	461-160-0550	4-1-04	Amend	5-1-04
461-145-0250	7-1-04	Amend	8-1-04	461-160-0560	4-1-04	Amend	5-1-04
461-145-0280	7-1-04	Amend	8-1-04	461-160-0580	1-1-04	Amend	2-1-04
461-145-0320	4-1-04	Amend	5-1-04	461-160-0620	1-1-04	Amend	2-1-04
461-145-0360	4-1-04	Amend	5-1-04	461-160-0620	7-1-04	Amend	8-1-04
461-145-0360	7-1-04	Amend	8-1-04	461-165-0030	1-1-04	Amend	2-1-04
461-145-0410	7-1-04	Amend	8-1-04	461-165-0030	7-1-04	Amend	8-1-04
461-145-0420	7-1-04	Amend	8-1-04	461-165-0060	8-1-04	Amend(T)	9-1-04
461-145-0530	4-1-04	Amend	5-1-04	461-165-0120	7-1-04	Amend	8-1-04
461-145-0600	7-1-04	Amend	8-1-04	461-165-0180	5-1-04	Amend	6-1-04
461-145-0860	7-1-04	Amend	8-1-04	461-165-0180	7-1-04	Amend	8-1-04
461-145-0910	7-1-04	Amend	8-1-04	461-165-0400	3-1-04	Repeal	4-1-04
461-150-0010	7-1-04	Amend	8-1-04	461-170-0010	1-1-04	Amend	2-1-04
461-150-0020	4-1-04	Amend(T)	5-1-04	461-175-0200	1-1-04	Amend	2-1-04
461-150-0020	7-1-04	Amend	8-1-04	461-175-0200	7-1-04	Amend	8-1-04
461-150-0042	7-1-04	Amend	8-1-04	461-175-0300	7-1-04	Amend	8-1-04
461-155-0010	4-1-04	Amend	5-1-04	461-180-0010	7-1-04	Amend	8-1-04
461-155-0010	7-1-04	Amend	8-1-04	461-180-0050	7-1-04	Amend	8-1-04
461-155-0020	1-1-04	Amend	2-1-04	461-180-0050	7-12-04	Amend	8-1-04
461-155-0030	1-1-04	Amend	2-1-04	461-180-0070	1-1-04	Amend	2-1-04
461-155-0035	1-1-04	Amend	2-1-04	461-180-0070	7-1-04	Amend	8-1-04
461-155-0035	7-1-04	Amend	8-1-04	461-180-0090	7-1-04	Amend	8-1-04
461-155-0070	7-1-04	Amend	8-1-04	461-180-0105	12-1-03	Amend(T)	1-1-04
461-155-0150	1-1-04	Amend	2-1-04	461-180-0105	1-1-04	Amend	2-1-04
461-155-0150	1-1-04	Amend	2-1-04	461-180-0120	7-1-04	Amend	8-1-04
461-155-0150	4-1-04	Amend	5-1-04	461-180-0140	7-1-04	Amend	8-1-04
461-155-0210	4-1-04	Amend	5-1-04	461-190-0110	1-1-04	Amend	2-1-04
461-155-0225	2-13-04	Amend(T)	3-1-04	461-190-0161	1-1-04	Amend	2-1-04
461-155-0225	4-1-04	Amend	5-1-04	461-190-0191	1-1-04	Repeal	2-1-04
461-155-0235	3-1-04	Amend(T)	4-1-04	461-190-0211	1-1-04	Amend	2-1-04
461-155-0235	4-1-04	Amend	5-1-04	461-190-0360	1-1-04	Amend	2-1-04
461-155-0250	1-1-04	Amend	2-1-04	461-193-0560	1-1-04	Amend	2-1-04
461-155-0250	4-1-04	Amend	5-1-04	461-195-0501	1-1-04	Amend	2-1-04
461-155-0270	1-1-04	Amend	2-1-04	461-195-0531	4-1-04	Amend	5-1-04
461-155-0290	4-1-04	Amend	5-1-04	461-195-0551	4-1-04	Amend	5-1-04
461-155-0291	4-1-04	Amend	5-1-04	461-195-0561	1-1-04	Amend	2-1-04
461-155-0295	4-1-04	Amend	5-1-04	461-195-0601	4-1-04	Amend	5-1-04
461-155-0300	1-1-04	Amend	2-1-04	461-195-0621	4-1-04	Amend	5-1-04
461-155-0500	7-1-04	Amend	8-1-04	461-195-0621	7-1-04	Amend	8-1-04
461-155-0526	1-1-04	Amend	2-1-04	462-110-0030	4-8-04	Amend	5-1-04
461-155-0526	1-1-04	Amend	2-1-04	462-120-0020	3-3-04	Amend	4-1-04
461-155-0526	4-1-04	Amend	5-1-04	462-120-0040	4-8-04	Amend	5-1-04
461-155-0551	4-1-04	Amend	5-1-04	462-140-0070	4-8-04	Amend	5-1-04
461-155-0670	7-1-04	Amend	8-1-04	462-140-0410	4-8-04	Amend	5-1-04
461-155-0680	1-1-04	Amend	2-1-04	462-140-0420	4-8-04	Amend	5-1-04
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462-170-0010	4-8-04	Amend	5-1-04	471-040-0015	8-1-04	Amend	9-1-04
462-170-0030	4-8-04	Amend	5-1-04	471-040-0020	8-1-04	Amend	9-1-04
462-170-0050	4-8-04	Amend	5-1-04	471-040-0021	8-1-04	Amend	9-1-04
462-180-0010	4-8-04	Amend	5-1-04	471-040-0023	8-1-04	Amend	9-1-04
462-180-0060	4-8-04	Amend	5-1-04	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
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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
471-030-0126(T)	8-1-04	Repeal	9-1-04	573-020-0010	4-5-04	Repeal	5-1-04
471-030-0130	1-4-04	Repeal	2-1-04	573-020-0015	4-5-04	Repeal	5-1-04
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471-031-0077	12-14-03	Adopt	1-1-04	573-020-0052	4-5-04	Repeal	5-1-04
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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
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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
573-050-0020	4-5-04	Amend	5-1-04	574-010-0060	8-4-04	Amend	9-1-04
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
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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
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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
573-075-0220	4-5-04	Adopt	5-1-04	580-010-0037	12-3-03	Amend	1-1-04
573-075-0230	4-5-04	Adopt	5-1-04	580-010-0040	12-3-03	Amend	1-1-04
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573-075-0250	4-5-04	Adopt	5-1-04	580-010-0045	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	581-015-0062	5-11-04	Amend(T)	6-1-04
580-040-0285	7-23-04	Amend	9-1-04	581-015-0062	7-9-04	Amend	8-1-04
580-040-0290	7-23-04	Amend	9-1-04	581-015-0075	1-15-04	Amend	2-1-04
580-040-0292	7-23-04	Amend	9-1-04	581-015-0126	1-15-04	Amend	2-1-04
580-040-0295	7-23-04	Amend	9-1-04	581-015-0126	8-4-04	Amend	9-1-04
580-040-0300	6-9-04	Adopt	7-1-04	581-015-0900	1-15-04	Amend	2-1-04
580-040-0301	6-9-04	Adopt	7-1-04	581-015-0935	1-15-04	Amend	2-1-04
580-040-0302	6-9-04	Adopt	7-1-04	581-015-0938	1-15-04	Amend	2-1-04
580-040-0303	6-9-04	Adopt	7-1-04	581-015-0940	1-15-04	Amend	2-1-04
580-040-0304	6-9-04	Adopt	7-1-04	581-015-0960	1-15-04	Amend	2-1-04
580-040-0305	6-9-04	Adopt	7-1-04	581-015-0964	1-15-04	Amend	2-1-04
580-040-0306	6-9-04	Adopt	7-1-04	581-015-0968	1-15-04	Amend	2-1-04
580-040-0307	6-9-04	Adopt	7-1-04	581-015-0970	1-15-04	Amend	2-1-04
580-040-0308	6-9-04	Adopt	7-1-04	581-015-0972	1-15-04	Amend	2-1-04
580-040-0309	6-9-04	Adopt	7-1-04	581-015-0980	1-15-04	Amend	2-1-04
580-040-0310	6-9-04	Adopt	7-1-04	581-015-0990	1-15-04	Amend	2-1-04
580-040-0311	6-9-04	Adopt	7-1-04	581-020-0331	3-15-04	Amend(T)	4-1-04
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580-050-0005	6-9-04	Amend(T)	7-1-04	581-021-0110	9-20-04	Adopt	10-1-04
580-050-0010	6-9-04	Amend(T)	7-1-04	581-022-1730	1-15-04	Amend	2-1-04
580-050-0015	6-9-04	Amend(T)	7-1-04	581-023-0103	4-15-04	Repeal	5-1-04
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580-050-0032	6-9-04	Amend(T)	7-1-04	581-045-0012	1-1-04	Amend	2-1-04
580-050-0033	6-9-04	Amend(T)	7-1-04	581-045-0018	1-1-04	Amend	2-1-04
580-050-0040	6-9-04	Amend(T)	7-1-04	581-045-0019	1-1-04	Amend	2-1-04
580-050-0041	6-9-04	Amend(T)	7-1-04	581-045-0023	1-1-04	Amend	2-1-04
580-050-0042	6-9-04	Amend(T)	7-1-04	581-045-0026	1-1-04	Amend	2-1-04
580-050-0100	6-9-04	Amend(T)	7-1-04	581-045-0032	1-1-04	Amend	2-1-04
580-050-0105	6-9-04	Amend(T)	7-1-04	581-045-0065	1-1-04	Amend	2-1-04
580-050-0110	6-9-04	Adopt(T)	7-1-04	581-045-0068	1-1-04	Amend	2-1-04
580-050-0120	6-9-04	Adopt(T)	7-1-04	581-045-0200	1-1-04	Amend	2-1-04
580-050-0130	6-9-04	Adopt(T)	7-1-04	581-051-0100	10-10-04	Amend	9-1-04
580-050-0140	6-9-04	Adopt(T)	7-1-04	581-051-0400	10-10-04	Amend	9-1-04
580-050-0150	6-9-04	Adopt(T)	7-1-04	581-051-0500	10-10-04	Amend	9-1-04
580-050-0160	6-9-04	Adopt(T)	7-1-04	581-051-0510	10-10-04	Amend	9-1-04
580-050-0170	6-9-04	Adopt(T)	7-1-04	581-051-0520	10-10-04	Amend	9-1-04
580-050-0180	6-9-04	Adopt(T)	7-1-04	581-051-0530	8-10-04	Amend	9-1-04
580-050-0190	6-9-04	Adopt(T)	7-1-04	581-051-0550	8-10-04	Amend	9-1-04
580-050-0200	6-9-04	Adopt(T)	7-1-04	581-051-0555	8-10-04	Amend	9-1-04
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581-051-0570	8-10-04	Amend	9-1-04	582-050-0020	8-5-04	Amend	9-1-04
581-051-0580	8-10-04	Amend	9-1-04	582-050-0030	8-5-04	Repeal	9-1-04
581-053-0002	8-4-04	Amend	9-1-04	582-050-0040	8-5-04	Repeal	9-1-04
581-053-0006	8-4-04	Amend	9-1-04	582-050-0050	8-5-04	Amend	9-1-04
581-053-0015	8-4-04	Amend	9-1-04	582-050-0060	8-5-04	Amend	9-1-04
581-053-0507	8-4-04	Amend	9-1-04	582-060-0010	8-5-04	Amend	9-1-04
581-053-0512	8-4-04	Amend	9-1-04	582-060-0020	8-5-04	Amend	9-1-04
581-053-0517	8-4-04	Amend	9-1-04	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
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582-050-0000	8-5-04	Amend	9-1-04	583-030-0046	2-11-04	Amend(T)	3-1-04
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584-017-0042	8-25-04	Adopt	10-1-04	603-013-0602	2-13-04	Amend	3-1-04
584-017-0185	8-25-04	Amend	10-1-04	603-013-0604	2-13-04	Amend	3-1-04
584-036-0017	3-17-04	Amend	5-1-04	603-013-0616	2-13-04	Amend	3-1-04
584-036-0055	8-25-04	Amend	10-1-04	603-014-0016	1-23-04	Amend	3-1-04
584-036-0062	5-14-04	Amend	6-1-04	603-016-0471	2-13-04	Repeal	3-1-04
584-036-0067	3-17-04	Adopt(T)	5-1-04	603-016-0476	2-13-04	Repeal	3-1-04
584-036-0067	8-25-04	Adopt	10-1-04	603-016-0481	2-13-04	Repeal	3-1-04
584-040-0005	3-17-04	Amend(T)	5-1-04	603-016-0486	2-13-04	Repeal	3-1-04
584-040-0005	8-25-04	Amend	10-1-04	603-016-0491	2-13-04	Repeal	3-1-04
584-050-0042	8-25-04	Amend	10-1-04	603-016-0496	2-13-04	Repeal	3-1-04
584-052-0030	8-25-04	Adopt	10-1-04	603-016-0500	2-13-04	Repeal	3-1-04
584-052-0031	8-25-04	Adopt	10-1-04	603-016-0505	2-13-04	Repeal	3-1-04
584-052-0032	8-25-04	Adopt	10-1-04	603-016-0510	2-13-04	Repeal	3-1-04
584-052-0033	8-25-04	Adopt	10-1-04	603-027-0105	6-28-04	Amend	8-1-04
584-060-0001	8-25-04	Amend	10-1-04	603-027-0170	6-28-04	Amend	8-1-04
584-060-0002	8-25-04	Adopt	10-1-04	603-027-0180	6-28-04	Amend	8-1-04
584-060-0005	8-25-04	Amend	10-1-04	603-027-0206	6-28-04	Amend	8-1-04
584-060-0161	8-25-04	Amend	10-1-04	603-027-0220	6-28-04	Amend	8-1-04
584-060-0162	8-25-04	Adopt	10-1-04	603-027-0395	3-26-04	Amend	5-1-04
584-060-0171	5-14-04	Amend	6-1-04	603-027-0405	3-26-04	Repeal	5-1-04
584-060-0181	8-25-04	Amend	10-1-04	603-027-0410	6-28-04	Amend	8-1-04
584-060-0210	9-10-04	Amend(T)	10-1-04	603-027-0635	6-28-04	Amend	8-1-04
584-070-0130	9-10-04	Adopt(T)	10-1-04	603-027-0640	3-26-04	Amend	5-1-04
584-070-0410	9-10-04	Adopt(T)	10-1-04	603-027-0640	6-28-04	Amend	8-1-04
584-080-0171	9-10-04	Adopt(T)	10-1-04	603-027-0680	6-28-04	Amend	8-1-04
584-100-0002	3-17-04	Adopt	5-1-04	603-027-0700	6-28-04	Amend	8-1-04
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584-100-0011	3-17-04	Adopt	5-1-04	603-051-0802	2-13-04	Repeal	3-1-04
584-100-0016	3-17-04	Adopt	5-1-04	603-051-0810	2-13-04	Repeal	3-1-04
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584-100-0046	3-17-04	Adopt	5-1-04	603-051-0857	6-1-04	Amend	7-1-04
584-100-0051	3-17-04	Adopt	5-1-04	603-051-0858	6-1-04	Amend	7-1-04
584-100-0056	3-17-04	Adopt	5-1-04	603-051-0859	6-1-04	Amend	7-1-04
584-100-0061	3-17-04	Adopt	5-1-04	603-051-0950	2-13-04	Repeal	3-1-04
584-100-0066	3-17-04	Adopt	5-1-04	603-052-0325	2-13-04	Repeal	3-1-04
584-100-0071	3-17-04	Adopt	5-1-04	603-052-0326	2-13-04	Repeal	3-1-04
584-100-0091	3-17-04	Adopt	5-1-04	603-052-0327	2-13-04	Repeal	3-1-04
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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
603-077-0125	8-10-04	Amend	9-1-04	608-010-0015	1-2-04	Amend	2-1-04
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
603-095-3500	6-17-04	Adopt	8-1-04	622-001-0000	7-30-04	Amend	9-1-04
603-095-3520	6-17-04	Adopt	8-1-04	622-001-0005	7-30-04	Amend	9-1-04
603-095-3540	6-17-04	Adopt	8-1-04	622-030-0005	7-30-04	Amend	9-1-04
603-095-3560	6-17-04	Adopt	8-1-04	623-010-0010	7-30-04	Amend	9-1-04
603-095-3600	1-12-04	Adopt	2-1-04	623-030-0010	12-8-03	Adopt	1-1-04
603-095-3620	1-12-04	Adopt	2-1-04	623-030-0020	12-8-03	Adopt	1-1-04
603-095-3640	1-12-04	Adopt	2-1-04	623-030-0030	12-8-03	Adopt	1-1-04
603-095-3660	1-12-04	Adopt	2-1-04	624-010-0000	1-16-04	Amend	2-1-04
603-095-3700	1-23-04	Adopt	3-1-04	624-010-0020	1-16-04	Amend	2-1-04
603-095-3720	1-23-04	Adopt	3-1-04	624-010-0030	1-16-04	Amend	2-1-04
603-095-3740	1-23-04	Adopt	3-1-04	624-010-0050	1-16-04	Adopt	2-1-04
603-095-3760	1-23-04	Adopt	3-1-04	624-010-0060	1-16-04	Adopt	2-1-04
603-095-3800	3-22-04	Adopt	5-1-04	624-030-0010	1-16-04	Adopt	2-1-04
603-095-3820	3-22-04	Adopt	5-1-04	624-030-0020	1-16-04	Adopt	2-1-04
603-095-3840	3-22-04	Adopt	5-1-04	624-030-0030	1-16-04	Adopt	2-1-04

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628-010-0020	7-1-04	Adopt	8-1-04	635-003-0076(T)	7-19-04	Suspend	9-1-04
629-001-0005	6-10-04	Amend	7-1-04	635-003-0076(T)	8-4-04	Suspend	9-1-04
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
629-001-0055	2-10-04	Adopt	3-1-04	635-004-0027	1-1-04	Amend(T)	1-1-04
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	635-004-0036	1-1-04	Amend	1-1-04
629-023-0120	5-6-04	Repeal	6-1-04	635-005-0045	12-1-03	Amend(T)	1-1-04
629-023-0130	5-6-04	Repeal	6-1-04	635-005-0048	12-1-03	Adopt(T)	1-1-04
629-023-0140	5-6-04	Repeal	6-1-04	635-005-0048	2-13-04	Adopt	3-1-04
629-023-0145	5-6-04	Repeal	6-1-04	635-005-0048(T)	2-13-04	Repeal	3-1-04
629-023-0150	5-6-04	Repeal	6-1-04	635-005-0205	11-21-03	Amend(T)	1-1-04
629-023-0160	5-6-04	Repeal	6-1-04	635-006-0132	5-1-04	Amend	6-1-04
629-023-0165	5-6-04	Repeal	6-1-04	635-006-0133	5-1-04	Amend	6-1-04
629-023-0170	5-6-04	Repeal	6-1-04	635-006-0140	1-1-04	Amend	1-1-04
629-023-0180	5-6-04	Repeal	6-1-04	635-006-0150	1-1-04	Amend	1-1-04
629-041-0200	9-15-04	Adopt(T)	10-1-04	635-006-0200	5-1-04	Amend	6-1-04
629-041-0550	9-10-04	Amend	10-1-04	635-006-0210	12-1-03	Amend(T)	1-1-04
629-043-0041	1-30-04	Amend	3-1-04	635-006-0210	2-13-04	Amend	3-1-04
629-065-0005	5-4-04	Amend	6-1-04	635-006-0210(T)	2-13-04	Repeal	3-1-04
629-065-0100	5-4-04	Repeal	6-1-04	635-006-0212	5-1-04	Amend	6-1-04
629-065-0200	5-4-04	Amend	6-1-04	635-006-0213	5-1-04	Amend	6-1-04
629-065-0210	5-4-04	Adopt	6-1-04	635-006-0215	5-1-04	Amend	6-1-04
629-065-0220	5-4-04	Adopt	6-1-04	635-006-0232	2-1-04	Amend	2-1-04
629-065-0400	5-4-04	Amend	6-1-04	635-006-0850	1-1-04	Amend	1-1-04
629-065-0410	5-4-04	Adopt	6-1-04	635-006-0850	3-23-04	Amend	5-1-04
629-065-0500	5-4-04	Repeal	6-1-04	635-006-0910	1-31-04	Amend(T)	3-1-04
629-670-0300	2-10-04	Amend	3-1-04	635-006-0910	3-23-04	Amend	5-1-04
629-670-0310	2-10-04	Amend	3-1-04	635-006-0910(T)	3-23-04	Repeal	5-1-04
629-670-0315	2-10-04	Amend	3-1-04	635-006-1085	7-12-04	Amend(T)	8-1-04
629-672-0210	2-10-04	Amend	3-1-04	635-007-0605	5-1-04	Amend	6-1-04
629-672-0220	2-10-04	Amend	3-1-04	635-007-0655	5-1-04	Amend	6-1-04
629-672-0310	2-10-04	Amend	3-1-04	635-007-0910	5-1-04	Amend	6-1-04
635-001-0005	6-2-04	Amend	7-1-04	635-010-0015	5-1-04	Amend	6-1-04
635-001-0105	1-1-04	Amend	1-1-04	635-011-0100	1-1-04	Amend	1-1-04
635-001-0301	5-1-04	Amend	6-1-04	635-011-0101	1-1-04	Amend	1-1-04
635-003-0003	5-1-04	Amend	6-1-04	635-013-0003	1-1-04	Amend	1-1-04
635-003-0003	5-1-04	Amend	6-1-04	635-013-0003	5-1-04	Amend	6-1-04
635-003-0076	5-1-04	Amend	6-1-04	635-013-0004	1-1-04	Amend	1-1-04
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635-003-0076	7-8-04	Amend(T)	8-1-04	635-014-0080	1-1-04	Amend	1-1-04
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635-003-0076	7-19-04	Amend(T)	9-1-04	635-014-0090	1-1-04	Amend	1-1-04
635-003-0076	8-4-04	Amend(T)	9-1-04	635-014-0090	1-1-04	Amend(T)	1-1-04
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635-017-0080	1-1-04	Amend	1-1-04	635-041-0090	5-4-04	Adopt(T)	6-1-04
635-017-0090	1-1-04	Amend	1-1-04	635-041-0090	5-11-04	Amend(T)	6-1-04
635-017-0090	5-1-04	Amend	6-1-04	635-041-0090	5-19-04	Amend(T)	7-1-04
635-017-0090	5-28-04	Amend(T)	7-1-04	635-041-0090	5-26-04	Amend(T)	7-1-04
635-017-0090	7-12-04	Amend(T)	8-1-04	635-041-0095	6-17-04	Adopt(T)	8-1-04
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635-018-0080	1-1-04	Amend	1-1-04	635-041-0095	6-30-04	Amend(T)	8-1-04
635-018-0090	1-1-04	Amend	1-1-04	635-041-0095	7-14-04	Amend(T)	8-1-04
635-018-0090	4-1-04	Amend(T)	5-1-04	635-041-0095	7-21-04	Amend(T)	9-1-04
635-018-0090	8-1-04	Amend(T)	9-1-04	635-041-0095(T)	6-23-04	Suspend	8-1-04
635-018-0090(T)	8-1-04	Suspend	9-1-04	635-041-0095(T)	6-30-04	Suspend	8-1-04
635-019-0080	1-1-04	Amend	1-1-04	635-041-0095(T)	7-14-04	Suspend	8-1-04
635-019-0090	1-1-04	Amend	1-1-04	635-041-0095(T)	7-21-04	Suspend	9-1-04
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635-019-0090	5-22-04	Amend(T)	7-1-04	635-042-0022	3-1-04	Amend(T)	4-1-04
635-019-0090	6-19-04	Amend(T)	8-1-04	635-042-0022	3-3-04	Amend(T)	4-1-04
635-021-0080	1-1-04	Amend	1-1-04	635-042-0022	3-8-04	Amend(T)	4-1-04
635-021-0090	1-1-04	Amend	1-1-04	635-042-0022	3-10-04	Amend(T)	4-1-04
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635-023-0080	1-1-04	Amend	1-1-04	635-042-0022	3-18-04	Amend(T)	5-1-04
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635-023-0090	7-11-04	Amend(T)	8-1-04	635-042-0031	8-16-04	Amend(T)	10-1-04
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635-042-0180	5-6-04	Amend(T)	6-1-04	635-065-0625	1-1-04	Amend	1-1-04
635-042-0180	5-20-04	Amend(T)	7-1-04	635-065-0705	1-1-04	Amend	1-1-04
635-042-0180	8-3-04	Amend(T)	9-1-04	635-065-0720	1-1-04	Amend	1-1-04
635-042-0180(T)	8-3-04	Suspend	9-1-04	635-065-0740	1-1-04	Amend	1-1-04
635-042-0190	8-3-04	Amend(T)	9-1-04	635-065-0760	11-25-03	Amend(T)	1-1-04
635-042-0190(T)	8-3-04	Suspend	9-1-04	635-065-0760	6-16-04	Amend	1-1-04
635-043-0030	5-1-04	Amend	6-1-04	635-065-0765	1-1-04	Amend	1-1-04
635-043-0035	5-1-04	Amend	6-1-04	635-066-0000	1-1-04	Amend	1-1-04
635-044-0005	5-1-04	Amend	6-1-04	635-066-0010	1-1-04	Amend	1-1-04
635-044-0060	5-1-04	Amend	6-1-04	635-067-0000	1-1-04	Amend	1-1-04
635-044-0200	5-1-04	Amend	6-1-04	635-067-0000	6-16-04	Amend	8-1-04
635-045-0000	1-1-04	Amend	1-1-04	635-067-0015	1-1-04	Amend	1-1-04
635-045-0000	8-18-04	Amend	10-1-04	635-067-0024	1-1-04	Amend	1-1-04
635-045-0002	1-1-04	Amend	1-1-04	635-067-0028	1-1-04	Adopt	1-1-04
635-046-0030	5-1-04	Amend	6-1-04	635-067-0029	1-1-04	Adopt	1-1-04
635-048-0030	5-1-04	Amend	6-1-04	635-067-0032	1-1-04	Amend	1-1-04
635-050-0045	2-11-04	Amend	3-1-04	635-067-0034	1-1-04	Amend	1-1-04
635-050-0045	5-1-04	Amend	6-1-04	635-067-0041	1-1-04	Adopt	1-1-04
635-050-0045	7-13-04	Amend	8-1-04	635-068-0000	1-19-04	Amend	1-1-04
635-050-0070	7-13-04	Amend	8-1-04	635-068-0000	6-16-04	Amend	8-1-04
635-050-0080	7-13-04	Amend	8-1-04	635-069-0000	2-2-04	Amend	1-1-04
635-050-0090	7-13-04	Amend	8-1-04	635-069-0000	6-16-04	Amend	8-1-04
635-050-0100	7-13-04	Amend	8-1-04	635-070-0000	12-24-03	Amend(T)	2-1-04
635-050-0110	7-13-04	Amend	8-1-04	635-070-0000	2-2-04	Amend(T)	3-1-04
635-050-0120	7-13-04	Amend	8-1-04	635-070-0000	4-1-04	Amend	1-1-04
635-050-0130	7-13-04	Amend	8-1-04	635-070-0000	6-16-04	Amend	8-1-04
635-050-0140	7-13-04	Amend	8-1-04	635-070-0005	2-2-04	Amend(T)	3-1-04
635-050-0150	7-13-04	Amend	8-1-04	635-070-0010	12-24-03	Amend(T)	2-1-04
635-050-0170	7-13-04	Amend	8-1-04	635-071-0000	1-1-04	Amend	1-1-04
635-050-0180	5-1-04	Amend	6-1-04	635-071-0000	1-13-04	Amend(T)	2-1-04
635-050-0180	7-13-04	Amend	8-1-04	635-071-0000	6-16-04	Amend	8-1-04
635-050-0183	7-13-04	Amend	8-1-04	635-071-0005	1-13-04	Amend(T)	2-1-04
635-050-0189	7-13-04	Amend	8-1-04	635-072-0000	1-1-04	Amend	1-1-04
635-050-0210	7-13-04	Amend	8-1-04	635-073-0000	12-24-03	Amend(T)	2-1-04
635-051-0000	8-18-04	Amend	10-1-04	635-073-0000	2-2-04	Amend	1-1-04
635-051-0048	8-18-04	Amend	10-1-04	635-073-0000	6-16-04	Amend	8-1-04
635-052-0000	8-18-04	Amend	10-1-04	635-073-0060	12-24-03	Amend(T)	2-1-04
635-053-0000	1-16-04	Amend(T)	2-1-04	635-073-0065	6-16-04	Adopt	8-1-04
635-053-0000	8-18-04	Amend	10-1-04	635-073-0070	1-1-04	Amend	1-1-04
635-053-0015	1-16-04	Amend(T)	2-1-04	635-073-0070	6-16-04	Amend	8-1-04
635-053-0025	1-16-04	Amend(T)	2-1-04	635-073-0090	1-1-04	Amend	1-1-04
635-054-0000	8-18-04	Amend	10-1-04	635-075-0005	1-1-04	Amend	1-1-04
635-054-0000	8-18-04	Amend(T)	10-1-04	635-075-0015	1-1-04	Amend	1-1-04
635-055-0010	5-1-04	Amend	6-1-04	635-075-0020	1-1-04	Amend	1-1-04
635-056-0090	5-1-04	Amend	6-1-04	635-075-0029	1-1-04	Amend	1-1-04
635-060-0000	1-1-04	Amend	1-1-04	635-078-0001	1-1-04	Amend	1-1-04
635-060-0000	8-18-04	Amend	10-1-04	635-078-0005	1-1-04	Amend	1-1-04
635-060-0005	1-1-04	Amend	1-1-04	635-078-0008	1-1-04	Amend	1-1-04
635-060-0008	1-1-04	Amend	1-1-04	635-080-0030	1-1-04	Amend	1-1-04
635-060-0030	1-1-04	Amend	1-1-04	635-080-0031	1-1-04	Amend	1-1-04
635-060-0046	1-1-04	Amend	1-1-04	635-090-0140	7-13-04	Amend	8-1-04
635-060-0055	4-1-04	Amend	1-1-04	635-090-0150	7-13-04	Amend	8-1-04
635-065-0001	1-1-04	Amend	1-1-04	635-090-0160	7-13-04	Amend	8-1-04
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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
635-135-0005	8-18-04	Adopt	10-1-04	647-015-0030	1-16-04	Adopt	2-1-04
635-135-0010	8-18-04	Adopt	10-1-04	655-015-0010	1-16-04	Adopt	2-1-04
635-135-0015	8-18-04	Adopt	10-1-04	655-015-0020	1-16-04	Adopt	2-1-04
635-135-0020	8-18-04	Adopt	10-1-04	655-015-0030	1-16-04	Adopt	2-1-04
635-200-0050	5-1-04	Amend	6-1-04	656-030-0010	1-1-04	Adopt	1-1-04
635-300-0001	5-1-04	Amend	6-1-04	656-030-0020	1-1-04	Adopt	1-1-04
635-425-0020	5-1-04	Amend	6-1-04	656-030-0030	1-1-04	Adopt	1-1-04
635-500-1820	12-15-03	Amend	1-1-04	656-030-0040	1-1-04	Adopt	1-1-04
635-500-1830	12-15-03	Amend	1-1-04	657-030-0010	1-15-04	Adopt	1-1-04
635-500-1850	12-15-03	Amend	1-1-04	657-030-0020	1-15-04	Adopt	1-1-04
635-500-1920	12-15-03	Amend	1-1-04	657-030-0030	1-15-04	Adopt	1-1-04
635-500-1930	12-15-03	Amend	1-1-04	658-010-0005	12-4-03	Amend	1-1-04
635-500-3120	12-15-03	Amend	1-1-04	658-010-0006	12-4-03	Amend	1-1-04
635-500-6000	12-15-03	Adopt	1-1-04	658-010-0007	12-4-03	Adopt	1-1-04
635-500-6010	12-15-03	Adopt	1-1-04	658-030-0010	12-4-03	Adopt	1-1-04
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635-500-6040	12-15-03	Adopt	1-1-04	660-001-0000	5-7-04	Amend	6-1-04
635-500-6050	12-15-03	Adopt	1-1-04	660-001-0310	5-17-04	Am. & Ren.	7-1-04
635-500-6060	12-15-03	Adopt	1-1-04	660-001-0315	5-17-04	Am. & Ren.	7-1-04
641-030-0010	1-15-04	Adopt	1-1-04	660-002-0010	5-7-04	Amend	6-1-04
641-030-0020	1-15-04	Adopt	1-1-04	660-003-0025	5-7-04	Amend	6-1-04
641-030-0030	1-15-04	Adopt	1-1-04	660-004-0005	5-7-04	Amend	6-1-04
642-010-0020	1-15-04	Amend	1-1-04	660-004-0010	5-7-04	Amend	6-1-04
642-030-0010	1-15-04	Adopt	1-1-04	660-004-0018	5-7-04	Amend	6-1-04
642-030-0020	1-15-04	Adopt	1-1-04	660-004-0020	5-7-04	Amend	6-1-04
642-030-0030	1-15-04	Adopt	1-1-04	660-004-0022	5-7-04	Amend	6-1-04
643-010-0030	1-16-04	Adopt	3-1-04	660-004-0035	5-7-04	Amend	6-1-04
643-030-0010	1-16-04	Adopt	3-1-04	660-004-0040	5-7-04	Amend	6-1-04
643-030-0020	1-16-04	Adopt	3-1-04	660-006-0015	5-7-04	Amend	6-1-04
643-030-0030	1-16-04	Adopt	3-1-04	660-006-0025	5-7-04	Amend	6-1-04
643-030-0040	1-16-04	Adopt	3-1-04	660-008-0000	5-7-04	Amend	6-1-04
644-010-0005	1-8-04	Amend	2-1-04	660-008-0005	5-7-04	Amend	6-1-04
644-010-0010	1-8-04	Amend	2-1-04	660-012-0045	5-7-04	Amend	6-1-04
644-010-0015	1-8-04	Amend	2-1-04	660-012-0055	5-7-04	Amend	6-1-04
644-010-0020	1-8-04	Amend	2-1-04	660-012-0070	5-7-04	Amend	6-1-04
644-010-0025	1-8-04	Amend	2-1-04	660-013-0030	5-7-04	Amend	6-1-04
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645-010-0020	1-16-04	Amend	2-1-04	660-014-0010	5-17-04	Amend	7-1-04
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645-030-0020	1-16-04	Adopt	2-1-04	660-014-0030	5-17-04	Amend	7-1-04
645-030-0030	1-16-04	Adopt	2-1-04	660-014-0040	5-17-04	Amend	7-1-04
645-030-0040	1-16-04	Adopt	2-1-04	660-016-0005	5-7-04	Amend	6-1-04
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646-030-0010	1-16-04	Adopt	2-1-04	660-017-0000	5-7-04	Amend	6-1-04
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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
660-025-0010	5-7-04	Amend	6-1-04	690-014-0050	7-1-04	Amend	7-1-04
660-025-0040	5-7-04	Amend	6-1-04	690-014-0080	7-1-04	Amend	7-1-04
660-025-0120	5-7-04	Amend	6-1-04	690-014-0090	7-1-04	Adopt	7-1-04
660-025-0130	5-7-04	Amend	6-1-04	690-014-0100	7-1-04	Amend	7-1-04
660-025-0140	5-7-04	Amend	6-1-04	690-014-0110	7-1-04	Adopt	7-1-04
660-025-0150	5-7-04	Amend	6-1-04	690-014-0150	7-1-04	Repeal	7-1-04
660-025-0160	5-7-04	Amend	6-1-04	690-014-0170	7-1-04	Amend	7-1-04
660-025-0175	5-7-04	Amend	6-1-04	690-014-0190	7-1-04	Amend	7-1-04
660-030-0005	5-7-04	Amend	6-1-04	690-014-0200	7-1-04	Repeal	7-1-04
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660-033-0090	4-30-04	Amend	6-1-04	690-026-0005	6-15-04	Repeal	7-1-04
660-033-0120	4-30-04	Amend	6-1-04	690-026-0010	6-15-04	Repeal	7-1-04
660-033-0130	4-30-04	Amend	6-1-04	690-026-0015	6-15-04	Repeal	7-1-04
660-033-0135	4-30-04	Amend	6-1-04	690-026-0020	6-15-04	Repeal	7-1-04
660-034-0000	5-7-04	Amend	6-1-04	690-026-0025	6-15-04	Repeal	7-1-04
660-034-0040	5-7-04	Amend	6-1-04	690-026-0030	6-15-04	Repeal	7-1-04
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664-015-0020	1-15-04	Adopt	1-1-04	690-205-0175	6-15-04	Amend	7-1-04
664-015-0030	1-15-04	Adopt	1-1-04	690-205-0200	6-15-04	Amend	7-1-04
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668-030-0010	1-15-04	Adopt	2-1-04	690-240-0005	6-15-04	Amend	7-1-04
668-030-0020	1-15-04	Adopt	2-1-04	690-240-0010	6-15-04	Amend	7-1-04
668-030-0030	1-15-04	Adopt	2-1-04	690-240-0035	6-15-04	Amend	7-1-04
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669-010-0015	1-13-04	Amend	2-1-04	690-240-0340	6-15-04	Amend	7-1-04
669-010-0020	1-13-04	Amend	2-1-04	690-240-0375	6-15-04	Amend	7-1-04
669-010-0025	1-13-04	Amend	2-1-04	690-240-0395	6-15-04	Amend	7-1-04
669-010-0030	1-13-04	Amend	2-1-04	690-240-0525	6-15-04	Amend	7-1-04
669-010-0040	1-13-04	Amend	2-1-04	690-310-0040	6-15-04	Amend	7-1-04
669-010-0050	1-13-04	Adopt	2-1-04	690-310-0060	6-15-04	Amend	7-1-04
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669-030-0030	1-13-04	Adopt	2-1-04	690-310-0180	6-15-04	Amend	7-1-04
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670-010-0020	1-15-04	Amend	2-1-04	690-340-0030	6-15-04	Amend	7-1-04
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679-010-0000	1-20-04	Amend	3-1-04	690-380-8004	3-17-04	Adopt	5-1-04
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679-010-0050	1-20-04	Adopt	3-1-04	690-502-0160	12-4-03	Am. & Ren.	1-1-04
679-010-0060	1-20-04	Adopt	3-1-04	690-502-0160	12-4-03	Am. & Ren.	1-1-04
679-030-0010	1-20-04	Adopt	3-1-04	690-502-0160	12-4-03	Am. & Ren.	1-1-04
679-030-0020	1-20-04	Adopt	3-1-04	690-502-0160	12-4-03	Am. & Ren.	1-1-04
679-030-0030	1-20-04	Adopt	3-1-04	690-502-0160	12-4-03	Am. & Ren.	1-1-04
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690-502-0215	6-15-04	Adopt	7-1-04	731-070-0260	8-26-04	Adopt	10-1-04
695-020-0020	1-26-04	Amend	3-1-04	731-070-0270	8-26-04	Adopt	10-1-04
695-020-0020	4-12-04	Amend	5-1-04	731-070-0280	8-26-04	Adopt	10-1-04
695-020-0056	4-12-04	Repeal	5-1-04	731-070-0290	8-26-04	Adopt	10-1-04
695-020-0057	4-12-04	Repeal	5-1-04	731-070-0295	8-26-04	Adopt	10-1-04
695-020-0058	4-12-04	Repeal	5-1-04	731-070-0300	8-26-04	Adopt	10-1-04
695-020-0092	1-26-04	Amend	3-1-04	731-070-0310	8-26-04	Adopt	10-1-04
695-020-0093	1-26-04	Amend	3-1-04	731-070-0320	8-26-04	Adopt	10-1-04
695-020-0094	1-26-04	Amend	3-1-04	731-070-0330	8-26-04	Adopt	10-1-04
695-020-0095	1-26-04	Amend	3-1-04	731-070-0350	8-26-04	Adopt	10-1-04
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695-040-0040	4-12-04	Adopt	5-1-04	732-005-0051	7-15-04	Amend(T)	8-1-04
695-040-0050	4-12-04	Adopt	5-1-04	732-010-0010	7-15-04	Amend(T)	8-1-04
695-040-0060	4-12-04	Adopt	5-1-04	732-010-0035	7-15-04	Amend(T)	8-1-04
695-040-0070	4-12-04	Adopt	5-1-04	733-030-0021	7-20-04	Amend(T)	9-1-04
731-001-0000	12-11-03	Amend	1-1-04	733-030-0065	7-20-04	Amend(T)	9-1-04
731-001-0005	2-23-04	Amend	4-1-04	734-017-0005	1-20-04	Amend	3-1-04
731-007-0050	1-20-04	Amend	3-1-04	734-020-0010	5-6-04	Amend	6-1-04
731-007-0050(T)	1-20-04	Repeal	3-1-04	734-051-0010	3-1-04	Amend	4-1-04
731-050-0020	6-24-04	Adopt	8-1-04	734-051-0020	3-1-04	Amend	4-1-04
731-060-0000	8-20-04	Adopt	10-1-04	734-051-0030	3-1-04	Am. & Ren.	4-1-04
731-060-0010	8-20-04	Adopt	10-1-04	734-051-0040	3-1-04	Amend	4-1-04
731-060-0020	8-20-04	Adopt	10-1-04	734-051-0050	3-1-04	Am. & Ren.	4-1-04
731-060-0030	8-20-04	Adopt	10-1-04	734-051-0060	3-1-04	Am. & Ren.	4-1-04
731-060-0040	8-20-04	Adopt	10-1-04	734-051-0070	3-1-04	Amend	4-1-04
731-060-0050	8-20-04	Adopt	10-1-04	734-051-0080	3-1-04	Amend	4-1-04
731-060-0060	8-20-04	Adopt	10-1-04	734-051-0085	3-1-04	Adopt	4-1-04
731-060-0070	8-20-04	Adopt	10-1-04	734-051-0090	3-1-04	Am. & Ren.	4-1-04
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731-070-0010	8-26-04	Adopt	10-1-04	734-051-0105	3-1-04	Adopt	4-1-04
731-070-0020	8-26-04	Adopt	10-1-04	734-051-0110	3-1-04	Am. & Ren.	4-1-04
731-070-0030	8-26-04	Adopt	10-1-04	734-051-0120	3-1-04	Am. & Ren.	4-1-04
731-070-0040	8-26-04	Adopt	10-1-04	734-051-0130	3-1-04	Repeal	4-1-04
731-070-0050	8-26-04	Adopt	10-1-04	734-051-0140	3-1-04	Repeal	4-1-04
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731-070-0060	8-26-04	Adopt	10-1-04	734-051-0160	3-1-04	Repeal	4-1-04
731-070-0070	8-26-04	Adopt	10-1-04	734-051-0170	3-1-04	Repeal	4-1-04
731-070-0080	8-26-04	Adopt	10-1-04	734-051-0180	3-1-04	Repeal	4-1-04
731-070-0110	8-26-04	Adopt	10-1-04	734-051-0190	3-1-04	Am. & Ren.	4-1-04
731-070-0120	8-26-04	Adopt	10-1-04	734-051-0200	3-1-04	Am. & Ren.	4-1-04
731-070-0130	8-26-04	Adopt	10-1-04	734-051-0210	3-1-04	Am. & Ren.	4-1-04
731-070-0140	8-26-04	Adopt	10-1-04	734-051-0220	3-1-04	Repeal	4-1-04
731-070-0160	8-26-04	Adopt	10-1-04	734-051-0230	3-1-04	Am. & Ren.	4-1-04
731-070-0170	8-26-04	Adopt	10-1-04	734-051-0235	3-1-04	Am. & Ren.	4-1-04
731-070-0180	8-26-04	Adopt	10-1-04	734-051-0240	3-1-04	Am. & Ren.	4-1-04
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731-070-0210	8-26-04	Adopt	10-1-04	734-051-0270	3-1-04	Am. & Ren.	4-1-04
731-070-0220	8-26-04	Adopt	10-1-04	734-051-0280	3-1-04	Am. & Ren.	4-1-04
731-070-0230	8-26-04	Adopt	10-1-04	734-051-0290	3-1-04	Am. & Ren.	4-1-04
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734-051-0330	3-1-04	Repeal	4-1-04	735-032-0010	5-24-04	Amend	7-1-04
734-051-0340	3-1-04	Repeal	4-1-04	735-032-0010(T)	5-24-04	Repeal	7-1-04
734-051-0350	3-1-04	Repeal	4-1-04	735-034-0010	1-1-04	Amend(T)	1-1-04
734-051-0360	3-1-04	Am. & Ren.	4-1-04	735-034-0010	5-24-04	Amend	7-1-04
734-051-0370	3-1-04	Am. & Ren.	4-1-04	735-034-0010(T)	5-24-04	Repeal	7-1-04
734-051-0380	3-1-04	Am. & Ren.	4-1-04	735-040-0050	1-1-04	Amend(T)	1-1-04
734-051-0390	3-1-04	Am. & Ren.	4-1-04	735-040-0050	6-24-04	Amend	8-1-04
734-051-0400	3-1-04	Am. & Ren.	4-1-04	735-040-0050(T)	6-24-04	Repeal	8-1-04
734-051-0410	3-1-04	Repeal	4-1-04	735-040-0055	1-1-04	Amend(T)	1-1-04
734-051-0420	3-1-04	Repeal	4-1-04	735-040-0055	6-24-04	Amend	8-1-04
734-051-0430	3-1-04	Am. & Ren.	4-1-04	735-040-0055(T)	6-24-04	Repeal	8-1-04
734-051-0440	3-1-04	Am. & Ren.	4-1-04	735-040-0061	1-1-04	Amend(T)	1-1-04
734-051-0450	3-1-04	Am. & Ren.	4-1-04	735-040-0061	6-24-04	Amend	8-1-04
734-051-0460	3-1-04	Am. & Ren.	4-1-04	735-040-0061(T)	6-24-04	Repeal	8-1-04
734-051-0470	3-1-04	Am. & Ren.	4-1-04	735-040-0080	1-1-04	Amend(T)	1-1-04
734-051-0480	3-1-04	Repeal	4-1-04	735-040-0080	6-24-04	Amend	8-1-04
734-060-0025	1-1-04	Amend	1-1-04	735-040-0080(T)	6-24-04	Repeal	8-1-04
734-071-0010	5-20-04	Amend	7-1-04	735-040-0095	1-1-04	Amend(T)	1-1-04
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735-018-0080	12-15-03	Amend	1-1-04	735-040-0100	1-1-04	Amend(T)	1-1-04
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735-020-0070	1-1-04	Adopt(T)	1-1-04	735-050-0064	1-1-04	Amend	1-1-04
735-020-0070	5-24-04	Adopt	7-1-04	735-050-0070	1-1-04	Amend	1-1-04
735-020-0070(T)	5-24-04	Repeal	7-1-04	735-050-0080	1-1-04	Amend	1-1-04
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735-024-0020	6-24-04	Amend	8-1-04	735-060-0065	11-18-03	Adopt	1-1-04
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735-060-0170	11-18-03	Am. & Ren.	1-1-04	735-150-0015	8-20-04	Amend	10-1-04
735-061-0010	1-15-04	Repeal	2-1-04	735-150-0020	8-20-04	Amend	10-1-04
735-061-0020	1-15-04	Repeal	2-1-04	735-150-0024	8-20-04	Amend	10-1-04
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735-061-0040	1-15-04	Repeal	2-1-04	735-150-0030	8-20-04	Amend	10-1-04
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735-061-0070	1-15-04	Repeal	2-1-04	735-150-0039	8-20-04	Adopt	10-1-04
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735-061-0100	1-15-04	Repeal	2-1-04	735-150-0040	8-20-04	Amend	10-1-04
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735-061-0170	1-15-04	Repeal	2-1-04	735-150-0070(T)	5-24-04	Repeal	7-1-04
735-061-0180	1-15-04	Repeal	2-1-04	735-150-0080	8-20-04	Amend	10-1-04
735-061-0190	1-15-04	Repeal	2-1-04	735-150-0090	8-20-04	Amend	10-1-04
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736-002-0070	1-15-04	Adopt	2-1-04	738-110-0020	2-17-04	Repeal	4-1-04
736-002-0080	1-15-04	Adopt	2-1-04	738-110-0030	2-17-04	Repeal	4-1-04
736-002-0090	1-15-04	Adopt	2-1-04	738-110-0040	2-17-04	Repeal	4-1-04
736-002-0100	1-15-04	Adopt	2-1-04	738-110-0050	2-17-04	Repeal	4-1-04
736-006-0100	5-5-04	Amend	6-1-04	738-125-0010	5-24-04	Adopt	7-1-04
736-006-0105	5-5-04	Amend	6-1-04	738-125-0015	5-24-04	Adopt	7-1-04
736-006-0110	5-5-04	Amend	6-1-04	738-125-0020	5-24-04	Adopt	7-1-04
736-006-0115	5-5-04	Amend	6-1-04	738-125-0025	5-24-04	Adopt	7-1-04
736-006-0120	5-5-04	Repeal	6-1-04	738-125-0030	5-24-04	Adopt	7-1-04
736-006-0125	5-5-04	Amend	6-1-04	738-125-0035	5-24-04	Adopt	7-1-04
736-006-0130	5-5-04	Am. & Ren.	6-1-04	738-125-0040	5-24-04	Adopt	7-1-04
736-006-0135	5-5-04	Am. & Ren.	6-1-04	738-125-0045	5-24-04	Adopt	7-1-04
736-006-0140	5-5-04	Adopt	6-1-04	738-125-0050	5-24-04	Adopt	7-1-04
736-010-0022	1-15-04	Amend(T)	2-1-04	738-125-0055	5-24-04	Adopt	7-1-04
736-010-0022	4-15-04	Amend	4-1-04	740-060-0030	1-1-04	Amend(T)	1-1-04
736-010-0098	6-3-04	Amend	7-1-04	740-060-0030	6-29-04	Amend	8-1-04
736-010-0099	6-3-04	Amend	7-1-04	740-060-0030(T)	6-29-04	Repeal	8-1-04
736-010-0100	6-3-04	Amend	7-1-04	740-060-0050	1-1-04	Amend(T)	1-1-04
736-010-0115	6-3-04	Amend	7-1-04	740-060-0050	6-29-04	Amend	8-1-04
736-010-0120	6-3-04	Amend	7-1-04	740-060-0050(T)	6-29-04	Repeal	8-1-04
736-010-0125	6-3-04	Amend	7-1-04	740-060-0055	1-1-04	Adopt(T)	1-1-04
736-018-0045	5-14-04	Amend	6-1-04	740-060-0055	6-29-04	Adopt	8-1-04
736-018-0045	6-14-04	Amend	7-1-04	740-060-0055(T)	6-29-04	Repeal	8-1-04
736-019-0000	9-15-04	Adopt	10-1-04	740-100-0010	1-1-04	Amend	1-1-04
736-019-0020	9-15-04	Adopt	10-1-04	740-100-0015	1-15-04	Adopt	2-1-04
736-019-0040	9-15-04	Adopt	10-1-04	740-100-0060	1-1-04	Amend	1-1-04
736-019-0060	9-15-04	Adopt	10-1-04	740-100-0070	1-1-04	Amend	1-1-04
736-019-0080	9-15-04	Adopt	10-1-04	740-100-0080	1-1-04	Amend	1-1-04
736-019-0100	9-15-04	Adopt	10-1-04	740-100-0090	1-1-04	Amend	1-1-04
736-019-0120	9-15-04	Adopt	10-1-04	740-110-0010	1-1-04	Amend	1-1-04
736-040-0070	4-30-04	Amend	6-1-04	740-110-0080	3-26-04	Amend	5-1-04
736-040-0071	4-30-04	Amend	6-1-04	740-110-0090	3-26-04	Amend	5-1-04
736-100-0010	9-10-04	Amend	10-1-04	740-115-0010	1-1-04	Repeal	1-1-04
736-100-0020	9-10-04	Amend	10-1-04	740-115-0020	1-1-04	Repeal	1-1-04
736-100-0030	9-10-04	Amend	10-1-04	740-115-0030	1-1-04	Repeal	1-1-04
736-100-0040	9-10-04	Amend	10-1-04	740-115-0040	1-1-04	Repeal	1-1-04
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740-120-0010	1-1-04	Repeal	1-1-04	740-200-0020	1-1-04	Amend	1-1-04
740-120-0020	1-1-04	Repeal	1-1-04	740-200-0040	1-1-04	Amend	1-1-04
740-120-0030	1-1-04	Repeal	1-1-04	740-300-0035	1-1-04	Adopt(T)	1-1-04
740-120-0040	1-1-04	Repeal	1-1-04	740-300-0035	6-29-04	Adopt	8-1-04
740-125-0010	1-1-04	Repeal	1-1-04	740-300-0035(T)	6-29-04	Repeal	8-1-04
740-125-0020	1-1-04	Repeal	1-1-04	741-020-0010	5-20-04	Adopt	7-1-04
740-125-0030	1-1-04	Repeal	1-1-04	741-020-0020	5-20-04	Adopt	7-1-04
740-125-0040	1-1-04	Repeal	1-1-04	741-020-0025	5-20-04	Adopt	7-1-04
740-130-0010	1-1-04	Repeal	1-1-04	741-020-0030	5-20-04	Adopt	7-1-04
740-130-0020	1-1-04	Repeal	1-1-04	741-020-0040	5-20-04	Adopt	7-1-04
740-130-0030	1-1-04	Repeal	1-1-04	741-020-0050	5-20-04	Adopt	7-1-04
740-130-0040	1-1-04	Repeal	1-1-04	741-020-0060	5-20-04	Adopt	7-1-04
740-130-0050	1-1-04	Repeal	1-1-04	741-020-0070	5-20-04	Adopt	7-1-04
740-130-0060	1-1-04	Repeal	1-1-04	741-020-0080	5-20-04	Adopt	7-1-04
740-130-0070	1-1-04	Repeal	1-1-04	741-025-0010	5-20-04	Adopt	7-1-04
740-130-0080	1-1-04	Repeal	1-1-04	741-025-0020	5-20-04	Adopt	7-1-04
740-130-0090	1-1-04	Repeal	1-1-04	741-025-0025	5-20-04	Adopt	7-1-04
740-135-0010	1-1-04	Repeal	1-1-04	741-025-0030	5-20-04	Adopt	7-1-04
740-135-0020	1-1-04	Repeal	1-1-04	741-025-0040	5-20-04	Adopt	7-1-04
740-135-0030	1-1-04	Repeal	1-1-04	741-025-0050	5-20-04	Adopt	7-1-04
740-135-0040	1-1-04	Repeal	1-1-04	741-025-0060	5-20-04	Adopt	7-1-04
740-140-0010	1-1-04	Repeal	1-1-04	741-025-0070	5-20-04	Adopt	7-1-04
740-140-0020	1-1-04	Repeal	1-1-04	741-025-0080	5-20-04	Adopt	7-1-04
740-140-0030	1-1-04	Repeal	1-1-04	741-050-0010	3-24-04	Repeal	5-1-04
740-140-0040	1-1-04	Repeal	1-1-04	741-050-0020	3-24-04	Repeal	5-1-04
740-140-0050	1-1-04	Repeal	1-1-04	741-050-0030	3-24-04	Repeal	5-1-04
740-140-0060	1-1-04	Repeal	1-1-04	741-050-0040	3-24-04	Repeal	5-1-04
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740-145-0020	1-1-04	Repeal	1-1-04	741-050-0060	3-24-04	Repeal	5-1-04
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740-145-0040	1-1-04	Repeal	1-1-04	741-050-0080	3-24-04	Repeal	5-1-04
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740-155-0020	1-1-04	Repeal	1-1-04	741-050-0170	3-24-04	Repeal	5-1-04
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740-160-0010	1-1-04	Repeal	1-1-04	741-050-0220	3-24-04	Repeal	5-1-04
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740-160-0040	1-1-04	Repeal	1-1-04	741-050-0250	3-24-04	Repeal	5-1-04
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801-001-0050	1-1-04	Adopt	2-1-04	808-003-0050	2-1-04	Amend	3-1-04
801-005-0010	1-1-04	Amend	2-1-04	808-003-0055	2-1-04	Amend	3-1-04
801-010-0010	1-1-04	Amend	2-1-04	808-003-0060	2-1-04	Amend	3-1-04
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801-010-0060	1-1-04	Amend	2-1-04	808-003-0085	2-1-04	Amend	3-1-04
801-010-0075	1-1-04	Amend	2-1-04	808-003-0112	2-1-04	Adopt	3-1-04
801-010-0080	1-1-04	Amend	2-1-04	808-003-0125	2-1-04	Amend	3-1-04
801-010-0085	1-1-04	Amend	2-1-04	808-003-0130	2-1-04	Amend	3-1-04
801-010-0110	1-1-04	Amend	2-1-04	808-004-0210	1-1-04	Adopt	2-1-04
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801-010-0125	1-1-04	Amend	2-1-04	808-004-0400	2-1-04	Amend	3-1-04
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806-010-0145	5-5-04	Amend	6-1-04	808-008-0500	1-1-04	Amend(T)	2-1-04
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812-001-0015	9-1-04	Amend	10-1-04	812-004-0550	3-1-04	Amend	4-1-04
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812-001-0020	3-1-04	Amend	4-1-04	812-006-0020	12-5-03	Amend	1-1-04
812-001-0020	6-1-04	Amend	7-1-04	812-006-0050	9-1-04	Amend	10-1-04
812-001-0020	6-1-04	Amend(T)	7-1-04	812-008-0050	3-1-04	Amend	4-1-04
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812-001-0022	1-1-04	Adopt(T)	2-1-04	812-010-0020	6-1-04	Amend	7-1-04
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812-002-0440	12-5-03	Amend	1-1-04	812-010-0290	12-5-03	Adopt	1-1-04
812-002-0530	6-1-04	Amend	7-1-04	812-010-0400	12-5-03	Amend	1-1-04
812-002-0540	12-5-03	Amend	1-1-04	812-010-0420	12-5-03	Amend	1-1-04
812-002-0540(T)	12-5-03	Repeal	1-1-04	812-010-0425	12-5-03	Amend	1-1-04
812-003-0000	12-5-03	Amend	1-1-04	812-010-0430	12-5-03	Amend	1-1-04
812-003-0000	7-1-04	Amend	4-1-04	812-010-0440	12-5-03	Amend	1-1-04
812-003-0000	9-1-04	Amend	8-1-04	812-010-0440	6-1-04	Amend	7-1-04
812-003-0000(T)	12-5-03	Repeal	1-1-04	812-010-0460	12-5-03	Amend	1-1-04
812-003-0015	2-2-04	Amend	3-1-04	812-010-0460	6-1-04	Amend	7-1-04
812-003-0015	3-1-04	Amend	4-1-04	812-010-0500	12-5-03	Amend	1-1-04
812-003-0015	6-1-04	Amend	7-1-04	812-010-0500	6-1-04	Amend	7-1-04
812-003-0020	12-5-03	Amend	1-1-04	812-010-0510	12-5-03	Adopt	1-1-04
812-003-0020(T)	12-5-03	Repeal	1-1-04	812-010-0510	6-1-04	Amend	7-1-04
812-003-0025	12-5-03	Amend	1-1-04	812-010-0520	12-5-03	Adopt	1-1-04
812-003-0025	9-1-04	Amend	8-1-04	812-010-0520	6-1-04	Amend	7-1-04
812-003-0025(T)	12-5-03	Repeal	1-1-04	813-003-0005	5-20-04	Adopt(T)	7-1-04
812-003-0050	9-1-04	Amend	8-1-04	813-003-0010	5-20-04	Adopt(T)	7-1-04
812-004-0110	12-5-03	Adopt	1-1-04	813-003-0020	5-20-04	Adopt(T)	7-1-04
812-004-0110	1-1-04	Amend(T)	2-1-04	813-003-0030	5-20-04	Adopt(T)	7-1-04
812-004-0110	3-1-04	Amend	4-1-04	813-003-0040	5-20-04	Adopt(T)	7-1-04
812-004-0110	6-1-04	Amend	7-1-04	813-003-0050	5-20-04	Adopt(T)	7-1-04
812-004-0110(T)	3-1-04	Repeal	4-1-04	813-003-0060	5-20-04	Adopt(T)	7-1-04
812-004-0210	12-5-03	Adopt	1-1-04	813-003-0070	5-20-04	Adopt(T)	7-1-04
812-004-0250	1-1-04	Amend(T)	2-1-04	813-300-0010	12-19-03	Amend	2-1-04
812-004-0250	3-1-04	Amend	4-1-04	813-300-0120	12-19-03	Amend	2-1-04
812-004-0250(T)	3-1-04	Repeal	4-1-04	813-310-0005	6-28-04	Adopt	8-1-04
812-004-0320	12-5-03	Amend	1-1-04	813-310-0010	6-28-04	Adopt	8-1-04
812-004-0340	12-5-03	Amend	1-1-04	813-310-0015	6-28-04	Adopt	8-1-04
812-004-0400	12-5-03	Amend	1-1-04	813-310-0020	6-28-04	Adopt	8-1-04
812-004-0440	1-1-04	Amend(T)	2-1-04	813-310-0025	6-28-04	Adopt	8-1-04
812-004-0440	3-1-04	Amend	4-1-04	813-310-0030	6-28-04	Adopt	8-1-04
812-004-0440(T)	3-1-04	Repeal	4-1-04	813-310-0035	6-28-04	Adopt	8-1-04
812-004-0535	12-5-03	Amend	1-1-04	813-310-0040	6-28-04	Adopt	8-1-04

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813-310-0050	6-28-04	Adopt	8-1-04	817-035-0090	7-1-04	Amend	8-1-04
813-310-0055	6-28-04	Adopt	8-1-04	817-035-0110	7-1-04	Amend	8-1-04
813-310-0060	6-28-04	Adopt	8-1-04	817-040-0003	7-1-04	Amend	8-1-04
813-310-0065	6-28-04	Adopt	8-1-04	817-055-0010	7-1-04	Repeal	8-1-04
813-310-0070	6-28-04	Adopt	8-1-04	817-060-0020	7-1-04	Amend	8-1-04
813-310-0075	6-28-04	Adopt	8-1-04	817-060-0030	7-1-04	Amend	8-1-04
813-310-0080	6-28-04	Adopt	8-1-04	817-070-0005	7-1-04	Repeal	8-1-04
813-310-0085	6-28-04	Adopt	8-1-04	817-080-0005	7-1-04	Amend	8-1-04
813-310-0090	6-28-04	Adopt	8-1-04	817-090-0005	7-1-04	Repeal	8-1-04
813-310-0095	6-28-04	Adopt	8-1-04	817-090-0008	7-1-04	Repeal	8-1-04
813-310-0100	6-28-04	Adopt	8-1-04	817-090-0015	7-1-04	Repeal	8-1-04
813-310-0105	6-28-04	Adopt	8-1-04	817-090-0025	7-1-04	Amend	8-1-04
813-310-0110	6-28-04	Adopt	8-1-04	817-090-0035	7-1-04	Amend	8-1-04
813-350-0030	4-8-04	Amend	5-1-04	817-090-0045	7-1-04	Amend	8-1-04
813-350-0030(T)	4-8-04	Repeal	5-1-04	817-090-0050	7-1-04	Amend	8-1-04
817-001-0000	7-1-04	Repeal	8-1-04	817-090-0055	7-1-04	Amend	8-1-04
817-001-0005	7-1-04	Repeal	8-1-04	817-090-0065	7-1-04	Amend	8-1-04
817-001-0020	7-1-04	Repeal	8-1-04	817-090-0070	7-1-04	Amend	8-1-04
817-001-0030	7-1-04	Repeal	8-1-04	817-090-0075	7-1-04	Amend	8-1-04
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
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820-015-0026	1-26-04	Amend	3-1-04	839-017-0510	1-1-04	Adopt	2-1-04
836-005-0107	5-7-04	Amend	6-1-04	839-017-0515	1-1-04	Adopt	2-1-04
836-009-0007	12-19-03	Amend	1-1-04	839-017-0520	1-1-04	Adopt	2-1-04
836-011-0000	12-3-03	Amend	1-1-04	839-019-0000	7-27-04	Amend	9-1-04
836-031-0755	1-1-04	Amend	2-1-04	839-020-0027	1-1-04	Adopt	2-1-04
836-031-0760	1-1-04	Amend	2-1-04	839-020-0030	1-1-04	Amend	2-1-04
836-031-0855	11-26-03	Adopt(T)	1-1-04	839-020-0115	1-1-04	Amend	2-1-04
836-031-0855	5-15-04	Adopt	6-1-04	839-020-0125	1-1-04	Amend	2-1-04
836-042-0045	1-1-04	Amend	1-1-04	839-020-0150	2-1-04	Amend	2-1-04
836-051-0101	1-1-04	Amend	2-1-04	839-021-0355	7-29-04	Amend(T)	9-1-04
836-051-0106	1-1-04	Adopt	2-1-04	845-003-0590	2-10-04	Amend	1-1-04
836-051-0700	6-14-04	Adopt	7-1-04	845-003-0670	12-1-03	Amend	1-1-04
836-052-0700	2-3-04	Amend	3-1-04	845-005-0304	1-1-04	Amend	2-1-04
836-053-0430	2-20-04	Amend	4-1-04	845-005-0445	1-1-04	Amend(T)	2-1-04
836-071-0180	12-19-03	Amend	1-1-04	845-005-0445	6-29-04	Amend	7-1-04
836-080-0090	1-1-05	Adopt	10-1-04	845-006-0335	4-9-04	Amend	5-1-04
837-012-0645	1-14-04	Amend	2-1-04	845-006-0347	5-19-04	Amend	7-1-04
837-012-0720	1-14-04	Amend	2-1-04	845-006-0430	4-1-04	Amend	5-1-04
837-012-0830	1-14-04	Amend	2-1-04	845-006-0441	12-1-03	Amend	1-1-04
837-012-0850	1-14-04	Amend	2-1-04	845-007-0015	6-1-04	Amend	4-1-04
837-012-1210	1-14-04	Amend	2-1-04	845-008-0045	7-1-04	Amend	8-1-04
837-012-1220	1-14-04	Amend	2-1-04	845-009-0015	12-1-03	Amend	1-1-04
837-012-1260	1-14-04	Amend	2-1-04	845-015-0140	3-21-04	Amend	3-1-04
837-012-1290	1-14-04	Amend	2-1-04	845-015-0155	7-1-04	Amend	8-1-04
837-012-1300	1-14-04	Amend	2-1-04	845-015-0199	5-1-04	Adopt(T)	6-1-04
837-012-1320	1-14-04	Amend	2-1-04	847-001-0000	7-13-04	Amend	8-1-04
837-012-1340	1-14-04	Amend	2-1-04	847-001-0005	7-13-04	Amend	8-1-04
837-030-0130	1-14-04	Amend	2-1-04	847-001-0015	7-13-04	Amend	8-1-04
837-030-0220	1-14-04	Amend	2-1-04	847-001-0020	7-13-04	Adopt	8-1-04
837-030-0230	1-14-04	Amend	2-1-04	847-001-0025	7-13-04	Adopt	8-1-04
837-030-0240	1-14-04	Amend	2-1-04	847-005-0005	9-9-04	Amend	10-1-04
837-030-0250	1-14-04	Amend	2-1-04	847-008-0005	7-13-04	Amend	8-1-04
837-030-0280	1-14-04	Amend	2-1-04	847-008-0015	1-27-04	Amend	3-1-04
837-040-0001	10-1-04	Amend	5-1-04	847-008-0015	7-13-04	Amend	8-1-04
837-040-0010	10-1-04	Amend	5-1-04	847-008-0022	7-13-04	Adopt	8-1-04
837-040-0140	10-1-04	Amend	5-1-04	847-008-0040	7-13-04	Amend	8-1-04
839-001-0000	7-27-04	Amend	9-1-04	847-008-0045	7-13-04	Amend	8-1-04
839-001-0200	1-1-04	Adopt	2-1-04	847-008-0050	12-8-03	Amend	1-1-04
839-001-0420	1-1-04	Amend	2-1-04	847-008-0055	1-27-04	Amend	3-1-04
839-001-0470	1-1-04	Amend	2-1-04	847-008-0055	7-13-04	Amend	8-1-04
839-001-0490	1-1-04	Adopt	2-1-04	847-010-0056	4-22-04	Amend	6-1-04
839-002-0002	7-27-04	Amend	9-1-04	847-010-0063	4-22-04	Amend	6-1-04
839-014-0020	7-27-04	Amend	9-1-04	847-010-0073	4-22-04	Adopt	6-1-04
839-015-0000	7-27-04	Amend	9-1-04	847-012-0000	1-27-04	Amend	3-1-04
839-016-0000	7-27-04	Amend	9-1-04	847-015-0030	3-1-04	Amend	6-1-04
839-016-0700	1-5-04	Amend	2-1-04	847-020-0130	4-22-04	Amend(T)	6-1-04
839-016-0700	4-15-04	Amend	5-1-04	847-020-0130	7-13-04	Amend	8-1-04
839-016-0700	7-1-04	Amend	8-1-04	847-020-0170	1-27-04	Amend	3-1-04
839-016-0750	5-1-04	Amend	6-1-04	847-020-0170	4-22-04	Amend	6-1-04
839-016-0750	5-19-04	Amend	7-1-04	847-020-0170	7-13-04	Amend	8-1-04
839-016-0750	5-24-04	Amend	7-1-04	847-020-0180	1-27-04	Amend	3-1-04
839-016-0750	6-24-04	Amend	8-1-04	847-035-0030	1-27-04	Amend	3-1-04
839-016-0750	7-15-04	Amend	8-1-04	847-035-0030	4-22-04	Amend(T)	6-1-04
839-017-0004	1-1-04	Amend	2-1-04	847-035-0030	6-11-04	Amend(T)	7-1-04
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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
851-001-0005	5-4-04	Amend	6-1-04	851-062-0010	2-20-04	Amend	4-1-04
851-001-0006	5-4-04	Amend	6-1-04	851-062-0015	2-12-04	Adopt	3-1-04
851-001-0007	5-4-04	Amend	6-1-04	851-062-0016	2-12-04	Adopt	3-1-04
851-001-0015	5-4-04	Amend	6-1-04	851-062-0020	2-12-04	Amend	3-1-04
851-001-0020	5-4-04	Amend	6-1-04	851-062-0040	2-12-04	Repeal	3-1-04
851-001-0030	5-4-04	Adopt	6-1-04	851-062-0050	2-12-04	Amend	3-1-04
851-002-0040	2-26-04	Amend	4-1-04	851-062-0055	2-12-04	Adopt	3-1-04
851-021-0010	12-9-03	Amend	1-1-04	851-062-0060	2-12-04	Repeal	3-1-04
851-031-0010	12-9-03	Amend	1-1-04	851-062-0070	2-12-04	Amend	3-1-04
851-047-0000	2-26-04	Amend	4-1-04	851-062-0070	2-20-04	Amend	4-1-04
851-047-0010	2-26-04	Amend	4-1-04	851-062-0075	2-12-04	Adopt	3-1-04
851-047-0020	2-26-04	Amend	4-1-04	851-062-0080	2-12-04	Amend	3-1-04
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
851-050-0000	5-12-04	Amend	6-1-04	851-062-0110	2-12-04	Amend	3-1-04
851-050-0004	5-12-04	Amend	6-1-04	851-062-0120	2-12-04	Amend	3-1-04
851-050-0006	5-12-04	Amend	6-1-04	851-062-0130	2-12-04	Amend	3-1-04
851-050-0131	12-9-03	Amend	1-1-04	851-063-0010	2-12-04	Amend	3-1-04
851-050-0131	2-26-04	Amend	4-1-04	851-063-0020	2-12-04	Amend	3-1-04
851-050-0131	5-4-04	Amend	6-1-04	851-063-0030	2-12-04	Amend	3-1-04
851-050-0131	7-13-04	Amend	8-1-04	851-063-0040	2-12-04	Amend	3-1-04
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
851-050-0155	5-12-04	Amend	6-1-04	852-020-0029	3-8-04	Adopt	4-1-04
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	853-010-0060	1-30-04	Amend	3-1-04
851-061-0020	2-12-04	Amend	3-1-04	855-021-0005	6-1-04	Amend	7-1-04
851-061-0020	7-13-04	Amend	8-1-04	855-021-0010	6-1-04	Amend	7-1-04

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855-021-0025	6-1-04	Amend	7-1-04	860-035-0040	1-15-04	Repeal	2-1-04
855-021-0030	6-1-04	Amend	7-1-04	860-035-0050	1-15-04	Repeal	2-1-04
855-021-0035	6-1-04	Repeal	7-1-04	860-035-0060	1-15-04	Repeal	2-1-04
855-021-0050	6-1-04	Amend	7-1-04	860-035-0070	1-15-04	Repeal	2-1-04
855-031-0015	3-12-04	Amend	4-1-04	860-035-0080	1-15-04	Repeal	2-1-04
855-031-0045	3-12-04	Amend	4-1-04	860-035-0090	1-15-04	Repeal	2-1-04
855-043-0200	5-24-04	Repeal	7-1-04	860-035-0100	1-15-04	Repeal	2-1-04
855-043-0205	5-24-04	Repeal	7-1-04	860-035-0110	1-15-04	Repeal	2-1-04
855-043-0210	12-31-03	Adopt(T)	2-1-04	860-035-0120	1-15-04	Repeal	2-1-04
855-043-0210	6-1-04	Adopt	7-1-04	860-035-0130	1-15-04	Repeal	2-1-04
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
858-010-0005	8-30-04	Amend	10-1-04	860-036-0030	4-9-04	Amend	5-1-04
858-010-0007	8-30-04	Amend	10-1-04	860-036-0040	1-9-04	Amend(T)	2-1-04
858-010-0015	8-30-04	Amend	10-1-04	860-036-0040	6-2-04	Amend	7-1-04
858-010-0020	8-30-04	Amend	10-1-04	860-036-0080	4-9-04	Amend	5-1-04
858-010-0030	3-2-04	Amend(T)	4-1-04	860-036-0120	4-9-04	Amend	5-1-04
858-010-0030	8-30-04	Amend	10-1-04	860-036-0330	12-10-03	Suspend	1-1-04
858-010-0041	8-30-04	Amend	10-1-04	860-036-0330	4-9-04	Repeal	5-1-04
858-010-0050	8-30-04	Amend	10-1-04	860-036-0370	12-10-03	Adopt(T)	1-1-04
858-010-0055	8-30-04	Amend	10-1-04	860-036-0370	4-9-04	Adopt	5-1-04
858-010-0065	8-30-04	Amend	10-1-04	860-036-0380	12-10-03	Adopt(T)	1-1-04
858-010-0075	8-30-04	Amend	10-1-04	860-036-0380	4-9-04	Adopt	5-1-04
858-020-0015	8-30-04	Amend	10-1-04	860-036-0410	4-9-04	Amend	5-1-04
858-020-0045	8-30-04	Amend	10-1-04	860-036-0412	12-10-03	Adopt(T)	1-1-04
858-020-0055	8-30-04	Amend	10-1-04	860-036-0412	4-9-04	Adopt	5-1-04
858-020-0085	8-30-04	Amend	10-1-04	860-036-0420	12-10-03	Adopt(T)	1-1-04
858-030-0005	8-30-04	Amend	10-1-04	860-036-0420	4-9-04	Adopt	5-1-04
858-040-0015	8-30-04	Amend	10-1-04	860-036-0505	4-9-04	Amend	5-1-04
858-040-0095	8-30-04	Amend	10-1-04	860-036-0739	4-9-04	Adopt	5-1-04
858-050-0105	8-30-04	Amend	10-1-04	860-036-0757	12-10-03	Adopt(T)	1-1-04
858-050-0125	3-2-04	Amend(T)	4-1-04	860-036-0757	4-9-04	Adopt	5-1-04
858-050-0125	8-30-04	Amend	10-1-04	860-036-0900	12-10-03	Amend(T)	1-1-04
860-011-0001	4-29-04	Amend	6-1-04	860-036-0900	4-9-04	Amend	5-1-04
860-012-0100	1-8-04	Adopt	2-1-04	860-036-0905	12-10-03	Amend(T)	1-1-04
860-012-0190	1-8-04	Adopt	2-1-04	860-036-0905	4-9-04	Amend	5-1-04
860-016-0020	8-31-04	Amend(T)	10-1-04	860-036-0910	12-10-03	Amend(T)	1-1-04
860-016-0021	8-31-04	Adopt(T)	10-1-04	860-036-0910	4-9-04	Amend	5-1-04
860-021-0200	1-9-04	Amend(T)	2-1-04	860-036-0915	12-10-03	Amend(T)	1-1-04
860-021-0200	6-2-04	Amend	7-1-04	860-036-0915	4-9-04	Amend	5-1-04
860-024-0020	11-28-03	Amend	1-1-04	860-037-0001	1-29-04	Amend	3-1-04
860-024-0021	11-28-03	Amend	1-1-04	860-037-0010	1-29-04	Amend	3-1-04
860-027-0048	12-11-03	Adopt	1-1-04	860-037-0015	1-29-04	Amend	3-1-04
860-027-0300	3-24-04	Amend(T)	5-1-04	860-037-0020	1-29-04	Amend	3-1-04
860-027-0300	9-7-04	Amend	10-1-04	860-037-0025	1-29-04	Amend	3-1-04
860-028-0195	4-21-04	Adopt	6-1-04	860-037-0030	1-29-04	Amend	3-1-04
860-028-0895	11-28-03	Adopt(T)	1-1-04	860-037-0035	1-9-04	Amend(T)	2-1-04
860-032-0510	1-15-04	Adopt	2-1-04	860-037-0035	1-29-04	Amend	3-1-04
860-032-0520	1-15-04	Adopt	2-1-04	860-037-0035	6-2-04	Amend	7-1-04
860-034-0010	1-9-04	Amend(T)	2-1-04	860-037-0040	1-29-04	Amend	3-1-04
860-034-0010	6-2-04	Amend	7-1-04	860-037-0045	1-29-04	Amend	3-1-04
860-034-0140	1-9-04	Amend(T)	2-1-04	860-037-0050	1-29-04	Amend	3-1-04
860-034-0140	6-2-04	Amend	7-1-04	860-037-0055	1-29-04	Amend	3-1-04
860-035-0010	1-15-04	Repeal	2-1-04	860-037-0060	1-29-04	Amend	3-1-04
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860-037-0075	1-29-04	Amend	3-1-04	860-037-0610	1-29-04	Amend	3-1-04
860-037-0080	1-29-04	Amend	3-1-04	860-037-0615	1-29-04	Amend	3-1-04
860-037-0101	1-29-04	Adopt	3-1-04	860-037-0620	1-29-04	Amend	3-1-04
860-037-0105	1-29-04	Amend	3-1-04	860-037-0625	1-29-04	Amend	3-1-04
860-037-0110	1-29-04	Amend	3-1-04	860-037-0630	1-29-04	Amend	3-1-04
860-037-0115	1-29-04	Amend	3-1-04	860-038-0005	8-31-04	Amend	10-1-04
860-037-0120	1-29-04	Amend	3-1-04	860-038-0220	8-31-04	Amend	10-1-04
860-037-0125	1-29-04	Amend	3-1-04	860-038-0275	8-31-04	Adopt	10-1-04
860-037-0205	1-29-04	Amend	3-1-04	860-038-0480	8-31-04	Amend	10-1-04
860-037-0210	1-29-04	Amend	3-1-04	860-038-0540	1-15-04	Amend	2-1-04
860-037-0215	1-29-04	Amend	3-1-04	860-038-0580	12-11-03	Amend	1-1-04
860-037-0220	1-29-04	Amend	3-1-04	863-001-0007	5-3-04	Amend	6-1-04
860-037-0225	1-29-04	Amend	3-1-04	863-015-0015	1-1-04	Amend(T)	2-1-04
860-037-0230	1-29-04	Amend	3-1-04	863-015-0015	5-3-04	Amend	6-1-04
860-037-0235	1-29-04	Amend	3-1-04	863-015-0020	5-3-04	Amend	6-1-04
860-037-0240	1-29-04	Amend	3-1-04	863-015-0025	5-3-04	Amend	6-1-04
860-037-0245	1-29-04	Amend	3-1-04	863-015-0050	5-3-04	Amend	6-1-04
860-037-0305	1-29-04	Repeal	3-1-04	863-015-0055	1-15-04	Amend(T)	2-1-04
860-037-0307	1-29-04	Adopt	3-1-04	863-015-0055	5-3-04	Amend	6-1-04
860-037-0308	12-10-03	Adopt(T)	1-1-04	863-015-0065	5-3-04	Amend	6-1-04
860-037-0308	4-9-04	Adopt	5-1-04	863-015-0080	1-1-04	Amend(T)	2-1-04
860-037-0309	12-10-03	Adopt(T)	1-1-04	863-015-0080	5-3-04	Amend	6-1-04
860-037-0309	4-9-04	Adopt	5-1-04	863-015-0085	5-3-04	Amend	6-1-04
860-037-0310	1-29-04	Amend	3-1-04	863-015-0180	5-3-04	Amend	6-1-04
860-037-0315	1-29-04	Repeal	3-1-04	863-015-0200	1-1-04	Amend(T)	2-1-04
860-037-0405	1-29-04	Amend	3-1-04	863-015-0200	5-3-04	Amend	6-1-04
860-037-0407	12-10-03	Adopt(T)	1-1-04	863-015-0270	5-3-04	Repeal	6-1-04
860-037-0407	4-9-04	Adopt	5-1-04	863-050-0000	1-1-04	Adopt	2-1-04
860-037-0410	1-29-04	Amend	3-1-04	863-050-0015	1-1-04	Amend	2-1-04
860-037-0415	1-29-04	Amend	3-1-04	863-050-0020	1-1-04	Amend	2-1-04
860-037-0425	1-29-04	Amend	3-1-04	863-050-0020	5-3-04	Amend	6-1-04
860-037-0430	1-29-04	Amend	3-1-04	863-050-0025	1-1-04	Amend	2-1-04
860-037-0435	1-29-04	Amend	3-1-04	863-050-0035	1-15-04	Adopt(T)	2-1-04
860-037-0440	1-29-04	Amend	3-1-04	863-050-0035	5-3-04	Adopt	6-1-04
860-037-0445	1-29-04	Amend	3-1-04	863-050-0040	1-1-04	Adopt	2-1-04
860-037-0450	1-29-04	Amend	3-1-04	863-050-0050	1-1-04	Amend	2-1-04
860-037-0505	1-29-04	Amend	3-1-04	863-050-0055	1-1-04	Amend	2-1-04
860-037-0510	1-29-04	Amend	3-1-04	863-050-0060	1-1-04	Amend	2-1-04
860-037-0515	1-29-04	Amend	3-1-04	863-050-0065	1-1-04	Amend	2-1-04
860-037-0517	1-29-04	Adopt	3-1-04	863-050-0100	1-1-04	Amend	2-1-04
860-037-0520	1-29-04	Amend	3-1-04	863-050-0108	1-1-04	Repeal	2-1-04
860-037-0525	1-29-04	Amend	3-1-04	863-050-0110	1-1-04	Repeal	2-1-04
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860-037-0535	1-29-04	Amend	3-1-04	863-050-0115	5-3-04	Amend	6-1-04
860-037-0540	1-29-04	Amend	3-1-04	863-050-0150	1-1-04	Amend	2-1-04
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860-037-0547	4-9-04	Adopt	5-1-04	875-010-0075	7-13-04	Amend	8-1-04
860-037-0550	1-29-04	Amend	3-1-04	877-020-0020	12-1-03	Amend	1-1-04
860-037-0555	1-29-04	Amend	3-1-04	918-001-0031	7-1-04	Adopt	8-1-04
860-037-0560	1-29-04	Amend	3-1-04	918-008-0030	1-29-04	Amend(T)	3-1-04
860-037-0565	1-29-04	Amend	3-1-04	918-020-0090	7-1-04	Amend	7-1-04
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918-030-0200	7-1-04	Adopt	7-1-04	918-400-0345	10-1-04	Repeal	10-1-04
918-030-0320	7-1-04	Adopt	8-1-04	918-400-0350	10-1-04	Repeal	10-1-04
918-030-0325	7-1-04	Adopt	8-1-04	918-400-0355	10-1-04	Repeal	10-1-04
918-030-0900	4-1-04	Adopt	3-1-04	918-400-0360	10-1-04	Repeal	10-1-04
918-050-0010	1-1-04	Amend	2-1-04	918-400-0365	10-1-04	Repeal	10-1-04
918-050-0020	1-1-04	Amend	2-1-04	918-400-0370	10-1-04	Repeal	10-1-04
918-098-0500	10-1-04	Amend	9-1-04	918-400-0375	10-1-04	Repeal	10-1-04
918-225-0691	3-8-04	Amend(T)	4-1-04	918-400-0380	10-1-04	Adopt	10-1-04
918-225-0691	7-1-04	Amend	8-1-04	918-400-0385	10-1-04	Adopt	10-1-04
918-225-0691(T)	7-1-04	Repeal	8-1-04	918-400-0390	10-1-04	Adopt	10-1-04
918-225-0920	3-8-04	Amend(T)	4-1-04	918-400-0395	10-1-04	Adopt	10-1-04
918-225-0920	7-1-04	Amend	8-1-04	918-400-0800	10-1-04	Amend	10-1-04
918-225-0920(T)	7-1-04	Repeal	8-1-04	918-440-0010	10-1-04	Amend	9-1-04
918-251-0090	4-1-04	Amend	5-1-04	918-440-0015	1-1-04	Amend	1-1-04
918-261-0036	4-1-04	Adopt	5-1-04	918-440-0040	1-1-04	Amend	1-1-04
918-261-0037	4-1-04	Adopt	5-1-04	918-440-0040	10-1-04	Amend	9-1-04
918-261-0038	4-1-04	Adopt	5-1-04	918-440-0050	1-1-04	Amend	1-1-04
918-261-0039	4-1-04	Adopt	5-1-04	918-460-0015	4-1-04	Amend	5-1-04
918-282-0017	10-1-04	Adopt	10-1-04	918-480-0005	10-1-04	Amend	10-1-04
918-282-0185	10-1-04	Adopt	10-1-04	918-480-0010	10-1-04	Amend	10-1-04
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918-306-0370	4-1-04	Repeal	5-1-04	918-780-0035	1-1-04	Adopt	2-1-04
918-306-0380	4-1-04	Amend	5-1-04	918-780-0080	10-1-04	Amend	10-1-04
918-306-0390	4-1-04	Amend	5-1-04	918-780-0120	1-1-04	Repeal	2-1-04
918-306-0400	4-1-04	Amend	5-1-04	951-001-0000	3-15-04	Adopt(T)	4-1-04
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918-309-0000	4-1-04	Amend	5-1-04	951-001-0005	4-15-04	Adopt	4-1-04
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918-309-0220	4-1-04	Amend	5-1-04	972-030-0020	1-16-04	Adopt	2-1-04
918-320-0315	10-1-04	Repeal	10-1-04	972-030-0030	1-16-04	Adopt	2-1-04
918-400-0333	10-1-04	Adopt	10-1-04	972-030-0040	1-16-04	Adopt	2-1-04
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