

OREGON BULLETIN

Supplements the 2004 *Oregon Administrative Rules Compilation*

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Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule's "History"

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

Locating the Most Recent Version of an Administrative Rule

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

Locating Administrative Rules Unit Publications

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

2003-2004 Oregon Bulletin Publication Schedule

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

Submission Deadline — Publishing Date

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

Reminder for Agency Rules Coordinators

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

Publication Authority

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

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OREGON DEPARTMENT OF AGRICULTURE REPEAL OF EMERGENCY QUARANTINE ORDER: COLUMBIA COUNTY NURSERY STOCK, POTTING MEDIA AND COMPOST

The Oregon Department of Agriculture promulgated an emergency quarantine order on June 4, 2004 after detecting *Phytophthora ramorum* (sudden oak death) in nursery stock, potting media containing compost and plants in a landscape in Columbia County.

An extensive survey determined the infestation was limited to two blocks of plants in a single nursery. All plants in the infected blocks and the landscape planting were incinerated and follow-up monitoring has not detected any additional infected plants.

Therefore, in accordance with ORS 561.560, the Director of the Oregon Department of Agriculture issues the following ORDER repealing the Emergency Quarantine:

ORDER

The Emergency Quarantine Order: Columbia County Nursery Stock, Potting Media and Compost, dated June 4, 2004, is REPEALED and has no further force and effect.

Signed this 12th day of August, 2004.

/s/ Katy Coba
Katy Coba, Director
Oregon Department of Agriculture

A CHANCE TO COMMENT ON... PROPOSED STIPULATION OF SETTLEMENT FOR REMEDIAL ACTION COSTS AT THE FORMER FASHION CLEANERS SITE IN KLAMATH FALLS, OREGON

COMMENTS DUE: September 30, 2004

PROJECT LOCATION: 623 Klamath Avenue, Klamath Falls, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Stipulation of Settlement regarding a portion of DEQ's remedial action costs (cleanup costs) at the former Fashion Cleaners site in Klamath Falls, Oregon. The Settlement is with Maryland Casualty Insurance Company.

HIGHLIGHTS: The former Fashion Cleaners site was the site of a dry cleaner owned and operated by insureds of Maryland Casualty. During demolition of the building after a fire, dry cleaning solvent was released into the ground. DEQ has conducted removal actions to address contaminated soil at the site and in adjacent buildings, and has incurred substantial remedial action costs. DEQ initiated litigation against various parties, including Maryland Casualty, to recover DEQ's remedial action costs. This Settlement will fully settle DEQ's claims against the Maryland Casualty Insurance Company.

HOW TO COMMENT: Written comments concerning the Stipulation of Settlement should be sent to Charlie Landman at DEQ Headquarters, 811 SW 6th Avenue, Portland, Oregon 97204. Comments must be received by DEQ by 5:00 pm September 30, 2004. Questions may be directed to Mr. Landman at that address or by calling (503) 229-6461. The proposed Stipulation of Settlement may be reviewed at DEQ's Headquarters' Office and DEQ's Bend Office.

Upon written request by ten or more persons, or by a group having ten or more members, a public meeting will be held to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments. A final decision concerning the Stipulation of Settlement will be made after consideration of public comments.

CHANCE TO COMMENT ON... PROPOSED NO FURTHER ACTION DECISION FOR THE FORMER PORTLAND COMMUNITY COLLEGE (PCC) 82ND AVENUE CAMPUS FACILITY PORTLAND, OREGON

COMMENTS DUE: October 1, 2004

PROJECT LOCATION: The former PCC Campus facility is located at 2850 SE 82nd Street, 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 DEQ's proposed No Further Action decision for the former Portland Community College (PCC) 82nd Avenue Campus facility in Southeast Portland.

HIGHLIGHTS: In 2003, PCC initiated measures to meet new requirements under the Oregon Underground Injection Control (UIC) Program prior to the anticipated sale of the property. This investigation identified petroleum and petroleum related compounds contamination in sediment within some of the active and abandoned dry well systems that were historically used to divert storm water runoff from parking and the campus building roof. Sediment with elevated levels of chlorinated solvents and lead were discovered in two of the abandoned dry wells located near the northwest corner of the site that had been the location of a service station and garage prior to PCC's ownership of the property. Based upon these findings, PCC agreed with the DEQ to enter the Voluntary Cleanup Program (VCP) in November 2003.

PCC completed the site investigation and conducted several interim removal measures to address the residual soil contamination remaining in the dry wells and in the vicinity of an underground waste oil tank. The waste oil tank and several gasoline underground storage tanks associated with the former service station were also removed. Dry wells that were no longer needed for storm water disposal were sealed with concrete slurry. Soil samples collected in the vicinity of the former service station showed low levels of chlorinated solvents tetrachloroethylene (perc. or PCE) and trichloroethylene (TCE). A risk assessment was completed and DEQ has determined that the residual soil contamination associated with the former service station does not pose an unacceptable risk to current or future commercial tenants. PCC is in the process of selling the property to a third party for commercial redevelopment.

HOW TO COMMENT: DEQ's Staff Report, which provides the basis for the No Further Action decision, and supporting documents that comprise the Administrative Record for the proposal, 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.

Please send written comments to Bruce Gilles, Project Manager, at the address listed above or via email at gilles.bruce@deq.state.or.us. DEQ must receive written comments by 5 p.m. on October 1, 2004. Upon written request by ten or more persons or by a group with a membership of 10 or more, DEQ will hold a public meeting to receive verbal comments.

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 October 1, 2004 deadline prior to issuing a final cleanup decision for the facility.

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CHANCE TO COMMENT ON... PROPOSED NO FURTHER ACTION DECISION FOR THE SYLVAN CLEANERS SITE PORTLAND, OREGON

COMMENTS DUE: October 1, 2004

PROJECT LOCATION: Sylvan Cleaners site is located at 1747 SW Skyline Boulevard in Portland, Oregon

PROPOSAL: Pursuant to ORS 465.230 and Oregon Administrative Rules (OAR) 340-122-100 and 340-122-465, the Department of Environmental Quality (DEQ) requests public comment on the proposal for No Further Action and to remove the Sylvan Cleaners facility (ECSI I.D. No. 1897) from DEQ's Confirmed Release List (CRL) and inventory of hazardous substance sites (Inventory).

HIGHLIGHTS: DEQ has completed an environmental investigation and cleanup of the Sylvan Cleaners site. Sylvan Cleaners is an active dry cleaning facility, which has been operating at the same location since the 1990. Sylvan Cleaners applied to DEQ's Dry Cleaner Environmental Response Program in August 1998. DEQ conducted the investigation of the facility, which included sampling of soil, groundwater and ambient air at the property. Elevated levels of perchloroethylene (PCE or perc), a dry cleaning solvent was found in soil beneath the building in the area of the dry cleaning machine, and in groundwater beneath the property and to a limited extent on adjacent properties. To address the contaminated soil and groundwater, DEQ completed bioremediation treatment of the contaminated soils and groundwater. A risk assessment was conducted and concluded that the cleanup actions has reduced potential risks to site workers to protective levels.

HOW TO COMMENT: DEQ's NFA Recommendation Memorandum, dated August 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 Bruce Gilles, Project Manager, at the address listed above or via email at gilles.bruce@deq.state.or.us. DEQ must receive written comments by 5 p.m. on October 1, 2004. Upon written request by ten or more persons or by a group with a membership of 10 or more, DEQ will hold a public meeting to receive verbal comments.

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 October 1, 2004 deadline. In the absence of comments, DEQ will issue the No Further Action and remove the facility from the CRL and Inventory.

PUBLIC COMMENT PERIOD NOTICE OF NO FURTHER ACTION ROBERSON MOTORS, 3100 RYAN DRIVE SE SALEM, OREGON

COMMENTS DUE: September 31, 2004

PROJECT LOCATION: Roberson Motors, 3100 Ryan Drive SE, Salem, Oregon

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) is proposing that an oil water separator cleanup at Roberson Motors is complete and requires no further action under ORS465.200, *et seq.*

HIGHLIGHTS: Roberson Motors is an automobile dealership and includes service facilities, a paint and body facility, and a car wash. During the construction of a building addition in 1998, a pre-exist-

ing 500 gallon oil-water separator (OWS) was moved to a new location to accommodate the addition. In mid-1999, it was discovered that leakage had occurred from an improperly installed piping connection at the inlet to the separator tank at the tank's new location. Since then, soil and groundwater investigations were conducted along with a small removal of soil around the OWS. From the *Site Characterization and Proposal for Site Closure Report* submitted on December 11, 2003, DEQ concludes the following: (1) no detectable hydrocarbon concentrations are found in the soils surrounding the OWS; (2) no detectable hydrocarbons are found in the groundwater near the release; (3) no current or reasonably likely future beneficial uses were identified for groundwater within the Locality of Facility; and (4) city water is supplied to all facilities and residences within the Locality of Facility. In the absence of significant human health or ecological risks associated with the hydrocarbon contamination stemming from the OWS at the site, DEQ recommends that no further investigation or remediation be undertaken for environmental impacts due to the historical release.

HOW TO COMMENT: Written comments on the proposed no further action may be submitted to Angie Obery at DEQ's Eugene office, 1102 Lincoln St., Suite 210, Eugene, OR 97401. Comments must be received by September 31, 2004. Questions may be directed to Angie Obery by calling her at 1800-844-8467 x265.

A public meeting to answer questions and receive verbal comment on the proposed no further action will be held if there is significant public interest.

THE NEXT STEP: DEQ will consider all public comments prior to making a final decision.

PUBLIC NOTICE PROPOSED REMEDIAL ACTION AT THE UPRR HUNTINGTON RAIL YARD HUNTINGTON, OREGON

COMMENTS DUE: September 30, 2004

PROJECT LOCATION: Directly North of Huntington, Baker County, OR

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to approve a remedial action at the Union Pacific Railroad (UPRR) Huntington Rail Yard located immediately north of the City of Huntington, Oregon.

HIGHLIGHTS: The DEQ Voluntary Cleanup Program has reviewed the information gathered during site investigation and groundwater monitoring activities performed at the site.

Detected concentrations (except petroleum hydrocarbons) found at the rail yard in soil were screened to site specific risk based concentrations (RBCs) developed in accordance with exposure assumptions and equations. With the exception of benzo(a)pyrene concentrations detected in soil were less than their respective RBCs for residential, occupational, and excavation worker scenarios. Concentrations of benzo(a)pyrene detected in soil samples slightly exceeded the residential (0.021 milligrams per kilograms (mg/kg)) and occupational (0.27 mg/kg) RBC levels.

Concentrations of diesel and gasoline detected in the rail yard were compared to generic RBCs listed in DEQ's 2003 guidance, *Risk-Based Decision Making for the Remediation of Petroleum-Contaminated Sites*. Concentrations of diesel detected in the soil, in the former Bunker C AST and currently residential area, did not exceed residential RBCs for the soil ingestion, dermal contact, and inhalation pathway. Concentrations of diesel and PAHs were not detected in groundwater in the former Bunker C AST and currently residential area. Diesel and gasoline concentrations detected in soil samples collected from current rail yard did not exceed the occupational, construction, and excavation worker RBCs for the soil ingestion, dermal contact, and inhalation pathway.

Elevated concentrations of petroleum hydrocarbons were identified in sediments located within a surface water lagoon. Diesel and heavy

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oil were detected lagoon sediment samples at levels ranging from 44.3 mg/kg to 63,300 mg/kg. Based on the evaluation feasible remedial options, the Stabilization In Place alternative was selected. This alternative consists of the stabilization of the contaminated sediments to immobilize the contamination in the sediments and backfilling the surface water lagoon to match the surrounding grade. In addition, a deed notice will be recorded documenting the location of the stabilized area and 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 September 30, 2004 to Katie Robertson, Project Manager, at the address listed above.

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 REMEDIAL ACTION DECISION AND CONCENTRATION LIMITS FOR COFFIN BUTTE LANDFILL, BENTON COUNTY, OR

COMMENTS DUE: September 30, 2004

PROJECT LOCATION: 28972 Coffin Butte Road, approximately 10 miles north of Corvallis, OR.

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) is proposing to issue a decision regarding cleanup investigations at the Coffin Butte Landfill. DEQ is also proposing to add groundwater cleanup goals and other concentration limits to the landfill's existing Solid Waste Disposal Permit #306. Public notification is required by ORS 465.320 and OAR 340-093-0100.

HIGHLIGHTS: Landfilling at Coffin Butte first began in the 1940s by the Army as a part of waste disposal for the former Camp Adair. In 1975, Valley Landfills, Inc. (VLI) purchased the site and currently operates it as a municipal solid waste facility. As a part of DEQ's solid waste permit requirements, VLI conducted investigations that identified a number of volatile organic chemicals, dissolved metals, chloride, and total dissolved solids in groundwater. In response to these results, DEQ directed VLI to institute engineering controls to protect human health and the environment. Currently, groundwater contamination is confined to VLI property, and concentrations have been decreasing over time in response to the controls.

Based on current conditions and the findings to date, DEQ is proposing a remedy consisting of: 1) existing engineering controls including landfill capping, surface-water controls, leachate collection, and landfill gas collection; 2) land use restrictions to prohibit residential uses and groundwater uses on the landfill property; and 3) decommissioning two site water supply wells. In addition, DEQ is proposing to set concentration limits that will be added to the site's Solid Waste Disposal Permit. The limits will be used to gauge the progress the controls are having on groundwater contamination, and to decide whether additional engineering and/or institutional controls might be needed to protect human health and the environment.

HOW TO COMMENT: The staff report recommending the proposed remedial action decision and permit concentration limits is available online at <http://www.deq.state.or.us/wmc/cleanup/coffin-butte.htm>. The staff report and other information about the project is available for review at the DEQ Eugene office located at 1102 Lincoln, Suite 210, Eugene, OR 97401. To schedule an appointment or ask questions about the site, call Bill Mason in DEQ's Eugene office at (541) 686-7838, ext. 257 (email: mason.bill@deq.state.or.us). Written comments should be sent by September 30, 2004 to Mr. Mason at the address listed above.

NEXT STEP: DEQ will consider all comments received. A final decision concerning the proposed remedial actions and concentration limits will be made after considering all public comments.

PROPOSED APPROVAL OF CLEANUP AT THE LOWER TAILINGS IMPOUNDMENT CORNUCOPIA MINE, BAKER COUNTY, OREGON

COMMENTS DUE: October 1, 2004

PROJECT LOCATION: Cornucopia, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to issue a "No Further Action" determination based on approval of the environmental investigation and remedial action at the Lower Tailings Impoundment of the Cornucopia Mine, located approximately 12 miles north of Halfway, Oregon.

HIGHLIGHTS: The Voluntary Cleanup Program has reviewed the information gathered during the investigation of environmental conditions and remedial action at the Cornucopia Mine site. United Nuclear Company, the owner of the site, has completed the proposed remedy by consolidating and capping mill tailings in an on-site landfill covering approximately 5 acres.

The proposed No-Further-Action (NFA) determination applies only to the Lower Tailings Impoundment area and former Baker Mill area. The nearby Upper Tailings Impoundment is being addressed by the U.S. Forest Service. The proposed NFA requires a deed restriction to be placed on the constructed landfill. The deed restriction requires maintenance of the landfill cap, and restricts residential development and agricultural activity on the landfill area.

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 John Dadoly at (541) 278-4616. Written comments should be sent by October 1, 2004 to John Dadoly, Project Manager, at the address listed above.

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 making a final decision regarding the "No Further Action" determination.

PROPOSED APPROVAL OF CLEANUP REMEDY AT CONTAINER RECOVERY IN PORTLAND, OREGON

COMMENTS DUE: October 1, 2004

PROJECT LOCATION: 3900 NW Yeon Avenue, Portland, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the proposed approval of a proposed site remedy at the Container Recovery site in Portland, Oregon.

HIGHLIGHTS: Site investigations identified chlorinated solvent shallow groundwater contamination at the site in the 1990s. Recent groundwater monitoring events (2003 and 2004) documented that the contaminant plume is stable, has not migrated off-site, and does not pose a current risk. Potential future risks will be addressed by preventing construction in the contaminated groundwater plume area. A DEQ staff report detailing site conditions, site risks, and an evaluation of possible remedies is available for public review.

HOW TO COMMENT: To schedule an appointment at DEQ, contact Deborah Curtiss at 229-6361. The DEQ project manager is Alicia C. Voss (229-5011). Written comments should be sent to the project manager at DEQ, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 by October 1, 2004. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with membership of 10 or more.

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

PROPOSED REMEDIAL ACTION AT THE BANK OF CALIFORNIA—ASTORIA SITE

COMMENTS DUE: September 30, 2004

PROJECT LOCATION: 927 Marine Drive, Astoria, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on remedial action proposed for the Bank of California-Astoria site located in Astoria, Oregon. Some removal of contaminated soil (and subsequent capping) has already been completed; site owners are proposing to excavate additional soil and complete capping work. Access to capped areas would be restricted, and a deed restriction placed on the property.

HIGHLIGHTS: The 0.15-acre site is located in downtown Astoria. A small commercial building is located on-site, but is currently vacant. The building is situated on a concrete platform built over the site, with open areas located beneath the platform. A gasoline station operated at the site from approximately 1940 to 1968, during which time gasoline, diesel, and waste oil tanks were situated below the site platform. Releases from the tanks and related activities resulted in contamination of soil with lead and petroleum hydrocarbons. Soil removal actions were completed in 1999 and 2001 to address the highest concentrations of impacted soil, after which remaining contamination was partially capped. A Risk Assessment was subsequently completed in 2003, which determined that further action site action was necessary. A Feasibility Study was completed in 2004 to identify an appropriate site remedy. The proposed remedial action for the site is: removal of (minor) additional contaminated soil, and capping of all impacted areas with clean soil or rock. In addition to capping, access to contaminated areas will be restricted by fencing, and a deed restriction will be recorded with the property deed requiring cap inspection and maintenance. Finally, DEQ will require removal and disposal of localized hot spot soils in the event that they become accessible in the future (currently below platform piers).

HOW TO COMMENT: To review project records, contact DEQ's file specialist at (503) 229-6729. The DEQ project manager is Dan Hafley (503-229-5417). Written comments should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 by September 30, 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 comments received and make a final decision after consideration of these comments.

PROPOSED NO FURTHER ACTION DETERMINATION CASCADE GOLF CARTS, ECSI # 3940 BEND, OREGON

COMMENTS DUE: October 1, 2004

PROJECT LOCATION: 2045 NE Highway 20, Bend, Oregon
Proposal: The Oregon Department of Environmental Quality (DEQ) proposes to issue a No Further Action determination following cleanup and decommissioning of two dry wells at the Cascade Golf Carts site in Bend. Public notification is required by ORS 465.320.

HIGHLIGHTS: Investigation and cleanup was conducted as part of decommissioning of two drywells on the south end of the 1.6-acre property. A previous owner is reported to have disposed of vehicle steam cleaning wash water and old gasoline and petroleum products from golf cart maintenance in one or both of the drill holes. Investigation was limited to sampling of sediment in the two drywells.

Efforts were made to remove the contaminated sediment, although some of the material could not be retrieved.

Sample results indicate that concentrations of a number of petroleum constituents exceed safe levels. Safe levels were determined based on the assumption that the chemicals could migrate upward into buildings on the property as a result of volatilization, or could migrate downward into drinking water. In evaluating these sample results, the Department also recognized a number of other site factors. Groundwater at this location is more than 600 feet below the ground surface. There are no supply wells within a half mile of the site. Water is supplied by the City at this location, so that construction of future supply wells in the site vicinity is unlikely. While sediment sample results indicate that it is possible for excessive levels of vapors to migrate up into buildings on the property, the quantity of sediment is limited to a small portion of the site.

Having evaluated the various conditions at this site, the Department has determined that no further action is required. At the same time, the Department acknowledges that there is considerable uncertainty over the extent of contamination at this site. Decisions have been based solely on concentrations of contaminants in sediment in the drill holes. The quantity of contaminants that may have been dumped in the drill holes and then leached out of them is unknown.

This recommended action was selected following completion of a site investigation conducted under Oregon Administrative Rules (OAR) Chapter 340, Division 122, Sections 010 to 115.

How to Comment: Comments and questions, by phone, fax, mail or email, should be directed to:

Bob Schwarz, Project Manager

Phone: 541-298-7255, ext. 30

Fax: 541-298-7330

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

To schedule an appointment or to obtain a copy of the staff report, please contact Mr. Schwarz as well. Written comments should be sent by Friday, October 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 NO FURTHER ACTION DETERMINATION PESTICIDE SPILL IN FIFTEENMILE CREEK ECSI # 2709, THE DALLES, OREGON

COMMENTS DUE: October 1, 2004

PROJECT LOCATION: Fifteenmile Creek, near confluence with the Columbia River, The Dalles, Oregon

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) proposes to issue a No Further Action determination following investigation and cleanup of a pesticide spill in Fifteenmile Creek. Public notification is required by ORS 465.320.

HIGHLIGHTS: On August 22, 2000, a truck traveling west on Interstate 84 crashed as it passed over Fifteenmile Creek, a tributary of the Columbia River. The truck was carrying 4,100 gallons of the herbicide Goal 2XL. Approximately 2,600 gallons of herbicide spilled and an unknown portion of this entered the creek. About 1,200 feet of the creek—from the accident site to the confluence with the Columbia River—was affected. Oxyfluorfen (2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl) benzene) is the active ingredient in Goal 2XL. Although not particularly toxic to mammals or birds, it is toxic to fish and other aquatic life. The Oregon Department of Fish and Wildlife estimates that about 5,500 fish died as a result of the accident.

Emergency response measures focused on preventing contamination from escaping into the Columbia River. Booms, sandbag dams and water-filled fabric dams were placed upstream of the spill and downstream, near the mouth, to isolate the affected portion of the creek. Additional dams were built at intermediate points to divide the affected area into manageable units. Creek water from upstream was

OTHER NOTICES

diverted around the contaminated zone using pumps and hoses. Because oxyfluorfen is water-insoluble and sorbs strongly to sediments, most oxyfluorfen released to the creek bound to the sediment in the creek bottom. Contaminated sediment was removed using two methods. To the extent possible, the affected creek section was dewatered to allow dry digging. This was not always possible because dam-controlled levels in the Columbia River determine water levels near the mouth of the creek. Much of the sediment was therefore removed by dredging, which also removed a large amount of water.

Most remedial work was done between August and October 2000. Some additional sediment dredging was conducted in February 2001. In total, about 6 million gallons of water and 5,500 tons of sediment, soil and debris were removed and disposed of offsite. Initially, this material went to a hazardous waste disposal facility about 50 miles away. Once more analytical data were available, it was determined that the soil and sediment could be taken to a local nonhazardous waste landfill. Following discussions with the Oregon and Washington Departments of Agriculture, most of the wastewater was applied to fallow farm fields. This operation was carefully monitored to make sure that the herbicide was not applied at levels exceeding agronomic rates.

Risk assessments were conducted to evaluate residual risk to human and ecological receptors. These assessments, which are based on studies conducted between 2000 and 2003, indicate that this risk has been reduced to safe levels. The Department therefore concludes that no further action is required.

This recommendation was made following completion of a site investigation conducted under Oregon Administrative Rules (OAR) Chapter 340, Division 122, Sections 010 to 115.

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

Bob Schwarz, Project Manager

Phone: 541-298-7255, ext. 30

Fax: 541-298-7330

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

To schedule an appointment or to obtain a copy of the staff report, please contact Mr. Schwarz as well. Written comments should be sent by Friday, October 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 NO FURTHER ACTION DECISION TOSOH QUARTZ MANUFACTURING FACILITY 14380 NW SCIENCE PARK DRIVE PORTLAND, OREGON

COMMENT PERIOD: September 1, 2004 to September 30, 2004
COMMENTS DUE: September 30, 2004

PROPOSAL: DEQ proposes issuing a no further action decision for the Tosoh Quartz Facility.

HIGHLIGHTS: The Department of Environmental Quality (DEQ) has completed its environmental evaluation of the Tosoh Quartz Facility site. An environmental investigation of the site was conducted as the result of a release of approximately 12,000 gallons of dilute hydrofluoric and nitric acid wastewater. The release occurred beneath the floor slab in Building D, and was caused by a leaking pipe. The leaking pipe was repaired, effectively stopping the leak.

The environmental investigation included soil and groundwater sampling and testing, followed by a year of quarterly groundwater monitoring. Investigation results identified impacted soil and groundwater in the area immediately around the release, but there were no impacts beyond the footprint of the building.

A risk assessment was conducted to evaluate potential human health and ecological risks posed by the release. The findings of the risk assessment indicate the residual impacts do not pose an unacceptable risk to human health or the environment.

HOW TO COMMENT: The project file is available for public review. To schedule an appointment call (503) 229-6729. The DEQ project manager is Anna Coates, (503) 229-5213. Written comments should be sent to Anna Coates, DEQ, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by September 30, 2004. A public meeting will be held to receive comments if requested by 10 or more persons or by a group with a membership of 10 or more.

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

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 Geologist Examiners
Chapter 809

Stat. Auth.: ORS 670.310 & 670.304
Stats. Implemented: ORS 25.785, 305.385 & 42 USC § 666(a)(13)
Proposed Adoptions: 809-050-0050
Last Date for Comment: 10-1-04

Summary: This rule addition mandates that all applicants for examination and renewal of registration must provide their Social Security Number (SSN). Both federal and state child support agencies have statutory authority to access registrant information of state licensing boards. Both state and federal child support agencies locate individuals by their SSN. In addition, the Oregon Department of Revenue has statutory authority to obtain SSNs from licensing boards for tax enforcement purposes.

Rules Coordinator: Susanna R. Knight
Address: Board of Geologist Examiners, Sunset Center South, 1193 Royvonne Ave. SE, #24, Salem, OR 97302
Telephone: (503) 566-2837

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Stat. Auth.: ORS 183, 192, 672, 670.310 & 670.304
Stats. Implemented: ORS 672.655, 672.665 & 672.675
Proposed Amendments: 809-003-0000
Last Date for Comment: 10-1-04

Summary: The proposed rule clarifies that the definition of "misconduct" includes a violation of the Board's Code of Professional Conduct, as well as a violation of any state or federal statute in the practice of geology, and assisting another to violate state or federal rules or statutes. The term misconduct was previously defined as mismanagement, improper behavior, violation of law or standard. By referencing in the definition of misconduct the Board's Code of Professional Conduct, interested parties can refer to that Administrative Rule (OAR 809, Division 20) and find many specific examples of misconduct.

Rules Coordinator: Susanna R. Knight
Address: Board of Geologist Examiners, Sunset Center South, 1193 Royvonne Ave. SE, #24, Salem, OR 97302
Telephone: (503) 566-2837

Board of Optometry Chapter 852

Stat. Auth.: ORS 683 & 182
Stats. Implemented: ORS 683.270 & 182.466
Proposed Amendments: 852-080-0040
Last Date for Comment: 9-20-04
Summary: This rule clarifies the requirements for maintaining CPR certification for physicians who are certified to use, administer and prescribe the nontopical formulary, including procedures in the event of failure to maintain CPR certification.
Rules Coordinator: David W. Plunkett
Address: Board of Optometry, 3218 Pringle Rd. SE - Suite 270, Salem, OR 97302-6306
Telephone: (503) 373-7721, ext. 23

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Board of Pharmacy
Chapter 855

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.205
Proposed Amendments: 855-001-0005
Last Date for Comment: 9-21-04
Summary: Housekeeping change to update the rule to reflect the new Model Rules of Procedure promulgated by the Attorney General.
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:	Time:	Location:
9-29-04	9 a.m.	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: 800-030-0025, 800-030-0050
Last Date for Comment: 9-29-04, 5 p.m.
Summary: The Oregon Administrative Rule revisions the Board of Tax Practitioners is proposing are for general "housekeeping" as well as to change language to better reflect the "norm" in industry standards and the practices of other state agencies.

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

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

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

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

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Commission for the Blind
Chapter 585

Stat. Auth.: ORS 346.150; Other Auth.: ORS 183.341
Stats. Implemented:
Proposed Amendments: 585-010-0020, 585-010-0310
Last Date for Comment: 9-30-04

NOTICES OF PROPOSED RULEMAKING

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

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

Rules Coordinator: Linda Mock

Address: Commission for the Blind, 535 SE 12th Ave., Portland, OR 97214

Telephone: (503) 731-3221

Construction Contractors Board Chapter 812

Date:	Time:	Location:
9-28-04	11 a.m.	Roth's IGA West Salem

Hearing Officer: Jim Fairchild

Stat. Auth.: ORS 87.007, 183.310 - 183.500, 183.415, 670.310, 701, 701.080, 701.145, 701.148, 701.150 & 701.235

Stats. Implemented: ORS 36.600 - 36.740, 87.007, 87.058, 87.093, 183, 183.341, 183.415, 183.450, 183.460, 183.464, 183.470, 183.645, 279, 701, 701.065, 701.080, 701.139, 701.140, 701.143, 701.145, 701.146, 701.147, 701.148, 701.150, 701.160 & 701.180

Proposed Adoptions: 812-001-0023, 812-001-0024, 812-002-0250, 812-004-0195

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

Last Date for Comment: 9-28-04, 11 a.m.

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

- OAR 812-001-0010 is amended to update the cite reference.
- OAR 812-001-0023 and 812-001-0024 are adopted to implement ORS 87.007(2)(c) that requires CCB to prescribe by rule the amount, terms and conditions of a bond and a letter of credit to protect purchasers of residential property from claims of lien that arise before the purchase but that may be perfected after the date of sale. OAR 812-001-0023 sets out the terms of the bond. OAR 812-001-0024 sets out the terms of the letter of credit. CCB held two public meetings regarding drafting rule language to implement ORS 87.007(2)(c).

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

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

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

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

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

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

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

- OAR 812-004-0320 is amended to allow a claimant to satisfy the requirement of a pre-claim notice by proving respondent actually received the notice. This conforms this rule to Appellate Court cases that hold formal notice requirements will be waived if the purpose of a statute requiring notice to a person is satisfied by actual notice.

See *Laro Lumber Co. Inc. v. Patrick*, See 52 Or. App. 1035, 1038-40 (1981) (Notice of suit to foreclose under a lien sent by regular instead of certified mail).

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

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

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

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

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

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

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

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

- OAR 812-010-0420 is amended to delete section (8). Payment from a bond is covered in OAR 812-004-0600, to correct internal cites, to add section (10) to allow arbitrator to add claim process fee to award if claimant did not include the fee in his or her request for damage, and to amend section (11) to adjust the amendments in law relating to arbitration awards made by 2003 legislature.

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

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

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

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

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

Rules Coordinator: Cathy Heine

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

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

NOTICES OF PROPOSED RULEMAKING

Department of Administrative Services, Office for Oregon Health Policy and Research Chapter 409

Date: 9-15-04
Time: 11 a.m.–1 p.m.
Location: 255 Capitol St. NE
Public Service Bldg.
Rm. 500A
Salem, OR

Hearing Officer: Missy Dolan

Stat. Auth.: ORS 414.312, 414.314, 414.316, 414.318 & 414.320

Stats. Implemented:

Proposed Adoptions: 409-030-0000, 409-030-0005, 409-030-0010, 409-030-0020, 409-030-0030, 409-030-0040, 409-030-0050

Last Date for Comment: 9-15-04, 5 p.m.

Summary: These rules establish implementation and administration guidelines for the Oregon Prescription Drug Program.

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

Rules Coordinator: Kristin Keith

Address: Department of Administrative Services, Office for Health Plan Policy and Research, 155 Cottage St. NE U90, Salem, OR 97301-3972

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

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

Stat. Auth.: ORS 243.061 - 243.302; Other Auth.: ORS 279

Stats. Implemented: ORS 243, 659 & 743

Proposed Adoptions: 101-040-0055

Proposed Amendments: 101-010-0005, 101-015-0005, 101-020-0005, 101-020-0010, 101-020-0015, 101-020-0018, 101-020-0020, 101-020-0025, 101-020-0030, 101-020-0040, 101-020-0045, 101-030-0005, 101-030-0010, 101-030-0015, 101-030-0020, 101-030-0022, 101-030-0025, 101-030-0030, 101-030-0040, 101-040-0005, 101-040-0010, 101-040-0015, 101-040-0020, 101-040-0025, 101-040-0030, 101-040-0035, 101-040-0040, 101-040-0045, 101-040-0050, 101-040-0080, 101-050-0005, 101-050-0010, 101-050-0015, 101-050-0020, 101-050-0025, 101-060-0010

Last Date for Comment: 10-8-04, 4 p.m.

Summary: This rulemaking adopts a new rule governing the procedures for implementation of an additional benefit. This rulemaking also amends current rules governing the eligibility of benefits and procedures of the Public Employees' Benefit Board and are made a part of OAR chapter 101 generally. Experience in using the rules, changes and clarification of federal regulations governing Internal Revenue Service Code Section 125, and the ongoing development of the agency-specific PEBB administrative manual has identified the need for clarification of existing rules and addition of a new rule.

Rules Coordinator: Kristin Keith

Address: Department of Administrative Services, Public Employees' Benefit Board, 155 Cottage St. NE U90, Salem, OR 97301-3972

Telephone: (503) 378-2349, ext. 325

Department of Agriculture Chapter 603

Date: 10-5-04
Time: 11 a.m.
Location: 635 Capitol St. NE
Conference Rm. D
Salem, OR

Hearing Officer: Dan Hilburn

Stat. Auth.: ORS 576.066(1)(e), 577.125(1)(e) & 578.025(1)(e)

Stats. Implemented: ORS 576.066(2), 577.125(2) & 578.025(2)

Proposed Adoptions: 603-042-0015

Proposed Repeals: 603-040-0010, 603-040-0020, 603-040-0030, 603-040-0040, 603-040-0050, 603-040-0065, 603-041-0015, 603-

041-0030, 603-041-0035, 603-041-0040, 603-041-0050, 603-041-0060, 603-041-0065, 603-041-0075

Last Date for Comment: 10-15-04, 5 p.m.

Summary: Proposed rule provides the process and standards for review of commodity commissions promotion and research programs and plans. Rules proposed for repeal no longer have statutory authority.

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

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Date: 9-22-04
Time: 10 a.m.
Location: Oregon Dept. of Agriculture
Salem, OR

Hearing Officer: Ron McKay

Stat. Auth.: ORS 596.020, 596.392 & 596.412; Other Auth.: ORS 596.190

Stats. Implemented: ORS 596.392

Proposed Adoptions: 603-011-0369, 603-011-0371, 603-011-0373, 603-011-0377, 603-011-0379, 603-011-0378

Proposed Amendments: 603-011-0367

Last Date for Comment: 9-22-04, 5 p.m.

Summary: These proposed rules allow Oregon to be compliant with a national agenda to eradicate scrapie from sheep flocks in the United States. They are consistent and compliant with that plan. They also clarify for sheep producers what happens when a scrapie flock is identified.

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

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

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

Date: 9-16-04
Time: 10:30 a.m.
Location: 1535 NW Edgewater St.
Salem, OR 97309

Hearing Officer: Richard J. Baumann

Stat. Auth.: ORS 455.030

Stats. Implemented: ORS 479.520 & 479.630

Proposed Adoptions: 918-030-0030

Last Date for Comment: 9-17-04, 5 p.m.

Summary: This rule is a housekeeping rule to clarify and capture existing policies, procedures and practices used by the division.

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

Rules Coordinator: Richard J. Baumann

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

Telephone: (503) 373-7559

Date: 9-16-04
Time: 11 a.m.
Location: 1535 NW Edgewater St.
Salem, OR 97309

Hearing Officer: Richard Baumann

Stat. Auth.: ORS 455.020, 455.030, 455.110, 455.144 & 455.610

Stats. Implemented: ORS 455.020, 455.030, 455.110, 455.144 & 455.610

Proposed Adoptions: 918-480-0002, 918-460-0016

Last Date for Comment: 9-17-04, 5 p.m.

Summary: **918-480-0002:** With the new requirements in ORS 455.610 the division is transitioning to a Low-Rise Residential

NOTICES OF PROPOSED RULEMAKING

Dwelling Code. This rule clarifies that the low-rise code will be known as the "Oregon Residential Specialty Code" (ORSC). The proposed effective date of the 2005 ORSC is April 1, 2005. In order to eliminate confusion, prior to April 1, 2005, any references to the ORSC shall mean the Oregon One- and Two-Family Dwelling Specialty Code.

918-460-0016: Construction regulation of townhouses and row-houses is split between two codes, the One- and Two-Family Dwelling Specialty Code and the 1998 Oregon Structural Specialty Code. The 2005 ORSC will regulate all construction of townhouses and rowhouses. In anticipation of 2005 ORSC, regulation over this type of construction was removed from the 2004 OSSC.

The 2004 OSSC becomes effective October 1, 2004 and the 2005 ORSC becomes effective until April 1, 2005. This leaves a gap in the codes for regulating this type of construction.

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

Rules Coordinator: Richard J. Baumann

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

Telephone: (503) 373-7559

Date: 9-16-04	Time: 9:30 a.m.	Location: 1535 NW Edgewater St. Salem, OR 97309
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Hearing Officer: Richard J. Baumann

Stat. Auth.: ORS 447.072, 447.076, 455.030, 455.040, 455.144, 455.154, 455.155, 455.560, 455.627, 455.844, 455.846, 479.540 & 479.570

Stats. Implemented: ORS 447.072, 447.076, 455.030, 455.040, 455.144, 455.154, 455.155, 455.560, 455.627, 455.844, 455.846, 479.540 & 479.570

Proposed Adoptions: 918-100-0065

Proposed Amendments: 918-100-0000, 918-100-0010, 918-100-0020, 918-100-0040, 918-100-0050, 918-100-0060, 918-309-0210, 918-780-0130, 918-780-0140

Proposed Repeals: 918-050-0500, 918-050-0510, 918-050-0520

Last Date for Comment: 9-17-04, 5 p.m.

Summary: These rules eliminate local jurisdictions ability to provide minor installation labels for commercial plumbing. The division administers two minor label programs. One program covers the Tri-County region (Multnomah, Clackamas, and Washington counties) and the other covers all jurisdictions except the Tri-County area. Both programs share identical rules covering scope of work, program administration, fees and other program features. Administering two programs creates confusion and additional paperwork for staff, collaborating jurisdictions, and for contractors who have to fill out multiple forms and pay various fees. The Legislature has directed the division to implement structural and mechanical minor label programs; this implementation would be simplified if applied to a pre-existing statewide minor label program.

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

Rules Coordinator: Richard J. Baumann

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

Telephone: (503) 373-7559

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

Date: 10-8-04	Time: 10 a.m.	Location: 350 Winter St. NE Labor & Industries Bldg. Conf. Rm. F Salem, OR
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Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 705.135, 656.726 & 656.612

Stats. Implemented: ORS 656.612 & 656.614

Proposed Amendments: 440-045-0020 - 440-045-0025

Last Date for Comment: 10-13-04

Summary: The Director shall adopt by rule the percentage amount to be levied on insurers, self-insured employers and self-insured employer groups, based on workers' compensation premiums, to meet the expenses of the department in carrying out its duties under ORS 656, ORS 654 and the Insurance Code. The assessment amount will be in effect from January 1, 2005 to December 31, 2005. It is also proposed that all self-insured employers as well as self-insured employer groups shall be assessed an additional percentage amount to fund the Self-Insured Employers Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve. The actual amounts proposed will be announced on or before October 7, 2004.

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

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

Rules Coordinator: Myrna Curzon

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

Telephone: (503) 378-4100

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135

Proposed Renumberings: 440-035-0060 to 441-925-0020, 440-035-0080 to 441-925-0040, 440-300-0040 to 441-930-0040, 440-300-0230 to 441-930-0230, 440-300-0280 to 441-930-0280, 440-300-0300 to 441-930-0300, 440-300-0320 to 441-930-0320, 440-300-0350 to 441-930-0350

Proposed Ren. & Amends: 440-035-0050 to 441-925-0010, 440-035-0070 to 441-925-0030, 440-200-0020 to 441-005-0010, 440-300-0010 to 441-930-0010, 440-300-0020 to 441-930-0020, 440-300-0030 to 441-930-0030, 440-300-0050 to 441-930-0050, 440-300-0060 to 441-930-0060, 440-300-0070 to 441-930-0070, 440-300-0200 to 441-930-0200, 440-300-0210 to 441-930-0210, 440-300-0220 to 441-930-0220, 440-300-0240 to 441-930-0240, 440-300-0250 to 441-930-0250, 440-300-0260 to 441-930-0260, 440-300-0270 to 441-930-0270, 440-300-0290 to 441-930-0290, 440-300-0310 to 441-930-0310, 440-300-0330 to 441-930-0330, 440-300-0340 to 441-930-0340, 440-300-0360 to 441-930-0360

Last Date for Comment: 9-23-04

Summary: These rules, concerning programs and functions administered by the Division of Finance and Corporate Securities, are being moved to OAR Chapter 441, where the rules concerning other programs administered by the Division of Finance and Corporate Securities are located. All amendments are non-substantive in nature. The amendments include correcting statutory and rule cross references, grammar or spelling, a web site address, and incorrect numbering, and deleting obsolete provisions.

Rules Coordinator: Myrna Curzon

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

Telephone: (503) 947-7866

Stat. Auth.: ORS 183.341 & 705.135

Stats. Implemented: ORS 183.335

Proposed Amendments: 440-001-0005

Last Date for Comment: 9-30-04

Summary: OAR Chapter 440, Division 001: Agencies are required to adopt rules of procedure which will provide a reasonable opportunity for interested persons to be notified of the agency's intention to adopt, amend or repeal a rule. The proposed amendment to OAR 440-001-0005 adopts the model rules of procedure as published in the most recent version of the Oregon Attorney General's

NOTICES OF PROPOSED RULEMAKING

Administrative Law Manual bearing the effective date of January 15, 2004.

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

Rules Coordinator: Myrna Curzon

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

Telephone: (503) 378-4100

Department of Consumer and Business Services, Insurance Division Chapter 836

Date:	Time:	Location:
9-23-04	1:30 p.m.	350 Winter St. NE Conf. Rm. F (Basement) Salem, OR

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 731.244 & 743.766

Stats. Implemented: ORS 743.766

Proposed Amendments: 836-053-0510

Last Date for Comment: 9-30-04

Summary: This rulemaking proposes to amend the Oregon Standard Health Statement, an exhibit to OAR 836-053-0510 rule, which is established to be used with applications for individual health benefit plans, in order to update and clarify the questions and other matters and to provide for conformance of its authorization provision to federal law, specifically to regulations adopted under the federal Health Insurance Portability and Accountability Act (HIPAA).

NOTE: Copies of the rule text and supporting documents are available on our internet website located at "oregoninsurance.org". If you do not have internet access, please contact Sue Munson for a hard copy (503-947-7272).

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

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

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

Date:	Time:	Location:
9-22-04	10 a.m.	350 Winter St. NE Labor and Industries Bldg. Rm. B (basement) Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.726(4) & 656.704; Other Auth.: ORS 183.335, OAR 137-001 & 436-001

Stats. Implemented: ORS 656 & ch. 657, OL 2003 (Senate Bill 757)

Proposed Amendments: Rules in 436-060

Last Date for Comment: 9-28-04

Summary: The agency proposes to amend these rules in part to implement changes in the law due to legislation passed by the 2003 Oregon Legislature. Senate Bill 757 changed the disability rating standards for claims with dates of injury on or after January 1, 2005. In accordance with the changes, these proposed rules (for dates of injury on or after 1/1/2005):

- Eliminate the distinction between scheduled and unscheduled permanent partial disability; and

- Require insurers to withhold payment of "work disability" if a worker becomes enrolled and actively engaged in training under ORS 656.340 and OAR 436-120.

In addition, these proposed rules:

- 436-060-0009(7) Require that requests to inspect or obtain copies of workers' compensation claim records include the reason for requesting the records;

- 436-060-0015(8) Require that prior to claim closure, the insurer send the worker a letter documenting the wage upon which benefits were based and work disability will be determined when the claim is closed. The letter must also explain how the worker can appeal the insurer's wage calculation under OAR 436-060-0025 or OAR chapter 438, if the worker disagrees with the wage;

- 436-060-0017(3) Require that for requests for an insurer's claim records, if the requester is someone other than the worker or the worker's representative, the requester must also copy the worker or the worker's representative with the request;

- 436-060-0017(10) Provide that if the Workers' Compensation Division is investigating rule violation complaints about release of requested claim documents, and an insurer provides an inadequate response to the division's request (e.g. failing to answer specific questions or provide requested documents), a civil penalty may be assessed against the insurer; this section formerly addressed only the timeliness of the response;

- 436-060-0018 Clarify procedures for the director's review of disabling/non-disabling status decisions and related appeal rights;

- 436-060-0035(4) Provide that the worker has 60 days to send to the insurer verifiable documentation of wages from another employer; otherwise, the insurer is to calculate time loss due based on the information on hand. If the worker sends the information after the 60 days, the insurer must recalculate what is due and pay it. However, the insurer is not then subject to penalties for late payment of supplemental disability;

- 436-060-0035(9) Provide that there is no three-day waiting period applicable to supplemental disability benefits;

- 436-060-0035(10) Provide that the worker's scheduled days off for the job at which the injury occurred are used to calculate and pay supplemental disability;

- 436-060-0035(23)-(25) Provide that in third party recoveries, supplemental disability paid from the Workers' Benefit Fund is considered part of the department's lien;

- 436-060-0135(6) Specify certain types of information that must be submitted by an insurer requesting suspension of benefits for failure to attend an insurer medical examination;

- 436-060-0140(10) Provide that if the attending physician did not agree with an insurer medical examination report, a related denial notice must include the division's Web site address and toll free Info-line for the worker's use in obtaining a brochure about Worker Requested Medical Examinations;

- 436-060-0147(6)-(7) Provide that the director may give the parties a list of appropriate physicians (for a Worker Requested Medical Examination); the parties may agree to one physician from the list or each party may eliminate one physician from the list;

- 436-060-0150(9) Provide that each temporary disability payment must be accompanied by an explanation of how the payment was calculated; and

- 436-060-0155(8) Provide that if the penalty order is appealed and later upheld, the penalty under this rule will be due on the date on which the order upholding the penalty becomes final.

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

Proposed rules are available on the Workers' Compensation Division's Web site: <http://www.cbs.state.or.us/external/wcd/policy/rules/rules.html#proprules> or from WCD Publications at 503-947-7627 or fax 503-947-7630.

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

Rules Coordinator: Fred Bruyns

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

Telephone: (503) 947-7717

NOTICES OF PROPOSED RULEMAKING

Department of Corrections Chapter 291

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075

Proposed Adoptions: 291-180-0101 - 291-180-0630

Proposed Repeals: 291-180-0060, 291-180-0065, 291-180-0070, 291-180-0071, 291-180-0072, 291-180-0073, 291-180-0075, 291-180-0080, 291-180-0085, 291-180-0090, 291-180-0095

Last Date for Comment: 10-1-04

Summary: These rule modifications are necessary to bring Oregon into compliance with the Interstate Compact for Adult Offender Supervision as required by ORS 144.600. The national commission overseeing this new compact has promulgated new rules to regulate the movement of probationers and parolees between states. These rules implement those national rules in Oregon and prescribe how interstate movement of offenders will occur.

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:
9-17-04	3 p.m.	811 SW Sixth Ave. Rm. 3A Portland, OR

Hearing Officer: Gregg Dahmen

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468A.025

Proposed Amendments: 340-200-0020, 340-200-0040, 340-218-0080, 340-230-0030, 340-230-0410, 340-238-0040, 340-238-0060, 340-244-0030, 340-244-0040, 340-244-0120, 340-244-0210, 340-244-0220, 340-244-0230

Last Date for Comment: 9-24-04

Summary: The Oregon Department of Environmental Quality (DEQ) is proposing that the EQC adopt by reference recent revisions to the National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS). DEQ also proposes that the EQC adopt amendments made to the federal Title V permitting regulations. Adoption by the EQC will ensure that Oregon remains consistent with the federal requirements.

To submit comments or request additional information, please contact Jerry Ebersole at the Department of Environmental Quality (DEQ), 811 SW Sixth Avenue, Portland, OR 97204, toll free in Oregon at 800-452-4011 or 503-229-6974, EBERSOLE.Gerald@deq.state.or.us, 503-229-5675 (fax), or visit DEQ's website //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:
10-15-04	8 a.m.	1300 NW Wall St. Bend, OR

Hearing Officer: Oregon Fish & Wildlife Commission

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

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

Proposed Amendments: Rules in 635-008, 635-043, 635-044, 635-045, 635-060, 635-065, 635-066, 635-067, 635-068, 635-069, 635-070, 635-071, 635-072, 635-073, 635-075, 635-078, 635-080

Last Date for Comment: 10-15-04

Summary: Establish 2005 hunting regulations for game mammals, including season dates, open areas, locations of cooperative travel management areas, wildlife areas, and other rules including general hunting and controlled hunt regulations. Specific rule changes include: changes to cougar quotas; set 2005 spring bear controlled tag numbers.

Modifications in rules governing the Bighorn Sheep, Pronghorn Antelope, and Rocky Mountain Goat Raffle Tags and Bighorn Sheep and Pronghorn Antelope Auction Tags will be made.

Rules will be amended pertaining to permanent disabilities permit and Columbian white-tailed deer issues.

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) 947-6044

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

Date:	Time:	Location:
9-17-04	10:30 a.m.-12 p.m.	500 Summer St. NE Rm. 137 B Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-121-0040

Last Date for Comment: 9-17-04, 12 p.m.

Summary: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. OMAP will revise OAR 410-121-0040 to remove the prior authorization requirement from over-the-counter (OTC) drugs and drugs that have a reimbursement cost less than the prior authorization (PA) process fee. PA may be required on these two groups if OMAP determines there is a drug safety issue.

**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:
9-17-04	10:30 a.m.-12 p.m.	500 Summer St. NE HR 137B Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: 414.065

Proposed Amendments: 410-120-1390

Last Date for Comment: 9-17-04, 12 p.m.

Summary: The General Rules program governs the Office of Medical Assistance Programs' (OMAP) payments for products and services provided to clients. Rule 410-120-1390 will be permanently amended to describe premium sponsorship, provider related donations as premium sponsorship, and the conditions under which OMAP shall accept or decline premium sponsorship. This rule requires provider compliance with federal anti-kickback statutes related to premium sponsorship.

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

NOTICES OF PROPOSED RULEMAKING

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:
9-17-04	10:30 a.m.–12 p.m.	500 Summer St. NE Rm. 137B Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.110 & 409.010
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-122-0202, 410-122-0210
Last Date for Comment: 9-17-04, 12 p.m.

Summary: The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) program administrative rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. OMAP will amend rules 410-122-0202 and 410-122-0210 to allow for dispensing of ventilators, continuous positive airway pressure systems (CPAP's), and related supplies and equipment without prior authorization and to reformat the rule, clarify language and to take care of necessary "housekeeping" corrections.
**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:
9-17-04	10:30 a.m.–12 p.m.	500 Summer St. NE Rm. 137B Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.110 & 409.010
Stats. Implemented: ORS 414.065
Proposed Repeals: 410-130-0165
Last Date for Comment: 9-17-04, 12 p.m.

Summary: The Medical-Surgical Services Program Rules govern the Office of Medical Assistance Programs' (OMAP) payment for services provided to clients. OMAP eliminated Oregon Health Plan (OHP) Standard copayments effective June 19, 2004 pursuant to *Spry, et al. v. Thompson, et al.*, court order, therefore, OAR 410-130-0165 is now invalid and will be repealed.
**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:
9-27-04	1:45 p.m.	500 Summer St. NE Rm. 137A Salem, OR

Hearing Officer: Lori Nelson
Stat. Auth.: ORS 409.050; Other Auth.: Sec. 504 of the Rehabilitation Act of 1973 (504) as amended, and by the Americans with Disabilities Act of 1990 (ADA)
Stats. Implemented:
Proposed Adoptions: 410-001-0300, 410-001-0310, 410-001-0320, 410-001-0330, 410-001-0340, 410-001-0350
Last Date for Comment: 9-27-04, 5 p.m.
Summary: Establishing civil rights policy for clients, client applicants and members of the public with disabilities.

These rules establish a Department policy of civil rights for clients, client applicants and members of the public with disabilities. It establishes a non-discrimination policy in accordance with the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973. In addition, the rules establish Department policy for communication and accessibility for clients, client applicants and the public. The intent and content of the rules is to mirror existing Federal civil rights laws and to strengthen the practice of these laws by creating one Department wide policy.

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

Rules Coordinator: Pat F. Bougher
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E22, Salem, OR 97301-1097
Telephone: (503) 945-5844

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Date:	Time:	Location:
9-17-04	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 414.743
Proposed Amendments: 410-120-1295
Last Date for Comment: 9-17-04, 12 p.m.

Summary: The General Rules administrative rules govern the Office of Medical Assistance Programs' payment for services rendered to clients. Due to a statutory change made by HB 2511 section 16 and HB 3624 section 12, during the 2003 legislative session, OMAP will amend 410-120-1295 to reflect a change in how FCHPs will reimburse non-contracted hospital.
**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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Department of Human Services, Public Health Chapter 333

Date:	Time:	Location:
9-22-04	10 a.m.	800 NE Oregon St. Rm. 120B Portland, OR 97232

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 431 & 448
Stats. Implemented: ORS 431.110, 431.150, 448.115, 448.123, 448.150, 448.23, 448.280 & 448.407
Proposed Amendments: 333-061-0010, 333-061-0020, 333-061-0030, 333-061-0032, 333-061-0034, 333-061-0036, 333-061-0040, 333-061-0043, 333-061-0050, 333-061-0058, 333-061-0060, 333-061-0064, 333-061-0090, 333-061-0097, 333-061-0205, 333-061-0210, 333-061-0215, 333-061-0220, 333-061-0225, 333-061-0228, 333-061-0230, 333-061-0235, 333-061-0245, 333-061-0250, 333-061-0260, 333-061-0265, 333-061-0270, 333-061-0290
Last Date for Comment: 9-22-04, 5 p.m.

Summary: The proposed changes to the Public Water System/Water Personnel Certification rules above primarily amend the maximum contaminant level (MCL) and monitoring requirements for arsenic that will become effective on January 23, 2006. Also included in these revisions are housekeeping and clarification changes relating to public water system exclusion criteria, chemical MCL compliance, disinfection by products (DBP) reporting/record keeping requirements for disinfection profiling/benchmarking, turbidity monitoring, groundwater under the direct influence of surface water (GWUDI)

NOTICES OF PROPOSED RULEMAKING

determination criteria, volatile organic chemicals/synthetic organic chemicals (VOC/SOC) area-wide waiver criteria, coliform sampling plans, best available treatment technologies for arsenic, and Emergency Response Planning. Water Personnel Certification rules have been reordered with numerous clarifications and housekeeping changes, including changing "Small Groundwater" systems to "Small Water" systems to include small water systems under 150 connections that purchase water without adding any treatment.

**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

Date:	Time:	Location:
9-28-04	9 a.m.	800 NE Oregon St. Rm. 120C Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 624.100 & 446.330

Stats. Implemented: ORS 624.100 & 446.330

Proposed Amendments: 333-029-0015, 333-029-0050, 333-029-0075, 333-030-0015, 333-030-0040, 333-030-0045, 333-030-0050, 333-030-0080, 333-030-0085, 333-030-0120, 333-031-0002, 333-031-0004, 333-031-0006, 333-031-0010, 333-031-0012, 333-031-0018, 333-031-0066, 333-150-0000

Last Date for Comment: 9-28-04, 5 p.m.

Summary: The Department of Human Services (DHS) is proposing rule amendments to set standards for small licensed facility drinking water systems not subject to Drinking Water Section regulations. The Drinking Water Section no longer regulates water systems of very small licensed facilities, yet these facilities are still required to provide an approved drinking water supply. These rules will set standards to allow these facilities to comply with the Food Sanitation Rules; Travelers' Accommodation Rules; Organizational Camp Rules; and Construction, Operation, and Maintenance of Recreation Parks Rules requirements for an approved water system. These small systems will be required to meet the standards for Transient systems, which is similar to the standards that they previously operated under.

DHS is also proposing to adopt standards for granting variances to the Food Sanitation Rules. The current rules allow for variances, but our Assistant Attorney General advised us that the variance process must be spelled out in rule. This rule amendment addresses this concern.

DHS is also proposing to update the references to other rules and codes in the Traveler's Accommodation Rules; Organizational Camp Rules; and the Construction, Operation, and Maintenance of Recreation Park Rules. The updates reference the current applicable rule or code, with language added to allow continuing compliance of existing facilities where applicable.

**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

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

Date:	Time:	Location:
9-24-04	9 a.m.	HSB 500 Summer St. NE Rm. 137 D Salem, OR

Hearing Officer: Lynda Dyer

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410

Proposed Amendments: 411-048-0000, 411-048-0010, 411-048-0020, 411-048-0030, 411-048-0040, 411-048-0050, 411-048-0060, 411-048-0070, 411-048-0080, 411-048-0100, 411-048-0120

Proposed Repeals: 411-048-0110

Proposed Ren. & Amends: 411-048-0090 to 411-048-0130

Last Date for Comment: 9-24-04

Summary: Chapter 411, Division 048, Contract RN Service rules are proposed for permanent amendment to incorporate the following changes:

A) Updates the rule language to be consistent with current DHS standards and practices, including reference to HIPPA requirements.

B) Conforms with changes that have been made to Oregon State Board of Nursing administrative rules, Chapter 851, Division 47.

C) Eliminates redundancies that were found throughout the division rules.

D) Conforms with changes that have been made to Medicaid Requirements regarding records retention.

E) Includes Developmental Disability clients as among those eligible for services providing they meet other eligibility criteria.

F) Updates compensations and billing guidelines due to new billing process.

G) Amends and renumbers rule 411-048-0090 to rule 411-048-0130

H) Repeals 411-048-0110.

I) Provides for general housekeeping.

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

Rules Coordinator: Lynda Dyer

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

Telephone: (503) 945-6398

Department of Justice Chapter 137

Date:	Time:	Location:
9-28-04	5:30 p.m.	Multnomah Co. Building Commissioner's Board Rm. 501 SE Hawthorne Portland, OR
10-4-04	5:30 p.m.	Community Justice Bldg. 1101 West Main St. Medford, OR
10-5-04	5:30 p.m.	Eugene City Hall Council Chamber 777 Pearl St. Eugene, OR
10-11-04	5:30 p.m.	Umatilla Co. Justice Center Media Rm. 4700 NW Pioneer Place Pendleton, OR
10-12-04	5:30 p.m.	Bend Community Center Main Hall 1036 NE 5th St. Bend, OR

Hearing Officer: Valerie Smith

Stat. Auth.: ORS 180.700 2001 (OL, Ch. 634 (Senate Bill 81))

Stats. Implemented: ORS 180.700 2001 (OL, Ch. 634 (Senate Bill 81))

Proposed Adoptions: Rules in 137-087

Last Date for Comment: 10-12-04

Summary: The proposed rulemaking establishes statewide standards for batterer intervention programs for services provided to batterers as defined in the proposed rules. The proposed rules create a Division (87) within 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

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 18.225, 25.020, 25.260, 25.287, 25.325, 25.329, 25.396, 25.427, 25.610, 107.135, 180.320-360, 180.380, 416.422, 416.448 & 416.455

Stats. Implemented: ORS 18.225-238, 18.645, 25.020, 25.080, 25.150, 25.164, 25.167, 25.260, 25.265, 25.287, 25.325, 25.329, 25.396, 25.414, 25.610, 25.650, 107.108, 107.135, 108.110, 109.100, 109.103, 127.005, 411.320, 416.400-470, 419B.400 & 419C.590

Proposed Adoptions: 137-055-1145, 137-055-3665

Proposed Amendments: 137-055-1060, 137-055-1140, 137-055-1160, 137-055-1360, 137-055-3060, 137-055-3200, 137-055-3300, 137-055-3360, 137-055-3410, 137-055-3440, 137-055-4120, 137-055-4560, 137-055-5120, 137-055-5220, 137-055-6020

Last Date for Comment: 9-27-04

Summary: An additional change to proposed OAR 137-055-1145, originally included in the division's January 15, 2004, notice of rule-making is being made to subsection (3) of the rule to reflect the process other agencies must use to obtain access to child support records. The proposed amendment to OAR 137-055-1060 is to remove the requirement of a cover letter with the application form. The to OAR 137-055-1140 allows an employee to release case information to a local law enforcement agency under certain circumstances. The change to OAR 137-055-1160 is to clarify when a court has made a finding of a claim of risk. The proposed amendment to OAR 137-055-1360 clarifies to whom a court may disclose FPLS information to. The proposed amendment to OAR 137-055-3060 is to clarify that the administrator will not establish a case if the father is not located. The proposed amendment to OAR 137-055-3200 makes minor wording changes. The proposed amendment to OAR 137-055-3300 is to clarify that the administrator will initiate an action on a case 61 days after an obligor is released from incarceration. The proposed amendment to OAR 137-055-3360 is to clarify when an administrative order must be entered in the circuit court. The proposed amendment to OAR 137-055-3410 is to clarify when a child is with DHS or OYA a contingency order may be taken. The proposed amendment to OAR 137-055-3440 adds the word "last" to nonrequesting party. The proposed amendment to OAR 137-055-3665 is to clarify how the administrator will handle cases that have multiple obligees. The proposed amendment to OAR 137-055-4120 is to clarify that EPW is allowed when the child is in the custody of DHS. The proposed amendment to OAR 137-055-4560 adds the process of contesting a balance submitted to a consumer reporting agency at any time. The proposed amendment to OAR 137-055-5120 clarifies when the administrator will resume accounting functions. The proposed amendment to OAR 137-055-5220 adds the word "award" for clarification. The proposed amendment to OAR 137-055-6020 clarifies that the state tax refund intercept payment will be applied to assigned current support.

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

Rules Coordinator: Shawn Irish

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

Telephone: (503) 986-6240

.....
Department of Revenue
Chapter 150

Date: 11-30-04 **Time:** 10 a.m. **Location:** 955 Center St. NE
Salem, OR 97301

Hearing Officer: Dave Zerbe

Stat. Auth.: ORS 305.100 & 305.220(3)(a)

Stats. Implemented: ORS 305.220

Proposed Amendments: 150-305.220(1), 150-305.220(2)

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

Summary: Persons wishing to provide testimony at the hearing will need to sign-up prior to the hearing. A sign-up sheet will be avail-

able at 9:45 AM on November 30, 2004 in the Fishbowl conference room.

These rules are being amended to adjust the interest rate charged on deficiencies and paid on refunds by the Department of Revenue. **Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Xann-Marie Culver

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

Telephone: (503) 947-2099

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Department of Transportation,
Highway Division
Chapter 734

Date: 9-30-04 **Time:** 9:30 a.m.* **Location:** 301 Otter Crest Loop
Inn at Otter Crest
Flying Dutchman Convention Ctr.
Compass & Chart Rms.
Otter Rock, OR

Hearing Officer: Stuart Foster

Stat. Auth.: ORS 184.616, 184.619, 810.180 & 811.111

Stats. Implemented: ORS 810.180 & 811.111

Proposed Adoptions: 734-020-0011

Last Date for Comment: 9-30-04*

Summary: This proposed rule establishes the location of speed zones on Oregon interstates that are different from the speeds established under ORS 810.180 and ORS 811.111. The legislature by the passage of House Bill 2661 in 2003 intended ODOT to review the Oregon interstates considering the established speeds under ORS 810.180 and ORS 811.111, for purposes of determining, based on appropriate studies, whether those speeds may be increased or decreased. Pursuant to that intent, the Governor directed ODOT to undertake traffic and engineering studies and determine if speeds may be designated as set forth in the proposed rule. An engineering investigation indicates that in most areas where the speed is currently set at 65 MPH for cars and 55 MPH for trucks, the posted speed limits on Oregon's rural interstate highways could be set at 70 MPH for cars and 60 MPH for trucks. However, HB 2661 requires the department to establish a 65 MPH speed limit for trucks if car speed limits are raised to 70 MPH. The speeds in OAR 734-020-0011 are proposed as authorized by ORS 810.180(3) and in accordance with the procedure for establishing speed zones by rule on interstate highways established in OAR 734-020-0010.

***NOTE:** The hearing is being held at the Oregon Transportation Commission meeting, which begins at 9:30 a.m. We anticipate the rule hearing will be an early item on the agenda. The public comment period closes at the close of the hearing on this rulemaking.

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, Highway Division, 1905 Lana Ave. NE, Salem, OR 97314

Telephone: (503) 945-5278

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Department of Veterans' Affairs
Chapter 274

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

Stats. Implemented: ORS 407.325 & 407.327

Proposed Amendments: 274-020-0341

Proposed Repeals: 274-020-0341(T)

Last Date for Comment: 9-21-04

Summary: This rule replaces and supersedes the Temporary Rule 274-020-0341(T) filed on August 5, 2004, and effective August 6, 2004 through October 4, 2004.

NOTICES OF PROPOSED RULEMAKING

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 6, 2004, shall have the interest rate of 5.5 percent with an origination fee of 1.0 percent or 5.375 percent with an origination fee of 1.5 percent.

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

Rules Coordinator: Herbert D. Riley

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

Telephone: (503) 373-2055

Landscape Contractors Board Chapter 808

Date:	Time:	Location:
9-17-04	10 a.m.	Red Lion Hotel 1313 N Bayshore Dr. Coos Bay, OR

Hearing Officer: Paul Ries

Stat. Auth.: ORS 671

Stats. Implemented: ORS 671.670

Proposed Adoptions: 808-003-0220

Proposed Amendments: 808-001-0020, 808-003-0070, 808-003-0130

Proposed Repeals: 808-001-0020(T)

Last Date for Comment: 9-17-04

Summary: 808-001-0020 - Allows charge for new brochure and DVD and allows charge for checks returned by bank

808-003-0070 - Clarifies applicants must wait two weeks after reviewing any section of the exam to retake any section of the exam

808-003-0130 - Allows waiver of fee for failure to show for a scheduled examination appointment for good cause

808-003-0220 - Allows licensee to voluntarily surrender license

**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

Mortuary and Cemetery Board Chapter 830

Date:	Time:	Location:
9-15-04	10 a.m.	800 NE Oregon St. Suite 445 Portland OR 97232

Hearing Officer: David Koach

Stat. Auth.: ORS 692.160, 692.320 & 97.931

Stats. Implemented: ORS 692.160 & 97.931

Proposed Amendments: 830-020-0040

Last Date for Comment: 9-15-04

Summary: The proposed rules implement certain license fee increases, including the fees for: funeral establishment, immediate disposition company, cemetery and crematory renewal; licensed facility location change; initial licensed facility application; reciprocal funeral service practitioner and embalmer application; initial preneed salesperson application; individual funeral service practitioner and embalmer renewal; and, combination funeral service practitioner/embalmer renewal.

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

Rules Coordinator: David Koach

Address: Mortuary and Cemetery Board, 800 NE Oregon St., Suite 430, Portland, OR 97232

Telephone: (503) 731-4040, ext. 22

Office of Energy Chapter 330

Date:	Time:	Location:
10-12-04	10 a.m.	Oregon Department of Energy Rm. C/D Salem, OR

Hearing Officer: Suzanne Dillard

Stat. Auth.: ORS 469.040, 469.673 & 469.710

Stats. Implemented: ORS 469.673 & 469.710

Proposed Amendments: Rules in 330-060, 330-061

Proposed Repeals: Rules in 330-060

Last Date for Comment: 10-15-04

Summary: The purposes of the proposed rule changes are to:

1. Continue State Home Oil Weatherization (SHOW) program rebates for certain energy conservation measures, although rebates for certain measures may be reduced if applications for rebates are likely to exceed the funding allocated; and

2. Repeal the requirement for an on-site energy audit, while continuing to allow customers and contractors knowledgeable about energy efficiency to complete the energy audit.

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

Rules Coordinator: Kathy Stuttaford

Address: Office of Energy, 625 Marion St. NE, Salem, OR 97301-3737

Telephone: (503) 378-4128

Oregon Department of Education Chapter 581

Date:	Time:	Location:
9-21-04	3 p.m.	Public Services Bldg. Rm. 251 A Salem, OR

Hearing Officer: Mike Reed

Stat. Auth.: ORS 337.050

Stats. Implemented: ORS 337.050

Proposed Amendments: 581-011-0072

Last Date for Comment: 9-21-04

Summary: Adoption of Instructional materials as specified in ORS 337.050 is done through the administrative rule making process. The amendment of OAR 581-011-0072 will add to the reference list programs in the Social Sciences in the following categories:

- 1) Social Sciences - Grades K-5/6
- 2) Social Sciences - Grades 6-8
- 3) Civics - Grades 9-12
- 4) Economics - Grades 9-12
- 5) Geography - Grades 9-12
- 6) U.S. History - Grades 9-12
- 7) World History - Grades 9-12

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

Rules Coordinator: Debbie Ryan

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

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

Oregon Liquor Control Commission Chapter 845

Date:	Time:	Location:
9-22-04	10 a.m.-12 p.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Katie Hilton

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

Stats. Implemented: ORS 471.757

Proposed Amendments: 845-005-0312

Last Date for Comment: 10-6-04

Summary: This rule describes the documents which license applicants must submit as part of their application for a liquor license.

NOTICES OF PROPOSED RULEMAKING

Current rule language requires applicants to submit Individual History forms for all principal managers. Staff proposes to amend the rule to clarify the definition of a premises manager, and to define when the Commission will require applicants to submit an Individual History for their manager(s). Staff proposes rule language which will require manager Histories when the applicant is inexperienced, when the applicant will not personally manage the business, and when the applicant's premises has a history of problems or is located in a problem area.

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

Rules Coordinator: Katie Hilton

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

Telephone: (503) 872-5004

**Oregon Public Employees Retirement System
Chapter 459**

Date:	Time:	Location:
9-14-04	1:30 p.m.	11410 SW 68th Pkwy. Boardroom, PERS Headquarters Tigard, OR

Hearing Officer: Holly Hayes

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238

Proposed Amendments: 459-007-0530

Last Date for Comment: 10-29-04

Summary: The 2003 Oregon Legislature enacted HB 3020 and HB 3659 to amend ORS 238.225. These bills created special earnings crediting rules for "employer lump sum payments." OAR 459-007-0530 needs to be amended to accurately describe the new crediting practice.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.pers.state.or.us/>. Public comment may be mailed to the above address or sent via email to holly.v.hayes@state.or.us.

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

Rules Coordinator: Holly Hayes

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

Telephone: (503) 431-8904

Date:	Time:	Location:
9-21-04	2 p.m.	11410 SW 68th Pkwy. Boardroom, PERS Headquarters Tigard, OR
9-28-04	2 p.m.	800 Summer St. NE Archives Bldg. Conf. Rm. Salem, OR

Hearing Officer: David Martin

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238

Proposed Adoptions: 459-010-0003

Last Date for Comment: 11-19-04

Summary: A new rule is needed to clarify how a public employee becomes eligible for PERS Chapter 238 membership. Proposed OAR 459-010-0003 defines terms and addresses issues such as how one becomes and remains an active member and what kind of year ought to be used for purposes of determining membership eligibility.

A copy of the proposed rule is available to any person upon request. It is also available at http://www.pers.state.or.us. Public comment may be mailed to the above address or sent via email to holly.v.hayes@state.or.us.

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

Rules Coordinator: Holly Hayes

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

Telephone: (503) 431-8904

Date:	Time:	Location:
9-15-04	10 a.m.	11410 SW 68th Pkwy. Boardroom, PERS Headquarters Tigard, OR

Hearing Officer: Holly Hayes

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238

Proposed Amendments: 459-007-0220, 459-007-0230, 459-007-0240, 459-007-0250, 459-007-0260, 459-007-0270, 459-007-0290

Proposed Repeals: 459-007-0280

Last Date for Comment: 10-29-04

Summary: The 2003 Oregon Legislature enacted several changes that affected earnings crediting for Tier One members. The PERS Board previously adopted changes to its administrative rules that incorporated those statutory changes. In that process the Board made some policy choices while the rules were open for refinement and updating. The Board now proposes to apply those policies to the Tier Two earnings crediting rules as well.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.pers.state.or.us/>. Public comment may be mailed to the above address or sent via email to holly.v.hayes@state.or.us.

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

Rules Coordinator: Holly Hayes

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

Telephone: (503) 431-8904

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238

Proposed Amendments: 459-005-0210

Last Date for Comment: 9-15-04

Summary: This rule is being amended to allow PERS to accept all notarized documents via fax and to set forth requirements for faxing and e-mailing documents to PERS.

A copy of the proposed rule modification is available to any person upon request. It is also available at http://www.pers.state.or.us. Public comment may be mailed to the above address or sent via email to holly.v.hayes@state.or.us.

Rules Coordinator: Holly Hayes

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

Telephone: (503) 431-8904

**Oregon Student Assistance Commission,
Office of Degree Authorization
Chapter 583**

Date:	Time:	Location:
9-17-04	11 a.m.	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: 583-050

Last Date for Comment: 9-17-04

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

NOTICES OF PROPOSED RULEMAKING

Address: Student Assistance Commission, Office of Degree Authorization, 1500 Valley River Dr. #100, Eugene, OR 97401
Telephone: (541) 687-7409

Date:	Time:	Location:
9-17-04	10:30 a.m.	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: 9-17-04

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

**Oregon University System
Chapter 580**

Date:	Time:	Location:
9-15-04	9-11 a.m.	1431 Johnson Ln. Rm. 358 Eugene, OR

Hearing Officer: Marcia Stuart
Stat. Auth.: ORS 351.070; Other Auth.: OAR 280-020-0100(5), 580-021-0040 & State Policy 60.000.01 Sick Leave with Pay
Stats. Implemented: ORS 351.070 & 240.546
Proposed Adoptions: 580-021-0041
Last Date for Comment: 9-20-04

Summary: OAR 580-021-0041 permits employees of the Oregon University System (OUS) transfer accumulated, unused sick leave balances to other state agencies, provided the hire date is within two years of separation of service from one of the institutions of the OUS. Hiring entities considered to be "state agencies" for purpose of this rule are defined.

**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 Youth Authority
Chapter 416**

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 419C.481, 419C.550, 419C.555, 419C.558, 420A.010 & 420A.892
Proposed Adoptions: 416-500-0000, 416-500-0010, 416-500-0020, 416-500-0030, 416-500-0040, 416-500-0050
Last Date for Comment: 9-24-04

Summary: This rule defines the standards for recreational activities provided by care providers to offenders in OYA custody on supervision status in the community. 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
Telephone: (503) 378-3864

**Public Utility Commission
Chapter 860**

Stat. Auth.: ORS 183, 756 & 759
Stats. Implemented: ORS 756.040 & 756.105
Proposed Amendments: 860-027-0120, 860-034-0580
Last Date for Comment: 9-21-04

Summary: The Commission currently requires incumbent local exchange carriers to follow the Federal Communications Commission's (FCC) October 1998 version for preservation of records. Staff's proposal would adopt the FCC's most recent version dated October 2003. The primary change is the addition of \$42.10, Public Availability of Information Concerning Interexchange Services.

Rules Coordinator: Lauri Salsbury
Address: Public Utility Commission of Oregon, 550 Capitol St. NE, Suite 215, Salem, OR 97301-2551
Telephone: (503) 378-4372

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: 9-21-04
Summary: The code of conduct rules (OAR 860-038-0500 through 860-038-0640) are summarized in OAR 860-038-0500, Code of Conduct of 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 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.

Rules Coordinator: Lauri Salsbury
Address: Public Utility Commission of Oregon, 550 Capitol St. NE, Suite 215, Salem, OR 97301-2551
Telephone: (503) 378-4372

**Travel Information Council
Chapter 733**

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Proposed Amendments: Rules in 733-030
Last Date for Comment: 9-30-04

Summary: The Travel Information Council held a quarterly meeting on July 16, 2004. The Council proposed rule changes to allow food facilities that have two distinct brand name restaurants in one building to display the logos of both food services on one food logo plaque. Permit fees will be 1/3 the rate for a regular food logo in that area.

Rules Coordinator: Angela Willhite
Address: Travel Information Council, 229 Madrona Ave. SE, Salem, OR 97302
Telephone: (503) 378-4508

ADMINISTRATIVE RULES

Board of Geologist Examiners Chapter 809

Adm. Order No.: BGE 6-2004

Filed with Sec. of State: 8-5-2004

Certified to be Effective: 8-5-04

Notice Publication Date: 7-1-04

Rules Amended: 809-010-0001

Subject: The Board is adding a \$25.00 fee for maintaining files and processing paperwork in verifying passing scores to other states on national examinations for candidates that are not registered with the Oregon Board.

Rules Coordinator: Susanna R. Knight—(503) 566-2837

809-010-0001

Fees

Fees, as established by the Board of Geologist Examiners, are:

(1) Fundamental Section of the national examination for Geologist registration — \$125.

(2) Practice Section of the national examination for Geologist certification — \$150.

(3) Examination for Engineering Geologist certification — \$200.00.

(4) Oregon Specific Examination — \$50.

(5) Geologist-in-Training initial registration and annual renewal — \$25.00.

(6) Geologist initial registration and annual renewal — \$75.00.

(7) Engineering Geologist initial certification and annual renewal — \$50.00. Engineering Geologist must have a current Geologist Registration.

(8) Duplicate or replacement of lost, destroyed, or mutilated registration card — \$3; duplicate or replacement of lost, destroyed, or mutilated wall certificate — \$25.00.

(9) Restoration fee if postmarked:

(a) One to ninety days after due date: \$10;

(b) Ninety-one to one-hundred seventy-nine days after due date: \$50;

(c) Over one-hundred seventy-nine days after due date: \$100.

(10) Renewal of registration by Geologist, if applicant is 70 years of age or over by renewal date — \$10.

(11) Renewal of certification by Engineering Geologist, if applicant is 70 years of age or over by renewal date — \$10.

(12) Application Fee — \$50.00. This fee is to accompany any application for registration or examination and any reapplication after one year since previous examination.

(13) Temporary Permit Fee — \$50.00. This fee is to accompany any notification per 672.545(3)(b).

(14) File Maintenance Fee: \$25.00 per request. This fee is to cover maintaining examination files for passing examinees who decline to register in Oregon. Required prior to releasing verification of passing ASBOG exams.

Stat. Auth.: ORS 182.466, ORS 670.310 & ORS 672.705

Stats. Implemented: ORS 672.705

Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 2-1979, f. 10-2-79, ef. 10-3-79; GE 1-1981, f. & ef. 8-3-81; GE 1-1982, f. & ef. 5-14-82; GE 2-1983(Temp), f. 10-14-83, ef. 11-1-83; GE 1-1984, f. & ef. 2-1-84; GE 1-1985, f. & ef. 7-1-85; GE 2-1986, f. & ef. 3-5-86; GE 1-1989, f. 12-18-89, cert. ef. 1-1-90; GE 1-1993(Temp), f. 3-1-93, cert. ef. 3-2-93; GE 2-199; GE 2-1996, f. & cert. ef. 8-30-96; BGE 1-1999, f. & cert. ef. 6-17-99; BGE 2-2001, f. & cert. ef. 3-23-01; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 3-2002, f. & cert. ef. 7-9-02; BGE 6-2004, f. & cert. ef. 8-5-04

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Adm. Order No.: BGE 7-2004

Filed with Sec. of State: 8-5-2004

Certified to be Effective: 8-5-04

Notice Publication Date: 7-1-04

Rules Amended: 809-030-0015

Subject: This rule identifies the standards required of applicants. In addition to minor grammatical changes, the revision of the rule allows for evaluating the experience outside of teaching and administration of university professors that may wish to become Registered Geologists. The rule revision allows for research and publication to be considered as experience toward the required years.

Rules Coordinator: Susanna R. Knight—(503) 566-2837

809-030-0015

Qualifications for Geologist Practice Examination

(1) To qualify to take the geologist examination, an applicant must have a minimum of seven years of geology experience computed as follows:

(a) Two years of experience are granted for an undergraduate degree in geology or a related geological science; or two years of experience are granted to applicants without a degree who have a minimum of 45 quarter hours including 36 upper division or graduate course hours leading to a geology major. These two years' experience must be included in the seven-year minimum.

(b) One year of experience, up to a maximum of three years, is granted for each year of graduate study in geology or a related geological science.

(c) Credit shall not exceed four years for the undergraduate geology or geological science degree or specific coursework plus graduate study.

(d) One year of experience is granted for each year spent working under the supervision of a registered geologist; however, a minimum of three years of such experience must be completed before any credit is granted.

(e) One year of experience is granted for each year spent in responsible charge; however, a minimum of five years in responsible charge must be completed before any credit is granted.

(f) Geology faculty may acquire the seven years experience in accordance with the following criteria:

(A) Meet the requirements of OAR 809-030-0015(1)(a); and

(B) Five years experience is granted for geologic work conducted in responsible charge as professional faculty activities conducted other than teaching or administrative duties. Such duties may include, but are not limited to, the following:

(i) geologic report preparation;

(ii) publication and the preparation for publication of published geologic work;

(iii) geologic field or laboratory data collection; or

(iv) geologic data analysis or interpretation.

(C) Geologic experience must be documented and calculated as a percentage of non-teaching full-time experience such as follows:

(i) experience documented by the preparation of geology reports or publications; and

(ii) geologic experience verified by the Board.

(D) Post-baccalaureate research in geology or a related geological science may be granted for in responsible charge experience, at the discretion of the Board.

(g) Duplicate credit will not be given for experience and education gained concurrently.

(h) Experience of less than one month will not be recognized.

(2) Applicants for the geologist practice examination must:

(a) Be registered as a GIT in Oregon; or

(b) Apply to take the ASBOG fundamental examination on the same day; or

(c) Provide to the Board proof of having passed the ASBOG fundamental examination.

Stat. Auth.: ORS 183, 192, 670.310 & 672.555

Stats. Implemented: ORS 672.555

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 1-1992, f. & cert. ef. 6-10-92; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 7-2004, f. & cert. ef. 8-5-04

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Adm. Order No.: BGE 8-2004

Filed with Sec. of State: 8-5-2004

Certified to be Effective: 8-5-04

Notice Publication Date: 7-1-04

Rules Amended: 809-050-0000

Subject: Due to the increased use of electronic distribution of geologic documents in today's society, this rule allows for the use of an electronic stamp on geology documents when those documents are submitted electronically.

Rules Coordinator: Susanna R. Knight—(503) 566-2837

809-050-0000

Facsimile of Stamp

Every registered geologist and/or certified specialty geologist shall use a stamp, including its electronic image, bearing the name of registrant, the certificate number and the words "Registered Geologist" or "Certified Engineering Geologist". A facsimile of the design and lettering of the stamp appear in **Exhibit 1** and may be produced and used in proportion

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thereof. If the stamped geologic product or document is not otherwise signed by the registrant, then the registrant must sign the stamp in the rectangle provided.

[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth.: ORS 183, ORS 192 & ORS 672
Stats. Implemented: ORS 672.605
Hist.: GE 1-1984, f. & ef. 2-1-84; BGE 2-2002, f. & cert. ef. 4-15-02; BGE 8-2004, f. & cert. ef. 8-5-04

Board of Tax Practitioners
Chapter 800

Adm. Order No.: BTP 2-2004
Filed with Sec. of State: 8-12-2004
Certified to be Effective: 8-31-04
Notice Publication Date: 3-1-04
Rules Amended: 800-020-0020

Subject: The Oregon Administrative Rule revisions the Board of Tax Practitioners is proposing are to:

1) Add a provision to specify the currently required 75% passing score for the consultant's state-only examination which is administered to individuals who hold an active treasury card verifying they are enrolled to practice before the Internal Revenue Service.

The proposed amendments to OAR 800-020-0020 will provide clarification on the examination passage requirements for individuals who qualify for the consultant's state-only examination as an enrolled agent.

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

800-020-0020
Examinations

(1) Licensing examinations shall be scheduled as the Board deems appropriate.

(2) Tax preparer and tax consultant applicant's examination shall be written. Questions shall be so constructed as to measure the applicant's knowledge of Oregon and federal personal income tax law, theory and practice; the provisions of ORS 673.605 to 673.735 and the **Code of Professional Conduct**. The tax consultant examination shall require a higher standard of knowledge.

(3) A tax preparer applicant must have at least a 75 percent grade or score on the entire examination to pass.

(4) A tax consultant applicant must have at least a 75 percent grade or score on Part A of the examination and at least a 75 percent grade or score on Part B of the examination to pass. However, a person who passes only one part of the examination shall have thirteen months from the date of such examination to retake and pass the other part in order for the successfully completed portion of the examination to remain valid. Failure to retake and pass the part of the examination failed within the prescribed period shall necessitate the submission to and passing of another complete examination.

(5) An agent holding a valid treasury card who is enrolled to practice before the Internal Revenue Service must have at least a 75 percent grade or score on the consultant's state-only portion of the examination to pass.

(6) Pass or fail results of the examination shall be mailed to the applicants. Scores shall be furnished to all candidates. No review of examination questions by the applicant will be granted.

(7) An applicant who fails to pass the examination shall be eligible for a succeeding examination upon making application and payment of the examination fee.

(8) An applicant who passes an examination must apply for licensing within 60 days from the examination date. If application for license is not made within 60 days, the applicant must be reexamined, unless there are verifiable circumstances beyond the reasonable control of the applicant, subject to the discretion of the Board.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 673
Stats. Implemented: ORS 673.605-673.740 & 673.990
Hist.: TSE 8, f. & ef. 5-19-76; TSE 10(Temp), f. & ef. 11-29-76 thru 3-28-77; TSE 11, f. & ef. 4-6-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1980, f. & ef. 5-30-80; TSE 1-1981 (Temp), f. 1-2-81, ef. 1-5-81; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1983, f. & ef. 3-10-83; TSE 1-1984(Temp), f. & ef. 12-20-84; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1985(Temp), f. & ef. 6-11-85; TSE 2-1986, f. & ef. 7-14-86; TSE 4-1987, f. & ef. 10-2-87; TSE 1-1989, f. & cert. ef. 6-8-89; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 2-2004, f. 8-12-04 cert. ef. 8-31-04

Bureau of Labor and Industries
Chapter 839

Adm. Order No.: BLI 8-2004
Filed with Sec. of State: 7-26-2004
Certified to be Effective: 7-27-04
Notice Publication Date: 7-1-04
Rules Amended: 839-002-0002

Subject: The amendment clarifies that the agency will give notice in the Secretary of State's Bulletin, to persons on the agency's mailing list, and to the general public on the agency's website, prior to the permanent adoption, amendment or repeal of any rule. This amendment is "housekeeping" in nature.

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

839-002-0002
Proposed Rule Notice

Prior to the permanent adoption, amendment or repeal of any rule for the Bureau of Labor and Industries, the bureau shall give notice of intended action:

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

(2) To persons on the bureau's mailing list established pursuant to ORS 183.335(7).

(3) To the general public, by posting the notice to the bureau's Website.

Stat. Auth.: ORS 183
Stats. Implemented: ORS 183.335
Hist.: BLI 1-2000, f. & cert. ef. 1-11-00; BLI 8-2004, f. 7-26-04, cert. ef. 7-27-04

Adm. Order No.: BLI 9-2004
Filed with Sec. of State: 7-26-2004
Certified to be Effective: 7-27-04
Notice Publication Date: 7-1-04

Rules Amended: 839-001-0000, 839-014-0020, 839-015-0000, 839-016-0000, 839-019-0000

Subject: The amendments clarify that the agency will give notice in the Secretary of State's Bulletin, to persons on the agency's mailing list, and to the general public on the agency's website, prior to the permanent adoption, amendment or repeal of any rule. These amendments are "housekeeping" in nature. The amendments also correct errors in statutory authority and statutes implemented.

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

839-001-0000
Notice of Proposed Rule

Prior to the permanent adoption, amendment, or repeal of any rule relating to wage claims enforcement matters, any rule relating to interpretive rules regarding maximum hours of work, and any rules pertaining to money collected from employees for group health insurance coverage and notification of various parties on termination of group health insurance coverage the Wage and Hour Division of the Bureau of Labor and Industries will give notice of the intended action as required in OAR 839-002-0002.

Stat. Auth.: ORS 183.335, 651.060(4) & 652
Stats. Implemented: ORS 652
Hist.: BL 184, f. & ef. 1-21-76; BL 190, f. & ef. 5-7-76; BL 1-1982, f. & ef. 1-13-82; BL 8-1990, f. & cert. ef. 5-11-90; BL 10-1992, f. & cert. ef. 7-1-92; BL 9-1996, f. & cert. ef. 10-8-96; BLI 1-2002, f. & cert. ef. 1-9-02; BLI 9-2004, f. 7-26-04, cert. ef. 7-27-04

839-014-0020
Notice of Proposed Rule

Prior to the permanent adoption, amendment or repeal of any rule relating to farm-worker camp operations and registration of farm worker camps, the Bureau of Labor and Industries shall give notice of the intended action as required in OAR 839-002-0002.

Stat. Auth.: ORS 183.335, 651.060(4), 658.705 - 658.850
Stats. Implemented: ORS 658.705 - 658.850
Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96; BLI 9-2004, f. 7-26-04, cert. ef. 7-27-04

839-015-0000
Notice of Proposed Rule

Prior to the permanent adoption, amendment or repeal of any rule relating to farm and forest labor contractors, the Bureau of Labor and Industries shall give notice of the intended action as required in OAR 839-002-0002.

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Stat. Auth.: ORS 183.335, 651.060(4), 658.407(3) & 658.405 - 658.503
Stats. Implemented: ORS 658.405 - 658.503
Hist.: BL 10-1980, f. & ef. 9-19-80; BL 6-1984, f. & ef. 4-27-84, Renumbered from 839-015-0103; BL 3-1990, f. & cert. ef. 3-1-90; BL 2-1996, f. & cert. ef. 1-9-96; BLI 9-2004, f. 7-26-04, cert. ef. 7-27-04

839-016-0000

Notice of Proposed Rules

(1) Prior to the permanent adoption, amendment, or repeal of any rule relating to Prevailing Wage Rates on Public Works, the Bureau of Labor and Industries must give notice of intended action as required in OAR 839-002-0002.

(2) The notice provisions in OAR 839-002-0002 do not apply to the determination of prevailing wage rates pursuant to ORS 279.359(1) or to the adoption of such rates as rule amendments to OAR 839-016-0700 and 839-016-0750.

Stat. Auth.: ORS 279 & 651.060(4)
Stats. Implemented: ORS 279.348 - 279.380
Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 4-1984, f. & ef. 3-13-84; BL 3-1996, f. & cert. ef. 1-26-96; BLI 26-2000(Temp), f. 12-19-00, cert. ef. 12-20-00 thru 6-18-01; BLI 15-2001, f. & cert. ef. 11-14-01; BLI 9-2004, f. 7-26-04, cert. ef. 7-27-04

839-019-0000

Notice of Proposed Rules

Prior to the permanent adoption, amendment or repeal of any rule relating to civil penalties for child labor violation matters, the Wage and Hour Division of the Bureau of Labor and Industries shall give notice of intended action as required in OAR 839-002-0002.

Stat. Auth.: ORS 651.060(4), 653.305 - 653.545
Stats. Implemented: ORS 183.335
Hist.: BL 5-1988, f. & cert. ef. 4-12-88; BLI 9-2004, f. 7-26-04, cert. ef. 7-27-04

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

Filed with Sec. of State: 7-29-2004

Certified to be Effective: 7-29-04 thru 1-24-05

Notice Publication Date:

Rules Amended: 839-021-0355

Subject: The temporary rule authorizes the Wage and Hour Commission, for good cause shown, to exempt the employment of minors under 16 years of age in the entertainment industry from occupations prohibited pursuant to OAR 839-021-0102 under certain circumstances and when certain conditions are met.

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

839-021-0355

Prohibited Performances

(1) No employer may employ a minor in the entertainment industry in any occupation declared particularly hazardous pursuant to OAR 839-021-0102 and 839-021-0104 or in employment prohibited by OAR 839-021-0097 and 839-021-0276 to 839-021-0285. However, a safe simulation of such employment may be allowed.

(2) Minors under fifteen days of age may not be employed in the entertainment industry.

(3) Minors under one year of age may not be employed in the entertainment industry unless the employer can demonstrate a need for such minor. A separate letter of application must be submitted to the Executive Secretary or designee setting forth the details of the needed employment. The letter must include:

(a) A complete description of the action in which the minor is expected to participate; and

(b) Certification that the minor will not be engaged for longer than the hours allowed by OAR 839-021-0335; and

(c) A signed statement from the minor's parent permitting the employment; and

(d) A signed statement from a physician licensed by the Oregon State Board of Health attesting that the minor is physically able to perform the expected duties. The physician's statement must be accompanied by the physician's complete address and the physician's agreement to furnish the Bureau of Labor and Industries with any or all of the information necessary to confirm the particulars of such statement.

(4) No employer may employ a minor under one year of age in the entertainment industry unless a registered nurse is present and available to the minor at all times while the minor is present.

(5) No employer may employ a minor in the entertainment industry when the employment would place the minor in a clear and present danger to life and limb. If the minor believes there exists such danger, the employer must, at the same time, discuss the matter with the minor and the minor's

parent or guardian together. If the minor persists in the belief that a clear and present danger to life and limb exists, regardless of its validity, the employer must not require the minor to perform the activity the minor believes will present such danger.

(6) No employer may employ a minor to participate in a performance in the entertainment industry unless the minor has been trained to portray it safely.

(7) No employer may employ a minor to participate in, or be present during, an obscene performance or the depiction of an obscene performance in violation of ORS 163.665 to 163.695 or 167.060 to 167.095.

(8) No employer may employ a minor in a place of public amusement or entertainment in violation of ORS 167.830 to 167.840.

(9) No employer may employ a minor to be exhibited in a trance in violation of ORS 167.870.

(10) Notwithstanding the provisions of OAR 839-021-0102 and this rule, upon written request, the commission may, for good cause shown, exempt the employment of a minor under 16 years of age in the entertainment industry from the provisions of OAR 839-021-0102 and this rule after determining that the exemption will not be detrimental to the health or safety of the minor affected. Such exemption will be granted only under circumstances including but not limited to the following:

(a) The employment is not in violation of federal child labor regulations;

(b) The minor employee is adequately trained to perform the duties requested;

(c) The minor employee will be adequately supervised in performing the duties of the position;

(d) The parent or person standing in the place of the minor's parent has given written consent for the employment of the minor to perform duties otherwise prohibited; and

(e) The employer complies with all other applicable provisions of laws and rules.

Stat. Auth.: ORS 653
Stats. Implemented: ORS 653.305, 653.320
Hist.: BL 9-1984, f. & ef. 8-7-84; BL 6-1988, f. & cert. ef. 4-12-88; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02; BLI 10-2004(Temp), 7-29-04 thru 1-24-05

Department of Agriculture Chapter 603

Adm. Order No.: DOA 22-2004

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

Certified to be Effective: 8-10-04

Notice Publication Date: 6-1-04

Rules Amended: 603-077-0101, 603-077-0103, 603-077-0105, 603-077-0110, 603-077-0112, 603-077-0115, 603-077-0125, 603-077-0131, 603-077-0133, 603-077-0137, 603-077-0155, 603-077-0165, 603-077-0175, 603-077-0177, 603-077-0180, 603-077-0190, 603-077-0195

Subject: These rules govern the operation and enforcement of the Willamette Valley Field Burning Program. Notice for these rule changes were previously filed with the Oregon Secretary of State on 6/14/02 and 2/13/03. These changes address editorial and grammatical corrections, refine and add definitions, update text and citations, require grower communication with the Oregon Department of Agriculture during emergencies, refine mathematical formulas for the district allocations, modify factors to be considered when determining civil penalties, and define Class Three violations.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-077-0101

Introduction

(1) This Division applies to the open field burning, propane flaming, and stack and pile burning of all perennial and annual grass seed and cereal grain crops, and associated residue within the Willamette Valley. It also includes rules pertaining only to fees for open field burning of perennial and annual grass seed crops in the counties outside the Willamette Valley. The open burning of all other agricultural waste material (referred to as "fourth priority agricultural burning") is governed by OAR chapter 340, division 264, Rules for Open Burning.

(2) Organization of rules:

(a) OAR 603-077-0103 is the policy statement of the Oregon Department of Agriculture setting forth the goals of this Division;

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(b) OAR 603-077-0105 contains definitions of terms which have specialized meanings within the context of this Division;

(c) OAR 603-077-0110 lists general provisions and requirements pertaining to all open field burning, propane flaming, and stack and pile burning with particular emphasis on the duties and responsibilities of the grower registrant;

(d) OAR 603-077-0112 lists procedures and requirements for registration of acreage, issuance of permits, collection of fees, and keeping of records, with particular emphasis on the duties and responsibilities of the local permit issuing agencies;

(e) OAR 603-077-0113 establishes acreage limits and methods of determining acreage allocations;

(f) OAR 603-077-0115 establishes criteria for authorization of open field burning, propane flaming, and stack and pile burning pursuant to the administration of a daily smoke management control program;

(g) OAR 603-077-0125 contains order of priority for open field burning according to crop type;

(h) OAR 603-077-0131 establishes special provisions pertaining to field burning by public agencies for official purposes, such as "training fires";

(i) OAR 603-077-0133 establishes special provisions pertaining to "preparatory burning";

(j) OAR 603-077-0135 establishes special provisions pertaining to open field burning for experimental purposes;

(k) OAR 603-077-0137 establishes special provisions pertaining to burning fees outside the Willamette Valley;

(l) OAR 603-077-0140 establishes special provisions and procedures pertaining to emergency cessation of burning;

(m) OAR 603-077-0145 establishes provisions pertaining to propane flaming;

(n) OAR 603-077-0155 establishes provisions pertaining to "stack burning."

(o) OAR 603-077-0165 thru 603-077-0195 establish provisions pertaining to enforcement procedures and civil penalties.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0103

Policy

In the interest of public health and welfare, it is the declared public policy of the State of Oregon to reduce the practice of open field burning while developing and providing alternative methods of field sanitation and alternative methods of utilizing and marketing grass seed and cereal grain straw residues and to control, reduce, and prevent air pollution from open field burning, propane flaming, and stack burning by smoke management. In developing and carrying out a smoke management control program it is the policy of the Department:

(1) To provide for a maximum level of burning with a minimum level of smoke impact on the public, recognizing:

(a) The importance of flexibility and judgment in the daily decision-making process, within established and necessary limits;

(b) The need for operational efficiency within and between each organizational level;

(c) The need for effective compliance with all regulations and restrictions.

(2) To study, develop and encourage the use of reasonable and economically feasible alternatives to the practice of open field burning.

(3) To increase the degree of public safety by preventing unwanted wild fires and smoke from open field burning, propane flaming, and stack burning near highways and freeways within the State of Oregon. The Department hereby adopts by reference, as rules of the Department OAR 837-110-0005 through 837-110-0155, the rules of the State Fire Marshal filed with the Secretary of State on February 1, 2003. These rules shall apply to that area west of the Cascade Range and south to the Douglas/Lane County lines.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0105

Definitions

As used in this Division:

(1) "Actively Extinguish" means the direct application of water or other fire retardant to an open field fire.

(2) "Approved Alternative Method(s)" means any method approved by the Department to be a satisfactory alternative field sanitation method to open field burning.

(3) "Approved Alternative Facilities" means any land, structure, building, installation, excavation, machinery, equipment, or device approved by the Department for use in conjunction with an approved alternative method.

(4) "Permit or "Burn Permit" or "Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575.

(5) "Candidate Fields" means all grass seed or cereal grain fields being considered for open field burning or propane flaming.

(6) "Commission" means the Environmental Quality Commission.

(7) "Crop" means cultivated agricultural plants such as grain.

(8) "Cumulative Hours of Smoke Intrusion in the Eugene-Springfield Area" means the average of the totals of cumulative hours of smoke intrusion recorded for the Eugene site and the Springfield site. Provided the Department determines that field burning was a significant contributor to the smoke intrusion:

(a) The Department shall record one hour of intrusion for each hour the nephelometer hourly reading exceeds a background level by 1.8 x 10⁻⁴ b-scat units or more but less than the applicable value in subsection (b) or (c) of this section;

(b) Between June 16 and September 14 of each year, two hours of smoke intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by 5.0 x 10⁻⁴ b-scat units;

(c) Between September 15 and June 15 of each year, two hours of intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by 4.0 x 10⁻⁴ b-scat units;

(d) The background level shall be the average of the three hourly readings immediately prior to the intrusion.

(9) "Department" means the Oregon Department of Agriculture.

(10) "Director" means the Director of the Department or delegated employee representative.

(11) "District Allocation" means the total amount of acreage sub-allocated annually to the fire district, based on the district's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued within the district, subject to daily authorization. District allocation is defined by the following identity:

District Allocation = (maximum annual acreage limit) x ((total acreage registered in district) / (total acreage registered in the valley))

(12) "Drying Day" means a 24-hour period during which the relative humidity reached a minimum less than 50 percent and no rainfall was recorded at the nearest reliable measuring site.

(13) "Effective Mixing Height" means either the actual height of plume rise as determined by ODA field staff or the calculated or estimated mixing height as determined by the Department.

(14) "Field-by-Field Burning" means burning on a limited or restricted basis in which the amount, rate, and area authorized for burning is closely controlled and monitored. Included under this definition are "training fires" and experimental open field burning.

(15) "Field Reference Code" means a unique four-part code which identifies a particular registered field for mapping purposes. The first part of the code shall indicate the grower registration (form) number, the second part the line number of the field as listed on the registration form, the third part the crop type, and the fourth part the size (acreage) of the field (e.g., a 35 acre perennial (bluegrass) field registered on Line 2 of registration form number 1953 would be 1953-2-P-BL-35).

(16) "Fire District" or "District" or "Fire Protection District" means a fire permit issuing agency.

(17) "Fire Permit" means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, 476.380, or 478.960.

(18) "Fires-Out Time" means the time announced by the Department when all flames and major smoke sources associated with open field burning should be out and prohibition conditions are scheduled to be imposed.

(19) "Fire Safety Buffer Zone" shall have the same meaning as defined in the State Fire Marshal rules.

(20) "Fluffing" means an approved mechanical method of stirring or tending crop residues for enhanced aeration and drying of the full fuel load, thereby improving the field's combustion characteristics.

(21) "Grower" means a person that cultivates perennial or annual grass seed or cereal grain.

(22) "Grower Allocation" means the amount of acreage sub-allocated annually to the grower registrant, based on the grower registrant's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued, subject to daily authorization. Grower allocation is defined by the following identity:

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Grower Allocation = (Maximum annual acreage limit) x ((Total acreage registered by the grower registrant) / (Total acreage registered in the valley))

(23) "Grower Registrant" means any person who registers acreage with the Department for purposes of open field burning, propane flaming, or receives a permit to stack or pile burn.

(24) "Marginal Conditions" means atmospheric conditions such that smoke and particulate matter escape into the upper atmosphere with some difficulty but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety.

(25) "Marginal Day" means a day on which marginal conditions exist.

(26) "Nephelometer" means an instrument for measuring ambient smoke concentrations.

(27) "Northerly Winds" means winds coming from directions between 270° to 90° in the north part of the compass, averaged through the effective mixing height.

(28) "Open Field Burning" means burning of any perennial or annual grass seed or cereal grain crop, or associated residue, in such manner that combustion air and combustion products are not effectively controlled.

(29) "Open Field Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575.

(30) "Permit Agent" means the person under contract or otherwise authorized by the department to administer registration of acreage, issue burn permits, collect fees, and keep records for open field burning, propane flaming, or stack burning within their permit jurisdictions pursuant to ORS 468A.550 et seq.

(31) "Permit Issuing Agency" means the county court or board of county commissioners, or fire chief or a rural fire protection district or other person authorized to issue fire permits pursuant to ORS 477.515, 476.380, or 478.960.

(32) "Person" means, but is not limited to, individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, states and their agencies, and the Federal Government and its agencies.

(33) "Preparatory Burning" means controlled burning of portions of selected problem fields for the specific purpose of reducing the fire hazard potential or other conditions which would otherwise inhibit rapid ignition burning when the field is subsequently open burned.

(34) "Priority Acreage" means acreage located within a priority area.

(35) "Priority Areas" means the following areas of the Willamette Valley:

(a) Areas in or within three miles of the city limits of incorporated cities having populations of 10,000 or greater;

(b) Areas within one mile of airports servicing regularly scheduled airline flights;

(c) Areas in Lane County south of the line formed by U.S. Highway 126 and Oregon Highway 126;

(d) Areas in or within three miles of the city limits of the City of Lebanon;

(e) Areas on the west and east side of and within 1/4 mile of these highways: 99, 99E, and 99W. Areas on the south and north side of and within 1/4 mile of U.S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

(36) "Problem Field" means a field that cannot be burned under the usual conditions because of a fire hazard or nearby school, hospital, airport, or other sensitive area.

(37) "Prohibition Conditions" means conditions under which open field burning is not allowed except for individual burns specifically authorized by the Department pursuant to OAR 603-077-0115(2).

(38) "Propane Flaming" means a mobile flamer device which meets the following design specifications and utilizes an auxiliary fuel such that combustion is nearly complete and emissions are significantly reduced:

(a) Flamer nozzles shall not be more than 15 inches apart;

(b) A heat deflecting hood is required and shall extend a minimum of three feet beyond the last row of nozzles.

(39) "Propane Flaming Permit" means a permit issued by the Department pursuant to ORS 468A.575 and consisting of a validation number and specifying the conditions and acreage specifically registered and allocated for propane flaming.

(40) "Quota" means an amount of acreage established by the Department for each fire district for use in authorizing daily burning limits in a manner to provide, as reasonably as practicable, an equitable opportunity for burning in each area.

(41) "Rapid Ignition Techniques" means a method of burning in which all sides of the field are ignited as rapidly as practicable to maximize

plume rise. When using this method, little or no preparatory backfire burning shall be done.

(42) "Released Allocation" means that part of a grower's allocation, by registration form, that is unused and voluntarily released to the Department for first come-first serve dispersal to other grower registrants.

(43) "Residue" means straw, stubble, screenings and associated crop material generated in the production of grass seed and cereal grain crops.

(44) "Responsible Person" means each person who is in ownership, control, or custody of the real property on which open field burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, or the grower registrant. Each person who causes or allows open field burning, propane flaming, or stack or pile burning to be maintained shall also be considered a responsible person.

(45) "Screenings" means organic waste materials resulting from the seed cleaning process of grass seed and cereal grain.

(46) "Small-Seeded Seed Crops Requiring Flame Sanitation" means small-seeded grass, legume, and vegetable crops, or other types approved by the Department, which are planted in early autumn, are grown specifically for seed production, and which require flame sanitation for proper cultivation. For purposes of this Division, clover and sugar beets are specifically included. Cereal grains, hairy vetch, or field peas are specifically not included.

(47) "Smoke Management" means a system for the daily or hourly control of open field burning, propane flaming, or stack or pile burning through authorization of the times, locations, amounts and other restrictions on burning, so as to provide for suitable atmospheric dispersion of smoke particulate and to minimize impact on the public.

(48) "Southerly Winds" means winds coming from directions between 90° to 270° in the south part of the compass, averaged through the effective mixing height.

(49) "Stack Burning" means the open burning of bound, baled, collected, gathered, accumulated, piled or stacked straw residue from perennial or annual grass seed or cereal grain crops.

(50) "Stack Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575 that identifies the responsible person, date of permit issuance, and specifies the acreage and location authorized for stack burning.

(51) "Test Fires" means individual field burns specifically authorized by the Department for the purpose of determining or monitoring atmospheric dispersion conditions.

(52) "Training Fires" means individual field burns set by or for a public agency for the official purpose of training personnel in fire-fighting techniques.

(53) "Unusually High Evaporative Weather Conditions" means a combination of meteorological conditions following periods of rain that result in sufficiently high rates of evaporation, as determined by the Department, where fuel (residue) moisture content would be expected to approach about 12 percent or less.

(54) "Validation Number" is used interchangeably with "Burn Permit" and means:

(a) For open field burning a unique five-part number issued by the Department or its delegate identifying a specific field and acreage allowed to be open field burned and the date and time the permit was issued (e.g., a validation number issued August 26 at 2:30 p.m. for a 70-acre burn for a field registered on Line 2 of registration form number 1953 would be 1953-2-0826-1430-070);

(b) For propane flaming and stack burning a unique five part alphanumeric, issued by the Department or its delegate, identifying a specific field and acreage allowed to be propane flamed or stack burned, the date and time the permit was issued, and the burn type (e.g., a validation number issued on July 15 for a 100 acre field to be propane flamed registered on Line 4 of registration form 9999 would be 9999-4-0715-P-100).

(55) "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in this Division is defined by the following identity:

$$VI = (\text{Effective mixing height (feet)}) / (1,000 \times (\text{Average wind speed through the effective mixing height (knots)}))$$

(56) "Wildfire" means an uncontrollable fire that is not intentionally started, caused by man, machine, nature, or an other cause, usually but not necessarily traveling and spreading rapidly.

(57) "Willamette Valley" means the areas of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington, and Yamhill Counties lying between the crest of the Coast Range and the crest of the Cascade Mountains, and includes the following:

ADMINISTRATIVE RULES

(a) "South Valley," the areas of jurisdiction of all fire permit issuing agents or agencies in the Willamette Valley portions of the counties of Benton, Lane, or Linn;

(b) "North Valley," the areas of jurisdiction of all other fire permit issuing agents or agencies in the Willamette Valley including portions of Linn and Benton counties.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0110

General Requirements

(1) No person shall cause or allow open field burning or propane flaming on any acreage unless said acreage has first been registered and mapped pursuant to OAR 603-077-0112(1), the registration fee has been paid, and the registration (permit application) has been approved by the Department.

(2) No person shall cause or allow open field burning, propane flaming, or stack burning without first obtaining and being able to readily demonstrate a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 603-077-0112(2). On the specific day of and prior to open field burning, propane flaming, or stack burning of any grass seed or cereal grain crop or associated residue the grower registrant shall obtain, in person or by telephone, a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 603-077-0112.

(3) The Department may prohibit any person from registering acreage for open field burning or propane flaming and may deny burn permits for open field burning, propane flaming, and stack burning until all delinquent registration fees, late fees, burn permit fees, and adjudicated penalties from previous seasons are paid. The Department may also institute appropriate legal action to collect the delinquent fees.

(4) No person shall open field burn cereal grain acreage unless that person first issues to the Department a signed statement, and then acts to ensure, that said acreage will be planted in the following growing season to a small-seeded seed crop requiring flame sanitation for proper cultivation, as defined in OAR 603-077-0105(46).

(5) No person shall cause or allow open field burning, propane flaming, or stack burning which is contrary to the Department's announced burning schedule specifying the times, locations and amounts of burning permitted, or to any other provision announced or set forth by the Department or this Division.

(6) Each responsible person open field burning or propane flaming shall have an operating radio receiver and shall directly monitor the Department's burn schedule announcements at all times while open field burning or propane flaming.

(7) Each responsible person open field burning or propane flaming shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employee of the Department.

(8) No person shall cause or allow open field burning or stack burning within 1/4 mile of either side of any Interstate freeway within the Willamette Valley or within 1/8 mile of either side of the designated roadways listed in OAR 837-110-0080(2)(c). In addition, no person shall cause or allow open field burning in any of the remaining area within a fire safety buffer zone unless a noncombustible ground surface has been provided between the field to be burned and the nearest edge of the roadway right-of-way as required by OAR 837-110-0080.

(9) Each responsible person open field burning, propane flaming, or stack burning within a priority area or fire safety buffer zone around a designated city, airport or highway shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the designated city, airport or highway.

(10) Each responsible person open field burning shall make every reasonable effort to expedite and promote efficient burning and prevent excessive emissions of smoke by:

(a) Meeting all of the State Fire Marshal requirements specified in OAR 837-110-0040 through 837-110-0080;

(b) Ensuring field residues are evenly distributed, dry, and in good burning condition;

(c) Employing rapid ignition techniques on all acreage where there are no imminent fire hazards or public safety concerns.

(11) In the event of a "wildfire" and a grower is unable to comply with all of the requirements of this Division because of a breakdown of equip-

ment, an accident caused by human error or negligence, or any other cause, the grower shall:

(a) Immediately take action to stop, contain, and correct the problem.

(b) As soon as practicable notify the designated permit agent. If the permit agent is unavailable, the grower must contact the department.

(A) Notification must be by phone, fax, email, or in person.

(B) If a grower is unable to contact his/her designated permit agent or the department, then a detailed message must be left with the department and the permit agent explaining the problem, the solution, the field information, and grower information.

(12) Open field burning, propane flaming, or stack burning in compliance with this Division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order or decree of the Department, Commission or any other government entity having jurisdiction.

(13) Any revisions to the maximum acreage to be burned, allocation or permit issuing procedures, or any other substantive changes to this Division affecting open field burning, propane flaming, or stack or pile burning for any year shall be made prior to June 1 of that year. In making such changes, the Department shall consult with Oregon State University.

(14) 1st, 2nd, 3rd, and 4th priority open field burning shall be regulated in a manner consistent with the requirements of the Oregon Visibility Protection Plan for Class I Areas (Section 5.2 of the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-200-0040).

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0112

Registration, Permits, Fees, Records

In administering a field burning smoke management program, the Department may contract with counties or fire districts or any other responsible individual to administer registration of acreage, issuance of permits, collection of fees, and keeping of records for open field burning, propane flaming, or stack burning within their permit jurisdictions. The Department shall pay said authority for these services in accordance with the payment schedule provided for in ORS 468A.615. Three-quarters of said payment shall be made prior to July 1 of each year and the remainder shall be paid within ten days after completion of the end of season reconciliation:

(1) Registration of acreage:

(a) On or before April 1 of each year, each grower intending to open burn or propane flame under this Division shall register the total acreage to be open burned or propane flamed. Said acreage shall be registered with the Department or its authorized permit agent on the registration forms provided. Candidate fields for open field burning or propane flaming shall be listed on the registration form and shall also be delineated on specially provided registration map materials and identified using a unique field reference code. Each candidate field listing shall state if the field is located in a priority area and/or is a problem field. Registration, listing of fields, and mapping shall be completed according to the established procedures of the Department. At the time of registration, a non-refundable registration fee of \$2 shall be paid for each acre registered for open field burning and \$1 shall be paid for each acre registered for propane flaming. A complete registration (permit application) shall consist of a fully executed registration form, map and fee. Acreage registered by April 1 may be issued a burn permit if:

(A) Allocation is available; and

(B) The initial registration fee account has a sufficient balance.

(b) Registration of open field burning and propane flaming acreage after April 1 of each year shall require the prior approval of the Department and an additional \$1 per acre late registration fee. The late registration fee shall not be charged if the late registration is not due to the fault of the registrant or one under the registrant's control;

(c) Copies of all registration forms and fees shall be forwarded to the Department promptly by the permit agent. Registration map materials shall be made available to the Department at all times for inspection and reproduction;

(d) The Department shall act on any registration application within 60 days of receipt of a completed application. The Department may deny or revoke any registration application which is incomplete, false or contrary to state law or this Division;

(e) The grower registrant shall insure the information presented on the registration form and map is complete and accurate.

(2) Permits:

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(a) Permits for open field burning, propane flaming, or stack burning shall be issued by the Department, or its authorized permit agent, to the grower registrant in accordance with the established procedures of the Department, and the times, locations, amounts and other restrictions set forth by the Department or this Division;

(b) A fire permit from the local fire permit issuing agency is also required for all open field burning pursuant to ORS 477.515, 476.380, 478.960;

(c) A valid open field burning permit shall consist of:

(A) An open field burning permit issued by the Department which specifies the permit conditions in effect at all times while burning and which identifies the acreage specifically registered and annually allocated for burning;

(B) A validation number issued by the designated permit agent on the day of the burn identifying the specific acreage allowed for burning and the date and time the permit was issued.

(d) A valid propane flaming permit shall consist of:

(A) A propane flaming registration form issued by the Department which specifies the permit conditions in effect at all times while flaming and which identifies the acreage specifically registered and annually allocated for propane flaming;

(B) A validation number issued by the designated permit agent identifying the specific acreage allowed for propane flaming and the date and time the permit was issued.

(e) A valid stack burning permit shall consist of the name of the responsible person and date the permit was issued, and shall specify the acreage and location authorized;

(f) Each responsible person open field burning, propane flaming, or stack burning shall pay a per acre burn fee within ten days of the date the permit was issued. The fee shall be:

(A) \$8 per acre sanitized by open field burning;

(B) \$2 per acre sanitized by propane flaming;

(C) \$10 per acre burned in stacks.

(D) For grass seed and cereal grain residue from previous seasons, broken bales, or fields where a portion of straw was removed using usual or standard baling methods, the acreage actually burned shall be estimated and the same per acre fee as imposed in paragraph (C) of this subsection shall be charged. The estimated acreage shall be rounded to the nearest whole acre.

(g) Burning permits shall at all times be limited by and subject to the burn schedule and other requirements or conditions announced or set forth by the Department;

(h) No person shall issue burning permits for open field burning, propane flaming, or stack burning of:

(A) More acreage than the amount sub-allocated annually to the District by the Department pursuant to OAR 603-077-0113(2);

(B)(i) Priority or fire safety buffer zone acreage located on the upwind side of any city, airport, Interstate freeway or highway within the same priority area or buffer zone.

(ii) It is the responsibility of each designated permit agent to establish and implement a system for distributing open field burning, propane flaming, or stack burning permits to individual grower registrants when burning is authorized, provided that such system is fair, orderly and consistent with state law, this Division and any other provisions set forth by the Department.

(3) Fees:

(a) Permit agents shall collect, properly document, and promptly forward all required registration fees, late registration fees, and burn fees to the Department;

(b) All fees shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund.

(4) Records:

(a) Permit agents shall at all times keep proper and accurate records of all transactions pertaining to registrations, permits, fees, allocations, and other matters specified by the Department. Such records shall be kept by the permit agent for a period of at least five years and made available for inspection by the appropriate authorities;

(b) Permit agents shall submit to the Department on specially provided forms weekly reports of all acreage burned in their permit jurisdictions. These reports shall cover the weekly period of Monday through Sunday, and shall be mailed and post-marked no later than the first working day of the following week.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0115

Daily Burning Authorization Criteria

As part of the Smoke Management Program provided for in ORS 468A.590, the Department shall set forth the types and extent of open field burning, propane flaming, and stack burning to be allowed each day according to the provisions established in this section and this Division:

(1) During the active burning season and on an as needed basis, the Department shall announce the burning schedule over the burning radio network operated specifically for this purpose or by other appropriate means. The schedule shall specify the times, locations, amounts and other restrictions in effect for open field burning, propane flaming, and stack burning. The Department shall notify Oregon Emergency Management of the burning schedule for dissemination to appropriate Willamette Valley agencies.

(2) Prohibition conditions:

(a) Prohibition conditions shall be in effect at all times unless specifically determined and announced otherwise by the Department;

(b) Under prohibition conditions, no permits shall be issued and no open field burning shall be conducted in any area except for individual burns specifically authorized by the Department on a limited extent basis. Such limited burning may include field-by-field burning, preparatory burning, or burning of test fires, except that:

(A) No open field burning shall be allowed:

(i) In any area subject to a ventilation index of less than 10.0;

(ii) In any area upwind, or in the immediate vicinity, of any area in which, based upon real-time monitoring, a violation of federal or state air quality standards is projected to occur.

(B) Only test-fire burning may be allowed:

(i) In any area subject to a ventilation index of between 10.0 and 15.0, inclusive, except for experimental burning specifically authorized by the Department pursuant to OAR 603-077-0135;

(ii) When relative humidity at the nearest reliable measuring station exceeds 50 percent under forecast northerly winds or 65 percent under forecast southerly winds.

(3) Marginal conditions:

(a) The Department shall announce that marginal conditions are in effect and open field burning is allowed when, in its best judgment and within the established limits of this Division, the prevailing atmospheric dispersion and burning conditions are suitable for satisfactory smoke dispersal with minimal impact on the public, provided that the minimum conditions set forth in paragraphs (2)(b)(A) and (B) of this rule are satisfied;

(b) Under marginal conditions, permits may be issued and open field burning may be conducted in accordance with the times, locations, amounts, and other restrictions set forth by the Department and this Division.

(4) Hours of burning:

(a) Burning hours shall be limited to those specifically authorized by the Department each day and may be changed at any time when necessary to attain and maintain air quality;

(b) Burning hours may be reduced by the fire chief or his deputy, and burning may be prohibited by the State Fire Marshal, when necessary to prevent danger to life or property from fire, pursuant to ORS 478.960.

(5) Locations of burning:

(a) Locations of burning shall at all times be limited to those areas specifically authorized by the Department; except that

(b) No priority or fire safety buffer zone acreage shall be burned upwind of any city, airport, Interstate freeway or highway within the same priority area or buffer zone;

(c) No south Valley priority acreage shall be burned upwind of the Eugene-Springfield non-attainment area.

(6) Amounts of burning:

(a) To provide for an efficient and equitable distribution of burning, daily authorizations of acreages shall be issued by the Department in terms of single or multiple fire district quotas. The Department shall establish quotas for each fire district and may adjust the quotas of any district when conditions in its judgment warrant such action;

(b) Unless otherwise specifically announced by the Department, a one quota limit shall be considered in effect for each district authorized for burning;

(c) The Department may issue more restrictive limitations on the amount, density or frequency of burning in any area or on the basis of crop type, when conditions in its judgment warrant such action.

(7) Limitations on burning based on air quality:

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(a) The Department shall establish the minimum allowable effective mixing height required for burning based upon cumulative hours of smoke intrusion in the Eugene-Springfield area as follows;

(b) Except as provided in paragraph (c) of this subsection, burning shall only be permitted whenever the following conditions are met:

(A) West Eugene area; defined as south of Eugene Airport, north of highway 126, for open burning of perennial grass crops;

Mixing Height is equal to or greater than 4500'
Transport wind direction = 50 -120 degrees
Transport wind speed minimum = 12 mph
Surface wind speed = calm to 7 mph

(B) Creswell area for open burning of perennial grass crops:

Mixing Height is equal to or greater than 4000'
Transport wind direction = 30 - 90 degrees
Transport wind speed minimum = 12 mph
Surface wind speed = calm to 7 mph

(c) Notwithstanding the effective mixing height restrictions of paragraph (b) of this subsection, the Department may authorize burning of up to 1,000 acres total per day for the Willamette Valley, consistent with smoke management considerations and this Division.

(8) Limitations on burning based on rainfall:

(a) Open field burning and propane flaming shall be prohibited in any area for one drying day (up to a maximum of four consecutive drying days) for each 0.10 inch increment of rainfall received per day at the nearest reliable measuring station;

(b) The Department may waive the restrictions of subsection (a) of this section when dry fields are available as a result of special field preparation or condition, irregular rainfall patterns, or unusually high evaporative weather condition.

(9) Other discretionary provisions and restrictions:

(a) The Department may require special field preparations before burning, such as, but not limited to, mechanical fluffing of residues, when conditions in its judgment warrant such action;

(b) The Department may designate specified periods following permit issuance within which time active field ignition must be initiated and/or all flames must be actively extinguished before said permit is automatically rendered invalid;

(c) The Department may designate additional areas as priority areas when conditions in its judgment warrant such action.

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

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 17-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0125

Priority for Open Field Burning According to Crop Type

In making determination of whether or not to prohibit or limit any open field burning pursuant to this division the Department shall give first priority to the burning of perennial grass seed crops used for grass seed production, second priority for annual grass seed crop used for grass seed production, third priority to grain crop burning and fourth priority to all other burning.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0131

Burning by Public Agencies (Training Fires)

Open field burning on grass seed or cereal grain acreage by or for any public agency for official purposes, including the training of fire-fighting personnel must be pre-scheduled with the Department and is subject to the following conditions:

(1) Such burning shall be consistent with smoke management considerations whenever practical.

(2) Such burning must be deemed necessary by the official local authority having jurisdiction and must be conducted in a manner consistent with its purpose.

(3) Such burning must be limited to the minimum number of acres but in no case exceed 50 acres per fire or occasion.

(4) Such burning must be limited to the minimum number of fires but in no case exceed 2 fires per fire district annually.

(5) The responsible person shall comply with the provisions of OAR 603-077-0110 through 603-077-0113.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0133

Preparatory Burning

The Department encourages the preparatory burning of portions of selected problem fields to reduce or eliminate potential fire hazards and safety problems and to expedite the subsequent burning of the field. Such burning shall be consistent with smoke management considerations and subject to the following conditions:

(1) Each responsible person shall limit the acres burned to the minimum necessary to eliminate potential fire hazards or safety problems but in no case exceed five acres for each burn unless specifically authorized by the Department.

(2) Each responsible person conducting preparatory burning shall employ backfiring burning techniques.

(3) Each responsible person conducting preparatory burning shall comply with the provisions of OAR 603-077-0110 through 603-077-0113 and 837-110-010 through 837-110-090.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0137

Burning Fees Outside Willamette Valley

Notwithstanding OAR 603-077-0135(3), each person sanitizing perennial or annual grass seed crops by open field burning, in counties outside the Willamette Valley, shall pay the Department \$4.00 for each acre burned.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0155

Stack Burning

The open burning of piled or stacked residue from perennial or annual grass seed or cereal grain crops used for seed production is allowed subject to the following conditions:

(1) No person shall cause or allow to be initiated or maintained any stack burning on any day or at any time if the Department has notified Oregon Emergency Management that such burning is prohibited because of meteorological or air quality conditions.

(2) No person shall cause or allow stack burning of any grass seed or cereal grain residue unless said residue is dry and free of all other combustible and non-combustible material.

(3) Each responsible person shall make every reasonable effort to promote efficient burning, minimize smoke emissions, and extinguish any stack burning which is in violation of any rule of the Commission.

(4) No stack burning shall be conducted within any State Fire Marshal buffer zone "non-combustible ground surface" area (e.g., within 1/4 mile of Interstate I-5, or 1/8 mile of any designated roadway), as specified in OAR 837-110-0080.

(5) The acreage must be permitted pursuant to OAR 603-077-0112.

(6) Unless otherwise specifically agreed by the parties, after the straw is removed from the fields of the grower, the responsibility for the further disposition of the straw, including burning or disposal, and payment of the appropriate fees, shall be upon the person who bales, removes, controls, or is in possession of the straw.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 17-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0165

Definitions for Enforcement Procedures and Civil Penalties

Unless otherwise required by context, as used in OAR 603-077-0170 – 603-077-0195:

(1) "Class One Equivalent" or "Equivalent," which is used only for the purposes of determining the value of the "P" factor in the civil penalty formula, means two Class Two violations, one Class Two and two Class Three violations, or three Class Three violations.

(2) "Compliance" means meeting the requirements of the Department's statutes, rules, permits or orders.

(3) "Director" means the Director of the Department or the Director's authorized deputies or officers.

(4) "Department" means the Department of Agriculture.

(5) "Documented Violation" means any violation which the Department or other government agency records after observation, investigation or data collection.

ADMINISTRATIVE RULES

(6) "Flagrant" means any documented violation where the Respondent had actual knowledge of the law and had consciously set out to commit the violation.

(7) "Formal Enforcement Action" means an action signed by the Director or authorized representatives or deputies which is issued to a Respondent for a documented violation. Formal enforcement actions may require the Respondent to take action within a specified time frame, and/or state the consequences for the violation or continued noncompliance.

(8) "Intentional" means conduct by a person with a conscious objective to cause the result of the conduct.

(9) "Magnitude of the Violation" means the extent and effects of a violator's deviation from the Department's statutes, rules, standards, permits or orders. In determining magnitude the Department shall consider all available applicable information, including such factors as: duration, intensity, and the extent of the effects of the violation. Deviations shall be categorized as major, moderate or minor as set forth in OAR 603-077-0180.

(10) "Negligence" or "Negligent" means failure to take reasonable care to avoid a foreseeable risk of committing an act or omission constituting a violation.

(11) "Order" means:

- (a) Any action satisfying the definition given in ORS Chapter 183; or
- (b) Any other action so designated in ORS Chapters 468 or 468A.

(12) "Person" includes, but is not limited to, individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, states and their agencies, and the Federal Government and its agencies.

(13) "Prior Significant Action" means any violation established either with or without admission of a violation by payment of a civil penalty, or by a final order of the Department.

(14) "Reckless" or "Recklessly" means conduct by a person who is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such a nature and degree that disregard thereof constitutes a gross deviation from the standard of care a reasonable person would observe in that situation.

(15) "Respondent" means the person to whom a formal enforcement action is issued.

(16) "Risk of Harm" means the individual or cumulative possibility of harm to public health or the environment caused by a violation or violations. Risk of harm shall be categorized as major, moderate or minor.

(17) "Systematic" means any documented violation which occurs on a regular basis.

(18) "Violation" means a transgression of any statute, rule, order, license, permit, or any part thereof and includes both acts and omissions. Violations shall be categorized as Class One (or I), Class Two (or II) or Class Three (or III), with Class One designating the most serious class of violation.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0175

Enforcement Actions

(1) Notice of Noncompliance (NON):

(a) Informs a person of a violation, and the consequences of the violation or continued noncompliance. The notice may state the actions required to resolve the violation and may specify a time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated;

- (b) Shall be issued by the Director or authorized representative;
- (c) May be issued for all classes of documented violations;
- (d) Shall be a contested case order for purposes of judicial review.

(2) Notice of Civil Penalty Assessment (CPA):

(a) Is issued pursuant to ORS 468A.992, and OAR 603-077-0177 and 603-077-0180;

(b) Shall be issued by the Director or authorized representative.

(3) Order:

(a) Is issued pursuant to ORS Chapters 183, 468, 468A;

(b) May be in the form of a Department Order, Stipulation and Final Order (SFO) or a Mutual Agreement and Order;

(A) Department Orders shall be issued by the Director or authorized representative;

(B) All other Orders:

(i) May be negotiated;

(ii) Shall be signed by the Director or authorized representative and the authorized representative of each other party.

(c) May be issued for any Class of violation.

(4) The enforcement actions described in sections (1) through (3) of this rule in no way limit the Department from seeking legal or equitable remedies as provided by ORS Chapters 468, 468A, and 561.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0177

Civil Penalty Schedule Matrices

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation relating to field burning pertaining to statutes, rules, permits or orders by service of a written notice of assessment of civil penalty upon the Respondent. The amount of any civil penalty shall be determined through the use of the following matrix in conjunction with the formula contained in OAR 603-077-0180:

(1) Civil penalty matrix: [Matrix not included. See ED. NOTE.]

(2) No civil penalty issued by the Director pursuant to this matrix shall be less than fifty dollars (\$50) or more than ten thousand dollars (\$10,000) for each day of each violation. This matrix shall apply to the following:

(3) Any violation related to field burning statutes, rules, permits or orders.

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

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0180

Civil Penalty Determination Procedure

(1) When determining the amount of civil penalty to be assessed for any violation, the Director or authorized representative shall apply the following procedures:

(a) Determine the class and the magnitude of each violation:

(A) The class of a violation is determined by consulting OAR 603-077-0195;

(B) The magnitude of the violation shall be moderate unless:

(i) If the Department finds that the violation had a significant adverse impact on the environment, or posed a significant threat to public health, a determination of major magnitude shall be made. In making a determination of major magnitude, the Department shall consider all available applicable information including such factors as: The degree of deviation from applicable statutes, rules, standards, permits or orders, and the extent of the effects of the violation. In making this finding, the Department may consider any single factor to be conclusive for the purpose of making a major magnitude determination;

(ii) If the Department finds that the violation had no potential for or actual adverse impact on the environment, nor posed any threat to public health, or other environmental receptors, a determination of minor magnitude shall be made. In making a determination of minor magnitude, the Department shall consider all available applicable information including such factors as: The degree of deviation from the applicable statutes, rules, standards, permits or orders, and the extent of the effects of the violation. In making this finding, the Department may consider any single factor to be conclusive for the purpose of making a minor magnitude determination.

(b) Choose the appropriate base penalty (BP) established by the matrices of OAR 603-077-0177 after determining the class and magnitude of each violation;

(c) Starting with the base penalty, determine the amount of penalty through application of the formula: $BP + ((.1 \times BP) (P + H + O + R + C)) + EB$ where:

(A) "P" is whether the Respondent has any prior significant actions relating to statutes, rules, orders and permits pertaining to environmental quality or pollution control. The values for "P" and the finding which supports each are as follows:

(i) 0 if no prior significant actions or there is insufficient information on which to base a finding;

(ii) 1 if the prior significant action is one Class Two or two Class Threes;

(iii) 2 if the prior significant action(s) is one Class One or equivalent;

(iv) 3 if the prior significant actions are two Class One or equivalents;

(v) 4 if the prior significant actions are three Class Ones or equivalents;

(vi) 5 if the prior significant actions are four Class Ones or equivalents;

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(vi) 5 if the prior significant actions are four Class Ones or equivalents;

(vii) 6 if the prior significant actions are five Class Ones or equivalents;

(viii) 7 if the prior significant actions are six Class Ones or equivalents;

(ix) 8 if the prior significant actions are seven Class Ones or equivalents;

(x) 9 if the prior significant actions are eight Class Ones or equivalents;

(xi) 10 if the prior significant actions are nine Class Ones or equivalents;

(xii) In determining the appropriate value for prior significant actions as listed above, the Department shall reduce the appropriate factor by:

(I) A value of 2 if the date of issuance of all the prior significant actions are greater than three years old but less than five years old;

(II) A value of 4 if the date of issuance of all the prior significant actions are greater than five years old;

(III) In making the above reductions, no finding shall be less than zero.

(xiii) Any prior significant action which is greater than ten years old shall not be included in the above determination.

(B) "H" is past history of the Respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation cited in any prior significant actions. In no case shall the combination of the "P" factor and the "H" factor be a value less than zero. In such cases where the sum of the "P" and "H" values is a negative numeral the finding and determination for the combination of these two factors shall be zero. The values for "H" and the finding which supports each are as follows:

(i) -2 if Respondent took all feasible steps to correct each violation contained in any prior significant action;

(ii) 0 if there is no prior history or if there is insufficient information on which to base a finding.

(C) "O" is whether the violation was repeated or continuous. The values for "O" and the finding which supports each are as follows:

(i) 0 if the violation existed for one day or less and did not recur on the same day;

(ii) 2 if the violation existed for more than one day or if the violation recurred on the same day.

(iii) 2 if Respondent took some but not all feasible steps to correct each violation contained in any prior significant action.

(iv) 4 if Respondent took no steps to correct each violation contained in any prior significant action.

(D) "R" is whether the violation resulted from an unavoidable accident, or a negligent, intentional or flagrant act of the Respondent. The values for "R" and the finding which supports each are as follows:

(i) 0 if an unavoidable accident, or if there is insufficient information to make a finding;

(ii) 2 if negligent;

(iii) 6 if intentional; or

(iv) 10 if flagrant.

(E) "C" is the Respondent's cooperativeness and efforts to correct the violation. The values for "C" and the finding which supports each are as follows:

(i) -2 if Respondent was cooperative and took reasonable efforts to correct the violation or minimize the effects of the violation;

(ii) 0 if there is insufficient information to make a finding, or if the violation or the effects of the violation could not be corrected;

(iii) 2 if Respondent was uncooperative and did not take reasonable efforts to correct the violation or minimize the effects of the violation.

(F) "EB" is the approximated dollar sum of the economic benefit that the Respondent gained through noncompliance. The Department may increase the penalty by the approximated dollar sum of the economic benefit, provided that the sum penalty does not exceed the maximum allowed for the violation by rule or statute. After determining the base penalty and applying the civil formula penalty above to determine the gravity and magnitude based portion of the civil penalty, "EB" is to be determined as follows:

(i) Add to the formula the approximate dollar sum of the economic benefit gained through noncompliance, as calculated by determining both avoided costs and the benefits obtained through any delayed costs, where applicable;

(ii) The Department need not calculate nor address the economic benefit component of the civil penalty when the benefit obtained is de minimis.

(2) In addition to the factors listed in section (1) of this rule, the Director may consider any other relevant rule of the Department and shall state the effect the consideration had on the penalty. On review, the Department shall consider the factors contained in section (1) of this rule and any other relevant rule of the Department.

(3) The Department may reduce any penalty based on the Respondent's inability to pay the full penalty amount. If the Respondent seeks to reduce the penalty, the Respondent has the responsibility of providing to the Department documentary evidence concerning Respondent's inability to pay the full penalty amount:

(a) When the Respondent is currently unable to pay the full amount, the first option should be to place the Respondent on a payment schedule with interest on the unpaid balance for any delayed payments. The Department may reduce the penalty only after determining that the Respondent is unable to meet a long term payment schedule;

(b) In appropriate circumstances, the Department may impose a penalty that may result in a Respondent going out of business. Such circumstances may include situations where the violation is intentional or flagrant or situations where the Respondent's financial condition poses a serious concern regarding the ability or incentive to remain in compliance.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0190

Additional Civil Penalties

In addition to any other penalty provided by law, the following violations are subject to the civil penalties specified below:

(1) Any person planting contrary to the restriction of subsection (1) of ORS 468A.580 pertaining to the open field burning of cereal grain acreage shall be assessed by the Department a civil penalty of \$25 for each acre planted contrary to the restrictions.

(2) Any person who intentionally or recklessly violates any provisions of ORS Chapters 468 or 468A or any rule or standard or order of the Department adopted or issued pursuant to ORS 468 or 468A, which results in or creates the imminent likelihood for an extreme hazard to the public health or which causes extensive damage to the environment shall incur a penalty up to \$100,000. When determining the civil penalty sum to be assessed under this section, the Director shall apply the following procedures:

(a) Select one of the following base penalties after determining the cause of the violation:

(A) \$50,000 if the violation was caused recklessly;

(B) \$75,000 if the violation was caused intentionally;

(C) \$100,000 if the violation was caused flagrantly.

(b) Then determine the civil penalty through application of the formula: $BP + ((.1 \times BP) (P + H + O + C)) + EB$, in accordance with OAR 603-077-0180(1)(c).

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 22-2004, f. & cert. ef. 8-10-04

603-077-0195

Field Burning Classification of Violations

Violations pertaining to field burning shall be classified as follows:

(1) Class One:

(a) Violation of any order of the Department listed under OAR 603-077-0175(4);

(b) Systematic failure to keep records required by a permit, rule or order;

(c) Open field burning in a manner that causes a hazard to public safety;

(d) Causing or allowing open field burning without first obtaining a valid open field burning permit;

(e) Causing or allowing open field burning or stack burning where prohibited by OAR 603-077-0110(7) or 603-077-0155(4);

(f) Causing or allowing any propane flaming which results in visibility impairment on any Interstate Highway or Roadway specified in OAR 837-011-0080(1) and (2);

(g) Failing to immediately and actively extinguish all flames and smoke sources when any propane flaming results in visibility impairment on any Interstate Highway or Roadway specified in OAR 837-011-0080(1) and (2);

(h) Causing or allowing propane flaming of grass seed or cereal grain crops, stubble, or residue without first obtaining a valid propane flaming burning permit;

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- (i) Stack burning grass seed or cereal grain crop residue without first obtaining a valid stack burning permit;
 - (j) Open field burning, propane flaming, stack burning when State Fire Marshal restrictions are in effect;
 - (k) Causing or allowing propane flaming which results in sustained open flame in a fire safety buffer zone along any Interstate Highway or Roadway specified in OAR 837-011-0080(1) or (2);
 - (l) Failure to provide access to premise or records when required by law, rule, permit, or order.
 - (m) Any violation that causes a major harm or poses a major risk of harm to public health or the environment.
- (2) Class Two:
- (a) Failure to actively extinguish all flames and major smoke sources from open field or stack burning when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employee of the Department;
 - (b) Causing or allowing a propane flaming operation to be conducted in a manner which causes or allows an open flame to be sustained;
- (3) Class Three:
- (a) Any violation related to open field burning, propane flaming, or stack burning which is not otherwise classified in these rules.
- Stat. Auth.: ORS 561.190
Stats. Implemented: ORS 468A.585
Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04

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**Department of Agriculture,
Oregon Hazelnut Commission
Chapter 623**

Adm. Order No.: HZL 1-2004
Filed with Sec. of State: 7-30-2004
Certified to be Effective: 7-30-04
Notice Publication Date: 7-1-04
Rules Amended: 623-010-0010
Subject: Proposed amendment to OAR 623-010-0010 will decrease the assessment to hazelnut producers by \$1 per ton. In 2003 the assessment was increased \$3 per ton to pay for an anti-dumping suit. The suit has been dropped thus the assessment is being decreased.
Rules Coordinator: Polly Owen—(503) 678-6823

**623-010-0010
Assessment**

Any person who is a first purchaser shall deduct and withhold an assessment of \$.0055 per pound or \$11 per ton on merchantable weight in-shell hazelnuts and \$.01375 per pound or \$27.50 per ton on all shelled hazelnuts from the price paid the producer, thereof on and after July 31, 2004, on all hazelnuts grown in Oregon, except:

- (1) All casual sales of filberts shall be exempt from said assessment.
- (2) ORS 576.345: "When a first purchaser lives or has his office in another state or is a federal or other governmental agency, the producer shall report all sales made to such purchaser on forms provided by and pay the tax assessment directly to the Commission, unless such first purchaser voluntarily makes the proper deduction and remits the proceeds to the Commission".
- (3) Any producer who performs the handling or processing functions on all or a part of his production of the commodity, which normally would be performed by another person as the first purchaser thereof, shall report his sales on such commodity of his own production on forms provided by and pay the assessment moneys directly to the Commission, unless the first purchaser from such producer voluntarily makes the proper deduction and remits the proceeds to the Commission.

Stat. Auth.: ORS 576
Stats. Implemented:
Hist.: OFC 2, f. 8-6-59; OFC 7, f. 5-10-65, ef. 7-1-65; OFC 8, f. 4-24-72, ef. 7-1-71; OFC 2-1980, f. & ef. 7-28-80; OFC 1-1982, f. & ef. 10-4-82; OFC 2-1984, f. & ef. 3-7-84; OFC 1-1985, f. 7-29-85, ef. 8-1-85; HZL 1-2000, f. 12-8-00, cert. ef. 1-1-01; HZL 1-2003, f. 9-30-03, cert. ef. 10-1-03; HZL 1-2004, f. & cert. ef. 7-30-04

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

Adm. Order No.: BCD 10-2004
Filed with Sec. of State: 8-6-2004
Certified to be Effective: 10-1-04

Notice Publication Date: 4-1-04
Rules Amended: 918-440-0010, 918-440-0040
Subject: ORS 455.020 and ORS 455.110 require the department to promulgate a uniform state building code to govern the construction, reconstruction, alteration and repair of buildings and other structures and the installations of mechanical devices and equipment and to require the correction of unsafe conditions caused by earthquakes in existing buildings. The law further requires the building code to establish uniform performance standards for health, safety, welfare, comfort and security of residents of the State of Oregon, who are occupants and users of buildings and to provide for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

The current Oregon Mechanical Specialty Code adopted is the 2000 edition of the International Mechanical Code (IMC), with Oregon amendments and is known as the 2002 Oregon Mechanical Specialty Code (OMSC).

The Director of the Department of Consumer and Business Services, with the approval of the Building Codes Structures Board, may amend such codes and regulations provided it conforms to in so far it is practicable to model building code generally acceptable throughout the United States. The proposed rule adopts the 2003 edition of the International Mechanical Code (IMC) with amendments and the appended, International Fuel Gas Code, with proposed amendments, and will be known as the 2004 Oregon Mechanical Specialty Code.
Rules Coordinator: Richard J. Baumann—(503) 373-7559

**918-440-0010
Rules Establishing Minimum Safety Standards for the Design and Construction of Mechanical Systems in Buildings**

Effective October 1, 2004 the **2004 Oregon Mechanical Specialty Code** is the **2003 Edition of the International Mechanical Code**, and International Fuel Gas Code as published by the International Code Council and amended by the Building Codes Division.

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

Stat. Auth.: ORS 455.020, ORS 455.030 & ORS 455.110

Stats. Implemented: ORS 455.110

Hist.: DC 35, f. 6-5-74, ef. 6-25-74; DC 52(Temp), f. & ef. 7-3-75 thru 10-31-73; DC 62, f. 11-20-75, ef. 1-1-76; DC 68, f. 3-3-76, ef. 4-1-76; DC 75, f. 5-21-76, ef. 8-1-76; DC 85, f. 8-19-76, ef. 10-1-76; DC 22-1978, f. 9-1-78, ef. 10-1-78; DC 8-1979, f. 4-30-79, ef. 5-1-79/8-1-79/1-1-80; DC 14-1979, f. 12-27-79, ef. 1-1-80; DC 6-1980, f. 6-5-80, ef. 7-1-80; DC 11-1981, f. & ef. 7-20-81; DC 13-1981, f. 10-30-81; ef. 11-1-81; DC 14-1983, f. 6-23-83, ef. 8-1-83; DC 26-1984, f. 8-31-84, ef. 9-15-84; DC 10-1986, f. 6-30-86, ef. 7-1-86; DC 5-1987(Temp), f. & ef. 3-26-87; BCA 3-1987, f. & ef. 8-4-87; BCA 7-1987, f. & ef. 9-3-87; Renumbered from 814-027-0005; BCA 34-1989, f. 12-21-89, ef. 1-1-90; BCA 32-1991(Temp), f. & cert. ef. 9-30-91; BCA 6-1992, f. 3-24-92, cert. ef. 3-27-92; BCA 27-1992, f. 12-29-92, cert. ef. 1-1-93; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 18-2002, f. 7-26-02, cert. ef. 10-1-02; BCD 10-2004, f. 8-6-04 cert. ef. 10-1-04

**918-440-0040
Amendments to the Oregon Mechanical Specialty Code**

The **Mechanical Specialty Code** is generally readopted every three years coinciding with the national adoption of a nationally recognized Mechanical Code and other referenced supporting nationally recognized codes pursuant to chapter 918, division 8.

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

Stat. Auth.: ORS 455.030

Stats. Implemented: ORS 455.110

Hist.: BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 5-1997, f. 3-21-97, cert. ef. 4-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 15-1999, f. & cert. ef. 10-6-99 thru 4-2-00; BCD 5-2000, f. 3-9-00, cert. ef. 4-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 19-2003, f. 12-15-03, cert. ef. 1-1-04; BCD 10-2004, f. 8-6-04 cert. ef. 10-1-04

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Adm. Order No.: BCD 11-2004
Filed with Sec. of State: 8-13-2004
Certified to be Effective: 10-1-04
Notice Publication Date: 6-1-04
Rules Adopted: 918-480-0130
Rules Amended: 918-020-0090, 918-098-0500

Subject: Section 4 of 2003 Senate Bill 711 establishes requirements which will allow architects and engineers to approve certain residential plans if they are certified as a one- and two- family dwelling plans examiner. In addition, Section 4 of Senate Bill 711 requires the

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Department of Consumer & Business Services to define by rule “Conventional Light Frame Construction.”

This rulemaking amends OAR 918-020-0090, Program Standards, for municipal building inspection programs, which requires municipal building inspection programs to update their operating plan to include policies and procedures for waiving building inspection program plan review requirements for one- and two- family dwellings that meet the criteria under ORS 455.628.

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

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-020-0090

Program Standards

The division and every municipality that administers and enforces a building inspection program shall establish and maintain the minimum standards, policies and procedures set forth in this section.

(1) Administrative Standards. A building inspection program shall:

(a) Provide adequate funds, equipment and other resources necessary to administer and enforce the building inspection program in conformance with an approved operating plan;

(b) Document in writing the authority and responsibilities of the building official, plan reviewers and inspectors based on an ordinance or resolution that authorizes the building official on behalf of the municipality to administer and enforce a building inspection program;

(c) Establish a local process to review appeals of technical and scientific determinations made by the building official regarding any provision of the specialty codes the municipality administers and enforces, to include a method to identify the local building official or designee and notify the aggrieved persons of the provisions of ORS 455.475;

(d) Account for all revenues collected and expenditures made relating to administration and enforcement of the building inspection program, and account for the electrical program revenues and expenditures separately when administered by the municipality.

(A) Prepare income and expense projections for each code program it will administer and enforce during the reporting period; and

(B) Describe how general administrative overhead costs and losses or surpluses, if any, will be allocated.

(e) Establish policies and procedures for the retention and retrieval of records relating to the administration and enforcement of the specialty codes it administers and enforces;

(f) Make its operating plan available to the public;

(g) Establish a process to receive public inquiries, comments and complaints;

(h) Adopt a process to receive and respond to customers’ questions regarding permitting, plan review and inspections;

(i) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will receive and respond to customers’ questions;

(j) Post its jurisdictional boundary, types of permits sold and hours of operation at each permit office it operates; and

(k) Identify all persons in addition to the building official to whom notices issued pursuant to these rules should be sent.

(2) Permitting Standards. A building inspection program shall:

(a) Provide at least one office within its jurisdictional boundary where permits may be purchased;

(b) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will make permits available for purchase;

(c) Establish policies and procedures for receiving permit applications, determining whether permit applications are complete and notifying applicants what information, if any, is required to complete an application;

(d) Set reasonable time periods within which the municipality will:

(A) Advise permit applicants whether an application is complete or requires additional information; and

(B) Generally issue a permit after an application has been submitted and approved.

(e) Establish policies and procedure for issuing permits not requiring plan review, emergency permits, temporary permits, master permits and minor labels;

(f) Provide a means to receive permit applications via facsimile; and

(g) Require proof of licensing, registration and certification of any person who proposes to engage in any activity regulated by ORS Chapters 446, 447, 455, 479, 693 and 701 prior to issuing any permit.

(3) Plan Review Standards. A building inspection program shall:

(a) Establish policies and procedures for its plan review process to:

(A) Assure compliance with the specialty codes it is responsible for administering and enforcing, including any current interpretive rulings adopted pursuant to ORS 455.060 or 455.475;

(B) Make available checklists or other materials at each permitting office it operates that reasonably appraises persons of the information required to constitute a complete permit application or set of plans;

(C) Inform applicants within three working days of receiving an application, whether or not the application is complete and if it is for a simple residential plan. For the purposes of this rule and ORS 455.467, a “complete application” shall be defined by the division taking into consideration the Tri-County procedures in OAR chapter 918, division 50. If deemed a simple residential plan, the jurisdiction shall also inform the applicant of the time period in which the plan review will generally be completed;

(D) Establish a process that includes phased permitting and deferred submittals for plan review of commercial projects for all assumed specialty codes, taking into consideration the Tri-County procedures in OAR chapter 918, division 50. The process shall not allow a project to proceed beyond the level of approval authorized by the building official. The process shall:

(i) Require the building official to issue permits in accordance with the state building code as defined in ORS 455.010 provided that adequate information and detailed statements have been submitted and approved with pertinent requirements of the appropriate code. Permits may include, but not be limited to: excavation, shoring, grading and site utilities, construction of foundations, structural frame, shell or any other part of a building or structure.

(ii) Allow deferred submittals to be permitted within each phase with the approval of the building official; and

(iii) Require the applicant to be notified of the estimated timelines for phased plan reviews and that the applicant is proceeding without assurance that a permit for the entire structure will be granted when a phased permit is issued.

(E) Verify that all plans have been stamped by a registered design professional and licensed plan reviewer where required;

(F) Verify for those architects and engineers requesting the use of alternative one and two family dwelling plan review program that all plans have been stamped by a registered professional who is also a residential plans examiner certified under OAR 918-098-0240. This process shall require the building official to:

(i) Establish policies and procedures in their operating plan for this process;

(ii) Waive building inspection program plan review requirements for conventional light frame construction for detached one and two family dwellings; and

(iii) Establish an appropriate fee for processing plans submitted under this rule.

(b) Employ or contract with a person licensed, registered or certified to provide consultation and advice on plan reviews as deemed necessary by the building official based on the complexity and scope of its customers’ needs;

(c) Maintain a list of all persons it employs or contracts with to provide plan review services including licenses, registrations and certifications held by each plan reviewer and evidence of compliance with all applicable statutory or professional continuing education requirements;

(d) Designate at least three licensed plan reviewers from whom the municipality will accept plan reviews when the time periods in subsection (e) of this section cannot be met; and

(e) Allow an applicant to use a plan reviewer licensed under OAR 918-090-0210 and approved by the building official when the time period for review of “simple one- or two-family dwelling plans” exceeds 10 days where the population served is less than 300,000, or 15 days where the population served is 300,000 or greater.

(4) For the purposes of these rules, “simple one- or two-family dwelling plans” shall:

(a) Comply with the requirements for prescriptive construction under the One-and Two-Family Dwelling Specialty Code; or

(b) Comply with the Oregon Manufactured Dwelling and Park Specialty Code; and

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(c) Be a structure of three stories or less with an enclosed total floor space of 4,500 square feet or less, inclusive of multiple stories and garage(s).

(5) "Simple one- or two-family dwelling plans" may:

(a) Include pre-engineered systems listed and approved by nationally accredited agencies in accordance with the appropriate specialty code, or by state interpretive rulings approved by the appropriate specialty board, that require no additional analysis; and

(b) Be designed by an architect or engineer and be considered a simple one- and two-family dwelling if all other criteria in this rule are met.

(6) The following shall be considered "simple one- or two-family dwelling plans":

(a) Master plans approved by the authority having jurisdiction or under ORS 455.685, which require no additional analysis; and

(b) Plans that include an engineering soil report if the report allows prescriptive building construction and requires no special systems or additional analysis.

(7) A plan that does not meet the definition of "simple" in this rule shall be deemed "complex". In order to provide timely customer service, a building official may accept a plan review performed by a licensed plan reviewer for a complex one- or two-family dwelling.

(8) Inspection Standards. A building inspection program shall:

(a) Set reasonable time periods between 7 a.m. and 6 p.m. on days its permit office is open, weekends and holidays excluded, when it will provide inspection services or alternative inspection schedules agreed to by the municipality and permittee;

(b) Unless otherwise specified by statute or specialty code, establish reasonable time periods when inspection services will be provided following requests for inspections;

(c) Establish policies and procedures for inspection services;

(d) Leave a written copy of the inspection report on site;

(e) Make available any inspection checklists;

(f) Maintain a list of all persons it employs or contracts with to provide inspection services including licenses, registrations and certifications held by persons performing inspection services and evidence of compliance with all applicable statutory or professional continuing education requirements;

(g) Vest the building official with authority to issue stop work orders for failure to comply with the specialty codes the municipality is responsible for administering and enforcing; and

(h) Require inspectors to perform license enforcement inspections as part of routine installation inspections.

(i) Where a municipality investigates and enforces violations under ORS 455.156 or in accordance with the municipality's local compliance program, the municipality's inspectors shall require proof of compliance with the licensing, permitting, registration and certification requirements of persons engaged in any activity regulated by ORS Chapters 446, 447, 455, 479, 693 and 701. Inspectors shall report any violation of a licensing, permitting, registration or certification requirement to the appropriate enforcement agency.

(9) Compliance Programs. A municipality administering a building inspection program may enact local regulations to create its own enforcement program with local procedures and penalties; utilize the division's compliance program by submitting compliance reports to the division; elect to act as an agent of a division board pursuant to ORS 455.156; or develop a program that may include, but not be limited to, a combination thereof. A building inspection program shall establish in its operating plan:

(a) Procedures to respond to public complaints regarding work performed without a license or permit or in violation of the specialty codes the municipality is responsible for administering and enforcing;

(b) Procedures requiring proof of licensure for work being performed under the state building code utilizing the approved citation process and procedures in OAR 918-020-0091.

(c) Policies and procedures to implement their compliance program;

(d) Policies and procedures regarding investigation of complaints, where the municipality chooses to investigate and enforce violations pursuant to ORS 455.156; and

(e) Policies and procedures regarding issuance of notices of proposed assessments of civil penalties, where the municipality chooses to act as an agent of a board pursuant to ORS 455.156. Penalties under such a program are subject to the limitations set in ORS 455.156 and 455.895.

(10) Electrical Programs. Municipalities that administer and enforce an electrical program shall demonstrate compliance with all applicable electrical rules adopted pursuant to ORS 479.855.

[Publications: Publications referenced are available for review from the division.]

Stat. Auth.: ORS 455.030, 455.467, 455.469 & 455.156

Stats. Implemented: ORS 455.150, 455.467, 455.469 & 455.156

Hist.: BCD 9-1996, f. 7-1-96, cert. ef. 10-1-96; BCD 14-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 11-2000, f. 6-23-00, cert. ef. 7-1-00; BCD 10-2002(Temp), f. 5-14-02, cert. ef. 5-15-02 thru 11-10-02; BCD 16-2002, f. & cert. ef. 7-1-02; BCD 27-2002, f. & cert. ef. 10-1-02; BCD 6-2004, f. 5-21-04, cert. ef. 7-1-04; BCD 11-2004, f. 8-13-04, cert. ef. 10-1-04

918-098-0500

Building Official and Inspector Sanctions Process

(1) The division shall establish uniform procedures for the processing and resolution of complaints relating to building officials and inspectors certified pursuant to ORS 455.735.

(2) Failure to act "in the public interest in the performance of their duties" in accordance with ORS 455.740 shall include, but not be limited to:

(a) Providing or having knowledge of, false education, work experience or documentation being used to meet certification or continuing education requirements;

(b) Failing to complete continuing education requirements;

(c) Permitting, allowing or performing plan reviews or inspections without proper certification;

(d) Engaging in a pattern that fails to enforce the specialty code, including statewide interpretations, alternate methods, rulings, directives or other building program requirements;

(e) After notification, engaging in a pattern of requiring construction or installations to exceed the requirements of the specialty codes, unless otherwise specified by the designer(s);

(f) Requiring an individual to approve structures or installations that do not comply with the specialty codes;

(g) Any other activity prejudicial to the administration and enforcement of the state building code.

(3) Upon a finding of a violation of section (2) of this rule, the director may, in accordance with the requirements of ORS Chapter 183, place conditions on a certification in lieu of suspension or revocation.

(4) In determining the appropriate sanction any applicable factors shall be taken into account, including, but not limited to:

(a) Prior history of violations;

(b) Extent to which corrective action was taken; and

(c) The element of risk or danger to any person caused by the violation.

Stat. Auth.: ORS 455.740

Stat. Implemented.: ORS 455.740

Hist.: BCD 13-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 11-2004, f. 8-13-04, cert. ef. 10-1-04

918-480-0130

Conventional Light Frame Construction

As per ORS 455.628, construction documents designed, prepared and sealed by an Oregon licensed architect or engineer, who is also certified in the state of Oregon as one and two family dwelling plans examiners, are not required to obtain plan review for conventional light frame construction for detached one and two family dwellings. For the purpose of this rule, "Conventional Light Frame Construction" shall be defined as a type of construction that complies with the requirements under the latest edition of the Oregon One and Two Family Dwelling Specialty Code (Code) and subject to the following limitations:

(1) Buildings shall be designed such that its vertical and horizontal structural elements are primarily formed by a system of repetitive wood or light gage steel framing members as allowed by the code;

(2) Buildings shall be subject to the maximum height and story limitations as specified in the code;

(3) Bearing wall floor-to-floor heights shall not exceed those specified in the code;

(4) All design loads, including wind and seismic loading shall not be less than those allowed by the code;

(5) Site topography and site geotechnical limitations shall not exceed those allowed by the code; and

(6) Buildings subject to the irregular building limitations as specified in the code.

Stat. Auth.: ORS 455.020, 455.030 & 455.628

Stat. Implemented.: ORS 455.628

Hist.: BCD 11-2004, f. 8-13-04, cert. ef. 10-1-04

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

Adm. Order No.: FCS 2-2004

Filed with Sec. of State: 8-5-2004

Certified to be Effective: 8-5-04

ADMINISTRATIVE RULES

Notice Publication Date:

Rules Amended: 441-001-0005, 441-505-3020, 441-505-3060, 441-710-0038, 441-710-0070, 441-730-0010, 441-730-0080, 441-730-0100, 441-730-0160, 441-730-0270, 441-730-0275, 441-830-0010, 441-830-0020, 441-830-0030, 441-830-0040, 441-860-0010, 441-860-0060, 441-860-0070, 441-860-0090, 441-865-0040, 441-870-0050, 441-875-0040, 441-880-0010, 441-880-0020, 441-880-0030, 441-880-0040, 441-880-0050, 441-910-0060, 441-910-0095, 441-910-0110, 441-910-0120

Subject: These amendments make nonsubstantive changes solely to correct the agency's name, spelling, grammatical errors, statutory reference, and the date of the Attorney General's model rules of procedure.

Rules Coordinator: Berri Leslie—(503) 947-7478

441-001-0005

Model Rules of Procedure

The Director adopts by reference, for all programs administered by the Division of Finance and Corporate Securities, the Attorney General's Model Rules of Procedure as published in the Oregon Attorney General's Administrative Law Manual dated January 15, 2004.

Stat. Auth.: 59.285, 59.900, 192.845, 645.205, 646.396, 650.050, 697.085, 697.632, 705.730, 706.790, 717.310, 723.102, 725.505, 725.625, 726.260

Stats. Implemented: 183.341

Hist.: FCS 3-2003, f. 12-30-03 cert. ef. 1-1-04; FCS 2-2004, f. & cert. ef. 8-5-04

441-505-3020

Property Acquired for or Used for Place of Business; Disposition if Not Used

(1) An institution shall sell or dispose of real property referred to in ORS 708A.175:

(a) Purchased for future location or expansion of its business, if the real estate is not so used within two years after the date of acquisition; or

(b) Formerly used as a place to carry on the business of the institution, if it is not reused for a business purpose within two years after the business use is discontinued.

(2) The Director may grant an extension of the two-year period if justified by an asset utilization plan which is consistent with the institution's business plan.

(3) The Director shall also consider the capital adequacy, liquidity, profitability, cash flow and management capabilities in determining whether the proposal is prudent and reasonable.

Stat. Auth.: ORS 708A.175

Stats. Implemented: ORS 708A.175

Hist.: BB 13, f. & ef. 3-5-76, Renumbered from 805-024-0115; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-580-0030; FCS 2-2004, f. & cert. ef. 8-5-04

441-505-3060

Public Funds Deposits

For purposes of ORS 708A.535(4), the term "public funds" shall include deposits belonging to any state, or agency or instrumentality of that state, in which the financial institution maintains a branch, that may be deposited to the official credit of the appropriate government official charged with the safekeeping of funds of that state, or agency or instrumentality of that state.

Stat. Auth.: ORS 706.795 & 709.030

Stats. Implemented: ORS 708A.535 & 709.030

Hist.: FCS 3-2002, f. & cert. ef. 10-25-02; FCS 2-2004, f. & cert. ef. 8-5-04

441-710-0038

Mergers of Community Charters

(1) A community charter credit union cannot merge into an occupational or associational credit union unless the situation involves a well-defined local community, neighborhood or rural district that is underserved by other depository institutions as referenced in ORS 723.172(7)(a) or is an emergency merger under section (4) of this rule.

(2) The merger should not impact the safety and soundness of the continuing credit union; and

(3) The continuing credit union maintains a service facility within the community boundaries. "Service Facility" means a place where shares are accepted for members' accounts, loan applications are accepted, and loans are disbursed. This definition includes a credit union owned branch, a shared branch that belongs to the shared branching network, a mobile home, an office operated on a regularly scheduled weekly basis, or a credit union owned electronic facility that meets, at a minimum, these requirements. It does not include an ATM.

(4) For purposes of this rule, "emergency merger" involves the director's determination that:

(a) A credit union is insolvent or likely to become insolvent;

(b) Expeditious action is necessary;

(c) Other reasonable alternatives are not available; and

(d) The public interest would best be served by approving the merger.

Stat. Auth.: ORS 723.102

Stats. Implemented: ORS 723.172 & 723.682

Hist.: FCS 6-2000, f. & cert. ef. 3-31-00; FCS 2-2004, f. & cert. ef. 8-5-04

441-710-0070

Procedures for Amending Bylaws on Field of Membership

(1) When a credit union wishes to expand its field of membership, it shall amend its bylaws to describe the group or groups, or geographic boundaries if it is a community charter, to be added to the field of membership. The proposed amendment to the bylaws and the application for approval of the amendment filed with the Director shall include:

(a) The bylaw that defines the field of membership of the credit union with the text of the proposed amendment to the bylaw showing the new language underlined and deleted language, if any, bracketed;

(b) The credit union's ethics policy regarding seeking or accepting members or groups already served by another state or federal credit union;

(c) The credit union's most recent financial statement;

(d) An updated plan of business for the credit union that takes into account the implications of the anticipated increased membership, deposits, responsibilities and effect on capital level of the credit union;

(e) An updated budget;

(f) If the amendment proposes to add a separate employment group to the field of membership; the names and addresses of individuals who represent the group;

(g) If the amendment proposes to add a group with a separate bond of occupation or association, the credit union shall submit evidence:

(A) That the group does not contain more than 3,000 members;

(B) That the group could not feasibly or reasonably establish a new credit union due to a lack of volunteer resources, financial resources or other factors important to the likelihood of successful formation of a new credit union; or

(C) That the group proposes to transfer to the credit union in connection with a merger, consolidation or transfer approved by the director, or in connection with the liquidation of another credit union.

(h) Any other evidence in support of the application, including relevant correspondence from the group to be added.

(2) Any requirement in section (1) of this rule may be waived by the Director if the requirement is not necessary for the purposes of that application.

(3) Where an application for amendment of the field of membership overlaps the field of another state or federal credit union, the application shall additionally:

(a) Include the names and addresses of each credit union presently serving the group, the penetration of those credit unions into the group, and the quality and quantity of services being provided by those credit unions to the extent known;

(b) Furnish evidence of support from the affected groups.

(4) If the approval of an amendment would knowingly create an overlap issue with any other credit union, the Director will give notice of the application and the proposed amendment of the bylaws to the potentially affected state and federally chartered credit unions in this state. The notice will offer all such credit unions a reasonable opportunity:

(a) To review the application, except for any confidential information included in the application; and

(b) To comment to the Director in writing on the contemplated overlap.

(5) If the Director finds a group is not being satisfactorily serviced, the approval may be withdrawn.

Stat. Auth.: ORS 723.102

Stats. Implemented: ORS 723.022, ORS 723.156 & ORS 723.172

Hist.: FCS 2-1989, f. 1-18-89, cert. ef. 2-1-89; Renumbered from 805-072-0075; FCS 6-2000, f. & cert. ef. 3-31-00; FCS 2-2004, f. & cert. ef. 8-5-04

441-730-0010

Definitions

(1) "Annual Percentage Rate" means the annual percentage rate that every licensee is required by Regulation Z of the Federal Truth in Lending Act (Title I of the Consumer Credit Protection Act) to disclose to each of its credit customers.

(2) "Borrower" means a natural person.

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(3) "Charges" means any one or more of the fees, premiums or other charges described by ORS 725.340(2)(a), (3) and (4), and ORS 725.345(3), and other items charged to a borrower's account; but the term does not include interest or deferral charges.

(4) "Consumer Finance Loan" means the loan of money:

(a) In an amount of \$50,000 or less;

(b) At a rate of interest which exceeds the limitation contained in ORS Chapter 82;

(c) To a borrower, primarily for personal, family or household purposes.

(d) By a person who is in the business of making loans usually characterized by required periodic payments not including financial institutions defined in ORS 706.008.

(5) "Deferral charges" means the additional charge assessed by a Consumer Finance licensee made for deferring all unpaid installments as provided by ORS 725.340(2)(b). Deferral charges do not apply to loans with a single payment payback feature

(6) "Extension" has the same meaning as "renewal" defined in section (13) of this rule.

(7) "License" means a Consumer Finance license or a Short-Term Personal Loan license issued under ORS 725.140.

(8) "Licensee" means a person licensed as a Consumer Finance licensee or a Short-Term Personal Loan licensee.

(9) "Loan" means a loan that is subject to the Act.

(10) "Payday loan" means a loan of money to a borrower primarily for personal, family or household purposes:

(a) Collateralized by a check(s) or bank draft(s) dated as of the date of the loan or later in the amount of the principal of the loan plus interest or deferral charges assessed by the lender;

(b) With a single payment payback;

(c) Made by a person who is in the business of making payday loans including making Short-Term Personal Loans which are collateralized by personal checks and made with the understanding that the lender will not process a check for an agreed to period of time, but not including financial institutions defined in ORS 706.008.

(11) "Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association or cooperative.

(12) "Renewal" of a loan means granting a borrower the right to postpone repayment of a Short-Term Personal Loan for a fee.

(13) "Roll-over" has the same meaning as "renewal" defined in section (12) of this rule.

(14) "Same day transaction" means a Short-Term Personal Loan made on the same day that a previous Short-Term Personal loan is paid-off and will be treated as a "renewal" defined in section (12) of this rule.

(15) "Short-Term Personal Loan" means:

(a) A Payday Loan;

(b) A Title Loan; or

(c) Any other loan made by a person in the business of making Short-Term personal loans designated by rule or order of the director.

(16) "Title Loan" means a loan as defined in ORS 725.600.

(17) A person is "in the business of making Short-Term personal loans" that are Payday Loans if the person is in the business of making loans to borrowers primarily for personal, family or household purposes, and the loans made are scheduled to be repaid, or for which the person can demand repayment in 60 or fewer days, but do not include loans with an acceleration clause triggered by a default.

(18) A person is "in the business of making Short-Term personal loans" that are Title Loans if the person meets the requirements of ORS 725.600.

Stat. Auth.: ORS 725.320 & 725.505

Stats. Implemented: ORS 725.320

Hist.: BB 14, f. & ef. 11-15-76; BB 5-1982, f. 9-1-82, ef. 9-15-82; Renumbered from 805-075-0007; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 2-2000, f. & cert. ef. 2-15-00; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 6-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 12-25-01; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 2-2004, f. & cert. ef. 8-5-04

441-730-0080

Qualifications of Person in Charge of Licensed Office

A licensee shall not place any person in charge of a licensed office unless the person has a thorough understanding of ORS Chapter 725 and these rules.

Stat. Auth.: ORS 725

Stats. Implemented: ORS 725.310 & ORS 723.140

Hist.: BB 14, f. & ef. 11-15-76; Renumbered from 805-075-0050; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 2-2004, f. & cert. ef. 8-5-04

441-730-0100

Officers and Directors of Licensee; Removal or Suspension; Request for a Hearing

(1) An officer or director of a licensee addressed in an order issued by the licensing authority under ORS 725.315 or 725.317 may, within 30 days after the date the order is issued and served, request a hearing on the order as provided for contested cases by ORS 183.310 to 183.500, and the rules of the Director adopted pursuant thereto.

(2) A person who is suspended or removed under ORS 725.315 or 725.317 shall not conduct any of the business of the licensee or have access to the books, records, or assets of the licensee either as an officer, director, partner, stockholder, or employee without receiving permission from the Director:

(a) During the period of the suspension; or

(b) After the effective date of the removal.

(3) A licensee subject to an order of suspension under the provisions of ORS 725.230(2) may, within 90 days after the date the order is issued or served, request a hearing on the order as provided for contested cases by ORS 183.310 to 183.500 and the rules of the Director adopted pursuant thereto.

Stat. Auth.: ORS 725

Stats. Implemented: ORS 725.315 & 725.317

Hist.: BB 3-1978, f. 5-16-78, ef. 7-1-78; Renumbered from 805-075-0057; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 2-2004, f. & cert. ef. 8-5-04

441-730-0160

Daily-Interest Computation

(1) When interest on a loan is computed on a daily basis using a 360-day factor, the maximum charge for each day shall be 1/30 of the monthly rate. In determining the elapsed time for the purpose of computing interest on any such loan, each calendar month shall be treated as containing 30 days. However, when the period for which interest is computed includes the last day of the month:

(a) If the month has 31 days, the 31st day shall be ignored;

(b) If the month is February, two days shall be added to the period, except in leap year when only one day shall be added.

(2) Interest on a loan may be computed on a daily basis using a 365-day factor or, in a leap year, a 366-day factor. In determining the elapsed time for the purpose of computing interest or a refund of interest, on such a loan, the maximum charge for each day shall be 1/365th of the annual rate, except in a leap year when the maximum charge for each day shall be 1/366th of the annual rate.

(3) Short Term Personal Loan lenders must compute daily interest using subsection (2) of this rule.

Stat. Auth. ORS 725.320 & 725.505

Stats. Implemented ORS 725.340

Hist.: BB 14, f. & ef. 11-15-76; Renumbered from 805-075-0105; FCS 2-2000, f. & cert. ef. 2-15-00; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 2-2004, f. & cert. ef. 8-5-04

441-730-0270

Conditions Applicable to Short-Term Personal Loans

(1) The following conditions apply to all Short-Term Personal Loan licensees making Payday loans.

(a) Interest shall not be compounded.

(b) Lenders must calculate daily interest based upon a 365/366 day year pursuant to OAR 441-730-0160(2) and may not calculate daily interest based upon a 360-day year.

(c) Lenders must comply with the Equal Credit Opportunity Act (ECOA), 15 USC 1691, and shall provide the applicant with a written notice of the reason for declining a loan. The notice may be provided to the applicant at the time the loan is declined or the notice may be mailed to the applicant. A copy of the notice must be retained in the files. Exceptions to providing notice contained within ECOA are available to the lender under this rule.

(d) The Annual Percentage Rate shall be posted prominently inside the lender's office where customers can easily see it. For lenders who make loans with varying Annual Percentage Rate, the disclosure requirements of this subsection may be satisfied by posting the Annual Percentage Rate for a typical loan and including the terms of the typical loan in the posting.

(e) The loan agreement shall have the following information displayed prominently in bold print on the first page of the agreement:

(A) The APR;

(B) The amount of the loan;

(C) The amount of interest/finance charge if paid when due,

(D) The total amount due on the due date; and

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(E) The due date. Compliance with the disclosure requirements of Truth In Lending, 15 U.S.C. et seq., and Regulation Z 12 C.F.R. Part 2226 will satisfy the requirements of this section.

(f) After any payment made, in full or in part, on any loan, the licensee shall:

(A) give to the person making such a payment a signed, dated receipt showing the amount paid and the balance due on the loan.

(B) An electronic receipt, a canceled check, or other written instrument approved by the director may substitute for the receipt requirements of subsection (A).

(g) A Short-Term Personal Loan licensee may not make a payday loan to an applicant without forming a good faith belief that the applicant has the ability to repay the loan. A licensee who meets the provision of section (2) of this rule will be deemed to be in compliance with this section.

(h) If a Short-Term Personal Loan licensee permits a borrower to renew or extend a Payday loan after the due date, the extension or renewal shall be effective on the due date of the loan and no late charge shall be permitted.

(i) A Short-Term Personal Loan licensee may not renew or extend a Payday loan more than three times. If the borrower is unable to repay the loan after the third renewal or extension, the lender may not assess further charges, but may institute collection efforts to recover the balance of the loan.

Example: A borrower borrows \$300 for two weeks on June 5 for a fee of \$45. The due date is June 19. On June 19, being unable to pay-off the loan, the borrower renews or extends the loan for another two weeks by paying the \$45 fee. The new due date is July 3. On July 3, the borrower is unable to pay-off the loan and renews or extends the loan a second time by paying another \$45. The new due date is July 17. On July 17 the borrower is unable to pay off the loan and renews or extends the loan for a third time by paying another \$45 with a due date of July 31. On July 31 the borrower is unable to pay off the balance. The lender may not charge any additional interest fees or other charges, but may institute collection efforts.

(j) A Short-Term Personal Loan licensee may not make a "same day transaction" with a borrower who has renewed or extended the Payday loan three times. The lender must wait until the next business day following receipt of the payoff from the borrower before making a new Payday loan to that borrower.

(k) If a Short-Term Loan licensee permits a borrower to renew or extend a Payday Loan after the due date, the extension or renewal shall be effective on the due date of the loan and no late charge shall be permitted.

(L) A Short Term Personal Loan licensee making a Payday Loan may not make more than one Payday Loan to an applicant at a time. A licensee who has established a credit limit for a borrower may make an additional loan of money, up to the credit limit, to the borrower if the existing loan was less than the credit limit. The additional loan will be due on the date the original loan was scheduled to be paid-off.

(m) A Short-Term Loan licensee making Payday Loans may not conduct business at a location at which liquor or lottery tickets are sold or where gambling devices are operated.

(n) If a licensee requests or accepts more than one check or bank draft to secure a single Payday Loan and the borrower defaults, the lender may not charge more than one Non-Sufficient Fund charge, but may recover any cost charged by any non-affiliated financial institution for the second or other checks.

(o) Payday Lenders who do not deliver the note marked "Paid or Renewed" to a borrower in compliance with ORS 725.360(4)(d) must state in the loan agreement that the borrower's canceled check will evidence payment of the loan. The lender must mark the note "Paid" or "Renewed" and retain the note in the file. An electronic transmission may fulfill the requirements of this section if the loan is made using an electronic medium and the consumer has consented to use of electronic transmission.

(p) Payday lenders who do not cash the borrower's check must return the note marked "Paid" and may not rely on subsection (o) of section (1) of this rule. The lender must also mark the check "Void" and return it to the borrower with the note marked "Paid".

(q) Payday lenders must provide consumers, at the time application is made, with a written statement, in a form approved by the Director, which clearly describes the results of any default or late payment.

(2) A Short-Term Personal Loan licensee making a Payday loan will be presumed to have complied with the provisions of subsection (g) of section 1 of this rule if the licensee:

(a) Requires the applicant to evidence a source of funds to repay the loan such as pay stubs, bank statements or similar record or evidence of employment or income;

(b) Establishes the amount of salary or earnings of the applicant and the date of the month on which compensation is received by the applicant or on which the applicant receives funds;

(c) Solicits the applicant for information on the number, amounts and dates of maturity on outstanding loans on which the applicant is the payor or guarantor;

(d) Lends no more than 25% of the consumer's monthly net income to an applicant that earns \$60,000 a year or less. This limitation does not apply to loans made to applicants who have a net income in excess of \$60,000 a year. If a loan is based upon anticipated receipt of funds from other sources, the licensee must so note in the file and may lend no more than 25% of the total anticipated funds received by the applicant during the loan period.

(e) If the licensee has established a preexisting business relationship with the borrower in which the licensee has entered into a loan or loans within the previous 12 months that have been satisfactorily repaid in full, the licensee may rely on that preexisting relationship to form the good faith belief required under Subsection (g) of Section 1 of this rule.

(f) Solicits information on the number, amount and dates of maturity of existing outstanding loans.

(3) A licensee is not required to perform the due diligence in section (2) of this rule for every transaction, but may rely on prior experience, within 12 months, with repeat customers to take advantage of the presumption of compliance and subsection (g) of section (1) of this rule.

(4) A Payday Loan lender may not use a contract evidencing a Payday Loan that contains any of the following provisions:

(a) A hold harmless clause;

(b) A confession of judgment or other waiver of the right to notice and opportunity to be heard in the event of suit or process.

(c) A provision in which the borrower agrees not to assert any claim or defense arising out of the contract against the licensee or any holder in due course.

(d) An executory waiver or a limitation of exemption from attachment, execution, or other process on real or personal property held, owned by, or due to the borrower, unless the waiver applies solely to property subject to a security interest executed in connection with the loan.

Stat. Auth.: ORS 725.320 & 725.505

Stats. Implemented: ORS 725.360

Hist.: FCS 2-2000, f. & cert. ef. 2-15-00; FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 6-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 12-25-01; FCS 13-2001, f. & cert. ef. 12-27-01; FCS 2-2004, f. & cert. ef. 8-5-04

441-730-0275

Conditions Applicable to Short-Term Personal Loans that are Title Loans

(1) Short Term Personal Loan Licensees making Title Loans shall not compound interest.

(2) Short Term Personal Loan Licensees making Title Loans must calculate daily interest based upon a 365/366 day year pursuant to OAR 441-730-0160(2) and may not calculate daily interest based upon a 360-day year.

(3) Short Term Personal Loan Licensees making Title Loans must comply with the Equal Credit Opportunity Act (ECOA), 15 USC 1691, and shall provide the applicant with a written notice of the reason for declining a loan. The notice may be provided to the applicant at the time the loan is declined or the notice may be mailed to the applicant. The lender must retain a copy of the notice in the lender's files. Exceptions to providing notice contained within ECOA are available to the lender under this rule.

(4) The Annual Percentage Rate shall be posted prominently inside the Short Term Personal Loan licensee's office where customers can easily see it. For Short Term Loan licensees who make Title Loans with varying Annual Percentage Rates, the disclosure requirements of this subsection may be satisfied by posting the Annual Percentage Rate for a typical loan and including the terms of the typical loan in the posting.

(5) The Short Term Personal Loan licensee making Title Loans shall have the following information displayed prominently in bold print on the first page of the Title Loan agreement:

(a) The Annual Percentage Rate;

(b) The amount of the loan;

(c) The amount of interest/finance charge if paid when due;

(d) The total amount due on the due date; and

(e) The due date.

(f) Compliance with the disclosure requirements of Truth In Lending, 15 U.S.C. et seq. and Regulation Z 12 C.F.R. Part 226 will satisfy the requirements of this section.

(6) After any payment made, in full or in part, on any loan, the licensee shall:

(a) Give to the person making such a payment a signed, dated receipt showing the amount paid and the balance due on the loan.

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(b) An electronic receipt, a canceled check, or other written instrument approved by the director may substitute for the receipt requirements of subsection (a).

(7) If a Short Term Loan licensee permits a borrower to renew or extend a Title Loan after the due date, the extension or renewal shall be effective on the due date of the loan and no late charge shall be permitted.

(8) The Short Term Personal Loan licensee may not use title loan contracts that provide for the continuation of interest or other charges after repossession.

(9) Before repossessing a vehicle the Short Term Personal Loan licensee shall send written notice of default in a form approved by the Director, by first class mail to the borrower at the address shown on the loan agreement, or last known address 10 days prior to repossession.

(a) The notice must be dated the day it is mailed;

(b) A dated copy of the notice must be placed in the borrower file; and

(c) Repossession may not occur until the 11th day from the date of the notice.

(10) The Short Term Personal Loan licensee must give written notice in a form approved by the Director, to the borrower delivered by first class mail to the address shown on the loan agreement, or the last known address, or intent to sell a repossessed vehicle.

(a) The notice must be dated the day it is mailed;

(b) A dated copy of the notice must be placed in the borrower file; and

(c) The sale may not occur until at least the 16th day from the date of the notice.

(11) The Short Term Personal Loan licensee must obtain at least three bids on a vehicle prior to sale unless the sale is conducted at a public or dealer auction conducted by a licensed auctioneer. The bids must be in writing and contain the identity of the vehicle, the amount of the bid, and the name and address of the bidder.

(12) The Short Term Personal Loan licensee may not sell a vehicle to an affiliate, subsidiary or employee of the licensee.

(13) If a vehicle is sold, the Short Term Personal Loan licensee shall deliver to the borrower all proceeds, exceeding the debt and reasonable costs associated with the repossession and sale. Delivery must be made not later than three business days after the licensee receives the proceeds of the sale. If the vehicle was paid for by a check, the licensee may deliver the proceeds within three days after the check has cleared.

(14) If a Short Term Personal Loan licensee stores repossessed vehicles on property owned, leased, or otherwise controlled by the licensee, the licensee may not charge any storage charge regardless of how long the car is held prior to sale.

(15) A Short Term Personal Loan licensee may not assess the borrower any charge for repossession or sale except for the actual costs associated with the repossession or sale, but may recover:

(a) Reasonable pass-through costs paid to non-affiliated third parties excluding any storage charge resulting from repossession.

(b) Storage Charges unrelated to repossession such as impound charges by a local municipality.

(c) With approval by the Director, storage charges incurred resulting from remoteness from auction sales.

(16) A Short Term Personal Loan licensee may not repossess a vehicle if the title is held by more than one person, unless the licensee has all persons sign the loan documents.

(17) At the time the Truth in Lending disclosure, required pursuant to 15 U.S.C. et seq., and Regulation Z 12 C.F.R. Part 226, is provided to the borrower by the Short Term Personal Loan licensee, the Short Term Personal Loan licensee must provide:

(a) A statement that clearly describes under what circumstances a vehicle may be repossessed and sold;

(b) A statement that informs the borrower that if a car is sold, the borrower may not receive any proceeds from the sale because of the costs incurred; and

(c) The borrower may be liable to pay additional funds if the proceeds do not equal at least the amount of the debt plus the cost of repossession and sale.

(18) In compliance with ORS 725.605, prior to making a loan, a Short-Term Personal Loan licensee making a Title Loan must form a good faith belief that the applicant has the ability to repay the Title Loan under consideration.

(19) A Short-Term Personal Loan licensee making a Title Loan will be presumed to have complied with section 18 of this rule if the licensee:

(a) Requires the applicant to evidence a source of funds to repay the loan such as pay stubs, bank statements or similar record or evidence of employment or income.

(b) Establishes the amount of salary or earnings of the applicant and the date of the month on which compensation is received by the applicant or on which the applicant receives funds

(c) Solicits the applicant for information on the number, amounts and dates of maturity on outstanding loans on which the applicant is the payor or guarantor.

(d) Lends no more than 25% of the applicant's monthly net income to an applicant that earns \$60,000 a year or less. This limitation does not apply to applicants with an income in excess of \$60,000 a year. If a loan is based upon anticipated receipt of funds from other sources, the licensee must so note in the file and may lend no more than 25% of the total anticipated funds received by the applicant during the loan period.

(20) If the licensee has established a preexisting business relationship with the borrower in which the licensee has entered into a loan or loans within the previous 12 months that have been satisfactorily repaid in full, the licensee may rely on that preexisting relationship to form the good faith belief required under section (18) of this rule.

Stat. Auth.: ORS 725.505, 725.625

Stats. Implemented: ORS 725.505, 725.605, 725.615

Hist.: FCS 13-2001, f. & cert. ef. 12-27-01; FCS 2-2004, f. & cert. ef. 8-5-04

441-830-0010

Application

Application for registration shall be on the forms provided by the Credit Services Organization Program and must be accompanied by the required fee. Applications shall include:

(1) The information required by ORS 646.386 — 646.392;

(2) Telephone number of the credit services organization;

(3) Name of the credit services organization manager;

(4) Addresses of all business locations; and

(5) List of interested parties; including owners, partners, corporate officers, salespersons, agents, representatives and independent contractors who sell or attempt to sell the services of a credit services organization.

Stat. Auth.: SB 1118, Sections 4-7, 1993 Legislature

Stats. Implemented: ORS 646.386, 646.388, 646.390 & 646.392

Hist.: FCS 1-1994, f. & cert. ef. 1-4-94; FCS 2-2004, f. & cert. ef. 8-5-04

441-830-0020

Audit Charges

When an audit is performed under ORS 646.396:

(1) Audit charges shall be paid upon receipt of the invoice.

(2) The rate of charge payable by a credit services organization is \$60 an hour for each person used in performance of the audit conducted under ORS 646.396.

(3) Notwithstanding section (2) of this rule:

(a) If a person from the Credit Services Program is required to travel out of state to perform the work described by section (2) of this rule, the rate of charge is \$60 per hour plus cost to the Program of travel and subsistence for each such person;

(b) If the work described in section (2) of this rule is performed by a consultant hired by contract for the particular work, the charge payable by the credit services organization is the actual cost to the Program of the contract consultant.

Stat. Auth.: ORS 646.396

Stats. Implemented: ORS 646.396(1)

Hist.: FCS 1-1994, f. & cert. ef. 1-4-94; FCS 2-2004, f. & cert. ef. 8-5-04

441-830-0030

Claims

(1) Persons having a claim against a credit services organization may notify the Department of Consumer and Business Services by mail. The information shall include:

(a) Name, address, and telephone number of the claimant;

(b) Name, address, and telephone number of the credit services organization;

(c) The amount of money involved;

(d) A brief statement of the nature of the claim;

(e) A copy of the contract with relevant documents attached.

(2) If a court judgment is the basis for the claim, a copy of the judgment shall be attached.

Stat. Auth.: ORS 646.396

Stats. Implemented: ORS 646.388(4)

Hist.: FCS 1-1994, f. & cert. ef. 1-4-94; FCS 2-2004, f. & cert. ef. 8-5-04

441-830-0040

Fees

Fees established for the Program are:

(1) Annual registration, \$350.

(2) Duplicate registration, \$10.

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(3) Certification of registration, \$5.
Stat. Auth.: ORS 646.396
Stats. Implemented: ORS 646.386(2)
Hist.: FCS 1-1994, f. & cert. ef. 1-4-94; FCS 2-2004, f. & cert. ef. 8-5-04

441-860-0010

Definitions

(1) The term "Branch Office" is defined as a location, separate from the principal place of business of the licensed mortgage broker or mortgage banker ("licensee"), where a licensee or persons authorized to act on behalf of a licensee perform the activities described in ORS 59.840(5)(a) and 59.840(7)(a).

(2) The term "Principal Place of Business" is defined as that location, designated by the licensee, where the owners, officers, directors or other control person conduct the business of the licensee and maintains the books and records of the licensee.

(3) "Employee" is defined as any individual who has an employment relationship, acknowledged by both the employee and the licensee, which meets the following conditions:

(a) The employee receives payment or is paid by the licensee in a manner wherein deductions for Federal Unemployment Tax, Federal Insurance Contributions Act, and other such federal and state taxes have been withheld by the licensee;

(b) The licensee has the right to hire and terminate the employee, and hire and terminate the employee's assistants;

(c) The licensee provides the methods and procedures for performing the employee's services; and

(d) The licensee supervises the employee in the conduct of the employee's business and supervises the employee's compliance with applicable law and rules and the employee may not act in any capacity as an employee or independent contractor for another licensee.

(4) "Material Litigation" is defined as any past or pending litigation, which would be relevant to the Director's action on an application for a mortgage broker or mortgage banker license, including but not limited to the following types of litigation:

(a) Any conviction within the previous ten years from the date of the application, of a misdemeanor, an essential element of which is fraud, or for any felony;

(b) Any pending misdemeanor charge, an essential element of which is fraud, or any felony charge;

(c) Any civil action within the previous ten years from the date of the application, including suits filed in civil court, administrative actions, arbitration proceedings, or alternative dispute resolutions, involving allegations of financial misconduct and compensatory damages of \$10,000 or more;

(d) Any pending civil action including suits filed in civil court, administrative actions, arbitration, or alternative dispute resolution, involving allegations of financial misconduct and compensatory damages of \$10,000 or more; and

(e) Any bankruptcy filing or declaration of bankruptcy within the previous ten years from the date of the application.

(5) The term "Independent Accountant" means a certified public accountant (CPA) or public accountant (PA) who holds an Oregon permit pursuant to ORS 673.150 or similar permit or license from another state or province.

(6) The term "Negotiating a Loan" and "Negotiating Terms of a Loan" means discussing in any manner with a borrower or potential borrower, the amount of a loan, the interest rate or any other cost associated with the loan, the length of the loan, any terms or conditions of a loan, or the preparation of any loan application forms.

(7) The term "Clients' Trust Account" means the account held in a federally insured financial institution into which Trust Funds, as defined pursuant to OAR 441-875-0010(6), are deposited.

(8) A person is not "engaged in the business of making loans secured by an interest in real estate" as used in ORS 59.840(5)(b)(C) and (7)(b)(F) if the person does not make more than 10 loans secured by an interest in residential real estate in any twelve month period.

(9) "False, misleading or deceptive statements or representation" in regards to advertising are defined to include:

(a) Advertising "wholesale rates" to the public or using the phrase "wholesale rates" in an advertisement;

(b) Advertising a rate which is bought down from the lender over the life of the loan without disclosing in the ad that rate is bought down and the cost of the buy down, to the consumer; and

(c) Advertising any program which would be in violation of Regulation X, 24 CFR 3500.14, regarding kickbacks and unearned fees,

including soliciting referrals with a promise to pay the advertising costs of any settlement provider.

(d) For purpose of this subsection, "advertising" and "advertisement" are defined as any distribution of information regarding loan products by the mortgage banker or mortgage broker to members of the public.

(10) The term "Certified Authority" is defined as an organization certified by the Director to approve or provide, or both, loan originator's entry level and continuing education and tests.

(11) The term "Provider" is defined as a person who has been approved by the Certified Authority to provide entry-level or continuing education and tests, or both, to a loan originator.

(12) The term "Notification Date" is defined as the date that begins the two year period within which continuing education must be satisfied. The notification date for each loan originator begins upon the Director's receipt of the first initial, renewal, or amended mortgage banker/broker licensee application which lists the loan originator's name. For an existing licensee, the notification to the Director of a person functioning as a loan originator is considered an amended application and establishes the notification date for that loan originator.

Stat. Auth.: ORS 59.900(1)
Stats. Implemented: ORS 59.845, 59.977
Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 2-2004, f. & cert. ef. 8-5-04

441-860-0060

Equivalent and Related Experience

(1) An applicant or a managing partner, director, executive officer or other individual occupying a similar position or performing similar functions who has experience in the following categories shall be given full credit for such experience toward meeting the experience requirement contained in ORS 59.850(2):

- (a) Origination of loans secured by lien interests in real estate;
- (b) Negotiation of loans secured by lien interests in real estate;
- (c) Underwriting of loans secured by lien interests in real estate; or
- (d) Persons who supervise the activities of those persons enumerated in subsections (a) through (c) of this section.

(2) An applicant who has experience, within the five year period preceding the application date, in the following categories may receive partial credit for such experience toward the experience requirement contained in ORS 59.840 through 59.980. Credit may be given in only one category listed and for not more than three years actual experience. Credit given shall be in the ratios of actual years of experience to equivalent years credited toward qualification for a mortgage banker and mortgage broker license as set forth below. The remaining years of experience required to qualify for a license shall be obtained from experience in categories listed in section (1) of this rule. The categories of possible alternative experience for which partial credit is available, and the ratios of actual years of experience to equivalent years credited toward qualification for a mortgage banker or mortgage broker license are:

- (a) Escrow officer, 3:2;
- (b) Loan processor with responsibility primarily for loans secured by lien interests on real estate, 3:2;
- (c) Branch manager of lender with responsibilities primarily for loans not secured by lien interests on real estate, 3:1.5;
- (d) Loan officer with responsibility primarily for loans not secured by lien interests on real estate, 3:1.5;
- (e) Paralegal with demonstrated experience in real estate financing matters, 3:1;
- (f) Real estate broker with an Oregon license or a license from a state with substantially equivalent real estate licensing requirements, 3:1;
- (g) Title officer with a title company, 3:1;
- (h) Real estate broker, not within subsection (f) of this section, 3:1;
- (i) Real estate salesperson with an Oregon license or a license from a state with substantially equivalent licensing requirements, 3:1;
- (j) Licensed real estate appraiser, 3:1; and
- (k) Real estate salespersons not included in subsection (i) of this section, 3:5.

(3) An applicant who does not originate loan applications or negotiate loan terms but who is in the business of selling real estate paper whether as issuer, agent or principal, to persons other than persons enumerated in ORS 59.035(4), or who engages all or part of the time, for the account of others or for the person's own account, in the business of accepting funds from one or more persons other than persons enumerated in ORS 59.035(4) for investment in real estate paper, shall be given full credit for experience toward meeting the three of the past five year experience requirement contained for:

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(a) Experience as a licensed securities salesperson under the provisions of ORS 59.165; or,

(b) Experience as a securities salesperson effecting transactions in securities which are exempt from registration under the provisions of ORS 59.025 and 59.035.

(4) The individual listed as the "experienced person" on the applicant's licensing application may not work, as an employee or independent contractor as the "experienced person," for another licensee.

Stat. Auth.: ORS 59.850(2) & 59.900

Stats. Implemented: ORS 59.840

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 7-2001, f. & cert. ef. 8-1-01; FCS 2-2004, f. & cert. ef. 8-5-04

441-860-0070

Disclosure of Significant Developments

(1) A licensee shall be required to notify the Director within 30 days of the occurrence of any of the following significant developments:

(a) Licensee filing for bankruptcy or reorganization.

(b) Notification of the institution of license revocation procedures against the licensee by any state.

(c) The filing of a felony indictment against a licensee, officer, director or principal;

(d) A licensee, officer, director or principal being convicted of a felony or misdemeanor involving fraud;

(e) Civil litigation, administrative actions, arbitration, and alternative dispute resolution proceedings involving a finding against a licensee, officer, director, or principal of \$10,000 or more.

(f) A change of control, in the case of a corporation, control is defined as a change of ownership by a person or group acting in concert to acquire ten percent of the stock, or the ability of a person or group acting in concert to elect a majority of the directors or otherwise effect a change in policy of the corporation. The Director may require other information as deemed necessary to determine whether a new application is required. In the case of entities other than corporations, change in control shall mean any change in principals of the organization, whether active or passive;

(g) Any changes in the information required pursuant to OAR 441-880-0030 for loan originators.

(h) Change in branch offices. In addition to the requirements of OAR 441-860-0030, licensees shall notify the Director when a branch office ceases to operate.

(i) Any changes in the information required on the licensee's application form, including, but not limited to address changes, phone number changes, etc.

(2) The Director may request additional information regarding any of the occurrences outlined in subsections (1)(a) through (i).

Stat. Auth.: ORS 59.850 & 59.900

Stats. Implemented: ORS 59.860, 59.969

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 2-2004, f. & cert. ef. 8-5-04

441-860-0090

Surety Bond and Letter of Credit

(1) Every applicant for a license as a mortgage banker or mortgage broker must file with the Director a surety bond as specified in section (4) & (5) of this rule or a letter of credit as specified in section (6) & (7) of this rule.

(2) Every person licensed as a mortgage banker or mortgage broker must maintain a surety bond as specified in section (4) & (5) of this rule or letter of credit as specified in section (6) & (7) of this rule during the period of licensing. Each surety bond or letter of credit shall be subject to the filing of a claim for acts during the term of the bond for a period of six years.

(3) In no less than six years after a person ceases to be licensed as a mortgage banker or mortgage broker, the person or the writer of the surety bond or letter of credit may apply to the Director on forms approved by the Director for release of the surety bond or letter of credit. Unless the Director determines that claims are pending against the person for violation of ORS 59.840 through 59.980, the Director shall release the surety bond or letter of credit.

(4) A surety bond shall be in a form and on terms approved by the Director in the minimum sum of \$25,000 from a company authorized to transact an insurance business in the State of Oregon. The amount of the surety bond shall not exceed \$50,000 for a single applicant. The surety bond shall be renewed or replaced annually.

(5) For each additional licensed branch location of the applicant engaging in residential mortgage transactions pursuant to ORS 59.845, the

surety bond will increase by \$5,000 until such time as the surety bond reaches the maximum sum of \$50,000.

(6) A letter of credit shall be in a form and on terms approved by the Director in the minimum sum of \$25,000 from a commercial financial institution authorized to transact banking business in the State of Oregon. The amount of the letter of credit shall not exceed \$50,000 for a single applicant. The letter of credit shall be renewed or replaced annually.

(7) For each additional licensed branch location of the applicant engaging in residential mortgage transactions pursuant to ORS 59.845 the letter of credit will increase by \$5,000 until such time as the letter of credit reaches the maximum sum of \$50,000.

Stat. Auth.: ORS 59.850 & 59.900

Stats. Implemented: ORS 59.860, 59.969

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 2-2004, f. & cert. ef. 8-5-04

441-865-0040

Borrower and Investor Complaints

(1) Copies of all written complaints by borrowers and investors shall be maintained in a separate complaint file by the individual's name in alphabetical order and shall contain at a minimum a copy of the original complaint and response.

(2) Copies of correspondence related to the complaints and a written disposition of the complaint by an officer, director or control person of the company shall be maintained in the complaint file or in the borrower or investor file of the licensee.

(3) Complaints unrelated to borrower or investor transactions need not be retained.

Stat. Auth.: ORS 59.860 & 59.900

Stats. Implemented: ORS 59.860

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 2-2004, f. & cert. ef. 8-5-04

441-870-0050

Investor Transactions

(1) "Manipulative, Deceptive, or Fraudulent Device or Contrivance" and "Fraudulent, Deceptive, or Manipulative Act or Practice" are defined to include failing to provide to investors who are persons other than persons enumerated pursuant to ORS 59.035(4) and (5), prior to the time of sale of any interest in real estate paper, a written disclosure document which contains the following information:

(a) The priority of the lien created by the security and the total face amount of any senior liens;

(b) A statement whether any future advances may have a priority senior to that of the lien created by the security;

(c) A copy of the most recent complete property tax statement, covering the real property underlying the security;

(d) The value of the real property underlying the security. This value must be provided by:

(A) The tax assessed value if it is 100 percent of the true cash value and is on the same property underlying the security; or

(B) An appraisal by an independent licensed appraiser.

(e) The debtor's payment record, on the instrument being sold for the two years immediately preceding the sale. When the debtor's payment record is less than two years or not available:

(A) The payment record to date or a statement that payment records are not available; and

(B) A current credit report on the debtor prepared by a credit reporting agency or a current financial statement of the debtor.

(f) The terms of any senior lien or a copy of the instrument creating the lien and any assignments;

(g) If the mortgage seller, seller's agent, or any affiliate is the debtor, a statement disclosing that fact and the amount of cash paid to the debtor in consideration for the issuance of the real estate paper;

(h) A statement of any commissions, collection fees, and other costs chargeable to the purchaser of the real estate paper;

(i) A prominent statement of any balloon payments;

(j) In the case of a sale of junior real estate paper, a statement of the risk of loss on foreclosure of a senior lien; and

(k) A statement of whether or not the purchaser of the real estate paper will be insured against casualty loss.

(2) In the case of transactions involving securities sold under a registration which is currently effective, compliance with the provisions of this rule shall be deemed to be satisfied if the licensee provides to the investor a copy of the offering memorandum which was submitted to the Director as part of the application to register securities pursuant to ORS Chapter 59.

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(3) In the case of transactions which are exempt from registration under the provisions of ORS 59.035(7), compliance with the provisions of this rule shall be deemed to be satisfied if the licensee provides to the investor a copy of the risk disclosure section of an offering memorandum prepared for sales of similar, but non-exempt securities, provided the memorandum was submitted to the Director as a part of the registration application and that the registration is effective at the time the document is provided to the investor.

Stat. Auth.: ORS 59.035(7) & 59.900

Stats. Implemented: ORS 59.865

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 2-2004, f. & cert. ef. 8-5-04

441-875-0040

Financial Practices; Manner of Disbursement

(1) In addition to those books and records required under ORS 59.840 through 59.980 and OAR 441-865-0010 through 441-865-0090, a licensee shall maintain books and records for each trust account in accordance with this rule:

(a) Licensees must reconcile at least monthly all trust accounts:

(A) The reconciled bank balance of the trust account must equal the sum of the balances in the individual owner's ledger accounts and also must equal the balance shown in the check register or the journal of receipts and disbursements for the trust account;

(B) The licensee must sign and date the reconciliation upon its completion.

(b) Each licensee shall set up and maintain a subsidiary ledger for each trust account showing the receipts and disbursements and maintaining a running total of every transaction pertaining to the trust account.

(2) The licensees' offices, places of business, books, records, accounts, files and papers relating to the trust account shall be available for examination by the Director pursuant to OAR 441-865-0010 through 441-865-0090.

(3) The licensees' offices, places of business, books, records, accounts, files and papers relating to the trust account shall be available for examination by the Director pursuant to OAR 441-865-0010 through 441-865-0090.

(4) If funds are placed in a neutral escrow depository pursuant to the written agreement required by ORS 59.935(1), the agreement shall provide authorization for the Director or an authorized representative of the Director to examine the offices, places of business, books, records, accounts, files and papers relating to the client funds.

(5) Funds disbursed from a trust account shall be by checks which are prenumbered and bear the words "Client Trust Account" upon the face of the check. A mortgage banker or mortgage broker shall account for all checks, including voided checks, as part of the books and records maintained by the mortgage banker or mortgage broker.

(6) In the case of residential loan applications, escrow instructions and instructions for trust fund disbursement of licensee fees shall provide that no trust funds may be disbursed to the licensee until the licensee has provided the following minimum services and disclosures:

(a) A good faith estimate;

(b) A completed loan application;

(c) If prepared, a fee agreement;

(d) HUD guide(s) for home buyers;

(e) The adjustable rate mortgage booklet as prepared by the Federal Reserve Board, if applicable;

(f) Truth in Lending Act disclosures.

(7) In the event that the licensee accepts fees in advance of completing professional services, or accepts fees paid as a retainer to secure the availability of the licensee, or accepts a consulting fee for professional services, and such fees are subject to refund under the provisions of these rules, such amounts may be withdrawn from the trust account for the benefit of the licensee only when actually expended for the benefit of the client or five days after notice of the proposed withdrawal has been mailed to the client.

(8) Every licensee must maintain a record listing all persons employed by that firm who have signatory authority to disburse funds held in the trust account and the date such authority begins and ends.

Stat. Auth.: ORS 59.900 & 59.935

Stats. Implemented: ORS 59.935

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 4-1999, f. & cert. ef. 12-23-99; Administrative correction 4-18-00; FCS 7-2001, f. & cert. ef. 8-1-01; FCS 2-2004, f. & cert. ef. 8-5-04

441-880-0010

Certified Authority

(1) An organization may apply to the Director to become a Certified Authority by filing an application in a form acceptable to the Director. The application must include:

(a) Name, address, contact person, phone number and e-mail address;

(b) Names of the principals of the organization; and

(c) The bylaws or rules that will be utilized by the organization in selecting providers.

(2) The Director's approval for certification will be dependent upon:

(a) The experience, knowledge, and professional ethics of the membership of the organization; and

(b) The bylaws or rules for approval and withdrawal of provider applications and test and course content.

(3) Certification will remain effective until surrendered by the Certified Authority or revoked or suspended by the Director.

(4) Revocation or suspension of a Certified Authority will occur if the Certified Authority fails to follow its own bylaws or rules or fails to consider in good faith the test and course content in provider applications.

(5) The Certified Authority will review and approve or disapprove providers and the following matters:

(a) The requirements and contents of the entry-level training course;

(b) The examination on state and federal laws and rules relating to mortgage lending in this state;

(c) The contents of all continuing education.

(6) The Certified Authority will be responsible for approving education offered by another state's mortgage lender program, provided the Director has determined that the laws of that state provide protection to the public that exceeds or is substantially similar to the protection provided by Oregon's mortgage lender law and rules.

Stat. Auth.: ORS 59.977

Stats. Implemented: ORS 59.977

Hist.: FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 2-2004, f. & cert. ef. 8-5-04

441-880-0020

Educational Requirements

(1) Each loan originator required to take an entry-level course and pass an examination on state and federal laws and rules relating to mortgage lending in this state must complete a Certified Authority approved course and pass a Certified Authority approved examination within six months from:

(a) January 30, 2002, if the person is employed as a loan originator at that time; or

(b) The date the person is first functioning as a loan originator.

(2) If the loan originator fails to complete the course and pass the examination within the six-month period, the person may not work as a loan originator until completing the entry-level course and passing the examination.

(3) Each loan originator must complete 20 hours of continuing education within 24 months of their Notification Date and every subsequent 24-month period. There shall be no carryover of hours of continuing education between periods.

(4) Any person who fails to meet the continuing education requirement may not function as a loan originator until they take a Certified Authority approved entry-level course and pass a Certified Authority approved examination on state and federal laws and rules relating to mortgage lending in this state.

Stat. Auth.: ORS 59.977

Stats. Implemented: ORS 59.977

Hist.: FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 2-2004, f. & cert. ef. 8-5-04

441-880-0030

Employer's Requirements

(1) Not later than January 30, 2002, employers are required to provide the Director with a list of all loan originators and the information in section (3) of this rule.

(2) Within 30 days of a person starting to function as a loan originator or ending functioning as a loan originator, the employer must notify the Director by amending their licensee application in a form approved by the Director.

(3) If the notice is for a person starting to function as a loan originator, the amendment shall include the following information about the loan originator:

(a) Name;

(b) The start date as a loan originator;

(c) Current business and home address, telephone, and e-mail address;

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(d) Social security number or a detailed physical description of the loan originator including: height, weight, eye and hair color, and a description of any unique physical characteristics such as birthmarks and tattoos;

(e) Date of birth; and

(f) Certification of compliance with ORS 59.967(2), 59.969(4)(a) & (b) and 59.971.

(4) If the notice is for a person ending functioning as a loan originator, the amendment should include the following information:

(a) Name;

(b) The ending date as a loan originator;

(c) Last known contact information; and

(d) The reason for termination if it was for failure to comply with state or federal laws, regulations or rules.

(5) At the time for each mortgage banker/broker license application or renewal, the employer must notify the Director of the names and current contact information of the loan originators employed, including certification of compliance with ORS 59.967(2), 59.969(4)(a) & (b) and 59.971.

(6) No employer may hire, or continue to employ, a person to serve as a loan originator who has not met the educational requirements of ORS 59.840 through 59.960, 59.969 & 59.975 and OAR 441-880-0020.

(7) As courses are satisfactorily completed by the loan originators, the employer shall retain a copy of the completion certificate in the loan originator's personnel file for review by the Director at the time of the next occurring examination or for five years, whichever first occurs.

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

Stat. Auth.: ORS 59.900

Stats. Implemented: ORS 59.969

Hist.: FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 2-2004, f. & cert. ef. 8-5-04

441-880-0040

Loan Originator's Requirements

(1) It is unlawful for any person to act as a loan originator unless the educational requirements in ORS 59.969 & 59.975 and OAR 441-880-0020 are met.

(2) The loan originator must retain the original completion certificate provided following satisfactory course completion for five years and provide a copy to the employer.

(3) Only loan originators employed by exempt employers may file notification of completed education directly with the Director. A copy of the completion certificate may be provided or notification may be provided electronically of the course(s) name and number, the number of hours of each course, the completion date(s), and the score(s) or pass/fail result(s), if applicable.

(4) A loan originator may notify the Director of termination of the loan originator's employment including the end date, reason for termination, and current contact information for the loan originator.

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

Stat. Auth.: ORS 59.975

Stats. Implemented: ORS 59.975

Hist.: FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 2-2004, f. & cert. ef. 8-5-04

441-880-0050

Criminal Records Check

(1) Prior to employing a loan originator as defined in ORS 59.840(4), a licensee must conduct a criminal records check of the person, using the person's full legal name, date of birth, place of birth and social security number, searching federal records and all state records where the person has resided in the past 10 years. The licensee must use the services of law enforcement agencies or an independent private company that complies with the federal Fair Credit Reporting Act to conduct the criminal records check. A criminal records check conducted for any other employer within the previous six months will fulfill this requirement, provided that the scope of the previous check is within the parameters of this section and the licensee obtains a copy of the records check for his files.

(2) A criminal records check for a loan originator employed by a licensee on the effective date of this rule must be completed within 120 days.

(3) A loan originator applicant may not be hired and a currently employed loan originator's employment must be immediately terminated if the criminal records check discloses a disqualifying conviction as described in section (4) of this rule, provided that a licensee may retain a current employee in a capacity other than as a loan originator during the no-action letter process described in section (6) of this rule.

(4) The categories of criminal convictions that will prevent a person from acting as a loan originator are:

(a) Crimes punishable by death or imprisonment in excess of one year under the law under which the person was convicted, or

(b) Crimes involving false statement or dishonesty, including, but not limited to:

(A) Theft, misappropriation, or misapplication, of monies, services or goods in any amount;

(B) Falsification of records, perjury, or other similar criminal offenses indicating dishonesty;

(C) Taking of bribes, kickbacks, or other illegal compensation; or

(D) Deceiving the public or any person by means of swindling, false advertising or like acts.

(5) Within three business days of receiving the criminal records check report, the licensee shall notify the Director of the identity of any person for whom a criminal records check discloses a disqualifying conviction, using the Loan Originator Notification Form [Form 440-2772, available online and from the Department].

(6)(a) Within 20 business days of notification to the Director as described in section (5) of this rule, a licensee who desires to hire or retain a loan originator for whom a criminal records check discloses a disqualifying conviction may make a written request for a letter from the Director that no enforcement action will be taken against the licensee with respect to the employment of such person. The request must contain the following information:

(A) The name of the person;

(B) A description of the disqualifying conviction from the criminal records check; and

(C) Supporting documents or other information demonstrating that this conviction is erroneously entered on this person's record or should otherwise not be deemed to be a disqualifying conviction.

(b) The Director in determining whether to grant the requested no-action letter and in determining whether conditions should be imposed if the no-action letter is granted may consider, but is not limited to considering:

(A) The licensing and consumer complaint history of the licensee;

(B) Input from any mortgage professional association; and

(C) The interests of consumers.

(c) A licensee who hires or retains a loan originator who has a disqualifying conviction after a requested no-action letter is denied, or without requesting a no-action letter, is subject to penalties as provided by ORS 59.992 and 59.996.

(7) Criminal records check documents, including any no action letter or denial of a no action letter request, received by the licensee shall be maintained in a secure location separate from personnel records, and shall be made available to the Director or an authorized representative of the Department for examination upon reasonable notice. These records shall be preserved by the licensee for three years after termination of employment. When the person who is subject to the check is not employed, the records shall be preserved by the licensee for two years from the date of receipt. After the retention period, the records shall be destroyed in a secure manner such as by shredding.

Stat. Auth.: ORS 59.971, 59.972

Stats. Implemented: ORS 59.971, 59.972

Hist.: FCS 5-2003, f. 12-30-03 cert. ef. 1-1-04; FCS 2-2004, f. & cert. ef. 8-5-04

441-910-0060

Bonds

(1) A non-profit debt consolidating business shall file a \$10,000 fidelity bond payable to the business.

(2) A for-profit debt consolidating business shall file a \$10,000 surety bond or deposit payable to the Department of Consumer and Business Services, Debt Consolidating Program.

(3) Bonds shall be made out as follows:

(a) If the business is a sole proprietorship, the bond shall be in the name of the individual;

(b) If the sole proprietorship has an assumed business name, the bond shall be in the individual's name and the business name may also be listed;

(c) If the business is a partnership, the bond shall be in all partners' names and business name;

(d) If the business is a corporation, the bond shall be in the name of the corporation.

Stat. Auth.: ORS 697

Stats. Implemented: ORS 697.642

Hist.: DC 2-1984, f. & ef. 1-16-84; Renumbered from 814-106-0035; FCS 9-1988, f. 4-12-88, cert. ef. 5-1-88; FCS 2-2004, f. & cert. ef. 8-5-04

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441-910-0095

Fee for Education Class

(1) A debt consolidation agency may submit a written request for approval of fees charged for education classes at least 30 days prior to conducting the class.

(2) The request shall enumerate all expenses by category and include a description of the purpose of the class and a description of all materials for which the debt consolidation agency seeks to charge consumers.

(3) Expenses for which approval is sought must not exceed the actual cost for materials and services.

(4) If the expenses for which approval is sought are associated with a federally or state mandated class, the debt consolidation agency must identify the class in their request and indicate whether or not they have been certified to provide the education.

(5) Approval by the Director shall be made in writing for each category of class and shall continue for each such class taught until cancelled or withdrawn by the Director.

(6) Prior to making any substantive changes to materials used in an approved class or any increase in fees charged, the debt consolidating agency must submit the proposed changes to the Director for review and approval.

Stat. Auth.: ORS 697.632

Stats. Implemented: ORS 697.692(5)

Hist.: FCS 5-2000, f. & cert. ef. 3-9-00; FCS 2-2004, f. & cert. ef. 8-5-04

441-910-0110

Claims

(1) Persons having a claim against a debt consolidating business shall notify the Department of Consumer and Business Services by mail. The information shall include:

- (a) Name, address, and telephone number of the claimant;
- (b) Name, address, and telephone number of the debt consolidating agency;
- (c) Amount of money involved;
- (d) A brief statement of the nature of the claim;
- (e) A copy of the contract with relevant documents attached.

(2) If a court judgment is the basis for the claim, a copy of the judgment shall be attached.

Stat. Auth.: ORS 697

Stats. Implemented: ORS 697.782

Hist.: DC 2-1984, f. & ef. 1-16-84; Renumbered from 814-106-0060; FCS 9-1988, f. 4-12-88, cert. ef. 5-1-88; FCS 2-2004, f. & cert. ef. 8-5-04

441-910-0120

Response to Claims

(1) A copy of a claim received by the Department of Consumer and Business Services shall be sent to the debt consolidating business.

(2) The debt consolidating business shall respond in writing to the Department of Consumer and Business Services within 15 working days.

Stat. Auth.: ORS 697

Stats. Implemented: ORS 697.732(1)

Hist.: DC 2-1984, f. & ef. 1-16-84; Renumbered from 814-106-0065; FCS 9-1988, f. 4-12-88, cert. ef. 5-1-88; FCS 2-2004, f. & cert. ef. 8-5-04

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Department of Corrections
Chapter 291

Adm. Order No.: DOC 6-2004

Filed with Sec. of State: 7-19-2004

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Rules Adopted: 291-117-0070, 291-117-0080, 291-117-0090, 291-117-0100, 291-117-0110, 291-117-0120, 291-117-0130, 291-117-0140

Rules Amended: 291-117-0005, 291-117-0008

Rules Repealed: 291-117-0010, 291-117-0020, 291-117-0030, 291-117-0040, 291-117-0050, 291-117-0060

Subject: These rule amendments are necessary to update and clarify the policies and procedures governing the handling, control, storage and disposition of inmate personal property within Department of Corrections facilities, taking into consideration the safety concerns identified by the State Fire Marshal's Office, and security concerns of the department.

Rules Coordinator: Janet Worley—(503) 945-0933

291-117-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish policy and procedures for inmates in Department of Corrections facilities, to acquire, possess, store and dispose of property consistent with sound correctional practices and the safe, secure, orderly and efficient operation and management of Department facilities.

(3) Policy: Within the inherent limitations of resources and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections that inmates are authorized to acquire, possess, store and dispose of property in accordance with and subject to the procedures and restrictions set forth in these rules. Primary objectives of these rules are:

(a) To provide for the processing of inmate personal property in a prompt, orderly and efficient manner;

(b) To prevent the introduction and creation of contraband or articles which could constitute a safety and/or security hazard;

(c) To limit the amount of personal property which may be acquired and retained consistent with sound correctional practices, taking into consideration available space, accountability, fire, health, safety, sanitation, and security needs;

(d) To provide for the safekeeping, storage, or disposal of inmate personal property; and

(e) To allow personal property to transfer with an inmate from one Department of Corrections facility to another Department of Corrections facility.

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

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

Hist.: CD 18-1978, f. 8-21-78, ef. 8-23-78; CD 3-1981(Temp), f. & ef. 2-5-81; CD 9-1981, f. & ef. 5-5-81; CD 11-1983, f. & ef. 2-18-83; CD 21-1985, f. & ef. 8-2-85; CD 14-1987, f. & ef. 2-6-87; CD 11-1992(Temp), f. 3-31-92, cert. ef. 4-15-92; CD 22-1992, f. & cert. ef. 10-9-92; DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0008

Definitions

(1) Authorized Legal Material: Pleadings (i.e., complaint, petition or answer), legal motions and memoranda, affidavits, court orders and judgments, correspondence, and other necessary documents (including discovery and exhibits), in or directly pertaining to an inmate's own pending and active case(s), lawsuit(s) before the courts or paroling authorities.

(2) Contraband: Any article or thing which an inmate is prohibited by statute, rule or order from obtaining, possessing, creating, or which the inmate is not specifically authorized to obtain or possess or which the inmate alters without authorization.

(3) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant Director, or an administrator and has responsibility for delivery of program services or coordination of program operations.

(5) General Population Housing: Cell or dormitory housing for general population inmates whose assignment is not restricted or segregated for disciplinary or programming reasons.

(6) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(7) Special Housing: Housing for inmates whose assignment is administrative segregation, disciplinary segregation, Special Management Unit, Infirmary, Intensive Management Unit, and Death Row.

(8) Staff Chaplain: A person employed full-time or contracted by the Department of Corrections to provide religious services to inmates in Department of Corrections facilities.

(9) State-Issued Property: Items that are issued to the inmate by the department for his/her personal use.

Stat. Auth.: ORS 170.040, 423.020, 423.030 & 423.075

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

Hist.: CD 14-1987, f. & ef. 2-6-87; CD 11-1992(Temp), f. 3-31-92, cert. ef. 4-15-92; CD 22-1992, f. & cert. ef. 10-9-92; DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0070

Inmate Property (General)

(1) Each Department of Corrections facility shall have a specific location(s) where inmate property may be securely stored when not in the possession of the inmate and where property records are maintained.

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(2) Property Limit: Inmate property shall not exceed the capacity of storage space located in the inmate's assigned housing area and designated by the functional unit manager/designee for the storage of inmate personal property. Designated storage space includes, but is not limited to, drawers, storage box(es), cabinet(s), shelf(ves), clothing hook(s), or under the bunk. Inmates shall be informed of the storage space capacity of the facility where they are assigned.

(3) All inmate property shall be stored neatly in designated storage space(s) when not in use.

(4) All unbound paper products shall be cleared from open areas when not in use, and placed in designated storage, except as authorized by the functional unit manager/designee.

(5) Inmates are solely responsible for the care and safekeeping of their personal property while it is in their possession.

(6) All personal property must be acquired through authorized means.

(7) Property items offered as part of a non-cash incentive program will be handled in accordance with these rules and the department's rule on Performance Recognition and Award System (Inmate) (OAR 291-077).

(8) Inmates are responsible for retaining canteen receipts for property purchased after the effective date of this rule. Receipts shall be retained as proof of purchase for as long as the property is in the inmate's possession.

(9) Inmates are required to retain authorization slips for property acquired through any other approved process after the effective date of this rule. Slips shall be retained as proof of authorization for as long as the property is in the inmate's possession.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stat Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0080

Authorized Inmate Property

(1) Each inmate may possess authorized personal property and state-issued clothing not to exceed the capacity of the designated storage space located in the inmate's assigned housing area. Each inmate is authorized to possess only the following personal property items:

(a) One television;

(b) One CD player;

(c) One portable/pocket radio;

(d) One radio/tape player (boom box): An existing radio/tape player (boom box) acquired through authorized means and possessed by the inmate prior to the effective date of this rule may be retained by the inmate until transfer or release.

(e) One alarm clock;

(f) Jewelry: One plain, smooth wedding band, without stones or protrusions (must be married to possess), and one watch purchased through the canteen;

(g) Religious Items: Items authorized for religious use by inmate in accordance with the rule on Religious Activities (Inmate) (OAR 291-143) that are purchased through the canteen or authorized in writing by the staff chaplain;

(h) One acoustic guitar or other stringed instrument similar to and no larger than a guitar ordered/purchased through the canteen, and supporting equipment as appropriate (e.g., instrument strap, case, pitch pipe, and plastic picks),

(A) Instrument strings will be available for purchase through the facility canteen on a one for one exchange basis.

(B) Existing electric guitar and supporting equipment acquired through authorized means and possessed by the inmate prior to the effective date of this rule may be retained by the inmate until transfer or release.

(i) Personal and authorized books, magazines, newspapers, photos, personal mail, and any item purchased through the canteen or another approved process;

(j) Authorized legal material;

(k) Medical prosthesis approved by Health Services;

(l) Cosmetic Appliances (female inmates only): One electric hair dryer, one electric curling iron/brush, and one electric flat iron for hair;

(m) Oregon driver's license (for individual inmates assigned to minimum security facilities who have received written authorization from the functional unit manager/designee for work-related activity); and

(n) Personal Clothing: An inmate participating in an approved work release program at a minimum security facility may be authorized by the functional unit manager/designee to possess additional items of personal clothing necessary for the approved work activity.

(2) The following items are not subject to the space restrictions listed in this rule:

(a) One electric guitar and supporting equipment;

(b) One acoustic guitar and supporting equipment;

(c) One television;

(d) One radio/tape player (boom box); and

(e) Medical prosthesis approved by Health Services.

(f) Other items may be exempted from designated storage limits as approved by the functional unit manager/designee.

(3) Inmate personal property authorized at one Department of Corrections facility is authorized at all Department of Corrections facilities, except for the following items that are not allowed to transfer: 13-inch television, radio/tape player (boom box), electric guitar and supporting equipment, or other property approved as an institution-specific incentive property item (pilot project) until such time as the item is approved for all facilities departmentwide.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stat Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0090

Authorized Inmate Property at Initial Intake

(1) Each inmate received at intake shall possess only the following personal property items while awaiting assignment to an appropriate facility within the state system:

(a) Medical prosthesis as approved by Health Services (includes prescription eyeglasses);

(b) One plain smooth wedding band, without stones or protrusions (must be married to possess); and

(c) Authorized legal material.

(2) All property received will be inspected and inventoried. Unauthorized property or excess property will be handled in accordance with procedures set forth in Disposition of Property (OAR 291-117-0140)

(3) Money in the inmate's possession shall be received and processed in accordance with the Department of Corrections rule on Trust Accounts (Inmate).

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stat Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0100

Authorized Legal Property

(1) Each inmate is authorized to possess in his/her living quarters, and in the facility law library, legal material in or directly pertaining to his/her own pending and active case(s)/lawsuit(s) before the courts or paroling authorities. The authorized legal material shall not exceed the capacity of storage container(s) designated by the functional unit manager/designee for storage of inmate personal property. If an inmate exceeds the capacity of available storage in his/her living quarters, additional authorized legal storage container(s) will be available for purchase (limit two). Additional legal storage containers shall only be used to store an inmate's authorized legal materials.

(2) Prior to an inmate being allowed to purchase additional legal storage container(s), the inmate must send a written request to the staff member(s) designated by the functional unit manager/designee.

(a) The staff member will verify the requesting inmate has authorized legal materials that exceed the designated storage capacity of the inmate's living quarters. The staff member will also verify the number of legal storage containers the inmate needs for the storage of his/her authorized legal materials.

(b) Once verified, the inmate will follow the procedure designated by the functional unit manager/designee regarding the purchase of authorized legal storage containers.

(3) Indigent Inmates: An inmate lacking sufficient funds in his/her trust account to pay for an additional storage container(s) for storage of authorized legal material in his/her living quarters will be provided with additional storage container(s) upon written request to the staff member(s) designated by the functional unit manager/designee. The written request must be accompanied by a signed Inmate Withdrawal Request form (CD 28). The inmate's trust account will be debited for collection of the cost(s) of the container(s) as funds become available.

(4) Excess Authorized Legal Material: If an inmate accumulates large amounts of authorized legal material that exceeds the capacity of storage available to the inmate in his/her living quarters, a reasonable amount of secure space for storage of excess authorized legal material will be provided for inmate use, on an as-needed and availability basis, in storage areas designated by the functional unit manager/designee. The following procedures will be utilized to provide for the inmate's access to and security of such materials:

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(a) Inmate Organizes His/Her Own Legal Materials: The inmate shall organize and inventory his/her authorized excess legal material by case name and number, and place the material in storage containers approved by the department. All approved storage containers shall be labeled with the inmate's name, SID number, and with the case name and number. Designated staff will secure the storage containers. The inmate shall complete an Excess Authorized Legal Material Inventory List (CD 1242a). The original shall be retained with the library coordinator/designee, one copy shall be retained by the inmate, and one copy shall be placed with the stored material. Upon completion of the inventory list, the material shall be collected by designated staff and placed in a designated storage area(s).

(b) Only legal material in or directly pertaining to the inmate's own pending and active case(s)/lawsuit(s) before the courts or paroling authorities, shall be authorized for storage. The inmate may not store case law, legal texts or books, or multiple copies of legal material as excess active legal material. Any material which is determined by staff, with the assistance of legal counsel where necessary, to not directly pertain to the inmate's own pending and active case(s)/lawsuit(s) shall be collected by designated staff and placed in a standard storage box(es) for storage pending disposition as directed and approved in writing by the functional unit manager.

(c) Staff Orders Inmate to Organize His/Her Own Legal Materials: Upon receiving a written order from staff, an inmate shall have a reasonable period of time, not to exceed one week (seven calendar days), except as authorized by the functional unit manager/designee, within which to organize and inventory his/her legal material, and complete an Excess Authorized Legal Material Inventory List (CD 1242a).

(A) In the event the inmate refuses to organize and inventory his/her excess authorized legal material as ordered, the inmate shall receive a misconduct report and the material will be collected by designated staff and placed in a standard storage box(es) for storage. The box(es) will be labeled with the inmate's name and SID number and marked "Legal Material" and stored in a designated storage area.

(B) The inmate shall not have access to the stored material until he/she agrees to properly organize and inventory the material as ordered. In such event, the inmate will be permitted a reasonable amount of time for this activity, not to exceed one week (seven calendar days).

(C) In no event will such material be destroyed or removed from the facility by staff except as authorized and directed in writing by the inmate, in accordance with procedures for disposition of inmate personal property provided in this rule, or as directed and approved in writing by the functional unit manager.

(d) An inmate will be permitted reasonable access to his/her stored excess authorized legal material. An inmate may request his/her authorized legal material from designated storage at any time upon showing written documentation that an imminent court deadline (within 30 days) exists, or once each month, on an exchange basis, (e.g., by trading an equivalent amount of authorized legal material from his/her assigned cell or housing area or from the facility law library). The request must be directed to and approved by the facility library coordinator, and identify the specific material(s) requested by case number and name. Removal and exchange of excess authorized legal material from designated storage outside the facility law library shall be documented on the Excess Authorized Legal Material Inventory List (CD 1242a) and a Legal Material Transaction form (CD 1242). Both the inmate and the responsible staff shall sign the inventory list and transaction forms.

(e) Approved storage containers are property of the department. The approved storage containers will not be removed from the designated storage areas. Inmates will only be allowed to remove their own legal materials under staff supervision.

(5) Possession of Authorized Legal Material by Assigned Inmate Legal Assistants: Assigned inmate legal assistants are authorized to receive and possess legal material pertaining to another inmate's pending and active case(s)/lawsuit(s), only in the facility law library, at the request of the inmate seeking assistance. Possession of such legal material shall be for purposes of assisting the inmate with legal research and the preparation and filing of legal documents with the courts and paroling authorities.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stat Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0110 Transfers

(1) Authorized inmate personal property items shall be allowed to transfer with the inmate to any Department of Corrections facility, except for the following items:

- (a) 13-inch television;
- (b) Radio/tape player (boom box);
- (c) Electric guitar and supporting equipment; and
- (d) An item approved as an institution specific 'incentive property' item (pilot project) until such time as the item is approved for use at all department facilities.

(2) State-issued property shall not transfer with the inmate.

(3) Responsibility of the Sending Facility:

(a) Designated staff shall order an inmate in general population housing to prepare his/her property for transport. In such case, the property will not be inventoried until the time it reaches the receiving facility.

(b) If the inmate is in special housing, unable, or refuses to prepare the property for transfer, staff will inventory and prepare the property for transport. The designated staff shall fill out a Personal Property Inventory List CD 611 (male inmate) or CD 306 (female inmate). The form will be signed by the staff inventorying the property. Time and date shall be logged on the form. The form will be kept on file for a period of three years. A copy of the form shall be placed with the property in the designated bag/container for transporting of property.

(4) Responsibility of the Receiving Facility:

(a) Designated staff will inspect all property received. If a Personal Property Inventory List is included with the property, staff will verify the property received against that listed on the inventory list. Any discrepancy shall be noted.

(b) If an inventory list is not included with the property, staff shall inventory the property. The designated staff shall fill out the Personal Property Inventory List. Time and date shall be logged on the form. The form will be signed by the staff recording the inventory. The form will be signed by the inmate when the property is released.

(c) If the inmate refuses to sign the form, that fact will be noted on the form by the staff taking the inventory and by a second staff present. The inmate will receive a copy of the inventory form. The form will be kept on file for a period of three years.

(d) Any property received that is in excess of the allowed storage capacity of the receiving facility shall be considered excess property and shall be handled in accordance with procedures set forth in Disposition of Property (OAR 291-117-0140).

(5) Generally, property will be transferred at the same time the inmate is transferred. Property that does not fit on the department's transport vehicle at the time of transfer will be transferred at a later date. Transport officers are responsible for inmate property from the time the property is picked up at the sending facility until it is dropped off at the receiving facility.

(6) Transfers to Facilities Other Than Department of Corrections: If the inmate is transferred to a facility other than the Department of Corrections, it shall be the responsibility of the inmate to make arrangements to have the property mailed out or picked up by a designated individual. The inmate shall be responsible for the cost of postage to mail the item(s). If the inmate has not made these arrangements 45 days from the date of transfer, the property shall be disposed of as excess property in accordance with procedures set forth in Disposition of Property (OAR 291-117-0140).

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stat Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0120 Control of Property

(1) Property must be kept in authorized areas. Property in unauthorized areas shall be considered contraband and unauthorized property, and shall result in confiscation of the item and/or disciplinary action.

(2) There shall be no pictures/drawings of nudity, genitalia, or depictions of sexual acts displayed in an inmate's living quarters.

(3) An inmate shall not alter or otherwise tamper with or use any personal property item for other than the item's intended purpose. Unauthorized alteration or use of an authorized personal property item for other than its intended purpose may result in confiscation of the item and/or disciplinary action.

(4) An inmate shall not give, receive, loan, sell, or otherwise exchange property with another inmate, except as authorized in OAR 291-117-0100 (Possession of Authorized Legal Material by Assigned Inmate Legal Assistants).

(5) When an inmate is moved from general population to special housing, his/her personal property shall be inventoried, secured, and stored until such time that the inmate is released back to general population or transferred. Staff shall utilize the Personal Property Inventory List CD 611 (male inmate) and CD 306 (female inmate) for such purposes.

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(6) When an inmate is transported from the facility for court appearances, medical trip or other authorized trip for a period longer than 24 hours, his/her personal property shall be inventoried, secured, and stored until such time the inmate returns to the facility. Staff shall utilize the Personal Property Inventory List CD 611 (male inmate) or CD 306 (female inmate) for such purposes.

(7) An inmate may arrange through designated staff to dispose of personal property at the inmate's expense. Disposition may include arrangements for pick up at the facility by a designated individual, or donation to an organization, if authorized by the functional unit manager/designee. Any costs associated with disposition of the property will be the responsibility of the inmate.

(8) Any inmate being released on parole, post-prison supervision, or expiration of sentence shall take all personal property with him/her at the time release. The inmate shall confirm in writing receipt of the property.

(9) The department may dispose of property only within the context of these rules. Disposition of property may include destruction or donation of such property.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075
Stat Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0130

Limitations on Value/Liability/Inmate Personal Property Claims

(1) No inmate may possess any single item of personal property that exceeds \$100 in value, excluding one television, one approved musical instrument, one approved graphing calculator; and approved medical prosthesis. No inmate may possess personal property the aggregate value of which exceeds \$1000, excluding approved medical prosthesis. When determining the aggregate value of inmate property, the inmate may be required to produce receipts or authorization slips for any item valued at \$75 or greater.

(2) Each inmate is responsible for his/her own authorized property. In permitting inmates to retain items of personal property while incarcerated, the Department of Corrections accepts no liability for the theft, loss, damage, or destruction of such property resulting from the intentional, willful, reckless or negligent act or activities of any inmate which exposes such property to loss, damage, theft or destruction.

(3) An inmate's authorized personal property that may have been lost, damaged, or destroyed because of operations of the department shall be reported by the inmate immediately upon discovery. The department shall conduct an investigation of the lost, damaged or destroyed property.

(a) Inmate claims for replacement of lost or damaged authorized personal property shall be made as handled in accordance with the Oregon Tort Claims Act through the Oregon Department of Administrative Services Risk Management Division (DAS Risk Management).

(b) Items purchased through canteen may be replaced at the discretion of the department prior to a claim being filed.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075
Stat Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0140

Disposition of Inmate Property

(1) Disposition of Unauthorized/Excess Property at Intake:

(a) Items that are not authorized and considered not dangerous shall be packaged and mailed out at the inmate's expense. If the inmate lacks sufficient funds to mail out the property, arrangements may be made for the property to be picked up at the facility by a person designated by the inmate. Otherwise, the department shall mail out the property to a person designated by the inmate, and the inmate's trust account shall be debited.

(b) To permit the department to mail out an inmate's property, the inmate must provide staff with the name and street address of the person designated by the inmate to receive the property. If the property is returned because it is undeliverable, e.g., mail refused or no such address, the department shall make a second attempt to mail out the property if the inmate provides staff with an alternate address. If the property is returned to the facility a second time, the department shall confiscate the property and discard it.

(c) The department will not mail out any item(s) considered dangerous or hazardous including, but not limited to, ammunition, knives, lighters, and batteries. Oregon Trail cards will not be mailed out. Oregon Trail cards shall be processed as agreed upon by the department and the Department of Human Services.

(d) All items identified for mailing out/disposal shall be noted on the Personal Property and Clothing Inventory List (CD 353-C). The form shall be signed by the staff inventorying the property and the inmate.

(e) The form will be kept on file for a period of three years. A copy of the inventory form will accompany the item(s) mailed out.

(2) Disposition of Excess Property:

(a) Inmate personal property that exceeds the capacity of the facility's designated storage space shall be considered excess property. Excess property shall be mailed out at the inmate's expense or discarded. Excess property that is not mailed out or discarded at the direction of inmate shall be considered contraband, and may result in confiscation of the item(s) and/or disciplinary action.

(b) Staff shall direct inmates in writing to bring their aggregate property within the capacity of designated storage space. The facility will hold an inmate's excess property for no more than 45 days following the date of staff's written order directing the inmate to mail out or dispose of the inmate's excess property. If after 45 days the inmate has not made arrangements to mail out or dispose of the item(s), the department shall confiscate the property as contraband and discard it.

(3) Disposition of Unclaimed Property: Inmate personal property items that the department cannot identify as the property of a specific inmate shall be confiscated and held by the department for no more than 45 days. If after 45 days the property items remain unclaimed, the department shall discard the items.

(4) Disposition of Abandoned Property:

(a) Upon the Inmate's Release or Death: Inmate personal property that is left with the department upon an inmate's release from a department facility or death shall be processed and disposed of as follows:

(A) Staff will secure, inventory, and place the inmate's property in a secure area.

(B) Staff will attempt to contact the person(s) on the inmate's notification record to take possession of the property. If contact is made with the person(s), and if the person decides to claim and take possession of the inmate's property, the person must make arrangements with the designated staff to pick up the property at the facility or for the property to be mailed to the person. If the person picks up the property at the facility, the person must sign and provide staff with a property receipt before taking possession of the property. If the person makes arrangements to take delivery of the property by mail, the property will be mailed to the person certified mail, return receipt requested. Staff will document the property transfer, and place and maintain the property inventory and signed property receipt (or, in the case of mailing, the certified mail return receipt) in the inmate's institution file and such other files, if any, that the facility maintains for such records.

(C) The department will store the inmate's property for no more than 45 days following the inmate's release or death. If after 45 days the property remains unclaimed, the department shall confiscate the property and discard it.

(b) Upon the Inmate's Escape:

(A) The department is not responsible for any loss or damage to inmate personal property that is left with the department upon an inmate's escape from an ODOC confinement or custody.

(B) In the event of escape, the inmate's property shall be confiscated, searched, inventoried and placed in evidence or property room in a secure area.

(C) If the inmate is not returned to the custody of the department within 45 days, and the property is not being held for evidence, the department shall discard the property.

(c) Voluntary Abandonment: Inmate personal property that is voluntarily abandoned by an inmate during confinement in an ODOC facility shall be disposed of as excess property.

(d) Funds held in the inmate's trust account shall be disposed of in accordance with the department's rule on Trust Account (Inmate) (OAR 291-158).

(e) Books and Shoes: Abandoned books will be stamped as department property and placed in the facility library. Abandoned shoes will be discarded.

(5) Disposition of Property Held as Evidence: Inmate personal property items that have been confiscated and held by the department as evidence in a disciplinary investigation shall be returned to the inmate upon conclusion of the investigation and any subsequent disciplinary hearing/case, if the inmate is found not to have violated the rules of prohibited inmate conduct, and the property item(s) is not classified as contraband.

(6) Disposition of Certain "Valuable" Property Items: Notwithstanding the dispositional rules set forth above, the department shall hold jewelry, approved religious items, and any other functional inmate property item that cost \$75 or more, excluding books and shoes, for

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a period of no more than two years. If after two years the property remains unclaimed, the department shall confiscate and dispose of the item(s) as directed by the Division of State Lands.

Stat Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stat Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

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Rules Repealed: 291-015-0005, 291-015-0010, 291-015-0012, 291-015-0020, 291-015-0030, 291-015-0045, 291-015-0055

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

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-015-0100

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075

(2) Purpose: The purpose of this rule is to establish policy that will help the department fulfill its volunteer goals:

(a) To foster a respected and recognized volunteer community of appropriate size and quality that is capable of serving the rehabilitative, religious/spiritual, and other correctional needs of inmates from incarceration to reentry back to the community; and

(b) Provide support to staff in furtherance of the mission of the department.

(3) Policy: It is the policy of the Department of Corrections to utilize volunteers and student interns with appropriate training, guidance, and supervision as a means to enhance programs and further the mission of the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

291-015-0105

Definitions

(1) Affiliation: An organization; such as a school, college, university, agency, faith group, spiritual group, 12-step program, non-profit corporation or foundation, or similar type organizations, that has defined structure and recognition as a legitimate organization in the community.

(2) Endorser: An official of the volunteer's affiliation who has the authority to certify to the department that the volunteer is endorsed by that group to provide services for inmates. If the volunteer is the endorser for his/her affiliation, another official of the affiliation will need to provide the endorsement.

(3) Functional Unit: Any organizational component within the department responsible for the delivery of services or coordination of programs.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant Director, or administrator and has responsibility for the delivery of services or coordination of program operations.

(5) Facility Volunteer Coordinator: A facility employee assigned by the functional unit manager, who as part of his/her job, assists the volunteer program manager and volunteer program representatives in conducting the volunteer program at a particular facility or functional unit. Functional units may also have volunteer coordinators.

(6) LEDS: Law Enforcement Data System.

(7) Programs: Activities such as religious services, education classes, self-help meetings, and clubs that are established solely at the discretion of the department to meet its needs and those of the inmates.

(8) Student Intern/Practicum: An approved student in a college or university who, as part of an academic program, donates time and effort to enhance the mission, activities and programs of the department and to further his/her professional development. Student interns may be stipend or non-stipend. For purposes of these rules, wherever the term "carded volunteer" is used, it shall also apply to student interns.

(9) Superintendent: The functional unit manager of a correctional facility.

(10) Volunteer: An approved person who donates time, knowledge, skills, and effort to enhance the mission, activities and programs of the department. Volunteers serve at the pleasure of the department and are not considered employees. The following are categories of volunteers.

(a) Non-carded-volunteer: An individual who:

(A) Participates in nonrecurring programs of limited duration; or

(B) Volunteers less than six times a year; or

(C) Wishes to have an experience of volunteering as part of the process of deciding whether or not to be a volunteer and may serve in this capacity for up to six visits to a facility after which the individual must cease volunteering or become a carded-volunteer; or

(D) Is being evaluated for approval as a carded-volunteer and may serve in this capacity for up to six visits to a facility after which the individual must cease volunteering or be become a carded-volunteer. The superintendent or functional unit manager in consultation with the volunteer program manager or designee may extend the evaluation period on a case-by-case or facility-by-facility basis. However, completion of volunteer training is required for those volunteers whose non-carded status is extended.

(b) Carded-volunteer: An individual who has completed a volunteer application, volunteer training, facility orientation, and functional unit orientation, and who has been approved by a functional unit manager or his/her designee.

(11) Volunteer Information Management System (VIMS): A computerized database used to manage the volunteer program and to control access of volunteers to facilities.

(12) Volunteer Position Description: Form CD 1362 used to define the duties of a volunteer or student intern.

(13) Volunteer Program Manager: A Religious Services staff member who oversees, manages and conducts the volunteer program for the department as part of the religious services management team.

(14) Volunteer Program Representative: A Religious Services staff member who reports to the volunteer program manager and assists in program development and management at a specific facility or facilities arranged on a regional basis.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

291-015-0110

Program Supervision

(1) Religious Services is responsible for the establishment, development and management of the overall structure and operation of the volunteer program on behalf of the entire department.

(2) The volunteer program manager oversees and provides department-wide direction on the use of volunteers. Responsibilities include administration of the volunteer program, volunteer rule interpretation, the development of department volunteer policies and procedures dealing with the utilization, recruitment, training, and management of volunteers.

(3) The volunteer program representative is responsible for recruiting, training, and coordination of volunteers; assists in the development of department policies and procedures dealing with volunteers and their utilization; and represents the volunteer program in the community.

(4) The Volunteer Information Management System (VIMS) is utilized to monitor and control volunteer access to facilities. It is the repository of demographic, performance, emergency, medical, and other information on volunteers.

(5) The facility volunteer coordinator is primarily responsible for arranging for volunteer ID cards and facility orientation. Other responsibilities such as recruitment, coordination and utilization of volunteers, providing information to update the volunteer information management system, acting as the volunteer contact person on behalf of the superintendent, etc., may be assigned by agreement between the functional unit manager/superintendent and the volunteer program manager.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

291-015-0115

Recruitment

(1) Prospective volunteers who best meet program needs will be recruited from all ethnic, cultural, gender and economic segments of the community.

(2) Recruitment will be based on the needs of inmates and functional units, subject to space and schedule limitations of the facility, and the availability of department staff to supervise volunteers.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

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291-015-0120

Selection

(1) A prospective volunteer, whose endorser has recommended them to the department, will be interviewed by facility personnel who will supervise the volunteer. If the supervisor approves the volunteer, the volunteer's name and address will be submitted to the volunteer program to be included in a volunteer training. A prospective volunteer who does not have an affiliation/endorser may be granted volunteer status with the approval of the functional unit manager or superintendent and the volunteer program manager or designee.

(2) Security Clearance: The purpose of clearance is to ensure not only the safety and security of department facilities but also to ensure that volunteers are appropriate role models for inmates. To become a volunteer or to continue to volunteer the individual must clear the following five sets of criteria:

(a) LEADS: To clear LEADS, the volunteer must have:

(A) No felony or misdemeanor convictions or incarcerations in the past five years. When a prospective volunteer has a felony or misdemeanor conviction or was incarcerated in the past five years, but not the past three years, the prospective department supervisor may request a review by the superintendent(s) of the facility(ies) where the prospective volunteer would perform volunteer activities. If approved by the superintendent(s), the prospective volunteer may become a volunteer providing he/she meets the other requirements of this rule. Juvenile offenses and adjudications are excluded for purposes of LEADS clearance.

(B) No outstanding warrants or pending criminal charges.

(C) No felony or misdemeanor convictions for introduction and/or supplying, attempting or conspiring to introduce or supply contraband as defined in ORS 162.185 or possession, control or delivery of an explosive device or substance, including attempt or conspiracy to do the same, or assisting an inmate to escape or unlawful departure from a correctional facility, including an attempt or conspiracy to do the same.

(D) Current (less than a year old) LEADS clearance is required for all volunteers.

(b) Driving record: The volunteer may not have been convicted of Driving Under the Influence of Intoxicants (DUI) in the past two years or non-infracted Driving While Suspended (DWS) in the last year. The number and type of other driving offenses/convictions may be considered in determining if the volunteer is a good role model for inmates.

(c) The Visitor Tracking System (VTS): A volunteer may not be on an inmate visiting list, except for an immediate family member as defined in the department's rule on Visiting (Inmate) (OAR 291-127). In the case of immediate family member, the volunteer may not serve at the facility where the immediate family member is housed.

(d) Verifiable affiliation and active participation in a recognized community or religious organization. The volunteer program manager or designee and the functional unit manager must approve exceptions when the volunteer has no identifiable affiliation.

(e) Department Criteria:

(A) No prospective volunteer or volunteer may enter or serve in a facility where a co-defendant in any criminal act is incarcerated.

(B) No prospective volunteer shall receive volunteer status or be allowed to enter a department facility, if they have been determined by the department to have possessed, introduced and/or supplied a controlled substance or drug related paraphernalia, tobacco or money in excess of \$5 to an inmate or other person in a department facility.

(C) No prospective volunteer shall receive volunteer status or be allowed to enter a department facility, if they have been determined by the department to have engaged in a sexual or other inappropriate relationship with an inmate.

(D) Prospective volunteers must disclose on their volunteer application any connection to department inmates such as friends, neighbors and relatives who are incarcerated; and if they are a crime victim, who the inmate(s) is/are who committed the crime. The volunteer program manager or designee will review this information with the volunteer's supervisor and facility superintendent to determine if the applicant should be approved as a volunteer. Carded volunteers must notify the volunteer program manager in writing should any connection with a department inmate(s) develop within 30 day of becoming aware of the connection. The volunteer program manager or designee will review this information as above and make a determination whether or not the volunteer can safely continue volunteer service.

(3) Persons with Prior Criminal Convictions: Prospective volunteers with prior felony or misdemeanor convictions who meet the above listed

criteria may be approved when the following additional criteria have been met:

(a) May be under supervision, but must have no parole/probation violations in the past three years and have a letter of recommendation from his/her parole officer. The letter must be verified by the volunteer program manager or designee;

(b) No unresolved or pending criminal charges; and

(c) Prospective volunteers with a prior felony or misdemeanor conviction who perform services inside a correctional facility must have the approval of the superintendent at each facility where the service is to be provided. If the facility is not a correctional facility, (e.g., administrative offices), approval of the functional unit manager is required.

(4) Approval by one superintendent is sufficient for prospective volunteers with no criminal history who provide services at more than one department facility.

(5) The facility supervisor must insure that a perspective volunteer has security clearance and all necessary approvals before access to the facility is allowed.

(6) The superintendent may approve those who do not meet the criteria under (2) and (3) above to enter a facility as a non-carded-volunteer on a case-by-case basis, except that under no circumstances can the requirement in (2)(a) be waived.

(7) A prospective volunteer must complete a volunteer/intern application. The completed application shall be reviewed and approved by the volunteer program manager or a volunteer program representative or designee.

(8) 12-Step/Narcotics Anonymous (NA)/Alcoholics Anonymous (AA) and other substance abuse self-help group volunteers must be able to verify that they have had continuous sobriety under nonresidential, independent living conditions for the immediate past two years. These volunteers must be actively involved in 12-Step/NA/AA or similar self-help groups in the community.

(9) Religious Services volunteers may only represent a single spiritual/religious tradition, one that is generally recognized as a legitimate tradition by the broader faith community and may only teach and lead activities associated with that tradition. The Religious Services Administrator or designee may grant an exception to these requirements based on the programming needs of inmates and the qualifications of the volunteer. Volunteers must be active participants in that spiritual/religious tradition in the community.

(10) Employees, ex-employees not terminated for cause, retired employees, and contractors may serve as volunteers with the concurrence of the superintendent where the volunteer is to provide services. The employee's volunteer activities must be substantially different from the employee's job responsibilities. The differentiation must be noted in the position description.

(11) A student intern shall be recommended to the department by the appropriate official of the school, college, or university where the intern is enrolled.

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

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

Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

291-015-0125

Training and Orientation

(1) Volunteer training that has been approved by the volunteer program manager or designee is required for carded-volunteer status. Volunteers must complete volunteer training within 60 calendar days of the end of non-carded status. Extensions may be granted by the volunteer program manager or designee.

(2) Facility orientation by the facility volunteer coordinator or other facility staff will be provided to a carded-volunteer before the start of service in the facility.

(3) Functional unit orientation will be provided by the department supervisor or designee to whom the carded-volunteer has been assigned.

(4) In-service training and other training may be offered periodically.

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

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

Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

291-015-0130

General

(1) Carded-volunteers may be approved to access more than one facility. Access must be in compliance with the department's rule on Facility Access (OAR 291-016). If a volunteer is assigned to more than one facility, the volunteer must complete a facility orientation at each facility. The volunteer's facility supervisors will notify the superintendent or designee that the volunteer will be serving at that facility before the volunteer begins

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service. The superintendent has final authority over who may enter the facility.

(2) Volunteer ID Card:

(a) Within 60 calendar days of a volunteer being approved to continue volunteering past non-carded status, the volunteer's facility or functional unit supervisor will arrange with the facility volunteer coordinator for fingerprinting and facility orientation and will submit to the volunteer program manager or designee an ID card request form. The volunteer program manager or designee must approve exceptions.

(b) Carded-volunteers may enter authorized facilities only at their scheduled time and go unescorted from the place of check-in to the place where their program is held within the facility unless the superintendent requires that some or all volunteers be escorted and in that case, the facility will provide staff to escort the volunteers.

(c) When a volunteer's services are ended, the ID card must be returned to the department.

(d) If a volunteer does not enter a department facility to do volunteer work at least three times in a calendar year, a review must be conducted by the volunteer program to determine if the volunteer should be returned to non-carded status.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

291-015-0135

Utilization

(1) Any services provided by the volunteer must be listed on the volunteer's position description. If a volunteer provides services to more than one facility/functional unit and the services vary from one to another, a position description shall be created for each service. Position descriptions must be updated prior to any change in the services provided by the volunteer. The volunteer may only perform those services specified in the position description.

(2) Volunteers shall not be placed in positions of authority over department employees or contractors.

(3) Volunteers shall not perform professional services requiring certification or licensing unless the volunteer program manager, volunteer program representative or designee verifies the validity of the license.

(4) Volunteers may provide volunteer services in the community as well as in facilities provided it is in their position description. Reentry/community-based volunteers may be given ID cards when frequent access to facilities is a regular part of the service they are providing. All reentry/community-based volunteers shall complete volunteer training, other training the functional unit manager may require, and complete a volunteer application. Those reentry/community-based volunteers who are issued ID cards must meet the same security clearance criteria as other carded volunteers.

(5) Non-carded-volunteers shall be admitted to facilities utilizing a visitor authorization form and must be escorted and supervised by department staff or a carded-volunteer approved by the superintendent or designee. Non-carded-volunteers who enter facilities using the visitor authorization form, are not considered as facility visitors as defined in the department's rule on Facility Access (OAR 291-016).

(6) If a volunteer severs connection with an endorser, the volunteer's service to the department shall end immediately. The volunteer may reapply after 90 days of active association with a new endorser/affiliation. Exceptions may be granted by the volunteer's functional unit manager or designee.

(7) Volunteers shall be treated with the same respect as staff and recognized as having unique roles that differ from, but are complimentary to staff roles.

(8) Volunteers may not give or receive gifts from inmates. There may be circumstances where a group of inmates may wish to present some token of their appreciation to a volunteer, or a group of volunteers may want to present a group of inmates some token of accomplishment. Such cases must have prior approval of the functional unit manager and the item given must be of minimal economic value such as a certificate of appreciation or a simple plaque.

(9) An employee approved to serve as a volunteer shall observe boundaries around the supervision of inmates so that, as a volunteer, the employee does not exercise greater authority than is appropriate for a volunteer.

(10) Direct physical supervision of a carded-volunteer may not be necessary when other forms of supervision and the use of radios, body alarms, surveillance cameras or similar devices are available to help ensure the safe and orderly functioning of the volunteer's program. In such cases,

the superintendent or designee will determine the appropriate level of supervision.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

291-015-0140

Issuance and Use of Motor Vehicles

(1) A volunteer may use an official state vehicle while engaged in the performance of official state business on behalf of the department with written authorization by the functional unit manager.

(2) A volunteer shall comply with the provision of the department's policy on Vehicle Use and Reporting of Accidents.

(3) The functional unit manager may approve mileage reimbursement of a private vehicle where a special service is being performed. In these cases, the volunteer must provide the functional unit manager with proof of insurance coverage on his/her private vehicle.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

291-015-0145

Rule Violations and Unsafe Practices

(1) If a volunteer is arrested or convicted of a criminal offense (felony or misdemeanor) or if there is a recurrence of alcohol/drug abuse, the volunteer shall report this in a timely manner to their department supervisor and the volunteer program manager or designee. A review will be conducted to determine if the volunteer may continue to serve.

(2) When it is suspected that a volunteer may have violated a department rule, policy, procedure, or a state or federal law, or a volunteer has engaged in an act that endangers the safe and orderly operation of a facility or threatens the rehabilitative nature of the department's mission, the volunteer may be suspended pending a review by the volunteer program manager or designee in consultation with the functional unit manager or designee.

(a) After reviewing the facts of the situation, the volunteer program manager or designee will present the findings and make a recommendation to the volunteer's department supervisor and the functional unit manager.

(b) The functional unit manager will, in consultation with the volunteer program manager or designee and the volunteer's department supervisor, decide the appropriate course of action. When appropriate, preference will be given to additional training and supervision over termination of a volunteer's service.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

291-015-0150

Ending of Volunteer Service and Reinstatement

(1) A volunteer's service may be ended:

(a) For violation of department rules or policies;

(b) When there is no longer a need for the volunteer's services;

(c) When the volunteer has not provided services to the department in a year;

(d) When the volunteer requests it;

(e) When the volunteer fails to respond to a department inquiry;

(f) When the volunteer's supervisor, the volunteer program manager, and the functional unit manager or their designees deem it in the best interest of the department and/or the volunteer.

(2) Termination for cause:

(a) The volunteer program manager will confirm the termination in a letter to the volunteer.

(b) Appropriate documentation will be maintained by the volunteer program manager in accordance with departmental standard for archiving records.

(c) The volunteer program manager will send a memo to the superintendents, department ID card coordinator, and other interested parties giving notice of the action taken.

(d) The volunteer's endorser and affiliation will be notified when applicable.

(e) If termination is based on an inappropriate relationship with an inmate(s), the volunteer will be denied access to that inmate(s) including as an inmate visitor.

(f) If a student intern's service is terminated for cause, the college or university will be notified.

(3) Reinstatement after termination for cause:

(a) A volunteer who was terminated for cause may apply for reinstatement after a waiting period of not less than a year. The request for rein-

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statement shall be reviewed by the volunteer program manager, superintendent or designee or functional unit manager or designee, and the volunteer's previous supervisor. After the review is completed, the superintendent and/or functional unit manager shall make the final decision. If reinstatement is denied, the volunteer must wait at least another year before seeking reinstatement.

(b) If reinstatement is granted, the individual making the request shall fill out a new volunteer application and attend the training required of a new volunteer. The volunteer's affiliation will be verified. If the volunteer is endorsed, the endorser must be contacted and consent to the reinstatement.

(c) The reinstated volunteer will serve a one-year probationary period during which his/her supervisor will monitor the volunteer's activities regularly.

(d) The reinstatement may be made conditional on other remedial activities as well.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 7-2004, f. & cert. ef. 8-9-04

Adm. Order No.: DOC 8-2004(Temp)

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Rules Suspended: 291-180-0060, 291-180-0065, 291-180-0070, 291-180-0071, 291-180-0072, 291-180-0073, 291-180-0075, 291-180-0080, 291-180-0085, 291-180-0090, 291-180-0095

Subject: These rule modifications are necessary to bring Oregon into compliance with the Interstate Compact for Adult Offender Supervision as required by ORS 144.600. The national commission overseeing this new compact has promulgated new rules to regulate the movement of probationers and parolees between states. These temporary rules implement those national rules in Oregon and prescribe how interstate movement of offenders will occur.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-180-0060

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: To provide guidelines and procedures for the establishment and operation of the Interstate Compact branch office which shall represent the state in dealing with other states under the Interstate Compact for the supervision of parolees and probationers, and in all correspondence and communications relating to matters arising under the Compact Agreement.

(3) Policy: In accordance with ORS 144.610, 144.613 and 144.165, it is the policy of the Department of Corrections to adhere to the intent and spirit of the Interstate Compact for the supervision of parolees and probationers as provided by the Congress of the United States through enactment of the Crime Control Consent Act of 1934. This act permitted two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime, and other purposes.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0065

Definitions

(1) "Facility": Any facility operated by the Department of Corrections for the purpose of housing Department of Corrections inmates.

(2) "Functional Unit": Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(3) "Hearings Officer": Any Board of Parole and Post-Prison Supervision, Department of Corrections or Community Corrections Act county employee certified by the Board of Parole and Post-Prison Supervision to conduct parole violation hearings, except that no hearings officer shall be the employee making the allegation of violation.

(4) "Inmate": Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(5) "Interstate Compact Branch Office": The functional unit with operational authority to represent the state in implementing the Interstate Compact for the supervision of parolees and probationers.

(6) "Offender": Any person under the supervision of the Department of Corrections who is on parole, post-prison supervision or probation status.

(7) "Receiving State": That state which is being asked to supervise an offender under Compact supervision by the state in which the offender was placed on probation, post-prison supervision or released on parole.

(8) "Releasing Authority": Any court or Board having the authority to release offenders/inmates to community supervision.

(9) "Sending State": That state in which the offender was placed on probation, post-prison supervision or released on parole and which is requesting Compact supervision of an offender by another state.

(10) "Supervising Officer": The parole/probation officer of the Community Corrections of the Department of Corrections or participating Community Corrections Act county having direct responsibility for the supervision of offenders.

(11) "Third State": A state other than the initial receiving state or sending state.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0070

Eligibility for Compact Services

Eligibility Criteria:

(1) Any offender who is a resident or has family living within the receiving state and can obtain employment; or

(2) Any offender with consent of the receiving state.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Renumbered to 291-180-0071, 291-180-0072, 291-180-0073; Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0071

Out-of-State Transfer Packages

Community Corrections and Department of Corrections facility out-of-state transfer packages will consist of one or two copies, depending upon the receiving state's requirement, of each of the following, in the order listed:

(1) Out-of-State Transfer Request (CD 182);

(2) Signed Agreement to Return and Application for Compact Services, Combination (Form III, (CD 219);

(3) Signed Sex Offender Notification of Obligation to Register form;

(4) Court Orders;

(5) Financial obligation information, if applicable;

(6) Presentence Investigation Report, postsentence report, institutional case history summary or police report;

(7) Conditions of Supervision as issued by releasing authority;

(8) Order of parole or post-prison supervision;

(9) Institution face sheet;

(10) Photograph, if available; and

(11) Travel permit (CD 239).

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

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Renumbered from 291-180-0070(2); Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

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291-180-0072

Out-of-State Transfers From Community Corrections

(1) The receiving state shall be given an opportunity to investigate the home and prospective employment of an offender prior to the offender being sent there.

(2) Before an offender is permitted to travel to the receiving state prior to acceptance, the supervising officer should verify that the proposed residence and employment does exist in that state and obtain permission from the Interstate Compact branch office.

(3) The out-of-state transfer package must be prepared by the supervising officer and forwarded through the branch supervisor to the Interstate Compact branch office.

(4) Offender case management responsibility stays with the supervising officer until notified of acceptance by the Interstate Compact branch office.

(5) If a response has *not* been received within 60 days, the supervising officer should contact the Interstate Compact branch office, and follow up every 30 days thereafter.

(6) When notified of acceptance by the Interstate Compact branch office, the county office will transfer the offender's supervision to the Interstate Compact branch in accordance with the Department of Corrections rule on Transfers (Community Services).

(7) If permission is granted by the Interstate Compact branch office for the offender to leave Oregon *before* acceptance, the supervising officer must:

(a) Fill out a travel permit and have the offender sign the Agreement to Return and Application for Compact Services and the Sex Offender Notification of Obligation to Register form, if applicable. The offender must be informed that remaining in the receiving state is based on approval of that state;

(b) Instruct the offender to report as directed by the Interstate Compact branch office upon arrival at the destination, send written monthly reports and report any change in residence or employment to the supervising officer;

(c) Contact the Interstate Compact branch office immediately if any change in the offender's residence or employment is reported.

(8) If the offender is *not* accepted for supervision in the receiving state, the Interstate Compact branch office will immediately notify the county office, and the supervising officer will continue supervision as required by the unit supervisor.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Renumbered from 291-180-0070(3); Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0073

Out-of-State Transfers From Department of Corrections Facilities

(1) If the request for out-of-state supervision is by an inmate confined in a Department of Corrections facility, the inmate will submit a Proposed Parole/Post-Prison Supervision Plan (CD 36) to his/her counselor, who will forward the plan, along with two sets of file material, to the Interstate Compact branch office.

(2) Plans should be submitted to the Interstate Compact branch office no earlier than 180 days prior to release date, but may be submitted any time within the 180 days prior to release. The parole/post-prison supervision plan will be processed by the counselor even if it does not appear that sufficient time remains for an investigation to be completed before the date of release. If no response has been received from the Interstate Compact branch office at the time of release, the inmate will be released on parole/post-prison supervision to an Oregon Community Corrections officer. The assigned officer will contact the Interstate Compact branch office to advise the offender's location and determine the status of the investigation.

(3) The counselor will track all pending out-of-state requests and the date they are forwarded to the Interstate Compact branch office. Each month the counselor will verify the status with the Interstate Compact branch office.

(4) Upon notification of acceptance by the Interstate Compact branch office, the counselor will notify the inmate and initiate the following release process:

(a) The inmate will submit transportation arrangements;

(b) All forms (i.e., Order of Parole or Post-Prison Supervision Order, Application for Compact Services Combination Form III (CD 219), and Sex Offender Notification of Obligation to Register form, if applicable) will be signed prior to the inmate's release. The inmate will receive a copy

of the Order of Parole or Post-Prison Supervision Order and be instructed as to conditions of parole and reporting to out-of-state authorities;

(c) Copies of all forms shall be forwarded to the Interstate Compact branch office.

(5) If the out-of-state request is rejected, the counselor will notify the inmate, and assist the inmate in developing a new release plan.

(6) The Interstate Compact branch office will monitor cases where the inmate is paroled to an out-of-state detainer only when no warrant is outstanding in Oregon:

(a) Prior to that release, the inmate must read and sign a notification form that provides instructions for reporting to the Interstate Compact branch office upon release, and a copy of the Agreement to Return Combination Form III (CD 219);

(b) The counselor will provide the Interstate Compact branch office with a packet of material as is provided to a field office and the Board of parole and Post-Prison Supervision, including the forms indicated above and a signed Sex Offender Notification of Obligation to Register form, if applicable;

(c) The Interstate Compact branch office will monitor the case while the offender is incarcerated out-of-state and make arrangements for continued supervision upon release.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Renumbered from 291-180-0070(4); Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0075

Investigation Requests from Other States

(1) The Interstate Compact branch office will forward the investigation package to the expected supervising county office.

(2) The supervisor will assign the investigation to a supervising officer who will evaluate the proposed program.

(3) The supervising officer will submit a written report (CD 183aF) recommending acceptance/rejection to the Interstate Compact branch office within 30 days. If there is to be a delay in the investigation, the supervising officer will forward a report to the Interstate Compact branch office giving the reason and estimated due date. Supervision will be opened by the office at the time the acceptance report is submitted to the Interstate Compact branch office.

(4) The Interstate Compact branch office will advise, in writing, the sending state of acceptance or rejection.

(5) Upon acceptance, the county will enter the offender information into the Department of Corrections automated offender information system and will photograph the offender. If the offender doesn't have an Oregon SID number, a "block" number will be used until an Oregon SID number is assigned and the county will arrange for the offender to be fingerprinted, and the fingerprints submitted to the State Police as required.

(6) Out-of-State Offender Leaving Oregon:

(a) A supervising officer will notify the Interstate Compact branch office by special report, which will include information about the reason for move, new address, employment, and compliance with conditions prior to move. A copy of the travel permit, if issued, will be attached to the report;

(b) The Interstate Compact branch office will notify the sending state and authorize the county office to close its interest;

(c) The county office will send the official file material to Central Records in accordance with the Department of Corrections rule on Files, Records and Detainers.

(7) Restitution and Other Payment Requirements:

(a) All conditions of payment must be known to the receiving state at the time supervision is accepted. This is done on the Out-of-State Transfer Request (CD 182). All procedures for the collection and distribution of restitution and other financial obligations must be established prior to the offender being permitted to leave Oregon. If necessary, attach an addendum to the transfer request (CD 182) and include full information about where to mail payments, current balance, and schedule of payments;

(b) In accordance with Interstate Compact for the supervision of parolees and probationers, no receiving state will be required to collect money from offenders either privately or through court order; however, the receiving state will endeavor to assure the offender sends any such monies to the sending state;

(c) When the Interstate Compact branch office is notified of payment delinquency, it will request that the receiving state investigate and submit a report. The Interstate Compact branch office will send the response to the appropriate agencies;

(d) Supervision fees for out-of-state offenders will be required in accordance with Department of Corrections rule on Supervision Fees.

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(8) Transfer of Oregon Probationers and Parolees to a Third State: The Interstate Compact branch office will:

- (a) Prepare another transfer package and forward to the third state;
- (b) Notify the appropriate courts or parole board; and
- (c) Instruct the offender to report to the Interstate Compact branch office by mail pending acceptance by the third state.

(9) Expiration/Termination and Discharge:

- (a) The officer supervising an out-of-state offender shall send a closing report to the Interstate Compact branch office on the Expiration date;
- (b) The Interstate Compact branch office will forward the closing report to the sending state and authorize the county office to close its interest;

(c) The county office will make the necessary changes on the Department computerized information system and send the official file material to Central Records in accordance with the Department of Corrections rule on Files, Records and Detainers.

(10) Oregon Offender Returning to Oregon:

(a) When an offender returns to Oregon and reports to a county office, the office will immediately notify the Interstate Compact branch office;

(b) The Interstate Compact branch office will authorize the receiving state to close their interest and will transfer the offender's supervision to the county office in accordance with the Department of Corrections rule on Transfer (Community Corrections);

(c) When an Oregon probationer is returned from another state for a show cause hearing and the probation is continued, the appropriate unit supervisor shall assign the case to an officer for supervision or apply for out-of-state transfer through the Interstate Compact branch office;

(d) When an Oregon offender who is being supervised elsewhere, or who was released on parole/post-prison supervision to a hold by the United States Immigration Service is arrested in Oregon, the offender's supervision will immediately be transferred to the branch officer having jurisdiction over the location where the offender was arrested. The county will have responsibility for reporting the offender's status to the releasing authority(ies).

(11) Offender Information Reports:

(a) All offender information reports, including but not limited to, violation, police, progress, early termination, restitution, closing, special and other will be sent to the Interstate Compact branch office;

(b) The Interstate Compact branch office will forward the reports to the receiving state and request response where appropriate;

(c) If a requested response is not received within 30 days, the supervising officer will advise the Interstate Compact branch office by memo or teletype.

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

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0080 Miscellaneous

(1) The supervision of offenders on probation, parole or post-prison supervision who enter the military will be maintained by the county office and not transferred to the Interstate Compact branch office.

(2) The supervision of offenders on probation, parole or post-prison supervision who enter the Job Corps will be maintained by the county office and not transferred to the Interstate Compact branch office.

(3) The supervision of offenders on probation, parole or post-prison supervision who enter the Federal Witness Protection program will be maintained by the county office and not transferred to the Interstate Compact branch office.

(4) The supervision of offenders placed on probation, parole or post-prison supervision and subsequently released to the United States Immigration Service for deportation will be maintained by the county office and not transferred to the Interstate Compact branch office.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0085

Return of Oregon Parole Violators From Other States

(1) Upon issue of a return warrant and authorization of return of a violator from the Oregon Board of Parole and Post-Prison Supervision, the Interstate Compact branch office will arrange for the return of parole violators from out-of-state custody to the Oregon Corrections Intake Center or Oregon Women's Correctional Center.

(2) The Interstate Compact branch office will decide on the most appropriate and cost effective method of return, obtain approval from the Governor's Office and make all necessary arrangements.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0090

Travel Permits

(1) Upon request of the offender and approval by the supervising officer, the supervising officer will issue a travel permit any time an offender is given permission to leave Oregon.

(2) If the offender has requested a Compact transfer, a copy of the travel permit must be included in the transfer packet, or be forwarded to the Interstate Compact branch office if the offender leaves Oregon after the transfer packet has been submitted.

(3) If the offender is not requesting a Compact transfer, no copy of the travel permit needs to be sent to the Interstate Compact branch office.

(4) If an offender is requesting a Compact transfer, prior authorization must be obtained from Interstate Compact branch office. A copy of the travel permit must be sent to the Interstate Compact Unit.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0095

Interstate Compact Violation Hearings

(1) All out-of-state offenders accepted for Compact supervision in Oregon will be notified of and be subject to intermediate sanctions in accordance with the Department's rules on Structured, Intermediate Sanctions (Probation) and Intervention Guidelines (Parole and Post-Prison Supervision). Refusal to participate in intermediate sanctions may be grounds for rejection of supervision by Oregon and could result in a directive to immediately return to the sending state.

(2) All out-of-state offenders accepted for Compact Supervision in Oregon will be subject to the hearings process outlined in ORS 144.615 to 144.617, with the exception of the rights to request an attorney appointed by the Oregon Board of Parole and Post-Prison Supervision. Interstate compact offenders have the following rights of representation:

(a) Self representation;

(b) Representation by retained counsel, or appointed counsel on pending charges, if the counsel volunteers to represent the offender at no charge to the Department of Corrections.

(3) Assistance by a staff member or other person approved by the hearings officer, at no costs to the state, will be ordered by the hearings officer in those cases where it is found that assistance is necessary because of language barriers and/or competence and capacity of the offender to understand the allegations or surrounding facts.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 144.610, 144.613, 144.615 - 144.617, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1987, f. & ef. 4-3-87; CD 10-1995, f. 6-15-95, cert. ef. 7-1-95; Suspended by DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0101

Authority, Purpose, Policy and Applicability

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 144.600, 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: These rules establish Oregon's participation in the Interstate Compact for Adult Offender Supervision (ICAOS) and the processing and management of offenders transferring into or out of Oregon under the provisions of this compact. They provide guidance to county community corrections agencies and Department of Corrections institutions regarding the transfer and management of offenders sent or received from other states under this compact.

(3) Policy: It is the policy of the Department of Corrections to fully participate in the Interstate Compact for Adult Offender Supervision in accordance with ORS 144.600 and comply with rules lawfully promulgated by the National Interstate Commission within the inherent limitations of resources.

(4) Applicability: These rules apply to all offenders relocating to other states, applying for or receiving interstate compact services under the Interstate Compact for Adult Offender Supervision.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

ADMINISTRATIVE RULES

291-180-0111

Definitions (1.101 ICAOS)

(1) Abscond: To be absent from the offender's approved place of residence or employment with the intent of avoiding supervision.

(2) Adult: Both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

(3) Application Fee: A reasonable sum of money charged an interstate compact offender by the sending state for each application for transfer prepared by the sending state.

(4) Arrival: To report to the location and officials designated in reporting instructions given to an offender at the time of the offender's departure from a sending state under an interstate compact transfer of supervision.

(5) By-laws: Those by-laws established by the Interstate Commission for Adult Offender Supervision for its governance, or for directing or controlling the Interstate Commission's actions or conduct.

(6) Compact Administrator: The individual in each compacting state appointed under the terms of this compact and responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission for Adult Offender Supervision, and policies adopted by the State Council under this compact.

(7) Compact Commissioner or Commissioner: The voting representative of each compacting state appointed under the terms of the Interstate Compact for Adult Offender Supervision as adopted in the member state.

(8) Compliance: An interstate compact offender is abiding by all terms and condition of supervision, including payment of restitution, family support, fines, court costs or other financial obligations imposed by the sending state.

(9) Deferred Sentence: A sentence the imposition of which is postponed pending the successful completion by the offender of the terms and conditions of supervision ordered by the court.

(10) Detainer: An order to hold an offender in custody.

(11) Discharge: The final completion of the sentence that was imposed on an offender by the sending state.

(12) Extradition: The return of a fugitive to a state in which the offender is accused, or has been convicted of, committing a criminal offense, by order of the governor of the state to which the fugitive has fled to evade justice or escape prosecution.

(13) ICAOS: Interstate Compact for Adult Offender Supervision. The numeric reference in parenthesis next to this acronym refers to the section number of the national ICAOS rules that apply to these rules.

(14) Offender: For purposes of this rule, an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

(15) Plan of supervision: The terms under which an offender will be supervised, including proposed residence, proposed employment or viable means of support and the terms and conditions of supervision.

(16) Probable Cause Hearing: A hearing in compliance with the decisions of the U.S. Supreme Court, conducted on behalf of an offender accused of violating the terms or conditions of the offender's parole or probation.

(17) Receiving State: A state to which an offender requests transfer of supervision or is transferred.

(18) Reporting Instructions: The orders given to an offender by a sending or receiving state directing the offender to report to a designated person or place, at a specified date and time, in another state. Reporting instructions shall include place, date, and time on which the offender is directed to report in the receiving state.

(19) Resident: person who has continuously inhabited a state for at least one year prior to the commission of the offense for which the offender is under supervision, with the intent that such state shall be the person's principal place of residence, and who has not, unless incarcerated, relocated to another state or states for a continuous period of six months or more with the intent to establish a new principal place of residence.

(20) Resident family: A parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who has resided in the receiving state for 180 days or longer; and indicates willingness and ability to assist the offender as specified in the plan of supervision.

(21) Retaking: The act of a sending state in physically removing an offender, or causing to have an offender removed, from a receiving state.

(22) Rules: Acts of the Interstate Commission, which have the force and effect of law in the compacting states, and are promulgated under the

Interstate Compact for Adult Offender Supervision, and substantially affect interested parties in addition to the Interstate Commission.

(23) Sending State: A state requesting the transfer of an offender, or which transfers supervision of an offender, under the terms of the Compact and its rules.

(24) Shall: That a state or other actor is required to perform an act, the non-performance of which may result in the imposition of sanctions as permitted by the Interstate Compact for Adult Offender Supervision, its by-laws and rules.

(25) Significant Violation: An offender's failure to comply with the terms or conditions of supervision that, if occurring in the receiving state, would result in a request for revocation of supervision.

(26) Special Condition: A condition or term that is added to the standard conditions of parole or probation by either the sending or receiving state.

(27) Subsequent Receiving State: A state to which an offender is transferred that is not the sending state or the original receiving state.

(28) Supervision: The authority or oversight exercised by supervising authorities of a sending or receiving state over an offender for a period of time determined by a court or releasing authority, during which the offender is required to report to or be monitored by supervising authorities, and includes any condition, qualification, special condition or requirement imposed on the offender at the time of the offender's release to the community or during the period of supervision in the community.

(29) Supervision Fee: A fee collected by the receiving state for the supervision of an offender.

(30) Temporary Travel Permit: The written permission granted to an offender to travel outside the receiving state. Temporary travel permits shall not exceed 31 days and are not repeatedly renewable except as provided for in these rules. All temporary travel permits shall include the offender's crime of conviction and a beginning and ending date.

(31) Temporary Travel Permit (Victim Sensitive Cases): In "victim-sensitive" cases, the receiving state shall give notice of offender movement to the sending state regarding the issuance of a temporary travel permit. Travel permits may not exceed 31 days and must have a beginning and ending date.

(32) Travel permit: The written permission granted to an offender authorizing the offender to relocate from one state to another. All travel permits shall include the offender's crime of conviction.

(33) Victim: A natural person or the family of a natural person who has suffered physical injury or serious emotional harm as a result of an act or omission of an offender.

(34) Victim-Sensitive: A designation made by the sending state in accordance with its definition of "crime victim" under the statutes governing the rights of crime victims in the sending state.

(35) Waiver: The voluntary relinquishment, in writing, of a known constitutional right or other right, claim or privilege by an offender.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0120

Authority of Oregon Interstate Compact (2.101 ICAOS)

(1) The acceptance, rejection or termination of supervision of an offender under the compact requires the involvement and concurrence of the Oregon Compact Administrator or their designated deputy.

(2) All formal written, electronic or oral communication regarding an offender under this compact shall be made only through the Oregon Compact Administrator or their designated deputy.

(3) Transfer, modification or termination of supervision authority for an offender under this compact may be authorized only with the involvement and concurrence of the Oregon Compact Administrator or their designated deputy.

(4) Violation reports or other notices regarding offenders under this compact shall be transmitted only through direct communication between the compact offices of the sending and receiving states.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0130

Data Collection and Reporting (2.102 ICAOS)

The Oregon Compact Office shall gather, maintain and report as requested to the national compact office all required data regarding the transfer and supervision of offenders supervised under this compact.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

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291-180-0140

Interstate Compact for Adult Offender Supervision Dues (2.103 ICAOS)

Oregon shall pay membership dues to the Interstate Compact for Adult Offender Supervision as established by the dues formula lawfully promulgated by the Nation Compact Commission.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0150

Forms (2.104 ICAOS)

Oregon shall use the forms and electronic information system authorized by the National Compact for all communications regarding offenders between or among states.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0160

Communication Preferences

While these rules permit communication and notice by "telephone, electronic mail or telefax", whenever possible, electronic transmission by email is the preferred mode of communication and transfer of documents. For greatest clarity and useability, all documents must be electronically generated.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0170

Transfer of Offenders Under This Compact (2.110 ICAOS)

No state shall permit a person who is eligible for transfer under this compact to relocate to another state except as provided by the Interstate Compact for Adult Offender Supervision and these rules.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0180

Compact Eligible Destinations

(1) Services allowed under this compact are available only between sending and receiving states, United States possessions and territories who are signatory to the Interstate Compact for Adult Offender Supervision. This compact may not be used with non-members of the ICAOS or any foreign country.

(2) A current list of states, U.S. possessions and territories signatory to this compact may be obtained by contacting Oregon Interstate Compact or may be viewed at the ICAOS website at "<http://www.adultcompact.org>".

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0190

Eligibility for Transfer of Supervision: (3.101 ICAOS)

(1) At the discretion of the sending state, an offender who has three months or more or an indefinite period of supervision remaining shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer, if the offender, pursuant to a valid plan of supervision:

(a) Is in substantial compliance with the terms of supervision in the sending state and is a resident of the receiving state; or

(b) Has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision, and can obtain employment in the receiving state or has a visible means of support.

(2) A receiving state, for good cause shown, may consent to the transfer of supervision of an offender who does not otherwise qualify for transfer of supervision.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0200

Misdemeanants (2.105 ICAOS)

(1) Misdemeanants as defined below are eligible for transfer under the compact. For purposes of this rule, a misdemeanor is an offender who has been sentenced for a misdemeanor offense in the sending state and is eligible for transfer under the compact, provided that all other criteria for

transfer, as specified in the previous section, have been satisfied, and provided further that the offender:

(a) Is subject to one year or more of supervision;

(b) Is subject to a sentence greater than six months of incarceration upon revocation of probation or other community supervision; and

(c) Has not been convicted of or placed under supervision for a minor offense.

(2) In this section, "minor offense" does not include:

(a) An offense in which a victim has incurred direct or threatened physical or psychological harm;

(b) A second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; or

(c) A sexual offense. In this section "sexual offense" means an offense which requires that a person register as a sex offender in the sending state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0210

Ineligible Offenders (2.106 ICAOS)

Persons subject to supervision pursuant to a pre-trial intervention program, bail, or similar program, or who are under supervision for a minor misdemeanor offense, as defined in the misdemeanor section above, are not eligible for transfer.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0220

Offenders Subject to Deferred Sentences (2.106 ICAOS)

Offenders subject to deferred sentences (i.e.: conditional discharges) are eligible for transfer of supervision under the same eligibility requirements, terms, and conditions applicable to all other offenders under this compact.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0230

Offenders on Furlough, Work Release (2.107 ICAOS)

A person who is released from incarceration under furlough, work-release, or other pre-parole program is not eligible for transfer under the compact.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0240

Offenders With Disabilities (2.108 ICAOS)

A receiving state shall continue to supervise offenders who become mentally ill or exhibit signs of mental illness or who develop a physical disability while supervised in the receiving state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0250

Fugitives from Justice

Transfer investigations shall not be requested or accepted on offenders with outstanding warrants. Fugitive status is inconsistent with a proper "valid plan of supervision" and compliance with conditions of supervision. Exceptions may be granted by the Compact Administrator or their designee.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0260

Retaken Offenders

Previously compacted offenders, who were "retaken" at cost to Oregon, shall not be re-compacted until such time as costs of retaking have been repaid to Oregon. Exceptions may be granted by the Compact Administrator or their designee.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0270

Submission of Transfer Request to a Receiving State (3.102 ICAOS)

(1) Subject to the exception in the next section, a sending state seeking to transfer supervision of an offender to another state shall submit a

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completed transfer request with all required information to the receiving state prior to allowing the offender to leave the sending state.

(2) Subject to the exception in the next section, the receiving state shall be given the opportunity to investigate the proposed plan of supervision prior to allowing the offender to leave the sending state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0280

Acceptance of the Offender by Receiving State; Exception: (3.103 ICAOS)

(1) A sending state shall not allow an offender under supervision in the sending state to relocate to a receiving state without the receiving state's acceptance of the transfer of supervision. Exception:

(a) A sending state may grant a travel permit to an offender who was living in the receiving state at the time of sentencing.

(b) This exception is not applicable to offenders released to supervision from prison.

(2) Prior to granting a travel permit to an offender under this exception, the sending state shall verify that the offender is a resident of the receiving state and shall immediately contact the receiving state's interstate compact office by telephone, telefax or electronic mail to request provisional reporting instructions.

(a) The receiving state shall issue provisional reporting instructions no later than two business days following receipt of such notification and request from the sending state.

(b) No travel permit shall be granted by the sending state until provisional reporting instructions are received from the receiving state.

(c) The sending state shall ensure that the offender signs all forms requiring the offender's signature to apply for compact transfer prior to granting a travel permit to the offender. The sending state shall immediately transmit the signed forms electronically or by telefax to the receiving state. (3.107 ICAOS)

(3) Upon receipt of notification and verification by the sending state of residency, a receiving state shall assume responsibility for supervision of an offender who is granted a travel permit during the investigation of the offender's plan of supervision.

(4) A sending state shall transmit a completed transfer request for an offender granted a travel permit no later than 15 calendar days following the granting to the offender of the travel permit.

(5) If the receiving state rejects the transfer request for an offender granted a travel permit, or if the sending state fails to send a completed transfer request by the 15th day following the granting of a travel permit, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request from the receiving state, direct the offender to return to the sending state by a date specified by the sending state.

(a) If the offender does not return to the sending state, the sending state shall initiate the retaking of the offender by issuing a warrant or an order to return no later than 10 calendar days following the offender's failure to appear in the sending state.

(b) The receiving state shall continue to supervise the offender until a warrant is issued or sending state notifies receiving state that offender has returned to sending state. (4.105 ICAOS)

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0290

Time Allowed for Investigation by Receiving State (3.104 ICAOS)

(1) A receiving state shall complete an investigation and respond to a sending state's request for offender transfer of supervision no later than the 45th calendar day following receipt of a completed transfer request in the receiving state's compact office. Receipt of completed transfer request shall be presumed to occur by the fifth business day following transmission.

(2) If a receiving state determines that an offender transfer request is incomplete, the receiving state shall notify the sending state of that determination and the nature of the incompleteness no later than five business days following receipt of the transfer request by the receiving state.

(3) If a receiving state accepts transfer of the offender, the receiving state's acceptance shall include reporting instructions.

(4) Upon notice of acceptance of transfer by the receiving state, the sending state shall issue a travel permit to the offender and send a Notice of Departure to the receiving state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0300

Request for Transfer of a Paroling Offender (3.105 ICAOS)

(1) A sending state shall submit a completed request for transfer of a parole or post prison supervision offender to a receiving state no earlier than 120 days prior to the offender's planned prison release date.

(2) A sending state shall notify a receiving state of the offender's date of release from prison or if the recommendation for release of the offender has been withdrawn or denied.

(3) A receiving state may withdraw its acceptance of the transfer request if the offender does not report to the receiving state by the fifth calendar day following the offender's intended date of departure from the sending state.

(a) A receiving state that withdraws its acceptance because an offender fails to report, shall immediately notify the sending state.

(b) Following withdrawal of the receiving state's acceptance, if the sending state desires to reapply for transfer of a paroling offender, they must resubmit a new request for transfer of supervision.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0310

Request for Expedited Transfer (3.106 ICAOS)

(1) A sending state may request that a receiving state agree to an expedited transfer of an offender if the sending state believes that emergency circumstances exist and the receiving state agrees with that determination.

(a) A receiving state that agrees to expedited transfer of an offender shall immediately issue reporting instructions for the offender, and a sending state shall immediately issue a travel permit.

(b) The sending state shall ensure that the offender signs all compact transfer application forms requiring the offender's signature (see "Application for transfer of supervision"), prior to granting a travel permit to the offender. The sending state shall immediately transmit the signed forms electronically or by telefax to the receiving state.

(c) At the time of transmission of the signed forms, the sending state shall provide the receiving state with a copy of the offender's orders and conditions, documentation of the offender's residency, copy of any available pre-sentence report, copy of any order of protection, where applicable, and whether the offender is subject to sex offender registration in the sending state.

(2) The receiving state granting an expedited transfer shall assume responsibility for supervision of an offender granted a travel permit during the investigation of the offender's plan of supervision.

(3) The sending state shall transmit a completed transfer request for an offender granted a travel permit no later than seven calendar days following the granting to the offender of the travel permit.

(4) If the receiving state rejects the transfer request for an offender granted a travel permit, or if the sending state fails to send a completed transfer request by the 7th calendar day following the granting of a travel permit, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state by a date specified by the sending state.

(a) If the offender does not return to the sending state, the sending state shall initiate the retaking of the offender no later than ten calendar days following the offender's failure to appear in the sending state.

(b) The receiving state shall continue to supervise the offender until a warrant is issued or sending state notifies receiving state that offender has returned to sending state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0320

Applications for Transfer of Supervision (Investigation Packets) (3.107 ICAOS)

An application for transfer of supervision of an offender shall contain the following information:

(1) Offender's full name and any aliases by which the offender is known;

(2) Indication of whether the offender seeks transfer to the receiving state based on residency in the receiving state, family residing in the receiving state, or consent of the receiving state;

(3) Name, address, and telephone number of family in the receiving state if the offender bases the transfer request on family's residency in the receiving state;

(4) Offender's proposed residence in the receiving state;

(5) Offender's current or prospective employer in the receiving state;

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- (6) Offender's criminal justice identification number in the sending state;
- (7) Offender's date of birth;
- (8) Offender's social security number, if known;
- (9) County of conviction or imposition of supervision;
- (10) Indication of the type of criminal justice supervision to which the offender has been sentenced;
- (11) Instant offense in sufficient detail to describe the type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
- (12) Offender's criminal history;
- (13) Notice, if applicable, indicating that the supervision of the offender is a victim-sensitive matter;
- (14) Date supervision is to begin, if known;
- (15) Date supervision is to terminate, if known;
- (16) Name and title of supervising officer;
- (17) Signed "Application for Interstate Compact Transfer" form;
- (18) Signed "Agreement to Return on Demand of the sending state" form;
- (19) Signed "Waiver of Extradition" form;
- (20) Signed "Consent to Random Drug Testing and to Searches Based on Reasonable Suspicion" form;
- (21) Signed "Consent to Release of Medical and Psychological Information;"
- (22) Photograph of offender;
- (23) Conditions of supervision;
- (24) Any orders restricting the offender's contact with victims or any other person;
- (25) Any known orders protecting the offender from contact with any other person;
- (26) Information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
- (27) Judgment and commitment documents;
- (28) Pre-sentence investigation report, if available;
- (29) Supervision history, if available;
- (30) Information relating to any court-ordered financial obligations, including but not limited to, fines, court costs, restitution, and family support; the balance that is owed by the offender on each; and the address of the office to which payment must be made.
- (31) Medical information, if available; and
- (32) Psychological evaluation, if available.
- Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0330

Waiver of Extradition (3.109 ICAOS)

(1) An offender applying for interstate supervision shall execute, at the time of application for transfer, a waiver of extradition from any state to which the offender may abscond while under supervision in the receiving state.

(2) States that are party to this compact waive all legal requirements to extradition of offenders who are fugitives from justice.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0340

Offenders Illegally Present in Oregon

Requests for compact services shall be returned to the sending state when sending state's offender is present in Oregon in violation of rules of the Interstate Compact for Adult Offender Supervision.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0350

Notification to Victims Upon Transfer of Offenders (3.108 ICAOS)

Within one business day of the issuance of reporting instructions or acceptance of transfer by the receiving state, the sending state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to known victims in the sending state, and the receiving state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to victims in the receiving state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0360

Notification to Victims Upon Violation by Offender or Other Change in Status (3.108 ICAOS)

(1) The receiving state is responsible for reporting information to the sending state when an offender:

- (a) Commits a significant violation;
- (b) Changes address;
- (c) Returns to the sending state where an offender's victim resides;
- (d) Departs the receiving state under an approved plan of supervision

in a subsequent receiving state; or

(e) Is issued a temporary travel permit where supervision of the offender has been designated a victim-sensitive matter.

(2) Both the sending state and the receiving state shall notify known victims in their respective states of this information in accordance with their own laws or procedures.

(3) The receiving state shall respond to requests for offender information from the sending state no later than the fifth business day following the receipt of the request.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0370

Victims' Right to be Heard and Comment: (3.1081 ICAOS)

(1) When an offender submits a request to transfer to a receiving state or a subsequent receiving state, or to return to a sending state, the victim notification authority in the sending state shall, at the time of notification to the victim, shall inform victims of the offender of their right to be heard and comment. Victims of the offender have the right to be heard regarding their concerns relating to the transfer request for their safety and family members' safety. Victims have the right to contact the sending state's interstate compact office at any time by telephone, telefax, or conventional or electronic mail regarding their concerns relating to the transfer request for their safety and family members' safety. The victim notification authority in the sending state shall provide victims of the offender with information regarding how to respond and be heard if the victim chooses.

(a) Victims shall have ten business days from receipt of notice required in this provision to respond to the sending state. Receipt of notice shall be presumed to have occurred by the fifth business day following its sending.

(b) The receiving state shall continue to investigate the transfer request while awaiting response from the victim.

(2) Upon receipt of the comments from victims of the offender, the sending state shall consider comments regarding their concerns relating to the transfer request for their safety and family members' safety. Victims' comments shall be confidential and shall not be disclosed to the public. The sending state or receiving state may impose special conditions of supervision on the offender, if the safety of the offender's victims or family members of victims is deemed to be at risk by the approval of the offender's request for transfer.

(3) The sending state shall respond to the victim no later than five business days following receipt of victims' comments, indicating how victims' concerns will be addressed when transferring supervision of the offender.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0380

Manner and Degree of Supervision in Receiving State (4.101 ICAOS)

A receiving state shall supervise an offender transferred under the interstate compact in a manner determined by the receiving state and consistent with the supervision of other similar offenders sentenced in the receiving state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0390

Duration of Supervision in the Receiving State (4.102 ICAOS)

A receiving state shall supervise an offender transferred under the interstate compact for a length of time determined by the sending state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

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291-180-0400

Special Conditions (4.103 ICAOS)

(1) At the time of investigation or during the term of supervision, the compact administrator or supervising authority in the receiving state may impose a special condition on an offender transferred under the interstate compact if that special condition would have been imposed on the offender if sentence had been imposed in the receiving state.

(2) A receiving state shall notify a sending state that it intends to impose or has imposed a special condition on the offender, the nature of the special condition, and the purpose.

(3) A sending state shall inform the receiving state of any special conditions to which the offender is subject at the time of request for transfer is made, or when it becomes available.

(4) A receiving state that is unable to enforce a special condition imposed in the sending state shall notify the sending state of its inability at the time of request for transfer of supervision is made.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0410

Offender Registration in Receiving State (4.104 ICAOS)

The receiving state shall require that an offender transferred under the interstate compact comply with any offender registration and DNA testing requirements in accordance with the laws or policies of the receiving state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0420

Arrival and Departure Notifications, Withdrawal of Reporting Instructions (4.105 ICAOS)

(1) Departure Notifications: At the time of an offender's departure from any state pursuant to a transfer of supervision or the granting of a travel permit, the state from which the offender departs shall notify the intended receiving state, and, if applicable, the sending state, by telephone, electronic mail or telefax of the date and time of the offender's intended departure and the date by which the offender has been instructed to arrive.

(2) Arrival Notifications: At the time of an offender's arrival in any state pursuant to a transfer of supervision or the granting of a travel permit, or upon the failure of an offender to arrive as instructed, the intended receiving state shall immediately notify the state from which the offender departed, and, if applicable, the sending state, by telephone, electronic mail or telefax of the offender's arrival or failure to arrive.

(3) Withdrawal of Reporting Instructions:

(a) The receiving state may withdraw its reporting instructions if the offender does not report to the receiving state as directed in the reporting instructions.

(b) The receiving state that withdraws its reporting instructions or subsequently determines that an offender granted a travel permit has absconded, shall immediately notify the sending state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0430

Progress Reports (4.106 ICAOS)

(1) A receiving state shall provide to the sending state a progress report annually, or more frequently, upon the request of the sending state, for good cause shown.

(2) A receiving state shall provide to the sending state a progress report upon the closure of a receiving state's supervision of an offender.

(3) A progress report shall include:

- (a) Offender's name;
- (b) Offender's residence address;
- (c) Offender's telephone number and electronic mail address;
- (d) Name and address of offender's employer;
- (e) Supervising officer's summary of offender's conduct, progress and attitude, and compliance with conditions of supervision;
- (f) Programs of treatment attempted and completed by the offender;
- (g) Information about any sanctions that have been imposed on the offender since the previous progress report;
- (h) Supervising officer's recommendation; and
- (i) Any other information requested by the sending state that is available in the receiving state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0440

Fees (4.107 ICAOS)

(1) Application Fee: A sending state may impose a fee for each transfer application prepared for an offender.

(2) Supervision Fee:

(a) A receiving state may impose a reasonable supervision fee on an offender whom the state accepts for supervision, which shall not be greater than the fee charged to the state's own offenders.

(b) A sending state shall not impose a supervision fee on an offender whose supervision has been transferred to a receiving state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0450

Collection of Restitution, Fines and Other Costs (4.108 ICAOS)

(1) A sending state is responsible for collecting all fines, family support, restitution, court costs, or other financial obligations imposed by the sending state on the offender.

(2) Upon notice by the sending state that the offender is not complying with family support and restitution obligations, and financial obligations as set forth above, the receiving state shall notify the offender that the offender is in violation of the conditions of supervision and must comply. The receiving state shall inform the offender of the address to which payments are to be sent.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0460

Temporary Travel Permits

(1) This rule regulates the travel of offenders relocating to other states including compacted offenders or those applying for compact services. It does not apply to other offenders under supervision.

(2) An offender may be issued an out of state temporary travel permit for up to 31 days for reasons consistent with the purposes of supervision and public safety. Temporary travel permits to return to the sending state require notice be given the sending state.

(3) Offenders shall not be granted a temporary travel permit to a receiving state during an active transfer investigation without the consent of the receiving state. Temporary travel permits shall not be granted to seek employment and residence in another state for the purpose of compacting to that state.

(4) Exceptions:

(a) "Victim-Sensitive" Cases: The receiving state shall notify the sending state when a temporary travel permit is issued. Travel permits for these offenders may not exceed 31 days. No temporary travel permit shall be granted to a "victim-sensitive" case that is inconsistent with these requirements.

(b) Employment/Treatment in Adjoining State: A temporary travel permit may be issued for up to 120 days and renewed as needed to permit daily travel to and from an adjoining state for purpose of employment or treatment. A copy of this permit shall be forwarded through the interstate compact office to the adjoining state to be visited. This permit is intended to expire upon termination of employment or treatment.

(c) Fire Fighters: A temporary travel permit for the purpose of fire fighting may be issued for 31 days and renewed as needed to continue seasonal employment fighting fires. A copy of this permit shall be forwarded, in a timely manner, through the interstate compact office to any state visited.

(d) Offshore Fisherman: A temporary travel permit may be granted for up to 60 days and renewed as needed for employment purposes. A copy of this permit shall be forwarded through the interstate compact office to any state visited.

(e) Residential Treatment: Offenders may be issued a temporary travel permit to reside in a residential treatment program in another state for up to 60 days. A copy of this permit shall be forwarded through the interstate compact office to the state visited. The offender shall immediately return to Oregon upon completion of the program unless accepted for transfer pursuant this compact.

(f) Long Term Treatment Programs: Offenders participating in programs longer than 60 days must request transfer to the receiving state. An expedited transfer may be requested if the offender needs to proceed to the program immediately.

(5) All temporary travel permits shall include the offender's crime of conviction, a beginning and ending date and require that the offender report

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to local law enforcement within 24 hours of arrival and comply with any registration requirement of that state.

(6) Caution should be exercised in granting permission to travel for sex or violent offenders. Recipients of temporary travel permits should be in substantial compliance with their conditions of supervision and not be considered a high risk to re-offend.

(7) An offender shall not be granted travel to any state where a known victim resides without prior notice to that state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0470

Violation Reports (4.109 ICAOS)

(1) A receiving state shall notify a sending state of significant violations of conditions of supervision by an offender within 30 calendar days of discovery of the violation.

(2) A violation report shall contain:

- (a) Offender's name and location;
- (b) Offender's state-issued identifying numbers;
- (c) Date of the offense or infraction that forms the basis of the violation;

description of the offense or infraction;
(d) Status and disposition, if any, of offense or infraction;
(e) Dates and descriptions of any previous violations;
(f) Receiving state's recommendation of actions sending state may take;

(g) Name and title of the officer making the report; and

(h) If the offender has absconded, the offender's last known address and telephone number, name and address of the offender's employer, and the date of the offender's last personal contact with the supervising officer.

(3) The sending state shall respond to a report of a violation made by the receiving state no later than ten business days following receipt by the sending state. Receipt of a violation report shall be presumed to have occurred by the fifth business day following its transmission by the receiving state;

(4) The response by the sending state shall include action to be taken by the sending state and the date by which that action will begin and its estimated completion date.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0480

Transfer to a Subsequent Receiving State (4.110 ICAOS)

(1) At the request of an offender for transfer to a subsequent receiving state, and with the approval of the sending state, the sending state shall prepare and transmit a request for transfer to the subsequent state in the same manner as an initial request for transfer is made.

(2) The receiving state shall assist the sending state in acquiring the offender's signature on the "Application for Interstate Compact Transfer," the "Agreement to Return on Demand of the sending state" and the "Consent to Random Drug Testing and to Searches Based on Reasonable Suspicion" forms, and any other forms that may be required for submission of an "Application for transfer of supervision" and shall transmit these forms to the sending state.

(3) The receiving state shall submit a statement to the sending state summarizing the offender's progress under supervision.

(4) The receiving state shall issue a travel permit to the offender when the sending state informs the subsequent receiving state that the offender's transfer to the subsequent receiving state has been approved.

(5) Notification, of offender's departure, shall be sent by the state the offender is departing to the state offender has been issued a travel permit to proceed to. An arrival notice shall be sent by the new receiving state to the original sending state upon the offender's arrival.

(6) Acceptance of the offender's transfer of supervision by a subsequent state and issuance of reporting instructions to the offender terminate the receiving state's supervisory obligations for the offender.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0490

Return to the Sending State (4.111 ICAOS)

(1) Upon an offender's request to return to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent criminal offense in the receiving state.

(2) The sending state shall grant the request and provide reporting instructions no later than three business days following receipt of the request for reporting instructions from the receiving state.

(3) The receiving state shall send a departure notice to the sending state upon offender's departure.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0500

Closing of Supervision by the Receiving State (4.112 ICAOS)

(1) The receiving state may close its supervision of an offender and cease supervision upon:

(a) The date of discharge indicated for the offender at the time of application for supervision unless informed of an earlier or later date by the sending state;

(b) Notification to the sending state of the absconding of the offender from supervision in the receiving state;

(c) Notification to the sending state of the sentencing of the offender to incarceration for 180 days or longer and receipt from the sending state of a warrant and detainer or other acknowledgement by the sending state of responsibility for the offender within 90 days of the notification.

(A) If the sending state fails to provide the warrant and detainer or other acknowledgement within 90 days of notification, the receiving state may close its supervision of the offender.

(B) After 90 days the sending state shall be responsible for the offender.

(d) Notification of death; or

(e) Return to sending state.

(2) A receiving state shall not terminate its supervision of an offender while the sending state is in the process of retaking the offender.

(3) At the time a receiving state closes supervision, a final progress report shall be provided to the sending state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0510

New Felony Offense (5.102 ICAOS)

Upon a request from the receiving state, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state upon the conviction of a new felony offense and completion of a term of incarceration for that conviction.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0520

Violations of Conditions of Supervision (5.103 ICAOS)

Upon request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0530

Retaking by the Sending State: (5.101 ICAOS)

(1) Except when offenders have a new felony conviction or have established a pattern of non-compliance by the commission of three or more significant violations as provided for in previous sections, the sending state, at its sole discretion, may retake an offender, unless the offender has been charged with a subsequent criminal offense in the receiving state.

(2) If the offender has been charged with a subsequent criminal offense in the receiving state, the offender shall not be retaken without the consent of the receiving state, or until criminal charges have been dismissed, or the offender has been released to supervision for the subsequent offense.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0540

Cost of Retaking an Offender (5.104 ICAOS)

A sending state shall be responsible for the cost of retaking the offender.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

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291-180-0550

Time Allowed for Retaking an Offender (5.105 ICAOS)

A sending state shall retake an offender within 30 calendar days after the decision to retake has been made or upon release of the offender from incarceration in the receiving state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0560

Cost of Incarceration in Receiving State (5.106 ICAOS)

The receiving state shall be responsible for the cost of detaining the offender in the receiving state pending the offender's retaking by the sending state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0570

Officers Retaking an Offender (5.107 ICAOS)

(1) Officers authorized under the law of a sending state may enter a state where the offender is found and apprehend and retake the offender, subject to this compact, its rules, and due process requirements.

(2) The sending state shall be required to establish the authority of the officer and the identity of the offender to be retaken.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0580

Opportunity for Hearing in Receiving State (5.108 ICAOS)

The offender shall be afforded the opportunity for a probable cause hearing in the receiving state consistent with due process requirements. No waiver of a probable cause hearing shall be accepted unless accompanied by an admission by the offender to one or more significant violations of the terms or conditions of supervision. Any evidence or record generated during a probable cause hearing shall be forwarded to the sending state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0590

Transport of Offenders (5.109 ICAOS)

States that are party to this compact shall allow officers authorized by the law of the sending or receiving state to transport offenders through the state without interference.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0600

Retaking Offenders From Local, State or Federal Correctional Facilities (5.110 ICAOS)

Officers authorized by the law of a sending state may take custody of an offender from a local, state or federal correctional facility at the expiration of the sentence or the offender's release from that facility provided that:

(1) No detainer has been placed against the offender by the state in which the correctional facility lies; and

(2) No extradition proceedings have been initiated against the offender by a third-party state.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0610

Denial of Bail to Certain Offenders (5.111 ICAOS)

An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail in any state where the offender is found.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0620

Dispute Resolution (6.101-6.102 ICAOS)

It is the policy of the Oregon Department of Corrections as administrator of the Oregon Interstate Compact to resolve disputes with other member states regarding interstate compact activities in a manner consistent with the adopted rules of the National Commission of the Interstate

Compact for Adult Offender Supervision. The following are the general steps to be taken:

(1) The first effort will be made to resolve any dispute informally with the other state.

(2) If unresolved, Oregon will seek the assistance of the executive director of the National Compact in resolving the dispute. The Executive Director will, using any resource available, within 10 business days issue a written response to the disputing parties.

(3) Any dispute not informally resolved by this process shall be formally resolved by mediation and arbitration set forth in the rules adopted by the Interstate Commission of the Interstate Compact for Adult Offender Supervision.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

291-180-0630

Interpretation of Rules (6.101 ICAOS)

Oregon Interstate Compact may submit an informal written request to the Executive Director of the Interstate Compact for Adult Offender Supervision for assistance in interpreting the rules of that compact. The Executive Director or the Executive Committee will, using any resource available, submit a written response to be circulated to all of the states.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 8-2004(Temp), f. & cert. ef. 8-11-04 thru 1-31-05

Department of Environmental Quality Chapter 340

Adm. Order No.: DEQ 6-2004

Filed with Sec. of State: 7-29-2004

Certified to be Effective: 7-29-04

Notice Publication Date: 4-1-04

Rules Amended: 340-220-0030, 340-220-0040, 340-220-0050

Subject: The rule amendment increases Title V fees by the 2003 Consumer Price Index, of 2%.

Rules Coordinator: Roberta Young—(503) 229-6408

340-220-0030

Annual Base Fee

The Department will assess an annual base fee of \$3,178 for each source subject to the Oregon Title V Operating Permit program. The fee covers the period from November 15 of the current calendar year to November 14 of the following year.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2580; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04

340-220-0040

Emission Fee

(1) The Department will assess an emission fee of \$37.03 per ton to each source subject to the Oregon Title V Operating Permit Program.

(2) The emission fee will be applied to emissions from the previous calendar year based on the elections made according to OAR 340-220-0190.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2590; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04

340-220-0050

Specific Activity Fees

The Department will assess specific activity fees for an Oregon Title V Operating Permit program source as follows:

(1) Existing Source Permit Revisions:

(a) Administrative* — \$318;

(b) Simple — \$1,272;

(c) Moderate — \$9,536;

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(d) Complex — \$19,073;

(2) Ambient Air Monitoring Review — \$2,543.

*includes revisions specified in OAR 340-218-0150(1)(a) through (g). Other revisions specified in OAR 340-218-0150 are subject to simple, moderate or complex revision fees.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2600; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04

Adm. Order No.: DEQ 7-2004

Filed with Sec. of State: 8-3-2004

Certified to be Effective: 8-3-04

Notice Publication Date: 3-1-04

Rules Amended: 340-045-0010, 340-045-0015, 340-045-0070, 340-045-0075

Subject: Rule amendments established a new category of permit fees for National Pollutant Discharge Elimination System (NPDES) individual permits for small municipal separate storm sewer systems (MS4s). This new type of permit is issued to small municipalities to comply with federal NPDES Phase II Storm Water regulations. Changes also clarified permit requirements for storm water discharges, added definitions to distinguish sizes of MS4s, and defined "storm water" consistent with federal rules. Amendments to rules governing general permits allow flexibility for local governments and other agents implementing general permits on behalf of the Department of Environmental Quality to set and collect permit fees. Rules were also revised for clarity.

Rules Coordinator: Roberta Young—(503) 229-6408

340-045-0010

Definitions

(1) As used in this division unless otherwise required by context:

(2) "Commission" means the Environmental Quality Commission or the Commission's authorized designee.

(3) "Department" means Department of Environmental Quality.

(4) "Director" means the Director of the Department of Environmental Quality or the Director's authorized designee.

(5) "Discharge or Disposal" means the placement of wastes into public waters, on land, or otherwise into the environment in a manner that affects or may tend to affect the quality of public waters.

(6) "Disposal System" means a system for disposing of wastes by surface or underground methods and includes sewerage systems, treatment works, disposal wells, and other systems but excludes onsite sewage disposal systems regulated under OAR 340-071-0160, 340-071-0162, or ORS 454.655 and systems that recirculate without discharge.

(7) "Federal Act" means Public Law 92-500, known as the Federal Water Pollution Control Act Amendments of 1972, and amendments.

(8) "General Permit" means a permit issued to a category of qualifying sources pursuant to OAR 340-045-0033 in lieu of individual permits for every source.

(9) "Industrial Waste" means any liquid, gaseous, radioactive, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

(10) "Municipal Separate Storm Sewer" means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutter, ditches, manmade channels, or storm drains that is owned or operated by a state, city, county, district, association, or other public body; is designed or used for collecting or conveying storm water; and is not a combined sewer or part of a Publicly Owned Treatment Works as defined in 40 CFR §122.2.

(11) "Municipal Separate Storm Sewer System or MS4" means all municipal separate storm sewers that are defined as "large," "medium," or "small" municipal separate storm sewer systems in 40 CFR §122.26(b).

(12) "NPDES Permit" means a waste discharge permit issued in accordance with the National Pollutant Discharge Elimination System authorized by the Federal Act and OAR chapter 340, division 045.

(13) "Navigable Waters" means all navigable waters of the United States and their tributaries; interstate waters; and intrastate lakes, rivers, and streams that are used by interstate travelers for recreation or other purposes

or from which fish or shellfish are taken and sold in interstate commerce or that are used for industrial purposes by industries in interstate commerce.

(14) "Permit Action" means the issuance, modification, renewal, or revocation by the Department of a permit.

(15) "Person" means the United States and agencies thereof, state, individual, public or private corporation, political subdivision, governmental agency, municipality, copartnership, association, firm, trust, estate, or any other legal entity.

(16) "Point Source" means any discernible, confined, discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged.

(17) "Pollutant" means dredged spoil; solid waste; incinerator residue; sewage; garbage; sewerage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, and agricultural waste discharged into water.

(18) "Pretreatment" means the waste treatment that might take place prior to discharging to a sewerage system including but not limited to pH adjustment, oil and grease removal, screening, and detoxification.

(19) "Process Wastewater" means wastewater contaminated by industrial processes but not including non-contact cooling water or storm runoff.

(20) "Public Waters" or "Waters of the State" means lakes, bays, ponds, impounding reservoirs, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are wholly or partially within or bordering the state or within its jurisdiction.

(21) "Regional Administrator" means the Regional Administrator of Region X of the U.S. Environmental Protection Agency.

(22) "Septage" means the liquid and solid material pumped from a septic tank, holding tank, cesspool, or similar domestic sewage treatment system.

(23) "Septage Alkaline Stabilization Facility" means a facility that actively mixes alkaline material with raw septage to increase and maintain pH at 12 in the resultant mixture for sufficient time to achieve chemical stabilization.

(24) "Sewage" means water-carried human or animal waste from residences, buildings, industrial establishments, or other places, together with such groundwater infiltration and surface water as may be present. The mixture of sewage with wastes or industrial wastes is also considered sewage.

(25) "Sewerage System" means pipelines or conduits, pumping stations, force mains, and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.

(26) "State" means the State of Oregon.

(27) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

(28) "Toxic Waste" means any waste that will cause or can reasonably be expected to cause a hazard to fish or other aquatic life or to human or animal life in the environment.

(29) "Treatment" or "Waste Treatment" means the alteration of the quality of wastewater by physical, chemical, or biological means or a combination thereof that reduces the tendency of the wastes to degrade water quality or other environmental conditions.

(30) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances that will or may cause or tend to cause pollution of any waters of the state.

(31) "WPCF Permit" means a Water Pollution Control Facilities permit to construct and operate a disposal system with no discharge to navigable waters. A WPCF permit is issued by the Director in accordance with the procedures of this division or OAR 340-071-0162.

Stat. Auth.: ORS 454.625, 454.745, 468.020, 468B.020 & 468B.035

Stats. Implemented: ORS 468.065, 468B.015, 468B.035 & 468B.050

Hist.: DEQ 53(Temp), f. & ef. 6-21-73 thru 10-18-73; DEQ 58, f. 9-21-73, ef. 10-25-73; DEQ 113, f. & ef. 5-10-76; DEQ 22-1981, f. & ef. 9-2-81; DEQ 30-1992, f. & cert. ef. 12-18-92; DEQ 27-1994, f. 11-15-94, cert. ef. 4-1-95; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 7-2004, f. & cert. ef. 8-3-04

340-045-0015

Permit Required

(1) Without first obtaining a permit from the Director, a person may not:

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(a) Discharge any wastes into the waters of the state from any industrial or commercial establishment or activity or any disposal system;

(b) Construct, install, modify, or operate any disposal system or part thereof or any extension or addition thereto;

(c) Increase in volume or strength any wastes in excess of the discharges authorized under an existing permit;

(d) Construct, install, operate, or conduct any industrial, commercial, or other establishment or activity or any extension or modification thereof or addition thereto if the operation or conduct would cause an increase in the discharge of wastes into the waters of the state or would otherwise unlawfully alter the physical, chemical, or biological properties of any waters of the state;

(e) Construct or use any new outlet for the discharge of any wastes into the waters of the state.

(2) Without first obtaining an NPDES permit, a person may not discharge into navigable waters pollutants from a point source or storm water subject to permit requirements in 40 CFR §122.26 or §122.33, including storm water from large, medium, and regulated small municipal separate storm sewer systems and storm water associated with industrial or construction activity.

(3) A valid NPDES permit satisfies the requirements of section (1) of this rule.

(4) A person discharging wastes into a sewerage system is not required to obtain a WPCF or NPDES permit if the owner of such sewerage system has a valid WPCF or NPDES permit. The person discharging must comply with all other applicable laws, rules, and regulations regarding water pollution.

(a) The owner of a sewerage system is responsible for controlling and treating the wastes the owner allows to be discharged into the system.

(b) Each user of the sewerage system must comply with applicable toxic and pretreatment standards and the recording, reporting, monitoring, entry, inspection, and sampling requirements of the Commission and the Federal Act and regulations and guidelines issued pursuant thereto.

(5) Each person required by sections (1) and (2) of this rule to obtain a permit must:

(a) Promptly apply to the Department for the permit;

(b) Fulfill all terms and conditions of the permit issued;

(c) Comply with applicable federal and state requirements, effluent standards, and limitations including but not limited to those contained in or promulgated pursuant to Sections 204, 301, 302, 304, 306, 307, 402, and 403 of the Federal Act and applicable federal and state water quality standards; and

(d) Comply with the Department's requirements for recording, reporting, monitoring, entry, inspection, and sampling, and make no false statements, representations, or certifications in any form, notice, report, or document required.

Stat. Auth.: ORS 468.020, 468B.020 & 468B.035

Stats. Implemented: ORS 468.065, 468B.015, 468B.035 & 468B.050

Hist.: DEQ 53(Temp), f. & ef. 6-21-73 thru 10-18-73; DEQ 58, f. 9-21-73, ef. 10-25-73; DEQ 113, f. & ef. 5-10-76; DEQ 12-2003, f. & cert. ef. 9-2-03; DEQ 7-2004, f. & cert. ef. 8-3-04

340-045-0070

Permit Fees

(1) A person required to have a WPCF or NPDES permit is subject to a three-part fee consisting of the applicable uniform non-refundable filing fee, application processing fee, and annual compliance determination fee in OAR 340-045-0075.

(a) The amount equal to the filing fee, application processing fee, and the first year's annual compliance determination fee must be submitted with any application for a new NPDES or WPCF permit.

(b) The amount equal to the filing fee and application processing fee, if applicable, must be submitted with any application for renewal or modification of a NPDES or WPCF permit.

(c) When a governmental entity has an agreement with the department to assist with implementation of a general permit, the department may in that agreement lower the general permit fees established in OAR 340-045-0075 and allow the governmental entity to collect the fee for the department and retain a portion of the fee for its services.

(2) The applicable annual compliance determination fee in OAR 340-045-0075(7) must be paid for each year a disposal system is in operation or during which a discharge to public waters occurs.

(a) The fee period corresponds with the state's fiscal year (July 1 through June 30) and must be paid annually by the date specified by the Department.

(b) Any annual compliance determination fee submitted as part of an application for a new NPDES or WPCF permit applies to the fiscal year the permitted facility is put into operation.

(c) For the first fee period a facility is placed into operation, the full annual compliance determination fee applies if the facility is placed into operation on or before May 1. No annual compliance determination fee applies for that initial year if the facility is placed into operation after May 1.

(d) The Director may alter the due date for the annual compliance determination fee upon receipt of a justifiable request from a permittee. The Commission may reduce or suspend the annual compliance determination fee if a hardship is demonstrated.

(3) A filing fee and application processing fee are not required for modification of an existing, unexpired permit if the Department initiates the modification and determines the modification does not require refiling or Department review of an application, plans, or specifications.

(4) After the Department accepts an application for filing, the filing fee is non-refundable.

(5) The application processing fee submitted with an application may be refunded in whole or in part if the Department determines that:

(a) A permit is not required; or

(b) The wrong application was filed.

(6) All fees must be made payable to the Department of Environmental Quality or the Department's agent.

Stat. Auth.: ORS 454.625, 454.745, 468.020, 468B.020 & 468B.035

Stats. Implemented: ORS 454.745, 468.065, 468B.015, 468B.035 & 468B.050

Hist.: DEQ 113, f. & ef. 5-10-76; DEQ 129, f. & ef. 3-16-77; DEQ 31-1979, f. & ef. 10-1-79; DEQ 18-1981, f. & ef. 7-13-81; DEQ 12-1983, f. & ef. 6-2-83; DEQ 27-1994, f. & cert. ef. 11-15-94; DEQ 2-2002, f. & cert. ef. 2-12-02; DEQ 7-2004, f. & cert. ef. 8-3-04

340-045-0075

Permit Fee Schedule

(1) The fee schedule for onsite sewage disposal system permits, including WPCF permits, is found in OAR chapter 340, division 071.

(2) For permits administered by the Oregon Department of Agriculture, the following fees are applicable until superseded by a fee schedule established by the Oregon Department of Agriculture.

(a) WPCF General Permits #800 for Confined Animal Feeding Operations Filing Fee — \$50

(b) Other General Permits:

(A) Filing Fee — \$50

(B) New Applications — \$235

(C) Permit Renewals — \$35

(D) Annual Compliance Determination Fee — \$275

(c) Individual Permits:

(A) Filing Fee — \$50

(B) New Applications — \$6,280

(C) Permit Renewals (including request for effluent limit modifications) — \$3,140

(D) Permit Renewals (without request for effluent limit modifications) — \$1,416

(E) Permit Modifications (involving increase in effluent limit modifications) — \$3,140

(F) Permit Modifications (not involving an increase in effluent limitations) — \$500

(G) Annual Compliance Determination Fee for dairies and other confined feeding operations — \$705

(H) Annual Compliance Determination Fee for facilities not elsewhere classified with disposal of process wastewater — \$1,885

(I) Annual Compliance Determination Fee for facilities not elsewhere classified that dispose of non-process wastewater (e.g., small cooling water discharges, boiler blowdown, filter backwash, log ponds) — \$1,180

(d) Annual Compliance Determination Fee for facilities that dispose of wastewater only by evaporation from watertight ponds or basins — \$705

(3) The Department must consider the following criteria when classifying a facility for determining applicable fees.

(Note: Different classifications for NPDES-permitted facilities are used for reporting to the Environmental Protection Agency.)

(a) *Major industries:*

(A) Discharges large biochemical oxygen demand loads; or

(B) Is a large metals facility; or

(C) Has significant toxic discharges; or

(D) Has a treatment system that will have a significant adverse impact on the receiving stream if not operated properly; or

(E) Any other industry that the Department determines needs special regulatory control.

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- (b) *Major domestic:*
(A) Serves more than 10,000 people; or
(B) Serves industries that can have a significant impact on the treatment system.
- (c) *Minor domestic (see OAR 340-045-0075(7)(a) for descriptions of domestic categories):*
(A) Does not meet major domestic qualifying factors; or
(B) Is a facility in categories Da or Db and discharges to surface waters; or
(C) Is a facility in categories E or F that does not discharge to surface waters and is under a Water Pollution Control Facilities permit.
- (4) **Filing Fee.** Unless waived by this rule, a filing fee of \$60 must accompany any application for issuance, renewal, modification, or transfer of a NPDES permit or WPCF permit, including registration for a General Permit pursuant to OAR 340-045-0033 and request for a Special Permit pursuant to OAR 340-014-0050. This fee is non-refundable and is in addition to any other applicable application processing fee or annual compliance determination fee. Filing fees are waived for the following facilities:
- (a) Small gold mining suction dredges that qualify for General Permit 700 and have an intake hose diameter of four inches or less;
(b) Small gold mining operations that qualify for General Permit 600 and can process no more than five cubic yards of material per day.
- (5) **Application Processing Fee.** Unless waived by this rule, the applicable application processing fee in this section must be submitted with each application. The amount of the fee is based on the type of facility and the required action.
- (a) *New Applications:*
(A) Major industries — \$37,680
(B) Minor industries — \$7,535
(C) Major domestic — \$24,000
(D) Minor domestic:
(i) Categories Da, Db — \$4,800
(ii) Category E — \$2,400
(iii) Category F — \$600
(iv) Agricultural — \$7,535
(E) NPDES Phase II Small MS4 Permit — \$280
- (b) *Permit Renewals (including request for effluent limit modification):*
(A) Major industries — \$18,840
(B) Minor industries — \$3,765
(C) Major domestic — \$12,000
(D) Minor domestic:
(i) Categories Da, Db — \$2,400
(ii) Category E — \$1,200
(E) Agricultural — \$3,765
- (c) *Permit Renewals (without request for effluent limit modification):*
(A) Major industries — \$9,420
(B) Minor industries — \$1,415
(C) Major domestic — \$6,000
(D) Minor domestic:
(i) Categories Da, Db — \$900
(ii) Category E — \$600
(iii) Category F — \$240
(E) Agricultural — \$1,415
(F) NPDES Phase II Small MS4 Permit — \$40
- (d) *Permit Modifications (involving increase in effluent limitations):*
(A) Major industries — \$18,840
(B) Minor industries — \$3,765
(C) Major domestic — \$12,000
(D) Minor domestic:
(i) Categories Da, Db — \$2,400
(ii) Category E — \$1,200
(E) Agricultural — \$3,765
- (e) *Permit Modifications (not involving an increase in effluent limits):*
All categories — \$600.
- (f) *Special WPCF Permits issued pursuant to OAR 340-045-0061 — \$300.*
- (g) *Modifications of septage alkaline stabilization facilities permits — \$240.*
- (h) *New General Permits by permit number:*
(A) 100, 200, 400, 500, 600 (over 1,500 cubic yards per year), 900, 1000, 1400-A — \$95
(B) 300, 1300, 1400-B, 1500, 1600 — \$185
(C) All other 1200, 1700 — \$280;
- (D) Others not elsewhere specified — \$280
(E) The following fees are required in addition to the fees in paragraphs (5)(h)(A) through (D) of this subsection when the activities are required for the application review:
(i) Disposal system plan review — \$375
(ii) Site inspection and evaluation — \$940
(i) *Renewal of General Permits as listed in subsection (2)(h) of this rule — \$40.*
(j) *Application processing fees described in subsections (2)(h) and (i) of this rule are waived for the following facilities:*
(A) Small gold mining operations that qualify for General Permit 600 and process no more than five cubic yards of material per day or less than 1,500 cubic yards of material per year.
(B) Small gold mining suction dredges that qualify for General Permit 700.
- (6) **Technical Activities Fee.** A permittee must pay a fee for NPDES and WPCF permit-related technical activities. A fee will be charged for initial submittal of engineering plans and specifications. Fees will not be charged for revisions and resubmittals of engineering plans and specifications or for facilities plans, design studies, reports, change orders, or inspections. The fee is as follows:
(a) New or substantially modified sewage treatment facility — \$5,520
(b) Minor sewage treatment facility modifications and pump stations — \$600
(c) Pressure sewer system or major sewer collection system expansion — \$420
(d) Minor sewer collection system expansion or modification — \$120
(e) New or substantially modified water pollution control facilities using alkaline agents to stabilize septage — \$600.
- (7) **Annual Compliance Determination Fee Schedule.** Unless waived by this rule, annual compliance determination fees are as follows:
(a) *Domestic Waste Sources — Annual compliance determination fee is based on dry weather design flow, population served by facility, type of facility, and applicable special fees as follows:*
(A) Category A1: Sewage Disposal — 50 MGD or more — \$50,890
(B) Category A2: Sewage Disposal — At least 25 MGD but less than 50 MGD — \$29,410
(C) Category A3: Sewage Disposal — At least 10 MGD but less than 25 MGD — \$13,220
(D) Category Ba: Sewage Disposal — At least 5 MGD but less than 10 MGD — \$8,040
(E) Category Bb: Sewage Disposal — At least 5 MGD but less than 10 MGD — Systems where treatment occurs in lagoons that discharge to surface waters — \$3,680
(F) Category C1a: Sewage Disposal — At least 2 MGD but less than 5 MGD — \$5,010
(G) Category C1b: Sewage Disposal — At least 2 MGD but less than 5 MGD — Systems where treatment occurs in lagoons that discharge to surface waters — \$2,190
(H) Category C2a: Sewage Disposal — At least 1 MGD but less than 2 MGD — \$3,010
(I) Category C2b: Sewage Disposal — At least 1 MGD but less than 2 MGD — Systems where treatment occurs in lagoons that discharge to surface waters — \$1,270
(J) Category Da: Sewage Disposal — Less than 1 MGD and not otherwise categorized under category E — \$1,145
(K) Category Db: Sewage Disposal — Less than 1 MGD — Systems where treatment occurs in lagoons that discharge to surface waters that are not otherwise categorized under Category E — \$750
(L) Category E: Sewage Disposal systems where treatment is limited to lagoons that do not discharge to surface waters — \$720
(M) Category F: Septage alkaline stabilization facilities — \$240
(N) Category G: Sources determined by the Department to administer a pretreatment program pursuant to federal pretreatment program regulations (40 CFR, Part 403; January 28, 1981) must pay an additional \$1,200 per year plus \$400 for each significant industrial user specified in their annual report for the previous year.
(O) Category H: Population Based Fee — All permittees must pay an annual fee computed as follows: population served by the facility multiplied by a rate of 0.09645.
(b) *Industrial, Commercial and Agricultural Sources (For multiple sources on one application select only the source with highest fee.):*
(A) Major pulp, paper, paperboard, hardboard, and other fiber pulping industry — \$11,300

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(B) Major sugar beet processing, potato and other vegetable processing, and fruit processing industry — \$11,300

(C) Seafood Processing Industry:

(i) Bottom fish, crab, or oyster processing — \$1,270

(ii) Shrimp processing — \$1,270

(iii) Salmon or tuna processing — \$2,260

(iv) Surimi processing — \$2,260

(D) Electroplating industry (excludes facilities that do anodizing only):

(i) Rectifier output capacity of 15,000 amps or more — \$11,300

(ii) Rectifier output capacity of less than 15,000 amps but more than 5000 amps — \$5,650

(E) Primary Aluminum Smelting — \$11,300

(F) Primary smelting or refining of non-ferrous metals using sand chlorination separation facilities — \$11,300

(G) Primary smelting or refining of ferrous and non-ferrous metals not elsewhere classified above — \$5,650

(H) Alkalies, chlorine, pesticide, or fertilizer manufacturing with discharge of process waste waters — \$11,300

(I) Petroleum refineries with a capacity in excess of 15,000 barrels per day discharging process wastewater — \$11,300

(J) Cooling water discharges in excess of 20,000 BTU/sec — \$5,650

(K) Milk products processing industry that processes in excess of 250,000 pounds of milk per day — \$11,300

(L) Major mining operations (over 500,000 cubic yards per year) — \$11,300

(M) Minor mining or processing operations:

(i) Medium (100,000 to 500,000 cubic yards per year) mechanical processing — \$3,765

(ii) Medium using froth flotation — \$5,650

(iii) Medium using chemical leaching — \$7,535

(iv) Small (less than 100,000 cubic yards per year) mechanical processing — \$940

(v) Small using froth flotation — \$1,880

(vi) Small using chemical leaching — \$3,765

(N) All facilities not elsewhere classified with disposal of process wastewater — \$2,260

(O) All facilities not elsewhere classified that dispose of non-process wastewater (e.g., small cooling water discharges, boiler blowdown, filter backwash, log ponds) — \$1,415

(P) Dairies and other confined feeding operations on individual permits — \$845

(Q) All facilities that dispose of wastewater only by evaporation from watertight ponds or basins — \$845

(R) General permits, as listed under paragraphs (5)(h)(A) through (D) of this rule — \$330, except as follows:

(i) 1400-A — \$185

(ii) Annual compliance determination fees are waived for gold mining activities assigned to General Permits 600 and 700.

(c) *Storm Water: NPDES Phase II Small MS4 permit* — \$330

Stat. Auth.: ORS 468.020, 468B.020 & 468B.035

Stats. Implemented: ORS 468.065, 468B.015, 468B.035 & 468B.050

Hist.: DEQ 113, f. & ef. 5-10-76; DEQ 129, f. & ef. 3-16-77; DEQ 31-1979, f. & ef. 10-1-79; DEQ 18-1981, f. & ef. 7-13-81; DEQ 12-1983, f. & ef. 6-2-83; DEQ 9-1987, f. & ef. 6-3-87; DEQ 18-1990, f. & cert. ef. 6-7-90; DEQ 10-1991, f. & cert. ef. 7-1-91; DEQ 9-1992, f. & cert. ef. 6-5-92; DEQ 10-1992, f. & cert. ef. 6-9-92; DEQ 30-1992, f. & cert. ef. 12-18-92; DEQ 20-1994, f. & cert. ef. 10-7-94; DEQ 4-1998, f. & cert. ef. 3-30-98; Administrative correction 10-22-98; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 2-2002, f. & cert. ef. 2-12-02; DEQ 7-2004, f. & cert. ef. 8-3-04

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Department of Fish and Wildlife

Chapter 635

Adm. Order No.: DFW 73-2004(Temp)

Filed with Sec. of State: 7-19-2004

Certified to be Effective: 7-19-04 thru 9-30-04

Notice Publication Date:

Rules Amended: 635-003-0076

Rules Suspended: 635-003-0076(T)

Subject: Amend regulation to close the commercial troll fishery from Humbug Mountain to the Oregon/California Border through the end of the month.

Rules Coordinator: Katie Thiel—(503) 947-6033

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) **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.

(6) The commercial troll fishery season, as described above in (5), is closed effective 12 midnight, Saturday, June 19, 2004

(7) The commercial troll fishery season, as described above in (5), will re-open effective July 1, 2004.

(8) The commercial troll fishery season, as described above in (5), is closed effective 11:59 p.m. Monday, July 19, 2004 and will re-open, per normal regulations, effective August 1, 2004.

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; 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

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Adm. Order No.: DFW 74-2004(Temp)

Filed with Sec. of State: 7-20-2004

Certified to be Effective: 7-21-04 thru 7-31-04

Notice Publication Date:

Rules Amended: 635-041-0095

Rules Suspended: 635-041-0095(T)

Subject: Amend rule to extend Treaty Indian commercial gill net fisheries targeting summer chinook and sockeye within Zone 6, in the Columbia River. Implementation consistent with action taken July 20, 2004, by the Columbia River Compact.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-041-0095

Summer Salmon Season

(1) Chinook, steelhead, sockeye, walleye, carp, and shad may be taken for commercial purposes from mainstem Columbia River, Zone 6, beginning 6 a.m., June 30, 2004 through 12 midnight, Saturday, July 31, 2004.

(a) Closed areas set forth in OAR 635-041-0035, except the Spring Creek sanctuary.

(b) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Also, sturgeon from the Bonneville Pool between 45-60 inches in length may be kept for subsistence use.

(c) Gear is restricted to subsistence fishing gear; hoopnets, dipnets, rod and reel with hook-and-line.

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(2) Chinook, steelhead, coho, sockeye, walleye, carp and shad may be taken for commercial purposes from mainstem Columbia River, Zone 6, beginning 6 a.m., Wednesday, June 30, 2004 until 6 p.m., Friday, July 2, 2004.

(a) Closed areas set forth in OAR 635-041-0035, except the Spring Creek sanctuary.

(b) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Also, sturgeon from the Bonneville Pool between 45-60 inches in length may be kept for subsistence use.

(3) Chinook, steelhead, sockeye, walleye, carp and shad may be taken for commercial purposes from mainstem Columbia River, Zone 6, beginning 6 a.m., Wednesday, July 14, 2004 until 6 p.m., Saturday, July 17, 2004.

(a) Closed areas set forth in OAR 635-041-0035, except the Spring Creek sanctuary.

(b) There are no mesh size restrictions.

(c) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Also, sturgeon from the Bonneville Pool between 45-60 inches in length may be kept for subsistence use.

(4) Commercial sale of fish taken in the Klickitat and Big White Salmon river tributaries is allowed during the open commercial periods as identified in (1), (2) and (3).

(5) Chinook, steelhead, sockeye, walleye, coho, carp and shad may be taken for commercial purposes from mainstem Columbia River, Zone 6, beginning 6 a.m., Wednesday, July 21, 2004 until 6 p.m., Saturday, July 24, 2004 and from 6 a.m., Monday, July 26, 2004 until 6 p.m., Saturday, July 31, 2004.

(a) Closed areas set forth in OAR 635-041-0035, except the Spring Creek sanctuary.

(b) There are no mesh size restrictions.

(c) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Also, sturgeon from the Bonneville Pool between 45-60 inches in length may be kept for subsistence use.

(6) Commercial sale of fish taken in the Klickitat and Big White Salmon river tributaries is allowed during the open commercial periods as identified in (1) and (5).

Stat. Auth.: ORS 496.118, 506.119

Stats. Implemented: ORS 506.109, 506.129, 507.030

Hist.: DFW 54-2004(Temp), f. 6-16-04, cert. ef. 6-17-04 thru 7-31-04; DFW 57-2004(Temp), f. 6-22-04, cert. ef. 6-23-04 thru 7-31-04; DFW 71-2004(Temp), f. 7-13-04, cert. ef. 7-14-04 thru 7-31-04; DFW 74-2004(Temp), f. 7-20-04, cert. ef. 7-21-04 thru 7-31-04

Adm. Order No.: DFW 75-2004(Temp)

Filed with Sec. of State: 7-20-2004

Certified to be Effective: 7-23-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-013-0004

Subject: To amend regulation to open recreational ocean salmon fishery to seven days per week and increase bag limit.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-013-0004

Inclusions and Modifications

(1) OAR 635-013-0005 through 635-013-0009 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2004 Oregon Sport Fishing Regulations**.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**, and the **2004 Oregon Sport Fishing Regulations** contain requirements for sport salmon angling in the Pacific Ocean off the Oregon coast. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supercede the published federal regulations and the **2004 Oregon Sport Fishing Regulations**. This means that persons must consult not only the federal regulations and the published sport fishing regulations but also the Department's web page to determine all applicable sport fishing regulations.

(3) This rule contains requirements that modify sport salmon angling regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean sport salmon fishery in general and within management zones established by the **Pacific Fishery Management Council and enacted by Federal Regulations (CFR, Title 50, Part 660, Subparts A and H)**.

(4) General Requirements, Definitions, Restrictions or Exceptions: No modifications to this category of regulations in the **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2004 Oregon Sport Fishing Regulations**.

(5) Effective July 23, 2004, in the area from Leadbetter Point, Washington to Cape Falcon, Oregon, the ocean salmon fishery is open to fishing seven days per week. The daily bag limit is two salmon per day. Minimum sizes for adult salmon are 24 inches for chinook and 16 inches for coho salmon. All retained coho must have a healed adipose fin-clip.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 43-1997(Temp), f. 8-8-97, cert. ef. 8-10-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 59-1998(Temp), f. & cert. ef. 8-10-98 thru 8-21-98; DFW 66-1998(Temp), f. & cert. ef. 8-21-98 thru 9-24-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 20-1999(Temp), f. 3-29-99, cert. ef. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 61-1999(Temp), f. 8-31-99, cert. ef. 9-3-99 thru 9-17-99; DFW 66-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 16-2000(Temp), f. 3-31-00, cert. ef. 4-1-00 thru 4-30-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 47-2000(Temp), f. 8-10-00, cert. ef. 8-13-00 thru 9-30-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 16-2001(Temp), f. 3-28-01, cert. ef. 4-1-01 thru 4-30-01; Administrative correction 6-20-01; DFW 59-2001(Temp), f. 7-18-01, cert. ef. 7-19-01 thru 10-31-01; DFW 20-2002(Temp), f. 3-19-02, cert. ef. 4-1-01 thru 4-30-02; DFW 75-2002(Temp), f. 7-19-02, cert. ef. 7-21-02 thru 12-31-02; DFW 80-2002(Temp), f. 7-31-02, cert. ef. 8-1-02 thru 12-31-02; DFW 85-2002(Temp), f. 8-8-02, cert. ef. 8-11-02 thru 12-31-02; DFW 99-2002(Temp), f. 8-30-02, cert. ef. 9-2-02 thru 12-31-02; DFW 100-2002(Temp), f. & cert. ef. 9-6-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 69-2003(Temp), f. 7-21-03, cert. ef. 7-25-03 thru 12-31-03; DFW 78-2003(Temp), f. 8-14-03, cert. ef. 8-20-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 75-2004(Temp), f. 7-20-04, cert. ef. 7-23-04 thru 12-31-04

Adm. Order No.: DFW 76-2004(Temp)

Filed with Sec. of State: 7-23-2004

Certified to be Effective: 7-28-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-004-0033

Subject: Amend rules to reduce the two month commercial limited entry trip limit for the black rockfish and blue rockfish component of nearshore rockfish from 3000 lbs to 1500 lbs., and to increase the two month nearshore commercial limited entry trip limit for greenling from 350 lbs to 600 lbs., with an effective date of 12:01 a.m., July 28, 2004.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-004-0033

Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the following species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

(a) Minor Nearshore Rockfish;

(b) Minor Shelf Rockfish (excluding tiger rockfish and vermilion rockfish);

(c) Minor Slope Rockfish;

(d) Black Rockfish;

(e) Cabezon;

(f) Canary Rockfish;

(g) Greenling;

(h) Tiger Rockfish;

(i) Vermillion Rockfish;

(j) Widow Rockfish;

(k) Yelloweye Rockfish;

(l) Yellowtail Rockfish;

(m) Darkblotched Rockfish;

(n) Pacific Ocean Perch;

(o) Longspine Thornyhead;

(p) Shortspine Thornyhead;

(q) Arrowtooth Flounder;

(r) Dover Sole;

(s) Petrale Sole;

(t) Rex Sole;

(u) Other Flatfish;

ADMINISTRATIVE RULES

- (v) Lingcod;
- (w) Sablefish;
- (x) Pacific Whiting.

(2) For the purpose of this rule a "harvest cap" is defined as the total catch for a given species, or species group, that may be taken in a single calendar year. For 2004, the commercial harvest caps are:

(a) Black rockfish and blue rockfish combined of 111.9 metric tons, of which no more than 108 metric tons may be black rockfish.

(b) Other nearshore rockfish, 16.0 metric tons.

(c) Cabezon, 31.3 metric tons.

(d) Greenling, 23.4 metric tons.

(3) No vessel may land more than 2,000 pounds of cabezon; 600 pounds of greenling; 1,500 pounds of nearshore rockfish (no more than 900 pounds of which may be species other than black rockfish or blue rockfish) for commercial purposes during any cumulative catch period described in subsection 635-004-0033(4).

(4) The cumulative catch periods are: January 1 – February 28 (29); March 1 – April 30; May 1 – June 30; July 1 – August 31; September 1 – October 31; and November 1 – December 31.

Stat. Auth.: ORS 506.109 & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 60-2003(Temp), f. 7-15-03, cert. ef. 7-16-03 thru 12-31-03; DFW 79-2003(Temp), f. & cert. ef. 8-18-03 thru 12-31-03; DFW 102-2003(Temp), f. 9-30-03, cert. ef. 10-1-03 thru 12-31-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 76-2004(Temp), f. 7-23-04, cert. ef. 7-28-04 thru 12-31-04

Adm. Order No.: DFW 77-2004(Temp)

Filed with Sec. of State: 7-28-2004

Certified to be Effective: 8-1-04 thru 10-31-04

Notice Publication Date:

Rules Amended: 635-018-0090

Rules Suspended: 635-018-0090(T)

Subject: Amend rule to provide anglers the opportunity to harvest wild fall chinook in the Deschutes River.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-018-0090

Inclusions and Modifications

(1)The **2004 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2004 Oregon Sport Fishing Regulations**.

(2) The Deschutes River from the mouth at the I-84 bridge upstream to Sherars Falls is open to angling for adipose fin-clipped chinook salmon from April 1, 2004 to July 31, 2004.

(a) The bag limit is two adult adipose fin-clipped salmon per day and five adipose fin-clipped jack salmon per day. All nonadipose fin-clipped chinook salmon must be released unharmed.

(b) Catch limits and restrictions applying to trout and steelhead remain unchanged from those listed in the **2004 Oregon Sport Fishing Regulations** for Area 1 of the Deschutes River or as amended by other temporary or permanent administrative rule(s).

(c) It is unlawful to angle for steelhead or trout between Sherars Falls and the upper railroad trestle (three miles) after taking a daily bag limit of adult chinook salmon.

(3) The Deschutes River from the mouth at the I-84 bridge upstream to Sherars Falls is open to angling for chinook salmon from August 1, 2004 to October 31, 2004.

(a) The catch limit for chinook salmon is two adults and five jacks per day.

(b) Catch limits, seasons and restrictions applying to trout and steelhead remain unchanged from those listed in the 2004 Oregon Sport Fishing Regulations for Area 1 of the Deschutes River or as amended by other temporary or permanent administrative rule(s).

Stat. Auth.: ORS 496.138 & 496.146, 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp), f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04

Adm. Order No.: DFW 78-2004(Temp)

Filed with Sec. of State: 8-4-2004

Certified to be Effective: 8-4-04 thru 9-30-04

Notice Publication Date:

Rules Amended: 635-003-0076

Rules Suspended: 635-003-0076(T)

Subject: Amend regulation to close the commercial troll fishery from Humbug Mountain to the Oregon/California Border.

Rules Coordinator: Katie Thiel—(503) 947-6033

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) **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.

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(6) The commercial troll fishery season, as described above in (5), is closed effective 12 midnight, Saturday, June 19, 2004.

(7) The commercial troll fishery season, as described above in (5), will re-open effective July 1, 2004.

(8) The commercial troll fishery season, as described above in (5), is closed effective 11:59 p.m. Monday, July 19, 2004 and will re-open, per normal regulations, effective August 1, 2004.

(9) The commercial troll fishery season, as described above in (5), is closed effective 11:59 p.m., Wednesday, August 4, 2004 and will re-open, per normal regulations, effective September 1, 2004.

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

Adm. Order No.: DFW 79-2004(Temp)

Filed with Sec. of State: 8-2-2004

Certified to be Effective: 8-3-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-042-0031, 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180, 635-042-0190

Rules Suspended: 635-042-0145(T), 635-042-0160(T), 635-042-0170(T), 635-042-0180(T), 635-042-0190(T)

Subject: Amend rules to establish commercial fishing periods for the mainstem Columbia River and fall fisheries in Select Fishing Areas.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-042-0031

Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River, Zones 1-5, as identified in OAR 635-042-0001.

(a) The Grays River, Elokomina-A, Cowlitz River, Kalama-A, Lewis-A, Washougal and Sandy rivers sanctuaries are in effect.

(b) Open fishing periods are: 7 p.m. August 3, 2004 to 7 a.m. August 4, 2004; 7 p.m. August 5, 2004 to 7 a.m. August 6, 2004; 7 p.m. August 8, 2004 to 7 a.m. August 9, 2004; 7 p.m. August 10, 2004 to 7 a.m. August 11, 2004; and 7 p.m. August 12, 2004 to 7 a.m. August 13, 2004.

(2) Gear is restricted to gill nets with an 8-inch minimum mesh size and 9-3/4-inch maximum mesh size.

(3) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 1(b), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. & cert. ef. 8-29-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. ef. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002, f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and

Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(a) In the fishing period of March 20 to March 21, 2004, and on April 12, 2004, salmon, sturgeon, and shad may be taken for commercial purposes only in those waters of Youngs Bay extending upstream of the old Highway 101 Bridge (old Youngs Bay Bridge) to the upper boundary at the confluence of the Youngs and Klaskanine rivers.

(b) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A), the spring fishery, paragraph (B), and summer fishery, paragraph (C), as follows:

(A) Winter Season:

6 p.m. February 14 – 12 Noon February 15, 2004;

6 a.m. to 6 p.m. February 18, 2004;

6 p.m. February 21 – 12 Noon February 22, 2004;

6 a.m. to 6 p.m. February 25, 2004;

6 p.m. February 28 – 12 Noon February 29, 2004;

6 a.m. to 6 p.m. March 3, 2004;

6 p.m. March 6 – 12 Noon March 7, 2004;

6 p.m. March 13 – 12 Noon March 14, 2004;

6 p.m. March 20 – 6 a.m. March 21, 2004;

8 p.m. to 12 Midnight April 12, 2004.

(B) Spring Season:

6 p.m. April 22 – 6 a.m. April 23, 2004;

6 p.m. April 26 – 6 a.m. April 27, 2004;

6 p.m. April 29 – 6 a.m. April 30, 2004;

6 p.m. May 3 – 12 Noon May 4, 2004;

6 p.m. May 6 – 12 Noon May 7, 2004;

12 Noon May 11 – 12 Noon May 14, 2004;

12 Noon May 17 – 12 Noon May 21, 2004;

12 Noon May 24 – 12 Noon May 28, 2004;

12 Noon May 31 – 12 Noon June 4, 2004;

12 Noon June 7 – 12 Noon June 11, 2004;

12 Noon June 15 – 12 Noon June 18, 2004;

(C) Summer Season:

12 Noon June 23 – 12 Noon June 25, 2004;

12 Noon June 30 – 12 Noon July 2, 2004;

12 Noon July 7 – 6 p.m. July 8, 2004;

12 Noon July 14 – 6 p.m. July 15, 2004;

12 Noon July 21 – 6 p.m. July 22, 2004;

12 Noon July 28 – 6 p.m. July 29, 2004;

(b) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. Monofilament gillnets are allowed. It is unlawful to use a gill net having a mesh size that is less than 7-1/4 inches during February 14, 2004 to March 21, 2004 and during the April 12, 2004 fishing period. It is unlawful to use a gill net having a mesh size that is more than 8 inches April 22, 2004 to June 18, 2004 and June 23, 2004 to July 29, 2004.

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 14, 2004 and March 21, 2004.

(2) Effective Thursday, 12:01 AM, May 6, 2004, the fishing area as described in (1) is closed to the harvest of salmon, steelhead and shad until further notice.

(3) Effective May 20, 2004, salmon, sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(a) The open fishing periods are established as follows:

7 p.m. May 20 – 7 a.m. May 21, 2004;

7 p.m. May 24 – 7 a.m. May 25, 2004;

7 p.m. May 27 – 7 a.m. May 28, 2004;

12 Noon May 31 – 12 Noon June 4, 2004;

12 Noon June 7 – 12 Noon June 11, 2004;

12 Noon June 15 – 12 Noon June 18, 2004;

(b) Summer Season:

12 Noon June 23 – 12 Noon June 25, 2004;

12 Noon June 30 – 12 Noon July 2, 2004;

12 Noon July 7 – 6 p.m. July 8, 2004;

12 Noon July 14 – 6 p.m. July 15, 2004;

12 Noon July 21 – 6 p.m. July 22, 2004;

12 Noon July 28 – 6 p.m. July 29, 2004;

(c) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. Monofilament gillnets are allowed. It is unlawful to use a gill net having a mesh size that is more than 8 inches May 20, 2004 to June 18, 2004 and June 23, 2004 to July 29, 2004.

(4) Salmon and sturgeon may be taken for commercial purposes in those waters of Youngs Bay from the new Highway 101 Bridge upstream to the upper boundary at Battle Creek Slough, except for those waters which are closed south of the alternate Highway 101 Bridge (Lewis and Clark River).

(a) Open fishing periods are:

6 a.m. August 4, 2004 to 12 noon August 5, 2004;

6 a.m. August 11, 2004 to 12 noon August 12, 2004;

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6 a.m. August 18, 2004 to 12 noon August 19, 2004;
6 a.m. August 25, 2004 to 12 noon August 26, 2004;
6 a.m. August 31, 2004 to 6 a.m. September 3, 2004; and
12 noon September 7, 2004 to 12 noon October 31, 2004.

(b) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight on the leadline may not exceed two pounds per any fathom. Gear is restricted to 8-inch maximum mesh from August 4, 2004 through August 26, 2004. Gear is restricted to 6-inch maximum mesh size from August 31, 2004 through October 31, 2004.

(5) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 4(a), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the early spring fishery in paragraphs (1)(a)(A) or (1)(a)(B) of this rule in those waters of Blind Slough. Blind Slough is those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge. In addition, Knappa Slough is open to fishing for salmon, sturgeon and shad during open fishing periods described as the spring fishery in paragraph (1)(a)(B) of this rule. Knappa Slough is all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in paragraph (B). The seasons are open nightly, 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough Only:

February 14 – February 15, 2004;
February 21 – February 22, 2004;
February 28 – February 29, 2004;
March 6 – March 7, 2004;
March 13 – March 14, 2004;
March 20 – March 21, 2004 and
April 12, 2004.

(B) Blind and Knappa Sloughs:

April 22 – April 23, 2004;
April 29 – April 30, 2004;
May 3 – May 4, 2004;
May 6 – May 7, 2004;

May 10 – May 11, 2004;
May 13 – May 14, 2004;
May 17 – May 18, 2004;
May 20 – May 21, 2004;
May 24 – May 25, 2004;
May 27 – May 28, 2004;
May 31 – June 1, 2004;
June 3 – June 4, 2004;
June 7 – June 8, 2004;
June 10 – June 11, 2004;
June 14 – June 15, 2004; and
June 17 – June 18, 2004.

(b) During the April 12, 2004 winter fishery, as identified in (1)(a)(A), the open fishing period is restricted to 8:00 p.m. to 12 Midnight (4 hours).

(c) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period between February 14, 2004 and March 21, 2004.

(d) Gear restrictions are as follows:

(A) During the winter fishery (see paragraph (1)(a)(A) of this rule) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. Monofilament gill nets are allowed. It is unlawful to use a gill net having a mesh size that is less than 7-1/4 inches;

(B) During the spring fishery (see paragraphs (1)(a)(B) of this rule) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. Monofilament gill nets are allowed. It is unlawful to use a gill net having a mesh size that is more than 8 inches.

(2) Effective Thursday, 12:01 AM, May 6, 2004, the fishing areas as described in (1) is closed to the harvest of salmon, steelhead and shad until further notice.

(3) Effective May 20, 2004, salmon, sturgeon, and shad may be taken for commercial purposes during open fishing periods described in those waters of Blind Slough and Knappa Slough.

(a) Blind Slough is those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(b) Knappa Slough is all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(4) The open fishing periods for those areas as described in 635-042-0160(3)(a)(b) are nightly from 7:00 PM until 7:00 AM the following morning (12 hours), as follows:

May 20 – May 21, 2004;
May 24 – May 25, 2004;
May 27 – May 28, 2004;
May 31 – June 1, 2004;
June 3 – June 4, 2004;
June 7 – June 8, 2004;
June 10 – June 11, 2004;
June 14 – June 15, 2004; and
June 17 – June 18, 2004.

(5) Gear is restricted to gill nets not exceeding 100 fathoms in length with no weight limit on the lead line. Monofilament gill nets are allowed. It is unlawful to use a gill net having a mesh size that is more than 8 inches.

(6) Salmon and sturgeon may be taken for commercial purposes in those waters of Blind Slough and Knappa Slough. The Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately one-half mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Knappa Slough includes all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to boundary lines defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore. The area encompassing a 100 foot radius at the mouth of Big Creek remains closed.

(a) Open fishing periods are:

7 p.m. August 24, 2004 to 7 a.m. August 27, 2004;
7 p.m. August 31, 2004 to 7 a.m. September 1, 2004;
7 p.m. September 1, 2004 to 7 a.m. September 2, 2004;
7 p.m. September 2, 2004 to 7 a.m. September 3, 2004;
7 p.m. September 7, 2004 to 7 a.m. September 8, 2004;
7 p.m. September 8, 2004 to 7 a.m. September 9, 2004;
7 p.m. September 9, 2004 to 7 a.m. September 10, 2004;
4 p.m. September 13, 2004 to 8 a.m. September 14, 2004;
4 p.m. September 14, 2004 to 8 a.m. September 15, 2004;
4 p.m. September 15, 2004 to 8 a.m. September 16, 2004;
4 p.m. September 16, 2004 to 8 a.m. September 17, 2004;
4 p.m. September 20, 2004 to 8 a.m. September 21, 2004;
4 p.m. September 21, 2004 to 8 a.m. September 22, 2004;
4 p.m. September 22, 2004 to 8 a.m. September 23, 2004;
4 p.m. September 23, 2004 to 8 a.m. September 24, 2004;
4 p.m. September 27, 2004 to 8 a.m. September 28, 2004;
4 p.m. September 28, 2004 to 8 a.m. September 29, 2004;

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4 p.m. September 29, 2004 to 8 a.m. September 30, 2004;
4 p.m. September 30, 2004 to 8 a.m. October 1, 2004;
4 p.m. October 4, 2004 to 8 a.m. October 5, 2004;
4 p.m. October 5, 2004 to 8 a.m. October 6, 2004;
4 p.m. October 6, 2004 to 8 a.m. October 7, 2004;
4 p.m. October 7, 2004 to 8 a.m. October 8, 2004;
4 p.m. October 11, 2004 to 8 a.m. October 12, 2004;
4 p.m. October 12, 2004 to 8 a.m. October 13, 2004;
4 p.m. October 13, 2004 to 8 a.m. October 14, 2004;
4 p.m. October 14, 2004 to 8 a.m. October 15, 2004;
4 p.m. October 18, 2004 to 8 a.m. October 19, 2004;
4 p.m. October 19, 2004 to 8 a.m. October 20, 2004;
4 p.m. October 20, 2004 to 8 a.m. October 21, 2004;
4 p.m. October 21, 2004 to 8 a.m. October 22, 2004;
4 p.m. October 25, 2004 to 8 a.m. October 26, 2004;
4 p.m. October 26, 2004 to 8 a.m. October 27, 2004;
4 p.m. October 27, 2004 to 8 a.m. October 28, 2004;
and 4 p.m. October 28, 2004 to 8 a.m. October 29, 2004.

(b) Gill nets may not exceed 100 fathoms in length with no weight limit on leadline. Gear is restricted to 9 -inch maximum mesh size from August 24, 2004 through September 10, 2004. Gear is restricted to 6-inch maximum mesh size from September 13, 2004 through October 29, 2004.

(7) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 6(a), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

(8) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04

635-042-0170

Tongue Point Basin and South Channel Select Area Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel. Tongue Point includes all waters bounded by a line from a yellow marker midway between the red light at Tongue Point and the downstream (northern most) pier (#8) to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. South Channel includes all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel.

(a) Open fishing periods are:

7 p.m. August 31, 2004 to 7 a.m. September 1, 2004;
7 p.m. September 1, 2004 to 7 a.m. September 2, 2004;
7 p.m. September 2, 2004 to 7 a.m. September 3, 2004;
7 p.m. September 7, 2004 to 7 a.m. September 8, 2004;
7 p.m. September 8, 2004 to 7 a.m. September 9, 2004;
7 p.m. September 9, 2004 to 7 a.m. September 10, 2004;
4 p.m. September 13, 2004 to 8 a.m. September 14, 2004;
4 p.m. September 14, 2004 to 8 a.m. September 15, 2004;
4 p.m. September 15, 2004 to 8 a.m. September 16, 2004;
4 p.m. September 16, 2004 to 8 a.m. September 17, 2004;
4 p.m. September 20, 2004 to 8 a.m. September 21, 2004;
4 p.m. September 21, 2004 to 8 a.m. September 22, 2004;
4 p.m. September 22, 2004 to 8 a.m. September 23, 2004;
4 p.m. September 23, 2004 to 8 a.m. September 24, 2004;
4 p.m. September 27, 2004 to 8 a.m. September 28, 2004;
4 p.m. September 28, 2004 to 8 a.m. September 29, 2004;
4 p.m. September 29, 2004 to 8 a.m. September 30, 2004;
4 p.m. September 30, 2004 to 8 a.m. October 1, 2004;
4 p.m. October 4, 2004 to 8 a.m. October 5, 2004;
4 p.m. October 5, 2004 to 8 a.m. October 6, 2004;
4 p.m. October 6, 2004 to 8 a.m. October 7, 2004;

4 p.m. October 7, 2004 to 8 a.m. October 8, 2004;
4 p.m. October 11, 2004 to 8 a.m. October 12, 2004;
4 p.m. October 12, 2004 to 8 a.m. October 13, 2004;
4 p.m. October 13, 2004 to 8 a.m. October 14, 2004;
4 p.m. October 14, 2004 to 8 a.m. October 15, 2004;
4 p.m. October 18, 2004 to 8 a.m. October 19, 2004;
4 p.m. October 19, 2004 to 8 a.m. October 20, 2004;
4 p.m. October 20, 2004 to 8 a.m. October 21, 2004;
4 p.m. October 21, 2004 to 8 a.m. October 22, 2004;
4 p.m. October 25, 2004 to 8 a.m. October 26, 2004;
4 p.m. October 26, 2004 to 8 a.m. October 27, 2004;
4 p.m. October 27, 2004 to 8 a.m. October 28, 2004;
and 4 p.m. October 28, 2004 to 8 a.m. October 29, 2004;

(b) In Tongue Point gear is restricted to 6-inch maximum mesh size.

Nets may not exceed 250 fathoms in length and weight on the leadline may not exceed two pounds on any one fathom. Fishers participating in the Tongue Point fishery may store gill nets on their boat with leadlines in excess of two pounds per fathom.

(c) In the South Channel gear is restricted to 6-inch maximum mesh size. Nets may not exceed 100 fathoms in length with no weight limit on the leadline.

(2) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 1(a), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119

Stats. Implemented: ORS 496.162, ORS 506.129 & ORS 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative Correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon, shad, and sturgeon may be taken for commercial purposes from Highway 4 Bridge, downstream to the Deep River boat ramp.

(2) The fishing seasons are open nightly, 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows: April 22 – April, 23, 2004; April 29 – April 30, 2004; May 3 – May 4, 2004; May 6 – May 7, 2004; May 10 – May 11, 2004; May 13 – May 14, 2004; May 17 – May 18, 2004; May 20 – May 21, 2004; May 24 – May 25, 2004; May 27 – May 28, 2004; May 31 – June 1, 2004; June 3 – June 4, 2004; June 7 – June 8, 2004; June 10 – June 11, 2004; June 14 – June 15, 2004; and June 17 – June 18, 2004.

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. Monofilament gill nets are allowed. It is unlawful to use a gill net having a mesh size that is more than 8 inches.

(4) Effective Thursday, 12:01 AM, May 6, 2004, the fishing area as described in (1) is closed to the harvest of salmon, steelhead and shad until further notice.

(5) Effective May 20, 2004, salmon, shad, and sturgeon may be taken for commercial purposes from Highway 4 Bridge, downstream to the Deep River boat ramp. The fishing seasons are again open nightly, 7:00 PM to 7:00 AM the following morning (12 hours), as follows: May 20 – May 21, 2004; May 24 – May 25, 2004; May 27 – May 28, 2004; May 31 – June 1, 2004; June 3 – June 4, 2004; June 7 – June 8, 2004; June 10 – June 11, 2004; June 14 – June 15, 2004; and June 17 – June 18, 2004.

(6) Gear restrictions as defined in 635-042-0180(3) remain in effect.

(7) Salmon and sturgeon may be taken for commercial purposes in those waters of Deep River; all waters downriver from the town of Deep River to the mouth (a line from navigation marker "16" southwest to a marker on the Washington shore).

(a) Open fishing periods are:

7 p.m. August 23, 2004 to 7 a.m. August 24, 2004;
7 p.m. August 24, 2004 to 7 a.m. August 25, 2004;
7 p.m. August 25, 2004 to 7 a.m. August 26, 2004;
7 p.m. August 26, 2004 to 7 a.m. August 27, 2004;
7 p.m. August 30, 2004 to 7 a.m. August 31, 2004;
7 p.m. August 31, 2004 to 7 a.m. September 1, 2004;
7 p.m. September 1, 2004 to 7 a.m. September 2, 2004;
7 p.m. September 2, 2004 to 7 a.m. September 3, 2004;
7 p.m. September 6, 2004 to 7 a.m. September 7, 2004;

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7 p.m. September 7, 2004 to 7 a.m. September 8, 2004;
7 p.m. September 8, 2004 to 7 a.m. September 9, 2004;
7 p.m. September 9, 2004 to 7 a.m. September 10, 2004;
4 p.m. September 13, 2004 to 8 a.m. September 14, 2004;
4 p.m. September 14, 2004 to 8 a.m. September 15, 2004;
4 p.m. September 15, 2004 to 8 a.m. September 16, 2004;
4 p.m. September 16, 2004 to 8 a.m. September 17, 2004;
4 p.m. September 20, 2004 to 8 a.m. September 21, 2004;
4 p.m. September 21, 2004 to 8 a.m. September 22, 2004;
4 p.m. September 22, 2004 to 8 a.m. September 23, 2004;
4 p.m. September 23, 2004 to 8 a.m. September 24, 2004;
4 p.m. September 27, 2004 to 8 a.m. September 28, 2004;
4 p.m. September 28, 2004 to 8 a.m. September 29, 2004;
4 p.m. September 29, 2004 to 8 a.m. September 30, 2004;
4 p.m. September 30, 2004 to 8 a.m. October 1, 2004;
4 p.m. October 4, 2004 to 8 a.m. October 5, 2004;
4 p.m. October 5, 2004 to 8 a.m. October 6, 2004;
4 p.m. October 6, 2004 to 8 a.m. October 7, 2004;
4 p.m. October 7, 2004 to 8 a.m. October 8, 2004;
4 p.m. October 11, 2004 to 8 a.m. October 12, 2004;
4 p.m. October 12, 2004 to 8 a.m. October 13, 2004;
4 p.m. October 13, 2004 to 8 a.m. October 14, 2004;
4 p.m. October 14, 2004 to 8 a.m. October 15, 2004;
4 p.m. October 18, 2004 to 8 a.m. October 19, 2004;
4 p.m. October 19, 2004 to 8 a.m. October 20, 2004;
4 p.m. October 20, 2004 to 8 a.m. October 21, 2004;
4 p.m. October 21, 2004 to 8 a.m. October 22, 2004;
4 p.m. October 25, 2004 to 8 a.m. October 26, 2004;
4 p.m. October 26, 2004 to 8 a.m. October 27, 2004;
4 p.m. October 27, 2004 to 8 a.m. October 28, 2004;
and 4 p.m. October 28, 2004 to 8 a.m. October 29, 2004;

(b) Gear is restricted to 6-inch maximum mesh size. Nets may not exceed 100 fathoms in length with no weight limit on leadline.

(8) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 7(a), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04

635-042-0190

Steamboat Slough

(1) Salmon and sturgeon may be taken for commercial purposes in those waters of Steamboat Slough. The fishing area includes all waters bounded by markers on Price Island and the Washington shore at both ends of Steamboat Slough.

(a) Open fishing periods are:

7 p.m. August 31, 2004 to 7 a.m. September 1, 2004;
7 p.m. September 1, 2004 to 7 a.m. September 2, 2004;
7 p.m. September 2, 2004 to 7 a.m. September 3, 2004;
7 p.m. September 7, 2004 to 7 a.m. September 8, 2004;
7 p.m. September 8, 2004 to 7 a.m. September 9, 2004;
7 p.m. September 9, 2004 to 7 a.m. September 10, 2004;
4 p.m. September 13, 2004 to 8 a.m. September 14, 2004;
4 p.m. September 14, 2004 to 8 a.m. September 15, 2004;
4 p.m. September 15, 2004 to 8 a.m. September 16, 2004;
4 p.m. September 16, 2004 to 8 a.m. September 17, 2004;
4 p.m. September 20, 2004 to 8 a.m. September 21, 2004;
4 p.m. September 21, 2004 to 8 a.m. September 22, 2004;
4 p.m. September 22, 2004 to 8 a.m. September 23, 2004;
4 p.m. September 23, 2004 to 8 a.m. September 24, 2004;
4 p.m. September 27, 2004 to 8 a.m. September 28, 2004;
4 p.m. September 28, 2004 to 8 a.m. September 29, 2004;
4 p.m. September 29, 2004 to 8 a.m. September 30, 2004;
4 p.m. September 30, 2004 to 8 a.m. October 1, 2004;
4 p.m. October 4, 2004 to 8 a.m. October 5, 2004;
4 p.m. October 5, 2004 to 8 a.m. October 6, 2004;
4 p.m. October 6, 2004 to 8 a.m. October 7, 2004;
4 p.m. October 7, 2004 to 8 a.m. October 8, 2004;
4 p.m. October 11, 2004 to 8 a.m. October 12, 2004;
4 p.m. October 12, 2004 to 8 a.m. October 13, 2004;
4 p.m. October 13, 2004 to 8 a.m. October 14, 2004;
4 p.m. October 14, 2004 to 8 a.m. October 15, 2004;
4 p.m. October 18, 2004 to 8 a.m. October 19, 2004;
4 p.m. October 19, 2004 to 8 a.m. October 20, 2004;
4 p.m. October 20, 2004 to 8 a.m. October 21, 2004;
4 p.m. October 21, 2004 to 8 a.m. October 22, 2004;
4 p.m. October 25, 2004 to 8 a.m. October 26, 2004;
4 p.m. October 26, 2004 to 8 a.m. October 27, 2004;
4 p.m. October 27, 2004 to 8 a.m. October 28, 2004;

and 4 p.m. October 28, 2004 to 8 a.m. October 29, 2004;

(b) Gear is restricted to 6-inch maximum mesh size. Nets may not exceed 100 fathoms in length with no weight limit on leadline.

(2) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 1(a), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04

Adm. Order No.: DFW 80-2004(Temp)

Filed with Sec. of State: 8-12-2004

Certified to be Effective: 8-13-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-013-0004

Rules Suspended: 635-013-0004(T)

Subject: Amend regulation to decrease the minimum size limit on chinook salmon.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-013-0004

Inclusions and Modifications

(1) OAR 635-013-0005 through 635-013-0009 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2004 Oregon Sport Fishing Regulations**.

(2) **The Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**, and the **2004 Oregon Sport Fishing Regulations** contain requirements for sport salmon angling in the Pacific Ocean off the Oregon coast. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supercede the published federal regulations and the **2004 Oregon Sport Fishing Regulations**. This means that persons must consult not only the federal regulations and the published sport fishing regulations but also the Department's web page to determine all applicable sport fishing regulations.

(3) This rule contains requirements that modify sport salmon angling regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean sport salmon fishery in general and within management zones established by the Pacific Fishery Management Council and enacted by **Federal Regulations (CFR, Title 50, Part 660, Subparts A and H)**.

(4) General Requirements, Definitions, Restrictions or Exceptions: No modifications to this category of regulations in the **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2004 Oregon Sport Fishing Regulations**.

(5) Effective July 23, 2004, in the area from Leadbetter Point, Washington to Cape Falcon, Oregon, the ocean salmon fishery is open to fishing seven days per week. The daily bag limit is two salmon per day. Minimum sizes for adult salmon are 26 inches for chinook and 16 inches for coho salmon. All retained coho must have a healed adipose fin-clip.

(6) Effective August 13, 2004, in the area from Cape Alava, Washington to Cape Falcon, Oregon, the minimum size limit for chinook salmon is 24 inches in length.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 43-1997(Temp), f. 8-8-97, cert. ef. 8-10-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 59-1998(Temp), f. & cert. ef. 8-10-98 thru 8-21-98; DFW 66-1998(Temp), f. & cert. ef. 8-21-98 thru 9-24-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; FWC 20-1999(Temp), f. 3-29-99, cert. ef. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 61-1999(Temp), f. 8-31-99, cert. ef. 9-3-99 thru 9-17-99; DFW 66-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 16-2000(Temp), f. 3-31-00, cert. ef. 4-1-00 thru 4-30-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 47-2000(Temp), f. 8-10-00, cert. ef. 8-13-00 thru 9-30-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 16-2001(Temp), f. 3-28-01, cert. ef. 4-1-01 thru 4-30-01; Administrative correction 6-20-01; DFW 59-2001(Temp), f. 7-18-01, cert. ef. 7-19-01 thru 10-31-01; DFW 20-2002(Temp), f. 3-19-02, cert. ef. 4-1-01 thru 4-30-02; DFW 75-2002(Temp), f. 7-19-02, cert. ef. 7-21-02 thru 12-31-

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02; DFW 80-2002(Temp), f. 7-31-02, cert. ef. 8-1-02 thru 12-31-02; DFW 85-2002(Temp), f. 8-8-02, cert. ef. 8-11-02 thru 12-31-02; DFW 99-2002(Temp) f. 8-30-02, cert. ef. 9-2-02 thru 12-31-02; DFW 100-2002(Temp), f. & cert. ef. 9-6-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 69-2003(Temp), f. 7-21-03, cert. ef. 7-25-03 thru 12-31-03; DFW 78-2003(Temp), f. 8-14-03, cert. ef. 8-20-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 75-2004(Temp), f. 7-20-04, cert. ef. 7-23-04 thru 12-31-04; DFW 80-2004(Temp), f. 8-12-04, cert. ef. 8-13-04 thru 12-31-04

Adm. Order No.: DFW 81-2004(Temp)

Filed with Sec. of State: 8-12-2004

Certified to be Effective: 8-12-04 thru 12-31-04

Notice Publication Date:

Rules Amended: 635-042-0031

Rules Suspended: 635-042-0031(T)

Subject: Amend rule to close the commercial fishing period for the mainstem Columbia River.

Rules Coordinator: Katie Thiel—(503) 947-6033

635-042-0031

Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River, Zones 1-5, as identified in OAR 635-042-0001.

(a) The Grays River, Elokomina-A, Cowlitz River, Kalama-A, Lewis-A, Washougal and Sandy rivers sanctuaries are in effect.

(b) Open fishing periods are:

(A) 7 p.m. August 3, 2004 to 7 a.m. August 4, 2004;

(B) 7 p.m. August 5, 2004 to 7 a.m. August 6, 2004;

(C) 7 p.m. August 8, 2004 to 7 a.m. August 9, 2004; and

(D) 7 p.m. August 10, 2004 to 7 a.m. August 11, 2004.

(2) Gear is restricted to gill nets with an 8-inch minimum mesh size and 9-3/4-inch maximum mesh size.

(3) A maximum of five white or green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods as identified in 1(b), the weekly aggregate sturgeon limit applies to possession and sales in the Columbia River mainstem fishery, the Youngs Bay fisheries and other open Select Area fisheries.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002, f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04

Department of Human Services, Child Welfare Programs Chapter 413

Adm. Order No.: CWP 14-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 7-1-04

Rules Amended: 413-015-0115, 413-015-0200, 413-015-0205, 413-015-0210, 413-015-0220, 413-015-0305, 413-015-0400, 413-015-0405, 413-015-0505, 413-015-0510, 413-015-0700, 413-015-0710, 413-015-0725

Subject: There are several language changes being made to Child Protective Services (CPS) rules in order to clarify the intent of existing CPS rules and guide best practice. In achieving this outcome, some definitions were modified and/or expanded. This includes clarification of time lines and an increase from three to five days for one

documentation requirement. In addition, there is a deletion of a dated reference to a form that is no longer used. These rules are also being amended to reflect new Department terminology and to correct formatting, punctuation, and spelling.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-0115

Definitions

Unless the context indicates otherwise, these terms are defined for use in OAR chapter 413, division 015:

(1) "Caregiver" is a guardian, legal custodian, or other person acting in loco parentis, who exercises significant authority over and responsibility for a child.

(2) "Child" means a person under 18 years of age.

(3) "Child abuse" means any form of abuse, including abuse through neglect and abuse or neglect by a third party, of a person under age 18.

(4) "Child protective services (CPS)" means a specialized social service program that the Department provides on behalf of children who are abused or who are at substantial risk of child abuse by a parent or caregiver.

(5) "Child protective services assessment" means activities and interventions that evaluate potential safety threats, risk influences, and caregiver protective capacity and determine whether or not child abuse has occurred. Activities include development of a child safety plan and identification of services.

(6) "Child protective services supervisor (CPS supervisor)" means an employee of the Department trained in child protective services and designated as a supervisor.

(7) "Child protective services worker (CPS worker)" means an employee of the Department who has completed the mandatory department training for child protective service workers.

(8) "Child safety assessment" means actions or interventions, which include face-to-face contact with the child and parent, or caregiver, to determine whether a child is safe.

(9) "Child safety plan" means a documented set of actions or interventions that describe how a child's safety is achieved by eliminating or managing a safety threat.

(10) "Department" means the Department of Human Services Child Welfare Program.

(11) "Department response" means how the Department intends to respond to a report of child abuse after a report of alleged abuse is screened.

(12) "FACIS" means the Family and Child Information System.

(13) "Guided Assessment Process (GAP)" is a tool used to determine the presence of a safety threat that requires consideration of risk influences and parent or caregiver protective capacity.

(14) "Harm" means impairment, damage, detriment, or injury to a child's physical, sexual, emotional, or mental development or functioning.

(15) "ICWA" means the Indian Child Welfare Act.

(16) "Immediate safety threat" means behavior, conditions, or circumstances that are presently beyond the parent's or caregiver's current ability to manage and are likely to result in harm to a child.

(17) "Impending safety threat" means behavior, conditions, or circumstances that are not presently beyond the parent's or caregiver's current ability to manage but are likely to become so within the near future and are likely to result in harm to a child.

(18) "Multi-disciplinary team (MDT)" is a county investigative team, described in ORS 418.747, that includes law enforcement personnel, child protective service workers, district attorneys, school officials, health department staff, and juvenile department personnel.

(19) "Protective capacity" means a parent's or caregiver's strengths or abilities to manage existing safety threats, prevent additional safety threats from arising, or stop risk influences from creating a safety threat.

(20) "Protective custody" means custody authorized by ORS 419B.150.

(21) "Referral" means a report that has been assigned for the purpose of CPS assessment.

(22) "Report" means information provided to the Department that constitutes an allegation of child abuse.

(23) "Risk influences" means those circumstances and situations that contribute to the severity of identified safety threats and that are considered by the CPS worker when a safety plan is developed.

(24) "Safe" means there is an absence of safety threats or there is sufficient protective capacity to manage the existing safety threats.

(25) "Safety threat" means behavior, conditions, or circumstances that are likely to result in harm to a child.

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(26) "Screener" means a department employee with training required to provide screening services.

(27) "Screening" means the process used by a screener to determine the Department's response when information alleging abuse is received.

(28) "Substantial harm" means immobilizing impairment, life threatening damage, or significant or acute injury to a child's physical, sexual, psychological, or mental development or functioning.

(29) "Team Decision Meeting (TDM)" means a facilitated meeting with family, extended family, community members, service providers, and child welfare staff held for the purpose of making child placement related decisions.

(30) "Third-party abuse" means abuse by a person who is not the child's parent, not the child's caregiver or other member of the child's household, and not a person responsible for the child's care, custody, and control. Examples of persons who could be considered as a third-party under this definition include school personnel, day-care providers, coaches, and church personnel.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0200

Screening Rules, Purpose

The Department receives information alleging child abuse from various sources. OAR 413-015-0205 to 0225 describe how the Department will review this information and determine a department response. This process is known as screening and is conducted by a screener.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0205

Screening Activities

On the same day information alleging child abuse is received by the Department, screeners must complete the following actions unless these rules provide otherwise or an extension is granted as provided in OAR 413-015-0220:

(1) Use the guided assessment process (GAP) screening template to assure critical information is collected and to evaluate the presence of safety threats.

(2) Contact only those collateral sources who can provide firsthand information necessary to evaluate possible safety threats to the child and to determine the appropriate department response.

(3) Research the history of the child and family for essential family data to determine current or previous department involvement related to current child abuse allegations.

(4) Inquire regarding possible Indian or Alaskan Native heritage.

(5) Request from law enforcement agencies (LEA), when available and appropriate, relevant information, including domestic disturbance calls, arrests, and restraining orders.

(6) Determine the location and corresponding legal jurisdiction of the family's residence and the site where the alleged child abuse may have occurred.

(7) Enter data into the FACIS system:

(a) In situations that require a response by the Department (immediate, impending, or response required) on the same day the screening determination is made.

(b) In situations that do not require a response (closed at screening and logged) no later than the next working day after the screening determination is made.

(8) Consult with the CPS supervisor as required by the SDA protocol when determining the Department's response or assigning the referral. In no case should the supervisory consultation unduly delay the screening or assignment of the report for assessment.

(9) Determine the Department's response.

(10) Assign the referral to a CPS worker for a CPS assessment if the screener determines the department response requires a referral.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0210

Determining Department's Response and Required Time Lines

The time line for the Department's response begins when the call is received at screening. Upon completion of the screening activities required by OAR 413-015-0205, the screener must determine whether the information alleging child abuse constitutes a report of child abuse and must determine the Department's response. The Department's response will be either

a CPS assessment or no CPS assessment, as explained in sections (1) and (2) of this rule.

(1) CPS assessment required. If the screener determines that information received constitutes a report of child abuse and a safety threat is identified:

(a) An Immediate Response referral is required if there is an immediate safety threat.

(b) An Impending Response referral is required if there is an impending safety threat.

(c) A Response Required referral is required if the presence of a safety threat is identified, but the information indicates the child is currently safe.

(2) CPS assessment not required. If the screener determines that the information alleging child abuse meets the following criteria, it will not be assigned to a CPS worker for a CPS assessment:

(a) Close at Screening:

(A) A report is closed at screening if the information alleging child abuse:

(i) Does not meet the criteria for CPS assessment; or

(ii) Does not include sufficient information to locate the child.

(B) If a report is closed at screening, the screener must decide whether other services are appropriate and make service or resource referrals as necessary. The screener must document how the information received supports the determination that the child is currently safe and that other services or resources have been identified as needed.

(b) Log: The information is logged if the screener determines that the information does not meet the criteria for CPS assessment or close at screening, but the information may be significant if future related calls are received.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0220

Extensions

(1) The CPS supervisor may grant an extension to the deadline in OAR 413-015-0205 when the screener cannot complete the screening activities the same day that the information alleging child abuse is received because critical information is still needed to determine the Department's response. The screener must document both the reason for an extension that is granted and the approval by a supervisor.

(2) If the screening activities cannot be completed within the time frames identified in this division of rules, the CPS supervisor may grant a one-day extension up to two times. Screening activities may not exceed two days beyond the day the information alleging child abuse is received by the Department.

(3) When a child welfare office is closed for a weekend or holiday and screening activities cannot be completed the day before the weekend or holiday begins, and the screener does not have enough information to determine a department response, a CPS supervisor may grant an extension to allow screening activities to be completed on the next business day. If there is any information indicating the child's immediate safety is threatened, a Department response will not be delayed by office closure.

(4) If the screener has enough information to determine the Department's response, no extension to the deadline in OAR 413-015-0205 may be allowed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0305

Cross Reporting Requirements

(1) The Department screens reports of child abuse in accordance with the screening rules in this division of rules. If the Department's screener determines that information received constitutes a report of child abuse, the screener must cross report the case to an appropriate LEA in the county where the report was made. If the abuse is alleged to have occurred in a different county, the screener may also cross report to an appropriate law enforcement agency in the county where the abuse occurred. The Department must make a cross report even when the Department receives information alleging abuse of a child who is already the subject of an open department child welfare case.

(2) Cross reporting time frames. Cross reporting must be completed in the manner and within the time lines described in this section.

(a) Cross Report, Immediate. When the screener determines that a report of alleged child abuse requires an immediate response, the screener or CPS worker must cross report without delay by contacting the appropriate

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ate LEA by telephone, by providing necessary information to the LEA, and by requesting immediate assistance from the LEA. In addition to the telephone cross report, the CPS worker must provide a completed screening report to the LEA if the Department and LEA do not respond to the report of abuse together. If the Department and LEA respond to the report of abuse together, the CPS worker does not need to provide a completed screening report to the LEA.

(b) Cross Report, Impending or Response Required. When the screener determines that the department response should be either an impending response or a response required, the screener must ensure that a cross report is made by fax or other expedited process the same day the Department receives the information alleging child abuse or when the Department's response is determined.

(c) Cross Report, Closed at Screening. When the screener determines that no department response is required and that the report will be closed at screening, the screener must ensure that the cross report is made the same day that the information is entered into the FACIS system.

(3) Cross reporting, supplemental information. The Department may receive information not previously cross reported but apparently related to an allegation of abuse involving the same victim and the same alleged perpetrator that has been previously cross reported. In that event, the screener must proceed as follows:

(a) If the information relates to the same instance of abuse, the screener must make a supplemental cross report of the additional information to each LEA that received the prior cross report. The supplemental information is cross reported using the same time frames used for the original report of abuse, found in section (2) of this rule.

(b) If the information includes a previously unreported instance of abuse or a different reporter of abuse, victim, or alleged perpetrator, the screener must treat the report as a new report of child abuse.

(4) Cross report not required. A cross report is not required:

(a) If, after screening is completed, the screener determines that the information received does not constitute a report of child abuse.

(b) If, after screening is completed, the screener determines that the information received is from a reporter of child abuse who previously made the same allegation regarding the same victim and same alleged perpetrator and that the reporter has provided no additional information.

(5) Contents of cross report. A cross report must include, if known, the names and addresses of the child, the names and addresses of the child's parent or caregiver, the child's age, the nature and extent of the abuse, any evidence of previous abuse, the explanation given for the abuse, and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the alleged abuser.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0400

Purpose of CPS Assessment and Time Lines

(1) OAR 413-015-0400 to 413-015-0410 describe and establish time lines for completing a CPS assessment.

(2) The time line for the Child Protective Services response begins when the call is received at screening.

(3) To complete the CPS assessment, the CPS worker assesses the referral of child abuse to determine whether child abuse has occurred; evaluates potential safety threats, the severity of risk of harm, and parental or caregiver capacity to protect; develops services to assure the child's safety; and provides support to the family.

(4) The CPS worker must complete the CPS assessment, including FACIS input and electronic transmission for review, within 30 days of the day that the information alleging child abuse is received by the screener. The CPS supervisor may approve a one-time extension of an additional 30 days for completion of the CPS assessment if critical information is outstanding. Additional extension of time may be approved by the child welfare program manager if the ability to obtain critical information is beyond the reasonable control of the CPS worker.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0405

CPS Assessment

The following actions are usually taken to assess a child's safety, to establish a child safety plan, and to complete the CPS assessment. The steps do not occur in a prescribed order but are controlled by the specific circum-

stances in a given case. The steps are described in a logical order in these rules, but they are not necessarily in the order they must be completed.

(1) Consult with CPS supervisor. Subject to the discretion of the CPS supervisor, the CPS worker will consult with a CPS supervisor or designee at key points during the assessment, such as:

(a) Before making initial contact with the family;

(b) Prior to a decision to place a child in protective custody;

(c) When a referral indicates potential danger to the worker;

(d) When a referral involves allegations that child abuse occurred in a licensed child caring agency;

(e) When a referral involves a foster care home certified by the Department;

(f) When making dispositions in complicated or sensitive situations or cases;

(g) Prior to initiating court action; and

(h) Prior to a decision to close a case during or at the end of the CPS assessment.

(2) Review relevant records. The CPS worker must review relevant paper and electronic records maintained by the Department for historical information on the family and the child that may be useful in completing the assessment. The CPS worker must review the documents to identify information related to:

(a) Safety threats and risk influences;

(b) Worker safety;

(c) Child and family support systems and protective capacity; and

(d) History of or a pattern of abuse.

(3) Contact the reporter. The CPS worker must contact the reporter or other collateral sources for additional information if the referral does not contain adequate information to proceed with the assessment.

(4) Contact and work with other entities. The CPS worker must contact other entities including LEAs, public and private schools, tribes, and multi-disciplinary teams (MDTs) as necessary to complete the CPS assessment. The requirements for making these contacts are further described in "Working with Other Entities," OAR 413-015-0600 through 0615.

(5) Determine ICWA Status. The CPS worker must initiate the process to determine the child's ICWA status and notify the tribe if applicable:

(a) Complete a form CF 1270, "Verification of ICWA Eligibility," to assist in determining ICWA eligibility.

(b) Contact the child's tribe when an Indian child is the subject of a CPS assessment. Oregon Tribes must be notified within 24 hours after information alleging abuse is received by the Department. Consult with the ICWA manager to determine whether there is reasonable cause to believe that the child is ICWA eligible.

(c) If the Indian child is enrolled or eligible for enrollment in an Oregon tribe, notify the child's tribe if the child may be placed in protective custody.

(d) Consult with the local department ICWA liaison or a supervisor if the worker has questions regarding the involvement of a tribe or the ICWA status of a child.

(6) Identify legal parents and putative fathers. The CPS worker or designee must make a reasonable effort to identify legal parents and putative fathers within 30 days after a child is taken into protective custody. Information about putative fathers must be recorded on form CF 418, "Father(s) Questionnaire" and filed in the case record.

(7) Notify Parent or Caregiver of intent to interview. The CPS worker must notify parents of the intent to interview a child, unless notification could compromise the child's safety or a criminal investigation.

(8) Conduct Interview. The CPS worker must interview people, as necessary, to complete the CPS assessment. The requirements for interviewing parents and children are described in OAR 413-015-0700 to 0740.

(9) Conduct child safety assessment. The CPS worker must conduct the child safety assessment using the GAP within the times lines set out in OAR 413-015-0500 through 0510. The safety assessment time lines are based on the department response determined by the screener during the screening process, described in OAR 413-015-0210(1)(a) through (c).

(10) Develop child safety plan. When a safety threat has been identified as a result of the child safety assessment, the CPS worker must immediately develop a child safety plan with the involvement of the family and tribe, if applicable and practicable. OAR 413-015-0500 through 0510 provide specific time lines and requirements for a child safety plan.

(11) Photograph and document. The CPS worker must take photographs, as necessary, to complete the CPS assessment. The requirements for taking photographs are described in OAR 413-015-0800, "Photographs and Documents of Abuse."

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(12) Obtain medical examinations. The CPS worker must obtain medical examinations, as necessary, to complete the CPS assessment. The requirements for obtaining medical examinations are described in "Medical Examination and Medical History," OAR 413-015-0900 through 0905.

(13) Provide notice of child placed in protective custody. If a child is placed in protective custody (see OAR 413-015-0410), the CPS worker must notify parents, including a non-custodial parent; caregivers; and the child's tribe, if applicable, in writing.

(14) Record assessment activities. The CPS worker must record assessment activities and information gathered during the assessment process. OAR 413-015-0500 through 0510 provide specific requirements and procedures for making findings and documenting information such as safety threats that have been identified, the capacity of parents or caregivers to protect the child, the safety plan components, identity of relatives who are willing to contribute to the child's safety plan, and cultural considerations.

(15) Notify reporting party. The CPS worker must make a concerted effort to contact the person who made the report of suspected child abuse when the Department has made contact with the family and has concluded the CPS assessment.

(16) Determine disposition of CPS assessment. The CPS worker must determine a disposition to complete the CPS assessment. The requirements for determining dispositions are described in OAR 413-015-1000, "The CPS Assessment Dispositions."

(17) Obtain supervisory review. A CPS supervisor or designee must review and approve a completed CPS assessment within five working days of the electronic submission of the assessment by the CPS worker.

(18) Enter FACIS data. Each local department office may designate an individual to enter the CPS supervisor's electronic verification of review and approval into FACIS.

(19) Notify parents or caregivers of CPS assessment dispositions. The CPS worker must notify the child's parents, including a non-custodial legal parent, and caregivers of each CPS assessment disposition and whether the determination was "unfounded," "unable to determine," or "founded."

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0505

Child Safety Assessments and Time Frames

(1) To complete a child safety assessment, the CPS worker must:

(a) Try to contact the child at home, school, day care, or any other place the worker believes the child may be found. If the worker is unsuccessful, the worker must document in the "assessment activities" section of the GAP all attempts made to contact the child and the date of each attempt.

(b) Have face-to-face contact with the child who is the subject of the referral.

(c) Have face-to-face contact with the primary parent or caregiver, if possible.

(d) Determine if other children in the home are safe.

(e) Utilize the GAP and interviewing guidelines set out in OAR 413-015-0700 to 413-015-0740 to:

(A) Identify safety threats;

(B) Assess risk influences; and

(C) Assess parents' or caregivers' protective capacity.

(2) After the screener determines the department response and assigns the referral to a CPS worker, the CPS worker must complete a child safety assessment within the following time lines:

(a) Immediate Response: The CPS worker must complete a child safety assessment on the same working day the report alleging child abuse is received by the Department.

(b) Impending Response: The CPS worker must make face-to-face contact with the child within 24 hours of the time the report alleging child abuse is received by the Department or document why attempted contacts have been unsuccessful. The CPS worker must complete the safety assessment and safety plan without undue delay.

(c) Response Required: The CPS worker must make a face-to-face contact with the child within 5 days of the day the report alleging child abuse is received by the Department and must complete the safety assessment and safety plan without undue delay.

(3) Exceptions:

(a) Any exception to the time lines given in section (2) of this rule requires CPS supervisor approval and written justification of how the child's safety needs have been considered.

(b) If the screener has been granted an extension, the CPS supervisor may adjust the child safety assessment and safety planning time line accordingly.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0510

Child Safety Plan

(1) Safety Plan. The CPS worker must develop and document a child safety plan when a safety threat has been identified as a result of a child safety assessment.

(2) Use GAP. The CPS worker will utilize the GAP to consider safety threats, risk influences, and parent's or caregiver's protective capacity in developing a child safety plan.

(3) Use of TDMs. The CPS worker must develop a child safety plan with family participation whenever possible. If the CPS worker knows or has reason to know the case involves an Indian child, the CPS worker shall involve the Indian child's tribe when developing the child's safety plan. When a safety plan involves considering an out-of-home placement, a TDM must be held.

(a) In order to involve the family in the out-of-home placement decision, the TDM should be held prior to the decision to make an out-of-home placement. If it is not practicable to hold the TDM prior to placement, the TDM must be held prior to the shelter hearing.

(b) The CPS worker retains final responsibility for assessing child safety and approving the child safety plan.

(c) If a TDM is not held, supervisory approval and supporting documentation is required.

(d) Local department offices must develop protocols for scheduling, facilitating, and documenting TDM's.

(4) The child safety plan may contain one or both of the following components depending on the individual safety needs of children in the family:

(a) An in-home child safety plan. An in-home safety plan must be developed:

(A) When the protective capacity of the parent or caregiver can be enhanced or supported to create safety for the children; or

(B) When a safety threat can be temporarily or permanently eliminated and protective capacity of the family or non-offending parent or caregiver is sufficient to provide safety for a child.

(b) An out-of-home child safety plan. An out-of-home safety plan shall be developed:

(A) When existing protective capacity of the caregiver cannot be enhanced or supported to provide for the child's safety; or

(B) When there is no parent or caregiver to provide for the child's safety needs.

(C) When reasonable efforts or active efforts (if applicable) have been made to prevent the removal of the child from the home.

(5) Documentation requirements. The CPS worker must document a child safety assessment and a child safety plan using the GAP Child Safety Assessment within five working days following face-to-face contact with a child.

(6) Closing a Child Safety Plan. The CPS worker will close the child safety plan when identified safety threats have been eliminated, the parent or caregiver protective capacity can manage identified safety threats, or another plan has been established for the safety of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0700

Purpose

The CPS worker must conduct interviews to complete the CPS assessment. These rules, OAR 413-015-0700 through 0740, provide guidelines for conducting interviews.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0710

Interviewing

The CPS worker must, to the extent possible, do the following during the interview:

(1) Present identification to the family at the beginning of the interview.

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(2) Clearly state the reason for the interview, provide statutory authority to assess reports of child abuse, and give an explanation of the alleged child abuse.

(3) Allow the parent or caregiver to respond to each allegation.

(4) Ensure the privacy of the persons being interviewed.

(5) Focus the interview on the safety of the children.

(6) Observe and ask questions about indications of child abuse.

(7) Assess whether the parents or caregivers are involved in domestic violence.

(8) Identify legal parents and extended family members who might assist in developing a child safety plan.

(9) Observe the interactions between the parents or caregivers and the children, and between the parents or caregivers.

(10) Summarize the initial impressions and intentions resulting from the interview with appropriate family members or caregivers.

(11) Obtain names of persons from the parents and caregivers who can provide additional information in making the child safety assessment or child safety plan.

(12) Ask the parents and caregivers to sign an authorization to release information to enable the Department to obtain confidential information from physicians, mental health providers, school employees, or other service or treatment providers.

(13) If the CPS worker believes the juvenile court will be involved in the case, explain the juvenile court process and the availability of legal representation to the parents and caregivers.

(14) Provide a business card or other document to the parents and caregivers containing the CPS worker's name and phone number.

(15) Inform the parents and caregivers about the Department's grievance procedure.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.015, 419B.005 - 419B.050

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

413-015-0725

Interviewing the Child's Parents and Caregivers

(1) Whenever practicable, the CPS worker must interview both parents and caregivers in person, as follows:

(a) Interview each person individually.

(b) Ask questions about domestic violence in separate interviews.

(c) Interview the non-offending parent or caregiver prior to interviewing the parent or caregiver alleged to be the abuser.

(d) Interview the alleged abuser when he or she is the victim's parent or caregiver, unless it is not possible to do so.

(e) When law enforcement is involved in the investigation, the CPS worker must coordinate the interviews of the alleged abuser with LEA.

(2) Non-custodial legal parent. The CPS worker must interview the non-custodial legal parent during the CPS assessment. If the interview would increase the risk of harm to a victim, a CPS supervisor may authorize an exception to the requirement to conduct the interview based on documented risk.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04

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

Adm. Order No.: OMAP 45-2004

Filed with Sec. of State: 7-22-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 7-1-04

Rules Amended: 410-121-0030

Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. OMAP amended 410-121-0030, effective August 1, 2004, to add the Beta-blocker class to the Practitioner's-Managed prescription Drug Plan table of drug classes. Long-acting opioids and proton pump inhibitors have also been modified by ongoing review of drug classes per policy.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0030

Practitioner-Managed Prescription Drug Plan (PMPDP)

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that fee for service clients of the Oregon Health Plan will have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Decisions concerning the clinical effectiveness of the prescription drugs are made by licensed health practitioners, informed by the latest peer-reviewed research;

(b) Decisions also consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Plan Drug List (PDL):

(a) The PDL is the primary tool that the Department of Human Services (DHS) has developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL consists of prescription drugs in selected classes that DHS, in consultation with the Health Resources Commission (HRC), has determined represent effective drug(s) available at the best possible price;

(c) For each selected drug class, the PDL will identify a drug(s) as the benchmark drug that has been determined to be the most effective drug(s) available for the best possible price;

(d) The PDL will include other drugs in the class that are Medicaid reimbursable and which the Food and Drug Administration (FDA) has determined to be safe and effective if the relative cost is less than the benchmark drug(s). If pharmaceutical manufacturers enter into supplemental discount agreements with DHS that reduce the cost of their drug below that of the benchmark drug for the class, their drug will also be included in the PDL;

(e) A copy of the current PDL is available on the web at www.dhs.state.or.us/policy/healthplan/guides/pharmacy/

(3) PMPDP PDL Selection Process:

(a) DHS will utilize the recommendations made by the HRC, which result from an evidence-based evaluation process, as the basis for identifying the most effective drug(s) within a selected drug class;

(b) DHS will determine the drug(s) identified in (3)(a) that is (are) available for the best possible price and will consider any input from the HRC about other FDA-approved drug(s) in the same class that are available for a lesser relative price. Relative price will be determined using the methodology described in subsection (4);

(c) Drug classes and selected drug(s) for the drug classes will be reviewed annually:

(A) Review will occur more frequently at the discretion of DHS if new safety information or the release of new drugs in a class or other information makes a review advisable;

(B) New drugs will not be added to the PDL until they have been reviewed by the HRC;

(C) All changes or revisions to the PDL will be made publicly, using the rulemaking process, and will be published on OMAP's Pharmaceutical Services provider rules web page.

(4) Relative cost and best possible price determination:

(a) DHS will determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) DHS may also consider dosing issues, patterns of use and compliance issues. These factors will be weighed with any advice provided by the HRC in reaching a final decision;

(c) DHS will determine the benchmark drug based on (4)(b) and on the Estimated Acquisition Cost (EAC) on the first of the month (OAR 410-121-0180), in which DHS reviews that specific drug class;

(d) Once the cost of the benchmark drug is determined, the cost of the other FDA-approved drugs in the class will be recalculated using EAC for retail pharmacies in effect on the first of the month in which DHS reviews that specific drug class (OAR 410-121-0180), less average available rebate. Drugs with prices under the benchmark drug cost will be included on the PDL.

(5) Regardless of the PDL, prescriptions shall be dispensed in the generic form unless practitioner requests otherwise subject to the regulations outlined in OAR 410-121-0155.

Table 121-0030-1, PMPDP PDL (updated effective 08/01/2004)

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04;

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OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04;
OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04

9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 25-2004, f. & cert.
ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 46-2004, f. 7-22-04 cert. ef. 8-1-04

Adm. Order No.: OMAP 46-2004

Filed with Sec. of State: 7-22-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 7-1-04

Rules Adopted: 410-122-0085

Rules Amended: 410-122-0080, 410-122-0202, 410-122-0530

Subject: The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Services program Administrative Rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. OMAP adopted the new rule, 410-122-0085, to establish rules for dispensing supplies and equipment; amended 410-122-0080 to clarify OMAP's reimbursement rate; amended rule 410-122-0202 to extend initial CPAP rental period to three months; amended rule 410-122-0530 to add language regarding identifying and labeling client's supplies.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-122-0080

Coverage and Exclusions

(1) Equipment which is primarily and customarily used for a non-medical purpose will not be approved for payment, even if the item has some medically related use.

(2) The Office of Medical Assistance Programs (OMAP) does not cover equipment and services not medically appropriate (see OAR 410-120-1200).

(3) Reimbursement:

(a) OMAP reimburses for the lowest level of service, which meets medical appropriateness. See OAR 410-120-1280 (Billing) and 410-120-1340 (Payment) for clients with Medicare, third party resource (TPR) or alternate resource, coverage.

(b) Reimbursement is based on OMAP's maximum allowable rate, manufacturer's suggested retail price or usual charge, whichever is the lowest.

(4) Criteria as listed with individual codes is considered the medical appropriateness for that item. Unless stated otherwise, the number of units per month is limited by medical appropriateness. If no criteria is listed or there are questions about the criteria, medical appropriateness is determined by OMAP.

(5) Equipment and supplies are not covered under some benefit packages (see OAR 410-120-1210).

(6) Buy-ups are prohibited. Advanced Beneficiary Notices (ABN) constitute a buy-up and are prohibited. Refer to the OMAP General Rules for specific language on buy-ups.

(7) Inpatient hospital reimbursement — Any durable medical equipment needed during an inpatient hospital stay is paid as part of the inpatient reimbursement to the hospital and is therefore the responsibility of the hospital.

(8) Equipment that has been paid for by OMAP becomes the property of the client.

(9) Rental charges, starting with the initial date of service, regardless of payor, apply to the purchase price.

(10) Any needed repairs or maintenance for client-owned equipment is the responsibility of OMAP (based on client eligibility). If the item is in the Medicare Capped Rental Program for a client with Medicare and Medicaid coverage, then continue to bill Medicare for maintenance, per Medicare's schedule.

(11) Repair of equipment includes pick-up and delivery. Travel time cannot be billed to OMAP or the client.

(12) Before renting, purchase should be considered for long-term requirements.

(13) Equipment not covered for purchase, rent or repair by OMAP, includes, but is not limited to the following (or similar/related equipment): Table 122-0080. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 3-1982, f. 1-20-82, ef. 2-1-82; AFS 6-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; HR 24-1990(Temp), f. & cert. ef. 7-27-90; HR 6-1991, f. & cert. ef. 1-18-91; Renumbered from 461-024-0020; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 26-1994, f. & cert. ef. 7-1-94; 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 32-2001, f.

410-122-0085

Dispensing

(1) Providers must not dispense a quantity of supplies exceeding a client's expected utilization.

(2) Supplies dispensed are based on the practitioner's order. Regardless of utilization, a provider must not dispense more than a three-month quantity of supplies at a time. This three-month dispensing restriction for supplies may be further limited by rule limitations of coverage.

(3) Provider may contact the client to check the quantity on hand and continued need for product. An order cannot be dispensed if the client has more than a 15-day supply.

(4) The provider must not automatically dispense a quantity of supplies on a predetermined regular basis, even if the client or caregiver has "authorized" this in advance.

Stat. Auth.: ORS Chapter 409

Stats. Implemented: 414.065

Hist.: OMAP 46-2004, f. 7-22-04 cert. ef. 8-1-04

410-122-0202

Continuous Positive Airway Pressure (CPAP) System

(1) Definitions:

(a) Definition of moderate and severe sleepiness per "Sleep-Related Breathing Disorders in Adults: Recommendations for Syndrome Definition and Measurement Techniques in Clinical Research; The Report of an American Academy of Sleep Medicine Task Force" published in Sleep, Volume 22, Number 5, 1999:

(A) "Moderate: Unwanted sleepiness or involuntary sleep episodes occur during activities that require some attention. Examples include uncontrollable sleepiness that is likely to occur while attending activities such as concerts, meetings, or presentations. Symptoms produce moderate impairment of social or occupational function";

(B) "Severe: Unwanted sleepiness or involuntary sleep episodes occur during activities that require more active attention. Examples include uncontrollable sleepiness while eating, during conversation, walking, or driving. Symptoms produce marked impairment in social or occupational function."

(b) Apnea-Hypopnea Index (AHI) — The apnea-hypopnea index (AHI) is defined as the average number of episodes of apneas and hypopneas per hour and must be based on a minimum of two hours of recording time without the use of a positive airway pressure device, reported by polysomnogram. The AHI may not be extrapolated or projected.

(2) Indications and Coverage:

(a) Use of a continuous positive airway pressure (CPAP) system is covered for:

(A) Sleep Disordered Breathing — Obstructive apnea, central apnea, mixed apnea, and sleep hypopnea syndrome when the polysomnogram indicates:

(i) An Apnea Hypopnea Index (AHI) > 10 per hour of sleep, and;
(ii) Oxygen saturation related to an apneic or hypopneic event which is less than 90%.

(B) Upper airway resistance syndrome (UARS) when the following criteria are met:

(i) An arousal index > 15, and;
(ii) Significant excessive daytime sleepiness as defined by any of the following:

(I) Epworth sleepiness scale > 10, or;
(II) History of moderate or severe sleepiness, or;
(III) Multiple Sleep Latency Test (MSLT) with a mean-sleep latency < 8.

(b) A three-month rental period is required for CPAP prior to purchase;

(c) Clients currently using CPAP can continue to use without having to meet the above criteria.

(3) Documentation:

(a) The following information must be submitted with the initial prior authorization (PA) request and kept on file by the DME provider:

(A) Summary of events from the polysomnogram report performed in a certified sleep laboratory;

(B) Medical justification from the prescribing practitioner;

(C) Oxygen saturation reports, if required;

(D) Prescribing practitioner history and physical examination.

(b) Documentation from the treating practitioner that the client is continuing to effectively use the CPAP device must be submitted with the

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request for PA for purchase after the three-month rental period is completed.

(4) Procedure Codes — Table 122-0202: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 46-2004, f. 7-22-04 cert. ef. 8-1-04

410-122-0530

Proof of Delivery

(1) Suppliers are required to maintain proof of delivery documentation in their files. Proof of delivery must be available upon request.

(2) Proof of delivery requirements are based on the method of delivery.

(3) A delivery slip is required for items delivered directly by the supplier to the client or authorized representative. The delivery slip must include the following:

(a) The client or authorized representative's signature with the date the items were received (when billing, use this date as the date of service), and;

(b) The client's name, and;

(c) The quantity, brand name, serial number and a detailed description of the items being delivered.

(4) A tracking slip and a supplier's shipping invoice is required for items delivered by a delivery/shipping service to the client or authorized representative:

(a) The supplier's shipping invoice must include the:

(A) Client's name, and;

(B) Quantity, brand name, serial number and a detailed description of the items being delivered, and;

(C) Delivery service's package identification number associated with the client's packages, and;

(D) Shipping date (when billing, use this date as the date of service).

(b) The delivery service's tracking slip must reference:

(A) Each client's packages, and;

(B) The delivery address and corresponding package identification number given by the delivery service.

(5) For those clients who are residents of an assisted living facility, a twenty-four hour residential facility, an adult foster home, a child foster home, a private home or other similar living environment, suppliers must assure supplies are identified and labeled for use only by the specific client for whom the supplies/items are intended.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 46-2004, f. 7-22-04 cert. ef. 8-1-04

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Rules Amended: 410-141-0000, 410-141-0080, 410-141-0140, 410-141-0280, 410-141-0300, 410-141-0420

Subject: The Oregon Health Plan (OHP) administrative rules govern Office of Medical Assistance Programs' (OMAP) payment for services provided to clients. OMAP temporarily amended rules 410-141-0000, 410-141-0080, 410-141-0140, 410-141-0280, 410-141-0300, 410-141-0420, effective June 1, 2004, to provide immediate clarification for managed care organizations regarding federal requirements imposed under the Balanced Budget Act consistent with changes to the managed care contracts to be in full compliance with federal law. These rules are permanently amended, effective August 1, 2004.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0000

Definitions

(1) Action — In the case of a Prepaid Health Plan (PHP):

(a) The denial or limited authorization of a requested covered service, including the type or level of service;

(b) The reduction, suspension or termination of a previously authorized service;

(c) The denial in whole or in part, of payment for a service;

(d) The failure to provide services in a timely manner, as defined by OMAP;

(e) The failure of a PHP to act within the timeframes provided in 42 CFR 438.408(b); or

(f) For an OMAP Member in a single FCHP or MHO Service Area, the denial of a request to obtain covered services outside of the FCHP or MHO's Participating Provider panel pursuant to OAR 410-141-0160 and 410-141-0220.

(2) Administrative Hearing — A DHS hearing related to an Action, including a denial, reduction, or termination of benefits which is held when requested by the OHP Client or OMAP Member. A hearing may also be held when requested by an OHP Client or OMAP Member who believes a claim for services was not acted upon with reasonable promptness or believes the payor took an action erroneously.

(3) Advance Directive — A form that allows a person to have another person make health care decisions when he/she cannot make the decision and tells a doctor that the person does not want any life sustaining help if he/she is near death.

(4) Aged — Individuals who meet eligibility criteria established by DHS Seniors and People with Disabilities for receipt of medical assistance because of age.

(5) Americans with Disabilities Act (ADA) — Federal law promoting the civil rights of persons with disabilities. The ADA requires that reasonable accommodations be made in employment, service delivery, and facility accessibility.

(6) Alternative Care Settings — Sites or groups of practitioners which provide care to OMAP Members under contract with the PHP. Alternative Care Settings include but are not limited to urgent care centers, hospice, birthing centers, out-placed medical teams in community or mobile health care facilities, outpatient surgicenters.

(7) Ancillary Services — Those medical services under the Oregon Health Plan not identified in the definition of a Condition/Treatment Pair under the OHP Benefit Package, but Medically Appropriate to support a service covered under the OHP benefit package. A list of ancillary services and limitations is identified in OAR 410-141-0520, Prioritized List of Health Services, or specified in the Ancillary Services Criteria Guide.

(8) Appeal — A request for review of an "Action" as defined in this section.

(9) Automated Information System (AIS) — A computer system that provides information on the current eligibility status for clients under the Medical Assistance Program.

(10) Blind — Individuals who meet eligibility criteria established by DHS Seniors and People with Disabilities for receipt of medical assistance because of a condition or disease that causes or has caused blindness.

(11) Capitated Services — Those services that a PHP or Primary Care Manager agrees to provide for a Capitation Payment under an OMAP Oregon Health Plan contract or agreement.

(12) Capitation Payment:

(a) Monthly prepayment to a PHP for the provision of all Capitated Services needed by OHP Clients who are enrolled with the PHP;

(b) Monthly prepayment to a Primary Care Manager to provide Primary Care Management Services for an OHP Client who is enrolled with the PCM. Payment is made on a per OHP Client, per month basis.

(13) Centers for Medicare and Medicaid Services (CMS). The federal agency under the Department of Health and Human Services, responsible for approving the waiver request to operate the Oregon Health Plan Medicaid Demonstration Project.

(14) CFR — Code of Federal Regulations.

(15) Chemical Dependency Services — Assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol and/or other drug abusing or dependent clients and their family members or significant others, consistent with Level I and/or Level II of the "Chemical Dependency Placement, Continued Stay, and Discharge Criteria."

(16) Chemical Dependency Organization (CDO) — a Prepaid Health Plan that provides and coordinates chemical dependency outpatient, intensive outpatient and opiate substitution treatment services as Capitated Services under the Oregon Health Plan. All chemical dependency services covered under the Oregon Health Plan are covered as Capitated Services by the CDO.

(17) Chemical Dependency Services — Assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol and/or other drug abusing or dependent clients and their family members or significant others, consistent with Level I and/or Level II of the

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“Chemical Dependency Placement, Continued Stay, and Discharge Criteria.”

(18) 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).

(19) Children Receiving CAF Child Welfare or OYA Services — Individuals who are receiving medical assistance under ORS 414.025(2)(f), (i), (j), (k) and (o), 418.034, and 418.187 to 418.970. These individuals are generally children in the care and/or custody of Children, Adults and Families Services, Department of Human Services or Oregon Youth Authority who are in placement outside of their homes.

(20) Claim — (1) A bill for services, (2) a line item of a service, or (3) all services for one recipient within a bill.

(21) Clinical Record — The Clinical Record includes the medical, dental, or mental health records of an OHP Client or OMAP Member. These records include the PCP’s record, the inpatient and outpatient hospital records and the ENCC, Complaint and Disenrollment for cause records which may reside in the PHP’s administrative offices.

(22) Cold Call Marketing — Any unsolicited personal contact by a PHP with a Potential Member for the purpose of Marketing as defined in this rule.

(23) Comfort Care — The provision of medical services or items that give comfort and/or pain relief to an individual who has a Terminal Illness. Comfort care includes the combination of medical and related services designed to make it possible for an individual with Terminal Illness to die with dignity and respect and with as much comfort as is possible given the nature of the illness. Comfort Care includes but is not limited to care provided through a hospice program (see Hospice rules), pain medication, and palliative services including those services directed toward ameliorating symptoms of pain or loss of bodily function or to prevent additional pain or disability. Comfort Care includes nutrition, hydration and medication for disabled infants with life-threatening conditions that are not covered under Condition/Treatment Pairs. These guarantees are provided pursuant to 45 CFR, Chapter XIII, 1340.15. Where applicable Comfort Care is provided consistent with Section 4751 OBRA 1990 — Patient Self-Determination Act and ORS 127 relating to health care decisions as amended by the Sixty-Seventh Oregon Legislative Assembly, 1993. Comfort Care does not include diagnostic or curative care for the primary illness or care focused on active treatment of the primary illness and intended to prolong life.

(24) Community Mental Health Program (CMHP) — The organization of all services for persons with mental or emotional disorders and developmental disabilities operated by, or contractually affiliated with, a local Mental Health Authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the DHS Office of Mental Health and Addiction Services.

(25) Comorbid Condition — A medical condition/diagnosis (i.e., illness, disease and/or disability) coexisting with one or more other current and existing conditions/diagnoses in the same patient.

(26) Complaint — An OMAP Member’s or OMAP Member’s Representative’s expression of dissatisfaction to a PHP or Participating Provider about any matter other than an Action, as “Action” is defined in this Section.

(27) Community Standard — Typical expectations for access to the health care delivery system in the OMAP Member’s or PCM Member’s community of residence. Except where the Community Standard is less than sufficient to ensure quality of care, OMAP requires that the health care delivery system available to OMAP Members in Prepaid Health Plans and to PCM Members with Primary Care Managers take into consideration the Community Standard and be adequate to meet the needs of OMAP and PCM Members.

(28) Condition/Treatment Pair — Diagnoses described in the International Classification of Diseases Clinical Modifications, 9th edition (ICD-9 CM), the Diagnostic and Statistical Manual of Mental Disorders, 4th edition (DSM-IV), and treatments described in the Current Procedural Terminology, 4th edition (CPT-4) or American Dental Association Codes (CDT-2), or the DHS Office of Mental Health and Addiction Services Medicaid Procedure Codes and Reimbursement Rates, which, when paired by the Health Services Commission, constitute the line items in the Prioritized List of Health Services. Condition/Treatment Pairs may contain many diagnoses and treatments. The Condition/Treatment Pairs are listed in OAR 410-141-0520, Prioritized List of Health Services.

(29) Continuing Treatment Benefit — A benefit for OHP Clients who meet criteria for having services covered that were either in a course of

treatment or were scheduled for treatment on the day immediately prior to the date of conversion to the OHP Benefit Package of covered services and that treatment is not covered under the OHP Benefit Package of covered services.

(30) Co-payment — The portion of a covered service that an OMAP Member must pay to a provider or a facility. This is usually a fixed amount that is paid at the time one or more services are rendered.

(31) Contract — The contract between the State of Oregon, acting by and through its Department of Human Services (DHS), Office of Medical Assistance Programs (OMAP) and a Fully Capitated Health Plan (FCHP), Dental Care Organization (DCO), or a Chemical Dependency Organization (CDO), or between the Office of Mental Health and Addiction Services (OMHAS) and a Mental Health Organization (MHO) for the provision of covered services to eligible OMAP Members for a Capitation Payment. Also referred to as a Service Agreement.

(32) Dentally Appropriate — Services that are required for prevention, diagnosis or treatment of a dental condition and that are:

(a) Consistent with the symptoms of a dental condition or treatment of a dental condition;

(b) Appropriate with regard to standards of good dental practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of the Oregon Health Plan Member or a provider of the service;

(d) The most cost effective of the alternative levels of dental services that can be safely provided to an OMAP Member.

(33) Dental Care Organization (DCO) — A Prepaid Health Plan that provides and coordinates capitated dental services. All dental services covered under the Oregon Health Plan are covered as Capitated Services by the DCO; no dental services are paid by OMAP on a fee-for-service basis for Oregon Health Plan Clients enrolled with a DCO provider.

(34) Dental Case Management Services — Services provided to ensure that eligible OMAP Members obtain dental services including a comprehensive, ongoing assessment of the dental and medical needs related to dental care of the Member plus the development and implementation of a plan to ensure that eligible OMAP Members obtain Capitated Services.

(35) Dental Emergency Services — Dental services may include but are not limited to severe tooth pain, unusual swelling of the face or gums, and an avulsed tooth.

(36) Dental Practitioner — A practitioner who provides dental services to OMAP Members under an agreement with a DCO, or is a Fee-For-Service Health Care Practitioner. Dental practitioners are licensed and/or certified by the state in which they practice, as applicable, to provide services within a defined scope of practice.

(37) Department of Human Services (DHS) — DHS is made up of three program areas: Children, Adults and Families; Health Services; and Seniors and People with Disabilities. They are supported by the Director’s Office; Administrative Services; and Finance and Policy Analysis. The Office of Medical Assistance Programs and the Office of Mental Health and Addiction Services are part of the Health Services Cluster.

(38) Diagnostic Services — Those services required to diagnose a condition, including but not limited to radiology, ultrasound, other diagnostic imaging, electrocardiograms, laboratory and pathology examinations, and physician or other professional diagnostic or evaluative services.

(39) Disabled — Individuals who meet eligibility criteria established by the DHS Seniors and People with Disabilities for receipt of Medical Assistance because of a disability.

(40) Disenrollment — The act of discharging an Oregon Health Plan Client from a Prepaid Health Plan’s or Primary Care Manager’s responsibility. After the effective date of Disenrollment an Oregon Health Plan Client is no longer required to obtain Capitated Services from the Prepaid Health Plan or Primary Care Manager, nor be referred by the Prepaid Health Plan for Medical Case Managed Services or by the Primary Care Manager for PCM Case Managed Services.

(41) Dual Eligible — OHP Clients who are receiving both Medicaid and Medicare benefits.

(42) Emergency Medical Condition — 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 the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. An “Emergency Medical Condition” is determined based on the presenting symptoms (not the final diagnosis) as

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perceived by a prudent layperson (rather than a Health Care Professional) and includes cases in which the absence of immediate medical attention would not in fact have had the adverse results described in the previous sentence.

(43) Emergency Services — Covered Services furnished by a provider that is qualified to furnish these services and that are needed to evaluate or stabilize an Emergency Medical Condition.

(44) Enrollment — Oregon Health Plan Clients, subject to OAR 410-141-0060 — Oregon Health Plan Managed Care Enrollment Requirements, become OMAP Members of a Prepaid Health Plan or PCM Members of a Primary Care Manager that contracts with OMAP to provide Capitated Services. An OHP Client's Enrollment with a PHP indicates that the OMAP Member must obtain or be referred by the PHP for all Capitated Services and referred by the PHP for all Medical Case Managed Services subsequent to the effective date of Enrollment. An Oregon Health Plan Client's Enrollment with a Primary Care Manager indicates that the PCM Member must obtain or be referred by the Primary Care Manager for preventive and primary care and referred by the Primary Care Manager for all PCM Case Managed Services subsequent to the effective date of Enrollment.

(45) Enrollment Area — Client enrollment is based on the client's residential address and zip code. The address is automatically assigned a county code or Federal Information Processing Standard (FIPS) code by the system, which indicates to the DHS worker that Plan(s) are in the area.

(46) Enrollment Year — A twelve-month period beginning the first day of the month of Enrollment of the Oregon Health Plan Client in a PHP and, for any subsequent year(s) of continuous Enrollment, beginning that same day in each such year(s). The Enrollment Year of Oregon Health Plan Clients who re-enroll within a calendar month of Disenrollment shall be counted as if there were no break in Enrollment.

(47) End Stage Renal Disease (ESRD) — End stage renal disease is defined as that stage of kidney impairment that appears irreversible and requires a regular course of dialysis or kidney transplantation to maintain life. In general, 5% or less of normal kidney function remains. If the person is 36 or more months post-transplant, the individual is no longer considered to have ESRD.

(48) Exceptional Needs Care Coordination (ENCC) — A specialized case management service provided by Fully Capitated Health Plans to OMAP Members who are Aged, Blind or Disabled, consistent with OAR 410-141-0405, Oregon Health Plan Prepaid Health Plan Exceptional Needs Care Coordination (ENCC). ENCC includes:

(a) Early identification of those OMAP Members who are Aged, Blind or Disabled who have disabilities or complex medical needs;

(b) Assistance to ensure timely access to providers and Capitated Services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of Capitated Services and discharge planning; and

(e) Aid with coordinating community support and social service systems linkage with medical care systems, as necessary and appropriate.

(49) Family Health Insurance Assistance Program (FHIAP) — A program in which the State subsidizes premiums in the commercial market for uninsured individuals and families with income below 185% of the FPL. FHIAP is funded with federal and state funds through either Title XIX, XXI or both.

(50) Family Planning Services — Services for clients of childbearing age (including minors who can be considered to be sexually active) who desire such services and which are intended to prevent pregnancy or otherwise limit family size.

(51) Fee-for-Service Health Care Providers — Health care providers who bill for each service provided and are paid by OMAP for services as described in OMAP provider rules. Certain services are covered but are not provided by Prepaid Health Plans or by Primary Care Managers. The client may seek such services from an appropriate Fee-For-Service provider. Primary Care Managers provide primary care services on a fee-for-service basis and might also refer PCM Members to specialists and other providers for fee-for-service care. In some parts of the state, the State may not enter into contracts with any managed care providers. OHP Clients in these areas will receive all services from Fee-For-Service providers.

(52) FPL — Federal Poverty Level.

(53) Free-Standing Mental Health Organization (MHO) — The single MHO in each county that provides only mental health services and is not affiliated with a Fully Capitated Health Plan for that service area. In most cases this "carve-out" MHO is a county Community Mental Health

Program or a consortium of Community Mental Health Programs, but may be a private behavioral health care company.

(54) Fully Capitated Health Plan (FCHP) — Prepaid Health Plans that contract with OMAP to provide capitated services under the Oregon Health Plan. The distinguishing characteristic of FCHPs is the coverage of hospital inpatient services.

(55) Grievance System—The overall system that includes Complaints and Appeals handled at the PHP level and access to the state fair hearing process. (Possible subjects for Grievances include, but are not limited to, the quality of care or services provided and aspects of interpersonal relationships such as rudeness of a Provider or employee, or failure to respect the OMAP Member's rights.)

(56) Health Care Professionals — Persons with current and appropriate licensure, certification, or accreditation in a medical, mental health or dental profession, which include but are not limited to: Medical Doctors (including Psychiatrists), Dentists, Osteopathic Physicians, Psychologists, Registered Nurses, Nurse Practitioners, Licensed Practical Nurses, Certified Medical Assistants, Licensed Physicians Assistants, Qualified Mental Health Professionals (QMHPs), and Qualified Mental Health Associates (QMHA's), Dental Hygienists, Denturists, and Certified Dental Assistants. These professionals may conduct health, mental health or dental assessments of OMAP members and provide Screening Services to OHP Clients within their scope of practice, licensure or certification.

(57) Health Insurance Portability and Accountability Act (HIPAA) of 1996 — HIPAA is a federal law (Public Law 104-191, August 21, 1996) with the legislative objective to assure health insurance portability, reduce health care fraud and abuse, enforce standards for health information and guarantee security and privacy of health information.

(58) Health Maintenance Unit (HMU) — The OMAP unit responsible for adjustments to enrollments, retroactive Disenrollment and enrollment of newborns.

(59) Health Plan New/Noncategorical Client (HPN) — A person who is 19 years of age or older, is not pregnant, is not receiving Medicaid through another program and who must meet eligibility requirements in OAR 461-136-1100(2), in addition to all other OHP eligibility requirements to become an Oregon Health Plan Client.

(60) Health Services Commission — An eleven member commission that is charged with reporting to the Governor the ranking of health benefits from most to least important, and representing the comparable benefits of each service to the entire population to be served.

(61) Hospice Services — A public agency or private organization or subdivision of either that is primarily engaged in providing care to terminally ill individuals, is certified for Medicare and/or accredited by the Oregon Hospice Association, is listed in the Hospice Program Registry, and has a valid provider agreement.

(62) Hospital Hold — A hospital hold is a process that allows a hospital to assist an individual who is admitted to the hospital for an inpatient hospital stay to secure a date of request when the individual is unable to apply for the Oregon Health Plan due to inpatient hospitalization. OHP clients shall be exempted from mandatory enrollment with an FCHP, if clients become eligible through a hospital hold process and are placed in the Adults/Couples category.

(63) Line Items — Condition/Treatment Pairs or categories of services included at specific lines in the Prioritized List of Services developed by the Health Services Commission for the Oregon Health Plan Medicaid Demonstration Project.

(64) Local and Regional Allied Agencies include the following: local Mental Health Authority; Community Mental Health Programs; local DHS offices; Commission on Children and Families; Oregon Youth Authority; Department of Corrections; Housing Authorities; local health departments, including WIC Programs; local schools; special education programs; law enforcement agencies; adult and juvenile criminal justices; developmental disability services; chemical dependency providers; residential providers; state hospitals, and other PHPs.

(65) Marketing — Any communication from a PHP to a Medicaid recipient who is not enrolled in that PHP which can reasonably be interpreted as an attempt to influence the recipient:

(a) To enroll in that particular PHP;

(b) To either Disenroll or not to enroll with another PHP.

(66) Marketing Materials — Any medium produced by, or on behalf of, a PHP that can reasonably be interpreted as intended for Marketing as defined in this rule.

(67) Medicaid — A federal and state funded portion of the Medical Assistance Program established by Title XIX of the Social Security Act, as

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amended, and administered in Oregon by the Department of Human Services.

(68) Medical Assistance Program — A program for payment of health care provided to eligible Oregonians. Oregon's Medical Assistance Program includes Medicaid services including the OHP Medicaid Demonstration, and the Children's Health Insurance Program (CHIP). The Medical Assistance Program is administered by the Office of Medical Assistance Programs (OMAP), of the Department of Human Services. Coordination of the Medical Assistance Program is the responsibility of the Office of Medical Assistance Programs.

(69) Medical Care Identification — The preferred term for what is commonly called the "medical card." It is a letter-sized document issued monthly to Medical Assistance Program clients to verify their eligibility for services and enrollment in PHPs.

(70) Medical Case Management Services — Services provided to ensure that OMAP Members obtain health care services necessary to maintain physical and emotional development and health. Medical Case Management Services include a comprehensive, ongoing assessment of medical and/or dental needs plus the development and implementation of a plan to obtain needed medical or dental services that are Capitated Services or non-capitated services, and follow-up, as appropriate, to assess the impact of care.

(71) Medically Appropriate — Services and medical supplies that are required for prevention, diagnosis or treatment of a health condition which encompasses physical or mental conditions, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an Oregon Health Plan Client or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to an OMAP Member or PCM Member in the PHP's or Primary Care Manager's judgment.

(72) Medicare — The federal health insurance program for the Aged and Disabled administered by the Centers for Medicare and Medicaid Services under Title XVIII of the Social Security Act.

(73) Medicare HMO — A capitated health plan that meets specific referral lines and contracts with CMS to provide Medicare benefits to Medicare enrollees.

(74) Mental Health Assessment — The determination of an OMAP Member's need for mental health services. A Qualified Mental Health Professional collects and evaluates data pertinent to a Member's mental status, psychosocial history and current problems through interview, observation and testing.

(75) Mental Health Case Management — Services provided to OMAP Members who require assistance to ensure access to benefits and services from local, regional or state allied agencies or other service providers. Services provided may include: advocating for the OMAP Member's treatment needs; providing assistance in obtaining entitlements based on mental or emotional disability; referring OMAP Members to needed services or supports; accessing housing or residential programs; coordinating services, including educational or vocational activities; and establishing alternatives to inpatient psychiatric services. ENCC Services are separate and distinct from Mental Health Case Management.

(76) Mental Health Organization (MHO) — A Prepaid Health Plan under contract with the Office of Mental Health and Addiction Services that provides mental health services as capitated services under the Oregon Health Plan. MHOs can be Fully Capitated Health Plans, community mental health programs or private behavioral organizations or combinations thereof.

(77) Non-Capitated Services — Those OHP-covered services which are paid for on a fee-for-service basis and for which a capitation payment has not been made to a PHP.

(78) Non-covered services — Services or items for which the Medical Assistance Program is not responsible for payment. Services may be covered under the Oregon Medical Assistance Program, but not covered under the Oregon Health Plan. Non-covered services for the Oregon Health Plan are identified in:

(a) OAR 410-141-0500, Excluded Services and Limitations for Oregon Health Plan Clients;

(b) Exclusions and limitations described in OAR 410-120-1200; and

(c) The individual provider administrative rules.

(79) Non-Participating Provider — A provider who does not have a contractual relationship with the Prepaid Health Plan, i.e. is not on their panel of providers.

(80) Office of Medical Assistance Programs (OMAP) — The Office of the Department of Human Services responsible for coordinating Medical Assistance Programs, including the OHP Medicaid Demonstration, in Oregon and the Children's Health Insurance Program (CHIP). OMAP writes and administers the state Medicaid rules for medical services, contracts with providers, maintains records of client eligibility and processes and pays OMAP providers.

(81) Office of Mental Health and Addiction Services (OMHAS) — The Department of Human Services office responsible for the administration of the state's policy and programs for mental health, chemical dependency prevention, intervention, and treatment services.

(82) OMAP Member — An Oregon Health Plan Client enrolled with a Prepaid Health Plan.

(83) Ombudsman Services — Services provided by DHS to Aged, Blind and Disabled Oregon Health Plan Clients by DHS Ombudsman Staff who may serve as the Oregon Health Plan Client's advocate whenever the Oregon Health Plan Client, Representative, a physician or other medical personnel, or other personal advocate serving the Oregon Health Plan Client, is reasonably concerned about access to, quality of or limitations on the care being provided by a health care provider under the Oregon Health Plan. Ombudsman Services include response to individual complaints about access to care, quality of care or limits to care; and response to complaints about Oregon Health Plan systems.

(84) Oregon Health Plan (OHP) — The Medicaid demonstration project which expands Medicaid eligibility to eligible Oregon Health Plan Clients. The Oregon Health Plan relies substantially upon prioritization of health services and managed care to achieve the public policy objectives of access, cost containment, efficacy, and cost effectiveness in the allocation of health resources.

(85) Oregon Health Plan (OHP) Plus Benefit Package — A benefit package available to eligible Oregon Health Plan clients as described in OAR 410-120-1210, Medical Assistance Benefits: Excluded Services and Limitations and in OAR 410-120-0520, Prioritized List of Health Services.

(86) Oregon Health Plan (OHP) Standard Benefit Package — A benefit package available to eligible Oregon Health Plan clients who are not otherwise eligible for Medicaid (including families, adults and couples) as described in OAR 410-120-1210, Medical Assistance Benefits: Excluded Services and Limitations and in OAR 410-141-0520, Prioritized List of Health Services.

(87) Oregon Health Plan Client — An individual found eligible by DHS to receive services under the Oregon Health Plan. The individual is not yet enrolled with a PHP, but may or may not be enrolled with a Primary Care Manager. The OHP categories eligible to enroll in Prepaid Health Plans are defined as follows:

(a) Temporary Assistance to Needy Families (TANF) are categorically eligible with income under current eligibility rules;

(b) Children's Health Insurance Program (CHIP) — children under one year of age who have income under 170% FPL and do not meet one of the other eligibility classifications;

(c) Poverty Level Medical (PLM) Adults under 100% Federal Poverty Level (FPL) are OHP recipients who are pregnant women with income under 100% of FPL;

(d) PLM Adults over 100% FPL are OHP recipients who are pregnant women with income between 100% and 170% of the FPL;

(e) PLM children under one year of age have family income under 133% FPL or were born to mothers who were eligible as PLM Adults at the time of the child's birth;

(f) PLM or CHIP children one through five years of age who have family income under 170% FPL and do not meet one of the other eligibility classifications;

(g) PLM or CHIP children six through eighteen years of age who have family income under 170% FPL and do not meet one of the other eligibility classifications;

(h) OHP Adults and Couples are OHP recipients aged 19 or over and not Medicare eligible, with income below 100% FPL who do not meet one of the other eligibility classifications, and do not have an unborn child or a child under age 19 in the household;

(i) OHP Families are OHP recipients, aged 19 or over and not Medicare eligible, with income below 100% of FPL who do not meet one of the other eligibility classifications, and have an unborn child or a child under the age of 19 in the household;

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(j) General Assistance (GA) Recipients are OHP Clients who are eligible by virtue of their eligibility under the Oregon General Assistance program, ORS 411.710 et seq.;

(k) Assistance to Blind and Disabled (AB/AD) with Medicare Eligibles are OHP recipients with concurrent Medicare eligibility with income under current eligibility rules;

(l) AB/AD without Medicare Eligibles are OHP recipients without Medicare with income under current eligibility rules;

(m) Old Age Assistance (OAA) with Medicare Eligibles are OHP recipients with concurrent Medicare Part A or Medicare Parts A & B eligibility with income under current eligibility rules;

(n) OAA with Medicare Part B only are OAA eligibles with concurrent Medicare Part B only income under current eligibility rules;

(o) OAA without Medicare Eligibles are OHP recipients without Medicare with income under current eligibility rules;

(p) CAF Children are OHP recipients who are children with medical eligibility determined by Children, Adults and Families or the Oregon Youth Authority receiving OHP under ORS 414.025(2)(f), (I), (j), (k) and (o), 418.034 and 418.187 to 418.970. These individuals are generally in the care and/or custody of the Children, Adults and Families or the Oregon Youth Authority who are in placement outside of their homes.

(88) 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.

(89) Participating Provider — An individual, facility, corporate entity, or other organization which supplies medical, dental, chemical dependency services, or mental health services or medical and dental items and that has agreed to provide those services or items to OMAP Members under an agreement or contract with a PHP and to bill in accordance with the signed agreement or contract with a PHP.

(90) PCM Case Managed Services include the following: Preventive Services, primary care services and specialty services, including those provided by physicians, nurse practitioners, physician assistants, naturopaths, chiropractors, podiatrists, Rural Health Clinics, Migrant and Community Health Clinics, Federally Qualified Health Centers, County Health Departments, Indian Health Service Clinics and Tribal Health Clinics, Community Mental Health Programs, Mental Health Organizations; inpatient hospital services; and outpatient hospital services except laboratory, X-ray, and maternity management services.

(91) PCM Member — An Oregon Health Plan Client enrolled with a Primary Care Manager.

(92) PHP Coordinator — the DHS OMAP employee designated by OMAP as the liaison between OMAP and the PHP.

(93) Post Hospital Extended Care Benefit — A 20 day benefit for non-Medicare OMAP Members enrolled in a FCHP who meet Medicare criteria for a post-hospital skilled nursing placement.

(94) Post Stabilization Services — covered services, related to an Emergency Medical Condition that are provided after an OMAP Member is stabilized in order to maintain the stabilized condition or to improve or resolve the OMAP Member's condition.

(95) Potential OMAP Member — An OHP client who is subject to mandatory enrollment in managed care, or may voluntarily elect to enroll in a managed care program, but is not yet enrolled with a specific PHP.

(96) 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.

(97) Prepaid Health Plan (PHP) — A managed health, dental, chemical dependency, or mental health care organization that contracts with OMAP and/or OMHAS on a case managed, prepaid, capitated basis under the Oregon Health Plan. Prepaid Health Plans may be Dental Care Organizations (DCOs), Fully Capitated Health Plans (FCHPs), Mental Health Organizations (MHOs), or Chemical Dependency Organizations (CDOs).

(98) Preventive Services — Those services as defined under Expanded Definition of Preventive Services for Oregon Health Plan clients in OAR 410-141-0480, The Oregon Health Plan Benefit Package of covered services, and OAR 410-141-0520, Prioritized List of Health Services.

(99) Primary Care Management Services — Primary Care Management Services are services provided to ensure PCM Members obtain health care services necessary to maintain physical and emotional development and health. Primary Care Management Services include a comprehensive, ongoing assessment of medical needs plus the development, and implementation of a plan to obtain needed medical services that

are preventive or primary care services or PCM Case Managed Services and follow-up, as appropriate, to assess the impact of care.

(100) Primary Care Manager (PCM) — A physician (MD or DO), nurse practitioner, physician assistant; or naturopath with physician back-ups, who agrees to provide Primary Care Management Services as defined in rule to PCM Members. Primary Care Managers may also be hospital primary care clinics, Rural Health Clinics, Migrant and Community Health Clinics, Federally Qualified Health Centers, County Health Departments, Indian Health Service Clinics or Tribal Health Clinics. The PCM provides Primary Care Management Services to PCM Members for a Capitation Payment. The PCM provides preventive and primary care services on a fee-for-service basis.

(101) Primary Care Dentist (PCD) — A Dental Practitioner who is responsible for supervising, coordinating initial and primary dental care within their scope of practice for OMAP Members. Primary Care Dentists initiate referrals for care outside their scope of practice, consultations and specialist care, and assure the continuity of appropriate dental or medical care.

(102) Primary Care Provider (PCP) — A practitioner who has responsibility for supervising, coordinating initial and primary care within their scope of practice for OMAP Members, Primary care providers initiate referrals for care outside their scope of practice, consultations and specialist care, and assure the continuity of medically or dental appropriate care.

(103) Prioritized List of Health Services — The listing of condition and treatment pairs developed by the Health Services Commission for the purpose of implementing the Oregon Health Plan Demonstration Project. See OAR 410-141-0520, Prioritized List of Health Services, for the listing of condition and treatment pairs.

(104) Proof of Indian Heritage — Proof of Native American and/or Alaska Native descent as evidenced by written identification that shows status as an "Indian" in accordance with the Indian Health Care Improvement Act (P.L. 94-437, as amended). This written proof supports his/her eligibility for services under programs of the Indian Health Service — services provided by Indian Health Service facilities, tribal health clinics/programs or urban clinics. Written proof may be a tribal identification card, a certificate of degree of Indian blood, or a letter from the Indian Health Service verifying eligibility for health care through programs of the Indian Health Service.

(105) Provider — An individual, facility, institution, corporate entity, or other organization which supplies medical, dental or mental health services or medical and dental items.

(106) Quality Improvement — Quality improvement is the effort to improve the level of performance of a key process or processes in health services or health care. A quality improvement program measures the level of current performance of the processes, finds ways to improve the performance and implements new and better methods for the processes. Quality Improvement (as used in these rules) includes the goals of quality assurance, quality control, quality planning and quality management in health care where "quality of care is the degree to which health services for individuals and populations increases the likelihood of desired health outcomes and are consistent with current professional knowledge."

(107) Representative — A person who can make Oregon Health Plan related decisions for Oregon Health Plan Clients who are not able to make such decisions themselves. A Representative may be, in the following order of priority, a person who is designated as the Oregon Health Plan Client's health care representative, a court-appointed guardian, a spouse, or other family member as designated by the Oregon Health Plan client, the Individual Service Plan Team (for developmentally disabled clients), a DHS case manager or other DHS designee.

(108) Rural — A geographic area 10 or more map miles from a population center of 30,000 people or less.

(109) Seniors and People with Disabilities (SPD) — The Cluster within DHS responsible for providing services such as:

(a) Assistance with the cost of long-term care through the Medicaid Long Term Care Program and the Oregon Project Independence (OPI) Program;

(b) Cash assistance grants for persons with long-term disabilities through General Assistance and the Oregon Supplemental Income Program (OSIP); and

(c) Administration of the federal Older Americans Act.

(110) Service Area — The geographic area in which the PHP has identified in their Contract or Agreement with DHS to provide services under the Oregon Health Plan.

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(111) Stabilize — no material deterioration of the Emergency Medical Condition is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility.

(112) Urgent Care Services — Covered Services that are Medically Appropriate and immediately required in order to prevent a serious deterioration of an OMAP Member's health that results from an unforeseen illness or an injury. Services that can be foreseen by the individual are not considered Urgent Services.

(113) Terminal Illness — An illness or injury in which death is imminent irrespective of treatment, where the application of life-sustaining procedures or the artificial administration of nutrition and hydration serves only to postpone the moment of death.

(114) Triage — Evaluations conducted to determine whether or not an emergency condition exists, and to direct the OMAP Member to the most appropriate setting for Medically Appropriate care.

(115) Urban — A geographic area less than 10 map miles from a population center of 30,000 people or more.

(116) Urgent Care Services — covered services required in order to prevent a serious deterioration of an OMAP Member's or PCM Member's health that results from an unforeseen illness or an injury. Services that can be foreseen by the individual are not considered Urgent Services.

(117) Valid Claim — An invoice received by the PHP for payment of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the service or from a third party; and

(b) Has been received within the time limitations prescribed in these Rules; and

(c) A Valid Claim means a Claim received by a PHP for payment of Covered Services rendered to an OMAP client which (1) Can be processed without obtaining additional information from the Provider of the service or from a third party; and (2) Has been received within the time limitations prescribed in OHP Rules. A Valid Claim does not include a Claim from a Provider who is under investigation for fraud or abuse, or a Claim under review for Medical Appropriateness. A Valid Claim is synonymous with the federal definition of a Clean Claim as defined in 42 CFR 447.45(b).

(118) Valid Pre-Authorization — A request received by the PHP for approval of the provision of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the service or from a third party; and

(b) Has been received within the time limitations prescribed in these Rules.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 13-2002, f. & cert. ef. 4-1-02; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04

410-141-0080

Oregon Health Plan (OHP) Disenrollment from Prepaid Health Plans (PHPs)

(1) OMAP Member Requests for Disenrollment:

(a) All Oregon Health Plan (OHP) OMAP Member-initiated requests for Disenrollment from a Prepaid Health Plan (PHP) must be initiated, orally or in writing, by the primary person in the benefit group enrolled with a PHP, where primary person and benefit group are defined in OAR 461-110-0110 and 461-110-0720, respectively. For OMAP Members who are not able to request Disenrollment on their own, the request may be initiated by the OMAP Member's Representative;

(b) Primary person or Representative requests for Disenrollment shall be honored:

(A) Without cause:

(i) After six months of OMAP Member's Enrollment. The effective date of Disenrollment shall be the first of the month following the Department's approval of Disenrollment;

(ii) Whenever an OMAP Member's eligibility is redetermined by the Department of Human Services (DHS) and the primary person requests Disenrollment without cause. The effective date of Disenrollment shall be the first of the month following the date that the OMAP Member's eligibility is redetermined by the Department;

(B) With cause:

(i) At any time;

(ii) OMAP Members who disenroll from a Medicare Health Maintenance Organization (HMO) shall also be Disenrolled from the corresponding Fully Capitated Health Plan (FCHP). The effective date of Disenrollment shall be the first of the month that the OMAP Member's Medicare HMO Disenrollment is effective;

(iii) OMAP Members who are receiving Medicare and who are enrolled in a FCHP that has a corresponding Medicare HMO/Medicare+Choice (M+C) component may disenroll from the FCHP at any time if they also request Disenrollment from the Medicare HMO. The effective date of Disenrollment from the FCHP shall be the first of the month following the date of request for Disenrollment;

(iv) PHP does not, because of moral or religious objections, cover the service the OMAP Member seeks;

(v) The OMAP Member needs related services (for example a cesarean section and a tubal ligation) to be performed at the same time, not all related services are available within the network, and the OMAP Members' Primary Care Provider or another Provider determines that receiving the services separately would subject the OMAP Member to unnecessary risk; or

(vi) Other reasons, including but not limited to, poor quality of care, lack of access to services covered under the Contract, or lack of access to Participating Providers experienced in dealing with the OMAP Member's health care needs. Examples of sufficient cause include but are not limited to:

(I) The OMAP Member moves out of the PHP's Service Area;

(II) It would be detrimental to the OMAP Member's health to remain enrolled in the PHP;

(III) The OMAP Member is a Native American or Alaskan Native with Proof of Indian Heritage who wishes to obtain primary care services from his or her Indian Health Service facility, tribal health clinic/program or urban clinic and the Fee-For-Service (FFS) delivery system;

(IV) Continuity of care that is not in conflict with any section of 410-141-0060 or 410-141-0080.

(C) If the following conditions are met:

(i) The applicant is in the third trimester of her pregnancy and has just been determined eligible for OHP, or the OHP Client has just been re-determined eligible and was not enrolled in a FCHP within the past 3 months; and

(ii) The new FCHP the OMAP Member is enrolled with does not contract with the OMAP Member's current OB Provider and the OMAP Member wishes to continue obtaining maternity services from that Non-Participating OB Provider; and

(iii) The request to change FCHPs or return to FFS is made prior to the date of delivery.

(c) In addition to the Disenrollment constraints listed in (b), above, OMAP Member Disenrollment requests are subject to the following requirements:

(A) The OMAP Member shall join another PHP, unless the OMAP Member resides in a Service Area where Enrollment is voluntary, or the OMAP Member meets the exemptions to Enrollment as stated in 410-141-0060(4);

(B) If the only PHP available in a mandatory Service Area is the PHP from which the OMAP Member wishes to disenroll, the OMAP Member may not disenroll without cause;

(C) The effective date of Disenrollment shall be the end of the month in which Disenrollment was requested unless retroactive Disenrollment is approved by OMAP;

(D) If the Department fails to make a Disenrollment determination by the first day of the second month following the month in which the OMAP Member files a request for Disenrollment, the Disenrollment is considered approved.

(2) Prepaid Health Plan requests for Disenrollment:

(a) Causes for Disenrollment:

(A) OMAP may Disenroll OMAP Members for cause when requested by the PHP subject to ADA requirements and approval by the Centers for Medicare and Medicaid Services (CMS), if a Medicare member Disenrolled in a FCHP's Medicare HMO/M+C. Examples of cause include, but are not limited to the following:

(i) Missed appointments. The number of missed appointments is to be established by the Provider or PHP. The number must be the same as for commercial members or patients. The Provider must document they have attempted to ascertain the reasons for the missed appointments and to assist the OMAP Member in receiving services. This rule does not apply to Medicare members who are enrolled in a FCHP's Medicare HMO/M+C;

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(ii) OMAP Member's behavior is disruptive, unruly, or abusive to the point that his/her Enrollment seriously impairs the Provider's ability to furnish services to either the OMAP Member or other members, except as excluded in (b)(B)(vii);

(iii) OMAP Member commits or threatens an act of physical violence directed at a medical Provider or property, the Provider's staff, or other patients, or the PHP's staff;

(iv) OMAP Member commits fraudulent or illegal acts such as: permitting use of his/her medical ID card by others, altering a prescription, theft or other criminal acts committed in any Provider or PHP's premises. The PHP shall report any illegal acts to law enforcement authorities or to the office for Children, Adults and Families (CAF) Fraud Unit as appropriate;

(v) OHP Clients who have been exempted from mandatory Enrollment with a FCHP, due to the OHP Client's eligibility through a hospital hold process and placed in the Adults/Couples category as required under 410-141-0060 (4) (b) (C);

(vi) OMAP Member fails to pay co-payment(s) for Covered Services as described in OAR 410-120-1230 and/or 410-120-1235.

(B) OMAP Members shall not be disenrolled solely for the following reasons:

(i) Because of a physical or mental disability;

(ii) Because of an adverse change in the OMAP Member's health;

(iii) Because of the OMAP Member's utilization of services, either excessive or lack thereof;

(iv) Because the OMAP Member requests a hearing;

(v) Because the OMAP Member has been diagnosed with End Stage Renal Disease (ESRD);

(vi) Because the OMAP Member exercises his/her option to make decisions regarding his/her medical care with which the PHP disagrees;

(vii) Because of uncooperative or disruptive behavior resulting from the OMAP Member's special needs (except when continued Enrollment seriously impairs the PHP's ability to furnish services to either this OMAP Member or other members.

(C) Requests by the PHP for Disenrollment of specific OMAP Members shall be submitted in writing to their PHP Coordinator for approval. The PHP must document the reasons for the request, provide written evidence to support the basis for the request, and document that attempts at intervention were made as described below. The procedures cited below must be followed prior to requesting Disenrollment of an OMAP Member (except in cases of threats or acts of physical violence, and fraudulent or illegal acts). In cases of threats or acts of physical violence, OMAP will consider an oral request for Disenrollment, with written documentation to follow: In cases of fraudulent or illegal acts, the PHP must submit written documentation for review by the OMAP PHP Coordinators:

(i) There shall be notification from the Provider to the PHP at the time the problem is identified. The notification must describe the problem and allow time for appropriate intervention by the PHP. Such notification shall be documented in the OMAP Member's Clinical Record. The PHP shall conduct Provider education regarding the need for early intervention and the services they can offer the Provider;

(ii) The PHP shall contact the OMAP Member either verbally or in writing, depending on the severity of the problem, to develop an agreement regarding the issue(s). If contact is verbal, it shall be documented in the OMAP Member's record. The PHP shall inform the OMAP Member that his/her continued behavior may result in Disenrollment from the PHP;

(iii) The PHP shall provide individual education, counseling, and/or other interventions in a serious effort to resolve the problem;

(iv) The PHP shall contact the OMAP Member's DHS caseworker regarding the problem and, if needed, involve the caseworker and other appropriate agencies' caseworkers in the resolution;

(v) If the severity of the problem and intervention warrants, the PHP shall develop a care plan that details how the problem is going to be addressed and/or coordinate a case conference. Involvement of Provider, caseworker, OMAP Member, family, and other appropriate agencies is encouraged. If necessary, the PHP shall obtain an authorization for release of information from the OMAP Member for the Providers and agencies in order to involve them in the resolution of the problem. If the release is verbal, it must be documented in the OMAP Member's record;

(vi) If a Primary Care Provider (PCP) terminates the Provider/patient relationship, the PHP shall attempt to locate another PCP on their panel who will accept the OMAP Member as their patient. If needed, the PHP shall obtain an authorization for release of information from the OMAP Member in order to share the information necessary for a new Provider to evaluate if they can treat the OMAP Member. All terminations of

Provider/patient relationships shall be according to the PHP's policies and must be consistent with PHP or PCP's policies for commercial members.

(D) If the problem persists, the PHP may request Disenrollment of the OMAP Member by submitting a written request to Disenroll the OMAP Member to the PHP's OMAP PHP Coordinator, with a copy to the OMAP Member's caseworker. Documentation with the request shall include the following:

(i) The reason the PHP is requesting Disenrollment; a summary of the PHP's efforts to resolve the problem and other options attempted before requesting Disenrollment;

(ii) Documentation should be objective, with as much specific details and direct quotes as possible when problems involve disruptive, unruly, abusive or threatening behaviors;

(iii) Where appropriate, background documentation including a description of the OMAP Member's age, diagnosis, mental status (including their level of understanding of the problem and situation), functional status (their level of independence) and social support system;

(iv) Where appropriate, separate statements from PCPs, caseworker and other agencies, Providers or individuals involved;

(v) If reason for the request is related to the OMAP Member's substance abuse treatment, the PHP shall notify the OHP Coordinator in the Office of Mental Health and Addiction Services;

(vi) If the OMAP Member is disabled, the following documentation shall also be submitted as appropriate:

(I) A written assessment of the relationship of the behavior to the disability including: current medical knowledge or best available objective evidence to ascertain the nature, duration and severity of the risk to the health or safety of others; the probability that potential injury to others will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk to others;

(II) An interdisciplinary team review that includes a mental health professional and/or behavioral specialists to assess the behavior, the behavioral history, and previous history of efforts to manage behavior;

(III) If warranted, a clinical assessment that the behavior will not respond to reasonable clinical or social interventions;

(IV) Documentation of any accommodations that have been attempted;

(V) Any additional information or assessments requested by the OMAP PHP Coordinators.

(E) Requests will be reviewed according to the following process:

(i) If there is sufficient documentation, the request will be evaluated by a team of PHP Coordinators who may request additional information from Ombudsmen, mental health or other agencies as needed;

(ii) If there is not sufficient documentation, the PHP Coordinator will notify the PHP what additional documentation is required before the request can be considered;

(iii) The PHP Coordinators will review the request and notify the PHP of the decision within ten working days of receipt. Written decisions, including reasons for denials, will be sent to the PHP within 15 working days from receipt of request;

(iv) If the request is approved, the Disenrollment date is 30 days after the date of approval, except as provided in (F) and (G) below. The PHP must send the OMAP Member a letter within 14 days after the request was approved, with a copy to the OMAP Member's DHS caseworker and OMAP's Health Management Unit (HMU), except in cases where the OMAP Member is also enrolled in a FCHP's Medicare HMO/M+C. The letter must give the Disenrollment date, the reason for Disenrollment, and the notice of OMAP Member's right to file a Complaint (as specified in 410-141-0260 through 410-141-0266) and to request an Administrative Hearing;

(v) In cases where the OMAP Member is also enrolled in a FCHP's Medicare HMO/M+C, the letter shall be sent after the approval by CMS and the date of Disenrollment shall be the date of Disenrollment as approved by CMS. If CMS does not approve the Disenrollment, the OMAP Member shall not be disenrolled from the PHP's OHP Plan;

(vi) If the OMAP Member requests a hearing, the OMAP Member will continue to be disenrolled until a hearing decision reversing that Disenrollment has been mailed to the OMAP Member and the PHP;

(vii) The PHP Coordinator will determine when Enrollment in another PHP or with a PCM is appropriate. The PHP Coordinator will contact the OMAP Member's DHS caseworker to arrange Enrollment;

(viii) When the Disenrollment date has been determined, HMU sends a letter to the OMAP Member with a copy to the OMAP Member's DHS caseworker and the PHP. The letter shall inform the OMAP Member of the requirement to be enrolled in another PHP.

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(F) If the PHP Coordinator approves a PHP's request for Disenrollment because the OMAP Member threatens or commits an act of physical violence directed at a medical Provider, the Provider's staff, or other patients, the following procedures shall apply:

(i) OMAP shall inform the OMAP Member of the Disenrollment decision in writing, including the right to request an Administrative Hearing;

(ii) The OMAP Member shall be Disenrolled as of the date of the PHP's request for Disenrollment;

(iii) All OMAP Members in the OMAP Member's benefit group, as defined in OAR 461-110-0720, may be Disenrolled if the PHP requests;

(iv) OMAP may require the OMAP Member and/or the benefit group to obtain services from FFS Providers or a PCM until such time as they can be enrolled in another PHP;

(v) At the time of Enrollment into another PHP, OMAP shall notify the new PHP that the OMAP Member and/or benefit group were previously Disenrolled from another PHP at that PHP's request.

(G) If the PHP Coordinator approves the PHP's request for Disenrollment because the OMAP Member commits fraudulent or illegal acts as stated in 410-141-0080(2)(a), the following procedures shall apply:

(i) The PHP shall inform the OMAP Member of the Disenrollment decision in writing, including the right to request an Administrative Hearing;

(ii) The OMAP Member shall be Disenrolled as of the date of the PHP's request for Disenrollment;

(iii) At the time of Enrollment into another PHP, OMAP shall notify the new PHP that the OMAP Member and/or benefit group were previously Disenrolled from another PHP at that PHP's request;

(iv) If an OMAP Member who has been Disenrolled for cause is reenrolled in the PHP, the PHP may request a Disenrollment review by the PHP's PHP Coordinator. An OMAP Member may not be Disenrolled from the same PHP for a period of more than 12 months. If the OMAP Member is reenrolled after the 12-month period and is again Disenrolled for cause, the Disenrollment will be reviewed by DHS for further action.

(b) Other reasons for the PHP's requests for Disenrollment include the following:

(A) If the OMAP Member is enrolled in the FCHP or MHO on the same day the OMAP Member is admitted to the hospital, the FCHP or MHO shall be responsible for said hospitalization. If the OMAP Member is enrolled after the first day of the inpatient stay, the OMAP Member shall be Disenrolled, and the date of Enrollment shall be the next available Enrollment date following discharge from inpatient hospital services;

(B) The OMAP Member has surgery scheduled at the time their Enrollment is effective with the PHP, the Provider is not on the PHP's Provider panel, and the OMAP Member wishes to have the services performed by that Provider;

(C) The Medicare member is enrolled in a Medicare Cost Plan and was receiving Hospice Services at the time of Enrollment in the PHP;

(D) The OMAP Member had End Stage Renal Disease at the time of Enrollment in the PHP;

(E) Excluding the DCO, the PHP determines that the OMAP Member has a third party insurer. If after contacting The Health Insurance Group, the Disenrollment is not effective the following month, PHP may contact HMU to request Disenrollment;

(F) If a PHP has knowledge of an OMAP Member's change of address, PHP shall notify DHS. DHS will verify the address information and Disenroll the OMAP Member from the PHP, if the OMAP Member no longer resides in the PHP's Service Area. OMAP Members shall be Disenrolled if out of the PHP's Service Area for more than three (3) months, unless previously arranged with the PHP. The effective date of Disenrollment shall be the date specified by OMAP and OMAP will recoup the balance of that month's Capitation Payment from the PHP;

(G) The OMAP Member is an inmate who is serving time for a criminal offense or confined involuntarily in a State or Federal prison, jail, detention facility, or other penal institution. This does not include OMAP Members on probation, house arrest, living voluntarily in a facility after their case has been adjudicated, infants living with an inmate, or inmates who become inpatients. The PHP is responsible for identifying the OMAP Members and providing sufficient proof of incarceration to HMU for review of the Disenrollment request. OMAP will approve requests for Disenrollment from PHPs for OMAP Members who have been incarcerated for at least fourteen (14) calendar days and are currently incarcerated. FCHPs are responsible for inpatient services only during the time an OMAP Member was an inmate;

(H) The OMAP Member is in a state psychiatric institution.

(3) OMAP Initiated Disenrollments:

(a) OMAP may initiate and Disenroll OMAP Members as follows:

(A) If OMAP determines that the OMAP Member has sufficient third party resources such that health care and services may be cost effectively provided on a FFS basis, OMAP may Disenroll the OMAP Member. The effective date of Disenrollment shall be the end of the month in which OMAP makes such a determination. OMAP may specify a retroactive effective date of Disenrollment if the OMAP Member's third party coverage is through the PHP, or in other situations agreed to by the PHP and OMAP;

(B) If the OMAP Member moves out of the PHP's Service Area(s), the effective date of Disenrollment shall be the date specified by OMAP and OMAP will recoup the balance of that month's Capitation Payment from the PHP;

(C) If the OMAP Member is no longer eligible under the Oregon Health Plan Medicaid Demonstration Project or Children's Health Insurance Program, the effective date of Disenrollment shall be the date specified by OMAP;

(D) If the OMAP Member dies, the effective date of Disenrollment shall be the end of the month following the date of death;

(E) When a non-Medicare contracting PHP is assumed by another PHP that is a Medicare HMO/M+C, OMAP Members with Medicare shall be Disenrolled from the existing PHP. The effective date of Disenrollment shall be the day prior to the month the new PHP assumes the existing PHP;

(F) If OMAP determines that Contractor's OMAP Member has enrolled with their Employer Sponsored Insurance (ESI) through FHIAP the effective date of the Disenrollment shall be the OMAP Member's effective date of coverage with FHIAP.

(b) Unless specified otherwise in these rules or in the OMAP notification of Disenrollment to the PHP, all Disenrollments are effective the end of the month after the request for Disenrollment is approved by OMAP;

(c) OMAP shall inform the OMAP Members of the Disenrollment decision in writing, including the right to request an Administrative Hearing. Oregon Health Plan Clients may request an OMAP hearing if they dispute a Disenrollment decision by OMAP;

(d) If the OHP Client requests a hearing, the OHP Client will continue to be Disenrolled until a hearing decision reversing that Disenrollment has been mailed to the OHP Client.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 33-1994, f. & cert. ef. 11-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 21-1996(Temp), f. & cert. ef. 11-1-96; HR 11-1997, f. 3-28-97, cert. ef. 4-1-97; HR 14-1997, f. & cert. ef. 7-1-97; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 49-1998(Temp), f. 12-31-98, cert. ef. 1-1-99 thru 6-30-99; Administrative correction 8-9-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 24-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04

410-141-0140

Oregon Health Plan Prepaid Health Plan Emergency and Urgent Care Services

(1) PHPs shall have written policies and procedures and monitoring systems that ensure the provision of appropriate Urgent, Emergency, and Triage services 24-hours a day, 7-days-a-week for all OMAP Members. PHPs shall:

(a) Communicate these policies and procedures to Participating Providers;

(b) Regularly monitor Participating Providers' compliance with these policies and procedures; and

(c) Take any corrective action necessary to ensure Participating Providers compliance. PHPs shall document all monitoring and corrective action activities.

(2) PHPs shall have written policies and procedures and monitoring processes to ensure that a Practitioner provides a Medically or Dentally Appropriate response as indicated to urgent or emergency calls consisting of the following elements:

(a) Telephone or face-to-face evaluation of the OMAP Member to determine the nature of the situation and the OMAP Member's immediate need for services;

(b) Capacity to conduct the elements of an assessment that is needed to determine the interventions necessary to begin stabilizing the urgent or emergency situation;

(c) Development of a course of action at the conclusion of the assessment;

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(d) Provision of services and/or referral needed to address the urgent or emergency situation, begin Post-Stabilization Care or provide outreach services in the case of an MHO;

(e) Provision for notifying a referral emergency room, when applicable concerning the presenting problem of an arriving OMAP Member, and whether or not the Practitioner will meet the OMAP Member at the emergency room; and

(f) Provision for notifying other Providers requesting approval to treat OMAP Members of the determination.

(3) PHPs shall ensure the availability of an after-hours call-in system adequate to Triage urgent care and emergency calls from OMAP Members. Urgent calls shall be returned appropriate to the OMAP Member's condition but in no event more than 30 minutes after receipt. If information is not adequate to determine if the call is urgent, the call shall be returned within 60 minutes in order to fully assess the nature of the call. If information is adequate to determine the call may be emergent in nature, the call shall be returned immediately.

(4) If a screening examination in an Emergency Room leads to a clinical determination by the examining physician that an actual emergency medical condition exists under the prudent layperson standard as defined in Emergency Services, the PHP must pay for all services required to stabilize the patient. The PHP may not require prior authorization for Emergency Services:

(a) The PHP may not retroactively deny a claim for an emergency screening examination because the condition, which appeared to be an emergency medical condition under the prudent layperson standard, turned out to be non-emergency in nature;

(b) The PHP may not limit what constitutes an emergency medical condition based on lists of diagnoses or symptoms;

(c) The PHP may not deny a claim for emergency services merely because the Primary Care Physician (PCP) was not notified, or because the PHP was not billed within 10 calendar days of the service.

(5) When an OMAP Member's Primary Care Provider, designated Practitioner or other health plan representative instructs the OMAP Member to seek emergency care, in or out of the network, the PHP is responsible for payment of the screening examination and for other Medically Appropriate services. The PHP is responsible for payment of Post-Stabilization Care that was:

(a) Pre-authorized by the PHP; or

(b) Not pre-authorized by the PHP if the PHP (or the on-call Provider) failed to respond to a request for pre-authorization within one hour of the request being made, or the PHP or Provider on call could not be contacted;

(c) If the PHP and the treating physician cannot reach an agreement concerning the OMAP Member's care and a PHP representative is not available for consultation, the PHP must give the treating physician the opportunity to consult with a PHP physician and the treating physician may continue with care of the patient until a PHP physician is reached or one of the following criteria is met:

(A) The Participating Provider with privileges at the treating hospital assumes responsibilities for the OMAP Member's care;

(B) The Participating Provider assumes responsibility for the OMAP Member's care through transfer;

(C) A Contractor representative and the treating physician reach an agreement concerning the OMAP Member's care; or

(D) The OMAP Member is discharged.

(6) PHPs shall have methods for tracking inappropriate use of emergency care and shall take action, including individual OMAP Member counseling, to improve appropriate use of urgent and emergency care settings. DCOs and MHOs shall be responsible for taking action to improve appropriate use of urgent and emergency care settings for dental or mental health related care when inappropriate use of emergency care is made known to them through reporting or other mechanisms.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04

410-141-0280

Oregon Health Plan Prepaid Health Plan Informational Requirements

(1) Prepaid Health Plans (PHPs) shall develop informational materials for potential Office of Medical Assistance Programs (OMAP) Members:

(a) PHPs shall provide OMAP and/or Office of Mental Health and Addiction Services (OMHAS) with informational materials sufficient for the potential OMAP Member to make an informed decision about PHP selection and Enrollment. Information on Participating Providers must be

made available from the PHP, upon request to potential OMAP Members, and must include Participating Providers' name, location, qualification and the availability of the PCP, clinic and specialists. Informational materials may be included in the application packet for potential OMAP Members;

(b) PHPs shall ensure that all PHP's staff who have contact with potential OMAP Members are fully informed of PHP and OMAP and/or OMHAS policies, including Enrollment, Disenrollment, Complaint and Grievance policies and the provision of interpreter services including which Participating Providers' offices have bilingual capacity;

(c) PHPs shall cooperate and provide accurate information to OMAP for the updating of the comparison charts.

(2) Informational materials that PHPs develop for OMAP Members and Potential OMAP Members shall meet the language requirements of, and be culturally sensitive to the PHP's OMAP membership including members with disabilities or reading limitations, and including substantial populations whose primary language is not English in its particular Service Area(s)

(a) PHPs shall be required to follow OMAP's substantial household criteria required by ORS 411.062, which determines and identifies those populations that are considered non-English speaking households; however, PHP shall only be responsible for those identified languages, if the substantial population is 35 or more non-English speaking households with the same language in its Service Area. The PHP shall be required to provide informational materials, which at a minimum, shall include the OMAP Member handbook and information about Complaints and Appeals in the primary language of each substantial population. Alternative forms may include, but are not limited to audio tapes, close-captioned videos, large type and Braille;

(b) Form correspondence sent to OMAP Members, including but not limited to, Enrollment information, choice and OMAP Member counseling letters and denial of service notices shall include instructions in the appropriate languages of each substantial population of non-English speaking OMAP Members on how to receive an oral translation of the material;

(c) All written informational materials distributed to OMAP Members shall be written at the sixth grade reading level and printed in 12 point print or larger;

(d) PHPs shall provide written notice to affected OMAP Members of any significant changes in program or service sites that impacts the OMAP Members' ability to access care or services from PHP's Participating Providers. Such notice shall be provided at least 30 calendar days prior to the effective date of that change, or as soon as possible if the Participating Provider(s) has not given the PHP sufficient notification to meet the 30 days notice requirement. OMAP and/or OMHAS will review and approve such materials within two working days.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04

410-141-0300

Oregon Health Plan Prepaid Health Plan Member Education

DHS: Department of Human Services

ENCC: Exceptional Needs Care Coordination

FCHP: FullyCapitated Health Plans

PCD: Primary Care Dentist

PCP: Primary Care Provider

PHP: Prepaid Health Plan

OHP: Oregon Health Plan

OMHAS: Office of Mental Health and Addiction Services

OMAP: Office of Medical Assistance Programs

(1) PHPs shall have an ongoing process of OMAP Member education and information sharing that includes orientation to the PHP, a PHP OMAP Member handbook and health education. OMAP Member education shall include:

(a) The availability of ENCC through FCHPs for OMAP Members with special health care needs, who are Aged, Blind or Disabled; and

(b) The appropriate use of the delivery system, including a proactive and effective education of OMAP Members on how to access Emergency Services and Urgent Care Services appropriately.

(2) PHPs shall offer PHP orientation to new OMAP Members by mail, phone, or in person within 30 days of Enrollment unless no address can be obtained, a telephone number is not provided by OMAP, and a DHS agency is unable to assist in delivering the information to the OMAP Member.

(3) PHP OMAP Member handbook materials:

(a) The PHP OMAP Member handbook shall be made available for new OMAP Members, as described in OAR 410-141-0280, Oregon Health

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Plan PHP Informational Requirements, and shall be distributed within 14 calendar days of the OMAP Member's effective date of coverage with PHP;

(b) At a minimum the information in the PHP OMAP Member handbook shall contain the following elements:

(A) Location(s), office hours and availability of physical access for OMAP Members with disabilities to PHP and PHP's PCPs, PCDs offices;

(B) Telephone number(s) (including TTY) for OMAP Members to call for more information and telephone numbers relating to information listed below;

(C) OMAP Member's choice and use of PCPs, PCDs and policies on changing PCPs, PCDs;

(D) Use of the PHP's appointment system;

(E) Use of the PHP's referral system, including procedures for obtaining benefits, including authorization requirements;

(F) How OMAP Members are to access Urgent Care Services and advice;

(G) How and when OMAP Members are to use Emergency Services including information on Post-Stabilization Care Services, related to an emergency medical condition that are provided after an OMAP Member is stabilized in order to maintain the stabilized condition, or, under the circumstances to improve or resolve the OMAP Member's condition;

(H) Information on the PHP's Complaint] process and information on fair hearing procedures;

(I) How OMAP Members are to access interpreter services including sign interpreters;

(J) Information on the OMAP Member's rights and responsibilities;

(K) Information on the OMAP Member's possible responsibility for charges including Medicare deductibles and coinsurances (if they go outside of PHP for non-emergent care), co-payments, and charges for non-covered services;

(L) The transitional procedures for new OMAP Members to obtain prescriptions, supplies and other necessary items and/or services in the first month of Enrollment with the PHP if they are unable to meet with a PCP, PCD, other prescribing Practitioner or obtain new orders during that period;

(M) What services can be self-referred to both Participating and Non-Participating Providers (FCHP's and MHO's only);

(N) To adult OMAP Members in FCHPs and MHOs only, written information on Advance Directive policies including:

(i) A description of applicable state law;

(ii) OMAP Member rights under Oregon law;

(iii) The contractor's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience.

(O) How to request information on the PHP's Physician Incentives;

(P) The OMAP Members right to request and obtain copies of their Clinical Records (and that they may be charged a reasonable copying fee) and to request that the record be amended or corrected;

(Q) How OMAP Members are to obtain emergent and non-emergent ambulance services (FCHP only) and other medical transportation to appointments, as appropriate;

(R) Explanation of the amount, scope and duration of covered and Non-covered Services in sufficient detail to ensure that OMAP Members understand the benefits to which they are entitled;

(S) How OMAP Members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs (FCHP's only);

(T) PHP's Confidentiality Policy;

(U) Name, locations, telephone numbers of, and non-English languages offered by current Participating Providers, including information on PHP's PCPs/PCDs that are not accepting new OMAP Members (not MHOs) including at a minimum, information on PCPs, specialists and hospitals in the OMAP Member's Service Area;

(V) The extent to which; and how, OMAP Members may obtain benefits, including family planning services, from out of network Providers;

(W) Any restrictions on the OMAP Member's freedom of choice among network Providers;

(X) Policies on referrals for specialty care and for other benefits not furnished by the OMAP Member's PCP;

(Y) How and where OMAP Members are to access any benefits that are available under OHP but are not covered under the PHPs' Contract, including any cost sharing, and how transportation is provided.

(c) If the PHP OMAP Member handbook is returned with a new address, the PHP shall remail the PHP OMAP Member handbook or use the telephone number provided by DHS to reach the OMAP Member. If the

PHP is unable to reach the OMAP Member by either mail or telephone, the PHP shall retain the PHP OMAP Member handbook and have it available upon request for the OMAP Member;

(d) PHPs shall, at a minimum, annually and upon request provide the PHP OMAP Member handbook to OMAP Members, OMAP Member's Representative and to clinical offices for distribution to OMAP Members;

(e) The PHP OMAP Member handbook shall be reviewed by PHP for accuracy at least yearly and updated with new or corrected information as needed to reflect the PHP's internal changes and regulatory changes. If changes impact the OMAP Members' ability to use services or benefits, the updated materials shall be distributed to all OMAP Members;

(f) The 'DHS Client Handbook for the OHP' is in addition to the PHP OMAP Member handbook and cannot be used to substitute for the PHP OMAP Member handbook.

(4) PHPs shall have written procedures and criteria for health education of OMAP Members. Health education shall include: information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. Health education may be provided by PHP's Practitioner(s) or other individual(s) or program(s) approved by the PHP. PHPs shall endeavor to provide health education in a culturally sensitive manner in order to communicate most effectively with individuals from nondominant cultures; PHPs shall ensure development and maintenance of an individualized health educational plan for OMAP Members who have been identified by their Practitioner as requiring specific educational intervention. DHS may assist in developing materials that address specifically identified health education problems to the population in need.

(5) PHPs shall provide an identification card to OMAP Members, unless waived by OMAP and/or OMHAS, which contains simple, readable and usable information on how to access care in an urgent or emergency situation. Such identification cards shall confer no rights to services or other benefits under the Oregon Health Plan and are solely for the convenience of the PHP's, OMAP Members and Providers.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04

410-141-0420

Oregon Health Plan Prepaid Health Plan Billing and Payment Under the Oregon Health Plan

(1) All billings for Oregon Health Plan Clients to Prepaid Health Plans (PHPs) and to Office of Medical Assistance Programs (OMAP), shall be submitted within four (4) months and twelve (12) months, respectively, of the date of service, subject to other applicable OMAP billing rules. Submissions shall be made to PHPs within the four-month time frame except in the following cases:

(a) Pregnancy;

(b) Eligibility issues such as retroactive deletions or retroactive Enrollments;

(c) Medicare is the primary payor;

(d) Other cases that could have delayed the initial billing to the PHP (which does not include failure of Provider to certify the OMAP Member's eligibility); or

(e) Third Party Resource (TPR). Pursuant to 42 CFR 36.61, subpart G: Indian Health Services and the amended Public Law 93-638 under the Memorandum of Agreement that Indian Health Service and 638 Tribal Facilities are the payor of last resort and is not considered an alternative resource or TPR.

(2) Providers must be enrolled with OMAP to be eligible for Fee-for-Service (FFS) payment by OMAP. Mental health Providers, except Federally Qualified Health Centers, must be approved by the Local Mental Health Authority (LMHA) and the Office of Mental Health and Addiction Services (OMHAS) before enrollment with OMAP. Providers may be retroactively enrolled, in accordance with OAR 410-120-1260, Provider enrollment.

(3) Providers, including mental health Providers, do not have to be enrolled with OMAP to be eligible for payment for services by PHPs except that Providers who have been excluded as Medicare/Medicaid Providers by OMAP, CMS or by lawful court orders are ineligible to receive payment for services by PHPs.

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(4) Providers shall verify, before rendering services, that the OMAP Member is eligible for the Medical Assistance Program on the date of service and that the service to be rendered is covered under the Oregon Health Plan Benefit Package of Covered Services. Providers shall also identify the party responsible for covering the intended service and seek pre-authorizations from the appropriate payor before rendering services. Providers shall inform OMAP Members of any charges for non-covered services prior to the services being delivered.

(5) Capitated Services:

(a) PHPs receive a Capitation Payment to provide services to OMAP Members. These services are referred to as Capitated Services;

(b) PHPs are responsible for payment of all Capitated Services. Such services should be billed directly to the PHP, unless the PHP or OMAP specifies otherwise. PHPs may require Providers to obtain preauthorization to deliver certain Capitated Services.

(6) Payment by the PHP to Providers for Capitated Services is a matter between the PHP and the Provider, except as follows:

(a) Pre-authorizations:

(A) PHPs shall have written procedures for processing pre-authorization requests received from any Provider. The procedures shall specify time frames for:

(i) Date stamping pre-authorization requests when received;

(ii) Determining within a specific number of days from receipt whether a pre-authorization request is valid or non-valid;

(iii) The specific number of days allowed for follow up on pending preauthorization requests to obtain additional information;

(iv) The specific number of days following receipt of the additional information that a redetermination must be made;

(v) Providing services after office hours and on weekends that require preauthorization;

(vi) Sending notice of the decision with Appeal rights to the OMAP Member when the determination is made to deny the requested service as specified in 410-141-0263.

(B) PHPs shall make a determination on at least 95% of Valid Pre-Authorization requests, within two working days of receipt of a preauthorization or reauthorization request related to urgent services; alcohol and drug services; and/or care required while in a skilled nursing facility. Pre-authorizations for prescription drugs must be completed and the pharmacy notified within 24 hours. If a pre-authorization for a prescription cannot be completed within the 24 hours, the PHP must provide for the dispensing of at least a 72-hour supply if the medical need for the drug is immediate. PHP shall notify Providers of such determination within 2 working days of receipt of the request;

(C) For expedited prior authorization requests in which the Provider indicates, or the PHP determines, that following the standard timeframe could seriously jeopardize the OMAP Member's life or health or ability to attain, maintain, or regain maximum function:

(i) The PHP must make an expedited authorization decision and provide notice as expeditiously as the OMAP Member's health condition requires and no later than three working days after receipt of the request for service;

(ii) The PHP may extend the three working days time period by up to 14 calendar days if the OMAP Member requests an extension, or if the PHP justifies to OMAP a need for additional information and how the extension is in the OMAP Member's interest.

(D) For all other pre-authorization requests, PHPs shall notify Providers of an approval, a denial or a need for further information within 14 calendar days of receipt of the request. PHPs must make reasonable efforts to obtain the necessary information during that 14 day period. However, the PHP may use an additional 14 days to obtain follow-up information, if the PHP justifies the need for additional information and how the delay is in the interest of the OMAP Member. The PHP shall make a determination as the OMAP Member's health condition requires, but no later than the expiration of the extension. PHPs shall notify OMAP Members of a denial within five working days from the final determination using an OMAP or OMHAS approved client notice format.

(b) Claims Payment:

(A) PHPs shall have written procedures for processing claims submitted for payment from any source. The procedures shall specify time frames for:

(i) Date stamping claims when received;

(ii) Determining within a specific number of days from receipt whether a claim is valid or non-valid;

(iii) The specific number of days allowed for follow up of pending claims to obtain additional information;

(iv) The specific number of days following receipt of additional information that a determination must be made; and

(v) Sending notice of the decision with Appeal rights to the OMAP Member when the determination is made to deny the claim.

(B) PHPs shall pay or deny at least 90% of Valid Claims within 45 calendar days of receipt and at least 99% of Valid Claims within 60 calendar days of receipt. PHPs shall make an initial determination on 99% of all claims submitted within 60 calendar days of receipt;

(C) PHPs shall provide written notification of PHP determinations when such determinations result in a denial of payment for services, for which the OMAP Member may be financially responsible. Such notice shall be provided to the OMAP Member and the treating Provider within 14calendar days of the final determination. The notice to the OMAP Member shall be an OMAP or OMHAS approved notice format and shall include information on the PHPs internal appeals process, and the Notice of Hearing Rights (OMAP 3030) shall be attached. The notice to the Provider shall include the reason for the denial;

(D) PHPs shall not require Providers to delay billing to the PHP;

(E) PHPs shall not require Medicare be billed as the primary insurer for services or items not covered by Medicare, nor require non-Medicare approved Providers to bill Medicare;

(F) PHPs shall not deny payment of Valid Claims when the potential TPR is based only on a diagnosis, and no potential TPR has been documented in the OMAP Member's Clinical Record;

(G) PHPs shall not delay nor deny payments because a co-payment was not collected at the time of service.

(c) FCHPs and MHOs are responsible for payment of Medicare coinsurances and deductibles up to the Medicare or PHP's allowable for covered services the OMAP Member receives within the PHP, for authorized referral care, and for Urgent Care Services or Emergency Services the OMAP Member receives from non-contracted Providers. FCHPs and MHOs are not responsible for Medicare coinsurances and deductibles for non-urgent or non-emergent care OMAP Members receive from non-PHP Providers;

(d) FCHPs shall pay transportation, meals and lodging costs for the OMAP Member and any required attendant for out-of-state services (as defined in General Rules) that the FCHP has arranged and authorized when those services are available within the state, unless otherwise approved by OMAP;

(e) PHPs shall be responsible for payment of covered services provided by a Non-Participating Provider that were not pre-authorized if the following conditions exist:

(A) It can be verified that the Participating Provider ordered or directed the covered services to be delivered by a Non-Participating Provider; and

(B) The covered service was delivered in good faith without the preauthorization; and

(C) It was a covered service that would have been pre-authorized with a Participating Provider if the PHP's referral protocols had been followed;

(D) The PHP shall be responsible for payment to Non-Participating Providers (Providers enrolled with OMAP that do not have a contract with the PHP) for covered services that are subject to reimbursement from the PHP, the amount specified in OAR 410-120-1295. This rule does not apply to Providers that are Type A or Type B hospitals, as they are paid in accordance with ORS 414.727.

(7) Other Services:

(a) OMAP Members enrolled with PHPs may receive certain services on an OMAP FFS basis. Such services are referred to as Non-Capitated Services;

(b) Certain services must be authorized by the PHP or the Community Mental Health Program (CMHP) for some mental health services, even though such services are then paid by OMAP on an OMAP FFS basis. Before providing services, Providers should contact the PHPs identified on the OMAP Member's Medical Care Identification or, for some mental health services, the CMHP. Alternatively, the Provider may call the OMAP Provider Services Unit to obtain information about coverage for a particular service and/or pre-authorization requirements;

(c) Services authorized by the PHP or CMHP are subject to the rules and limitations of the appropriate OMAP administrative rules and supplemental information, including rates and billing instructions;

(d) Providers shall bill OMAP directly for Non-Capitated Services in accordance with billing instructions contained in the OMAP administrative rules and supplemental information;

(e) OMAP shall pay at the Medicaid FFS rate in effect on the date the service is provided subject to the rules and limitations described in the rel-

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evant rules, contracts, billing instructions and OMAP administrative rules and supplemental information;

(f) OMAP will not pay a Provider for provision of services for which a PHP has received a Capitation Payment unless otherwise provided for in OAR 410-141-0120;

(g) When an item or service is included in the rate paid to a medical institution, a residential facility or foster home, provision of that item or service is not the responsibility of OMAP, OMHAS, nor a PHP except as provided for in OMAP administrative rules and supplemental information (e.g., Capitated Services that are not included in the nursing facility all-inclusive rate);

(h) FCHPs that contract with non-public teaching hospitals will reimburse those hospitals for Graduate Medical Education (GME), if the hospitals are:

(A) Neither a type A nor type B hospitals;

(B) Not paid according to a type A or type B payment methodology; and,

(C) In remote areas greater than 60 miles from the nearest acute care hospital, with a graduate medical student teaching program.

(i) FCHPs that contract with FQHCs and RHCs shall negotiate a rate of reimbursement that is not less than the level and amount of payment which the FCHP would make for the same service(s) furnished by a Provider, who is not an FQHC nor RHC, consistent with the requirements of BBA 4712(b)(2).

(8) Coverage of services through the Oregon Health Plan Benefit Package of Covered Services is limited by OAR 410-141-0500, Excluded Services and Limitations for OHP Clients.

(9) OHP Clients who are enrolled with a PCM receive services on a FFS basis:

(a) PCMs are paid a per client/per month payment to provide Primary Care Management Services, in accordance with OAR 410-141-0410, Primary Care Manager Medical Management;

(b) PCMs provide Primary Care access, and management services for Preventive Services, primary care services, referrals for specialty services, limited inpatient hospital services and outpatient hospital services. OMAP payment for these PCM managed services is contingent upon PCCM authorization;

(c) All PCM Managed Services are covered services that shall be billed directly to OMAP in accordance with billing instructions contained in the OMAP administrative rules and supplemental information;

(d) OMAP shall pay at the OMAP FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate OMAP administrative rules and supplemental information.

(10) OHP Clients who are not enrolled with a PHP receive services on an OMAP FFS basis:

(a) Services may be received directly from any appropriate enrolled OMAP Provider;

(b) All services shall be billed directly to OMAP in accordance with billing instructions contained in the OMAP administrative rules and supplemental information;

(c) OMAP shall pay at the OMAP FFS rate in effect on the date the service is provided subject to the rules and limitations described in the appropriate OMAP administrative rules and supplemental information.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 15-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 52-2001, f. & cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 23-2004(Temp), f. & cert. ef. 3-23-04 thru 8-15-04; OMAP 33-2004, f. 5-26-04, cert. ef. 6-1-04; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04

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Adm. Order No.: OMAP 48-2004

Filed with Sec. of State: 7-28-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 7-1-04

Rules Amended: 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 revised rule 410-141-0520 to reflect Centers for Medicare and Medicaid Services (CMS) approval to move the funding line of the list from line 549 to line 546, effective August 1, 2004. The August change in the funding line will be incorporated into the current list dated October 1, 2003.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0520

Prioritized List of Health Services

(1) The Prioritized List of Health Services (Prioritized List) is the Oregon Health Services Commission's (HSC) listing of physical health services with "expanded definitions" of Ancillary Services and Preventive Services, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HSC. The 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 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 3-15-0; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; 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

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Adm. Order No.: OMAP 49-2004

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Certified to be Effective: 8-1-04

Notice Publication Date: 7-1-04

Rules Adopted: 410-122-0055, 410-123-1670, 410-125-0047, 410-130-0163, 410-146-0380, 410-147-0125

Rules Amended: 410-120-1210, 410-120-1230, 410-123-1060, 410-123-1085, 410-125-0080, 410-127-0055, 410-129-0195, 410-131-0275, 410-132-0055, 410-140-0115, 410-146-0080, 410-147-0085, 410-147-0120, 410-148-0090

Rules Repealed: 410-125-0055

Subject: Administrative rules govern the Office of Medical Assistance Programs' payments for services rendered to clients. OMAP adopted, amended and repealed rules listed above to implement modifications to the Oregon Health Plan (OHP) Standard Benefit Package as directed by the 2003 Legislative Assembly in HB 2511. Some benefits are restored while other benefits are removed. Implementation of these amendments is approved by the Centers for Medicare and Medicaid Services (CMS) and are effective on or after August 1, 2004.

Rules Coordinator: Darlene Nelson—(503) 945-6927

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410-120-1210

Medical Assistance Benefit Packages and Delivery System

(1) Clients in some Medical Assistance Program categories have limited benefits. The text in the box marked "Benefit Package Messages", on the Medical Care Identification, describe the package of medical benefits the recipient is eligible to receive.

(2) Names of the OMAP benefit packages, effective February 1, 2003, and the recipients eligible to receive the various packages, are identified as follows:

(a) OHP Plus: The Oregon Health Plan (OHP) Plus benefit package is available to clients who are categorically eligible for medical assistance as defined in federal regulations and in the OHP waiver granted on October 15, 2002. A client is categorically eligible for medical assistance if he or she is eligible under a mandatory, selected, optional Medicaid program or the Children's Health Insurance Program and is also within the income and other eligibility criteria adopted by the Department of Human Services (DHS);

(b) OHP Standard: The OHP Standard benefit package is available to clients eligible for OHP through the Medicaid expansion waiver granted on October 15, 2002. These recipients are adults and childless couples who are also within the income and other eligibility criteria adopted by DHS. The Department identifies these clients through the program acronym, OHP-OPU;

(c) Qualified Medicare Beneficiary (QMB)-Only: QMB-Only clients are Medicare beneficiaries who have limited income but do not meet the income standard for full Medical Assistance Program coverage. QMB clients have coverage through Medicare Parts A and B for most covered services;

(d) Qualified Medicare Beneficiary (QMB) + OHP Plus: Clients covered by the QMB-OHP Plus benefit package are Medicare beneficiaries that have met the income standard for full Medical Assistance Program coverage;

(e) The Citizen/Alien-Waived Emergency Medical (CAWEM). CAWEM clients are certain eligible, non-qualified aliens that are not eligible for other Medicaid programs pursuant to OAR 461-135-1070. The Medical Care ID that the client is issued indicates coverage. The CAWEM Benefit Package is limited to services listed in OAR 410-120-1210(3)(e).

(3) The benefit limitations and exclusions listed here are in addition to those described in OAR 410-120-1200 and in individual program provider rules. The benefits and limitations included in each OHP benefit package follow:

(a) OHP Plus coverage includes:

(A) Services above the funding line on the HSC prioritized list, (OAR 410-141-0520);

(B) Ancillary services, (OAR 410-141-0480);

(C) Chemical dependency services provided through local alcohol/drug treatment providers;

(D) Mental health services based on the Prioritized List of Health Services, to be provided through Community Mental Health Programs or their subcontractors;

(E) Hospice;

(F) Post Hospital Extended Care benefit, up to a 20-day stay in a nursing facility for non-Medicare OMAP Members who meet Medicare criteria for a post-hospital skilled nursing placement. This benefit requires prior authorization by Pre-Admission Screening (OAR 411-070-0043), or the Fully Capitated Health Plan for clients enrolled in managed care;

(G) Cost sharing may apply to some covered services.

(b) OHP Standard benefits adhere to the following provisions:

(A) OHP Standard coverage, subject to sections (B) and (C) of this section includes:

(i) Services above the funding line on the HSC prioritized list, (OAR 410-141-0520);

(ii) Ancillary services, (OAR 410-141-0480);

(iii) Outpatient chemical dependency services provided through local alcohol/drug treatment providers;

(iv) Outpatient mental health services based on the Prioritized List of Health Services, to be provided through Community Mental Health Programs or their subcontractors;

(v) Hospice;

(vi) Post Hospital Extended Care benefit, up to a 20-day stay in a nursing facility for non-Medicare OMAP Members who meet Medicare criteria for a post-hospital skilled nursing placement. This benefit requires prior authorization by Pre-Admission Screening (OAR 411-070-0043) or by the Fully Capitated Health Plan for clients enrolled in managed care.

(B) The following services have limited coverage for the OHP Standard benefit package (Refer to the cited OAR chapters and divisions for details):

(i) Selected dental (OAR 410 division 123);

(ii) Selected durable medical equipment and medical supplies (OAR 410, division 122 and 130);

(iii) Selected home enteral/parenteral services (OAR 410, division 148);

(iv) Selected hospital services (OAR 410, division 125);

(v) Other limitations as identified in individual OMAP program administrative rules.

(C) The following services are not covered under the Standard Benefit Package. Refer to the cited OAR chapters and divisions for details:

(i) Acupuncture services, except when provided for chemical dependency treatment (OAR 410, division 130);

(ii) Chiropractic and osteopathic manipulation services (OAR 410, division 130);

(iii) Hearing aids and related services (i.e., exams for the sole purpose of determining the need for or the type of hearing aid), (OAR 410, division 129);

(iv) Home health services (OAR 410, division 127), except when related to limited EPIV services (OAR 410, division 148);

(v) Non-emergency medical transportation (OAR 410, division 136);

(vi) Occupational therapy services (OAR 410, division 131);

(vii) Physical therapy services (OAR 410, division 131);

(viii) Private duty nursing services (OAR 410, division 132), except when related to limited EPIV services;

(ix) Speech and language therapy services (OAR 410, division 129);

(x) Visual Services such as frames, lenses, contacts corrective devices and eye exams for the purpose of prescribing glasses or contacts (OAR 410, division 140);

(xi) Other limitations as identified in individual OMAP program administrative rules.

(c) The QMB-Only Benefit Package provides only services that are also covered by Medicare:

(A) Payment for services is the Medicaid allowed payment less the Medicare payment up to the amount of co-insurance and deductible, but no more than the Medicare allowable;

(B) QMB clients may be billed by the provider for services that are not covered by Medicare. QMB clients may not be billed by the provider for the deductible and coinsurance amounts due for services that are covered by Medicare.

(d) QMB + OHP Plus Benefit Package coverage includes any service covered by Medicare. Payment for services is the Medicaid allowed payment less the Medicare payment up to the amount of co-insurance and deductible. This package also covers:

(A) Services above the funding line on the HSC prioritized list, (OAR 410-141-0520);

(B) Mental health services;

(C) Chemical dependency services provided through a local alcohol/drug treatment provider.

(e) Citizen/Alien-Waived Emergency Medical Assistance (CAWEM) Benefit Package services are limited to:

(A) Emergency labor and delivery services or services to treat emergency medical. CAWEM services are strictly defined by 42 CFR 440.255 (the definition does not apply a prudent layperson standard);

(B) CAWEM client is eligible for services only after sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part;

(C) The following services are not covered for CAWEM clients, even if they are seeking emergency services:

(i) Prenatal or postpartum care;

(ii) Sterilization;

(iii) Family planning;

(iv) Preventive care;

(v) Organ transplants and transplant-related services;

(vi) Chemotherapy;

(vii) Hospice;

(viii) Home health;

(ix) Private duty nursing;

(x) Dialysis;

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(xi) Dental services provided outside of an emergency room/hospital setting;

- (xii) Outpatient drugs or over-the-counter products;
- (xiii) Non-emergency medical transportation;
- (xiv) Therapy services;
- (xv) Durable medical equipment and medical supplies;
- (xvi) Rehabilitation services.

(4) OMAP services are delivered through one of several means:

(a) Prepaid Health Plan (PHP):

(A) These clients are enrolled in a PHP for their medical, dental and mental health care;

(B) Most non-emergency services are obtained from the PHP or require a referral from the PHP that is responsible for the provision and reimbursement for the medical, dental or mental health service;

(C) The name and phone number of the PHP appears on the Medical Care Identification.

(b) Primary Care Managers:

(A) These clients are enrolled with a Primary Care Manager (PCM) for their medical care;

(B) Most non-emergency services provided to clients enrolled with a PCM require referral from the PCM.

(c) Fee-For-Service (FFS):

(A) These clients are not enrolled in a PHP or assigned to a PCM;

(B) Subject to limitations and restrictions in individual program rules, the client can receive health care from any OMAP-enrolled provider that accepts FFS clients. The provider will bill OMAP directly for any covered service and will receive a fee for the service provided.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 46-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; OMAP 56-2003, f. 8-28-03, cert. ef. 9-1-03; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-120-1230

Client Copayment

(1) OHP Plus clients shall be responsible for paying a copayment for some services. This copayment shall be paid directly to the provider.

(2) The following services are exempt from copayment:

- (a) Emergency medical services, as defined in OAR 410-120-0000;
- (b) Family planning services and supplies;
- (c) Prescription drugs ordered through Office of Medical Assistance

Program's (OMAP) Mail Order (a.k.a., Home-Delivery) Pharmacy program;

(d) Any service not listed in (10) below.

(3) The following clients are exempt from copayments:

- (a) Services provided to pregnant women;
- (b) Children under age 19;

(c) Any client receiving services under the Home and Community based waiver and Developmental Disability waiver, or is an inpatient in a hospital, Nursing Facility (NF), Intermediate Care Facility for the Mentally Retarded (ICF/MR);

(d) American Indian/Alaska Native (AI/AN) clients who are members of a federally recognized Indian tribe or receive services through Indian Health Services (IHS), tribal organization or services provided at an Urban Tribal Health Clinic as provided under P.L. 93-638.

(4) Clients enrolled in an OMAP contracted Prepaid Health Plan (PHP) will be exempt from copayments for any services paid for by their plan(s).

(5) Services to a client cannot be denied solely because of an inability to pay an applicable copayment. This does not relieve the client of the responsibility to pay, nor does it prevent the provider from attempting to collect any applicable copayments from the client; the amount is a legal debt, and is due and payable to the provider of service.

(6) A client must pay the copayment at the time service is provided unless exempted (see (2), (3) and (4) above).

(7) The provider should not deduct the copayment amount from the usual and customary fee submitted on the claim. Except as provided in subsection (2) of this rule, DHS will deduct the amount of the copayment from the amount paid to the provider (whether or not provider collects the copayment from the client). If the OMAP paid amount is less than the required copayment, the copayment amount will be equal to what OMAP would have paid, unless the client or services is exempt according to exclusions listed in (2), (3) and (4) above.

(8) Unless specified otherwise in individual program rules, and to the extent permitted under 42 CFR 1001.951-1001.952, OMAP does not require providers to bill or collect a copayment from the Medicaid recipient. The provider may choose not to bill or collect a copayment from a

Medicaid recipient, however, the agency will still deduct the copayment amount from the Medicaid reimbursement made to the provider.

(9) OHP Standard copayments are eliminated for OHP Standard clients effective June 19, 2004. Elimination of copayments by this rule shall supercede any other General Rule, 410-120-0000 et seq; any Oregon Health Plan Rule, OAR 410-141-0000 et seq; or individual OMAP program rule(s), that contain or refer to OHP Standard copayment requirements.

(10) Services which require copayments are listed in Table 120-1230-1:

(a) For the purposes of this rule, dental diagnostic services are considered oral examinations used to determine changes in the patient's health or dental status. Diagnostic visits include all routine cleanings, x-rays, laboratory services and tests associated with making a diagnosis and/or treatment. One copayment assessed per provider/per visit/per day unless otherwise specified. Copayment applies regardless of location, i.e. provider's office or client's residence;

(b) Mental Health Service copayments are defined as follows:

(A) Inpatient hospitalization: includes ancillary, facility and professional fees (DRG 424-432);

(B) Outpatient hospital: Electroconvulsive (ECT) treatment (Rev code 901) including facility, professional fees (90870-90871) and anesthesiology fees (00104);

(C) Initial assessment/evaluation by psychiatrist or psychiatric mental health nurse practitioners (90801);

(D) Medication Management by psychiatrist or psychiatric mental health nurse practitioner (90862);

(E) Consultation between psychiatrist/psychiatric mental health nurse practitioner and primary care physician (90887).

Table 120-1230-1

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

Stat. Auth.: ORS 409

Stat. Implemented: 414.065

Hist.: OMAP 73-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 73-2003, f. & cert. ef. 10-1-03; OMAP 39-2004(Temp), f. 6-14-04 cert. ef. 6-19-04 thru 11-30-04; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-122-0055

Standard Benefit Package Limitations

(1) Durable medical equipment and medical supply codes that are listed in Table 122-0055 are covered for clients on the Standard Benefit Package. DMEPOS providers must use the criteria and limitations shown for each code in division 122. See OMAP General Rules division 120 for additional information concerning the OHP Standard Benefit Package.

(2) Durable medical equipment and medical supply codes that are not listed in Table 122-0055 are not covered on the Standard Benefit Package and are billable to the client.

(3) The OHP Standard Benefit Package includes limited home enteral/parenteral services and intravenous services (see 410-148-0090).

Table 122-0055

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-123-1060

Definition of Terms

(1) Central Nervous System Anesthesia — An induced controlled state of unconsciousness or depressed consciousness produced by a pharmacologic method.

(2) Citizen/Alien-Waived Emergency Medical (CAWEM) — Persons only eligible for treatment of emergency medical conditions, including labor and delivery. Emergency medical treatment is merited for symptoms of such severity that absence of immediate medical attention would result in placing the patient's health in jeopardy, impairment to bodily functions, or serious dysfunction of a bodily organ or part.

(3) Conscious Sedation — An induced controlled state of depressed consciousness, regardless of the route of administration of the anesthetic agent, in which the client retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command.

(4) Covered Services — Services on the Health Services Commission's (HSC) Prioritized List of Health Services (List) that have been funded by the Legislature for clients receiving the Basic Health Care Package and those ancillary services necessary to perform the covered services.

(5) Deep Sedation — An induced controlled state of depressed consciousness in which the client experiences a partial loss of protective reflexes, as evidenced by the inability to respond purposefully either to physical

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stimulation or to verbal command but the client retains the ability to independently and continuously maintain an airway.

(6) Dental Hygienist — A person licensed to practice dental hygiene pursuant to State law.

(7) Dental Hygienist with Limited Access Certification (LAC) — A person licensed to practice dental hygiene with LAC pursuant to State law.

(8) Dental Services — Services provided within the scope of practice as defined under State law by or under the supervision of a dentist or dental hygienist with LAC, or denture services provided within the scope of practice as defined under State law by a dentist.

(9) Dental Services Documentation — Must meet the requirements of the Oregon Dental Practice Act statutes; administrative rules for client records and requirements of OAR 410-120-1360, "Requirements for Financial, Clinical and Other Records." Any other documentation requirements as outlined in the Dental Services billing and procedures rules.

(10) Dentist — A person licensed to practice dentistry pursuant to State law.

(11) Denturist — A person licensed to practice denture technology pursuant to State law.

(12) Direct Pulp Cap — The procedure in which the exposed pulp is covered with a dressing or cement that protects the pulp and promotes healing and repair.

(13) Emergency Dental Services:

(a) Covered services requiring immediate treatment. This includes services to treat:

- (A) Acute infection;
- (B) Acute abscesses;
- (C) Severe tooth pain;
- (D) Unusual swelling of the face or gums; or
- (E) Treat a tooth that has been knocked out.

(b) The emergency rule applies only to covered services. OMAP recognizes that some non-covered services may meet the criteria of emergency, but this rule does not extend to those non-covered services. Routine dental treatment or treatment of incipient decay does not constitute emergency care;

(c) Refer to OAR 410-123-1670 for the definition of an emergency and service coverage for OHP Standard clients;

(d) The following emergencies are not the responsibility of the dental provider unless they occur within the dental office or facility. Clients calling with these conditions should be referred to the emergency room or to call 911:

- (A) Control hemorrhaging;
- (B) Maintain an adequate airway; or
- (C) Prevent life-threatening situations.

(14) General Anesthesia — An induced controlled state of unconsciousness in which the client experiences complete loss of protective reflexes, as evidenced by the inability to independently maintain an airway, the inability to respond purposefully to physical stimulation, or the inability to respond purposefully to verbal command.

(15) Hospital Dentistry — Dental services provided in an ambulatory surgical center, inpatient, or outpatient hospital setting.

(16) Nitrous Oxide Sedation — An induced controlled state of minimally depressed consciousness, produced solely by the inhalation of a combination of nitrous oxide and oxygen, in which the client retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command.

(17) Preventive Services — Includes:

- (a) Oral Prophylaxis (cleaning of teeth);
- (b) Topical Fluoride;
- (c) Sealants;
- (d) Space maintenance; and
- (e) Tobacco Counseling.

(18) Therapeutic Services — Includes:

(a) Pulp therapy for permanent and primary teeth;

(b) Restorations for primary and permanent teeth using amalgam, composite materials and stainless steel or polycarbonate crowns;

(c) Scaling and curettage;

(d) Space maintainers for primary posterior teeth lost prematurely; and

(e) Removable prosthesis with inability to masticate.

(19) Dentally Appropriate: Refer to OAR 410-120-0000 for definition.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; 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

17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-123-1085

Client Copayments for Oregon Health Plus Dental Benefit

(1) OHP Plus: Copayments may be required for certain services:

(a) Clients enrolled in a Dental Care Organization are exempt from copayments. Refer to OAR 410-120-1230 for specific details;

(b) Refer to Table 123-1260-1 for a list of individual services covered under the OHP Plus Dental Benefit and copayments for individual services.

(2) OHP Standard:

(a) Clients eligible for OHP Standard are exempt from copayments. Refer to OAR 410-120-1230 for specific details;

(b) Refer to Table 123-1670-1 for a list of individual services covered under the OHP Standard Emergency Dental Benefit.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 76-2002, f. 12-24-02, cert. ef. 1-1-03; 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 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-123-1670

OHP Standard Emergency Dental Benefit

(1) The definition of Dental Emergency is limited to section (2) in this rule for clients eligible for OHP Standard.

(2) The intent of the OHP Standard Emergency Dental benefit is to provide services requiring immediate treatment and is not intended to restore teeth.

(3) Services are limited to those procedures listed in Table 123-1670-1 and are limited to treatment for conditions such as:

- (a) Acute infection;
- (b) Acute abscesses;
- (c) Severe tooth pain; and
- (d) Tooth re-implantation when clinically appropriate.

(4) Hospital Dentistry is not a covered benefit for the OHP Standard population except:

(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; or

(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.

(5) Any limitations or prior authorization requirements on services listed in OAR 410-123-1260 will also apply to services in the OHP Standard benefit.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

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 package for urgent or emergent inpatient and emergency room services effective on and after August 1, 2004.

(2) The limited hospital benefit for emergent and urgent conditions are covered for the ICD-9 codes listed in the OHP Standard Population — Limited Hospital Benefit Package Code List. This rule incorporates by reference the OHP Standard Population — Limited Hospital Benefit Package Code List, effective August 1, 2004. The most current list, dated August 1, 2004, is available on the web site (<http://www.dhs.state.or.us/healthplan/guides/hospital>), or contact the Office of Medical Assistance Programs for hardcopy.

(3) The emergency definition in OAR 410-120-0000 will apply.

(4) Inpatient urgent or emergent admissions are a benefit for diagnoses listed in the OHP Standard Population — Limited Hospital Benefit Package Code List.

(5) The Office of Medical Assistance Programs (OMAP) will reimburse hospital providers for inpatient (diagnostic and treatment) services, outpatient (diagnostic 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 Package 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

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(d) Prior authorization (PA) must be obtained for codes indicated in the OHP Standard Population — Limited Hospital Benefit Package Code List. PA request should be directed to OMAP's contracted Quality Improvement Organization (QIO). PAs must be processed as expeditiously as the client's health condition requires.

(e) Inpatient, outpatient, and emergency room diagnostic services are a covered benefit.

(6) Non-diagnostic outpatient hospital services (e.g. speech, physical or occupational therapy, etc.) are not covered benefits for the OHP Standard population.

(7) 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

410-125-0080

Inpatient Services

(1) Elective (Not Urgent or Emergent) Admission:

(a) Fully Capitated Health Plan (FCHP) and Mental Health Organization (MHO) Clients — contact the client's MHO or FCHP (phone number is on the client's Medical Care Identification). The health plan may have different prior authorization requirements than Office of Medical Assistance Programs (OMAP);

(b) Medicare Clients OMAP does not require prior authorization for inpatient services provided to clients with Medicare Part A or B coverage;

(c) For OMAP clients covered by the OHP Plus Benefit Package:

(A) Hospital admissions for any of the medical and surgical procedures shown in Table 125-0080-1 require prior authorization, unless they are urgent or emergent;

(B) For prior authorization contact the OMAP contracted Quality Improvement Organization (QIO) unless otherwise indicated in Table 125-0080-1.

(d) OMAP clients with OHP Standard Benefit Package have a limited hospital benefit package. Specific coverage and prior authorization requirements are listed in OMAP's Hospital Services Supplemental Information or at OMAP website <http://www.dhs.state.or.us/healthplan/guides/hospital> (referenced in OAR 410-125-0047).

(2) Transplant services:

(a) Complete rules for transplant services are in OMAP's Transplant Services rules (OAR 410 division 124);

(b) Clients are eligible for transplants covered by the Health Services Commission's Prioritized List of Health Services. See the Transplant Services rules for criteria. For clients enrolled in a FCHP, contact the plan for authorization. Clients not enrolled in an FCHP, contact the OMAP Medical Director's office.

(3) Out-of-State non-contiguous hospitals:

(a) All non-emergent/non-urgent services provided by hospitals more than 75 miles from the Oregon border require prior authorization;

(b) Contact — the OMAP Medical Director's office for authorization for clients not enrolled in a Prepaid Health Plan (PHP). For clients enrolled in a PHP — contact the plan.

(4) Out-of-state contiguous hospitals: services provided by contiguous-area hospitals, less than 75 miles from the Oregon border, are prior authorized following the same rules and procedures as in-state providers .

(5) Transfers to another hospital:

(a) Transfers for the purpose of providing a service listed in Table 125-0080-1, e.g., inpatient physical rehabilitation care, require prior authorization — contact OMAP contracted QIO;

(b) Transfers to a skilled nursing facility, intermediate care facility or swing bed — contact Seniors and People with Disabilities (SPD). SPD reimburses nursing facilities and swing beds through contracts with the facilities. For FCHP clients — transfers require authorization and payment (for first 20 days) from the FCHP;

(c) Transfers to the same or lesser level of inpatient care — OMAP will cover transfers, including back transfers, which are primarily for the purpose of locating the patient closer to home and family, when the transfer is expected to result in significant social/psychological benefit to the patient. The assessment of significant benefit shall be based on the amount of continued care the patient is expected to need (at least seven days) and the extent to which the transfer locates the patient closer to familial support. Transfers not meeting these guidelines may be denied on the basis of post-payment review;

(d) Exceptions:

(A) Emergency transfers do not require prior authorization;

(B) In state or contiguous non-emergency transfers for the purpose of providing care which is unavailable in the transferring hospital do not require prior authorization unless, the planned service is listed in Table 125-0080-1 of this rule;

(C) All non-urgent transfers to out-of-state non-contiguous hospitals require prior authorization.

(6) Dental procedures provided in a hospital setting:

(a) OMAP will reimburse for hospital services when covered dental services are provided in a hospital setting for clients not enrolled in a FCHP, when a hospital setting is medically appropriate. For prior authorization, contact the OMAP Dental Services Program coordinator;

(b) For clients enrolled in a FCHP, contact the client's FCHP;

(c) Emergency dental services do not require prior authorization.

Table 125-0080-1. [ED. NOTE: Table not included.]

[ED. NOTE: Tables 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 11-1983, f. 3-8-83, ef. 4-1-83; AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 6-1984(Temp), f. 2-28-84, ef. 3-1-84; AFS 36-1984, f. & ef. 8-20-84; AFS 22-1985, f. 4-23-85, ef. 6-1-85; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 46-1987, f. & ef. 10-1-87; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 45-1989, f. & cert. ef. 8-21-89; HR 9-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0190; 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 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 7-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 35-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 9-2002, f. & cert. ef. 4-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 11-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-127-0055

Copayment for Standard Benefit Package

(1) Home Health Services are not covered for clients receiving the Standard Benefit Package. See General Rules 410-120-1210 for additional information.

(2) The OHP Standard Benefit Package includes limited home enteral/parenteral services and intravenous services (see 410-148-0090).

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

410-129-0195

Standard Benefit Package

(1) Hearing aids, hearing aid repairs, and examinations and audiological diagnostic services only performed to determine the need for or the appropriate type of hearing aid(s) are not covered under the Standard Benefit Package.

(2) Diagnostic testing, including hearing and balance assessment services, performed by an audiologist is covered under the Standard Benefit Package when a physician orders testing to obtain information as part of the physician's diagnostic evaluation, or to determine the appropriate medical or surgical treatment of a hearing deficit or related medical problem. Audiological diagnostic services are not covered under the Standard Benefit Package when the diagnostic information required to determine the appropriate medical or surgical treatment is already known to the physician, or the diagnostic services are performed only to determine the need for or the appropriate type of hearing aid.

(3) Speech-language pathology services are not covered under the 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

410-130-0163

Standard Benefit Package

(1) OMAP does not cover some services under the Standard Benefit Package. Refer to General Rule 410-120-1210 for restrictions in other programs.

(2) The following services are not covered:

(a) Acupuncture (except for chemical dependency provided through local alcohol/drug treatment providers);

(b) Chiropractic and osteopathic manipulations;

(c) Hearing exams for the sole purpose of determining the need for or the type of hearing aid;

(d) Occupational therapy;

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(e) Ophthalmological exams for the purpose of prescribing glasses or contacts and glaucoma screenings;

(f) Physical therapy;

(g) Speech therapy.

(3) OMAP covers medical supplies and equipment only when applied by the practitioner in the office setting for treatment of the acute medical condition. DME and medical supplies dispensed by DME providers are limited. Refer to DME Rules 410-122-0055 for specific information on coverage.

(4) Refer to Table 130-0163-1 for a list of not covered codes. [ED.

NOTE: Table not included.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-131-0275

Standard Benefit Package

Physical and Occupational Therapy services are not covered under the Standard Benefit Package. See General Rules, 410-120-1210 for additional information.

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

410-132-0055

OHP Standard Benefit Package

(1) Private duty nursing services are not covered for clients receiving the Standard Benefit Package. See General Rules, 410-120-1210 for additional information.

(2) The OHP Standard Benefit Package includes limited home enteral/parenteral services and intravenous services (see 410-148-0090).

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

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

410-146-0080

Professional Services

(1) Medical, Diagnostic, Screening, Dental, Vision, Physical Therapy, Occupational Therapy, Podiatry, Mental Health, Alcohol and Drug, Maternity Case Management, Speech, Hearing, or, Home Health services are not limited except as directed by the General Rules — Medical Assistance Benefits: Excluded Services and Limitations and the Health Services Commission's (HSC) Prioritized List of Health Services (List) as follows:

(a) Coverage for diagnostic services and treatment for those services funded on the HSC List, and;

(b) Coverage for diagnostic services only, for those conditions that fall below the funded portion of the HSC List;

(c) The date of service determines the appropriate version of the General Rules and the HSC List to determine coverage;

(d) The OHP Standard Benefit Package is a limited benefit package. See OAR 410-120-1235 for details.

(2) American Indian/Alaska Native (AI/AN) Health Care Facilities are eligible under the Memorandum of Agreement (MOA) for reimbursement at the Tribal encounter rate for professional services.

(3) Urban clinics are not eligible, under the MOA, for reimbursement but are eligible to bill for all professional services as outlined in this rule.

(4) AI/AN Health Care Facilities, that have chosen to be reimbursed using the per service payments also known as fee-for-service, do not use the per encounter definitions. However, all services listed in (1) of this rule apply.

(5) Encounter:

(a) An encounter is defined as "A face-to-face contact between a health care professional and an Indian Health Services (IHS) beneficiary eligible for the Medical Assistance Program for the provision of Title XIX/CHIP defined services in an AI/AN Health Care Facility within a 24-hour period ending at midnight, as documented in the client's medical record";

(b) An encounter can occur either within or through the AI/AN Health Care Facility;

(6) The following encounters are reimbursable under the MOA encounter rate, 100% cost based reimbursement or an Urban Tribal Clinic eligible to bill as a Federally Qualified Health Center with or without a 638 designation:

(a) Physicians;

(b) Licensed Physician Assistants;

(c) Nurse Practitioners;

(d) Nurse Midwives;

(e) Dentists;

(f) Pharm D; or

(g) other health care professionals:

(A) To provide: Medical, Diagnostic, Screening, Dental, Vision, Physical Therapy, Occupational Therapy, Podiatry, Mental Health, Alcohol and Drug, Maternity Case Management, Speech, Hearing, or Home Health Services;

(B) Professional services provided in a hospital setting;

(C) Services outside of the encounter rate include but not limited to Pharmacy, DME, Lab, Radiology, Targeted Case Management, Administrative Examinations, and Medical Transportation. These services are reimbursed under the OMAP fee-for service system;

(D) Effective March 1, 2003, the OHP Standard Benefit has limited services. See OAR 410-120-1235 for detailed list of non-covered services.

(7) Multiple Encounters: Each service must be a distinctly different service in order to meet the criteria for multiple encounters. For example: a medical visit and a dental visit on the same day is considered two distinctly different services.

(8) 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;

(e) Any time a client receives only a partial service with one provider and partial service from another provider it is considered a single encounter.

(9) 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. 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 visit, with a medical professional, within a 24-hour period, for distinctly different diagnoses, report as two encounters. For example, a client comes to the clinic in the morning for an immunization and in the afternoon falls and breaks an arm. This would be considered multiple medical encounters and can be billed as two encounters. However, a client that 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.

(10) The following services may be considered as multiple encounters when two or more services are provided on the same date of service:

(a) Dental;

(b) Mental Health or Addiction Services — If both services are provided on the same date of service, then it's considered a single encounter. In addition, if the client is also seen for a medical office visit with a mental health or addiction diagnosis, it is considered a single encounter;

(c) Ophthalmologic services — fitting and dispensing of eyeglasses is included in the encounter that the vision exam is performed;

(d) Maternity Case Management (MCM) — When a client has a medical office visit, MCM can only be billed as a multiple encounter when the client is newly diagnosed as pregnant and is referred for MCM assessment or it is determined the 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, then it would only constitute a single encounter;

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(f) Immunizations — if no other medical office visit occurs on the same date of service;

(g) Tobacco cessation if no other medical or addition encounter occurs on the same date of service.

(11) The billing guidelines provided in the AI/AN billing rules for those clinics reimbursed using a per encounter rate methodology are limited to specific CPT/HCPCS codes when reporting an encounter that may not be consistent with national coding standards. This does not apply to ICD-9-CM diagnosis coding. Bill OMAP with the procedure codes indicated in each service category for services included in the AI/AN encounter rate. For services that are not included in the encounter rate or under the MOA please refer to the Services Not Eligible Under the MOA section of the AI/AN billing rules for billing instructions.

(12) When billing for a clinic visit, select the most appropriate CPT/HCPCS procedure code ranges shown in Table 146-0080-1.

(13) It is the HSC's intent to cover reasonable diagnostic services to determine diagnoses on the HSC List, regardless of their placement on the HSC List.

Table 146-0080-1; Table 146-0080-2

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

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 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-146-0380

OHP Standard Emergency Dental Benefit

(1) The intent of the OHP Standard Emergency Dental benefit is to provide services requiring immediate treatment and is not intended to restore teeth.

(2) Services are limited to those procedures listed in Table 146-0380-1 and are limited to treatment for conditions such as:

- (a) Acute infection;
- (b) Acute abscesses;
- (c) Severe tooth pain; and
- (d) Tooth re-implantation when clinically appropriate.

(3) Hospital Dentistry is not a covered benefit for the OHP Standard population except:

(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; or

(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.

(4) Any limitations or prior authorization requirements on services listed in OAR 410-123-1260 will also apply to services in the OHP Standard benefit.

Table 146-0380-1

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-147-0085

Client Copayments

(1) Copayments for clients on the Oregon Health Plan (OHP) Plus benefit package:

(a) American Indians/Alaska Natives (AI/AN) clients are exempt from copayments;

(b) Copayments may be required for certain populations and services. See OAR 410-120-1230 for specific details;

(c) Copayments for Federally Qualified Health Center (FQHC)/Rural Health Clinic (RHC) visits are \$5.00 for dental services and \$3.00 for all other services, except as excluded in OAR 410-120-1230;

(d) A client may have more than one copayment during a 24-hour period. For example, if a client is seen for a medical exam and also has a mental health appointment, the client would be required to pay a copayment for both services.

(2) OHP Standard benefit package:

(a) Clients eligible for OHP Standard are exempt from copayments.

Refer to OAR 410-120-1230;

(b) The client's OMAP Medical Care ID will indicate if the client is covered on the OHP Standard benefit package.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 90-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-147-0120

Encounter

(1) Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) encounters that are billed to the Office of Medical Assistance Programs (OMAP) must meet the definition below and are limited to services covered by OMAP. These services include ambulatory services included in the State Plan under Title XIX or Title XXI of the Social Security Act.

(2) An encounter is defined as: "A face-to-face contact (except for telephone contacts as outlined in OAR 410-147-0220 and 410-147-0200 — see section (3) for more information) between a health care professional and a beneficiary eligible for Medical Assistance Program coverage for the provision of Title XIX and Title XXI defined services through an FQHC or RHC within a 24-hour period ending at midnight, as documented in the client's medical record."

(3) Telephone contacts must include all the components of the service when provided face-to-face. Telephone contacts are not at the exclusion of face-to-face.

(4) See OAR 410-147-0140 for information about multiple encounters.

(5) Refer to Table 147-0120-1 and for list of procedure codes used to report encounters. The following services may be considered reimbursable encounters and include any related medical supplies provided during the course of the encounter:

(a) Medical;

(b) Diagnostic: Reasonable diagnostic services are covered for services below the funding line. Once a diagnosis is established and falls below the funding line, no other services are allowed. For example, a client is seen in the clinic, and the diagnosis is a cold, the office visit is covered; however, any additional treatment is not covered;

(c) Addiction, Dental, Medical and Mental Health Screenings;

(d) Dental — Refer to Table 147-0120-2 and Table 147-0125-1 for a list of covered dental procedures;

(e) Vision;

(f) Physical Therapy;

(g) Occupational Therapy;

(h) Podiatry;

(i) Mental Health;

(j) Alcohol and Drug;

(k) Maternity Case Management;

(l) Speech;

(m) Hearing;

(n) Home Health (limited to areas in which the Secretary has determined that there is a shortage of home health agencies — Code of Federal Regulations, 405.2417). Home visits for assessment, diagnosis, treatment or Maternity Case Management is not considered home health services and is considered an encounter;

(o) Professional services provided in a hospital setting;

(p) Other Title XIX or XXI services as allowed under Oregon's Medicaid State Plan Amendment and OMAP Administrative Rules.

(6) The following practitioners are recognized by OMAP:

(a) Physicians;

(b) Licensed Physician Assistants;

(c) Dentists;

(d) Pharm Ds;

(e) Nurse Practitioners;

(f) Nurse Midwives;

(g) Other specialized nurse practitioners;

(h) Registered nurses under the supervision of an MD; and

(i) Other certified or licensed health care professionals or para-professionals including but not limited to mental health and alcohol and drug practitioners for services that are within the practitioner's scope of practice.

(7) Drugs or medication treatments provided during a clinic visit are part of the encounter rate. For example, a client has come into the clinic with high blood pressure and is treated at the clinic with a hypertensive drug or drug samples are included in the encounter rate. Prescriptions are not included in the encounter rate and must be billed through the pharmacy program by a qualified enrolled pharmacy.

(8) Encounters with a registered professional nurse or a licensed practical nurse and related medical supplies (other than drugs and biologicals) furnished on a part-time or intermittent basis to home-bound clients (limited to areas in which the Secretary has determined that there is a shortage of home health agencies — Code of Federal Regulations 405.2417), and any other ambulatory services covered by OMAP are also reimbursable as permitted within the clinic's scope of services (see OAR 410-147-0020).

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(9) Excluded from the definition of OMAP FQHC or RHC encounters are:

(a) Lab, Radiology including nuclear medicine and diagnostic ultrasound services;

(b) Venipuncture for lab tests is considered part of the encounter and cannot be billed separately. When a client is seen at the clinic for a lab test only use the appropriate CPT code. A visit for lab test only visit is not considered a clinic encounter;

(c) Durable medical equipment or medical supplies not generally provided during the course of a clinic visit. For example, diabetic supplies. However, gauze, band-aids, or other disposable products used during an office visit are considered as part of the cost of an encounter and cannot be billed separately under fee-for-service;

(d) Pharmaceutical or biologicals not generally provided during the clinic visit. For example, sample medications are part of the encounter but dispensing a prescription is billed separately under the fee-for-service pharmacy program;

(e) Administrative medical examinations and report services. Drug samples or other prescription drugs provided to the clinic free of charge are not reimbursable services and cannot be included in the cost of an encounter;

(f) Death with Dignity services;

(g) Emergency services including delivery for pregnant clients that are eligible under the Citizen/Alien-Waived Emergency Medical benefit. Emergency Services for CAWEM is defined in OAR 410-120-1210. Refer to 410-130-0240 for billing information;

(h) Other services that are not defined in this rule or the State Plan under Title XIX or Title XXI of the Social Security Act.

(10) Encounters for MCO covered services provided to eligible Medical Assistance Program clients enrolled in MCOs except family planning services or HIV/AIDS prevention services may not be billed to OMAP as an encounter. However, MCO covered services are included in the MCO Supplemental Payment process done by OMAP quarterly. Refer to OAR 410-147-0460 for specific details.

(11) Codes for Encounters:

(a) Due to the unique billing and payment methodology and the implementation of the Health Insurance Portability Accountability Act (HIPAA), OMAP has converted from using a single OMAP unique procedure code to report an encounter to selected CPT/HCPCS codes. The billing guidelines provided in the FQHC and RHC rules limits FQHCs and RHCs to specific CPT/HCPCS codes when reporting an encounter that may not be consistent with national coding standards. This applies only to procedure codes not diagnosis codes. Bill OMAP with the procedure codes indicated in Table 147-0120-1 for FQHC and RHC services included in the encounter rate. For services that are not included in the encounter rate, refer to the appropriate OMAP provider rules for billing instructions. Refer to Table 147-0120-1 Billing Codes for an Encounter;

(b) When billing for a clinic visit, select the most appropriate CPT/HCPCS procedure code from the code ranges listed in Table 147-0120-1.

(12) It is the Health Services Commission's (HSC) intent to cover reasonable diagnostic services to determine diagnoses on the HSC Prioritized List of Health Services (List), regardless of their placement on the HSC List.

Table 147-0120-1; Table 147-0120-2

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1993, f. & cert. ef. 7-1-93; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; 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 410-128-0390; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0150; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-147-0125

OHP Standard Emergency Dental Benefit

(1) The intent of the OHP Standard Emergency Dental benefit is to provide services requiring immediate treatment and is not intended to restore teeth.

(2) Services are limited to those procedures listed in Table 147-0125-1 and are limited to treatment for conditions such as:

(a) Acute infection;

(b) Acute abscesses;

(c) Severe tooth pain; and

(d) Tooth re-implantation when clinically appropriate.

(3) Hospital Dentistry is not a covered benefit for the OHP Standard population except;

(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; or

(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.

(4) Any limitations or prior authorization requirements on services listed in OAR 410-123-1260 will also apply to services in the OHP Standard benefit.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04

410-148-0090

Standard Benefit Package

(1) Some procedure codes/services are not covered for the Standard Benefit Package population. See General Rules 410-120-1235 for additional information.

(2) The OHP Standard benefit package includes limited Home Enteral/Parenteral and IV services:

(a) Drugs that are usually self-administered by the patient such as oral pill form or self-injected medications, are not covered.

(b) Oral nutrition services and supplies are not covered, except when the nutritional supplement meets the criteria specified in 410-148-0260(3), and is the sole source of nutrition for the client.

(c) Nursing assessment and nursing visits must be directly related to administration of the home enteral/parenteral nutrition and intravenous services pursuant to Oregon's Nurse Practices Act (OAR 851-001-0000). Home Health and Private Duty Nursing are not covered services under the Standard benefit package (General Rules 410-120-1210), except nursing assessment and nursing visits under this limited Home Enteral/Parenteral and IV benefit are covered.

Stat. Auth.: ORS 409

Stat. Implemented: 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

Department of Human Services, Mental Health and Developmental Disability Services Chapter 309

Adm. Order No.: MHD 2-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 7-1-04

Rules Repealed: 309-047-0020

Subject: Certification Expiration, Termination of Operations, Certificate Returns of the Employment and Alternative to Employment Services for Individuals with Developmental Disabilities, OAR 309-047-0020, is permanently repealed effective 08/01/2004. This rule is duplicated and now appears as 411-345-0060, which was effective 12/28/2003.

Rules Coordinator: Lynda Dyer—(503) 945-6398

Department of Human Services, Public Health Chapter 333

Adm. Order No.: PH 25-2004

Filed with Sec. of State: 7-16-2004

Certified to be Effective: 7-16-04

Notice Publication Date: 6-1-04

Rules Adopted: 333-003-0010, 333-003-0020, 333-003-0030, 333-003-0040, 333-003-0050, 333-003-0060, 333-003-0070, 333-003-0080

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

Rules Coordinator: Christina Hartman—(503) 731-4405

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333-003-0010

Definitions

For purposes of OAR 333-003-0020 to 333-003-0080, the following definitions apply:

(1) "Crisis" means a "state of impending public health crisis" proclaimed by the Governor pursuant to ORS 433.441.

(2) "Department" means the Department of Human Services.

(3) "Proclamation" refers to a proclamation of a state of impending public health crisis made by the Governor pursuant to ORS 433.441, or a proclamation of a state of emergency under ORS 401.055 in which the Governor implements actions authorized by ORS 433.441 to 433.452

(4) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and regulations adopted there under by the United States Department of Health and Human Services.

(5) "Standing order" means medical procedures described in writing that may be performed by non-physician health care professionals under the authority of a physician licensed to practice medicine in Oregon.

(6) "State Public Health Officer" is the person designated in ORS 431.045. References in OAR 333-003-0010 to 333-003-0080 to the State Public Health Officer shall include, if applicable, an acting State Public Health Officer or an authorized designee of the State Public Health Officer.

(7) "Reporting requirements" means information that may be requested from any health care provider or facility that has been determined by the Department as necessary to address the crisis. Such information includes but is not limited to specific disease diagnosis, set of symptoms, procedure performed, and treatment prescribed or dispensed; and the Department may request such information be provided by individual patient with contact information, statistics on currently affected persons, and predicted estimates of future numbers.

Stat. Auth.: ORS 433.441-433.452 & 409.050

Stats. Implemented: ORS 433.441-433.452

Hist.: PH 25-2004, f. & cert. ef. 7-16-04

333-003-0020

Proclamation

(1) The Governor may proclaim an impending public health crisis at the request of a county governing body or after determining that a crisis has occurred or is imminent.

(2) All requests by a county governing body that the Governor proclaims a state of impending public health crisis shall be sent to the Office of Emergency Management. Cities must submit requests through the governing body of the county in which the majority of the city's property is located.

(3) The requested declaration must be made in a form approved by the Department.

Stat. Auth.: ORS 433.441-433.452 & 409.050

Stats. Implemented: ORS 433.441-433.452

Hist.: PH 25-2004, f. & cert. ef. 7-16-04

333-003-0030

New Reporting Requirements

(1) In the event of a proclamation, the Department may convene an advisory committee to assist the Department in the development or review of new reporting requirements.

(2) Whenever new reporting requirements are adopted, the Department shall, in writing:

(a) Outline the nature of the crisis;

(b) Explain why the new reporting requirements are related to the subject of the proclamation and why they are being adopted;

(c) Describe how to comply with the new reporting requirements;

(d) Explain why the information required by the new reporting requirements can be provided to the Department in accordance with HIPAA; and

(e) Provide notice to persons required to comply with the new reporting requirements in the manner described in 333-003-0060.

Stat. Auth.: ORS 433.441-433.452 & 409.050

Stats. Implemented: ORS 433.441-433.452

Hist.: PH 25-2004, f. & cert. ef. 7-16-04

333-003-0040

Diagnostic and Treatment Protocols

(1) The Department shall convene an advisory committee to assist in the development of new diagnostic and treatment protocols that may be necessary or advisable in response to the subject of a proclamation. If the situation requires immediate adoption of protocols before an advisory committee is convened, the Department may adopt temporary diagnostic and treatment protocols that shall be reviewed and revised by an advisory committee convened within 72 hours of the proclamation or as soon thereafter as the Department is reasonably able to convene an advisory committee.

(2) In convening the advisory committee, the Department shall ask representatives of the Oregon Medical Association, the Oregon Association of Health and Hospital, and other appropriate professional organizations, agencies, groups and individuals to participate.

(3) Whenever new diagnostic and treatment protocols are adopted, the Department shall, in writing:

(a) Outline the nature of the crisis;

(b) Explain why the new diagnostic and treatment protocols are being adopted;

(c) Describe how to obtain additional information about the protocols; and

(d) Provide notice to persons required to comply with new reporting requirements in the manner described in 333-003-0060.

(4) Effective immediately upon adoption by the Department:

(a) Diagnostic and treatment protocols signed by the State Public Health Officer shall serve as standing orders for local health department personnel until such time as such standing orders can be signed by the local health officer;

(b) Local health officers shall sign or revise such standing orders within 72 hours of promulgation by the Department; and,

(c) All revisions to Department protocols shall be approved by the State Public Health Officer.

(5) If the Strategic National Stockpile is activated, the State Public Health Officer may:

(a) Provide an official signature and conduct any other activities necessary to receive the Stockpile;

(b) Distribute Stockpile supplies to any emergency health care center, hospital, or other facility designated by the local public health department Administrator; and

(c) Provide to the Administrator of a local health department a standing order allowing authorized personnel in appropriate facilities to dispense stockpile supplies as needed. Dispensing of medication must be in compliance with standing orders described in subsection (4) of this rule if such orders have been promulgated.

Stat. Auth.: ORS 433.441-433.452 & 409.050

Stats. Implemented: ORS 433.441-433.452

Hist.: PH 25-2004, f. & cert. ef. 7-16-04

333-003-0050

Access to Individually Identifiable Health Information

(1) The Department may convene an advisory committee of persons the Department determines to be experts regarding HIPAA to assist in the development of requirements for providing the Department and local public health administrators access to individually identifiable health information.

(2) Whenever such requirements are developed, the Department shall, in writing:

(a) Outline the nature of the crisis;

(b) Explain why the access to individually identifiable information is authorized by ORS 433.443(3)(a);

(c) Describe the information that may be accessed and how this information is directly related to the subject of the proclamation, including for follow-up contact with the patient;

(d) Explain the options for providing access to individually identifiable health information and the disposition of collected information;

(e) Document why the individually identifiable health information can be provided to the Department in accordance with HIPAA; and

(f) Provide notice to persons required to provide individually identifiable health information to the Department or local public health administrators in the manner described in 333-003-0060.

(3) Access to individually identifiable health information may be provided by supplying medical record information as prescribed by the Department or by allowing authorized public health officials to review pertinent portions of medical records.

(4) The Department shall create a form to assist in the collection of information whenever abstracted information is being requested.

Stat. Auth.: ORS 433.441-433.452 & 409.050

Stats. Implemented: ORS 433.441-433.452

Hist.: PH 25-2004, f. & cert. ef. 7-16-04

333-003-0060

Notice, Civil Penalties

(1) The notice described in OAR 333-003-0030(2)(e), 333-003-0040(3)(d), and 333-003-0050(2)(f) may be provided in any of the following manners:

(a) Releases through print, radio or television media outlets;

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(b) Releases in health care provider publications when timely; or
(c) Mailings, faxes, phone calls, and/or e-mail or other electronic notification to affected health care providers, facilities and institutions.

(2) No person shall be subject to a civil penalty as described in 333-003-0060(3) unless the Department has provided that person notice in the manner described in subsection (2) of 333-003-0060. Such notice may be by:

- (a) Personal delivery or other service;
- (b) Registered or certified mail;
- (c) Fax, e-mail, or other electronic communication where receipt is documented; or
- (d) Phone contact that has been witnessed by at least one person other than the caller providing notice and the person to whom notice is being provided.

(3) Civil penalties authorized by ORS 433.443, section 2(1)(e), shall be imposed in accordance with ORS 183.745 and the procedures required pursuant thereto.

Stat. Auth.: ORS 433.441-433.452 & 409.050
Stats. Implemented: ORS 433.441-433.452
Hist.: PH 25-2004, f. & cert. ef. 7-16-04

333-003-0070

Temporary Restriction of Movement

(1) Temporary restriction of movement pursuant to ORS 433.453 shall be employed only to deliver health information related to, or to obtain contact information from, individuals potentially exposed to a disease or hazard that is the subject of a proclamation.

(2) Delivery of health information to individuals subject to temporary restriction of movement may include:

- (a) Information on the disease or other hazard that is the subject of a proclamation;
 - (b) Symptoms that might be expected with the onset of disease and what to do in the event such symptoms occur;
 - (c) Methods of notification if it is determined that the individual was exposed to the disease or hazard; and
 - (d) Final disposition of collected information.
- (3) Restriction of movement shall be limited to the shortest duration of time reasonably required to provide health information to the individual and for the individual to provide contact information.

(4) The Department or, if authorized, the local health department restricting movement shall use reasonable resources to deliver and collect information in a timely manner.

(5) Any individual failing to comply with the provisions of this section may be subject to the imposition of a public health measure as described in ORS 433.019 and 433.022.

(6) Individually identifiable contact information shall be destroyed within 7 days following the termination of the crisis unless:

- (a) An emergency related to the impending public health crisis has been declared under ORS 401.055; or
- (b) A positive exposure has been identified that requires medical follow-up.

Stat. Auth.: ORS 433.441-433.452 & 409.050
Stats. Implemented: ORS 433.441-433.452
Hist.: PH 25-2004, f. & cert. ef. 7-16-04

333-003-0080

Effect of Crisis Ending

Immediately upon termination of the crisis, all actions taken pursuant to these rules are terminated unless an emergency related to the crisis has been proclaimed under ORS. 401.055 or continuation of the actions is otherwise authorized by law.

Stat. Auth.: ORS 433.441-433.452 & 409.050
Stats. Implemented: ORS 433.441-433.452
Hist.: PH 25-2004, f. & cert. ef. 7-16-04

Adm. Order No.: PH 26-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 7-30-04

Notice Publication Date: 6-1-04

Rules Adopted: 333-003-0100, 333-003-0105, 333-003-0110, 333-003-0115, 333-003-0120, 333-003-0125, 333-003-0130, 333-003-0135, 333-003-0140

Subject: Adopts Emergency Health Crisis Services rules to implement HB 2410 (2003 Legislative Session). The adopted rules include: Scope; Definitions; Health Care Providers Registry; Registration with the Department; Health Care Providers Not Included

in the Registry; Activation of Registrants; Emergency Health Care Centers and Emergency Operation Plans; Cooperative Agreements Between the Department and Local Public Health Authorities to Designate Emergency Health Care Centers; and Training. The rules set procedures for limiting the liability of in-state health care workers who volunteer during emergencies.

Rules Coordinator: Christina Hartman—(503) 731-4405

333-003-0100

Scope

The rules in OAR 333-003-0100 to 333-003-0140 pertain to emergency health care services under ORS 401.651 to 401.670.

Stat. Auth.: ORS 401.651 – 401.670
Stats. Implemented: ORS 401.651 – 401.670
Hist.: PH 26-2004, f. & cert. ef. 7-30-04

333-003-0105

Definitions

For purposes of OAR 333-003-0100 to 333-003-0140, the following definitions apply:

(1) “Compensation” means salary or other wages or benefits, including without limitation life, health or workers’ compensation insurance coverage, whether the compensation is provided as an employee or under a contract or other agreement. “Compensation” does not include the provision of meals, clothing, or equipment to a health care provider who is a registrant or a volunteer when the registrant or volunteer is providing health care services under ORS 401.651 to 401.670, or any workers’ compensation insurance or other coverages that are available to an “emergency service worker” as that term is defined in ORS 401.025(9)(a).

(2) “Cooperative Agreement” means an agreement between the Department and a local public health authority under ORS 401.657.

(3) “Credentialing” means granting privileges or permission, including any limitations or limits on the privileges or permission, authorizing a health care provider to provide health care services at a health care facility.

(4) “Credentialing plan” means the procedures established by an emergency health care center for credentialing emergency health care providers. At a minimum, the credentialing plan describes the verification procedure used to ensure that a registrant or volunteer is a licensed health care provider in this state.

(5) “Department” means the Department of Human Services.

(6) “Emergency health care center” means a health care facility, or any portion thereof or any other location designated by the Department, or by a local public health authority under a cooperative agreement, to provide emergency health care services under ORS 401.651 to 401.670.

(7) “Emergency health care provider” means a health care provider who is a registrant or volunteer providing health care services under ORS 401.651 to 401.670.

(8) “Emergency health care services” means health care services rendered by an emergency health care provider.

(9) “Emergency operations plan” means procedures used by an emergency health care center that, at a minimum, meets the requirements of 333-003-0130(4).

(10) “Health care facility” has the meaning provided in ORS 401.651.

(11) “Health care provider” has the meaning provided in ORS 401.651.

(12) “Local public health authority” has the meaning provided in ORS 431.375.

(13) “Proclamation” refers to a proclamation of a state of impending public health crisis or a state of emergency made by the Governor under ORS 401.661. “Proclamation” in this rule has the same meaning as “proclamation” in OAR 333-003-0010(3).

(14) “Registrant” means a health care provider listed on the registry.

(15) “Registry” means the Health Care Provider Registry.

(16) “State Support Function 8” or “SSF 8” means the coordination of state assistance for health and medical care needs in the event of a disaster, as described in the Oregon Emergency Management Plan administered by the Department of State Police, Office of Emergency Management.

(17) “Volunteer” means a health care provider who is not a registrant who provides emergency health care services at an emergency health care center.

Stat. Auth.: ORS 401.651 – 401.670
Stats. Implemented: ORS 401.651 – 401.670
Hist.: PH 26-2004, f. & cert. ef. 7-30-04

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333-003-0110

The Health Care Provider Registry

(1) The registry is a database of health care providers who choose to register to provide emergency health care services. The Department shall maintain the registry in electronic or paper form, or any combination thereof.

(a) For each registrant, the registry shall contain the registrant's name and license or other certification and any information provided to the Department describing any limits on the registrant's authority to provide health care services. The registry shall not contain any information regarding the reason for any limits on the registrant's authority to provide health care services, whether as a result of any disciplinary action imposed by the agency licensing the registrant or for any other reason.

(b) For each registrant, the registry may contain information about the registrant's usual practice or specialty, if that information is available and the Department determines it is appropriate to include in the registry.

(2) The Department shall issue to each registrant an identification card as provided in ORS 401.654.

(3) Information in the registry may be used for purposes of maintaining the registry and as needed in the event of a proclamation, including without limitation that the information may be shared with emergency health care centers for purposes of facilitating granting privileges to registrants.

(4) Information in the registry may be used by local public health authorities in the manner provided in 333-003-0125(4).

Stat. Auth.: ORS 401.651 – 401.670

Stats. Implemented: ORS 401.651 – 401.670

Hist.: PH 26-2004, f. & cert. ef. 7-30-04

333-003-0115

Registration with the Department

(1) A health care provider may register in any manner made available by the Department including, without limitation, by filing an electronic, paper, fax or other form with the Department or, when available from the health care provider's licensing agency, by registering through that licensing agency.

(2) The Department may obtain verification of the license status of any health care provider who chooses to register from health care licensing agencies or other persons by electronic or other means.

(3) To be included in the registry, a health care provider must provide at least the following information to the Department:

(a) The information described in 333-003-0110(1)(a).

(b) The provider's license or certification number and other information that may be required by statute or rule.

(c) Disclosure of any restrictions on the health care provider's license imposed by a court or by a licensing or other agency.

(d) Information to enable the Department to identify the registrant, verify the registrant's license, and to contact the registrant in the event of a proclamation.

(e) The Department may request additional information that may be required to identify the health care provider or to verify information about the health care provider.

(4) A health care provider may notify the Department at the time of registration if the provider authorizes release of the provider's information contained in the registry to local public health authorities for the purposes provided in 333-003-0125(4). A local public health authority accessing the registry for the purposes of 333-003-0125(4) may contact a registrant only if the registrant has provided this authorization.

(5) A registrant may request removal from the registry at any time by notifying the Department of the request. Upon receipt of such request and verification that it came from the registrant, the Department will remove the registrant from the registry. The registrant must return the identification card described in ORS 401.654 to the Department at the time of the request.

Stat. Auth.: ORS 401.651 – 401.670

Stats. Implemented: ORS 401.651 – 401.670

Hist.: PH 26-2004, f. & cert. ef. 7-30-04

333-003-0120

Health Care Providers Not Included in the Registry

(1) A health care provider who is not a registrant may provide health care services at an emergency health care center if authorized to do so pursuant to the emergency health care center's emergency operations plan and credentialing plan.

(2) A volunteer providing health care services within the course and scope of subsection (1) of this rule is an emergency health care provider if the services are provided without compensation.

Stat. Auth.: ORS 401.651 – 401.670

Stats. Implemented: ORS 401.651 – 401.670

Hist.: PH 26-2004, f. & cert. ef. 7-30-04

333-003-0125

Activation of Registrants

(1) The Department may activate the registry in the event of a proclamation. The Department may support the state Emergency Coordination Center and the State Emergency Management Plan by activating the Registry, including by implementing SSF 8 plans, protocols, and procedures to integrate the Registry and registrants into the local emergency response.

(2) In the absence of a proclamation, the Department may activate the registry only for training purposes.

(3) Upon activation under subsections (1) or (2) of this rule, a registrant acting without compensation and within the course and scope of the activation is an emergency health care provider.

(4) A local public health authority may activate registrants for use within the jurisdiction of the public health authority if the local public health administrator is acting under ORS 431.530 or if the county governing body in which the local public health authority is located has declared an emergency under ORS 401.309, if:

(a) The registrant has authorized local public health authorities to request that the registrant be activated for local purposes as provided in 333-003-0115(4);

(b) The local jurisdiction informs the registrant that the registrant is not an agent of the state under ORS 401.667; and

(c) The request to activate the registrant is made through the Department, and there has not been a proclamation.

(5) A registrant may decline to respond to an activation at the time the registrant is notified of the activation. Unless a registrant requests otherwise, a registrant will remain on the registry whether or not the registrant responds to an activation.

Stat. Auth.: ORS 401.651 – 401.670

Stats. Implemented: ORS 401.651 – 401.670

Hist.: PH 26-2004, f. & cert. ef. 7-30-04

333-003-0130

Emergency Health Care Centers; Emergency Operations Plan

(1) In the event of a proclamation, the Department or, when authorized by a cooperative agreement, a local public health authority, may designate one or more emergency health care centers.

(2) Emergency health care centers will be supervised by the Department or local public health authority that designates the emergency health care center, except:

(a) If an emergency health care center is a health care facility or is located within a health care facility, the Department or local public health authority designating the center may authorize supervision of the emergency health care center according to the health care facility's emergency operations plan, if it has one.

(b) If an emergency health care center is a health care facility or is located within a health care facility, the Department or local public health authority designating the center shall authorize supervision of the emergency health care center according to the health care facility's emergency operations plan if, prior to a proclamation, the Department has determined that the health care facility's emergency operations plan meets the requirements of these rules. That determination may be made in the process of licensing the health care facility or upon a request to the Department by a health care facility.

(c) If an emergency health care center is not a health care facility or does not have an emergency operations plan, the emergency health care center shall operate under the emergency operations plan and credentialing plan developed by the Department under 333-003-0130(4) or by the local public health authority as provided in 333-003-0135. Pursuant to the emergency operations plan described in this paragraph, the Department or local public health authority that designated the emergency health care center may designate one or more persons to supervise the emergency health care center.

(3) The duties of the site supervisor, or that person's designee, includes providing to emergency health care providers a general orientation to the facility, a briefing on the situation at the emergency health care facility and written expectations of the emergency health care providers, all to be provided as soon as reasonably possible under the emergency

(4) An emergency operations plan shall include a chain of management and procedures for increasing staff during an emergency. For any emergency health care center that is a health care facility, this should include procedures for granting privileges, permission or other authority for health care providers who are not employed by, or otherwise associated with the health care facility, in the normal course of business, to provide

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emergency health care services. An emergency operations plan should include the following:

(a) The individual(s) responsible for granting emergency privileges and that decisions whether to grant privileges to registrants or volunteers are to be made on a case-by-case basis and at the discretion of the individual(s) responsible for granting emergency privileges;

(b) A mechanism to readily identify the emergency-privileged individuals;

(c) A process, to begin as soon as the situation that gave rise to the proclamation allows, for verifying the license and any other information relevant to a registrant or volunteer who is granted emergency privileges under the credentialing plan;

(d) The credentialing plan may provide for emergency privileges to be granted upon presentation of any of the following:

(A) A current picture hospital ID card;

(B) A current license to practice and a valid picture ID; issued by a state, federal or regulatory agency;

(C) Identification indicating that the individual is a member of a Disaster Medical Assistance Team (DMAT);

(D) Identification indicating that the individual has been granted authority to render patient care in emergency circumstances, such authority having been granted by federal, state, or municipal entity, including without limitation the identification card described in ORS 401.654; or

(E) Presentation by current hospital or medical staff members(s) with personal knowledge regarding practitioner's identity.

Stat. Auth.: ORS 401.651 – 401.670

Stats. Implemented: ORS 401.651 – 401.670

Hist.: PH 26-2004, f. & cert. ef. 7-30-04

333-003-0135

Cooperative Agreements Between the Department and Local Public Health Authorities to Designate Emergency Health Care Centers

(1) The Department may enter into cooperative agreements with local public health authorities to authorize local public health authorities to identify and designate emergency health care centers within their respective jurisdictions as provided in 333-003-0130.

(2) A cooperative agreement may incorporate an emergency operations plan and credentialing plan developed by the local public health authority that is acceptable to the Department for emergency health care centers within the local jurisdiction. In the absence of an emergency operations plan and credentialing plan in the cooperative agreement, the emergency operations plan and credentialing plan established by Department under 333-003-0130(4) shall apply, unless the local public health authority authorizes an emergency health care center that is a health care facility to use its emergency operations plan as provided in OAR 333-003-0130(2)(a) or the health care facility's emergency operations plan has been approved as provided in OAR 333-003-0130(2)(b).

Stat. Auth.: ORS 401.651 – 401.670

Stats. Implemented: ORS 401.651 – 401.670

Hist.: PH 26-2004, f. & cert. ef. 7-30-04

333-003-0140

Training

The Department may require or otherwise make available to registrants training that the Department determines necessary or beneficial to the provision of health care services that may be rendered by registrants pursuant to ORS 401.651 to 401.670, including without limitation training in the emergency response system structure, operations, emergency preparedness and table top or other emergency response exercises. The Department shall not require training that is related to a registrant's professional license.

Stat. Auth.: ORS 401.651 – 401.670

Stats. Implemented: ORS 401.651 – 401.670

Hist.: PH 26-2004, f. & cert. ef. 7-30-04

Department of Human Services, Self-Sufficiency Programs Chapter 461

Adm. Order No.: SSP 19-2004(Temp)

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 8-1-04 thru 9-30-04

Notice Publication Date:

Rules Amended: 461-165-0060

Subject: Rule 461-165-0060 is being amended to reflect current federal regulations regarding the amount of food stamp benefits a household of three persons or greater may receive.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-165-0060

Prohibition Against Benefits in Amounts Less Than \$10

(1) In the REF and TANF programs, benefits are not issued if the monthly benefit is less than \$10. People who do not receive a cash payment because the monthly benefit is less than \$10 are eligible for medical benefits. The following are exceptions to the \$10 limitation:

(a) The \$10 limit does not apply to special payments, such as one-time special needs, emergency assistance, supplements, or a benefit reduced from \$10 or more to under \$10 due to the recovery of an overpayment.

(b) The \$10 limit does not apply to dual-payee payments made in money management cases if the monthly benefit amount is \$10 or more.

(c) The \$10 limit does not apply to wage supplements issued to JOBS Plus participants.

(2) In the FS program, a benefit group is not eligible for benefits in the initial month if the allotment is less than \$10.

(3) For ongoing months, FS benefits are issued as follows:

(a) An eligible one- or two-person benefit group receives a minimum monthly allotment of \$10.

(b) An eligible benefit group of three or more persons receives the calculated benefit except that a group whose calculated benefit is \$1, \$3, or \$5 receives instead an allotment of \$2, \$4, or \$6 respectively.

Stat. Auth.: ORS 411.060, 411.816, 418.100

Stats. Implemented: ORS 411.060, 411.816, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91;

AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS

13-2002, f. & cert. ef. 10-1-02; SSP 19-2004(Temp), f. 7-30-04, cert. ef. 8-1-04 thru 9-30-04

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

Adm. Order No.: SPD 21-2004(Temp)

Filed with Sec. of State: 7-21-2004

Certified to be Effective: 8-1-04 thru 1-5-05

Notice Publication Date:

Rules Amended: 411-027-0000

Subject: The temporary amendment to 411-027-0000, Payment Limitations in Community Based Care establishes the Maximum Community-Based Care rate and includes guidelines for rate adjustments to be inflated by the annual change in the DRI Index as measured in the previous year's fourth quarter. This rate is published by Finance and Policy Analysis at least annually. Additionally, reference to "Fiscal and Policy Analysis" has been changed to "Finance and Policy Analysis" and rule language may be updated to clarify the intent of the rule.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-027-0000

Payment Limitations in Community-Based Care

(1) Payment for Services:

(a) Department service payments under this rule are limited to home and community-based care services provided under Oregon's Title XIX 1915(c) Waiver for Aged and Disabled Persons.

(b) Community-based care services include, but are not limited to:

(A) In-Home Care Services (client-employed providers and home care agencies);

(B) Residential Care Facility Services;

(C) Assisted Living Facility Services;

(D) Adult Foster Home Services;

(E) Specialized Living Services;

(F) Adult Day Care Services; and

(G) Home-Delivered Meals.

(2) Payment Basis:

(a) Unless otherwise specified, service payment will be based upon each client's assessed need for care as documented by the Seniors and People with Disabilities cluster (SPD) Client Assessment/Planning System (CA/PS).

(b) Payments for community-based care services are not intended to replace the resources available to a client from their natural support system of relatives, friends, and neighbors. Payment by the Department may be authorized only when the natural support system is unavailable, insufficient or inadequate to meet the needs of the client. Clients with excess income will contribute to the cost of care pursuant to OAR 461-160-0610 and 461-160-0620.

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(c) Case plans will be based upon the least costly means of providing adequate care consistent with client choice. Client choice means that the person has a choice of services that are available within the approved Finance and Policy Analysis (FPA) rate schedule. Any services that are available at a rate higher than the FPA schedule will only be a choice if the client meets the criteria in the exception policy in OAR 411-027-0050.

(d) Service delivery area (SDA) and Type B Area Agency on Aging (AAA) staff will monitor the progress of the client. When a change occurs in the client's care needs that may warrant a change in the service payment rate, staff will update the case plan.

(3) Maximum Community-Based Care Rate

(a) The monthly maximum community-based care rate is established at \$3615.00.

(b) Beginning July 1 2005 and every other year thereafter, the rate will be inflated by the annual change in the DRI Index, as measured in the previous year's fourth quarter.

(c) Finance and Policy Analysis publish the maximum community-based care rate at least annually.

(4) Payment Limitations:

(a) The total continuing cost of, waiver services for a client in a community-based care setting must not exceed the published maximum community-based care rate.

(b) Notwithstanding section (4) subsection (a) of this rule, the Department may authorize service payment rates that exceed the maximum community based care rate when:

(A) There is a specific rehabilitation plan approved by SPD, with goals and a definite time frame for delivery, that will improve the client's self-sufficiency;

(B) SPD determines that intensive convalescent care is required for a limited period of time; or

(C) SPD determines that intensive long-term care or special technology is required, but is otherwise available locally only in an acute care facility (hospital); and

(D) FPA has reviewed the costs of service to be provided and determined their reasonability.

(c) If service payment is authorized under section (3), subsection (b) of this rule:

(A) The case plan shall reflect specific provider responsibilities, the time period for the delivery of services and corresponding payment rate adjustments;

(B) SPD and FPA will give the provider written authorization for the services provided and the time period for delivery; and

(C) SDA and Type B AAA staff will monitor the progress of the client. When a change occurs in the client's care needs that may warrant a change in the service payment rate, staff will update the case plan and recommend an adjustment in the service payment rate to SPD and FPA.

(5) All service payments must be prior authorized by the SDA or Type B AAA local unit or by SPD and FPA.

(a) FPA will publish the established provider payment rate schedule. When FPA has established a rate schedule, SDA and Type B AAA long-term care case managers may prior authorize service payments from that schedule based on the client's living situation and assessed need for care documented on the SPD CA/PS.

(b) Any rate that differs from the FPA published rate based on the client's living situation and assessed need for care must be pre-authorized by FPA and SPD.

(6) The Department will not make payment to a spouse for providing community-based care services except for In-Home Care Services as provided in OAR chapter 411, division 030 (state funded spousal pay program).

(7) Payments for Adult Day Services:

(a) Local SDA and Type B AAA units may authorize payments to any Medicaid-contracted adult day services program as defined in OAR 411-66-0000 through 411-66-0020 in accordance with the published rate schedule.

(b) Adult day services may be authorized as part of an overall plan of care for service-eligible clients and may be used in combination with other community-based services if day services is the appropriate resource to meet a special need.

(c) Adult day services may be authorized for payment as a single service or in combination with other community-based care services. Adult day services will not be authorized nor paid for if another provider has been authorized payment for the same service. Payments authorized for adult day services will be included in computing the total cost of care.

(d) The Department will pay for a half day of program services when four or less hours of care are provided, and will pay for a full day of program services when more than four, but less than twenty-four, hours are provided.

(8) Payment For Home Delivered Meals

(a) Local SDA and Type B AAA units may authorize payments to any Medicaid-contracted home delivered meals as defined in OAR 411-66-0000 through 411-66-0020 in accordance with the published rate schedule.

(b) Home-delivered meals may be authorized as part of an overall plan of care for service-eligible clients and may be used in combination with other community-based services if meals is the appropriate resource to meet a special need.

(9) Payments to Assisted Living Facilities (ALF's):

(a) Local SDA and Type B AAA units may authorize payments to any Medicaid-contracted Assisted Living Facility as defined in OAR 411-056-0005.

(b) In all instances, placement in ALFs is contingent upon the client meeting the payment levels described in section (7), subsection (c), paragraph (C) of this rule.

(c) Monthly Service Payment Determination:

(A) Monthly service payment for SPD clients is based on degree of impairment in each of the six Activities of Daily Living (ADL) as determined by the SPD CA/PS and the payment levels described in section (7), subsection (c), paragraph (C) of this rule. The initial service plan must be developed prior to admission and must be revised if needed within 30 days. The service plan must be reviewed and updated at least quarterly or more often as needed, as per OAR 411-056-0015(2)(g).

(B) Activities of Daily Living (ADL) are weighted for purposes of determining the monthly service payment as follows:

(i) Critical activities of daily living (ADL): toileting, eating and behavior;

(ii) Less critical ADLs: mobility, bathing/personal hygiene and dressing/grooming.

(iii) Essential factors: Other essential factors considered are medical problems, structured living, medical management and other needs.

(C) Payment (Impairment) Levels:

(i) Level 5 — Client is dependent in three to six ADLs; OR dependent in behavior AND one or two other ADLs.

(ii) Level 4 — Client is dependent in one or two ADLs; OR requires assistance in four to six ADLs plus assistance in behavior.

(iii) Level 3 — Client requires assistance in four to six ADLs; OR requires assistance in toileting, eating and behavior.

(iv) Level 2 — Client requires assistance in toileting, eating and behavior; OR requires assistance in behavior AND eating or toileting.

(v) Level 1 — Client requires assistance in two or more of the critical ADLs; OR requires assistance in any three ADLs; OR requires assistance in toileting, eating or behavior and assistance in at least one other essential factor; OR requires assistance in one critical ADL and one other ADL.

(D) The reimbursement rate for Department clients will not be more than the rates charged private paying clients receiving the same type and quality of care.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 9-1984(Temp), f. & ef. 11-1-84; SSD 3-1985, f. & ef. 4-1-85; SSD 10-1985, f. & ef. 8-1-85; SSD 12-1985(Temp), f. & ef. 9-19-85; SSD 16-1985, f. 12-31-85, ef. 1-1-86; SSD 4-1987(Temp), f. & ef. 7-1-87; SSD 13-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 6-1988, f. & cert. ef. 7-1-88; SSD 9-1989, f. 6-30-89, cert. ef. 7-1-89; SSD 2-1993, f. 3-19-93, cert. ef. 4-1-93; SSD 9-1993, f. & cert. ef. 12-1-93; SDSD 3-1998, f. 2-27-98, cert. ef. 3-1-98; SDSD 1-1999, f. & cert. ef. 3-1-99; SDSD 2-1999, f. 3-1-99, cert. ef. 4-1-99; SDSD 1-2001(Temp) f. & cert. ef. 2-5-01 thru 8-3-01; Suspended by SDSD 5-2001(Temp), f. & cert. ef. 3-8-01 thru 8-3-01; Administrative correction 11-20-01; SDSD 10-2001, f. 12-27-01, cert. ef. 1-1-02; SPD 21-2004(Temp), f. 7-31-04 cert. ef. 8-1-04 thru 1-5-05

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Adm. Order No.: SPD 22-2004(Temp)

Filed with Sec. of State: 7-23-2004

Certified to be Effective: 8-1-04 thru 1-28-05

Notice Publication Date:

Rules Adopted: 411-070-0032

Subject: Chapter 411, Division 070, Rule 0032, the Post Hospital Extended Care Benefit is temporarily adopted effective August 1, 2004.

There are no administrative rules implementing the Oregon Health Plan Post-Hospital Extended Care benefit for clients who are not in managed care. With the August 1, 2004 changes to the Oregon Health Plan benefits for the Standard population, it is anticipated that the need for the Post Hospital Extended Care (PHEC) benefit will

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increase. Currently, the only rules regarding eligibility for the PHEC benefit are OMAP General rules stating that clients must meet Medicare skilled criteria. The Department of Human Services, Seniors and People with Disabilities local offices and Area Agencies on Aging are responsible for prior authorization of this benefit and are unfamiliar with federal Medicare rules for skilled care. This temporary rule gives clear requirements for assessing client's eligibility for the PHEC benefit.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-070-0032

Post Hospital Extended Care Benefit

(1) The Post Hospital Extended Care Benefit (OAR 411-120-1210(3)(a)(G)) is an Oregon Health Plan benefit that consists of a stay of up to twenty days in a nursing facility to allow discharge from hospitals.

(2) This benefit must be prior authorized by Pre-Admission Screening for clients not enrolled in managed care.

(3) To be eligible for the Post Hospital Extended Care Benefit, the client must meet all of the following:

(a) Be receiving Oregon Health Plan Plus or Standard, Fee-for-Service benefits;

(b) Not be Medicare eligible;

(c) Have a medically-necessary, qualifying hospital stay consisting of:

(A) An OMAP-paid admission to an acute-care hospital bed, not including a hold bed, observation bed or emergency room bed;

(B) The stay must consist of three or more consecutive days, not counting the day of discharge;

(c) Transfer to a nursing facility within 30 days of discharge from the hospital;

(d) Needs skilled nursing or rehabilitation services for hospitalized condition, meeting Medicare skilled criteria;

(e) These skilled services are needed on a daily basis;

(f) The daily services can be provided only in a nursing facility, meaning:

(A) The client would be at risk of further injury from falls, dehydration or nutrition because of insufficient supervision or assistance at home; or

(B) The client's condition would require daily transportation to hospital or rehabilitation facility by ambulance; or

(C) It is too far to travel to provide daily nursing or rehabilitation services in the client's home.

(4) The client may qualify for another twenty day Post-Hospital Extended Care Benefit only if the client has been out of a hospital and has not received skilled nursing care for 60 consecutive days in a row and meets all the criteria in OAR 411-070-0032(3).

(5) Clients eligible for the twenty day Post-Hospital Extended Care Benefit are not eligible for long term care nursing facility or Home and Community Based waiver services unless the client meets the eligibility criteria in OAR 411-015-0100 or 411-320-0010(21, 22, or 23)

Stat. Auth.: ORS 409, 410.070, & 414.065

Stats. Implemented: ORS 410.070 & 414.065

Hist.: SPD 22-2004(Temp), f. 7-23-04 cert. ef. 8-1-04 thru 1-28-05

Adm. Order No.: SPD 23-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 7-1-04

Rules Amended: 411-086-0100, 411-086-0250

Subject: OAR 411-086-0100 and OAR 411-086-0250, Nursing Facilities, Administration and Services rules have been permanently amended effective 08/01/2004. The amendments to these rules provide for the use of paid Dining Assistants in Oregon's nursing facilities and specifies the following:

a) Resident selection criteria, b) scope of duties, c) training, d) qualification of instructors, e) evaluation, f) supervision, g) performance, h) orientation and i) record maintenance.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-086-0100

Nursing Services: Staffing

(1) STAFFING PLAN.

(a) The facility shall have a written plan which ensures staffing sufficient to meet the needs of each resident and identifies procedures to obtain required staff when absences occur.

(b) The facility shall maintain a written, weekly staffing schedule showing the number and category of staff assigned to each shift and the person(s) to be called in the event of any absence.

(c) Both planned and actual staffing, including number and category of personnel, shall be clearly documented.

(2) MINIMUM STAFFING, GENERALLY. Resident care needs shall be the primary consideration in determining the number and categories of nursing personnel needed. Staffing shall be sufficient in quantity and quality to provide nursing care for each resident as needed, including restorative care that enables each resident to achieve and maintain the highest possible degree of function, self-care and independence, as determined by the resident's care plan. Such staffing shall be provided even though it exceeds other requirements specified by this rule or specified in any waiver.

(3) MINIMUM LICENSED NURSE STAFFING.

(a) Licensed nurse hours shall include no less than one RN hour per resident per week;

(b) When an RN serves in the temporary absence of the administrator, his/her hours shall not be used to meet minimum nursing hours.

(c) In facilities with 41 or more beds the hours of a licensed nurse who serves as facility administrator shall not be included in any licensed nurse coverage required by OAR 411-086-0100.

(d) The facility shall have a licensed charge nurse on each shift, 24-hours per day. The charge nurse must be an RN for no less than eight consecutive hours, between 7 am and 11 pm, seven days a week.

(A) The DNS may serve as charge nurse only when the facility has 60 or fewer residents.

(B) Subsection (3)(d) of this rule may be waived by the Division if the licensee demonstrates that:

(i) It has been unable to recruit appropriate personnel despite diligent effort (including offering wages at the community prevailing rate for nursing facilities);

(ii) The waiver will not endanger the health or safety of residents;

(iii) The request for waiver shall comply with OAR 411-085-0040 and shall be reviewed annually; and

(iv) The request for waiver shall certify that an RN or physician is obligated to immediately respond to telephone calls from the facility.

(4) MINIMUM CERTIFIED NURSING ASSISTANT STAFFING.

(a) Each resident shall have a nursing assistant assigned to his/her care on each shift (nursing assistants may be assigned by room number). The numbers listed in this rule are not intended to indicate sufficient nursing staff; the minimum staff required are the numbers sufficient to meet resident care needs. The number of residents assigned to the nursing assistant shall not exceed the following numbers:

(A) DAY SHIFT (7 am until 3 pm): 10 residents.

(B) SWING SHIFT (3 pm until 11 pm): 15 residents.

(C) NIGHT SHIFT (11 pm until 7 am): 25 residents.

(b) A facility providing an alternate schedule to the Division specifying the maximum numbers of residents assigned to any nursing assistant on each shift may be granted a variance to paragraphs (4)(a)(A), (B) and (C) of this rule. Such requests must comply with OAR 411-085-0040.

(c) This rule does not prohibit nursing assistants from providing care to a resident to whom they are not assigned.

(d) The licensee shall ensure that nursing assistants shall only perform those tasks for which they are competent and qualified to perform and that are permitted by ORS Chapter 678 and the rules adopted thereunder.

(e) Notwithstanding subsection (4)(a) of this rule, the licensee shall ensure that nursing assistants shall not be assigned more residents than the number for which they can meet the individual care needs.

(f) Notwithstanding subsection (4)(a) of this rule, the licensee is required to have a minimum of two nursing care staff on duty at all times.

(g) Notwithstanding subsection (4)(a) of this rule, nursing assistants do not include dining assistants.

(h) A licensee shall not use any individual working in the facility as a nursing assistant for more than four months unless that individual has completed a training and competency evaluation program approved by the Oregon State Board of Nursing (OSBN) or has been deemed competent as a CNA by the OSBN.

(i) No more than 25% of the nursing assistants assigned to residents pursuant to subsection (4)(a) of this rule may be nursing assistants who are not yet certified.

(5) CERTIFIED MEDICATION AIDES. The licensee shall ensure that all nursing assistants administering non-injectable medications are cer-

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tified as nursing assistants and as medication aides. Documentation of certification shall be maintained in the facility.

Stat. Auth.: ORS 410 & 441.055

Stats. Implemented: ORS 441.055, 441.073 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 23-2004, f. 7-30-04, cert. ef. 8-1-04

411-086-0250

Dietary Services

(1) DIETARY SERVICES DEPARTMENT. The facility shall have a dietary services department which complies with the Food Sanitation Rules, Oregon Administrative Rules chapter 333, divisions 150 through 156.

(a) Admittance to the kitchen shall be restricted to those who must enter to perform their duties, to government inspectors, or for peer review.

(b) Written procedures for cleaning equipment and work areas shall be prepared and enforced.

(c) Foods shall be protected from contamination during transportation.

(d) There shall be a minimum of one week supply of staple foods and two-day supply of perishable foods on the premises.

(2) DIETARY SERVICES DIRECTOR.

(a) Qualifications. Overall supervision of the dietary service shall be assigned to a full-time dietary service director who is a registered dietician, or:

(A) Is a graduate of a dietetic technician training program (correspondence or classroom) approved by the American Dietetic Association or dietary management training approved by the American Dietary Manager Association; and

(B) Has on-site consultation provided at least monthly.

(i) The consultant shall be a registered dietician or a person with a baccalaureate degree or higher with major studies in food, nutrition, diet therapy, or food service management.

(ii) The consultant shall have at least one year of supervisory experience in an institutional dietary service and shall participate in continuing education annually.

(iii) The visits of the consultant shall be of sufficient duration to review dietary systems and assure quality food to the resident.

(b) Responsibilities. The dietary services director has responsibility, with guidance from the consultant if the director is not a registered dietician, for:

(A) Orientation, work assignments, supervision of work, and food handling technique for dietary service staff. The director shall assure that employees who have or exhibit signs of a communicable disease do not remain on duty;

(B) Participation in regularly scheduled conferences with the administrator and department heads and in the development of dietary policy (OAR 411-085-0210), procedures, and staff development programs; and

(C) Menu planning, recommending and/or ordering food and supplies to be purchased, and record-keeping.

(3) STAFFING. The facility shall employ supportive personnel to carry out functions of the dietary service. There shall be food service personnel on duty at least 12 consecutive hours each day.

(4) DIETS AND MENU.

(a) Diets shall be prescribed by the attending physician. Therapeutic menus shall be prepared and served as ordered.

(b) A diet manual, approved by a dietitian, shall be readily available to the attending physician, nursing and dietary service personnel. The manual shall be reviewed at least annually by the dietician.

(A) Menus for regular and routine therapeutic diets shall be planned in writing at least three weeks in advance.

(B) The current week's menu shall be posted in the dietary department and in a location accessible and conspicuous to residents.

(C) A different menu shall be followed for each day for a minimum of twenty-one days (this does not apply to facilities using selective menus).

(D) Menus shall include fresh fruits and vegetables in season.

(E) Records of menus, as served, shall be retained for sixty days (this does not apply to facilities using selective menus).

(c) Menus shall be planned and followed to meet nutritional needs of the resident in accordance with physician orders and, to the extent medically possible, in accordance with the recommended dietary allowances in the facility diet manual (see subsection (4)(b) of this rule).

(5) FOOD PREPARATION AND SERVICE.

(a) Foods shall be prepared by methods which conserve nutritive value, flavor, and appearance. A file of recipes adjusted to appropriate yield shall be maintained.

(b) Foods shall be attractively served in a form cut, chopped, ground, or pureed to meet individual needs and delivered to residents at customarily acceptable temperatures.

(c) Residents requiring assistance with feeding shall receive timely assistance while food is at customarily acceptable temperatures.

(d) An identification system shall be established to ensure that each resident receives diet as ordered.

(e) At least three meals or their equivalent shall be served daily at regular hours with not more than a 14 hour span between the beginning of the substantial evening meal and the beginning of breakfast. A substantial evening meal is an offering of three or more menu items at one time, one of which includes a high quality protein such as meat, fish, eggs, or cheese. The meal represents no less than 25 percent of the day's total nutritional requirements.

(f) Bedtime snacks of nourishing quality shall be offered routinely to residents who desire one and for whom it is not medically prohibited. Snacks of nourishing quality are those which provide substantive nutrients in addition to carbohydrates and calories, e.g., milk and milk drinks and fruit juice.

(g) If a resident refuses a food served, substitute foods of necessary nutritional food elements shall be offered.

(6) DOCUMENTATION. Resident's response to diet shall be recorded in the clinical record when there are significant dietary problems.

(7) DINING ASSISTANT. Facilities may use dining assistants to assist residents with feeding and hydration. "Dining Assistant" means a person 16 years of age or older who has successfully completed a Department-approved Dining Assistant training course and competency evaluation. Dining assistants include volunteers participating in facility volunteer programs who feed residents.

(a) Resident selection criteria:

(A) The facility must ensure that a dining assistant feeds and hydrates only residents who have no complicated feeding problems including, but not limited to, difficulty swallowing, recurrent lung aspirations and tube or parenteral/IV feedings.

(B) The facility Director of Nursing Services, RN Care Manager or RN Charge Nurse must assess and document resident selection for dining assistance. The resident assessment must be based on, but is not limited to:

(i) the resident's appropriateness for dining assistance;

(ii) the resident's feeding and hydration needs;

(iii) the resident's communication, behavior and interpersonal skills;

(iv) Risk factors including nausea (acute and ongoing), difficulty swallowing, seizure disorders, acute gastrointestinal issues, vomiting; and

(v) The resident's latest MDS assessment and plan of care.

(C) The documented assessment must be updated promptly after any significant change of condition and reviewed quarterly.

(b) Scope of Duties:

(A) Permitted Duties:

(i) Assist residents with eating and drinking;

(ii) Transport residents to and from dining area;

(iii) Distribute meal trays;

(iv) Ensure accurate meal delivery by verification with accompanying meal card;

(v) Provide assistance in preparing residents for meals including, but not limited to, placement of eye glasses, washing hands and face and placement of clothing protector;

(vi) Assist with insertion of dentures for residents that can self direct care;

(vii) Set up meal tray for residents including, but not limited to, opening food packets, positioning and cutting the food;

(viii) Provide minimal assistance with positioning, as needed, for feeding and hydration and;

(ix) Measure and record food and fluid intake.

(B) Prohibited Duties:

(i) Transfer residents;

(ii) Assist with tube feeding or IV nutrition;

(iii) Assist with insertion of dentures for residents unable to self direct care;

(iv) Provide standby assistance with ambulation or activities requiring gait belt;

(v) Assist with food containing medication;

(vi) Turn, lift or extensively reposition residents; and

(vii) Other CNA tasks including oral care.

(c) Training. A Department-approved facility Dining Assistant training course must include, at a minimum, 16 hours of training and evaluation

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in the following topics and subject matters and as identified in Exhibit 86-2, which is attached to and made a part of these rules

(A) Training Topics:

- (i) Scope of authorized duties and prohibited tasks.
- (ii) Feeding and hydration techniques.
- (iii) Skills for assisting with feeding and hydration.
- (iv) Communication and interpersonal skills.
- (v) Appropriate responses to resident behavior.

(vi) Recognizing changes in residents that are inconsistent with their normal behavior and the reporting of those changes to the registered nurse (RN) or licensed practical nurse (LPN).

(vii) Safety and emergency procedures including the abdominal thrust.

- (viii) Infection control.
- (ix) Assisting residents with dementia.
- (x) Resident rights.
- (xi) Abuse prevention and reporting.

(B) Instructors of the Department-approved facility Dining Assistant training course must be licensed/certified in one of the following disciplines: registered nurse, registered dietician, occupational therapist or speech language pathologist.

(C) "Successful completion" means a passing score on a written exam for a Department-approved facility Dining Assistant training course and satisfactory completion of competency evaluation as determined by the instructor. A Department-approved certificate will be issued to each dining assistant upon successful completion.

(D) The Department will evaluate, select and approve at least one Dining Assistant training course curriculum which includes the topic and subject matters contained in Exhibit 86-2. The Department will periodically re-evaluate its selection and approval.

(d) Supervision of dining assistants

(A) Dining assistants must work under the supervision of a registered nurse or licensed practical nurse. A registered nurse or licensed practical nurse must be readily available to respond to urgent or emergent resident needs.

(B) In an emergency, dining assistants must immediately obtain appropriate staff assistance including the use of the resident call system.

(e) Facilities must ensure that dining assistants perform only those tasks for which they are trained and permitted to perform.

(f) It is the responsibility of the facility Director of Nursing Services, RN Care Manager or licensed Charge Nurse to ensure that dining assistants are oriented to the specific residents to whom they are assigned prior to providing dining assistance

(g) Maintenance of records. Facilities must maintain a record of all facility dining assistants. The record must contain a copy of each dining assistant's certificate for successful completion of a Department-approved Dining Assistant training course. Upon request, a facility will share copies of dining assistant training certificates with other facilities

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

Stat. Auth.: ORS 410 & 441

Stats. Implemented: ORS 441.055 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 23-2004, f. 7-30-04, cert. ef. 8-1-04

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Adm. Order No.: SPD 24-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 7-1-04

Rules Amended: 411-056-0010, 411-056-0018, 411-056-0030

Subject: OAR Chapter 411, Division 056, Rules 0010 and 0030 have been permanently amended effective 08/01/2004. These rules add the requirement for a policy on the possession of firearms and ammunition in Assisted Living Facilities. Policy is to be disclosed in writing to existing residents and potential residents and also must be communicated in one other manner commonly used by these individuals. Additionally, Temporary Rules 0010, 0018 and 0030 referencing DHS criminal history have now been made permanent.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-056-0010

Responsibilities of Administration

(1) The facility shall develop and conduct an ongoing quality improvement program that evaluates services, resident outcomes and resident satisfaction.

(2) The facility shall develop and implement written policies and procedures approved by the Department that promote high quality services, health and safety for residents and incorporate the assisted living principles of individuality, independence, dignity, privacy, choice, and a home-like environment.

(3) The facility shall ensure that all employees and residents comply with DHS, Health Services Administrative Rules, chapter 333, division 019, Tuberculosis testing. Documentation of results shall be available for review by the Department.

(4) The facility shall evaluate prospective employees consistent with OAR chapter 410, division 007, Criminal History Clearance.

(5) Abuse and Reporting

(a) The facility shall not inflict, or tolerate to be inflicted, abuse of residents.

(b) All employees who have reasonable cause to believe a resident has suffered abuse are responsible for reporting to appropriate facility personnel, the Department, or the State Long Term Care Ombudsman Office. Upon receipt of an allegation of abuse the facility shall immediately conduct an investigation. The facility administrator shall notify the local Senior or Disability Services or AAA office of the incident unless the facility investigation reasonably concludes that abuse did not occur.

(A) A person who, in good faith, reports abuse shall have immunity from any civil or criminal liability with respect to the making, or content of a report. Immunity under this subsection does not protect a self-reporting facility from liability for the underlying conduct, if any that is described in the report.

(B) No complainant, witness, resident or employee of a facility shall be subject to any retaliation. If the employee is the complainant, he or she shall not be dismissed or harassed for making a good faith report, or being interviewed about a complaint, or being a witness.

(6) The facility shall identify methods of preventing and responding to incidents such as injury, loss of property and abuse.

(7) The facility shall exercise reasonable precautions against any condition which could threaten the health, safety or welfare of residents.

(8) The facility is responsible for the supervision, training and overall conduct of staff when acting within the scope of their employment duties.

(9) The facility shall develop and implement effective methods of resolving resident complaints.

(10) Resident Bill of Rights. The facility shall implement a residents' Bill of Rights. Each resident or resident's designated representative shall be given a copy of their rights and responsibilities. The Bill of Rights shall state that residents have the right:

(a) To be treated with dignity and respect;

(b) To be given informed choice and opportunity to select or refuse service and to accept responsibility for the consequences;

(c) To exercise individual rights that do not infringe upon the rights or safety of others;

(d) To be free from neglect, financial exploitation, verbal, mental, physical or sexual abuse;

(e) To receive services in a manner that protects privacy and dignity;

(f) To have access to his/her records;

(g) To have medical and other records kept confidential except as otherwise provided by law;

(h) To interact freely with others within their assisted living home and in the community;

(i) To be free from physical restraints and inappropriate use of psychoactive medications;

(j) To manage personal financial affairs unless legally restricted;

(k) To have access to and participate in social activities;

(l) To be encouraged and assisted to exercise rights as a citizen.

(m) To voice grievances, be informed of grievance procedures, and suggest changes in policies and services to either staff or outside representatives without fear of retaliation;

(n) To have a safe and homelike environment;

(o) To be free of discrimination in regard to race, color, national origin, gender, sexual orientation or religion; and

(p) To have proper notification if requested to move out of the facility, and to be required to move out only for reasons stated in OAR 411-056-0020, Involuntary Move-out Criteria, and have the opportunity for an informal conference and hearing.

(11) The facility must develop and implement a policy on the possession of firearms and ammunition within the facility. The policy must be disclosed in writing and by one other means of communication commonly used by the resident or potential resident in their daily living.

Stat. Auth.: ORS 410 & 443

Stats. Implemented: ORS 443.450

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Hist.: SSD 14-1989, f. & cert. ef. 9-1-89; SDSD 3-1999, f. 3-1-99, cert. ef. 4-1-99; SDSD 7-2002, f. & cert. ef. 8-1-02; SPD 6-2004(Temp), f. & cert. ef. 3-23-04 thru 9-19-04; SPD 24-2004, f. 7-30-04, cert. ef. 8-1-04

411-056-0018

Direct Care Staff

(1) The facility shall have qualified staff sufficient in number, to meet the 24-hour scheduled and unscheduled needs of each resident, and respond in emergency situations.

(2) Staff or volunteers under 18 years of age shall not assist with medication administration or delegated nursing tasks. Staff or volunteers under the age of 18 must be supervised when providing bathing, toileting or transferring services.

(3) A staff member on each shift shall be trained in the use of the Heimlich Maneuver, CPR and First Aid.

(4) Staff shall have sufficient communication and language skills to enable them to perform their duties and interact effectively with residents and other staff.

(5) Prior to providing care, staff shall receive documented orientation and training as approved by the Department. Training topics shall include:

- (a) Principles of assisted living;
- (b) Changes associated with aging processes including dementia;
- (c) Resident's rights, including confidentiality;
- (d) How to perform direct ADL care;
- (e) Location of resident service plans and how to implement;
- (f) Fire safety/emergency procedures;
- (g) Responding to behavior issues;
- (h) Standard precautions for infection control;
- (i) Food preparation, service and storage, if applicable; and
- (j) Observation/reporting skills.

(6) Staff shall comply with OAR chapter 410, division 007 Criminal History Clearance and OAR chapter 333, division 019, Health Services, Tuberculosis testing.

Stat. Auth.: ORS 410 & 443

Stats. Implemented: ORS 443.450

Hist.: SDSD 3-1999, f. 3-1-99, cert. ef. 4-1-99; SDSD 7-2002, f. & cert. ef. 8-1-02; SPD 6-2004(Temp), f. & cert. ef. 3-23-04 thru 9-19-04; SPD 24-2004, f. 7-30-04, cert. ef. 8-1-04

411-056-0030

Organization of Business

(1) Administrative Standards

(a) Department of Human Services, Seniors and People with Disabilities' Salem central office must be notified within five working days of an administrator's departure or employment.

(b) The licensee shall be responsible for the operation of the facility.

(c) Each licensed assisted living facility shall employ a full-time (40 hours per week) administrator.

(d) The administrator is designated by the licensee as the person responsible for the daily operation of the facility and for the daily care provided in the facility.

(e) The administrator shall appoint a staff member as designee to oversee the operation of the facility in the administrator's absence. The administrator or designee shall be in charge on site, at all times and shall ensure there are sufficient, qualified staff and the care, health and safety needs of the residents are met at all times.

(f) The administrator shall maintain and post in public view the facility staffing plan and the name of the administrator or designee in charge shall be posted by shift.

(2) Administrator Qualifications

(a) Facility administrators hired on or after August 1, 2002, must meet the following requirements:

(A) Be at least 21 years of age; and possess a high school diploma or equivalent and have at least two years professional or management experience that has occurred within the last five years in a health or social service related field or program, or have a combination of experience and education; or

(B) Possess an accredited Bachelors Degree in a health or social service related field.

(3) Administrator Requirements:

(a) Prior to operating a facility, an administrator must complete a Department approved classroom administrator training program of at least 40 hours; or

(b) Complete a Department approved administrator training program that includes both a classroom training of less than 40 hours and a Department approved 40 - hour internship with a Department approved administrator.

(c) Administrators must have 20 hours of documented continuing education credits each year.

(A) The approved administrator training fulfills the 20-hour continuing education requirement for the first year.

(B) Individuals who have met the Department's approved training requirements, but have been absent from an administrator position for five years or less, do not have to retake the administrator courses, but must complete and provide evidence of 20 hours of continuing education credits annually.

(d) Comply with OAR chapter 410, division 007, Criminal History Clearance and OAR chapter 333, division 019, Health Services, Tuberculosis testing.

(4) Administrator Training Course Standards

(a) The Department shall approve, in writing, the training curriculum for the administrator training. The curriculum will be re-evaluated by the Department at periodic intervals.

(b) Individuals, companies or organizations providing the Administrator Training Course shall be approved by the Department. The Department may withdraw approval under the following conditions;

(A) Failure to follow the approved curriculum;

(B) The trainer demonstrates lack of competency in training;

(C) There is insufficient frequency of training to meet the need; or

(D) Facilities owned or operated by the training entity have a pattern of substantial non-compliance with these rules.

(c) Approved training shall be open and available to all applicants and shall not be used to orient trainees to a specific company's management or operating procedures.

(5) Financial Management. The assisted living facility shall have written policies, procedures, and accounting records for handling residents' personal incidental funds, which are managed in the resident's own best interest.

(a) The resident may manage his/her personal financial resources, or may authorize another person or the assisted living facility to manage personal incidental funds.

(b) Records shall include a statement as to whether or not the facility will handle the resident's money, if requested by the resident.

(c) Records shall include the Resident Account Record (SDS 713) or other comparable expenditure form if the facility manages or handles a resident's money. The resident account record shall show in detail with supporting documentation all monies received on behalf of the resident and the disposition of all funds received. Persons shopping for residents shall provide a list showing description and price of items purchased, along with payment receipts for these items.

(d) Funds containing more than \$150, shall be maintained in the resident's own interest-bearing account or in an interest bearing account with a system that credits the appropriate interest specifically to each resident.

(e) Upon the death of a Medicaid resident with no known surviving spouse, any personal incidental funds held by the facility for the resident must be forwarded to Department of Human Services, Estate Administration Unit, P.O. Box 14021, Salem, OR 97309, within ten (10) business days of the death of the resident. The facility must maintain documentation of the action taken and the amount of funds conveyed.

(6) Disclosure — Residency Agreement

(a) The facility must provide a Department designated disclosure statement to each person who requests information about a facility. The residency agreement and the following disclosure information are required to be provided to all potential residents prior to move-in. All disclosure information and residency agreements must be written in compliance with these administrative rules. The residency agreement and disclosure statement must be reviewed by the Department prior to distribution and shall include the following:

(A) Terms of occupancy, including policy on the possession of firearms and ammunition;

(B) Payment provisions, including the following:

(i) Basic rental rate, and what it includes;

(ii) Additional services costs;

(iii) Billing method, payment system and due dates;

(iv) Deposits/fees, if applicable;

(C) Policy for rate changes including:

(i) Thirty days prior written notice of any facility-wide increases, additions or changes;

(ii) Immediate written notice at the time the facility determines a resident's service rates will increase due to increased service provision as negotiated in a service plan;

(D) Refund/proration conditions;

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(E) A description of the scope of services available according to OAR 411-056-0015;

(F) A description of the service planning process and the relationship between the service plan and cost of services;

(G) Additional available services;

(H) The philosophy of how health care and ADL services are provided to the resident;

(I) Resident rights and responsibilities;

(J) The facility system for packaging medications and the resident's right to choose a pharmacy;

(K) Criteria, actions, circumstances or conditions which may result in a move-out notification or intra-facility move and resident's rights pertaining to notification of move-out;

(L) Notice that the Department of Human Services has the authority to examine resident's records as part of the evaluation of the facility; and

(M) Staffing plan.

(b) The facility shall not include any provision in a residency agreement or disclosure statement that is in conflict with these rules and shall not ask or require a resident to waive any of the resident's rights or the facility's liability for negligence.

(c) The facility shall retain a copy of the original and any subsequent signed and dated residency agreement(s) and provide copies to the resident or to their designated representative; and

(d) The facility shall give residents 30 days prior written notice of any additions or changes to the residency agreement. Changes to the residency agreement and disclosure information must be faxed or mailed to the Department, Salem central office.

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

Stat. Auth.: ORS 410 & 443

Stats. Implemented: ORS 443.450

Hist.: SSD 14-1989, f. & cert. ef. 9-1-89; SSD 15-1991, f. & cert. ef. 7-1-91; SDDS 3-1999, f. 3-1-99, cert. ef. 4-1-99; SDDS 7-2002, f. & cert. ef. 8-1-02; SPD 6-2004(Temp), f. & cert. ef. 3-23-04 thru 9-19-04; SPD 24-2004, f. 7-30-04, cert. ef. 8-1-04

Adm. Order No.: SPD 25-2004

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Rules Amended: 411-325-0010, 411-325-0020, 411-325-0030, 411-325-0060, 411-325-0080, 411-325-0100, 411-325-0120, 411-325-0130, 411-325-0150, 411-325-0160, 411-325-0170, 411-325-0180, 411-325-0190, 411-325-0200, 411-325-0250, 411-325-0260, 411-325-0270, 411-325-0290, 411-325-0300, 411-325-0310, 411-325-0320, 411-325-0340, 411-325-0350, 411-325-0360, 411-325-0390, 411-325-0400, 411-325-0410, 411-325-0420, 411-325-0430, 411-325-0440, 411-325-0450, 411-325-0460, 411-325-0470

Subject: OAR Chapter 411, Division 325 has been permanently amended 08/01/2004. This rulemaking amendment accomplishes the following: a) makes a technical adjustment in the abuse definition to correct an existing numbering error; b) clarifies the definition of abuse of children for 24-Hour Residential Service providers serving children; c) clarifies the conditions under which copies of incident reports can be sent to guardians and personal agents; d) clarifies the conditions under which allegations of abuse of an adult should be reported to law enforcement; and e) makes a technical adjustment to allow service providers to have flexibility in incorporating DHS Balancing Test Form language into their own forms.

Additionally, amending these rules implements system improvements by updating rule language to be consistent with current Oregon Revised Statutes; strengthens the Department's ability to take sanctioning activity regarding substantiated abuse allegations by correcting a numbering error in the abuse definition; and updates rule language.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-325-0010

Statement of Purpose

These rules prescribe standards, responsibilities, and procedures for 24-Hour Residential Programs providing services to individuals with developmental disabilities. These rules also prescribe the standards and procedures by which the Department of Human Services licenses programs to provide residential care and training to individuals with developmental disabilities.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0020

Definitions

(1) "24-Hour Program" means a comprehensive residential program licensed by the Department of Human Services under ORS 443.400(7) and (8), to provide residential care and training to individuals with developmental disabilities.

(2) "Abuse" means:

(a) "Abuse of a child" is defined in ORS 418.005, 419B.005, 418.015, 418.748, and 418.749. This includes but is not limited to:

(A) Any death caused by other than accidental or natural means, or occurring in unusual circumstances;

(B) Any physical injury including, but not limited to, bruises, welts, burns, cuts, broken bones, sprains, bites, which are deliberately inflicted;

(C) Neglect including, but not limited to, failure to provide food, shelter, medicine, to such a degree that a child's health and safety are endangered;

(D) Sexual abuse and sexual exploitation including, but not limited to, any sexual contact in which a child is used to sexually stimulate another person. This may include anything from rape to fondling to involving a child in pornography;

(E) Threat of harm including, but not limited to, any action, statement, written or non-verbal message which is serious enough to make a child believe he or she is in danger of being abused;

(F) Mental injury including, but not limited to, a continuing pattern of rejecting, terrorizing, ignoring, isolating, or corrupting a child, resulting in serious damage to the child; or

(G) Child selling including, but not limited to, buying, selling or trading for legal or physical custody of a child;

(b) Abuse of an Adult. Except for those additional circumstances listed in OAR 411-325-0020(2)(c)(A-F) abuse of an adult means one or more of the following:

(A) Any death caused by other than accidental or natural means, or occurring in unusual circumstances;

(B) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(C) Willful infliction of physical pain or injury; or

(D) Sexual harassment or exploitation, including but not limited to, any sexual contact between an employee of a community facility or community program and an adult.

(E) Neglect that leads to physical harm through withholding of services necessary to maintain health and wellbeing.

(c) Abuse in other circumstances. When the Department directly operates any licensed 24 Hour Residential Program; or the CDDP or a Support Services Brokerage purchases or contracts for services from a program licensed or certified as a 24-Hour residential program, an adult foster home, an employment or community inclusion program; a supported living program; or a semi-independent living program abuse also means:

(A) A failure to act or neglect that results in the imminent danger of physical injury or harm through negligent omission, treatment, or maltreatment. This includes, but is not limited to, the failure by a service provider or staff to provide adequate food, clothing, shelter, medical care, supervision, or tolerating or permitting abuse of an adult or child by any other person. However, no adult will be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment through prayer alone in lieu of medical treatment;

(B) Verbal mistreatment by subjecting an individual to the use of derogatory names, phrases, profanity, ridicule, harassment, coercion or intimidation of such a nature as to threaten significant physical or emotional harm or the withholding of services or supports, including implied or direct threat of termination of services;

(C) Placing restrictions on an individual's freedom of movement by restriction to an area of the residence or program or from access to ordinarily accessible areas of the residence or program, unless agreed to by the ISP team and included in an approved behavior support plan.

(D) An inappropriate or unauthorized restraint that results in injury.

(i) A restraint is inappropriate if:

(I) It is applied without a functional assessment of the behavior justifying the need for the restraint; or

(II) It is used for behaviors not addressed in a behavior support plan;

or

(III) It uses procedures outside the parameters described in a behavior support plan; or

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(IV) It does not use procedures consistent with the Oregon Intervention System.

(ii) A restraint is not authorized if:

(I) There is not a written physician's order when the restraint is used as a health related protection; or

(II) It is applied without ISP Team approval as identified on the ISP and is described in a formal written behavior support plan.

(iii) It is not abuse if it is used as an emergency measure, if absolutely necessary to protect the individual or others from immediate injury and only used for the least amount of time necessary.

(E) Financial exploitation which may include, but is not limited to, an unauthorized rate increase; staff borrowing from or loaning money to an individual; witnessing a will in which the program or a staff is a beneficiary; adding the program's name to an individual's bank account(s) or other titles for personal property without approval of the individual or his/her legal representative and notification of the ISP team.

(F) Inappropriately expending an individual's personal funds, theft of an individual's personal funds, using an individual's personal funds for the program's or staff's own benefit, commingling an individual's funds with program or another individual's funds, or the program becoming guardian or conservator.

(G) The definitions of abuse described in OAR 411-325-0020 (2)(b)(A-E) also apply to homes or facilities licensed to provide 24-Hour Residential Services for children with developmental disabilities or to agencies licensed or certified to provide Proctor Foster Care for children with developmental disabilities.

(H) The definitions of abuse described in OAR 411-325-0020 (2)(c)(A-F) also apply to staff of the CMHDDP or a Support Services Brokerage.

(3) "Abuse investigation and protective services" means reporting and investigation activities as required by OAR 309-040-0240 and any subsequent services or supports necessary to prevent further abuse.

(4) "Administration of medication" means the act of placing a medication in or on an individual's body by a staff member who is responsible for the individual's care.

(5) "Administrator" means the Assistant, Department of Human Services and Administrator of Seniors and People with Disabilities or that person's designee.

(6) "Adult" means an individual 18 years or older with developmental disabilities.

(7) "Advocate" means a person other than paid staff who has been selected by the individual or by the individual's legal representative to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated.

(8) "Aid to physical functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietician which maintains or enhances the individual's physical functioning.

(9) "Appeal" is the process by which a licensed provider may petition the suspension, denial or revocation of their license or application under Chapter 183, Oregon Revised Statutes, by making a written request to the Department.

(10) "Applicant(s)" means a person, agency, corporation or governmental unit, who applies for a license to operate a residential home or facility providing 24-hour comprehensive services to individuals with developmental disabilities.

(11) "Assessment" means an evaluation of an individual's needs. The evaluation is performed by a Services Coordinator or other designated Individual Support Plan team members who will use the evaluation to develop the individual's Individual Support Plan (ISP). At a minimum this includes the completion of the Personal Focus Worksheet and Risk Tracking Record.

(12) "Baseline Level of Behavior" means the frequency, duration or intensity of a behavior, objectively measured, described and documented prior to the implementation of an initial or revised behavior support plan. This baseline measure serves as the reference point by which the ongoing efficacy of the support plan is to be assessed. A baseline level of behavior should be reviewed and reestablished at minimum yearly, at the time of the individual's support plan team meeting.

(13) "Behavior Data Collection System" is the methodology specified within the individual's behavior support plan that directs the process for recording observation, intervention and other support provision information critical to the analysis of the efficacy of the behavior support plan.

(14) "Behavior Data Summary" is a document composed by the provider agency to summarize episodes of physical intervention. This doc-

ument serves as a substitution for the requirement of individual incident reports for each episode of physical intervention.

(15) "Board of Directors" means a group of individuals formed to set policy and give directions to a program designed to provide residential services to individuals with developmental disabilities. This includes local advisory boards used by multi-state organizations.

(16) "Care" means supportive services, including but not limited to, provision of room and board, supervision, protection, and assistance in bathing, dressing, grooming, eating, management of money, transportation or recreation. Care also includes being aware of the individual's general whereabouts at all times, and monitoring the activities of the individuals while on the premises of the residence to ensure their health, safety and welfare.

(17) "Chemical restraint" means the use of a psychotropic drug or other drugs for punishment, or to modify behavior in place of a meaningful behavior/treatment plan.

(18) "Child" means an individual under the age of 18 that has a provisional determination of developmental disability.

(19) "Choice" means the individual's expression of preference, opportunity for, and active role in decision-making related to: the selection of assessments, services, service providers, goals and activities, and verification of satisfaction with these services. Choice may be communicated verbally, through sign language, or other communication method.

(20) "Community Developmental Disability Program" or "CDDP" means an entity that is responsible for planning and delivery of services for persons with mental retardation or other developmental disabilities in a specific geographic area of the state under a contract with the Department or a local mental health authority.

(21) "Community Developmental Disability Program Director" means the director of a community mental health and developmental disability program which operates or contracts for all services for persons with mental or emotional disturbances, drug abuse problems, mental retardation or other developmental disabilities, and alcoholism and alcohol abuse problems under the County Financial Assistance Contract with the Department of Human Services.

(22) "Competency Based Training Plan" means a written description of a provider's process for providing training to newly hired program staff. At a minimum the plan must address health, safety, rights, values and personal regard, and the provider's mission. The plan will describe competencies, training methods, timelines, how competencies of staff are determined and documented, including steps for remediation, and when a competency(ies) may be waived by a provider to accommodate a staff person's specific circumstances.

(23) "Complaint investigation" means an investigation of any allegation which has been made to a proper authority that the program has taken an action which is alleged to be contrary to law, rule or policy that is not covered by an abuse investigation or a grievance procedure.

(24) "Condition" means a provision attached to a new or existing license, which limits or restricts the scope of the license or imposes additional requirements on the licensee.

(25) "Crisis" means a situation, as determined by a qualified Services Coordinator, that could result in civil court commitment under ORS. 427.215 through 427.300, an imminent risk of loss of the community support system for an adult or the imminent risk of loss of home for a child with no alternative resources available.

(26) "Denial" is the refusal of the Department of Human Services to issue a license to operate a 24-hour residential home/facility for children or adults because the Department has determined that the home/facility is not in compliance with one or more of these administrative rules.

(27) "Department" means Department of Human Services, Seniors and People with Disabilities, an organizational unit within the Department that focuses on the planning of services, policy development and regulation of programs for persons that have developmental disabilities.

(28) "Developmental Disability for adults" means a disability attributable to mental retardation, autism, cerebral palsy, epilepsy, or other neurological handicapping condition that requires training or support similar to that required by individuals with mental retardation, and the disability:

(a) Originates before the individual attains the age of 22 years, except that in the case of mental retardation the condition must be manifested before the age of 18; and

(b) Has continued, or can be expected to continue, indefinitely; and

(c) Constitutes a substantial handicap to the ability of the individual to function in society; and

(d) The condition or impairment must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder,

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Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; or

(e) Results in significant subaverage general intellectual functioning with concurrent deficits in adaptive behavior that are manifested during the developmental period. Individuals of borderline intelligence may be considered to have mental retardation if there is also serious impairment of adaptive behavior. Definitions and classifications must be consistent with the "Manual of Terminology and Classification in Mental Retardation" by the American Association on Mental Deficiency, 1977 Revision. Mental retardation is synonymous with mental deficiency.

(29) "Developmental Disability for children five years and younger" means the condition or impairment must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; and be expected to last indefinitely, and is always provisional; AND

(a) There is a standardized test demonstrating significant adaptive impairment (more than two standard deviations below the norm) in at least two of the following areas of functioning: self care; receptive and expressive language; learning; mobility and self-direction; OR

(b) There is a statement by a licensed medical practitioner that the child has a condition or syndrome that will likely cause significant adaptive impairment in at least two of the areas listed in (28).

(30) "Developmental Disability for children six years and older" is always provisional and means:

(a) There is a diagnosis of mental retardation; OR

(b) There is a diagnosis of developmental disability; AND

(A) There is a significant adaptive impairment (more than two standard deviations below the norm) in at least two of the following areas: self-care; receptive and expressive language; learning; mobility; self-direction; AND

(B) The condition or impairment must be expected to last indefinitely and must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; AND

(C) The individual is expected to need multiple, specialized supports indefinitely.

(31) "Direct Nursing Services" means the provision of individual-specific advice, plans or interventions, based on nursing process as outlined by the Oregon State Board of Nursing, by a nurse at the home/facility. Direct nursing service differs from administrative nursing services. Administrative nursing services include non-individual-specific services, such as quality assurance reviews, authoring health related agency policies and procedures, or providing general training for staff.

(32) "Domestic Animals" are any of various animals domesticated so as to live and breed in a tame condition. Examples of domestic animals are dogs, cats, and domesticated farm stock.

(33) "Educational Surrogate" means an individual who acts in place of a parent in safeguarding a child's rights in the special education decision-making process when the parent cannot be identified or located after reasonable efforts, when there is reasonable cause to believe that the child has a disability and is a ward of the state, or at the request of a parent or adult student.

(34) "Entry" means admission to a Department funded developmental disability service provider. For purposes of this rule "entry" means admission to a 24-hour licensed home/facility.

(35) "Executive Director" means the individual designated by a board of directors or corporate owner responsible for the administration of the program's services for individuals.

(36) "Exit" means termination from a Department funded developmental disability service provider. Exit does not mean transfer within a service provider's program within a county.

(37) "Grievance" means a formal complaint by the individual or a person acting on his/her behalf about any aspect of the program or an employee of the program.

(38) "Guardian" means a parent for individuals under 18 years of age or a person or agency appointed by the courts who is authorized by the court to make decisions about services for the individual.

(39) "Health Care Provider" means a person licensed, certified or otherwise authorized or permitted by law of this state to administer health care in the ordinary course of business or practice of a profession, and includes a health care facility.

(40) "Health Care Representative" means:

(a) A health care representative as defined in ORS 127.505 (12); or

(b) A person who has authority to make health care decisions for an individual under the provisions of OAR 309-041-1500 through 309-041-1610.

(41) "Incident report" means a written report of any injury, accident, acts of physical aggression or unusual incident involving an individual.

(42) "Independence" means the extent to which persons with mental retardation or developmental disabilities exert control and choice over their own lives.

(43) "Individual" means an adult or a child with developmental disabilities for whom services are planned, provided and authorized by a qualified Services Coordinator.

(44) "Individual Support Plan" or "ISP" means the written details of the supports, activities and resources required for an individual to achieve personal goals. The Individual Support Plan is developed to articulate decisions and agreements made during a person-centered process of planning and information gathering. The ISP is the individual's Plan of Care for Medicaid purposes.

(45) "Individualized Education Plan" (IEP) means a written plan of instructional goals and objectives in conference with the teacher, parent/guardian, student, and a representative of the school district.

(46) "Individual Support Plan Team" or "ISP team" in comprehensive services means a team composed of the individual served, agency representatives who provide service to the individual if appropriate for in-home supports, the guardian, if any, relatives of the individual, and the Services Coordinator and other persons who are well liked by the individual.

(47) "Integration" means the use by persons with mental retardation or other developmental disabilities of the same community resources that are used by and available to other persons in the community and participation in the same community activities in which persons without a disability participate, together with regular contact with persons without a disability. It further means that persons with developmental disabilities live in homes, that are in proximity to community resources and foster contact with persons in their community. (See ORS 427.005.)

(48) "Legal representative" means the parent if the individual is under age 18, unless the court appoints another individual or agency to act as guardian. For those individuals over the age of 18, a legal representative means an attorney at law who has been retained by or for the adult, or a person, or agency who is authorized by the court to make decisions about services for the individual.

(49) "Licensee" means a person or organization to whom a license is granted.

(50) "Majority Agreement" means for purposes of entry, exit, transfer and annual ISP team meetings that no one member of the ISP team will have the authority to make decisions for the team. Representatives from service provider(s), families, the CDDP, or advocacy agencies will be considered as one member of the ISP team for the purpose of reaching majority agreement.

(51) "Mandatory Reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe that an individual with disabilities has suffered abuse, or that any person with whom the official comes in contact while acting in an official capacity, has abused the individual with disabilities. Pursuant to ORS 430.765(2) psychiatrists, psychologists, clergy and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 40.295.

(52) "Mechanical restraint" means any mechanical device, material, object or equipment that is attached or adjacent to an individual's body that the individual cannot easily remove or easily negotiate around, and that restricts freedom of movement or access to the individual's body.

(53) "Medication" means any drug, chemical, compound, suspension or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.

(54) "Modified diet" means the texture or consistency of food or drink is altered or limited. Examples include, but are not limited to, no nuts or raw vegetables, thickened fluids, mechanical soft, finely chopped, pureed, bread only soaked in milk.

(55) "Nurse" means a person who holds a valid, current license as a Registered Nurse (RN) or Licensed Practical Nurse (LPN) from the Oregon Board of Nursing.

(56) "Nursing Care Plan" means a plan of care developed by a Registered Nurse (RN) that describes the medical, nursing, psychosocial, and other needs of the individual and how those needs will be met. It includes which tasks will be taught or delegated to the provider and staff.

(57) "Oregon Core Competencies" is:

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(a) A list of skills and knowledge for newly hired staff in the areas of health, safety, rights, values and personal regard, and the service provider's mission; and

(b) The associated timelines in which newly hired staff must demonstrate competencies.

(58) "Oregon Intervention System" or "OIS" means a system of providing training to people who work with designated individuals with developmental disabilities, to provide elements of positive behavior support and nonaversive behavior intervention. The system uses principles of pro-active support and describes approved physical intervention techniques that are used to maintain health and safety.

(59) "Physical intervention" means the use of any physical action or any response to maintain the health and safety of an individual or others during a potentially dangerous situation or event.

(60) "Physical restraint" means any manual physical holding of or contact with an individual that restricts the individual's freedom of movement.

(61) "Prescription medication" means any medication that requires a physician prescription before it can be obtained from a pharmacist.

(62) "Productivity" means engagement in income-producing work by a person with mental retardation or other developmental disabilities which is measured through improvements in income level, employment status or job advancement or engagement by a person with mental retardation or other developmental disabilities in work contributing to a household or community.

(63) "Protection" means necessary actions taken to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts, and to safeguard an individual's person, property and funds.

(64) "Protective services" means necessary actions taken to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts, and safeguard an individual's person, property, and funds as soon as possible.

(65) "Psychotropic medication" means a medication whose prescribed intent is to affect or alter thought processes, mood, or behavior. This includes, but is not limited to, anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. Because a medication may have many different effects, its classification depends upon its stated, intended effect when prescribed.

(66) "Respite care" means short-term services for a period of up to 14 days. Respite care may include both day and overnight care.

(67) "Revocation" is the action taken to rescind a 24-hour home/facility license after the Department has determined that the program is not in compliance with one or more of these administrative rules.

(68) "Self-administration of medication" means without supervision, the individual manages and takes his/her own medication. It includes identifying his/her medication and the times and methods of administration, placing the medication internally in or externally on his or her own body without staff assistance, and safely maintaining the medication(s).

(69) "Services Coordinator" means an employee of the community developmental disability program or other agency which contracts with the County or Department, who is selected to plan, procure, coordinate, monitor individual support plan services and to act as a proponent for persons with developmental disabilities.

(70) "Service provider" means a public or private community agency or organization that provides recognized mental health or developmental disability services and is approved by the Department or other appropriate agency to provide these services. For the purpose of this rule "provider", "program", "applicant" or "licensee" is synonymous with "service provider."

(71) "Significant other" means a person selected by the individual to be his/her friend.

(72) "Specialized diet" means that the amount, type of ingredients or selection of food or drink items is limited, restricted, or otherwise specified by a physician's order. Examples include, but are not limited to, low calorie, high fiber, diabetic, low salt, lactose free, low fat diets. This does not include diets where extra or additional food is offered, without physician's orders but may not be eaten, for example, offer prunes each morning at breakfast or include fresh fruit with each meal.

(73) "Staff" means a paid employee responsible for providing services to individuals and whose wages are paid in part or in full with funds sub-contracted with the CDDP or contracted directly through the Department.

(74) "Support" means those services that assist an individual maintaining or increasing his or her functional independence, achieving community presence and participation, enhancing productivity, and enjoying a satisfying lifestyle. Support services can include training, the systematic,

planned maintenance, development or enhancement of self-care, social or independent living skills, or the planned sequence of systematic interactions, activities, structured learning situations, or educational experiences designed to meet each individual's specified needs in the areas of integration and independence.

(75) "Suspension of License" is a temporary withdrawal of the approval to operate a 24-hour home or facility after the Department determines that the 24-hour home or facility is not in compliance with one or more of these administrative rules.

(76) "Transfer" means movement of an individual from one home/facility to another within the same county, administered by the same service provider.

(77) "Transition plan" means a written plan for the period of time between an individual's entry into a particular service and when the individual's ISP is developed and approved by the ISP team. The plan must include a summary of the services necessary to facilitate adjustment to the services offered, the supports necessary to ensure health and safety, and the assessments and consultations necessary for the ISP development.

(78) "Unusual Incident" means those incidents involving serious illness or accidents, death of an individual, injury or illness of an individual requiring inpatient or emergency hospitalization, suicide attempts, a fire requiring the services of a fire department, or any incident requiring abuse investigation.

(79) "Variance" means an exception from a regulation or provision of these rules, which may be granted by the Department, upon written application by the provider.

(80) "Volunteer" is any individual assisting in a 24-hour home or facility without pay to support the care provided to individuals residing in the home or facility.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0030

Issuance of License

(1) License required. No person, agency or governmental unit acting individually or jointly with any other person, agency or governmental unit will establish, conduct, maintain, manage or operate a residential home or facility providing 24-hour support services without being licensed for each home or facility.

(2) Not transferable. No license is transferable or applicable to any location, home or facility, agency, management agent or ownership other than that indicated on the application and license.

(3) Terms of license. The Department will issue a license to an applicant found to be in compliance with these rules. The license will be in effect for two years from the date issued unless revoked or suspended.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0060

Conditions on License

Attaching conditions to a license. The Department may attach conditions to the license which limit, restrict or specify other criteria for operation of the home or facility.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0080

Mid-Cycle Review

(1) Mid-Cycle Review Process. The Department may conduct a mid-cycle monitoring review of the home or facility nine to fifteen months after renewal of the provider's license under the following circumstances:

(a) Failure by the provider to successfully complete licensing renewal as evidenced by two or more follow-up reviews; or

(b) Failure by the provider to successfully complete plans of correction for protective service investigations; or

(c) Upon the request of the CDDP or other Department designee, or provider.

(2) Self-Assessment Required. As part of the mid-cycle process the provider must conduct a self-assessment based upon the requirements of this rule.

(a) The provider must document the findings of the self-assessment on forms provided by the Department;

(b) The provider must develop and implement a plan of correction based upon the findings of the self-assessment; and

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(c) The provider must submit the self-assessment to the local CDDP with a copy to the Department 30 days prior to the mid-cycle review.

(3) Compliance with OAR 411-325-0010 through 411-325-0480. The review will be conducted for compliance with OAR 411-325-0010 through 411-325-0480, and at the discretion of the Department the review may be announced or unannounced.

Stat. Auth. ORS 410.070, 409.050
Stats. Implemented: ORS 443.400 - 443.455
Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0100

Inspections and Investigations

(1) Inspections and investigations required. All services covered by this rule must allow the following types of investigations and inspections:

- (a) Quality assurance, license renewal and onsite inspections;
- (b) Complaint investigations; and
- (c) Abuse investigations.

(2) Inspections and investigations by the Department, its designee or proper authority. All inspections and investigations must be performed by the Department, its designee, or proper authority.

(3) Unannounced. Any inspection or investigation may be unannounced.

(4) Required documentation. All documentation and written reports required by this rule must be:

(a) Open to inspection and investigation by the Department, its designee or proper authority; and

(b) Submitted to or be made available for review by the Department within the time allotted.

(5) Priority of investigation under (1)(c). When abuse is alleged or death of an individual has occurred and a law enforcement agency, or the Department or its designee has determined to initiate an investigation, the provider must not conduct an internal investigation. For the purposes of this section, an internal investigation is defined as conducting interviews of the alleged victim, witness, the alleged perpetrator or any other person who may have knowledge of the facts of the abuse allegation or related circumstances; reviewing evidence relevant to the abuse allegation, other than the initial report; or any other actions beyond the initial actions of determining:

- (a) If there is reasonable cause to believe that abuse has occurred; or
- (b) If the alleged victim is in danger or in need of immediate protective services; or
- (c) If there is reason to believe that a crime has been committed; or
- (d) What, if any, immediate personnel actions must be taken to assure individual safety.

(6) The Department or its designee must conduct investigations prescribed in OAR 309-040-0200 through 309-040-0290 and must complete an Abuse Investigation and Protective Services Report according to OAR 309-040-0260(1). The report must include the findings based upon the abuse investigation. "Inconclusive" means that the matter is not resolved, and the available evidence does not support a final decision that there was reasonable cause to believe that abuse occurred or did not occur. "Not substantiated" means that based on the evidence, it was determined that there is reasonable cause to believe that the alleged incident was not in violation of the definitions of abuse or attributable to the person(s) alleged to have engaged in such conduct. "Substantiated" means that based on the evidence there is reasonable cause to believe that conduct in violation of the abuse definitions occurred and such conduct is attributable to the person(s) alleged to have engaged in the conduct.

(7) Upon completion of the abuse investigation. Upon completion of the abuse investigation by the Department, its designee, or a law enforcement agency, a provider may conduct an investigation to determine if any personnel actions are necessary.

(8) Abuse Investigation and Protective Services Report. Upon completion of the investigation report according to OAR 309-040-0260(1), the sections of the report that are public records and not exempt from disclosure under the public records law will be provided to the appropriate provider(s). The provider must implement the actions necessary within the deadlines listed, to prevent further abuse as stated in the report.

(9) Plan of correction. A plan of correction must be submitted to the CDDP and the Department for any noncompliance found during an inspection under this rule.

Stat. Auth. ORS 410.070, 409.050
Stats. Implemented: ORS 443.400 - 443.455
Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0120

Health: Medical

(1) Written policies and procedures. The program must have and implement policies and procedures that maintain and protect the physical health of individuals. Policies and procedures must address the following:

- (a) Individual health care;
- (b) Medication administration;
- (c) Medication storage;
- (d) Response to emergency medical situations;
- (e) Nursing service provision, if provided ;
- (f) Disposal of medications; and
- (g) Early detection and prevention of infectious disease.

(2) Individual health care. The individual must receive care that promotes their health and well being as follows:

(a) The program must ensure each individual has a primary physician or primary health care provider whom he or she, the parent, guardian or legal representative has chosen from among qualified providers;

(b) The program must ensure each individual receives a medical evaluation by a qualified health care provider no less than every two years or as recommended by a physician;

(c) The program must monitor the health status and physical conditions of each individual and take action in a timely manner in response to identified changes or conditions that could lead to deterioration or harm;

(d) A physician's or qualified health care provider's written, signed order is required prior to the usage or implementation of all of the following:

- (A) Prescription medications;
- (B) Non prescription medications except over the counter topical;
- (C) Treatments other than basic first aid;
- (D) Modified or special diets;
- (E) Adaptive equipment; and
- (F) Aids to physical functioning.

(e) The program must implement a physician's or qualified health care provider's order.

(3) Required documentation. The program must maintain records on each individual to aid physicians, licensed health professionals and the program in understanding the individual's medical history. Such documentation must include:

(a) A list of known health conditions, medical diagnoses; known allergies and immunizations;

(b) A record of visits to licensed health professionals that include documentation of the consultation and any therapy provided; and

(c) A record of known hospitalizations and surgeries.

(4) Medication procurement and storage. All medications must be:

(a) Kept in their original containers;

(b) Labeled by the dispensing pharmacy, product manufacturer or physician, as specified per the physician's or licensed health care practitioner's written order; and

(c) Kept in a secured locked container and stored as indicated by the product manufacturer.

(5) Medication administration. All medications and treatments must be recorded on an individualized medication administration record (MAR). The MAR must include:

(a) The name of the individual;

(b) A transcription of the written physician's or licensed health practitioner's order, including the brand or generic name of the medication, prescribed dosage, frequency and method of administration;

(c) For topical medications and treatments without a physician's order, a transcription of the printed instructions from the package;

(d) Times and dates of administration or self administration of the medication;

(e) Signature of the person administering the medication or the person monitoring the self administration of the medication;

(f) Method of administration;

(g) An explanation of why a PRN (i.e., as needed) medication was administered;

(h) Documented effectiveness of any PRN (i.e., as needed) medication administration;

(i) An explanation of any medication administration irregularity; and

(j) Documentation of any known allergy or adverse drug reaction.

(6) Self-administration of medication. For individuals who independently self-administer medications, there must be a plan as determined by the ISP team for the periodic monitoring and review of the self-administration of medications.

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(7) Self-administration medications unavailable to other individuals. The program must ensure that individuals able to self-administer medications keep them in a secure locked container unavailable to other individuals residing in the same residence and store them as recommended by the product manufacturer.

(8) PRN/Psychotropic medication prohibited. PRN (i.e., as needed), orders will not be allowed for psychotropic medication.

(9) Adverse medication effects safe guards. Safeguards to prevent adverse effects or medication reactions must be utilized and include:

(a) Obtaining, whenever possible, all prescription medication except samples provided by the health care provider, for an individual from a single pharmacy which maintains a medication profile for him or her;

(b) Maintaining information about each medication's desired effects and side effects;

(c) Ensuring that medications prescribed for one individual are not administered to, or self-administered by, another individual or staff member; and

(d) Documentation in the individual's record of reason why all medications should not be provided through a single pharmacy.

(10) Unused, discontinued, outdated, recalled and contaminated medications. All unused, discontinued, outdated, recalled and contaminated medications must be disposed of in a manner designed to prevent the illegal diversion of these substances. A written record of their disposal must be maintained that includes documentation of:

(a) Date of disposal;

(b) Description of the medication, including dosage strength and amount being disposed;

(c) Individual for whom the medication was prescribed;

(d) Reason for disposal;

(e) Method of disposal;

(f) Signature of the person disposing of the medication; and

(g) For controlled medications, the signature of a witness to the disposal.

(11) Direct nursing services. When direct nursing services are provided to an individual the program must:

(a) Coordinate with the nurse or nursing service and the ISP team to ensure that the services being provided are sufficient to meet the individual's health needs; and

(b) Implement the Nursing Care Plan, or appropriate portions therein, as agreed upon by the ISP team and the registered nurse.

(12) Notification. When the individual's medical, behavioral or physical needs change to a point that they cannot be met by the program, the Services Coordinator must be notified immediately and that notification documented.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0130

Health: Food and Nutrition

(1) Well balanced diet. The provider must provide access to a well balanced diet in accordance with the U.S. Department of Agriculture.

(2) Modified or special diets. For individuals with physician or health care provider ordered modified or special diets the program must:

(a) Have menus for the current week that provide food and beverages which consider the individual's preferences and are appropriate to the modified or special diet; and

(b) Maintain documentation that identifies how modified texture or special diets are prepared and served for individuals.

(3) Number of meals. At least three meals must be made available or arranged for daily.

(4) Need and preference of individual. Foods must be served in a form consistent with the individual's need and provide opportunities for choice in food selection.

(5) Prohibited food items. Unpasteurized milk and juice or home canned meats and fish must not be served or stored in the residence.

(6) Supply of food. Adequate supplies of staple foods for a minimum of one week and perishable foods for a minimum of two days must be maintained on the premises.

(7) Sanitation. Food must be stored, prepared and served in a sanitary manner.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0150

Safety: General

(1) Toxic materials. All toxic materials including, but not limited to, poisons, chemicals, rodenticides and insecticides must be:

(a) Properly labeled;

(b) Stored in original container separate from all foods, food preparation utensils, linens and medications; and

(c) Stored in a locked area unless the Risk Tracking records for all individuals residing in the home document that there is no risk present.

(2) Flammable and combustible materials. All flammable and combustible materials must be properly labeled, stored and locked in accordance with State Fire Code.

(3) Knives and sharp objects. For children, knives and sharp kitchen utensils must be locked unless otherwise determined by a documented ISP team decision.

(4) Window coverings for privacy. Window shades, curtains, or other covering devices must be provided for all bedroom and bathroom windows to assure privacy.

(5) Hot water supply and temperature. Hot water in bathtubs and showers must not exceed 120 °F. Other water sources, except the dishwasher, must not exceed 140 °F.

(6) Window openings. Sleeping rooms on ground level must have at least one window readily openable from the inside without special tools that provides a clear opening of not less than 821 square inches, with the least dimension not less than 22 inches in height or 20 inches in width. Sill height must not be more than 44 inches from the floor level. Exterior sill heights must not be greater than 72 inches from the ground, platform, deck or landing. There must be stairs or a ramp to ground level. Those homes/facilities previously licensed having a minimum window opening of not less than 720 square inches are acceptable unless through inspection it is deemed that the window opening dimensions present a life safety hazard.

(7) Square footage requirement for sleeping rooms. Sleeping rooms must have 60 square feet per individual with beds located at least three feet apart.

(8) Flashlights. Operative flashlights, at least one per floor, must be readily available to staff in case of emergency.

(9) First-aid kit and manual. First-aid kits and first-aid manuals must be available to staff within each residence in a designated location. First aid kits containing any items other than band-aids, tape, bandages must be locked.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0160

Program Management and Personnel Practices

(1) Non-discrimination. The program must comply with all applicable state and federal statutes, rules and regulations in regard to non-discrimination in employment practices.

(2) Basic personnel policies and procedures. The program must have in place and implement personnel policies and procedures that address suspension, increased supervision, or other appropriate disciplinary employment procedures when a staff member has been identified as an alleged perpetrator in an abuse investigation or when the allegation of abuse has been substantiated.

(3) Prohibition against retaliation. A community program or service provider must not retaliate against any staff who reports in good faith suspected abuse or retaliate against the child or adult with respect to any report. An alleged perpetrator cannot self-report solely for the purpose of claiming retaliation.

(a) Subject to penalty. Any community facility, community program or person that retaliates against any person because of a report of suspected abuse or neglect will be liable according to ORS 430.755, in a private action to that person for actual damages and, in addition, will be subject to a penalty up to \$1000, notwithstanding any other remedy provided by law.

(b) Adverse action defined. Any adverse action is evidence of retaliation if taken within 90 days of a report of abuse. For purposes of this subsection, "adverse action" means any action taken by a community facility, community program or person involved in a report against the person making the report or against the child or adult because of the report and includes, but is not limited to:

(A) Discharge or transfer from the program, except for clinical reasons;

(B) Discharge from or termination of employment;

(C) Demotion or reduction in remuneration for services; or

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(D) Restriction or prohibition of access to the program or the individuals served by the program.

(4) Competency-based staff training plan. The program must have and implement a competency-based staff-training plan, which meets, at a minimum, the competencies and timelines set forth in the Department's Oregon Core Competencies.

(5) Mandatory abuse reporting personnel policies and procedures. Any employee of a public or private community agency is required to report incidents of abuse when the employee comes in contact with and has reasonable cause to believe that an individual has suffered abuse or that any person with whom the employee comes in contact, while acting in an official capacity, has abused the individual. Notification of mandatory reporting status must be made at least annually to all employees on forms provided by the Department. All employees shall be provided with a Department produced card regarding abuse reporting status and abuse reporting. For reporting purposes the following will apply:

(a) Agencies providing services to adults must report to the CDDP where the adult resides and if there is reason to believe a crime has been committed a report must also be made to law enforcement.

(b) Agencies providing services to children must report to DHS Child Welfare or law enforcement in the county where the child resides.

(6) Director qualifications. The program must be operated under the supervision of a Director who has a minimum of a bachelor's degree and two years of experience, including supervision, in developmental disabilities, mental health, rehabilitation, social services or a related field. Six years of experience in the identified fields may be substituted for a degree.

(7) General staff qualifications. Any employee providing direct assistance to individuals must meet the following criteria:

(a) Be at least 18 years of age;

(b) Have approval to work based on current Oregon Department of Human Services policy and procedures for review of criminal history;

(c) Be literate and capable of understanding written and oral orders; be able to communicate with individuals, physicians, Services Coordinators and appropriate others; and be able to respond to emergency situations at all times;

(d) Have clear job responsibilities as described in a current signed and dated job description;

(e) Have knowledge of individuals' ISP's and all medical, behavioral and additional supports required for the individual; and

(f) Have met the basic qualifications in the program's competency based training plan.

(8) Personnel files and qualifications records. The program must maintain up-to-date written job descriptions for all employees as well as a file available to the Department or CDDP for inspection that includes written documentation of the following for each employee:

(a) Written documentation of references and qualifications being checked;

(b) Written documentation of an approved criminal record clearance by the Oregon Department of Human Services;

(c) Written documentation of employee notification of mandatory abuse training and reporter status prior to supervising individuals and annually thereafter;

(d) Written documentation of any substantiated abuse allegations;

(e) Written documentation kept current that the staff person has demonstrated competency in areas identified by the provider's competency based training plan as required by OAR 411-325-0160(4), and which is appropriate to their job description;

(f) Written documentation of 12 hours job-related inservice training annually; including documentation of training in CPR and first aid certification.

(9) Program documentation requirements. All entries required by this rule OAR 411-325-0010 to 411-325-0480 must:

(a) Be prepared at the time, or immediately following the event being recorded;

(b) Be accurate and contain no willful falsifications;

(c) Be legible, dated and signed by the person(s) making the entry; and

(d) Be maintained for no less than three years.

(10) Dissolution of program. Prior to the dissolution of a program, a representative of the governing body or owner must notify the Department 30 days in advance in writing and make appropriate arrangements for the transfer of individual's records.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0170

Safety: Staffing Requirements

(1) General staffing requirements. Each residence must provide staff appropriate to the number of individuals served as follows:

(a) Each home or facility serving five or fewer individuals must provide at a minimum one staff on the premises when individuals are present; and

(b) Each program serving five or fewer individuals in apartments must provide at a minimum one staff on the premises of the apartment complex when individuals are present; and

(c) Each home or facility serving six or more individuals must provide a minimum of one staff on the premises for every 15 individuals during awake hours and one staff on the premises for every 15 individuals during sleeping hours, except residences licensed prior to January 1, 1990; and

(d) Each home or facility serving children, for any number of individuals, must provide at a minimum one awake night staff on the premises when individuals are present.

(2) Exceptions to minimum staffing requirements in OAR 411-325-0170(1)(a), (b) and (c) for homes or facilities serving adults. A home or facility is granted an exception to staffing requirements in OAR 411-325-0170(1)(a), (b) and (c) for adults to be home alone when the following conditions have been met:

(a) No more than two adults will be left alone in the home at any time without on staff supervision;

(b) The amount of time any adult can be left alone will not exceed five hours within a twenty-four hour period and no adult will be responsible for any other adult or child in the home or community;

(c) No individual will be left home alone without staff supervision between the hours of 11:00 P.M. and 6:00 A.M.;

(d) The adult has a documented history of being able to do the following safety measures or there is a documented ISP team decision agreeing to an equivalent alternative practice:

(A) Independently call 911 in an emergency and give relevant information after calling 911;

(B) Evacuate the premises during emergencies or fire drills without assistance in three minutes or less;

(C) Knows when, where and how to contact the provider in an Emergency;

(D) Before opening door, checks who is there;

(E) Does not invite strangers to the home/facility;

(F) Answers door appropriately;

(G) Use small appliances, sharp knives, kitchen stove and microwave safely;

(H) Self-administers medications, if applicable;

(I) Safely adjusts water temperature at all faucets; and

(J) Safely takes shower/bathes without falling.

(e) There is a documented ISP team decision annually noting team agreement that the adult meets the requirements of OAR411-325-0170(2)(d)(A)-(J).

(3) Changes in an adult's ability to remain home alone without supervision. If at any time the adult is unable to meet the requirements in OAR 411-325-0170(2)(d)(A)-(J), the provider must not leave the adult alone without supervision. In addition, the provider must notify the adult's Services Coordinator within one working day and request that the ISP team meet to address the adult's ability to be left alone without supervision.

(4) Contract requirements for staff ratios. Each residence must meet all requirements for staff ratios as specified by contract requirements.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0180

Safety: Individual Summary Sheets

Current one to two page summary sheet. A current one to two page summary sheet must be maintained for each individual receiving services from the program. The record must include:

(1) The individual's name, current and previous address, date of entry into the program, date of birth, sex, marital status (for individuals 18 or older), religious preference, preferred hospital, medical prime number and private insurance number where applicable, guardianship status; and

(2) The name, address and telephone number of:

(a) The individual's legal representative, family, advocate or other significant person, and for children, the child's parent or guardian, education surrogate, if applicable;

(b) The individual's preferred physician, secondary physician or clinic;

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- (c) The individual's preferred dentist;
- (d) The individual's identified pharmacy;
- (e) The individual's school, day program, or employer, if applicable;
- (f) The individual's Services Coordinator, and for Department direct

contracts, Department representative; and

- (g) Other agency representatives providing services to the individual.

(3) For children under the age 18, any court ordered or guardian authorized contacts or limitations must also be included on the individual summary sheet.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0190

Safety: Incident Reports and Emergency Notifications

(1) Incident reports. A written report that describes any incident as defined in OAR 411-325-0020(41) involving an individual must be placed in the individual's record. Such description must include:

- (a) Conditions prior to or leading to the incident;
- (b) A description of the incident;
- (c) Staff response at the time; and
- (d) Administrative review to include the follow-up to be taken to prevent a recurrence of the incident.

(2) Sent to guardian and Services Coordinator. Copies of all unusual incident reports must be sent to the individual's Services Coordinator within five working days of the incident. Upon request of the guardian, copies of unusual incident reports will be sent to the guardian within five working days of the incident. Such copies must have any confidential information about other individuals removed or redacted as required by federal and state privacy laws. Copies of unusual incident reports will not be provided to a guardian when the report is part of an abuse or neglect investigation.

(3) Immediate notification of allegations of abuse and abuse investigations. The program must notify the CDDP immediately of an incident or allegation of abuse falling within the scope of OAR 411-325-0020(2)(a)(A)-(G), (b)(A)-(E), and (c)(A)-(H). When an abuse investigation has been initiated, the CDDP will assure that either the Services Coordinator or the program will also immediately notify the individual's legal guardian or conservator. The parent who is not the guardian, next of kin or other significant person may also be notified unless the adult requests the parent, next of kin or other significant person not be notified about the abuse investigation or protective services, or notification has been specifically prohibited by law.

(4) Immediate notification for serious illness, injury or death. In the case of a serious illness, injury or death of an individual, the program must immediately notify:

- (a) The individual's guardian or conservator, parent, next of kin or other significant person;
- (b) The Community Development Disability Program; and
- (c) Any agency responsible for or providing services to the individual.

(5) Emergency notification. In the case of an individual who is away from the residence, without support beyond the time frames established by the ISP team, the program must immediately notify:

- (a) The individual's guardian, if any, or nearest responsible relative;
- (b) The individual's designated contact person;
- (c) The local police department; and
- (d) The Community Development Disability Program.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0200

Safety: Transportation

(1) Vehicles operated to transport individuals. Providers, including employees and volunteers who own or operate vehicles that transport individuals, must:

- (a) Maintain the vehicles in safe operating condition;
- (b) Comply with Department of Motor Vehicles laws;
- (c) Maintain or assure insurance coverage including liability, on all vehicles and all authorized drivers; and
- (d) Carry in vehicles a first aid kit.

(2) Seat belts and appropriate safety devices. When transporting, the driver must ensure that all individuals use seat belts. Individual car or booster seats will be used for transporting all children as required by law. When transporting individuals in wheel chairs, the driver must ensure that wheel chairs are secured with tie downs and that individuals wear seat belts.

(3) Drivers. Drivers operating vehicles that transport individuals must meet applicable Department of Motor Vehicles requirements as evidenced by a driver's license.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0250

Safety: Fire Drill Requirements and Fire Safety

(1) General fire drill requirements. The program must conduct unannounced evacuation drills when individuals are present, one per quarter each year with at least one drill per year occurring during the hours of sleep. Drills must occur at different times of the day, evening and night shifts with exit routes being varied based on the location of a simulated fire.

(2) Written fire drill documentation required. Written documentation must be made at the time of the fire drill and kept by the program for at least two years following the drill. Fire drill documentation must include:

- (a) The date and time of the drill or simulated drill;
- (b) The location of the simulated fire and exit route;
- (c) The last names of all individuals and staff present on the premises at the time of the drill;
- (d) The type of evacuation assistance provided by staff to individuals' as specified in each individual's safety plan;
- (e) The amount of time required by each individual to evacuate or staff simulating the evacuation; and
- (f) The signature of the staff conducting the drill.

(3) Smoke alarms or detectors and protection equipment. Smoke alarms or detectors and protection equipment must be inspected and documentation of inspections maintained as recommended by the local fire authority or State Fire Marshal.

(4) Adaptations required for sensory or physically impaired. The program must provide necessary adaptations to ensure fire safety for sensory and physically impaired individuals.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0260

Safety: Individual Fire Evacuation Safety Plans

(1) Written fire safety evacuation plan for five or fewer individuals residing in homes, duplexes, or apartments who are unable to evacuate residence in three minutes or less, or who request not to participate in fire drills. For individuals who are unable to evacuate the residence within the required evacuation time, or who, with concurrence of the ISP team, request not to participate in fire drills, the program must develop a written fire safety and evacuation plan that includes the following:

- (a) Documentation of the risk to the individual's medical, physical condition and behavioral status;
- (b) Identification of how the individual will evacuate his/her residence including level of support needed;
- (c) The routes to be used to evacuate the residence to a point of safety;
- (d) Identification of assistive devices required for evacuation;
- (e) The frequency the plan will be practiced and reviewed by the individual and staff;
- (f) The alternative practices;
- (g) Approval of the plan by the individual's guardian, case manager and the program director; and
- (h) A plan to encourage future participation.

(2) Required documentation of practice and review of fire safety and evacuation plans. The program must maintain documentation of the practice and review of the safety plan by the individual and the staff.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0270

Specific Standards: Safety- Fire Safety Requirements for Homes(s) on a Single Property or on Contiguous Property Serving Six or More Individuals

(1) State of Oregon Building Codes and Fire Code. The home must provide safety equipment appropriate to the number and level of individuals served and meet the requirements of the State of Oregon Structural Specialty and the Fire Code as adopted by the State:

- (a) Each residence housing six or more, but fewer than 11 individuals, or each residence that houses five or fewer individuals, but is licensed as single facility due to the total number of individuals served per the

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license or meets the contiguous property provision, must meet the requirements of an SR 3.3 occupancy; and must:

(A) Provide and maintain permanent wired smoke alarms from a commercial source with battery back-up in each bedroom and at a point centrally located in the corridor or area giving access to each separate sleeping area and on each floor; and

(B) Provide and maintain a 13D residential sprinkler system as defined in the most recent edition of the National Fire Protection Association standard.

(b) Each residence housing 11 or more but fewer than 17 individuals must meet the requirements of an SR-3.2 occupancy.

(c) Each residence housing 17 or more individuals must meet the requirements of an SR 3.1 occupancy.

(2) Licensed capacity plus respite bed for homes on a single property or on a contiguous property serving six or more individuals. At no time will the number of individuals served exceed the licensed capacity, except that one additional individual may receive respite care services not to exceed two weeks. Respite supports must not violate the safety and health sections of this rule.

(3) No admittance of person unable to appropriately respond. The program must not admit individuals functioning below the level indicated on the license for the residence.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0290

Specific Standards: Safety-Fire Safety Requirements for Apartments Serving Five or Fewer Individuals

(1) Fire safety requirements. The apartment must be made fire safe by:

(a) Providing and maintaining in each apartment battery-operated smoke alarms with a 10-year life in each bedroom and in a central location on each floor;

(b) Providing first floor occupancy apartments. Individuals who can exit in three minutes or less without assistance may be granted a variance from the first floor occupancy requirement;

(c) Providing a class 2A10BC portable fire extinguisher easily accessible in each apartment;

(d) Providing access to telephone equipment or intercom in each apartment, usable by the individual served; and

(e) Providing constantly usable unblocked exits from the apartment and apartment building.

(2) Respite care. At no time will the number of individuals served at the residence exceed the maximum capacity of five including respite services. An individual may receive respite services not to exceed two weeks. Respite services must not violate the safety and health sections of this rule.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0300

Rights: General

(1) Abuse prohibited for adults and children. Adults as defined at 411-325-0020(6) must not be abused nor will abuse be tolerated by any employee, staff or volunteer of the program. Children as defined at 411-325-0020(18) or as defined in these rules must not be abused nor will abuse be tolerated by any employee, staff or volunteer of the program.

(2) Protection and wellbeing. The program must ensure the health and safety of individuals from abuse including the protection of individual rights, as well as, encourage and assist individuals through the ISP process to understand and exercise these rights. Except for children under the age of 18, where reasonable limitations have been placed by a parent or guardian, these rights must at a minimum provide for:

(a) Assurance that each individual has the same civil and human rights accorded to other citizens of the same age except when limited by a court order;

(b) Adequate food, housing, clothing, medical and health care, supportive services and training;

(c) Visits with family members, guardians, friends, advocates and others of the individual's choosing, and legal and medical professionals;

(d) Confidential communication including personal mail and telephone;

(e) Personal property and fostering of personal control and freedom regarding that property;

(f) Privacy in all matters that do not constitute a documented health and safety risk to the individual;

(g) Protection from abuse and neglect, including freedom from unauthorized training, treatment and chemical/mechanical/ physical restraints;

(h) Freedom to choose whether or not to participate in religious activity;

(i) The opportunity to vote for individuals over the age of 18 and training in the voting process;

(j) Expression of sexuality within the framework of State and Federal Laws, and for adults over the age of 18, freedom to marry and to have children;

(k) Access to community resources, including recreation, agency services, employment and community inclusion services, school, educational opportunities and health care resources;

(l) Individual choice for children and adults that allows for decision making and control of personal affairs appropriate to age;

(m) Services which promote independence, dignity and self-esteem and reflect the age and preferences of the individual child or adult;

(n) Individual choice for adults to consent to or refuse treatment, unless incapable, and then an alternative decision maker is allowed to consent or refuse. For children consent to or refusal of treatment by the child's parent or guardian except as defined in statute (ORS 109.610) or limited by court order;

(o) Individual choice to participate in community activities;

(p) Access to a free and appropriate education for children and individuals under the age of 21 including a procedure for school attendance or refusal to attend.

(3) Policies and procedures. The program must have and implement written policies and procedures that protect an individual's rights as listed in OAR 411-325-0300(2)(a - p).

(4) Notification of policies and procedures. The program must inform each individual and parent or guardian orally and in writing of their rights and a description of how to exercise those rights. This must be completed at entry to the program and in a timely manner, thereafter, as changes occur. Information must be presented using language, format, and methods of communication appropriate to the individual's needs and abilities.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0310

Rights: Confidentiality of Records

Confidentiality. All individuals' records are confidential except as otherwise provided by applicable State and Federal rule or laws.

(1) For the purpose of disclosure from individual medical records under these rules, service providers under these rules are considered "providers" as defined in ORS 179.505(1).

(2) For the purposes of disclosure from non-medical individual records, all or portions of the information contained in these records may be exempt from public inspection under the personal privacy information exemption to the public records law set forth in ORS 192.502(2).

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0320

Rights: Informal Complaints and Formal Grievances

(1) Grievances. The program must develop and implement written policies and procedures regarding individual informal complaints and formal grievances. These policies and procedures must at minimum address:

(a) Informal complaint resolution. Opportunity for an individual or someone acting on behalf of the individual to informally discuss and resolve any allegation that a program has taken action which is contrary to law, rule, or policy and that does not meet the criteria for an abuse investigation. Choosing this opportunity will not preclude the individual or someone acting on behalf of the individual to pursue resolution through formal grievance processes.

(b) Formal grievances and grievance log. A description of how the program receives and documents grievances from individual(s) and others acting on the behalf of individuals. If a grievance is associated in any way with abuse, the recipient of the grievance must immediately report the issue to the appropriate authority, the CDDP, Department for direct contracted services and notify the Executive Director or designee. The formal grievance policies and procedures must require:

(A) Investigation of the facts supporting or disproving the grievance;

(B) That the Executive Director or designee provide a formal written response to the grievant within 15 days of receipt of the grievance, unless the grievance is informally resolve to the grievant's satisfaction prior to that

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time. The formal written response of the Executive Director or designee must clearly inform the grievant:

(i) Of the right to appeal an adverse decision to the CDDP and how to do so, including the name, address, and phone number of the person at the CDDP to whom the appeal should be submitted;

(ii) Of the availability of assistance in appealing the grievance and how to access that assistance.

(C) That the Executive Director or designee will submit to the CDDP for review grievances that have not been resolved to the satisfaction of the grievant, where the Executive Director or designee believes that the grievant may not have the capability to appeal an adverse decision to the CDDP.

(D) The CDDP will address the appeal as provided in the Community Developmental Disability Programs Administrative Rule, OAR 411-320-0170.

(E) Documentation of each grievance and its resolution must be filed or noted in the grievant's record. In addition, the program must maintain a grievance log, which will, at a minimum, identify the person making the grievance, the date of the grievance, the nature of the grievance, the resolution, and the date of the resolution.

(2) Notification of policies and procedures. The program must inform each individual, parent or guardian orally and in writing, of its grievance policy and procedures. This must be done at entry to the program and in a timely manner thereafter as changes occur. Information must be presented using language, format and methods of communication appropriate to the individual's needs and abilities.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0340

Rights: Behavior Support

(1) Written policy required. The program must have and implement a written policy for behavior support that utilizes individualized positive behavior support techniques and prohibits abusive practices.

(2) Development of an individualized plan to alter a person's behavior. A decision to develop a plan to alter a person's behavior must be made by the ISP team. Documentation of the ISP team decision must be maintained by the program.

(3) Functional behavioral assessment required. The program must conduct a functional behavioral assessment of the behavior, which must be based upon information provided by one or more persons who know the individual. The functional behavioral assessment must include:

(a) A clear, measurable description of the behavior which includes (as applicable) frequency, duration and intensity of the behavior;

(b) A clear description and justification of the need to alter the behavior;

(c) An assessment of the meaning of the behavior, which includes the possibility that the behavior is one or more of the following:

(A) An effort to communicate;

(B) The result of medical conditions;

(C) The result of psychiatric conditions; and

(D) The result of environmental causes or other factors.

(d) A description of the context in which the behavior occurs; and

(e) A description of what currently maintains the behavior.

(4) Behavior support plan requirements. The behavior support plan must include:

(a) An individualized summary of the person's needs, preferences and relationships;

(b) A summary of the function(s) of the behavior, (as derived from the functional behavioral assessment);

(c) Strategies that are related to the function(s) of the behavior and are expected to be effective in reducing problem behaviors;

(d) Prevention strategies including environmental modifications and arrangement(s);

(e) Early warning signals or predictors that may indicate a potential behavioral episode and a clearly defined plan of response;

(f) A general crisis response plan that is consistent with the Oregon Intervention System (OIS);

(g) A plan to address post crisis issues;

(h) A procedure for evaluating the effectiveness of the plan which includes a method of collecting and reviewing data on frequency, duration and intensity of the behavior;

(i) Specific instructions for staff who provide support to follow regarding the implementation of the plan; and

(j) Positive behavior supports that includes the least intrusive intervention possible.

(5) Additional documentation requirements for implementation of behavioral support plans. Providers must maintain the following additional documentation for implementation of behavioral support plans:

(a) Written evidence that the individual, parent(s) (if applicable), guardian or legal representative (if applicable) and the ISP team are aware of the development of the plan and any objections or concerns have been documented;

(b) Written evidence of the ISP team decision for approval of the implementation of the behavior support plan; and

(c) Written evidence of all informal and positive strategies used to develop an alternative behavior.

(6) Notification of policies and procedures. The program must inform each individual and the parent(s), guardian, legal representative of the behavior support policy and procedures at the time of entry to the program and as changes occur.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0350

Rights: Physical Intervention

(1) Circumstances allowing the use of physical intervention. The program must only employ physical intervention techniques that are included in the current approved OIS curriculum or as approved by the OIS Steering Committee. Physical intervention techniques must only be applied:

(a) When the health and safety of the individual and others are at risk, and the ISP team has authorized the procedures in a documented ISP team decision that is included in the ISP and uses procedures that are intended to lead to less restrictive intervention strategies; or

(b) As an emergency measure, if absolutely necessary to protect the individual or others from immediate injury; or

(c) As a health related protection ordered by a physician, if absolutely necessary during the conduct of a specific medical or surgical procedure, or for the individual's protection during the time that a medical condition exists.

(2) Staff training. Staff supporting an individual must be trained by an instructor certified in the Oregon Intervention System (OIS) when the individual has a history of behavior requiring physical intervention and the ISP team has determined there is probable cause for future application of physical intervention. Documentation verifying such training must be maintained in the staff's personnel file.

(3) Modification of OIS physical intervention procedures. The program must obtain the approval of the OIS Steering Committee for any modification of standard OIS physical intervention technique(s). The request for modification of physical intervention technique(s) must be submitted to the OIS Steering Committee and must be approved in writing by the OIS Steering Committee prior to the implementation of the modification. Documentation of the approval must be maintained in the individual's record.

(4) Physical intervention techniques in emergency situations. Use of physical intervention techniques that are not part of an approved plan of behavior support in emergency situations must:

(a) Be reviewed by the program's executive director or designee within one hour of application;

(b) Be used only until the individual is no longer an immediate threat to self or others;

(c) Submit an incident report to the CDDP Services Coordinator, or other Department designee (if applicable), personal agent (if applicable), and the person's legal guardian (if applicable), no later than one working day after the incident has occurred; and

(d) Prompt an ISP team meeting if an emergency intervention is used more than three times in a six-month period.

(5) Incident report. Any use of physical intervention(s) must be documented in an incident report excluding circumstances defined in OAR 411-325-0350(7)(a-h). The report must include:

(a) The name of the individual to whom the physical intervention was applied;

(b) The date, type, and length of time the physical intervention was applied;

(c) A description of the incident precipitating the need for the use of the physical intervention;

(d) Documentation of any injury;

(e) The name and position of the staff member(s) applying the physical intervention;

(f) The name(s) and position(s) of the staff witnessing the physical intervention;

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(g) The name and position of the person providing the initial review of the use of the physical intervention; and

(h) Documentation of an administrative review that includes the follow-up to be taken to prevent a recurrence of the incident by the director or his/her designee who is knowledgeable in OIS, as evident by a job description that reflects this responsibility.

(6) Copies submitted. A copy of the incident report must be forwarded within five working days of the incident, to the CDDP Services Coordinator and when applicable to the legal guardian and the personal agent..

(a) The Services Coordinator or when applicable the Department designee will receive complete copies of incident reports.

(b) Copies of incident reports will not be provided to a legal guardian, personal agent or other service providers, when the report is part of an abuse or neglect investigation.

(c) Copies provided to a legal guardian, personal agent, or other service provider must have confidential information about other individuals removed or redacted as required by federal and state privacy laws.

(d) All interventions resulting in injuries must be documented in an incident report and forwarded to the CDDP Services Coordinator or other Department designee (if applicable) within one working day of the incident.

(7) Behavior data summary. The program may substitute a behavior data summary in lieu of individual incident reports when:

(a) There is no injury to the individual or others;

(b) The intervention utilized is not a physical restraint;

(c) There is a formal written functional assessment and a written behavioral support plan;

(d) The individual's behavior support plan defines and documents the parameters of the baseline level of behavior;

(e) The physical intervention technique(s), and the behavior(s) for which they are applied remain within the parameters outlined in the individual's behavior support plan and the OIS curriculum;

(f) The behavior data collection system for recording observation, intervention and other support information critical to the analysis of the efficacy of the behavior support plan, is also designed to record items as required in support in OAR 411-325-0350(5)(a)-(c) and (e)-(h); and

(g) There is written documentation of an ISP team decision that a behavior data summary had been authorized for substitution in lieu of incident reports.

(8) Copy to CDDP. A copy of the behavior data summary must be forwarded every thirty days to the CDDP Services Coordinator or other Department designee (if applicable), or personal agent (if applicable) and the person's legal guardian (if applicable).

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0360

Rights: Psychotropic Medications and Medications for Behavior

(1) Requirements. Psychotropic medications and medications for behavior must be:

(a) Prescribed by physician or health care provider through a written order; and

(b) Monitored by the prescribing physician, ISP team and program for desired responses and adverse consequences.

(2) Balancing test. When medication is first prescribed and annually thereafter, the provider must obtain a signed balancing test from the prescribing health care provider using the DHS Balancing Test Form or by inserting the required form content into the provider's agency forms. Providers must present the physician or health care provider with a full and clear description of the behavior and symptoms to be addressed, as well as any side effects observed.

(3) Documentation requirements. The provider must keep signed copies of these forms in the individual's medical record for seven years.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0390

Entry, Exit and Transfer: General

(1) Qualifications for Department funding. All individuals considered for Department funded services must:

(a) Be referred by the Community Development Disability Program;

(b) Be determined to have a developmental disability by the Department or its designee; and

(c) Not be discriminated against because of race, color, creed, age, disability, national origin, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law.

(2) Authorization of entry into 24-Hour Residential Programs. The CDDP Services Coordinator, except in the cases of children's residential services and state operated community programs, must make authorization of entry into 24-Hour residential program. The Department must authorize admission into children's residential services and state operated community programs.

(3) Information required for entry meeting. The program must acquire the following information prior to or upon an entry ISP team meeting:

(a) A copy of the individual's eligibility determination document;

(b) A statement indicating the individual's safety skills including ability to evacuate from a building when warned by a signal device, and adjusting water temperature for bathing and washing;

(c) A brief written history of any behavioral challenges including supervision and support needs;

(d) A medical history and information on health care supports that includes, where available:

(A) The results of a physical exam made within 90 days prior to entry;

(B) Results of any dental evaluation;

(C) A record of immunizations;

(D) A record of known communicable diseases and allergies; and

(E) A record of major illnesses and hospitalizations.

(e) A written record of any current or recommended medications, treatments, diets and aids to physical functioning;

(f) Copies of documents relating to guardianship or conservatorship or health care representative or any other legal restrictions on the rights of the individual, if applicable;

(g) Written documentation that the individual is participating in out of residence activities including school enrollment for individuals under the age of 21; and

(h) A copy of the most recent Functional Behavioral Assessment, Behavior Support Plan, Individual Support Plan, and Individual Education Plan if applicable.

(4) Crisis entries from family homes. If the individual is being admitted from his or her family home and the information required in OAR 411-325-0390(3)(a)-(h) is not available, the program will ensure that they assess the individual upon entry for issues of immediate health or safety and document a plan to secure the remaining information no later than thirty days after entry. This must include a written justification as to why the information is not available.

(5) Entry meeting. An entry ISP team meeting must be conducted prior to the onset of services to the individual. The findings of the meeting must be recorded in the individual's file and include, at a minimum:

(a) The name of the individual proposed for services;

(b) The date of the meeting and the date determined to be the date of entry;

(c) The names and role of the participants at the meeting;

(d) Documentation of the pre-entry information required by OAR 411-325-0390(3)(a)-(h);

(e) Documentation of the decision to serve or not serve the individual requesting service, with reasons; and

(f) A written transition plan to include all medical, behavior and safety supports needed by the individual, to be provided to the individual for no longer than 60 days, if the decision was made to serve.

(6) Exit meeting. Each individual considered for exit must have a meeting by the ISP team before any decision to exit is made. Findings of such a meeting must be recorded in the individual's file and include, at a minimum:

(a) The name of the individual considered for exit;

(b) The date of the meeting;

(c) Documentation of the participants included in the meeting;

(d) Documentation of the circumstances leading to the proposed exit;

(e) Documentation of the discussion of strategies to prevent an exit from service (unless the individual, individual's guardian, or for a child the parent or guardian is requesting exit);

(f) Documentation of the decision regarding exit including verification of a majority agreement of the meeting participants regarding the decision; and

(g) Documentation of the proposed plan for services to the individual after the exit.

(7) Requirements for waiver of exit meeting. Requirements for an exit meeting may be waived if an individual is immediately removed from the home under the following conditions:

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(a) The individual and his/her guardian or legal representative requests an immediate move from the home; or

(b) The individual is removed by a legal authority acting pursuant to civil or criminal proceedings other than detention for a child.

(8) Transfer meeting. A meeting of the ISP Team to discuss any proposed transfer of an individual must precede the decision to transfer. Findings of such a meeting must be recorded in the individual's file and include, at a minimum:

(a) The name of the individual considered for transfer;

(b) The date of the meeting or telephone call(s);

(c) Documentation of the participants included in the meeting or telephone call(s) including for a child, a parent or guardian who is participating to sign documents;

(d) Documentation of the circumstances leading to the proposed transfer;

(e) Documentation of the alternatives considered instead of transfer;

(f) Documentation of the reasons any preferences of the individual, guardian, legal representative, parent or family members cannot be honored;

(g) Documentation of a majority agreement of the participants with the decision; and

(h) The written plan for services to the individual after transfer.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0400

Grievance of Entry, Exit and Transfer

(1) Grievances. In cases where the individual, parent or guardian objects to, or the ISP team cannot reach majority agreement regarding an entry refusal, a request to exit the program or a transfer within a program, a grievance may be filed by any member of the ISP team.

(a) In the case of a refusal to serve, the program vacancy may not be permanently filled until the grievance is resolved.

(b) In the case of a request to exit or transfer, the individual must continue to receive the same services until the grievance is resolved.

(2) Grievance to the CDDP. All grievances must be made to the CDDP Director or designee in writing, in accordance with the CDDP's dispute resolution policy. The CDDP will provide written response to the individual making the appeal within the timelines specified in the CDDP's dispute resolution policy.

(3) Grievance to the Department. In cases where the CDDP's decision is in dispute a written grievance must be made to the Department within ten days of receipt of the CDDP's decision.

(4) Department Grievance process. The Administrator or designee will review all unresolved appeals. Such review will be completed and a written response provided within 45 days of receipt of written request for Department review. The decision of the Administrator or designee will be final.

(5) Documentation required. Documentation of each grievance and its resolution must be filed or noted in the individual's record.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0410

Respite Care Services

(1) Qualifications for respite care services. All individuals considered for respite care services funded through 24-hour residential services must:

(a) Be referred by the Community Developmental Disability Program or Department;

(b) Be determined to have a developmental disability by the Department or its designee; and

(c) Not be discriminated against because of race, color, creed, age, disability, national origin, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law.

(2) Respite care plan. The individual, provider, and the guardian, legal representative, advocate, parent and family or other ISP team members (as available) must participate in an entry meeting prior to the initiation of respite care services. This meeting may occur by phone and the CDDP or Department will ensure that any critical information relevant to the individual's health and safety, including physicians' orders, will be made immediately available. The outcome of this meeting will be a written respite care plan that must take effect upon entry and be available on site, and must:

(a) Address the individual's health, safety and behavioral support needs;

(b) Indicate who is responsible for providing the supports described in the plan; and

(c) Specify the anticipated length of stay at the residence up to 14 days.

(3) Waiver of exit meeting requirement. Exit meetings are waived for individuals receiving respite care services.

(4) Waiver of appeal rights for entry, exit and transfer. Individuals receiving respite care services do not have appeal rights regarding entry, exit or transfer.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0420

Crisis Services

(1) Qualifications for crisis services. All individuals considered for crisis services funded through 24-hour residential services must:

(a) Be referred by the Community Developmental Disability Program or Department;

(b) Be determined to have a developmental disability by the Department or its designee;

(c) Be determined to be eligible for DD Services as defined in OAR 411-325-0020(28), (29), or (30), or any subsequent revision thereof; and

(d) Not be discriminated against because of race, color, creed, age, disability, national origin, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law.

(2) Support Services Plan of Care and Crisis Addendum required. Persons receiving support services under chapter 411 division 340, and receiving crisis services must have a Support Services Plan of Care and a Crisis Addendum upon entry to the program.

(3) Plan of Care required for persons not enrolled in support services. Persons, not enrolled in support services, receiving crisis services for less than 90 consecutive days must have a plan of care on entry that addresses any critical information relevant to the individual's health and safety including current physicians' orders.

(4) Risk Tracking Record required. Persons not enrolled in support services, receiving crisis services for 90 days or more must have a completed Risk Tracking Record and a Plan of Care that addresses all identified health and safety supports as noted in the Risk Tracking Record.

(5) Entry meeting required. Entry meetings are required for individuals receiving crisis services.

(6) Exit meeting required. Exit meetings are required for individuals receiving crisis services.

(7) Waiver of appeal rights for entry, exit and transfers. Individuals receiving crisis services do not have appeal rights regarding entry, exit or transfers.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0430

Individual Support Plan

(1) Department Individual Support Plan implementation schedule. Providers must participate as scheduled in the Department ISP training and must implement the required Department ISP process after completion of training.

(2) Individual Support Plan required. A copy of each individual's ISP and supporting documentation on the required Department forms must be available at the residence within 60 days of entry and annually thereafter, unless the provider has not been trained to implement the Department ISP process. In situations where the provider has not been trained, the individual must have a completed ISP with supporting documents as required by OAR 309-041-1300 through 309-041-1370.

(3) Preparation for ISP. The following information must be collected and summarized within 45 days prior to the ISP meeting:

(a) Personal Focus Worksheet;

(b) Risk Tracking Record;

(c) Necessary protocols or plans that address health, behavioral, safety and financial supports as identified on the Risk Tracking Record;

(d) A Nursing Care Plan, if applicable, including but not limited to those tasks required by the Risk Tracking Record; and

(e) Other documents required by the ISP team.

(4) Content of Individual Support Plan. A completed ISP must be documented on the Department required form that includes the following:

(a) What's most important to the individual;

(b) Risk summary;

(c) Professional services the individual uses or needs;

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- (d) Action plan(s);
- (e) Discussion Record;
- (f) Service supports; and
- (g) Signature sheet.

(5) Documentation required. The provider must maintain documentation of implementation of each support specified in OAR 411-325-0430(3)(c-e) and services noted in the individual's ISP. This documentation must be kept current and be available for review by the individual, guardian, CDDP and Department representatives.

Stat. Auth. ORS 410.070, 409.050
Stats. Implemented: ORS 443.400 - 443.455
Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0440

Children's Direct Contracted Services

For purposes of this rule chapter 411 division 325, any documentation or information required to be submitted to the CDDP Services Coordinator must also be submitted to the Department Residential Services Coordinator assigned to the home or facility.

Stat. Auth. ORS 410.070, 409.050
Stats. Implemented: ORS 443.400 - 443.455
Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0450

Conditions

(1) Circumstances under which conditions may be applied to a license. Conditions may be attached to a license upon a finding that:

- (a) Information on the application or initial inspection requires a condition to protect the health and safety of individuals;
 - (b) There exists a threat to the health, safety, and welfare of an individual;
 - (c) There is reliable evidence of abuse, neglect, or exploitation;
 - (d) The home/facility is not being operated in compliance with these rules; or
 - (e) The provider is licensed to care for a specific person(s) only and further placements must not be made into that home or facility.
- (2) Imposing conditions. Conditions that may be imposed on a licensee include:

- (a) Restricting the total number of individuals that can be served;
 - (b) Restricting the number and support level of individuals allowed within a licensed classification level based upon the capacity of the provider and staff to meet the health and safety needs of all individuals;
 - (c) Reclassifying the level of individuals that can be served;
 - (d) Requiring additional staff or staff qualifications;
 - (e) Requiring additional training of provider/staff;
 - (f) Requiring additional documentation; or
 - (g) Restriction of admissions.
- (3) Written notification. The provider will be notified in writing of any conditions imposed, the reason for the conditions, and be given an opportunity to request a hearing under ORS Chapter 183.310 to 183.550.

(4) Administrative review. In addition to, or in lieu of, a contested case hearing, a provider may request a review by the Administrator or designee of conditions imposed by the Department. The review does not diminish the provider's right to a hearing.

(5) Length of conditions. Conditions may be imposed for the extent of the licensure period (two years) or limited to some other shorter period of time. If the condition corresponds to the licensing period, the reasons for the condition will be considered at the time of renewal to determine if the conditions are still appropriate. The effective date and expiration date of the condition will be indicated on an attachment to the license.

Stat. Auth. ORS 410.070, 409.050
Stats. Implemented: ORS 443.400 - 443.455
Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0460

Civil Penalties

(1) Long-term care facility statute applicable. For purposes of imposing civil penalties, 24-Hour residential homes and facilities licensed under ORS 443.440 to 443.455 and subsection (2) of 443.991 are considered to be long-term care facilities subject to ORS 441.705 to 441.745.

(2) Schedule and sections of rule subject to civil penalties. The Department will exercise the powers under ORS 441.705 to 441.745 and thereby issues the following schedule of penalties applicable to 24-hour residential homes and facilities:

(a) Violations of any requirement within any part of the following sections of the rule may result in a civil penalty up to \$500 per day for each violation not to exceed \$6,000 for all violations for any licensed 24-hour residential home or facility within a 90-day period:

- (A) 411-325-0120(2), (11);
- (B) 411-325-0130;
- (C) 411-325-0140;
- (D) 411-325-0150;
- (E) 411-325-0160;
- (F) 411-325-0170;
- (G) 411-325-0190;
- (H) 411-325-0200;
- (I) 411-325-0220(1), (2);
- (J) 411-325-0230;
- (K) 411-325-0240, 0250, 0260, 0270, 0280 and 0290;
- (L) 411-325-0300, 0310, 0320, 0330, 0340, and 0350;
- (M) 411-325-0360;
- (N) 411-325-0380
- (O) 411-325-0430(3)(4); and (5)
- (P) 411-325-0440.

(b) Civil penalties of up to \$300 per day per violation may be imposed for violations of any section of this rule not listed in (2)(a) (A)-(N) of this section if a violation has been cited on two consecutive inspections or surveys of a 24-hour residential home or facility where such surveys are conducted by an employee of the Department. Penalties assessed under this section will not exceed \$6,000 within a 90-day period.

(3) Monitoring defined. For purposes of this rule, a monitoring occurs when a 24-hour residential home or facility is surveyed, inspected or investigated by an employee or designee of the Department or an employee or designee of the Office of State Fire Marshal.

(4) Consideration of factors when imposing civil penalties. In imposing a civil penalty pursuant to the schedule published in section (2) of this rule, the Department will consider the following factors:

(a) The past history of the program incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes or rules pertaining to 24-hour residential homes or facilities;

(c) The economic and financial conditions of the program incurring the penalty; and

(d) The immediacy and extent to which the violation threatens or threatens the health, safety and well-being of individuals.

(5) Due and payable. Any civil penalty imposed under ORS 443.455 and 441.710 will become due and payable when the program incurring the penalty receives a notice in writing from the Administrator or designee. The notice referred to in this section will be sent by registered or certified mail and will include:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the program's right to request a hearing.

(6) Timeline to make written application for a hearing. The person representing the program, to whom the notice is addressed, will have 20 days from the date of mailing of the notice in which to make a written application for a hearing before the Department.

(7) Conduct of hearing. All hearings will be conducted pursuant to the applicable provisions of ORS Chapter 183.

(8) Failure to request a hearing within 20 days. If the program notified fails to request a hearing within 20 days, an order may be entered by the Department assessing a civil penalty.

(9) Program is found to be in violation of a license, rule, or order listed in ORS 441.701(1). If, after a hearing, the program is found to be in violation of a license, rule, or order listed in ORS 441.710(1), an order may be entered by the Department assessing a civil penalty.

(10) Remittance or reduction of a civil penalty. A civil penalty imposed under ORS 443.455 or 441.710 may be remitted or reduced upon such terms and conditions as the Administrator considers proper and consistent with individual health and safety.

(11) Civil penalty payable within 10 days after order is entered. If the order is not appealed, the amount of the penalty is payable within 10 days after the order is entered. If the order is appealed and is sustained, the amount of the penalty is payable within 10 days after the court decision. The order, if not appealed or sustained on appeal, will constitute a judgment and may be filed in accordance with the provisions of ORS 18.320 to 18.370. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(12) Violation of any general order or final order. A violation of any general order or final order pertaining to a 24-hour residential home or

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facility issued by the Department is subject to a civil penalty in the amount of not less than \$5 and not more than \$500 for each and every violation.

(13) Judicial review of civil penalties. Judicial review of civil penalties imposed under ORS 441.710 will be provided under ORS 183.480, except that the court may, in its discretion, reduce the amount of the penalty.

(14) Penalties recovered. All penalties recovered under ORS 443.455 and 441.710 to 441.740 will be paid into the State Treasury and credited to the General Fund.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

411-325-0470

License Denial, Suspension, Revocation, Refusal to Renew

(1) Substantial failure to comply with rules. The Department will deny, suspend, revoke or refuse to renew a license where it finds there has been substantial failure to comply with these rules; or where the State Fire Marshal or his or her representative certifies there is failure to comply with all applicable ordinances and rules relating to safety from fire.

(2) Imminent danger to individuals. The Department will suspend the home or facility license where imminent danger to health or safety of individuals exists.

(3) Provider agency on list for Centers for Medicare and Medicaid Services excluded or debarred providers. The Department will deny, suspend, revoke or refuse to renew a license where it finds that a provider is on the current Centers for Medicare and Medicaid Services list of excluded or debarred providers.

(4) Revocation, suspension or denial done in accordance with ORS Chapter 183. Such revocation, suspension or denial will be done in accordance with rules of the Department and ORS Chapter 183.

(5) Failure to disclose requested information. Failure to disclose requested information on the application or provision of incomplete or incorrect information on the application will constitute grounds for denial or revocation of the license.

(6) Failure to implement a plan of correction or comply with a final order. The Department will deny, suspend, revoke or refuse to renew a license if the licensee fails to implement a plan of correction or comply with a final order of the Department imposing an administrative sanction, including the imposition of a civil penalty.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04

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Adm. Order No.: SPD 26-2004

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Subject: OAR Chapter 411, Division 085, Nursing Facilities - Generally have been permanently amended effective 08/01/2004. These rules add the requirement for a policy on the possession of firearms and ammunition in Nursing Facilities. Policy is to be disclosed, orally and in writing and documented prior to, or at the time of admission. In addition, stylistic changes from "which" to "that" and from "shall" to "will" or "must" have been made throughout the document.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-085-0000

Statement of Purpose

The purpose of these rules (OAR chapter 411, divisions 85 through 89) is to establish requirements for nursing facilities that promote quality care and maximization of personal choice and independence for residents. Whenever possible, care shall be directed toward returning the resident to his/her own residence or to the least restrictive alternative environment within the shortest time possible.

Stat. Auth.: ORS 410 & ORS 441

Stats. Implemented: ORS 441.055 & ORS 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0005

Definitions

As used in OAR chapter 411, divisions 70 and 85 through 89, unless the rule requires otherwise, the following definitions apply:

(1) "Abuse" means:

(a) Any physical injury to a resident that has been caused by other than accidental means. This includes injuries that a reasonable and prudent person would have been able to prevent such as hitting, pinching or striking, or injury resulting from rough handling;

(b) Failure to provide basic care or services to a resident, which failure results in physical harm or unreasonable discomfort or serious loss of human dignity;

(c) Sexual contact, including fondling, with a resident caused by an employee, agent or other resident of a long-term care facility by force, threat, duress or coercion, or sexual contact where the resident has no ability to consent;

(d) Illegal or improper use of a resident's resources for the personal profit or gain of another person; or borrowing resident funds; or spending resident funds without the resident's consent; or if the resident is not capable of consenting, spending resident funds for items or services from which the resident cannot benefit or appreciate; or spending resident funds to acquire items for use in common areas when such purchase is not initiated by the resident;

(e) Verbal abuse as prohibited by federal law, including the use of oral, written or gestured communication to a resident or visitor that describes a resident(s) in disparaging or derogatory terms;

(f) Mental abuse as prohibited by law including humiliation, harassment, threats of punishment or deprivation directed toward the resident;

(g) Corporal punishment; or

(h) Involuntary seclusion for convenience or discipline.

(2) "Abuse complaint" means any oral or written communication to The Department, one of its agents or a law enforcement agency alleging abuse.

(3) "Activities Program" means services offered to each resident that encourage the resident to participate in physical and mental exercise and that are designed to maintain or improve physical and mental well-being and social skills.

(4) "Applicant" means the person or persons required to complete a nursing facility application for a license. Applicant includes a sole proprietor, each partner in a partnership, or the corporation that owns the nursing facility business. Applicant also includes the sole proprietor, each partner in a partnership, or the corporation that operates the nursing facility on behalf of the nursing facility business owner.

(5) "Area Agency on Aging" or "AAA" means a Type B Area Agency on Aging that is an established public agency within a planning and service area designated under the Older Americans Act, 42 U.S.C. 3025, that has responsibility for local administration of Division programs.

(6) "Assessment" means a written evaluation of the resident's abilities, condition and needs based upon resident interview, observation, clinical and social records and other available sources of information.

(7) "Care" means services required to maximize resident independence, personal choice, participation, health, self-care, psychosocial functioning and provide reasonable safety, all consistent with the preferences of the resident.

(8) "Certified Medication Assistant" or "Certified Medication Aide" means a certified nursing assistant who has successfully completed an Oregon State Board of Nursing approved training program for the administration of non-injectable medication.

(9) "Certified Nursing Assistant" or "Nurse Aide" means a person who has been certified as a nursing assistant pursuant to ORS Chapter 678 and the rules adopted thereunder.

(10) "Change of Ownership" and "Change of Operator" means a change in the person or entity that owns the facility business and/or a change in the individual or entity responsible for the provision of services at the facility. Events that change ownership include, but are not limited to the following:

(a) A change in the form of legal organization of the licensee;

(b) Transfer of the title to the nursing facility enterprise by the owner to another party;

(c) If the licensee is a corporation, dissolution of the corporation, merger of the corporation with another corporation, or consolidation of one or more corporations to form a new corporation;

(d) If the licensee is a partnership, any event that dissolves the partnership;

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(e) Any lease, management agreement, or other contract or agreement that results in a change in the legal entity responsible for the provision of services at the facility;

(f) Any other event that results in a change of the operating entity.

(11) "Day Care Resident" means a person who receives services and care in a nursing facility for not more than 16 hours per day and who is not bedfast.

(12) "Department" means Seniors and People with Disabilities of the Department of Human Services.

(13) "Drug(s)" has the same meaning set forth in ORS Chapter 689.

(14) "Entity" means "person" as defined by these rules.

(15) "Establish a Nursing Facility" or "Maintain a Nursing Facility" means to possess or hold an incident of ownership in a nursing facility business.

(16) "Facility" or "Nursing Facility" means an establishment that is licensed by The Department as a Nursing Facility.

(17) "Health Care Facility" means a health care facility as defined in ORS 442.015, but also includes residential care facility as defined in ORS 443.400 and adult foster home as defined in ORS 443.705.

(18) "Hearing" means a contested case hearing according to the Administrative Procedures Act and the rules of The Department thereunder.

(19) "Incident of Ownership" means:

(a) An ownership interest; or

(b) An indirect ownership interest; or

(c) A combination of direct and indirect ownership interest.

(20) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. This term includes an ownership interest in an entity that has an indirect ownership interest in another entity.

(21) "Inpatient Beds" means a bed in a facility available for occupancy by a resident who will or may be cared for and treated on an overnight basis.

(22) "Inspection" means any on-site visit to the facility by anyone designated by the Secretary of the U.S. Department of Health and Human Services, The Department or a "Type B" Area Agency on Aging and includes but is not limited to a licensing inspection, certification inspection, financial audit, Medicaid Fraud Unit review, monitoring and complaint investigation.

(23) "Legal Representative" means Attorney at Law, person holding a general power of attorney or special power of attorney for health care, guardian, conservator, or any person appointed by a court to manage the personal or financial affairs of the resident or person or agency legally responsible for the welfare or support of the resident, other than the facility.

(24) "Licensed Nurse" means a Registered Nurse (RN) or a Licensed Practical Nurse (LPN).

(25) "Licensed Practical Nurse (LPN)" means a person licensed under ORS Chapter 678 to practice practical nursing.

(26) "Licensee" means the applicant(s) to whom a nursing facility license has been issued.

(27) "Local Designee of The Department" means the local unit of Seniors and People with Disabilities or the Type B Area Agency on Aging.

(28) "Long Term Care Facility" means nursing facility.

(29) "Major Alteration" means change other than repair or replacement of building materials or equipment with materials and equipment of a similar type.

(30) "Management" or "Control Interest" means possessing the right to exercise operational or management control over, or to directly or indirectly conduct the day-to-day operation of an institution, organization or agency, or an interest as an officer or director of an institution, organization or agency organized as a corporation.

(31) "New Construction" means:

(a) A new building;

(b) An existing building or part of a building that is not currently licensed as a nursing facility;

(c) A part of an existing building that is not currently licensed for the purpose for which such part is proposed to be licensed (e.g., rooms that are proposed to be licensed as resident rooms, but that are not currently licensed as nursing facility resident rooms);

(d) A major alteration to an existing building, additions, conversions in use; or

(e) Renovation or remodeling of existing buildings.

(32) "NFPA" means National Fire Protection Association.

(33) "Nurse Practitioner" means a person certified under ORS Chapter 678 as a nurse practitioner.

(34) "Nursing Assessment" means evaluation of fluids, nutrition, bowel/bladder elimination, respiration, circulation, skin, vision, hearing, musculoskeletal systems, allergies, personal hygiene, mental status, communicative skills, safety needs, rest, sleep, comfort, pain, other appropriate measures of physical status and medication and treatment regimes. Nursing assessment includes data collection, comparison with previous data, and analysis or evaluation of that data, and utilization of available resource information.

(35) "Nursing Assistant" or "Nurse Aide" means a person who assists licensed nurses in the provision of nursing care services. "Nursing assistant" includes, but is not limited to, certified nursing assistant, certified medication assistant and persons enrolled in a CNA course.

(36) "Nursing Care" means direct and indirect care provided by a registered nurse, licensed practical nurse, or nursing assistant.

(37) "Nursing Facility" means an establishment with permanent facilities that include inpatient beds; providing medical services, including nursing services but excluding surgical procedures; and that provides care and treatment for two or more unrelated residents. In this definition, "treatment" means complex nursing tasks that cannot be delegated to an unlicensed person. "Nursing facility" shall not be construed to include facilities licensed and operated pursuant to any Oregon Revised Statute other than ORS 441.020(2).

(38) "Nursing Facility Law" means ORS Chapter 441 and the Oregon Administrative Rules for nursing facilities adopted pursuant thereto.

(39) "Nursing Home" means nursing facility.

(40) "Nursing Home Administrator" means an individual licensed under ORS Chapter 678 who is responsible to the licensee and is responsible for planning, organizing, directing and controlling the operation of a nursing facility.

(41) "Nursing Staff" means registered nurses, licensed practical nurses and nursing assistants providing direct resident care in the facility.

(42) "Owner" means a person with an ownership interest.

(43) "Ownership Interest" means the possession of equity in the capital, the stock, or the profits of an entity.

(44) "Person" means an entity, including an individual, a trust, an estate, a partnership, a corporation, or a state or governmental unit, including associations, joint stock, companies and insurance companies, a state, or a political subdivision or instrumentality including a municipal corporation, as defined in ORS 442.015.

(45) "Pharmacist" has the same meaning set forth in ORS Chapter 689.

(46) "Pharmacy" has the same meaning set forth in ORS Chapter 689.

(47) "Physician" means a person licensed under ORS Chapter 677 as a physician.

(48) "Physician's Assistant" means a person registered under ORS Chapter 677 as a physician assistant.

(49) "Podiatrist" means a person licensed under ORS Chapter 682 to practice podiatry.

(50) "Prescription" has the same meaning set forth in ORS Chapter 689.

(51) "Public or Private Official" means physician, including any intern or resident; LPN or RN; employee of the Department of Human Services, AAA, County Health Department, Community Mental Health Program, nursing facility; person who contracts to provide services to a nursing facility; peace officer; clergyman; registered social worker; physical therapist; legal counsel for resident or guardian or family member of the resident.

(52) "Registered Nurse (RN)" means a person licensed under ORS Chapter 678.

(53) "Rehabilitative Services" means specialized services by a therapist or a therapist assistant to a resident to attain optimal functioning including but not limited to, physical therapy, occupational therapy, speech and language therapy, and audiology.

(54) "Relevant evidence" means factual information that tends to either prove or disprove the following:

(a) Whether abuse or other rule violation(s) occurred;

(b) How abuse or other rule violation(s) occurred; or

(c) Who was involved in the abuse or other rule violation(s).

(55) "Resident" means an individual who has been admitted, but not discharged, from the facility.

(56) "Restorative Services" or "Restorative Nursing" means those measures provided by nursing staff and directed toward re-establishing and maintaining the resident to his/her fullest potential.

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(57) "Safety" means the condition of being protected from environmental hazards without compromise to resident's or legal guardian's choice or undue sacrifice of resident independence.

(58) "Significant Other(s)" means individual(s) designated by the resident or by the court to act in behalf of the resident. If the resident is not capable of such designation, and there is no court-appointed individual, then significant other(s) shall mean family member(s) or friend(s) who has(have) demonstrated consistent concern for the resident. No rule using this term is intended to allow release of or access to confidential information to individuals who are not otherwise entitled to such information or to allow such individuals to make decisions on behalf of a resident that they are not entitled to make.

(59) "Suspected abuse" means reasonable cause to believe that abuse may have occurred.

(60) "Trusteeship Fund" means a fund created under ORS 441.303 to meet expenses relating to the appointment of a Trustee for a Nursing Facility or a Residential Care Facility.

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

Stat. Auth.: ORS 410 & 441.055

Stats. Implemented: ORS 441.055, 441.615, 441.630, 441.637 & 441.650

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0010

Issuance of License

(1) License Required. No person acting individually or jointly with any other person shall establish, conduct, maintain, manage, or operate a nursing facility without a license from The Department.

(2) Not Transferable. Each nursing facility license issued by The Department applies only to person or persons named on the license. The license is not transferable or assignable. The license is valid only for the specific premises designated on the license and for the time period specified on the license.

(3) Certificate of Need. A license will not be issued for a new facility, an expanded facility or a facility offering new services unless the State Office of Health Policy has issued a certificate of need for said facility or service, or has determined that a certificate of need is not required.

(4) Application for Initial Licensure and License Renewal.

(a) The application(s) shall be on a form or forms provided by The Department and shall include all information requested by The Department including, but not limited to, identity and financial interest of any person, including stockholders who have an incident of ownership in the applicant representing an interest of ten percent or more or ten percent of a lease agreement for the facility.

NOTE: Facilities applying for Medicaid and/or Medicare certification are required by federal law to identify applicants representing a five percent or more interest.

(b) If the owner of the nursing facility business is a different entity from the operator of the nursing facility, an application for licensure will be required from both the operator and the owner. Only one license fee is required. Each application must be signed and dated by a legally authorized representative of the entity submitting the application. Name(s) of owner(s)/operator(s) will appear on the license.

(c) The application will require the identification of any person who has ten percent incident of ownership, direct or indirect, in a pharmacy or in any business that provides services or supplies to nursing facilities. If any such person(s) exist(s), the application must identify the person, the name and address of the pharmacy or business.

(d) The application will identify the number of beds the facility is then presently capable of operating considering existing equipment, ancillary service capability and the physical requirements as specified within these rules (OAR chapter 411, divisions 85 through 89). The number of beds requested to be licensed must not exceed the number identified on the license to be renewed unless prior approval has been issued by The Department or a certificate of need has been issued when required pursuant to ORS Chapter 442.

(e) The application will include a floor plan showing the location of each bed and the dimensions and room number of each room in which a bed is located. The plan will also show the location of dining and activities areas, shower and tub rooms, toilet rooms, clean and dirty utility rooms, therapy services areas, laundry areas and dietary service areas. After the first filing, plans need only be submitted when changes in the information required in this subsection occur and when requested by The Department.

(f) The application must include a copy of all leases, management and ownership of the facility.

(g) The application must list all states in which the licensee or persons having a ten percent or more incident of ownership in the facility currently or previously is/has been licensed to provide long-term care.

(h) If a renewal is desired, the licensee must make application at least 45 days prior to the expiration date of the existing license.

(i) The license fee must accompany the application.

(j) If the applicant fails to provide complete and accurate information on the application, The Department may deny or revoke the license if it determines the missing or corrected information is needed to determine if a license should be granted.

(k) An application will not be considered to be complete until all requested information and signatures have been provided.

(l) Each application for a new license (excludes license renewal) must include a completed and signed credit and criminal record check authorization form for the applicant(s), and for each person with ten percent incident of ownership in the applicant.

(m) Applicants for license renewal must provide The Department with a completed and signed credit and criminal record check authorization form for the applicant(s), and for each person with incident of ownership in the applicant, when required by The Department.

(n) Applications must state whether or not the applicant(s), and persons with incident of ownership in the applicant, have ever been convicted of a crime associated with operation of a health care facility or agency under federal law or the laws of any state.

(o) Applicants must provide such other information and documentation as The Department may reasonably require for proper administration of these rules, including, but not limited to, information about ownership interest in other business enterprises, if relevant.

(p) The Department will issue the license or issue a denial of licensure within 60 days of receipt of the completed application.

(5) Demonstrated Capability:

(a) Prior to issuance of a license or a license renewal, the applicant must demonstrate to the satisfaction of The Department that the applicant is capable of providing care in a manner consistent with the requirements of these rules (OAR chapter 411, divisions 85 through 89);

(b) The Department may consider the background and qualifications of any person owning ten percent or more interest in the nursing facility operation when determining whether an applicant may be licensed;

(c) The Department may consider the applicant's history of compliance with Division rules and orders, including the history of compliance of each person with a ten percent or more incident of ownership in the applicant;

(d) Any person with a past or present interest of ten percent or more incident of ownership in any nursing facility operation will be considered responsible for acts occurring during and relating to the operation of the nursing facility for the purpose of licensing.

(6) Separate Buildings. Separate licenses are not required for separate buildings located contiguously and operated as an integrated unit b the same ownership or management.

Stat. Auth.: ORS 410 & 441.055

Stat. Implemented: ORS 441.015, ORS 411.055, 441.615 & 412.315

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0013

New Applicant Qualifications

For the purpose of this rule, "applicant" means each person, as defined in ORS 442.015, who holds ten percent or greater incident of ownership in the facility. Applicants for licensure (excluding license renewal, but including all changes of ownership) must meet the following criteria:

(1) CRIMINAL HISTORY. Each applicant must complete a Criminal History Clearance conducted by The Department in accordance with OAR chapter 410, division 007. The Department conducts the fitness determination. If determined "unfit," applicants may appeal as described in Division 9.

(2) PERFORMANCE HISTORY. Each applicant must:

(a) Be free of incident of ownership history in any facility in Oregon that provides or provided (at the time of ownership) care to children, elderly, ill or disabled persons and was involuntarily terminated from licensure or certification, or voluntarily terminated during any state or federal termination process, during the past five years;

(b) Be free of incident of ownership history in any nursing facility in any state that was involuntarily terminated from licensure or certification, or voluntarily terminated during any state or federal termination process, during the past five years;

(c) Be free of history of termination of licensure as a nursing facility administrator or health care provider during the past five years;

(d) Failure to demonstrate required performance history may result in The Department's denial of a license.

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(3) FINANCIAL HISTORY. Each applicant must:

(a) Be free of incident of ownership history in any facility or business that failed to reimburse any state for Medicaid overpayments or civil penalties during the past five years;

(b) Be free of incident of ownership history in any facility or business that failed to compensate employees or pay worker's compensation, food supplies, or other costs necessary for facility operation, during the past five years;

(c) Have a record of good credit as evidenced by a Division credit check;

(d) Submit proof of fiscal responsibility, including an auditor's certified financial statement and other verifiable documentary evidence of fiscal solvency, documenting that the prospective licensee has sufficient resources to operate the facility for 60 days. Proof of fiscal responsibility must include liquid assets sufficient to operate the facility for 45 days. Anticipated Medicaid income is not considered to be "liquid assets," but may be considered to be "financial resources." Liquid assets may be demonstrated by:

(A) An unencumbered line of credit;

(B) A joint escrow account with SPD;

(C) A performance bond; or

(D) Any other method satisfactory to SPD.

(e) Provide a pro forma (revenues, expenditures and resident days) by month for the first 12 months of operation of the facility and demonstrate the ability to cover any cash flow problems identified by the pro forma.

(4) EXPERIENCE. If an applicant does not have experience in the provision of nursing facility care, the applicant must employ the services of a consultant with experience in the provision of nursing facility care for a period of at least six months. The consultant and the terms and length of employment are subject to the approval of The Department. Costs incurred for such consulting services are not an allowable cost for Medicaid reimbursement.

(5) DEMONSTRATION OF RIGHT TO PROPERTY/BUSINESS. The applicant must demonstrate that they have the legal right to possess the nursing facility property and operate the nursing facility business.

EXAMPLE: If purchasing the property, the applicant must include documentation demonstrating clear title and current right to possess the property. If leasing the facility property, or planning to operate it under a management agreement, the applicant must provide all legal documents needed to demonstrate the right to possess the property and operate the business.

Stat. Auth.: ORS 410 & ORS 441.055

Stats. Implemented: ORS 441.025, ORS 441.055 & ORS 441.615

Hist.: SSD 8-1993, f. & cert. ef. 10-1-93; SDSD 13-1999, f. 12-30-99, cert. ef. 1-1-00; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0015

License Expiration, Termination of Operation, License Return

(1) EXPIRATION. Unless revoked or terminated earlier, or issued for a shorter specified period, each license to operate a nursing facility expires on December 31 following the date of issue.

(2) TERMINATION OF OPERATION. Except as otherwise provided in this rule, if facility operation is discontinued for any reason, the license is expired. The licensee has appeal rights under ORS Chapter 183.

(3) INACTIVE LICENSE. When the licensee proposes to replace an existing (original) licensed nursing facility with a new building, The Department may grant the licensee an inactive license for up to 24 months after closure of the original facility (departure of the last resident) under the following conditions:

(a) The existing facility must not meet the physical environment requirements for new construction (division 87 of OAR chapter 411);

(b) The licensee must comply with the Health Division's Certificate of Need process, including the physical environment requirements for new construction;

(c) The licensee must submit to The Department a written request for an extension to continue the license, and must submit an application for license renewal and the license fee prior to the beginning of each calendar year;

(d) The licensee must comply with plan review (OAR 411-087-0010) and all other applicable requirements; and

(e) The licensee's written request must include information that assures The Department that the new facility will provide an improved quality of care that is needed in the community and that is determined by The Department to be in the public's interest.

(f) The licensee must provide written notice of intent to apply for an inactive license at least 30 days prior to closure of the original building. This notice must be provided to The Department and every licensed nursing facility, assisted living facility and residential care facility within 20 miles of the proposed new building site.

(g) The licensee must provide a minimum of two written progress reports to The Department regarding the status of the new building.

(A) The first report must be received by The Department between six months and nine months after the original facility is closed.

(B) The second report must be received by The Department between 18 months and 21 months after the original facility is closed.

(4) EXTENSION. If the licensee fails to open the new building within 24 months of the closure of the original facility, The Department may extend the inactive license for an additional 18 months. The licensee must submit written request to The Department for an extension prior to expiration of the inactive license. The following must be included in the request for extension:

(a) Notice to Nearby Facilities. A statement certifying that the licensee has made reasonable attempt to provide written notice to each nursing, assisted living and residential care facility within 20 miles of the site of the proposed facility of the intent to request an extension. Upon request, The Department will provide a list of the names and addresses of all nursing, assisted living and residential care facilities in the state.

(b) Site Plan. A completed site plan that has been submitted to the local jurisdiction (city or county planning agency).

(c) Architectural Drawings. Working architectural drawings that have been stamped or prepared by a licensed architect.

(d) Building Site. Evidence that the land proposed for the new building is under control of the licensee.

(e) Local Jurisdiction Communication. Evidence of continued contact with the local jurisdiction.

(f) Financial Commitment. Evidence of financial commitments towards completion of the project, including proof of lender commitments and cash on hand sufficient to compete the construction.

(g) Construction Contracts. Construction contracts or other evidence showing that the project will be completed prior to the expiration of the extended inactive license.

(5) RETURN OF LICENSE. Each license certificate must be returned to The Department immediately upon issuance of a final order revoking or suspending the license. If a license is terminated voluntarily or involuntarily because operation has been discontinued, the license certificate must be immediately returned to The Department.

Stat. Auth.: ORS 410 & 441.055

Stats. Implemented: ORS 441.025, 441.055 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SDSD 13-1999, f. 12-30-99, cert. ef. 1-1-00; SDSD 3-2001, f. 2-14-01, cert. ef. 2-15-01; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0020

License Fees, Special Assessment

(1) LICENSE APPLICATION FEES. License application fees may not be prorated for a partial year. The annual fee is:

(a) For 1 — 15 beds: \$120

(b) For 16 — 49 beds: \$ 175

(d) For 100 — 199 beds: \$ 450

(e) For 200 or more beds: \$ 580

(2) SPECIAL TRUST FUND ASSESSMENT:

(a) Whenever The Department determines that the balance in the Trusteeship Fund created by Oregon statute is less than the amount established by the statute, a special assessment is levied against all licensees. The special assessment will be pro-rated (based upon the annual fee of the licensee) in order to result in collection of an amount that will result in a Trust Fund balance of no more than the amount set by the statute. In no event may the special assessment be greater than the annual license fee. The special assessment may be levied only once each calendar year;

(b) Monies are disbursed from the fund in accordance with ORS 441.277 through 441.323.

Stat. Auth.: ORS 410 & 441.055

Stats. Implemented: ORS 441.020, 441.055, 441.303 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SDSD 13-1999, f. 12-30-99, cert. ef. 1-1-00; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0025

Change of Ownership or Operator/Cessation of Business

(1) PENDING CHANGE OF OWNERSHIP/MANAGEMENT. When a change of ownership or a change of operator is contemplated, the licensee and the prospective licensee must each notify The Department in writing of the contemplated change. The change of ownership/operator must be received by The Department at least 45 days prior to the proposed date of transfer. A shorter timeframe may be allowed at the sole discretion of The Department. The notification must be in writing and must include the following:

(a) Name and signature of the current licensee;

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- (b) The name of the prospective licensee;
- (c) The proposed date of the transfer;
- (d) Type of transfer (e.g., sale, lease, rental, etc.);
- (e) A complete, signed nursing facility application from the prospective licensee.

(2) **EFFECTIVE DATE OF CHANGE.** The prospective licensee will not assume possession or control of the facility until after the prospective licensee has been notified by The Department that its license application has been approved.

(3) **LICENSEE RESPONSIBLE.** The licensee(s) is/are responsible for operation of the facility and resident care provided therein until a new license is issued to a new owner or manager or the facility operation is closed.

(4) Before a licensee ceases operation of and closes a facility, the licensee must notify The Department of the impending closure in writing at least 90 days prior to the proposed date of closure. The licensee is responsible for operation of the facility and for the resident care provided therein until all residents are transferred and the facility is closed.

EXCEPTION: When the closure date is established by The Department.

Stat. Auth.: ORS 410 & ORS 441.055

Stats. Implemented: ORS 441.055 & ORS 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0030

Required Postings

(1) **PUBLIC NOTICES:**

(a) Content. Public notices required to be posted include:

(A) The most recent licensing and, if applicable, certification survey report(s);

(B) The placard provided by The Department that includes information on reporting of abuse and summarizes the nursing facility rules. In addition to the location specified in subsection (1)(b) of this rule, this placard must also be prominently and conspicuously posted in close proximity to each nursing station and in the area(s) where residents are admitted;

(C) The current week's menu and activities schedule;

(D) The facility license and the administrator's license. (It is recommended the titles and names of the administrator, the DNS, the Social Services Director, the Activities Director, the Dietary Services Supervisor and the RN Care Manager(s) are also posted);

(E) Waivers received from The Department pursuant to OAR 411-085-0040 and 411-087-0030, and waivers of any federal regulations; and

(F) Any other notice relevant to residents or visitors required by state or federal law.

(b) Location. The facility will designate a specific area where notices listed in subsection (1)(a) of this rule will be posted and that:

(A) Is routinely accessible and conspicuous to residents and visitors, including those in wheelchairs; and

(B) Provides sufficient space for prominent, conspicuous display of each notice.

(2) **NOTICES FOR STAFF.** The facility must post the names of registered nurses as required by OAR 411-086-0020 and the physician(s) available for emergencies as required by OAR 411-086-0200 at each nursing station.

Stat. Auth.: ORS 410 & 441.055

Stats. Implemented: ORS 441.055, 441.067 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0040

Alternative Methods, Waivers

(1) **APPLICATION.** While all nursing facilities are required to maintain compliance with The Department's rules, these requirements do not prohibit the use of alternative concepts, methods, procedures, techniques, equipment, facilities, personnel qualifications, or the conducting of pilot projects or research. Requests for waivers to the rules must:

(a) Be submitted to The Department in writing;

(b) Identify the specific rule for which a waiver is requested;

(c) Describe the special circumstances relied upon to justify the waiver;

(d) Describe what alternatives were considered, if any, and why alternatives (including compliance) were not selected;

(e) Demonstrate that the proposed waiver is desirable to maintain or improve the quality of care for the residents, will maintain or improve resident potential for self-direction and self-care, and will not jeopardize resident health and safety; and

(f) Identify the proposed duration of the waiver.

(2) **APPROVAL PERIOD.** Upon finding that the licensee has satisfied the conditions of this rule, The Department may grant a waiver for a specified period of time, not to exceed a period of three years.

(3) **REVOCATION.** The Department may revoke any waiver or variance issued by The Department immediately upon finding that the facility's operation under the waiver or variance has endangered, or if continued would endanger, the health or safety of one or more residents.

(4) **IMPLEMENTATION.** The facility may implement a waiver only after written approval from The Department.

Stat. Auth.: ORS 410 & 441

Stats. Implemented: ORS 441.055 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0050

Hospital-Based Nursing Facilities

Facilities that are physically connected to and operated by a licensed general hospital will be considered to be in compliance with the following Oregon nursing facility requirements:

(1) Requirements for policies, procedures and quality assurance programs if such policies, procedures and programs exist for both hospital and nursing facility.

(2) Requirements for full-time staff positions, departments and committees if the hospital has similar positions/departments/committees that address needs in the nursing facility.

(3) Requirements for a drug room or pharmacy if the hospital has a pharmacy or drug room available to the nursing facility 24 hours per day.

(4) Rules requiring specific training for the DNS and the RN Care Manager until January 1, 1990.

(5) Requirements that the administrator be full-time in the nursing facility if the nursing facility has 40 or fewer licensed beds. The administrator, however, must work full-time, based on time spent on both the hospital and nursing facility responsibilities, and must be available to nursing facility staff on a full-time basis.

Stat. Auth.: ORS 410 & 441

Stats. Implemented: ORS 441.055 & 441.615

Hist.: SSD 14-1988, f. 12-30-88, cert. ef. 1-1-89; SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0060

Specialty Nursing Facilities

(1) **APPLICATION.** Facilities that have successfully obtained from the State Office of Health Policy a certificate of need for "specialty long-term care beds" pursuant to OAR 409-045-0150 must make application to The Department for licensure as "Special Nursing Facility" in accordance with OAR 411-085-0010.

(2) **ISSUANCE OF LICENSE.** Licenses will only be issued to a Specialty Nursing Facility after written notification from the State Office of Health Policy that the facility is eligible for such licensure. The license issued will state "Specialty Nursing Facility" and will identify the type of residents and specialized services the facility is authorized to admit and retain.

(3) **COMPLIANCE WITH RULES.** Specialty Nursing Facilities will be required to meet all Oregon Administrative Rules that apply to Nursing Facilities.

(4) **ADMISSIONS.** Facilities and distinct parts of facilities licensed as Specialty Nursing Facilities must only admit and provide services for residents consistent with the Certificate of Need issued by the Office of Health Policy.

Stat. Auth.: ORS 410 & 441

Stats. Implemented: ORS 441.055 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0200

Licensee, Employees, Consultants

(1) **LICENSEE.** The licensee will be responsible for the operation of the facility and the quality of care rendered in the facility.

(2) **EMPLOYEES:**

(a) Licensure, Registration, Certification Required. All health care personnel working in the facility must be licensed, registered, or certified as required. Documentation thereof is required for all such employees;

(b) Reference Check. The licensee must check and document references for all prospective employees prior to employment;

(c) Job Description. All employees' duties must be defined in writing and maintained in the facility. All employees must be instructed in and perform the duties assigned;

(d) Nursing Personnel. Before employing a registered nurse, licensed practical nurse or nursing assistant, the licensee must contact the Oregon State Board of Nursing and inquire whether the person is licensed or certi-

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fied by the Board and whether there has been any disciplinary action by the Board against the person or any substantiated abuse findings against a nursing assistant.

(3) **PROHIBITION OF EMPLOYMENT.** The facility must not employ or retain in employment any of the following:

(a) Any person found responsible for abusing, neglecting or mistreating a person receiving long-term care services in a final administrative action that is not under appeal or in a court of law;

(b) Any nursing assistant against whom a finding of resident abuse has been entered into the registry maintained under ORS 678.150; or

(c) Any person who is known or reasonably should be known to the facility to be abusive or to have been abusive.

(4) **CONSULTANTS.** When consultants are required, a facility will require consultants to file written reports at least quarterly. These reports must include date(s) of visit(s), length of time spent on premises, action taken on previous reports, problems identified, recommendations, staff members contacted, services performed, distribution of reports, and date mailed or delivered. The facility must maintain these quarterly reports in the facility.

Stat. Auth.: ORS 410 & 441

Stats. Implemented: ORS 441.055, 411.615, 441.679 & 441.637

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0210

Facility Policies

(1) **POLICIES REQUIRED.** A Quality Assessment and Assurance Committee must develop and adopt facility policies. The policies must be followed by the facility staff and evaluated annually by the Quality Assessment and Assurance Committee and rewritten as needed. Policies must be adopted regarding:

- (a) Admission, fees and services;
- (b) Transfer and discharge, including discharge planning;
- (c) Physician services;
- (d) Nursing services;
- (e) Dietary services;
- (f) Rehabilitative services and restorative services;
- (g) Pharmaceutical services, including self administration;
- (h) Care of residents in an emergency;
- (i) Activities;
- (j) Social services;
- (k) Clinical records;
- (l) Infection control;
- (m) Diagnostic services;
- (n) Oral care and dental services;
- (o) Accident prevention and reporting of incidents;
- (p) Housekeeping services and preventive maintenance;
- (q) Employee orientation and inservice;
- (r) Laundry services;
- (s) Possession of firearms and ammunition;
- (t) Consultant services; and
- (u) Resident grievances.

(2) **DOCUMENTATION.** Each policy must be in writing and must specify the last date at which such policy was reviewed by the Quality Assessment and Assurance Committee.

Stat. Auth.: ORS 410 & ORS 441

Stats. Implemented: ORS 441.055 & ORS 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0220

Quality Assurance

(1) **QUALITY ASSESSMENT AND ASSURANCE COMMITTEE.** Each facility must have a Quality Assessment and Assurance Committee. The committee must include the administrator, medical director, Director of Nursing Services (DNS), consulting pharmacist and at least one other facility staff person. The committee must:

(a) Ensure a quality assurance program is conducted as required in this rule;

(b) Adopt facility policies as identified in OAR 411-085-0210;

(c) Ensure a pharmaceutical services review is completed as required by OAR 411-086-0260(2);

(d) Ensure that an infection control program as identified in OAR 411-086-0330 is conducted; and

(e) Meet no less often than quarterly.

(2) **QUALITY ASSURANCE.** The Quality Assessment and Assurance Committee must conduct an annual review of care practices to ensure quality. The review must include:

(a) Evaluation of resident audits (biannual physical examination of a representative sample of facility residents). The sample must include a minimum of 20 percent of the residents or ten residents, whichever is greater;

(b) Clinical records, including medication administration and treatments;

(c) Resident nutritional status, including weights, intake, and output;

(d) Care plans to ensure that care needs have been identified and addressed;

(e) The services and functions required by the policies listed in OAR 411-085-0210; and

(f) Actions taken to resolve identified problems and to prevent their recurrence.

(3) **DOCUMENTATION.** All meetings of the Quality Assessment and Assurance Committee must be documented. Documentation must include a listing of those in attendance, length of the meeting, issues discussed, findings, actions, recommendations made and assessment of previous actions and recommendations.

Stat. Auth.: ORS 410 & ORS 441

Stat. Implemented: ORS 441.055 & ORS 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0300

Civil Rights

(1) The facility must not make any distinction, discrimination or restriction based on a resident's, potential resident's or visitor's sex, marital status, race, color, national origin or disability.

(2) The facility must make reasonable accommodations in order to provide services needed by applicants who are disabled.

Stat. Auth.: ORS 410 & 441

Stats. Implemented: ORS 441.055 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0310

Residents' Rights: Generally

The facility must protect, encourage and assist the resident in exercising the rights identified in OAR 411-085-0300 through 411-085-0350. Each resident and his/her legal representative, as appropriate, has the right to:

(1) Be encouraged and assisted while in the facility to exercise rights as a citizen or resident of Oregon and of the United States.

(2) Be fully informed, orally and in writing in a language the resident understands of these rights, and of all facility guidelines for resident conduct and responsibilities. This must be documented by the resident's written acknowledgment, prior to or at the time of admission.

(3) Be fully informed, prior to or at the time of admission and during stay, of services available in the facility, including Medicaid and Medicare certification status and the potential consequences thereof to the resident. The facility must assist the resident to apply for Medicaid and Medicare benefits, by ensuring that the resident is able to contact the local Medicaid agency, whenever a resident may be eligible.

(4) Be fully informed of his/her total health status, including but not limited to medical status. The resident must be informed of the right to choose his/her own physician and to be fully informed in advance of any changes in care or treatment. The facility staff must encourage the resident to exercise the right to make his/her own decisions and fully participate in care and care planning unless the resident has been found legally incapable of doing so.

(5) Refuse any medication, treatment, care or any participation in experimental research unless the resident has been found legally incapable of doing so.

(6) Be encouraged, but not required, to perform activities for therapeutic purposes when identified in the resident's care plan.

(7) Be free from verbal, sexual, mental and physical abuse, corporal punishment and involuntary seclusion. Chemical and physical restraints may only be used to ensure the physical safety of the residents and may not be used for discipline or convenience. Except as provided in OAR 411-086-0140, restraints may only be used on order of a physician.

(8) Be transferred or discharged only in accordance with The Department's transfer/discharge rules.

(9) Not be reassigned to a new room within the facility without cause and without adequate preparation for the move in order to avoid harmful effects:

(a) Involuntary reassignment of rooms may only be made after reasonable advance notification (oral or written) and preparation. Unless there is clear and adequate written justification for a shorter time frame, "reasonable advance notification" means no less than 14 days;

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(b) Residents must not be involuntarily reassigned rooms within the facility if such reassignment would have a significant adverse impact on the resident's medical or psychological status;

(c) Moving residents on the basis of source of payment is not just cause for intrafacility transfers;

(d) Residents and significant others must receive prior notice of any move and any change in roommate assignment.

(10) Voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal. The facility staff must listen to and act promptly upon grievances and recommendations received from residents and family groups.

(11) Be treated with consideration, respect and dignity and assured complete privacy during treatment and when receiving personal care.

(12) Associate and communicate privately with persons of the resident's choice, to send and receive personal mail unopened and to have regular access to the private use of a telephone.

(13) Be provided privacy for visits when requested, including meetings with other residents and family groups.

(14) Have clinical and personal records kept confidential. Copies of the records must not be transferred outside the facility unless the resident is transferred, or examination of the records is required by the attending physician, the third party payment contractor, Seniors and People with Disabilities, Type B Area Agency on Aging, or the Long Term Care Ombudsman. Nothing in this rule is intended to prevent a resident from authorizing access to the resident's clinical and personal records by another person.

(15) Promptly inspect all records pertaining to the resident.

(16) Purchase photocopies of records pertaining to the resident. Photocopies requested by the resident must be promptly provided, but in no case require more than two business days (days excluding Saturdays, Sundays and state holidays).

(17) Participate in social, religious, and community activities at the discretion of the resident.

(18) Keep and use personal clothing and possessions as space permits unless to do so infringes on other residents' rights. The resident must be permitted to have a lockable storage space for personal property. Both the resident and facility management may have keys.

(19) Be free of retaliation. After the resident, or the resident's legal representative, has exercised rights provided by law or rule, neither the facility nor any person subject to the supervision, direction, or control of the facility may retaliate by:

(a) Increasing charges or decreasing services, rights or privileges;

(b) Threatening to increase charges or decrease services, rights or privileges;

(c) Taking or threatening any action to coerce or compel the resident to leave the facility; or

(d) Abusing, harassing, or threatening to abuse or harass a resident.

(20) Not be required to sign any contract or agreement that purports to waive any resident's right, including the right to collect payment for lost or stolen articles.

(21) Be fully informed of the facility policy on possession of firearms and ammunition within the facility.

Stat. Auth.: ORS 410 & 441

Stats. Implemented: ORS 441.055, 441.600, 441.610, 441.615 & 441.700

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SDDS 13-1999, f. 12-30-99, cert. ef. 1-1-00; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0320

Residents' Rights: Charges and Rates

(1) ADMISSION. The facility must provide written and oral notice before or at the time of admission to each resident specifying:

(a) The base daily rate, or Medicaid rate and, as soon as known, amount of resident liability, as applicable; services provided for that rate, and other charges that might reasonably be expected, including but not limited to medical supplies, pharmaceuticals, incontinence care, feeding, bed-hold daily rate, and laundry;

(b) Whether the facility accepts Medicaid reimbursement:

(A) If the facility accepts Medicaid reimbursement, the notice must include a description of the Medicaid eligibility requirements and who to contact to apply for Medicaid assistance;

(B) If the facility does not accept Medicaid, the notice must include the facility's policy regarding residents who exhaust their private resources and become eligible for Medicaid;

(C) Nothing in this section will be construed to permit discrimination based on payment source; and

(c) Alternative forms of transportation available to the resident for routine and emergency transportation, including information on possible cost and how to access such service(s).

(2) RATE CHANGES. The facility must give 30 days' written notice to all residents of changes in base rates and any other charge.

Stat. Auth.: ORS 410 & 441.055

Stats. Implemented: ORS 441.055, 441.605 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0330

Residents' Rights: Visitor Access

(1) DEFINITION. As used in this rule, "full and free access" means access to the fullest extent possible without undue adverse interference on the operation of the facility.

(2) FULL ACCESS. The facility must permit individuals and groups full and free access to:

(a) Visit, talk with and make personal, social and legal services available to all residents;

(b) Inform residents of their rights and entitlements, and their corresponding obligations, under federal and state laws by means of distribution of educational materials and discussion in groups and with individual residents;

(c) Assist, advise and represent residents in obtaining public assistance, medical assistance, social security benefits and in asserting resident rights. Assistance may be provided to residents individually or in groups.

(3) RIGHT TO REFUSE. The resident has the right to refuse contact with any individual or group who otherwise has access to the facility under this rule. The refusal to communicate with any individual or group must be made directly by the resident unless the resident's medical record clearly documents the reasons for not doing so.

(4) SOLICITATION. This rule is not intended to allow access to persons or organizations whose primary purpose is to solicit purchase of services or products, or solicit contributions, from the residents or staff.

Stat. Auth.: ORS 410 & 441

Stats. Implemented: ORS 441.055, 441.605 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0340

Residents' Rights: Pharmaceutical Services, Charges for Drugs

(1) CHOICE OF SUPPLIERS:

(a) The resident must have a choice from among prescription/nonprescription drug delivery systems so long as the system selected:

(A) Provides for timely delivery of drugs;

(B) Provides adequate protection to prevent tampering with drugs;

(C) Provides that drugs are delivered in a unit of use compatible with the established system of the facility for dispensing drugs, whether that system is provided by a facility pharmacy or by a contract with a pharmacy; and

(D) Provides a 24-hour emergency service procedure either directly or by contract with another pharmacy.

(b) The resident must have a choice from among suppliers of nonprescription medication, but no facility is required to accept any opened container of such medication;

(c) If the established system of the facility, whether provided by facility pharmacy or a pharmacy under contract, provides resident profile information (diagnosis, medications and allergies), the pharmacy chosen by the resident under subsection (1)(a) of this rule must also provide that information for any resident it serves at the facility;

(d) The resident must have a choice from among suppliers of nonprescriptive sickroom supplies so long as any items supplied can be maintained in a clean manner with equipment available at the facility;

(e) For purposes of subsections (1)(b) and (c) of this rule, "supplier" includes an authorized representative of the resident who purchases nonprescriptive medication or nonprescriptive sickroom supplies at retail.

(2) CHARGES FOR DRUGS:

(a) If a facility charges residents for drugs, the following must be made available to the resident on request:

(A) Name of the drug;

(B) Amount paid by the facility for the drug;

(C) Amount charged by the facility for the drug; and

(D) Amount of repackaging costs, if any.

(b) If a pharmacy charges any resident's insurance company or other party for a drug administered to a resident in a nursing facility, the pharmacy must provide on request a written bill listing the:

(A) Name of the drug; and

(B) Amount charged by the pharmacy for the drug.

Stat. Auth.: ORS 410 & ORS 441

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Stats. Implemented: ORS 441.055, 441.083, 441.084 & 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0350

Residents' Rights: Personal Funds

(1) RESIDENT HELD FUNDS. The resident has the right to manage his/her financial affairs and the facility may not require residents to deposit personal funds with the facility.

(2) FACILITY HELD FUNDS.

(a) Resident Request. The facility must hold, safeguard, manage and account for the personal funds of the resident when requested in writing. The resident must be fully informed of the facility's system for protecting personal funds. When the resident requests that the facility hold such funds, the facility must ensure that such request is in writing;

(b) Accounting System. The facility must establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility. The system may allow resident funds to be pooled together, however it must preclude any commingling of resident funds with facility funds;

(c) Report to Resident. The facility must provide a copy of the individual financial record to the resident no less often than quarterly and upon request of the resident. The statement must include the following information:

(A) Identification number and location of the account in which the resident's personal funds have been deposited.

(B) The resident's account balance at the beginning of the statement period.

(C) A listing of each deposit, and each withdrawal, to and from the resident's account. Each withdrawal must include an explanation of the reason for the withdrawal (Example: If money is requested by the resident, facility may document "resident request").

(D) The interest earned, if any, and the current interest rate.

(E) The ending balance.

(d) Resident Control of Funds. The facility must take all reasonable precautions to ensure the resident's funds are handled according to the resident's wishes. If resident's wishes cannot be determined, funds must be handled in accordance with the best interest of the resident;

(e) Resident Access to Funds. The facility must allow residents access to funds on weekdays (Monday through Friday, excluding holidays) during business office hours (no less than six hours per day) and at least two hours per day on all other days;

(f) Funds Under \$50. The facility may hold up to \$50 for each resident in a non-interest-bearing, petty cash fund. All resident funds held by the facility that are not in the petty cash fund must be deposited in an interest-bearing account as described in subsection (g) of this rule,

(g) Funds \$50 and over.

(A) Whenever money held by the facility for a resident exceeds \$50, the excess above \$50 must, within 7 days of receipt, be deposited in the resident's interest-bearing account, unless the money is managed in a Trust and Agency Account held by The Department.

(B) If the interest-bearing account for residents is pooled, the facility must have a system that accurately and promptly allocates earned interest to the appropriate resident.

(h) SSI Resource Limit Exceeded. The facility must notify any resident receiving Medicaid benefits whenever his/her account reaches within \$200 of the SSI resource limit for one person; and that, if the amount in the account and the value of the resident's non-exempt resources reaches the SSI resource limit for one person, the resident may lose eligibility for Medicaid or SSI;

(i) Death of Resident. Upon the death of a Medicaid or General Assistance resident with no known surviving spouse, any personal incidental funds held by the facility for the resident must be forwarded to the Department of Human Services, Estate Administration Unit, P.O. Box 14021, Salem, OR 97309, within ten (10) business days of the death of the resident. The facility must maintain documentation of the action taken and the amount of funds conveyed;

(j) Surety Bond. The licensee must purchase a surety bond, or provide self-insurance to assure the security of all personal funds of residents deposited with the facility. The amount of the bond must be sufficient to cover the highest amount of the account with resident funds, plus the petty cash funds, during the previous 12 months.

(3) CHANGE OF OWNERSHIP OR LICENSEE. At the time of a change of ownership or licensee, the new owner or licensee must ensure:

(a) Written Accounting of Funds. Each resident or delegate receives a written accounting of his/her funds held by the facility at the time of the

change. A copy of the written accounting for each resident must be provided to the local SPD or Type B AAA.

(b) Resident Wishes Respected. That the wishes of each resident regarding management of facility held funds is determined and documented (see OAR 411-070-0095 for Medicaid clients), and that funds held by the prior owner or licensee are transferred to the new owner or licensee or to another party, designated by the resident.

Stat. Auth.: ORS 410 & 441

Stats. Implemented: ORS 441.055 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSSD 13-1999, f. 12-30-99, cert. ef. 1-1-00; SSSD 9-2001, f. 11-30-01, cert. ef. 12-1-01; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0360

Abuse

(1) ABUSE IS PROHIBITED. The facility employees, agents and licensee must not permit, aid, or engage in abuse of residents under their care.

(2) REPORTERS AND MANDATORY REPORTERS. All persons are encouraged to report abuse and suspected abuse. The following persons are required to immediately report abuse and suspected abuse to The Department or law enforcement agency;

(a) Physicians, including any resident physician or intern;

(b) Licensed practical nurse or registered nurse;

(c) Employee of the Oregon Department of Human Services, Area Agency on Aging, county health department or community mental health program;

(d) Nursing facility employee or any individual who contracts to provide services in a nursing facility;

(e) Peace officer;

(f) Clergy;

(g) Licensed social worker;

(h) Physical, speech or occupational therapist; and

(i) Family member of a resident or guardian or legal counsel for a resident.

(3) FACILITY REPORTING OF ABUSE OR SUSPECTED ABUSE.

(a) The nursing facility administration must immediately notify The Department, local designee of The Department, or local law enforcement agency of any incident of abuse or suspected abuse. Physical injury of an unknown cause must be reported to The Department as suspected abuse, unless an immediate facility investigation reasonably concludes the physical injury is not the result of abuse.

(b) The local law enforcement agency must be called first when the suspected abuse is believed to be a crime (for example; rape; murder, assault, burglary, kidnapping, theft of controlled substances).

(c) The local law enforcement agency must be called if the offices of The Department or designee are closed and there are no arrangements for after hours investigation.

(4) ABUSE COMPLAINT. The oral or written abuse complaint must include the following information when available;

(a) Names, addresses and phone numbers of alleged perpetrator(s), resident(s) and witness(es);

(b) The nature and extent of the abuse or suspected abuse (including any evidence of previous abuse);

(c) Any explanation given for the abuse or suspected abuse; and

(d) Any other information that the person making the report believes might be helpful in establishing the circumstances surrounding the abuse and the identity of the perpetrator.

(5) PRIVILEGE. In the case of abuse of a resident, the physician-patient privilege, the husband-wife privilege, and the privileges extended under ORS 40.225 to 40.295 will not be a ground for excluding evidence regarding the abuse, or the cause thereof, in any judicial proceeding resulting from an abuse complaint made pursuant to this section.

(6) IMMUNITY AND PROHIBITION OF RETALIATION.

(a) The facility licensee, employees and agents must not retaliate in any way against anyone who participates in the making of an abuse complaint, including but not limited to restricting otherwise lawful access to the facility or to any resident, or, if an employee, to dismissal or harassment;

(b) The facility licensee, employee and agents must not retaliate against any resident who is alleged to be a victim of abuse.

(c) Anyone who, in good faith, reports abuse or suspected abuse will have immunity from any liability that might otherwise be incurred or imposed with respect to the making or content of an abuse complaint. Any such person will have the same immunity with respect to participating in judicial or administrative proceedings relating to the complaint.

(7) INVESTIGATION BY FACILITY. In addition to immediately reporting abuse or suspected abuse to The Department or law enforcement

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agency, the facility must promptly investigate all reports of abuse and suspected abuse and must take measures necessary to protect residents from abuse and prevent recurrence of abuse.

Stat. Auth.: ORS 410 & 441
Stats. Implemented: ORS 441.055, 441.615, 441.630, 441.637, 441.640, 441.645 & 441.655
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

411-085-0370

Confidentiality

This rule applies to facility licensees, employees and agents, to Division staff and the staff of all Area Agencies on Aging.

(1) RESIDENTS. The names of residents and all documentation that would allow the identification of a resident must be kept confidential and are not accessible for public inspection.

(2) COMPLAINANTS, WITNESSES. The names and identity of complainants and witnesses referred to in Division complaint investigations must be kept confidential and are not accessible for public inspection.

Stat. Auth.: ORS 441.637 & 441.671
Stats. Implemented: ORS 441.637 & 441.671
Hist.: SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04

Adm. Order No.: SPD 27-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 7-1-04

Rules Amended: 411-055-0039, 411-055-0151

Subject: OAR Chapter 411, Division 055, Rules 0039 and 0151 have been permanently amended effective 08/01/2004. These rules add the requirement for a policy on the possession of firearms and ammunition in Residential Care Facilities. This Policy is to be disclosed in writing to existing residents and potential residents and also must be communicated in one other manner commonly used by these individuals.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-055-0039

Disclosure Residency Agreement

The facility must provide a Department-designated disclosure statement to each person who requests information about a facility. The residency agreement/contract and the following disclosure information are required to be provided to all potential residents prior to move-in. All disclosure information and residency agreements/contracts must be written in compliance with these administrative rules. The residency agreement and disclosure statement must be reviewed by the Department prior to distribution and will include the following:

(a) Terms of occupancy, including policy on the possession of firearms and ammunition;

(b) Payment provisions, including the following:

(A) Basic rental rate, and what it includes;

(B) Additional services costs;

(C) Billing method, payment system and due dates;

(D) Deposits/fees, if applicable;

(c) Policy for rate changes including:

(A) Thirty days prior written notice of any facility-wide increases, additions or changes;

(B) Immediate written notice at the time the facility determines a resident's service rates will increase due to increased service provision as negotiated in a service plan;

(C) Refund/proration conditions;

(D) A description of the scope of services available according to OAR 411-055-0061;

(E) A description of the service planning process and the relationship between the service plan and cost of services;

(F) Additional available services;

(G) The philosophy of how health care and ADL services are provided to the resident;

(H) Residents' Rights;

(I) The facility system for packaging medications and the resident's right to choose a pharmacy;

(J) Criteria, actions, circumstances or conditions that may result in a move, transfer or discharge notification and the resident's rights pertaining to notification of a move;

(K) Notice that the Department has the authority to examine resident's records as part of the evaluation of the facility; and

(L) Staffing plan. The facility will not include any provision in a contract/residency agreement or disclosure statement that is in conflict with these rules and will not ask or require a resident to waive any of the resident's rights or the facility's liability for negligence.

(3) The facility will retain a copy of the signed and dated contract/residency agreement and provide copies to the resident or their designated representative.

(4) The facility will give residents thirty days prior written notice of any additions or changes to the contract/residency agreement. Changes to the contract/residency agreement and disclosure information must be faxed or mailed to the Department prior to implementation.

Stat. Auth.: ORS 443.410

Stats. Implemented: ORS 443.410

Hist.: SSD 12-1993, f. 12-30-93, cert. ef. 1-1-94; SDSD 6-2002, f. & cert. ef. 8-1-02; SPD 4-2004, f. 3-18-04, cert. ef. 4-1-04; SPD 27-2004, f. 7-30-04, cert. ef. 8-1-04

411-055-0151

Administrative Management

(1) Administrative Standards:

(a) The licensee will be responsible for the operation of the facility.

(b) Each licensed residential care facility will employ a full-time (40-hours per week) administrator.

(c) The administrator is designated by the licensee as the person responsible for the daily operation of the facility and for the daily care provided in the facility.

(d) The administrator will appoint a staff member as designee to oversee the operation of the facility in the administrator's absence. The administrator or designee will be in charge on site, at all times and will ensure there are sufficient, qualified staff and the care, health and safety needs of the residents are met at all times.

(e) The administrator will maintain and post in public view the facility staffing plan and the name of the administrator or designee in charge will be posted by shift.

(2) Responsibilities of Administration

(a) The facility will develop and conduct an ongoing quality improvement program that evaluates services, resident outcomes and resident satisfaction.

(b) The facility will develop and implement written policies and procedures approved by the Department that promote high quality services, health and safety for residents and incorporate the community-based care principles of individuality, independence, dignity, privacy, choice, and a home-like environment.

(c) The facility will comply with Health Services Administrative Rules, chapter 333, division 019.

(d) The facility will develop and implement infection control procedures that include appropriate hand washing.

(e) The facility will evaluate prospective employees consistent with OAR chapter 410, division 007, Criminal History Clearance.

(f) The facility will develop and implement a policy on the possession of firearms and ammunition within the facility. The policy must be disclosed in writing and by one other means of communication commonly used by the resident or potential resident in their daily living.

(3) Abuse and Reporting:

(a) The facility will not inflict, or tolerate to be inflicted, abuse of residents.

(b) All employees who have reasonable cause to believe a resident has suffered abuse are responsible for reporting to appropriate facility personnel or to the Department. Upon receipt of an allegation of abuse the facility will immediately conduct an investigation. The facility administrator will notify the Department's local office of the incident unless the facility investigation reasonably concludes that abuse did not occur.

(c) No complainant, witness, resident or employee of a facility will be subject to any retaliation. If the employee is the complainant, he or she will not be dismissed or harassed for making a good faith report, or being interviewed about a complaint, or being a witness.

(4) The facility will identify methods of preventing and responding to incidents such as injury, loss of property and abuse.

(5) The facility will exercise reasonable precautions against any condition that could threaten the health, safety or welfare of residents.

(6) The facility is responsible for the supervision, training and overall conduct of staff when acting within the scope of their employment duties.

(7) The facility will develop and implement effective methods of resolving resident complaints.

Stat. Auth.: ORS 443.410

Stats. Implemented: ORS 443.410

Hist.: SSD 1-1985, f. & ef. 2-1-85; SSD 12-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 411-055-0020; SDSD 6-2002, f. & cert. ef. 8-1-02; SPD 4-2004, f. 3-18-04, cert. ef. 4-1-04; SPD 27-2004, f. 7-30-04, cert. ef. 8-1-04

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Subject: Chapter 411, Division 320, Community Developmental Disability Rules have been permanently amended, effective 08/01/2004. This rulemaking action incorporates the following changes: a) makes a technical adjustment in the abuse definition correcting a previous numbering error; b) clarifies the definition of abuse of children for 24-Hour Residential Service providers serving children; c) clarifies the conditions under which copies of incident reports can be sent to guardians and personal agents; d) clarifies the conditions under which allegations of abuse of an adult should be reported to law enforcement; e) makes a technical adjustment to allow service providers to have flexibility in incorporating DHS Balancing Test Form Language into their own forms; and, f) makes minor corrections to grammatical and punctuation errors.

Rules Coordinator: Lynda Dyer—(503) 945-6954

411-320-0010

Statement of Purpose and Statutory Authority

Purpose. These rules prescribe general administrative standards for operation of a Community Developmental Disability Program (CDDP) operated by or on behalf of a Local Mental Health Authority (LMHA).

(1) All Community Developmental Disability Program (CDDP) contractors providing developmental disability services under a contract with the Department of Human Services are required to meet the basic management, programmatic, health, safety and human rights regulations in the management of the community service system for individuals with developmental disabilities.

(2) This rule also prescribes the standards by which the Department approves services operated by the CDDP including, but not limited to, case management and crisis/diversion services.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0020

Definitions

(1) "24-Hour residential program" means a comprehensive residential program licensed by the Department of Human Services under ORS 443.400(7) and (8), to provide residential care and training to individuals with developmental disabilities.

(2) "Abuse" means:

(a) "Abuse of a child" is defined in ORS 418.005, 419B.005, 418.015, 418.748 and 418.749. This includes but is not limited to:

(A) Any death caused by other than accidental or natural means, or occurring in unusual circumstances;

(B) Any physical injury including, but not limited to, bruises, welts, burns, cuts, broken bones, sprains, bites that are deliberately inflicted;

(C) Neglect including, but not limited to, failure to provide food, shelter, medicine, to such a degree that a child's health and safety are endangered;

(D) Sexual abuse and sexual exploitation including, but not limited to, any sexual contact in which a child is used to sexually stimulate another person. This may include anything from rape to fondling to involving a child in pornography;

(E) Threat of harm including, but not limited to, any action, statement, written or non-verbal message that is serious enough to make a child believe he or she is in danger of being abused;

(F) Mental injury including, but not limited to, a continuing pattern of rejecting, terrorizing, ignoring, isolating, or corrupting a child, resulting in serious damage to the child; or

(G) Child selling including, but not limited to, buying, selling or trading for legal or physical custody of a child;

(b) Abuse of an adult. Except for those additional circumstances listed in OAR 411-320-0020(2)(c)(A-F) abuse of an adult means one or more of the following:

(A) Any death caused by other than accidental or natural means, or occurring in unusual circumstances;

(B) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(C) Willful infliction of physical pain or injury; or

(D) Sexual harassment or exploitation, including but not limited to, any sexual contact between an employee of a community facility or community program and an adult.

(E) Neglect that leads to physical harm through withholding of services necessary to maintain health and wellbeing.

(c) Abuse in other circumstances. When the Department directly operates any licensed 24 Hour Residential Program; or the CDDP or a Support Services Brokerage purchases or contracts for services from a program licensed or certified as a 24-Hour residential program, an adult foster home, an employment or community inclusion program; a supported living program; or a semi-independent living program abuse also means:

(A) A failure to act or neglect that results in the imminent danger of physical injury or harm through negligent omission, treatment, or maltreatment. This includes but is not limited to, the failure by a service provider or staff to provide adequate food, clothing, shelter, medical care, supervision, or tolerating or permitting abuse of an adult or child by any other person. However, no adult will be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment through prayer alone in lieu of medical treatment.

(B) Verbal mistreatment by subjecting an individual to the use of derogatory names, phrases, profanity, ridicule, harassment, coercion or intimidation of such a nature as to threaten significant physical or emotional harm or the withholding of services or supports, including implied or direct threat of termination of services;

(C) Placing restrictions on an individual's freedom of movement by restriction to an area of the residence or program or from access to ordinarily accessible areas of the residence or program, unless agreed to by the ISP team and included in an approved behavior support plan.

(D) An inappropriate or unauthorized physical intervention that results in injury.

(i) A physical intervention is inappropriate if:

(I) It is applied without a functional assessment of the behavior justifying the need for the restraint; or

(II) It is used for behaviors not addressed in a behavior support plan; or

(III) It uses procedures outside the parameters described in a behavior support plan; or

(IV) It does not use procedures consistent with the Oregon Intervention System.

(ii) A physical intervention is not authorized if:

(I) There is not a written physician's order when intervention is used as a health related protection; or

(II) It is applied without ISP Team approval as identified on the ISP or as described in a formal written behavior support plan.

(iii) It is not abuse if it is used as an emergency measure, if absolutely necessary to protect the individual or others from immediate injury and only used for the least amount of time necessary.

(E) Financial exploitation that may include, but is not limited to, an unauthorized rate increase; staff borrowing from or loaning money to an individual; witnessing a will in which the program or a staff is a beneficiary; adding the program's name to an individual's bank account(s) or other titles for personal property without approval of the individual or the person's legal representative and notification of the ISP team.

(F) Inappropriately expending an individual's personal funds, theft of an individual's personal funds, using an individual's personal funds for the program's or staff's own benefit, commingling an individual's funds with program or another individual's funds, or the program becoming guardian or conservator.

(G) The definitions of abuse described in OAR 411-320-0020 (2)(b)(A-E) also apply to homes or facilities licensed to provide 24-Hour Residential Services for children with developmental disabilities or to agencies licensed or certified by the Department to provide Proctor Foster Care for children with developmental disabilities.

(H) The definitions of abuse described in OAR 411-320-020(2)(c)(A-F) also apply to the staff of the CMHDDP or a Support Services Brokerage.

(3) "Abuse investigation and protective services" means reporting and investigation activities as required by OAR 309-040-0240 and any subsequent services or supports necessary to prevent further abuse.

(4) "Accident" means an event that results in injury or has the potential for injury even if the injury does not appear until after the event.

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Examples of accidents include, but are not limited to: incidents involving vehicles, bicycles or other modes of transportation that result in a collision or impact; falls, e.g., on ice, snow, water, stairs, uneven surfaces such as rugs, clutter, uneven ground; or other impact with an object, furniture, sports equipment, etc.

(5) "Administrator" means the Assistant Director Department of Human Services and Administrator of Seniors and People with Disabilities, a cluster within the Department, or that person's designee.

(6) "Adult" means an individual 18 years or older with developmental disabilities.

(7) "Advocate" means a person other than paid staff who has been selected by the individual or by the individual's legal representative to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated.

(8) "Aid to physical functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietician that maintains or enhances the individual's physical functioning.

(9) "Care" means supportive services including, but not limited to, provision of room and board; supervision; protection; and assistance in bathing, dressing, grooming, eating, management of money, transportation or recreation.

(10) "Chemical restraints" means the use of a psychotropic drug or other drugs for punishment, or to modify behavior in place of a meaningful behavior or treatment plan.

(11) "Child" means an individual under the age of 18 that has a provisional determination of developmental disability.

(12) "Choice" means the individual's expression of preference, as well as the opportunity for and an active role in decision-making related to the selection of assessments, services, service providers, goals and activities, and verification of satisfaction with these services. Choice may be communicated through verbal, sign language, or other communication methods.

(13) "Community Developmental Disability Program" or "CDDP" means an entity that is responsible for planning and delivery of services for persons with mental retardation or other developmental disabilities in a specific geographic area of the state under a contract with the Department or a local mental health authority.

(14) "Community Mental Health and Developmental Disability Program" or "CMHDDP" means an entity that operates or contracts for all services for persons with mental or emotional disturbances, drug abuse problems, mental retardation or other developmental disabilities, and alcoholism and alcohol abuse problems under the County Financial Assistance Contract with the Department of Human Services.

(15) "Community Developmental Disability Program Director" means the director of a community mental health and developmental disability program (CMHDDP) that operates or contracts for all services for persons with mental or emotional disturbances, drug abuse problems, mental retardation or other developmental disabilities, and alcoholism and alcohol abuse problems under a County Financial Assistance Contract with the Department of Human Services.

(16) "Complaint" means an allegation of abuse of an individual; a grievance against a CDDP or CDDP subcontractor's contract, policies or procedures; or other significant problem or dissatisfaction with the CDDP or CDDP subcontractor that could impact individual(s) health and safety, or significantly impact community relations with the CDDP or the CDDP subcontractor.

(17) "Complaint investigation" means an investigation of any allegation that has been made to a proper authority that the program has taken an action that is alleged to be contrary to law, Oregon Administrative Rule or policy that is not covered by an abuse investigation or a grievance procedure.

(18) "Comprehensive Services" means a package of developmental disability services and supports, that includes one of the following living arrangements regulated by the Department: a 24-hour program, a foster home, a supported living program or comprehensive in-home supports for adults in combination with any associated employment or community inclusion program. Such services do not include Support Services for adults enrolled in Support Services Brokerages or for children enrolled in Child and Family Support Services, (with an annual plan for less than \$20,000), or Children's Intensive In-Home Services.

(19) "Crisis" means a situation, as determined by a qualified Services Coordinator that could result in civil court commitment under ORS.427 and imminent risk of loss of the community support system for an adult or the

imminent risk of loss of home for a child with no appropriate alternative resources available.

(20) "Crisis or Diversion Services" means a short-term service(s) for up to 90 days provided to, or on behalf of, an adult to prevent civil court commitment under ORS 427.215 through 427.300 or a child to prevent out-of-home placement through the arrangement for or facilitation of the purchase or provision of goods and services, directly related to resolving a crisis, and provided to or on behalf of individuals eligible to receive such services.

(21) "Crisis plan" means the CDDP or Regional Crisis Program generated document, serving as the justification for, and the authorization of crisis supports and expenditures pertaining to an individual receiving crisis services provided under this rule.

(22) "Department" means the Department of Human Services, Seniors and People with Disabilities, an organizational unit within the Department, that focuses on the planning of services, policy development and regulation of programs for persons that have developmental disabilities.

(23) "Developmental disability for adults" means a disability attributable to mental retardation, autism, cerebral palsy, epilepsy, or other neurological handicapping condition that requires training or support similar to that required by individuals with mental retardation, and the disability:

(a) Originates before the individual attains the age of 22 years, except that in the case of mental retardation, the condition must be manifested before the age of 18; and

(b) Has continued, or can be expected to continue, indefinitely; and

(c) Constitutes a substantial handicap to the ability of the individual to function in society; and

(d) The condition or impairment must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; or

(e) Results in significant sub-average general intellectual functioning with concurrent deficits in adaptive behavior that are manifested during the developmental period. Individuals of borderline intelligence may be considered to have mental retardation if there is also serious impairment of adaptive behavior. Definitions and classifications must be consistent with the "Manual of Terminology and Classification in Mental Retardation" by the American Association on Mental Deficiency, 1977 Revision. Mental retardation is synonymous with mental deficiency.

(24) "Developmental disability for children five years and younger" means the condition or impairment must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; and be expected to last indefinitely, is always provisional; AND

(a) There is a standardized test demonstrating significant adaptive impairment, (more than two standard deviations below the norm), in at least two of the following areas of functioning: self-care, receptive and expressive language, learning, mobility and self-direction; OR

(b) There is a statement by a licensed medical practitioner that the child has a condition or syndrome that will likely cause significant adaptive impairment in at least two of the areas listed in OAR 411-320-0020(21).

(25) "Developmental disability for children six years and older," is always provisional and means:

(a) There is a diagnosis of mental retardation; OR

(b) There is a diagnosis of developmental disability; AND

(A) There is a significant adaptive impairment, (more than two standard deviations below the norm), in at least two of the following areas: Self-care, receptive and expressive language, learning, mobility, self-direction; AND

(B) The condition or impairment must be expected to last indefinitely and must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; AND

(C) The individual is expected to need multiple, specialized supports indefinitely.

(26) "Entry" means admission to a Department funded developmental disability service provider.

(27) "Exit" means termination from a Department funded developmental disability service provider. Exit does not mean transfer within a service provider's program within a county.

(28) "Grievance" means a formal complaint by the individual or a person acting on his or her behalf about any aspect of the program or an employee of the program.

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(29) "Guardian" means a parent for individuals under 18 years of age or a person or agency appointed by the courts who is authorized by the court to make decisions about services for the individual.

(30) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by law of this state to administer health care in the ordinary course of business or practice of a profession and includes a health care facility.

(31) "Health care representative" means:

(a) A health care representative as defined in ORS 127.505(12); or

(b) A person who has authority to make health care decisions for an individual under the provisions of OAR 309-041-1500 through 309-041-1610.

(32) "Home" means the actual physical structure in which a child has been living.

(33) "Imminent Risk" means that within 60 days and without the use of Crisis Services, the adult will be civilly court-committed to the Department of Human Services under ORS 427, or the child will require out-of-home placement.

(34) "Incident report" means a written report of any injury, accident, acts of physical aggression or unusual incident involving an individual.

(35) "Independence" means the extent to which persons with mental retardation or developmental disabilities exert control and choice over their own lives.

(36) "Individual" means an adult or a child with developmental disabilities for whom services are planned, provided and authorized by a qualified Services Coordinator or Support Specialist.

(37) "Individual Support Plan" or "ISP" means the written details of the supports, activities and resources required for an individual to achieve personal goals. The Individual Support Plan is developed to articulate decisions and agreements made during a person-centered process of planning and information gathering. The ISP is the individual's Plan of Care for Medicaid purposes.

(38) "Individualized Education Plan" or "IEP" means a written plan of instructional goals and objectives in conference with the teacher, parent or guardian, student and a representative of the school district.

(39) "Individual Support Plan Team" or "ISP team" in comprehensive services means a team composed of the individual served, agency representatives who provide service to the individual, (if appropriate for in-home supports), the guardian, if any, relatives of the individual, the Services Coordinator and any other persons who are well liked by the individual and requested by the individual to serve on the team.

(40) "Integration" means the use by persons with mental retardation or other developmental disabilities of the same community, resources that are used by and available to other persons in the community, and participation in the same community activities in which persons without a disability participate, together with regular contact with persons without a disability. It further means that persons with developmental disabilities live in homes that are in proximity to community resources and foster contact with persons in their community. (See ORS 427.005.)

(41) "Legal representative" means the parent, if the individual is under age 18, unless the court appoints another individual or agency to act as guardian. For those individuals over the age of 18, a legal representative means an attorney at law who has been retained by or for the adult, or a person who is authorized by the court to make decisions about services for the individual.

(42) "Local Mental Health Authority" or "LMHA" means the county court or board of county commissioners of one or more counties that operate a community mental health and developmental disability program, or in the case of a Native American reservation, the tribal council, or if the county declines to operate or contract for all or part of a community mental health and developmental disability program, the board of directors of a public or private corporation.

(43) "Long Term Diversion Services" means new or enhanced services provided to an individual who is eligible for crisis/diversion services and is needed on a long-term or on-going basis to resolve the crisis.

(44) "Majority agreement" means for purposes of entry, exit, transfer and annual ISP team meetings that no one member of the ISP team has the authority to make decisions for the team unless so authorized by the team process. Representatives from service provider(s), families, the CDDP, or advocacy agencies are considered as one member of the ISP team for the purpose of reaching majority agreement.

(45) "Mandatory reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe that an individual with disabilities has suffered abuse, or that any person with whom the official comes in contact, while acting in

an official capacity, has abused the individual with disabilities. Pursuant to ORS 430.765(2) psychiatrists, psychologists, clergy and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 40.295.

(46) "Medication" means any drug, chemical, compound, suspension or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.

(47) "Mechanical restraints" means any mechanical device material, object or equipment that is attached or adjacent to an individual's body that the individual cannot easily remove or easily negotiate around and restricts freedom of movement or access to the individual's body.

(48) "Mental Retardation" means significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, prior to 18 years of age.

(a) Levels of retardation are:

(A) Mild Mental Retardation, used to describe the degree of retardation when intelligence test scores are 50 or 55 to approximately 70. Individuals with IQ's in the 70-75 range can be considered as having mental retardation if there is significant impairment in adaptive functioning.

(B) Moderate Mental Retardation, used to describe the degree of retardation when intelligence test scores are 35 or 40 to 50 or 55.

(C) Severe Mental Retardation, used to describe the degree of retardation when intelligence test scores are 20 or 25 to 35 or 40.

(D) Profound Mental Retardation, used to describe the degree of retardation when intelligence test scores are below 20 or 25.

(b) Definitions and classifications must be consistent with the Manual of Terminology and Classification in Mental Retardation, 1977 Revision.

(49) "Monitoring" means the periodic review of the implementation of services identified in the annual service plan or annual summary, and the quality of services delivered by other organizations.

(50) "Oregon Intervention System" or "OIS" means a system of providing training to people who work with designated individuals to intervene physically or non-physically to keep individuals from harming self or others. The system is based on a proactive approach that includes methods of effective evasion, deflection and escape from holding.

(51) "Physical intervention" means any manual physical holding of, or contact with an individual that restricts the individual's freedom of movement.

(52) "Plan of Care" means the written details of the supports, services and resources provided or accessed to address the needs of the individual. The plan of care is to be developed by the support team, using a person-centered approach.

(53) "Productivity" means engagement in income-producing work by a person with mental retardation or other developmental disabilities that is measured through improvements in income level, employment status or job advancement or engagement by a person with mental retardation or other developmental disabilities in work contributing to a household or community.

(54) "Protection" means necessary actions taken to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts and to safeguard an individual's person, property and funds as possible.

(55) "Protective services" means necessary actions taken to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts and to safeguard an individual's person, property, and funds as soon as possible.

(56) "Psychotropic medication" means a medication whose prescribed intent is to affect or alter thought processes, mood, or behavior. This includes but is not limited to, anti-psychotic, antidepressant, anxiolytic, (anti-anxiety), and behavior medications. Because a medication may have many different effects, its classification depends upon its stated, intended effect when prescribed.

(57) "Regional Crisis/Diversion Program" means the regional coordination of the management of crisis/diversion services for a group of designated counties.

(58) "Respite care" means short-term services for a period of up to 14 days. Respite care may include both day and overnight care.

(59) "Restraint" means any physical hold, device, or chemical substance that restricts or is meant to restrict the movement or normal functioning of an individual.

(60) Services Coordinator" means an employee of the community developmental disability program or other agency that contracts with the County or Department, who is selected to plan, procure, coordinate, monitor individual support plan services and to act as a proponent for persons

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with developmental disabilities. For purposes of this rule the term case manager is synonymous with Services Coordinator.

(61) "Service provider" means a public or private community agency or organization that provides recognized mental health or developmental disability services and is approved by the Department or other appropriate agency to provide these services. For the purpose of this rule "provider" or "program" is synonymous with "service provider."

(62) "Short Term Crisis Services" means service(s) to address a crisis, provided for up to 90 days, or on a one-time basis, to or on behalf of, an individual eligible to receive crisis services.

(63) "Support" means those services that assist an individual maintaining or increasing his or her functional independence, achieving community presence and participation, enhancing productivity and enjoying a satisfying lifestyle. Support services can include training, the systematic, planned maintenance, development or enhancement of self-care, social or independent living skills, or the planned sequence of systematic interactions, activities, structured learning situations, or educational experiences designed to meet each individual's specified needs in the areas of integration and independence.

(64) "Support Specialist" means an employee of a CDDP that performs the essential functions necessary to ensure the proper use of resources for individuals with developmental disabilities served by a Support Services Brokerage. The term Title XIX specialist may be synonymous with Support Specialist.

(65) "Support Team" means a group composed of members as determined by an individual receiving services or the individual's legal guardian, to participate in the development of the individual's plan of care.

(66) "Transfer" means movement of an individual from a service site to another within a county, administered by the same service provider and that has not been addressed within the ISP.

(67) "Transition plan" means a written plan for the period of time between an individual's entry into a particular service and when the individual's ISP is developed and approved by the ISP team. The plan must include a summary of the services necessary to facilitate adjustment to the services offered, the supports necessary to ensure health and safety, and the assessments and consultations necessary for the ISP development.

(68) "Unusual incident" means those incidents involving serious illness or accidents, death of an individual, injury or illness of an individual requiring inpatient or emergency hospitalization, suicide attempts, a fire requiring the services of a fire department, or any incident requiring abuse investigation.

(69) "Variance" means a temporary exception from a regulation or provision of these rules that may be granted by the Department, upon written application by the CDDP.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 - 430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0030

Organization and Program Management

(1) Organization and internal management. Each provider of community developmental disability services funded by the Department must have written standards governing the operation and management of the program. Such standards must be up to date, available upon request and include:

(a) Organization chart. An up-to-date organization chart showing lines of authority and responsibility from the LMHA to the CDDP manager and for the components and staff within the agency;

(b) Position descriptions. Position descriptions for all staff providing community developmental disability services;

(c) Personnel requirements. Personnel policies and procedures concerning:

(A) Recruitment and termination of employees;

(B) Employee compensation and benefits;

(C) Employee performance appraisals, promotions and merit pay;

(D) Staff development and training;

(E) Employee conduct, (including the requirement that abuse of an individual by an employee, staff or volunteer of the CDDP is prohibited and is not condoned or tolerated);

(F) Reporting of abuse, (including the requirement that any employee of the CDDP is to report incidents of abuse when the employee comes in contact with and has reasonable cause to believe that an individual has suffered abuse). Notification of mandatory reporting status must be made at least annually to all employees and documented on forms provided by the Department.

(2) Management plan. The CDDP must maintain a current plan assigning responsibility for the developmental disabilities program man-

agement functions and duties described in this rule. The plan must assure that the functions and duties are assigned to people who have the knowledge and experience necessary to perform them, as well as ensuring that these functions will be implemented.

(3) Qualified staff. Qualified staff must provide developmental disability services. These staff must maintain and enhance their knowledge and skills, through participation in education and training programs. Staff delivering these services must be organized under the leadership of a designated Developmental Disability Program Manager and receive clerical support services sufficient to perform their required duties. Staff must have an approved Criminal History Record Check in accordance with ORS 181.536 through 181.537.

(a) Program management for developmental disability services.

(A) Program Manager. The local mental health authority (LMHA) or the public or private corporation operating the community developmental disability services program must designate a full-time employee who will, on at least a part-time basis, be responsible for management of developmental disability services.

(B) Program Manager Qualifications. The program manager for developmental disability services must meet the following qualifications for employment:

(i) Hold at least a bachelor's degree in a behavioral, social, health science, special education, public administration, or human service administration; and have a minimum of four years' experience, with at least two of those in developmental disability services that provided recent experience in program management, fiscal management and staff supervision.

(ii) On an exceptional basis, the CDDP may hire an individual who does not meet these program manager qualifications if the county and the Department have mutually agreed on a training and technical assistance plan that assures that the individual will quickly acquire all needed skills and experience.

(iii) When the position of program manager for developmental disability services becomes vacant, an interim program manager must be appointed to serve until a permanent program manager is appointed. The community mental health and developmental disability services program must request a variance, as provided in these rules, if the individual(s) appointed as interim program manager do not meet the qualifications and the term of the appointment(s) total more than 180 days.

(C) Management functions. In addition to other duties as may be assigned in the area of developmental disability service, the Community Developmental Disability Program (CDDP) must, at a minimum, assure the following duties are performed:

(i) Develop and assure implementation of plans as may be needed to provide a coordinated and efficient use of resources available to serve people with developmental disabilities;

(ii) Develop and assure maintenance of positive and cooperative working relationships with families, advocates, service providers, support service brokerages, the Department and other state and local agencies with an interest in developmental disability services;

(iii) Develop and assure implementation of programs funded by the Department to encourage pursuit of defined program outcomes and monitor the programs to assure service delivery that is in compliance with related contracts and applicable local, state and federal requirements;

(iv) Assure collection and timely reporting of information as may be needed to conduct business with the Department, including but not limited to, information needed to license foster homes, to collect federal funds supporting services and to investigate complaints related to services or suspected client abuse; and

(v) Develop and assure use of procedures that attempt to resolve complaints and grievances involving individuals or organizations that are associated with developmental disability services.

(b) Staff. Each CDDP must provide a qualified Services Coordinator or Support Specialist as required by this rule. These roles may be fulfilled by the same person.

(A) Qualifications. A person employed as a Services Coordinator or as a Support Specialist must have at least:

(i) A bachelor's degree and two years' work experience in human services; or

(ii) Five years of equivalent training and work experience; and

(iii) Knowledge of the public service system for developmental disability services in Oregon.

(B) Alternative plan to meet qualifications. Persons who do not meet the minimum qualifications set forth in 411-320-0030(4)(b)(A) may perform those functions only with prior approval of a variance by the Department. Prior to employment of an individual not meeting minimum

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qualifications a Services Coordinator or a Support Specialist the CDDP must submit a written variance request to the Department. The request will include:

(i) An acceptable rationale for the need to employ an individual who does not meet the qualifications; and

(ii) A proposed alternative plan for education and training to correct the deficiencies.

(iii) The proposal must specify activities, timelines and responsibility for costs incurred in completing the plan.

(iv) A person who fails to complete a plan for education and training to correct deficiencies may not fulfill the requirements for the qualifications.

(C) Services Coordinator responsibilities. The duties specified in the employee's job description must, at a minimum, include the following:

(i) Deliver case management services as listed in OAR 411-320-0090(4)(a-u) to individuals with developmental disabilities;

(ii) Assist the program manager in monitoring the quality of services delivered within the county; and

(iii) Assist the program manager in the identification of existing and insufficient service delivery resources or options.

(D) Support Specialist responsibilities. The duties specified in the employer's job description will at a minimum, include the following:

(i) Authorizing individual support plans of individuals enrolled in Support Services Brokerages for adults with developmental disabilities and

(ii) Ensuring that requirements of for Support Services in the Title XIX Waiver are met, including providing notice of hearing rights and completing an annual waiver review;

(iii) Determining eligibility for and providing assistance in accessing crisis/diversion services;

(iv) Receiving and investigating complaints of abuse or neglect, as well as ensuring the provision of protective services; and

(v) Facilitating transfers to another county or into comprehensive services.

(4) Staff training. Services Coordinators and support service specialists must participate in a basic training sequence. The Department provides training materials, and the provision of training may be conducted by the Department or CDDP staff, depending on available resources. This training is not a substitute for the normal procedural orientation that would occur for a new Services Coordinator or Support Specialist that must be provided by the CDDP.

(a) Orientation. New Services Coordinator or support service specialist orientation provided by the CDDP must include:

(A) An overview of DD services and related human services within the county;

(B) An overview of the Department rule(s) governing the CDDP;

(C) An overview of the Department's licensing and certification rules for service providers;

(D) An overview of the Client Process Monitoring System (CPMS) or any subsequent replacement system;

(E) A review and orientation to Medicaid, Supplemental Security Income (SSI), Social Security Administration (SS), Home and Community Based Waiver Services, the Oregon Health Plan; and

(F) A review, (prior to having contact with service recipients), of the Services Coordinator's or Support Specialist's responsibility as a mandatory reporter of abuse, including abuse of individuals with developmental disabilities, mental illness, seniors and children.

(b) Minimum annual training. Each Services Coordinator must be required to participate in a minimum of 20 hours per year of additional Department sponsored or other training in the area of developmental disabilities.

(c) Mandated training. The DD Program Manager will assure the attendance of the Services Coordinators, Support Specialists or quality assurance staff at Department mandated training.

(d) Training documentation. The CDDP must keep documentation of required training in the personnel files of the Services Coordinator, the Support Specialist and in the general files of the CDDP.

(5) Advisory committee. Each CDDP must have an advisory committee.

(a) The committee must meet at least quarterly.

(b) The membership of the committee will be broadly representative of the community, with a balance of age, sex, ethnic, socioeconomic, geographic, professional and consumer interests represented. Membership must include advocates for individuals with mental retardation or other developmental disabilities as well as individuals with disabilities and their families.

(c) The Advisory Committee will advise the LMHA, the community mental health and developmental disability program director and the developmental disability program manager on community needs and priorities for services and will assist in planning and in review and evaluation of services.

(d) The Advisory Committee may function as the disability issues advisory committee as described in ORS 430.625 if so designated by the local mental health authority.

(6) Needs assessment, planning & coordination. Upon request of the Department, the CDDP must assess local needs for services to individuals with mental retardation or other developmental disabilities and must submit planning and assessment information to the Department.

(7) Contracts.

(a) Contract required. If the CDDP, (or any of its component service element, as described in the Department contract with the LMHA), is not operated by the LMHA there must be a contract between the LMHA and the organization operating the CDDP or the component service elements. The contract must specify the authorities and responsibilities of each party and conform to the requirements of Department rule(s) pertaining to contracts or any contract requirement with regard to operation and delivery of services.

(b) Provider selection. The CDDP may purchase certain services for an individual from a qualified service provider without first providing an opportunity for competition among other service providers if the service provider is selected by the individual, the individual's family or the individual's guardian or legal representative.

(A) The service provider selected must also meet Department certification or licensing requirements to provide the type of service to be contracted. This is in keeping with the principles of family support expressed in ORS 417.342 and notwithstanding 430.670(2) or 291.047(3).

(B) There must be a contract between the service provider and the CDDP that specifies the authorities and responsibilities of each party and conforms to the requirements of Department rule(s) pertaining to contracts or any contract requirement with regard to operation and delivery of services.

(c) Model contract. When a CDDP contracts with a public agency or private corporation for delivery of developmental disability service element, the CDDP will include in the contract only terms that are substantially similar to model contract terms established by the Department. The CDDP may not add contractual requirements, including qualifications for contractor selection that are nonessential to the service element(s) being provided under the contract. The CDDP must specify in contracts with service providers that disputes arising from these limitations must be resolved according to procedures contained in OAR 411-320-0170 (2)(a)(A-B) and (b) (A-D). For purposes of this section i.e., 411-320-0030(7)(a-f) (8), the following definitions apply:

(A) "Model contract terms established by the Department" means all applicable material terms and conditions of the omnibus contract, as modified to appropriately reflect a contractual relationship between the service provider and CDDP and any other requirements approved by the Department as local options under procedures established in these rules.

(B) "Substantially similar to model contract terms" means that the terms developed by the CDDP and the model contract terms require the service provider to engage in approximately the same type activity and expend approximately the same resources to achieve compliance.

(C) "Nonessential to the service element(s) being provided" means requirements that are not substantially similar to model contract terms developed by the Department.

(d) Local option. The CDDP may, as a local option, impose on a public agency or private corporation delivering developmental disability services under a contract with the CDDP, a requirement that is in addition to or different from requirements specified in the omnibus contract if all of the following conditions are met:

(A) The CDDP has provided the affected contractors with the text of the proposed local option as it would appear in the contract. It must include the date upon which the local option would become effective and a complete written description of how the local option would improve client independence, productivity, or integration; or how it would improve the protection of client health, safety, or rights;

(B) The CDDP has sought input from the affected contractors concerning ways the proposed local option will impact client services;

(C) The CDDP, with assistance from the affected contractors, has assessed the impact on the operations and financial status of the contractors if the local option is imposed;

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(D) The CDDP has sent a written request for approval of the proposed local option to the Administrator for SPD or his/her designee that includes:

- (i) A copy of the information provided to the affected contractors;
- (ii) A copy of any written comments and a complete summary of oral comments received from the affected contractors concerning the impact of the proposed local option; and
- (iii) The text of the proposed local option as it would appear in contracts with service providers, including the proposed date upon which the requirement would become effective.

(E) The Department has notified the CDDP that the new requirement is approved as a local option for that program; and

(F) The CDDP has advised the affected contractors of their right and afforded them an opportunity to request mediation as provided in these rules before the local option is imposed.

(e) Exception to limit on contract requirements for facilities. The CDDP may add contract requirements that the CDDP considers necessary to ensure the siting and maintenance of residential facilities in which client care is provided. These requirements must be consistent with all applicable state and federal laws and regulations related to housing.

(f) Contract dispute resolution. The CDDP must adopt a dispute resolution policy that pertains to disputes arising from contracts with service providers funded by the Department and contracted through the CDDP. Procedures implementing this policy must be included in the contract with any such service provider.

(8) Financial Management

(a) Financial records. There must be up-to-date accounting records for each developmental disability service element accurately reflecting all revenue by source, all expenses by object of expense and all assets, liabilities and equities, consistent with generally accepted accounting principles and conforming to the requirements of OAR 309-013-0020 (Audit Guidelines).

(b) Fraud & embezzlement. There must be written statements of policy and procedure as are necessary and useful to assure compliance with any Department administrative rule pertaining to fraud and embezzlement and financial abuse or exploitation of individuals.

(c) Billing for Title XIX. Billing for Title XIX funds must in no case exceed customary charges to private pay individuals for any like item or service charged by the service element.

(9) Policies and Procedures. There must be such other written and implemented statements of policy and procedure as necessary and useful to enable the CDDP to accomplish its service objectives and to meet the requirements of the contract with the Department, OAR 411-320-0010 through 0200 and other applicable standards and rules.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 - 430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0040

Community Developmental Disability Program Responsibilities

The CDDP must ensure the provision of the following services and system supports.

(1) Access to services:

(a) Nondiscrimination. In accordance with the Civil Rights Act of 1964, (codified as 42 USC 2000d et seq.), community mental health and developmental disability services must not be denied any person on the basis of race, color, creed, sex, national origin or duration of residence. Community developmental disability contractors must comply with Section 504 of the Rehabilitation Act of 1973, (codified as 29 USC 794 and as implemented by 45 CFR Section 84.4), that states in part, "No qualified person must, on the basis of handicap, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance".

(b) Acceptance of eligibility. Any individual determined eligible for developmental disability services by a CDDP must also be eligible for other community developmental disability services provided unless admission to the service is subject to diagnostic or disability category or age restrictions based on predetermined criteria or contract limitations.

(2) Coordination of community services. Planning and implementation of services for individuals served by the CDDP must be coordinated between components of the community mental health and developmental disability program, other local and state human service agencies and any other service providers as appropriate for the needs of the individual.

(3) Case management services. The CDDP must provide case management services to individuals who are eligible for and desire services.

(a) The CDDP may provide case management to individuals who are waiting for a determination of eligibility and reside in the county at the time they apply.

(b) Case management may be provided directly by the CDDP or under a contract between the CMHDDP and a provider of case management services.

(c) If an individual is receiving services in more than one county, the county of residence must be responsible for case management services unless otherwise negotiated.

(d) Case management services require an impartial point of view to fulfill the necessary functions of planning, procuring monitoring as well as investigating. Except as allowed under subsection 411-320-0040(3)(e), the case management program will be provided under an organizational structure that separates case management from other direct services for individuals with developmental disabilities. This separation may take one of the following forms:

(A) The CDDP may provide case management and subcontract for delivery of other direct services through one or more different organizations; or

(B) The CDDP may subcontract for delivery of case management through an unrelated organization and directly provide the other services, or further subcontract these other direct services through organizations that are not already under contract to provide case management services.

(e) A CDDP or other organization that provides case management services may also provide other direct services under the following circumstances:

(A) When the CDDP coordinates the delivery of Child and Family Support Services for children under 18 years old, living at home with their family or Comprehensive In-Home Supports for adults.

(B) When the CDDP determines that an organization providing direct services is no longer able to continue providing services, or the organization providing direct service is no longer willing or able and no other organization is able or willing to continue operations on 30 days notice.

(C) In order to develop new or expanded direct services for geographic areas or populations because other local organizations are unwilling or unable to provide appropriate services.

(f) Exception. If a CDDP intends to perform a direct service, a variance must be prior authorized by the Department.

(A) It is assumed that the CDDP will provide Child and Family Support Services or Comprehensive In-Home Supports described in OAR 411-320-0050(3)(e)(A) above. If the CDDP does not provide one or both of these services they must propose a variance to the Department for approval describing how those services will be provided.

(B) If the circumstance described in OAR 411-320-0050(3)(e)(B) above exist, the CDDP must propose a plan to the Department for review including action to assume responsibility for case management services and the mechanism for addressing potential conflict of interest.

(C) If a CDDP providing case management services delivers other services as allowed under OAR 411-320-0040(3)(e)(C) above exists, the organization must propose a variance to the Department for prior approval including action to assume responsibility for case management services and the mechanism for addressing potential conflict of interest.

(g) If an organization providing case management services delivers other services as allowed under OAR 411-320-0040(3)(e), it must solicit other organizations to assume responsibility for delivery of these other services through a request for proposal (RFP) at least once every two years. When an RFP is issued, a copy must be sent to the Department. The Department must be notified of the results of the solicitation, including the month and year of the next solicitation if there are no successful applicants.

(h) If the CDDP wishes to continue providing case management and other direct services without conducting a solicitation as described in OAR 411-320-0040(3)(g), the CDDP must submit a written variance for prior approval by the Department that describes how conflict of roles will be managed within the CDDP.

(4) Family support. The CDDP must ensure the availability of a program for Child and Family Support Services in accordance with OAR 309-041-2000 through 2180 or any successor rules.

(5) Title XIX administration. The CDDP must ensure the availability of staff to provide the required administrative review of program services funded by the Medicaid waiver(s). This must include the availability of Support Specialists as described in OAR 411-320-0030(3)(b)(A-B)&(D).

(a) If an individual is receiving services in more than one county, the county of residence must provide the services of a Support Specialist unless otherwise negotiated.

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(b) If a CDDP also operates a Support Services Brokerage the CDDP must submit a variance in writing for prior approval to the Department including the mechanism for addressing potential conflicts of interest.

(6) Abuse and protective services. The CDDP must assure that abuse investigations for adults are appropriately reported and conducted according to statute and administrative rules by trained staff. When there is reason to believe a crime has been committed there must be a report to law enforcement. Any suspected or observed abuse of children should be reported directly to the Child Welfare child protective services unit or local law enforcement, when appropriate.

(7) Foster homes. The CDDP will recruit foster home applicants and maintain forms and procedures necessary to license or certify homes. This will include copies of the following records:

(a) Initial and renewal applications to be a foster home;

(b) All inspection reports completed by the CDDP (including required annual renewal inspection and any other inspections);

(c) General facility information;

(d) Documentation of references, classification information, credit check, if necessary, criminal history clearance and training for provider and substitute caregivers.

(e) Documentation of foster care exams for adult foster home caregivers;

(f) Correspondence;

(g) Any meeting notes;

(h) Financial records;

(i) Annual agreement or contract;

(j) Legal notices and final orders for rule violations, conditions, denial or revocation (if any); and

(k) Copies of the annual license or certificate.

(8) Contract monitoring. The CDDP will monitor all community developmental disability subcontractors to assure that:

(a) Service element services are provided as specified in the contract with the Department; and

(b) Service elements are in compliance with these rules and other applicable Department administrative rules.

(9) Local quality assurance program. Each CDDP must implement and maintain a local quality assurance system in accordance with these rules.

(a) QA system purpose and scope. The local quality assurance system will:

(A) Ensure the development and implementation of a quality assurance system by:

(i) Providing direct support to DHS in implementation of its quality assurance (QA) plan; and

(ii) Generally improving the quality of services by evaluating service delivery and outcomes and adjusting local planning and performance where needed.

(B) Include all Department funded developmental disability services provided within the county, including services that are operated or subcontracted by the CDDP, state operated community programs for developmental disabilities; and those developmental disability services operating under a direct contract with the Department; and

(C) Include, at a minimum, the quality indicators and all activities that are to be carried out at the local level according to the most recent edition of the Department's Quality Assurance Plan for Developmental Disability Services (Department's QA Plan).

(b) Quality assurance activities. The CDDP will perform quality assurance activities that include, but are not limited to, the following:

(A) Develop and maintain a local QA plan that describes the major activities to be performed by the CDDP, including the timelines for each of those activities.

(i) These activities must include all activities that are to be carried out at the local level according to the most current edition of the Department's QA plan.

(ii) The local QA plan must be updated whenever changes are made, but at least annually.

(B) Develop CDDP policies and procedures needed to implement the local QA plan.

(C) Implement the activities defined in the local QA plan, including the timely delivery of data and information to the Department as required in the Department's QA plan.

(D) Maintain data and information that has been gathered through implementation of the local QA plan.

(E) Maintain a record of conclusions and recommendations that have been drawn from analysis of the information gathered.

(F) Take management actions as needed to improve service quality or to correct deficiencies; and

(G) Maintain records that document:

(i) The CDDP's performance of the activities described in the local QA plan.

(ii) The CDDP's performance measured against statewide performance requirements as specified in the Department's QA Plan.

(iii) The CDDP's findings, corrective actions and the impact of its corrective actions that have been reviewed at a policy level within the CDDP's department structure within the County; and

(iv) The timely submission of information to the Department, as required in the Department's QA Plan.

(c) Performance requirements. The CDDP will meet or exceed the minimum performance requirements established for all CDDP's in the Department's QA Plan.

(A) The CDDP will collect and analyze information concerning performance of the activities represented in OAR 411-0320-0040(9)(a)(A), in the manner specified in the Department's QA Plan.

(B) Data concerning the CDDP's performance will be sent to the Department in the format and within the timelines established by the Department.

(C) The CDDP must cooperate in all reviews, by the Department or its designee, of CDDP performance in accordance with these rules.

(D) Records that document the CDDP's performance will be maintained and be made available to the Department or its designee, for audit purposes, upon request.

(d) Corrective actions. The CDDP will act to correct deficiencies and poor performance through management actions.

(A) Deficiencies and substandard performance found in services that are operated or subcontracted by the county will be resolved through direct action by the CDDP.

(B) Deficiencies and substandard performance found in services that are operated by the state or through direct state contracts will be resolved through collaboration with the Department.

(C) Deficiencies and substandard performance found in services provided through a Region will be resolved through collaboration between the regional management entity and the affected CDDPs.

(e) Local quality assurance committee. The CDDP will utilize a committee of stakeholders to assist in the development and review of local quality assurance plans and activities.

(A) Committee membership will include persons representing self-advocates, service providers, advocates, family members of individuals with developmental disabilities and Services Coordinators.

(B) Activities of the committee will include:

(i) Providing review and comment on CDDP plans for local QA plan activities;

(ii) Providing review and comment on data gathering instruments and methods; and

(iii) Providing review and comment on the results of information gathered by the CDDP and the effectiveness of corrective actions.

(f) Quality assurance resources. The CDDP must allocate resources to implement the local QA plan.

(A) Individuals employed to carry out implementation activities will have the training and education, as well as the rank or classification within the organization that is appropriate for the tasks assigned.

(B) One position within the CDDP will be designated as the QA Coordinator. The minimum requirements must include:

(i) The QA Coordinator must be a full time CDDP employee, unless prior approval of an alternative plan has been obtained from the Department;

(ii) At a minimum the position must meet the qualifications for a Services Coordinator for individual with developmental disabilities as described in OAR 411-320-0030(3)(b)(A)(i-iv);

(iii) The purpose of the QA Coordinator is to facilitate the CDDP's quality assurance process through activities such as the following:

(I) Participate in Department sponsored activities such as planning and training that are intended to assist in development and implementation of Department's QA plan requirements, compliance monitoring procedures, corrective action plans and other similar activities.

(II) Draft local quality assurance plans and procedures that both meet QA requirements established by the Department and consider the unique organizational structure, policies and procedures of the CDDP.

(III) Keep CDDP administrative staff informed concerning new or changing requirements being considered by the Department.

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(IV) Coordinate activities within the CDDP such as preparation of materials and training of county staff as needed to implement the local QA plan.

(V) Monitor the implementation of the local QA plan to determine the level of county compliance with Department requirements. Keep CDDP administrative staff informed about compliance issues and need for corrective actions.

(VI) Coordinate delivery of information requested by the Department, such as the Serious Event Review Team (SERT).

(VII) Assure record systems to store information and document activities are established and maintained.

(VIII) Perform abuse investigations, if approved by the Department as part of the CDDP's QA plan.

(10) Information and referral. The CDDP must provide information and referral services to individuals, their families and interested others.

(11) Agency coordination. The CDDP must assure coordination with other agencies to develop and manage resources within the county or region to meet the needs of individuals.

(12) Maintenance of centralized waiting list. The CDDP must maintain a current unduplicated central waiting list of eligible individuals appropriate for admission to Comprehensive Services for adults living within the geographical area of the CDDP. Individuals will be placed on a waiting list after written determination of their specific service and support needs, and such information must be provided to the Department upon request. The CDDP must assure that individuals are admitted to programs from the waiting list consistent with Department policies using a fair and equitable process that considers the individual's preferences, circumstances and needs.

(13) Service delivery grievances. The CDDP must implement procedures to address individual or family grievances regarding service delivery that have not been resolved using the CDDP subcontractor's grievance procedures, (informal or formal). Such procedures must be consistent with requirements outlined in OAR 411-320-0170.

(14) Comprehensive in-home supports. The CDDP must ensure the availability of Comprehensive In-Home Supports for those individuals with developmental disabilities for whom the Department has funded such services. These services must be in compliance with OAR 411-330-0010 through 0170 and any successor rules as may be developed in the future.

(15) Emergency planning. The CDDP must ensure the availability of a written emergency procedure and disaster plan for meeting all civil or weather emergencies and disasters. The plan must be immediately available to the program manager and employees. The plan must:

(a) Be integrated with the County emergency preparedness plan where appropriate.

(b) Include provisions on coordination with all developmental disability service provider agencies in the county and any DHS agencies, as appropriate.

(c) Include provisions for identifying individuals most vulnerable and any plans for health and safety checks; and emergency assistance;

(d) Other plans that are specific to the type of emergency.

[Publications referenced are available from the agency.]

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0050

Management of Regional Services

(1) Intergovernmental agreement. A CDDP that acts as the management entity for a group of counties to deliver long-term crisis/diversion, community training, quality assurance activities, or other services must have an intergovernmental agreement with each affiliated local mental health authority.

(2) Regional plan. The CDDP, acting as the management entity for the region, must prepare in conjunction with affiliated CDDP's, a plan detailing the services that will be administered regionally. The plan must be updated when needed and submitted to the Department for approval and must include:

(a) A description of how services will be administered;

(b) An organizational chart and staffing plan;

(c) A detailed budget, on forms provided by the Department.

(3) Implement plan. The CDDP, acting as the management entity for the region, must work in conjunction with its affiliated CDDP's to implement the Regional plan as approved by the Department, within available resources.

(4) Management standards. The region, through the CDDP management entity and its CDDP partners, must maintain compliance with management standards outlined in OAR 411-320-0030 and 0050.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0060

Rights of the Individual Receiving Developmental Disability Services

(1) Civil rights. The rights described in this section are in addition to and do not limit any other statutory and constitutional rights that are afforded all citizens, including but not limited to, the right to vote, marry, have or not have children, own and dispose of property, enter into contracts and execute documents unless specifically prohibited by law in the case of children under 18 years of age.

(2) Rights of individuals receiving services. Each agency providing any community developmental disability service must have written policies and procedures to provide for and assure individuals the following rights while receiving services:

(a) Protections and well being. A humane service environment that affords reasonable protection from harm and affords reasonable privacy. This includes provisions ensuring that individuals:

(A) Must not be abused or neglected, nor must abuse or neglect be tolerated by any employee, staff or volunteer of the program;

(B) Are free to report any incident of abuse without being subject to retaliation;

(C) Have the freedom to choose whether or not to participate in religious activity and for children, according to parent or guardian preference;

(D) Have contact and visits with family members, friends, advocates, (except where prohibited by court order), and visits with legal and medical professionals;

(E) Have access to and communicate privately with any public or private rights protection program rights advocate, Services Coordinator, or CDDP representative;

(F) Be free from unauthorized mechanical restraint or physical restraint; and

(G) Must not be subject to any chemical restraint and assured that medication is administered only for the person's individual clinical needs as prescribed by a physician.

(b) Choice. Individuals must be able to choose from available services those that are appropriate and consistent with the plan, developed in accordance with OAR 411-320-0060(2)(c) and (d) of this rule. Services will promote independence, dignity and self-esteem and reflect the age and preferences of the individual child or adult. They must be provided in a setting and under conditions that are least restrictive to the individual's liberty, that are least intrusive to the individual and that provide for decision-making and control of personal affairs appropriate to age.

(c) A plan. Have a written and individualized service plan with services delivered according to the plan and having periodic review and reassessment of service needs.

(d) Participation. Have an ongoing opportunity to participate in planning of services in a manner appropriate to the individual's capabilities, including the right to participate in the development and periodic revision of the plan described in paragraph (c) of this subsection, and the right to be provided with a reasonable explanation of all service considerations.

(e) Informed consent. Have informed voluntary written consent prior to receiving services except in a medical emergency or as otherwise permitted by law.

(f) Written prior consent for experimental programs. Have informed voluntary written consent prior to participating in any experimental programs.

(g) Notice and grievances. Prior notice of any involuntary termination or transfer from services and notification of available sources of necessary continued services and exercise of a grievance procedure.

(h) Compensation. Reasonable and lawful compensation for performance of labor, except personal housekeeping duties.

(i) Due process in civil commitment. Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Department.

(j) Be informed. Be informed at the start of services and periodically thereafter of the rights guaranteed by this section and the procedures for reporting abuse; and to have these rights and procedures prominently posted in a location readily accessible to the individual and made available to the individual's guardian and any representative designated by the individual.

(k) Grievance. Be informed of and have the opportunity to assert grievances with respect to infringement of the rights described in this sec-

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tion, including the right to have such grievances considered in a fair, timely and impartial grievance procedure.

(1) Free from reprisal. Have the freedom to exercise all rights described in this section without any form of reprisal or punishment.

(3) Assert rights. The rights described in this section may be asserted and exercised by the individual, the individual's guardian and any legal representative designated by the individual.

(4) Children. Nothing in this section should be construed to alter any legal rights and responsibilities between parent and child.

(5) Adults with guardians. Guardians are appointed for an adult only as is necessary to promote and protect the well being of the protected person. A guardianship for an adult must be designed to encourage the development of maximum self-reliance and independence of the protected person and may be ordered only to the extent necessitated by the person's actual mental and physical limitations. An adult protected person for whom a guardian has been appointed is not presumed to be incompetent. A protected person retains all legal and civil rights provided by law except those that have been expressly limited by court order or specifically granted to the guardian by the court. Rights retained by the person include, but are not limited to, the right to contact and retain counsel and to have access to personal records. (ORS 125.300)

[Publications: Publications referenced are available from the agency.]
Stat. Auth. ORS 410.070, 409.050
Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007
Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-0320-0070

Records of Service

(1) Confidentiality of individual service records. Records of services to individuals with developmental disabilities must be kept confidential in accordance with ORS 179.505, 192.515-517, 192.518, 45 CFR 205.50, 45 CFR 164.512, Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR Part 2 HIPAA and any Department administrative rules or policies pertaining to individual service records.

(2) Information sharing. Pertinent clinical, financial eligibility, and legal status information concerning an individual supported by the agency must be available to other community mental health and developmental disability service agencies responsible for the individual's services, consistent with state statutes and federal laws and regulations concerning confidentiality and privacy.

(3) Record requirement. In order to meet Department and federal record documentation requirements, the CDDP through its employees must maintain a record for each individual who receives services from the CDDP.

(a) Information contained in the record for all individuals receiving services from a Services Coordinator or a Support Specialist must include:

(A) Documentation of any initial referral to the CDDP for services.

(B) An application for developmental disability services must be completed prior to an eligibility determination;

(C) The application will be on the form required by the Department or it may be transferred onto CDDP letterhead;

(D) Sufficient documentation to conform to Department eligibility requirements including letter(s) of determination;

(E) Documentation of an initial intake interview or home assessment, as well as any subsequent social service summaries;

(F) Referral information or documentation of referral materials sent to a developmental disability service provider or another CDDP,

(G) Case notes written by a Services Coordinator or a Support Specialist;

(H) Medical information, as appropriate;

(I) Admission and exit meeting documentation into any comprehensive service including any transition plans, crisis/diversion or other plans developed as a result of the meeting;

(J) Individual service plans, (ISP), or child and family support plans, (CFSP), documenting that the plan is authorized by a Services Coordinator or a Support Specialist;

(K) Copies of any incident reports initiated by a CDDP representative for any incident that occurred at the CDDP or in the presence of the CDDP representative.

(L) Documentation of a review of unusual incidents received from service providers either in case notes or by electronically entering review of the information into the SERT system and referencing in case notes or placing a copy in the file;

(M) Initial and annual review of Title XIX waiver forms;

(N) Documentation of Medicaid eligibility, if applicable and

(O) Legal records, such as guardianship papers, civil commitment records, court orders, probation and parole information as is appropriate to the individual in question.

(b) An information sheet or reasonable alternative must be kept current and reviewed at least annually, for each individual enrolled in comprehensive services, child and family support services, or living with family or independently and not enrolled in a support services brokerage and receiving case management services from the program. Information will include:

(A) The individual's name, current address, date of entry into the program, date of birth, sex, marital status, (for individuals 18 or older), religious preference, preferred hospital, medical prime number and private insurance number where applicable, guardianship status; and

(B) The names, addresses and telephone numbers of:

(i) The individual's guardian or other legal representative, family, advocate or other significant person, and for children, the child's parent or guardian, education surrogate, if applicable;

(ii) The individual's physician and clinic;

(iii) The individual's dentist;

(iv) The individual's school, day program, or employer, if applicable; and

(v) Other agency representatives providing services to the individual.

(vi) Any court ordered or guardian authorized contacts or limitations from contact for anyone living in a foster home, supported living program, or 24-hour residential program.

(c) A current information sheet or reasonable alternative must be maintained for each individual enrolled in a support services brokerage and assigned to a Support Specialist from the program. The current information will include information listed in OAR 411-320-0070 (3)(b)(A) and (B)(i) of this rule.

(4) Case notes. Documentation of the delivery of service by a Services Coordinator or Support Specialist through case notes sufficient to support each case service provided. Case notes must be recorded chronologically and documented consistent with CDDP policies and procedures. All late entries must be appropriately documented. This documentation, at a minimum, must consist of material in individual files that includes:

(a) The month, day and year the services were rendered and the month, day and year the entry was made if different from the date service was rendered;

(b) The name of the person receiving service;

(c) The name of the CDDP, the person providing the service, (i.e., the Services Coordinator's or Support Specialist's signature and title), and the date the entry was recorded and signed;

(d) The specific services provided and actions taken or planned, if any;

(e) Place of service. This means the county where the CDDP or agency providing case management services is located, including the address. This may be a standard heading on each page of the progress notes; and

(f) The names of other participants, including titles and agency representation, if any, in notes pertaining to meetings with or discussions about the service recipient.

(5) Retention of records. The CDDP must have a record retention plan for all records relating to the CDDP's provision of and contracts for services that is consistent with this rule and rules promulgated by the State Archivist, (OAR 116-113-0010 or any subsequent revisions). This plan must be made available upon request of the public or the Department.

(a) Financial records, supporting documents, statistical records, must be retained for a minimum of three years after the close of the contract period, or until the conclusion of the financial settlement process with the Department, whichever is longer.

(b) Individual service records will be kept for 7 years after date of death, if known. If case is closed, inactive, or death date is unknown, 70 years. Copies of annual ISPs must be kept for 10 years.

(6) Transfer of records. In the event an individual moves from one county to another county in Oregon, the complete case record as described in OAR 411-0320-0070(3) must be transferred to the receiving CDDP. The sending CDDP will ensure that the original records required by this rule will be maintained in permanent record transferred to the CDDP having jurisdiction for services. The sending CDDP will retain copies of information necessary to document that services were provided to the individual while enrolled in CDDP services. This includes:

(a) Documentation of eligibility for developmental disability services received while enrolled in services through the CDDP including Waiver eligibility;

(b) Service enrollment and termination forms;

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(c) CDDP case notes;

(d) Documentation of services provided to the individual by the CDDP; and

(e) Any required documentation necessary to complete the financial settlement with the state.

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

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0080

Initial Diagnosis and Eligibility Determination

(1) Qualified professional diagnosis. Diagnosis and evaluation information must be completed by professionals qualified to make a diagnosis of developmental disabilities in accordance with OAR 309-042-0050 or any successor rules.

(2) Eligibility for Mental Retardation. Diagnosing mental retardation is done by measuring intellectual functioning as assessed by standardized intelligence tests and assessing adaptive behavior and must be administered by qualified professionals per OAR 309-042-0050. Mental retardation is clearly defined as IQ's under 70, however, individuals with an IQ pattern of 70 to 75 with significant adaptive impairments can be considered as having mental retardation. A history demonstrating mental retardation must be in place by the 18th birth date. In cases where two scores disagree, (i.e. 65 and 73), a third is required to show the pattern. The adaptive impairments cannot be primarily related to: mental/emotional disorders, sensory impairments, substance abuse, personality disorder, learning disability or Attention Deficit Hyperactivity Disorder.

(3) Eligibility for Other Developmental Disabilities. A history of the presence of a developmental disability must be in place prior to the 22nd birth date. There must be a medical or clinical diagnosis of a developmental disability (other than mental retardation) with significant adaptive impairments related to the diagnosis. A formal adaptive assessment is required for an initial determination of eligibility. Individuals who have been diagnosed with a developmental disability, who are obviously adaptively impaired and for whom an adaptive assessment is needed to redetermine eligibility, must have an adaptive assessment such as:

(a) A Vineland Adaptive Behavior Scale or other acceptable measurement of adaptive behavior may be administered and scored by a psychologist, social worker, or other professional with a graduate degree and specific training and experience in individual assessment, administration and test interpretation of adaptive behavior scales for persons with developmental disabilities; or

(b) In the event an adaptive assessment cannot be obtained; a Services Coordinator with at least two years of experience working with people with developmental disabilities can record their observations of the adaptive impairments in client progress notes;

(c) When making a diagnosis of developmental disability the adaptive impairment cannot be primarily related to any of the following conditions: mental or emotional disorders, sensory impairments, substance abuse, personality disorder, learning disability, or attention deficit, hyperactivity disorder.

(4) Children under 5 years of age. Eligibility documentation for children 5 years old or under must include:

(a) Testing that demonstrates significant adaptive impairments; or

(b) A medical statement of a condition or syndrome that causes or is likely to cause significant impairments in adaptive skills or behavior.

(5) Current evaluation. Evaluation information used in determining eligibility for individuals under age 21 must be no more than three years old. An eligibility determination for an individual age 21 or older must be based on the information obtained after the individual's 17th birthday. At or after age 18, adult evaluation instruments must be used.

(6) Absence of data in developmental years. In the absence of sufficient data during the developmental years, current data may be used if there is no evidence of head trauma, mental or emotional disorder or substance abuse after the developmental years to contribute to the assessment results. In the event head trauma, mental or emotional disorder or substance abuse is a factor for denying eligibility, a clinical impression should be obtained to determine if the assessment results are related to the developmental disability.

(7) Review of eligibility. Eligibility for children under 18 years of age is always provisional. Eligibility for young children should be reviewed at least at ages 6 or no later than age 7 and between ages 16 and 18 for mental retardation and by age 22 for developmental disabilities other than mental retardation.

(8) Securing evaluations. In the event that the Services Coordinator has exhausted all local resources to secure the necessary evaluations for eligibility determination, the Department's Diagnosis and Evaluation Coordinator will assist in determining if evaluations are necessary.

(9) Notice. Individuals and their legal representative, family members, or advocates must receive an eligibility statement and written notice, on forms prescribed by the Department, of the eligibility determination or redetermination. Such notice must include:

(a) The rationale for the decision, including what reports, documents or other information that were relied upon in making the eligibility determination;

(b) Notice that the documents relied upon may be reviewed by the individual or his or her legal representative or advocate; and

(c) Notice of the right to file a grievance to appeal a denial of eligibility, including the timeline for filing a grievance, where to file a grievance and that assistance is available in filing grievances.

(10) Processing eligibility determination. The CDDP of residency of an adult applying for services must process the application and make the determination of eligibility for developmental disability services. In the case of an application for services for a child, the CDDP where the parent(s) resides or alternately the county court having jurisdiction for the child, must be responsible for making the eligibility determination. The CDDP must process the application for developmental disability services in a timely manner.

(a) Within ten working days after receiving an application for services from an individual, his or her guardian or legal representative, the CDDP will begin the process to determine eligibility.

(b) A determination of eligibility must be made within 15 working days of receipt of information from which eligibility can be established.

(c) Grievances of a denial of eligibility must be conducted in accordance with OAR 411-320-0170(2)(c)(B).

(11) Financial status. The Services Coordinator must verify the financial status of individuals during the eligibility or intake process. All sources of income are to be identified. Adults with no unearned income benefits must be referred to Social Security for a determination of financial eligibility. Children or their custodial parent or legal guardian, (if not a State agency), should be referred to the appropriate resources if it appears that they or their parent may be eligible for financial assistance.

(12) Transfer between CDDP's. The eligibility determination by a CDDP must be accepted by other CDDP's when an individual moves from one county to another. If the receiving county has reason to question the determination and cannot resolve it between the two CDDPs, the receiving CDDP will promptly refer the matter for a review and further determination by the Department's Diagnosis and Evaluation Coordinator. The receiving county will continue services for the individual while the review is occurring. If an adult transfers to another CDDP and is subsequently found to be not eligible the CDDP responsible for making the determination may be responsible for the services authorized on the basis of that determination.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0090

Developmental Disabilities Case Management Program Responsibilities

(1) Availability of Services Coordinator(s). The CDDP must assure the availability of either a Services Coordinator and or Support Specialist as required by these rules to meet the service need(s) of the individual and any emergencies or crisis. This assignment must be appropriately documented in individual service records and accurately report enrollment in CPMS.

(2) Policies and procedures. The CDDP must adopt written procedures to assure that the delivery services meets the standards set forth in 411-320-0090(4)(a) through (u) of this rule.

(a) Involvement in planning and review of services. The CDDP must have procedures for ongoing involvement of individuals and family members in the planning and review of consumer satisfaction with the delivery of case management or direct services provided by the CDDP;

(b) Available for review. Copies of the procedures for planning and review of case management services, consumer satisfaction and grievances, must be maintained on file at the CDDP offices. They must be available to county employees who work with individuals with developmental disabilities, individuals who are receiving services from the county and their families, their legal representatives, advocates, service providers and the Department;

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(3) Notice of Services. Individuals, family member(s), legal representatives and advocates must be informed of minimum case management services that are set out in 411-320-0090(4)(b) through (u) of this rule.

(4) Minimum standards for case management services. The following are the minimum standards for case management services for individuals with developmental disabilities:

(a) Eligibility. The CDDP must ensure that eligibility for services is determined in accordance with OAR 411-320-0080 by a qualified Services Coordinator;

(b) Plans and annual summaries. An annual plan for an individual must be developed and reviewed in accordance with OAR 411-320-0120(1);

(A) The Services Coordinator must assure that there is an annual plan. He or she must attend the annual plan meeting and participate in the development of the plan for individuals enrolled in comprehensive services. The Services Coordinator is responsible for the development of the plan for children receiving family support services in coordination with the child and the family.

(B) An annual summary must be completed for each individual that is not enrolled in any Department funded service other than case management.

(C) Support Specialists will review ISP's of individuals enrolled in Support Service Brokerages as part of service authorization in OAR 411-320-0120(3).

(c) Service authorization. Program services must be authorized in accordance with OAR 411-320-0120(3);

(d) Monitoring. Services Coordinators must monitor services and supports for all individuals enrolled in case management in accordance with the standards described in OAR 411-320-0130. Support Specialists may participate in monitoring a brokerage service to an individual as part of the CDDP quality assurance plan as approved by the Department;

(e) Entry, exit, or transfer. Entry, exit and transfers from comprehensive program services must be in accordance with OAR 411-320-0110;

(f) Crisis services. Crisis services must be assessed, identified, planned, monitored and evaluated by the Services Coordinator in accordance with OAR 411-320-0160;

(g) Investigations and protective services. Abuse investigations and provision of protective services for adults must be provided as described in OAR 309-040-0220 through 309-040-0290, (Abuse Reporting and Protective Services in Community Programs and Community Facilities). This includes investigation of complaints of abuse, writing investigation reports and monitoring for implementation of report recommendations;

(h) Civil commitment. Civil commitment services must be provided in accordance with ORS 427.215 through 427.306 and 427.205(4);

(i) Information and referral. The Services Coordinator must provide information and timely referral for individuals and their families regarding developmental disability services available within the county and services available from other agencies or organizations within the county;

(j) Access. The Services Coordinator must assist individuals and their families in accessing services and resources;

(k) Child welfare cases. Services Coordinators must coordinate services with the Child Welfare, (CW), caseworker assigned to a child to ensure the provision of required supports from the CDDP, the Department and CW, according to guidelines published by the Department;

(l) Services Coordinator role for children in school. Services Coordinators may attend IEP planning meetings for children when the Services Coordinator is invited by the family or guardian to participate;

(A) The Services Coordinator may, to the extent resources are available, assist the family in accessing those critical non-educational services that the child or family may need.

(B) Upon request and to the extent possible the Services Coordinator may act as a proponent for the child or family at IEP meetings.

(C) The Services Coordinator will participate in transition planning by attending Individualized Education Program, (IEP), meetings of students 16 years of age or older to discuss the individual's transition to adult living and work situations unless such attendance is refused by the parent or legal guardian.

(m) Enrollment on CPMS. The CDDP must ensure that individuals eligible for and receiving developmental disability services are enrolled in CPMS. The county of residence must enroll the individual on CPMS for all developmental disability service providers except in the following circumstances:

(A) The Department's children's residential Services Coordinator will complete the enrollment or termination form for children entering or leav-

ing a licensed 24-hour residential program that is directly contracted with the state; or

(B) Department Services Coordinators must complete the CPMS enrollment, termination, and billing forms for children entering or leaving the Children's In-home Intensive Services Program (CIIS); or as part of an interagency agreement for purposes of billing for crisis/diversion services by a region.

(n) Nursing home services. Services Coordinators must facilitate referrals to nursing homes when appropriate as determined by OAR 411-070-0043;

(o) Specialized services. The Services Coordinator must coordinate and monitor the specialized services provided to an eligible individual living in a nursing home in accordance with OAR 411-320-0150;

(p) Adult case management only. If an adult is not enrolled in services other than case management and requires more than occasional services, or requires services that are available through a support services brokerage, the individual must be referred to a brokerage, unless the individual refuses. Referrals to the support services brokerage must be in accordance with the most current published guidelines for access to brokerage services;

(q) Serious events. The Services Coordinator or Support Specialist must ensure that all serious events related to an individual are reported to the Department in accordance with the most recent Department Serious Event Review Team (SERT) Manual. The CDDP must ensure that there is monitoring and follow-up on both individual events and system trends;

(r) Medicaid waiver(s). Except for children being served by CIIS or in a Department direct contracted 24-hour residential home, the Services Coordinator or Support Specialist will ensure that Medicaid eligible individuals are offered the choice of home and community based waiver services, provided a notice of fair hearing rights and have a completed Title XIX Waiver form that is reviewed annually or at anytime there is a significant change;

(s) Health care representative. Participate in the appointment of a Health Care Representative per OAR 309-041-1500 through 309-041-1610 or any successor rules;

(t) Interagency coordination. Coordinate with other state, public and private agencies regarding services to individuals with developmental disabilities;

(u) In-home services. The CDDP must ensure that a Services Coordinator is available to provide or arrange for Comprehensive In-Home Supports for Adults or Child and Family Supports, as required, to meet the support needs of eligible individuals. This includes:

(A) Assistance in determining needs and plan supports,

(B) Assistance in finding and arranging resources and supports,

(C) Education and TA to make informed decisions about support need and direct support providers,

(D) Arranging fiscal intermediary services,

(E) Employer-related supports, and

(F) Assistance with monitoring and improving the quality of supports.

(5) Service priorities. If it becomes necessary for the CDDP to prioritize the availability of case management services, the CDDP must request and have approval for a variance prior to implementation of any alternative plan. If the reason for the need for the variance could not have been reasonably anticipated by the CDDP, the CDDP has 15 working days to submit the variance request. The variance request must document the reason the service prioritization is necessary (including any alternatives considered) detail the specific service priorities being proposed and provide assurances that the basic health and safety of individuals will continue to be addressed and monitored.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0100

Assignment of Services Coordinator or a Support Specialist

(1) Initial designation of Services Coordinator or Support Specialist. For individuals determined eligible for developmental disability services, a Services Coordinator must be designated within ten working days after eligibility determination. In the instance of an adult moving into the county with an existing eligibility determination, a Services Coordinator should be assigned within ten (10) days of application or, if already enrolled in a support services brokerage, a Support Specialist must be assigned. A written notice that includes the name, telephone number and location of the Services Coordinator or Support Specialist must be sent to the individual requesting services and the individual's legal representative. Notice will be sent to the family or advocate if the adult does not object.

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(2) Change of Services Coordinator. The CDDP should keep changes of Services Coordinator(s) to a minimum.

(a) Changes in assignment. If the CDDP changes Services Coordinator assignments or transfers the individual to a Support Specialist there should be timely notification, (within 10 working days of the designation), to the individual, the individual's legal representative and all current service providers. This notification must be in writing and include of the name, telephone number and address of the new Services Coordinator.

(b) Requests for a change. The individual receiving services or the individual's legal guardian may request a new Services Coordinator or Support Specialist within the same county. The CDDP must develop standards and procedures for evaluating and acting upon requests for change of Services Coordinator or Support Specialist. If another Services Coordinator or Support Specialist is assigned by the CDDP, (as the result of a request by the individual or his or her legal representative), the individual, the individual's legal representative and all current service providers must be notified within 10 working days of the change. This notification must be in writing and include the name, telephone number and address of the new Services Coordinator or Support Specialist.

(3) Termination of case management services. A Services Coordinator or Support Specialist retains responsibility for providing case management services to the individual until the responsibility is terminated in accordance with OAR 411-320-0100(3)(a) through (e) of this rule, or until another Services Coordinator is designated. The CDDP must terminate case management or Support Specialist services when:

(a) The individual or the individual's legal representative delivers a signed written request that case management or Support Specialist services be terminated or such a request by telephone is documented in the individual's file. An adult, his or her legal guardian, the parent or legal guardian of a child in Department-funded services can refuse contact by a Services Coordinator or a Support Specialist, as well as the involvement of a services at the ISP meeting.

(b) The individual dies; or

(c) The individual is determined to be ineligible for services based on an assessment by a licensed psychologist, certified educational psychologist or psychiatrist in accordance with OAR 411-320-0080; or

(d) The individual moves out of state or to another county in Oregon. If an individual moves to another county, case management or Support Specialist services are to be referred and transferred to the new county. Except in the case of a child moving into a foster home or 24-hour residential home wherein the county of parental residency or court jurisdiction must retain case management responsibility,

(e) An individual cannot be located after repeated attempts by letter and telephone.

(4) Mandatory services necessary. An individual in Department-funded services must accept the following case management services: protective service investigations, Services Coordinator presence at Department-funded program entry, exit, or transfer meetings, monitoring of provider program(s) and Services Coordinator or Support Specialist access to individual files.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 - 430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0110

Entry and Exit Requirements

(1) Admission to Department funded developmental disability program.

(a) Department staff must authorize entry into children's residential services, children's proctor care, children's intensive in-home supports, state operated community programs and state training centers. The Services Coordinator will make referrals for admission and participate in all entry meetings for these programs.

(b) The Services Coordinator must ensure that individuals are appropriately referred to a support services brokerage and must participate in the entry of individuals to a support service brokerage according to guidelines established by the Department.

(c) Admissions to all other Department funded programs for persons with developmental disabilities must be coordinated and authorized by the CDDP Services Coordinator in accordance with these rules.

(2) Written information required. The Services Coordinator or his or her designee must provide written information to providers of comprehensive services prior to admission.

(a) If the person is being admitted from his or her family home and entry information is not available (due to a crisis) the Services Coordinator will ensure that the provider assesses the individual upon entry for issues of

immediate health or safety and the Services Coordinator will document a plan to secure the information listed in OAR 411-320-0110(2)(b)(A-J), no later than thirty (30) days after admission. This will include a written documentation as to why the information is not available. A copy of the information and plan will be given to the provider at the time of entry.

(b) If the person is being admitted from comprehensive service the information must be made available prior to the admission. This written information must be provided in a timely manner and include:

(A) A copy of the individual's eligibility determination document;

(B) A statement indicating the individual's safety skills including ability to evacuate from a building when warned by a signal device, and the ability to adjust water temperature for bathing and washing;

(C) A brief written history of any behavioral challenges including supervision and support needs;

(D) A medical history and information on health care supports that includes, where available:

(i) The results of a physical exam, if any, made within 90 days prior to the entry;

(ii) Results of any dental evaluation;

(iii) A record of immunizations;

(iv) A record of known communicable diseases and allergies; and

(v) A record of major illnesses and hospitalizations.

(E) A written record of any current or recommended medications, treatments, diets and aids to physical functioning;

(F) Copies of protocols, the Risk Tracking Record, and any support documentation.

(G) Copies of documents relating to guardianship, conservatorship, health care representative, power of attorney, court orders, probation and parole information, or any other legal restrictions on the rights of the individual, when applicable;

(H) Written documentation why preferences or choices of the person cannot be honored at that time;

(I) Written documentation that the individual is participating in out-of-residence activities including school enrollment for individuals under the age of 21; and

(J) A copy of the most recent functional assessment, behavior support plan, individual support plan, and individual educational plan, if applicable.

(3) Entry meeting. Prior to an individual's date of entry into a Department funded comprehensive service, the ISP team must meet to review referral material in order to determine appropriateness of placement. The team participants will be determined according to OAR 411-320-0120(1)(b). The findings of the meeting must be recorded in the individual's file and distributed to the ISP team members. The documentation of the meeting must include at a minimum:

(a) The name of the individual proposed for services;

(b) The date of the meeting and the date determined to be the date of entry;

(c) The names and role of the participants at the meeting;

(d) Documentation of the pre-entry information required by OAR 411-320-0110(2)(b);

(e) Documentation of the decision to serve or not serve the individual requesting service, with reasons; and

(f) If the decision was made to enter the individual a written transition plan to include all medical, behavior and safety supports needed by the individual, to be provided to the individual for no longer than 60 days after admission;

(g) Record the signatures of all participants;

(4) Crisis services. For a period not to exceed 30 days, OAR 411-320-0110(3)(d) of this rule does not apply if an individual is temporarily admitted to a program for crisis services.

(5) Exit from Department funded programs. All exits from Department funded developmental disability services must be authorized by the CDDP. All exits from Department direct-contracted service for children's 24 hour residential and from state-operated community programs, must be authorized by Department staff. Prior to an individual's exit date, the ISP team must meet to review the appropriateness of the move and to coordinate any services necessary during or following the transition. The team participants must be determined according to OAR 411-320-0120(1)(b).

(6) Exit staffing. The exit plan must be distributed to all ISP team members. The exit plan must include:

(a) The name of the individual considered for exit;

(b) The date of the meeting;

(c) Documentation of the participants included in the meeting;

(d) Documentation of the circumstances leading to the proposed exit;

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(e) Documentation of the discussion of the strategies to prevent an exit from service, (unless the individual, his or her legal guardian or, for a child, the parent or guardian, is requesting the exit);

(f) Documentation of the decision regarding exit including verification of majority agreement of the meeting participants regarding the decision; and

(g) The written plan for services to the individual after exit.

(7) Transfer meeting. All transfers within a county between service site by a comprehensive service provider agency must be authorized by the CDDP, except as follows: All transfers between Department direct contracted services for children in a 24-hour residential programs and in state operated community programs must be coordinated by Department staff. A meeting of the ISP team must precede any decision to transfer an individual. Findings of such a meeting must be recorded in the individual's file and include, at a minimum:

(a) The name of the individual considered for transfer;

(b) The date of the meeting;

(c) Documentation of the participants included in the meeting;

(d) Documentation of the circumstances leading to the proposed transfer;

(e) Documentation of the alternatives considered instead of transfer;

(f) Documentation of the reason(s) any preferences of the individual, the individual's legal representative or family members cannot be honored;

(g) Documentation of majority agreement of the participants with the decision; and

(h) The written plan for services to the individual after transfer.

(8) Entry to Support Services.

(a) Referral. Referrals of eligible individuals to a Support Services Brokerage should be made in accordance with OAR 411-340-0110(2)(a-b). Referrals must be made using the Department mandated application and referral form in accordance with current Department guidelines.

(b) Eligibility. The CDDP of an individual's county of residence must find the individual eligible for services from a support services brokerage when:

(A) The individual is an Oregon resident who has been determined eligible for developmental disability services by the CDDP;

(B) The individual is an adult living in his or her own home or family home and not receiving other Department-paid in-home or community living support other than State Medicaid Plan services;

(C) The individual is not enrolled in Comprehensive Services;

(D) At the time of initial proposed enrollment in the Brokerage, the individual is not receiving short-term services from the Department because she or he is eligible for, and at imminent risk of, civil commitment under ORS Chapter 427; and

(E) The individual or the individual's legal representative has chosen to use a Support Service Brokerage for assistance with design and management of personal supports.

(c) Required information. The Services Coordinator will communicate with the support services brokerage staff and provide all relevant information upon request. At a minimum this must include:

(A) A current application or referral on the Department mandated application or referral form;

(B) A completed Title XIX Waiver form;

(C) A copy of the eligibility statement for developmental disability services;

(D) Copies of financial eligibility information;

(E) Copies of any legal documents such as guardianship papers, conservatorship, civil commitment status, probation and parole, etc.;

(F) Copies of relevant case notes; and

(G) A copy of any current plan(s).

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0120

Service Planning

(1) Principles for planning. These rules prescribe standards for the development and implementation of plans for individuals with developmental disabilities. As such, plans for individuals must be developed in a manner that address issues of independence, integration and productivity, enhance the quality of life of the person with developmental disabilities and are consistent with the following principles:

(a) Personal control and family participation. While the service system reflects the value of family member(s) participation in the planning process, adults have the right to make informed choices about the level of participation by family members. It is the intent of this rule to fully support

the provision of education about personal control and decision-making to individuals who are receiving services.

(b) Choice and preferences. The process is critical in determining the individual's and the family's preferences for services and supports. The preferences of the individual and family must serve to guide the team. The individual's active participation and input must be facilitated throughout the planning process.

(c) Barriers. The planning process is designed to identify the types of services and supports necessary to achieve the individual's and family's preferences, identify the barriers to providing those preferred services and develop strategies for reducing the barriers.

(d) Health and Safety. The process should also identify strategies to assist the individual in the exercise of his or her rights. This may create tensions between the freedom of choice and interventions necessary to protect the individual from harm. The ISP team must carefully nurture the individual's exercise of rights while being equally sensitive to protecting the individual's health and safety.

(e) Children in alternate living situations. When planning for children in 24-hour residential or foster care services, maintaining family connections is an important consideration. The following should apply:

(A) Unless contraindicated there should be a goal for family reunification;

(B) The number of moves or transfers should be kept to a minimum;

(C) If the placement is distant from the family the Services Coordinator should continue to seek a placement that would bring the child closer to the family.

(2) Responsibility for annual ISP, CFSP or annual summary. Individuals enrolled in Department funded services must have an annual ISP or CFSP. Plans will be developed, implemented and authorized as follows:

(a) Persons in foster care, 24-hour residential services and related employment or alternatives to employment services. A Services Coordinator or his or her qualified designee must attend and assure that an annual ISP meeting is held. The Services Coordinator or his or her qualified designee must participate in the development of the ISP for individuals enrolled in comprehensive services. ISP's for children in Department direct contracted children's 24 hour residential must be coordinated by Department staff.

(A) The Services Coordinator must ensure that the plan for persons in foster care or 24-hour residential services is developed and updated in accordance with current published state guidelines, tracks the plan timelines and coordinates the resolution of grievances and conflicts arising from ISP discussions.

(B) ISP Team. At a minimum the ISP team for an individual in services described in OAR 411-320-0120(2)(a)(A) above includes, the individual, the individual's guardian, representatives from the residential program, a representative from the employment or alternatives to employment program, if any, the Services Coordinator, any person requested by the individual and any treatment professional requested by the person or the team on behalf of the person.

(b) Supported living services. The Services Coordinator for an adult in supported living services and any associated employment or alternative to employment program must ensure the development of an annual individual support plan. The Services Coordinator must attend such ISP meetings and participate in the development of an ISP in conformance with the ISP content described in OAR 411-320-0120(3).

(c) Family support. The Services Coordinator will coordinate with the family or the legal guardian the development of the annual child and family service plan, (CFSP), for a child receiving child and family support services. The CFSP must be in accordance with OAR 411-305-0010 through 0180, (Child and Family Support Rule).

(d) Comprehensive in-home supports. The Services Coordinator must coordinate with the individual, his or her family or legal guardian, the development of the annual In-Home Support Plan for the individual enrolled in Comprehensive In-Home Supports in accordance with OAR 411-330-0050(3) or any successor rules.

(e) Support services for adults. The Support Specialist must review and authorize the ISP developed by the individual, his or her legal guardian and the personal agent, in accordance with OAR 411-340-0010 through 0180.

(f) Annual summary. For individuals not enrolled in any other Department funded developmental disability service the Services Coordinator must ensure the completion of an annual summary. The annual summary must be completed within 60 days of intake and annually there-

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after. The written summary must be documented in the individual's record as a CDDP plan or as a comprehensive case note and consist of:

- (A) A review of the individual's current living situation;
- (B) A review of any personal health, safety or behavioral concerns;
- (C) A summary of support needs of the individual; and
- (D) Actions to be taken by the Services Coordinator and others.

(3) Plan content. The Services Coordinator or Support Specialist, (as is appropriate), will ensure that individual plans or the annual summary conforms to the requirements of this rule.

(a) The Services Coordinator must ensure that a plan for an individual in Department funded comprehensive services is developed and documents a person centered process that identifies what is important to and for an individual, and also identifies the supports necessary to address issues of health, behavior, safety and financial supports. There must be documentation of an action plan or discussion record resulting from the team's discussion addressing issues of conflict between personal preferences and issues of health and safety.

(b) The Services Coordinator must ensure that a plan developed for a child in Department funded child and family support services conforms to requirements of OAR 411-305-0010 through 0180 rules for Child and Family Support Services.

(c) The Services Coordinator must ensure that an In-Home Support Plan conforms to the requirements describes in OAR 411-330-0050(3).

(d) The Support Specialist must receive a copy of the ISP developed for an individual enrolled in support services for adults that conforms to OAR 411-340-0120 rules for support services for adults.

(4) Plan authorization. The Services Coordinator or the Support Specialist must review and authorize plans for the expenditure of Department funds. The plan must be signed within 5 working days by the Services Coordinator or the support services specialist and be authorized using the following standards:

(a) The plan addresses the needs of the individual as defined in OAR 411-320-0120(3);

(b) The plan identifies type, amount, frequency, duration and provider of services;

(c) The plan is signed by the individual and his or her guardian, (if any), and other team members where applicable,

(d) Plans for individuals residing in foster care or residential care licensed by other licensing authorities may be authorized without using the state-mandated formats described in OAR 411-320-0120(5).

(5) Plan formats. The ISP, CFSP, or In-Home Support Plan developed at the annual or update meeting must be conducted in a manner specified by and on forms required by the Department. In the absence of a Department mandated form, the CDDP with the affected service providers may develop an ISP format that conforms to the licensing or certification service provider rule and provides for an integrated plan across the funded developmental disability service settings.

(6) Plan updates. Plans for individuals must be kept current.

(a) Services Coordinator responsibility. The Services Coordinator or the Department Residential Services Coordinator for Children in Department directed contracted 24-hr residential services must ensure that a current plan for individuals enrolled in comprehensive services, self-directed supports or in family support services for children is authorized in accordance with OAR 411-320-0120(4) and maintained.

(A) The plan must be kept in the individual's record.

(B) Plan updates must occur as required by this rule and any rules governing the operation of the service element.

(C) When there is a significant change the plan must be updated.

(b) Support Specialist responsibility. Anytime there is a significant change in the individual or his or her circumstances the plan must be updated by the personal agent. An updated plan must be submitted to the Support Specialist at the CDDP for authorization in conformance with OAR 411-320-0120 (4). The Support Specialist must maintain a copy of the current ISP for individuals enrolled in support services for adults.

(7) Team process in comprehensive services. Except in Comprehensive In-Home Supports or Child and Family Supports the following applies to ISPs developed for persons in comprehensive services:

(a) ISPs must be developed by an ISP Team. The ISP team assigns responsibility for obtaining or providing services to meet the identified needs.

(A) Membership on ISP teams must, at a minimum, conform to this rule and any relevant service provider rules.

(B) Unless refused by the adult, family participation should be encouraged.

(C) The individual may also suggest additional participants, friends or significant others.

(D) The individual may raise an objection to a particular person. When an individual raises objections to a person the team must attempt to accommodate the objection while allowing participation by agency representatives.

(b) Plans developed by an ISP Team must utilize a team approach and work toward consensus for a meaningful plan for the individual.

(A) No one member of the team has the authority to make decisions for the team except as agreed to on the ISP.

(B) When consensus cannot be achieved, majority agreement will prevail. For purposes of the team process and for the reaching majority agreement, representatives from each service provider agency, the family, the CDDP or advocacy agencies will be considered as one member.

(C) The individual or the individual's legal representative retains the right to consent to treatment and training or to note any specific areas of the plan that they object to and wish to file a grievance.

(D) The ISP Team members must keep the team informed whenever there are significant needs or changes, or there is a crisis or potential for a crisis. The Services Coordinator must be notified in all such instances.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0130

Monitoring of Services.

(1) Visits to residential provider sites. The CDDP will ensure that regular visits responding to Department questions are conducted at each child or adult foster home and each 24 hour residential program site licensed or certified by the Department to serve individuals with developmental disabilities. Visits will review areas of service and support to individuals with specific focus on areas addressing health, safety, behavior support or financial services to individuals.

(a) In January of each year the CDDP will establish a review schedule based on the number of individuals served in each home. Visits will be scheduled to occur as follows:

(A) Homes or sites licensed or certified for one or two individuals will be visited at least quarterly;

(B) Homes or sites licensed or certified for three or more individuals will be visited at least ten months each year.

(i) The CDDP will develop a procedure for the conduct of the visits to these homes; and

(ii) There should never be two consecutive months when a residential site is not visited.

(iii) In the months the home is not visited, the CDDP may conduct a visit to an employment site or attend a school IEP meeting as a substitute for an employment visit for children who are still in school.

(iv) If there are no Department funded individuals with developmental disabilities residing in the home, a visit by the CDDP is not required.

(b) When the service provider is a Department contracted and licensed 24 hour residential program for children or is child foster proctor agency and a Department children's residential Services Coordinator is assigned to monitor services the Department's residential Services Coordinator and CDDP staff shall coordinate who will visit the home. If the visit is made by Department staff, the staff will provide the results of the monitoring to the local Services Coordinator.

(c) The CDDP will document visits to the residential service and provide information concerning such visits to the Department upon request.

(2) Service delivery. The Services Coordinator must monitor the delivery of services individuals enrolled in case management services at least annually.

(a) Case Management Only. Every individual enrolled in case management services and not enrolled in any other funded developmental disability service must have at least an annual contact with a Services Coordinator. Whenever possible this contact will be made in person. If contact is not made in person the case note must document how contact was achieved. The Services Coordinator must document this contact in an annual summary in accordance with OAR 411-320-0120(1)(f). If the individual has any identified high-risk medical issue, including but not limited to, risk of death due to aspiration, seizures, constipation, dehydration, diabetes, or significant behavioral issues, the Services Coordinator will maintain contact in accordance with planned actions described in the annual summary. Any follow-up must be documented in case notes. The Services Coordinator may, to the extent resources are available, monitor the annual summary of other individuals.

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(b) Service monitoring. The Services Coordinator will monitor services for individuals enrolled in Department-funded comprehensive services or for children enrolled in Child and Family Support Services. For persons residing in 24-hour residential programs or foster care, this monitoring may be combined with the monthly visits as described in 411-320-0120(1) above. The Services Coordinator will determine if services are in accordance with the ISP or CFSP and take appropriate actions to ensure services.

(A) Content of a review. The review of plans for individuals must include the following:

(i) Consideration of any serious events and unusual incident reports and the results of any monthly monitoring visits conducted in residential programs;

(ii) A semi-annual review of the process by which an individual accesses and utilizes funds according to standards specified in OAR 411-325-0380, 24-hour residential services or 309-040-0052(4)(c), adult foster care. The Services Coordinator must report any misuse of funds to the CDDP and the Department. The Department will determine whether a referral to the Medicaid Fraud Control Unit is warranted;

(iii) Review of the ISP document to determine if the goals and objectives or actions to be taken by the provider, the Services Coordinator or others are implemented. This should include a discussion of the following

(I) Are services being provided as described in the plan document; and do they result in the achievement of the identified action plans;

(II) Are the personal, civil, and legal rights of the individual protected in accordance with this rule;

(III) Are the personal desires of the individual; the individual's legal representative or family addressed;

(IV) Do the services provided for in the plan continue to meet what is important to and for the individual;

(B) Frequency of ISP reviews. The frequency of the monitoring will be determined by the needs of the individual. At a minimum the results of the ISP for individuals enrolled in comprehensive services must be reviewed at least once within the first 6 months of the plan year and again in preparation for the annual ISP process. The frequency with which individuals presenting with serious health, safety or behavioral risks are monitored should be based on ISP team decisions and CDDP policy.

(C) In monitoring the plan, the Services Coordinator will document his or her findings and any resulting actions in the individual's CDDP record.

(3) Monitoring follow-up. The Services Coordinator and the CDDP are responsible for ensuring the appropriate follow-up to monitoring of services, except in the instance of children in a Department direct contract 24-hr residential service when a Department staff may conduct the follow-up.

(a) If the Services Coordinator determines that comprehensive services are not being delivered as agreed in the plan, or that an individual's service needs have changed since the last review, the Services Coordinator should initiate action to update the plan.

(b) If there are concerns regarding the service provider ability to provide services, the CDDP, in consultation with the Services Coordinator, will determine the need for technical assistance or other follow-up activities. This may include coordination or provision of technical assistance, referral to the DD program manager for consultation or corrective action, requesting assistance from the Department for licensing unit or other administrative support, or meetings with the provider executive director or board of directors. In addition to conducting abuse or other investigations as necessary, the CDDP must notify the Department when:

(A) A service provider demonstrates substantial failure to comply with any applicable licensing or certification rules for Department-funded programs;

(B) The CDDP finds a serious and current threat endangering to the health, safety or welfare of individuals in a program for which an immediate action by the Department is required; or

(C) Any individual receiving Department funded developmental disability services dies. Notification must be made to the Department's Medical Director or his or her designee within one working day of the death.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0140

Abuse Investigations and Protective Services

(1) General duties of the CDDP. For the purpose of conducting abuse investigations and provision of protective services for adults, the CDDP is

the designee of the Department. Each CDDP must conduct abuse investigations and provide protective services or arrange for the conduct of abuse investigations and the provision of protective services through cooperation and coordination with other CDDPs. If determined necessary or appropriate, the Department may conduct an investigation itself rather than allow the CDDP to investigate the alleged abuse. Under such circumstances, the CDDP must receive authorization from the Department before conducting a separate investigation.

(2) Eligibility for protective services. Unless otherwise directed by the Department, the CDDP must investigate allegations of abuse of individuals who are developmentally disabled and are:

(a) Eighteen years of age or older, and

(b) Receiving case management services, or

(c) Receiving any Department funded services for individuals with developmental disabilities.

(3) Abuse investigations. The CDDP must have and implement written protocols that describe the conduct of an investigation, a risk assessment, implementation of any actions and the report writing process. Investigations must be conducted in accordance with OAR 309-040-0200 through 309-040-0290.

(4) Coordination with other agencies. The CDDP must cooperate and coordinate investigations and protective services with other agencies that have authority to investigate allegations of abuse for adults or children.

(5) Initial complaints. Initial complaints must immediately be submitted electronically, using the Department's system for reporting serious events.

(6) Conflict of interest. The CDDP must develop and implement procedures to ensure a thorough and unbiased investigation that is timely and avoids actual or potential conflicts of interest where a Services Coordinator or CDDP employee may fall within the scope of the investigation or the perception of bias on the part of the investigator or CDDP.

(7) Notification. Upon the initiation of an investigation of an alleged abuse, the CDDP must assure the immediate notification of the individual and the individual's legal guardian or conservator. The parent, next of kin or other significant person may also be notified unless the individual requests the parent, next of kin or other significant person not be notified about the investigation or protective services, unless specifically prohibited by rule or statute.

(8) Reports. The Department or its designee must complete an abuse investigation and protective service report according to OAR 309-040-0260(1). Abuse investigations and protective service reports must be maintained by the CDDP. The sections of a report that are not exempt from disclosure under the public record's law or subject to confidentiality laws will be provided to any service provider organization involved in the allegation. The CDDP must ensure that any actions to prevent further abuse listed in the report are implemented within the deadlines listed.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0150

Specialized Services in a Nursing Home

Plan for specialized services in a nursing home. Individuals residing in nursing homes and determined to require specialized services as defined in OAR 411-070-0043 must have an annual plan for specialized services incorporated with the plan of care by the nursing home.

(1) The Services Coordinator must coordinate with the individual, his or her legal guardian, the staff of the nursing facility and other service providers, as appropriate, to provide or arrange the specialized services. The plan for specialized services must include:

(a) The name of the provider of services;

(b) A description of the specialized services to be provided;

(c) The number of hours of service per month;

(d) A description of how the services will be tracked; and

(e) A description of the process of communication between the specialized service provider and the nursing facility in the event of unusual incidents, illness, absence and emergencies.

(2) Review of plan. The Services Coordinator must complete an annual review of the plan for specialized services or when there has been a significant change in the individual's level of functioning. The review will conform to OAR 411-320-0130(2)(b).

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

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411-320-0160

Crisis/Diversion Services

(1) Crisis/Diversion services. The CDDP will, in conjunction with its regional partners, provide crisis/diversion services for adults who are at imminent risk for civil commitment to Department of Human Services, (DHS), under ORS 427, and for children with developmental disabilities who are at imminent risk of out-of-home placement.

(2) Crisis risk factors. An individual is in crisis when one or more of the following risk factors are present:

(a) An individual eligible for crisis services is not receiving necessary supports to address life-threatening safety skill deficits; or

(b) An individual eligible for crisis services is experiencing life-threatening health and safety issues resulting from complex behavioral or medical conditions; or

(c) An individual eligible for crisis services undergoes loss of caregiver due to caregiver illness or disability, or a protective service action that results in loss of home; or

(d) An individual eligible for crisis services presents the following significant safety risks to others in the home:

(A) Physical aggression toward vulnerable people; or

(B) Fire-setting behaviors; or

(C) Sexually aggressive behaviors; or

(D) An individual eligible for crisis services currently engages in self-injurious behavior serious enough to cause injury that requires professional medical attention.

(3) Eligibility for crisis/diversion services. The CDDP must ensure the determination of the eligibility of individuals to receive crisis services, and must ensure eligibility information is made available to support team members upon request, and to regional crisis programs upon each referral. An individual is eligible for crisis/diversion services when:

(a) An individual is court committed to the Department under ORS 427, or an adult with a Full Scale Intelligence Quotient (FSIQ) pattern of 75 or less with significant deficits in adaptive functioning due to mental retardation and is at imminent risk of civil court commitment to the Department under ORS 427; and

(b) With no alternative resources available; and

(c) For whom a crisis exists as defined in (2)(a)-(d) above; or

(d) A child with developmental disabilities who is at imminent risk of out of home placement; and

(e) With no alternative resources available; and

(f) For whom a crisis exists as defined in (2)(a)-(d) above.

(4) Funds for crisis services.

(a) Must not supplant existing funding.

(b) Purchased goods or services must only be those necessary to divert an adult from civil court commitment under ORS.427, or a child from out-of-home placement.

(c) Crisis services must only be used when no appropriate alternative resources are available to resolve the crisis situation. Funded residential program vacancies represent existing available and alternative resources.

(5) Allowable expenditures. Allowable short term Crisis Services include, but are not limited to:

(a) Professional consultation, assessment, or evaluation;

(b) Adaptive equipment;

(c) Respite care;

(d) Adaptations to the eligible individual's residence to increase accessibility or security;

(e) Short-term residential or vocational services; or

(f) Added staff supervision.

(g) Wages for direct care staff, respite providers and professional consultants must be paid within the current wage and rate guidelines published by the Department.

(6) Service limitations. The following must not be purchased with crisis services funds:

(a) Household appliances;

(b) Services covered under existing provider contracts with the CDDP or Department;

(c) Health care services covered by Medicaid, Medicare, or private medical insurance; and

(d) Services provided by the parent of a child, or the spouse of an adult.

(7) Service authorization. The CDDP or Regional Crisis Program must authorize the utilization of crisis services.

(a) To assure that Crisis services are utilized only when no appropriate alternative resources are available, the CDDP or the Regional Crisis Program must document the individual's eligibility for crisis services, the

alternative resources considered, and why those resources were not appropriate or available, prior to initiating any crisis services.

(b) For services that exceed \$3,000 per individual case, or 90 days duration, authorization must be made by the CDDP or the Regional Crisis Program, and must be documented, in writing, within the individual's case file; or

(c) For services that exceed \$5,000 for adaptation or alteration of fixed property, authorization must be made by the Department based upon the recommendation of the CDDP or the Regional Crisis Program.

(d) The Department may, at its discretion, exercise authority under ORS 427.300 to direct any court-committed mentally retarded person to the facility best able to treat and train the person. The Department must consult with any CDDP, the Regional Crisis Program or service provider affected by this decision, prior to placement of the individual or child.

(8) Administration of short term crisis services. The CDDP and the Regional Crisis Program must operate under policies and procedures that assure internal management control of expenditures. Policies and procedures must be written and include at least the following:

(a) Identification of persons or positions within the organization authorized to approve expenditures;

(b) Description of limits on those authorities and procedures for management reviews; and

(c) Description of procedures to disburse and account for funds.

(d) The CDDP or the Regional Crisis/Diversion Program must have the capacity to make service payments within 48 hours.

(9) Monitoring of short term crisis services.

(a) The CDDP must monitor the delivery of crisis services as specified in the crisis plan and the individual's plan of care. This should be done through contact with the individual, any service providers and the family. This must be documented in the individual's case file.

(b) The CDDP must coordinate with service providers or other support team members to evaluate the impact of crisis services upon the individual, and will ensure needed changes are recommended to the individual's support team.

(c) The Department may monitor crisis services through reports received pursuant to OAR 411-320-0160(10) and (11), Record Keeping and Reporting Procedures and OAR 411-320-0180, On-site Inspections.

(10) Record keeping and reporting procedures.

(a) The CDDP or the Regional Crisis Program must ensure the crisis plan is developed in partnership with the individual's support team, and the following written information is maintained within the crisis plan:

(A) Identifying information about the individual including name, address, age, and name of parent or guardian;

(B) Description of the circumstances for which crisis services were requested, to clearly specify how the individual is eligible to receive crisis services;

(C) Description of resources used or alternatives considered prior to the request for crisis funds, and why the resources or alternatives were not appropriate or were not available in meeting the individual's needs in addressing the crisis;

(D) Description of the goods and services requested to be purchased or provided specific to addressing the crisis, to include:

(i) The frequency of the provision or purchase of goods or services; and

(ii) The duration of the provision or purchase of goods or services; and

(iii) The costs of the goods or services to be provided or purchased.

(E) Description of the outcome to be achieved to resolve the crisis through the provision or purchase of the goods and services; and

(b) The CDDP must ensure the documentation of the support team approved modifications to the individual's plan of care, that outline how the crisis is to be addressed through the use of crisis services.

(c) The CDDP must maintain a current copy of the Title XIX waiver form, when the individual eligible for crisis services is receiving a Home and Community Based Waiver Services, or as otherwise instructed by the Department.

(11) Reporting requirements. The CDDP or Region must report, using the accepted Department reporting systems, the following information to the Department by the tenth working day the month following each month in which crisis services were provided:

(a) Individuals for whom crisis services were provided;

(b) Individual services provided; and

(c) Total cost by type of service.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

ADMINISTRATIVE RULES

411-320-0170

Complaints, Grievance and Appeals

(1) Complaint and grievance log. The CDDP will maintain a log of all complaints and grievances received regarding the CDDP or any subcontract agency providing services to individuals.

(a) The log must, at a minimum, include the following: the date the complaint or grievance was received, the person taking the complaint, the nature of the complaint or grievance, the name of the person making the complaint or grievance, if known; and the disposition of the complaint.

(b) CDDP personnel issues and allegations of abuse may be maintained separately from a central complaint and grievance log.

(2) Grievances. The CDDP must address all grievances by individuals or subcontractors in accordance with CDDP policies, procedures and these rules. Copies of the procedures for resolving grievances must be maintained on file at the CDDP offices. They must be available to county employees who work with individuals with developmental disabilities, individuals who are receiving services from the county and their families, their legal representatives, advocates, service providers and the Department.

(a) Subcontractor grievances. When a dispute exists between a CDDP and a subcontracted service provider regarding the terms of their contract or the interpretation of an administrative rule of the Department relating to developmental disability services, and local dispute resolution efforts have been unsuccessful, either party may request assistance from the Department in mediating the dispute.

(A) Procedure. The parties must demonstrate a spirit of cooperation, mutual respect, and good faith in all aspects of the mediation process. Mediation must be conducted as follows:

(i) Request. The party requesting mediation must send a written request to the Administrator or designee, the CDDP program director, and the provider agency director, unless other persons are named as official contact persons in the specific rule or contract under dispute. The request must describe the nature of the dispute and identify the specific rule or contract provisions that are central to the dispute.

(ii) Arrangements. Department staff must arrange the first meeting of the parties at the earliest possible date. The agenda for the first meeting should include:

(I) Consideration of the need for services of an outside mediator. If the services of an unbiased mediator are desired, agreement should be made on arrangements for obtaining these services.

(II) Development of rules and procedures that will be followed by all parties during the mediation;

(III) Agreement on a date by which mediation will be completed, unless extended by mutual agreement.

(iii) Cost. Unless otherwise agreed to by all parties:

(I) Each party will be responsible for the compensation and expenses of their own employees and representatives; and

(II) Costs that benefit the group, such as services of a mediator, rental of meeting space, purchase of snack food and beverage, etc. will be shared equally by all parties.

(B) Final report. A written statement documenting the outcome of the mediation must be prepared. This statement must consist of a brief written statement signed by all parties or separate statements from each party declaring their position on the dispute at the conclusion of the mediation process. In the absence of written statements from other parties, the Department will prepare the final report. A final report on each mediation must be retained on file at the Department.

(b) Contract not substantially similar. A service provider may appeal the imposition of a disputed term or condition in the contract if the service provider believes that the contract offered by the CDDP contains terms or conditions that are not substantially similar to those established by the Department in its model contract. The service provider's appeal of the imposition of the disputed terms or conditions must be in writing and sent to the Administrator or designee within 30 calendar days after the effective date of the contract requirement.

(A) A copy of notice of appeal must be sent to the CDDP. The notice of appeal must include:

(i) A copy of the contract and any pertinent contract amendments;

(ii) Identification of the specific term(s) that are in dispute; and

(iii) A complete written explanation of the dissimilarity between terms.

(B) Upon receipt of this notice, the CDDP will suspend enforcement of compliance with any contract requirement under appeal by the contractor until the appeal process is concluded.

(C) Process. The Administrator or designee, must offer to mediate a solution in accordance with the procedure outlined in OAR 411-320-0170 (2)(a) (A) and (B).

(i) If a solution cannot be mediated, the Administrator for or designee will declare an impasse through written notification to all parties and immediately appoint a panel to consider arguments from both parties. The panel must include at a minimum:

(I) A representative from the Department,

(II) A representative from another CDDP, and

(III) A representative from another service provider organization.

(ii) The panel must meet with the parties, consider their respective arguments and send written recommendations to the Administrator within 45 business days after an impasse is declared, unless the Administrator grants an extension.

(iii) If an appeal requiring panel consideration has been received from more than one contractor, the Department may organize materials and discussion in any manner it deems necessary, including combining appeals from multiple contractors, to assist the panel in understanding the issues and operating efficiently.

(iv) The Administrator or designee must notify all parties of his or her decision within 15 business days after receipt of the panel's recommendations. The decision of the Department is final. The CDDP must take immediate action to amend contracts as needed to comply with the decision.

(v) Notwithstanding OAR 411-320-0170(2)(b)(C)(i-iv) listed above, the Administrator has the right to deny the appeal or a portion of the appeal if, upon receipt and review of the notice of appeal, the Administrator or his or her designee finds that the contract language being contested is identical to the current language in the county financial assistance agreement with the Department.

(D) Expedited appeal process. The CDDP or the contractor may request an expedited appeal process that provides a temporary resolution if it can be shown that the time needed to follow procedures to reach a final resolution would cause imminent risk of serious harm to individuals or organizations.

(i) The request must be made in writing to the Administrator or designee. It must describe the potential harm and level of risk that will be incurred by following the appeal process.

(ii) SPD must notify all parties of its decision to approve an expedited appeal process within two business days.

(iii) If an expedited process is approved, the Department's designee must notify all parties of his or her decision concerning the dispute within three additional business days. The decision resulting from an expedited appeal process will be binding, but temporary, pending completion of the appeal process. All parties must act according to the temporary decision until notified of a final decision.

(c) Grievances by or on behalf of individuals. An Individual, his or her guardian or other legal representative, a family member, or advocate may file a grievance with the CDDP under the following conditions:

(A) Informal procedures. Grievances or appeals submitted to the CDDP may be resolved at any time through the use of informal procedures such as meetings or mediation. However, the person submitting the grievance or appeal may elect not to use informal procedures. Any agreement to resolve the grievance or appeal must be reduced to writing and must be specifically approved by the grievant or appellant. The grievant or appellant must be provided with a copy of such agreement.

(B) Eligibility grievance. A grievance of a denial of an initial determination of eligibility for developmental disability services or an eligibility redetermination must be submitted to the CDDP, in writing, within 30 days of receipt of notice of the eligibility determination required in OAR 411-320-0080. The CDDP, upon request, must assist individuals requiring assistance in preparing a written grievance.

(i) CDDP review of grievance. When a grievance includes new information relative to making an eligibility determination, the CDDP has up to 30 days from the date received to review their original decision of denial, consider the new eligibility documentation, respond to the grievant in writing with a decision and if necessary to forward it for an administrative review. If there is no new information submitted with the grievance the CDDP must refer the grievance to the Diagnosis and Evaluation Coordinator within 5 working days from the receipt of the grievance.

(ii) Extension of process. The process described in 0170 (2)(c)(B)(i) can be extended by mutual agreement between the parties. A written confirmation of the agreement to extend the time for resolution shall be sent to the grievant.

(iii) Administrative review. Within 30 days of receipt of the grievance, the Diagnosis and Evaluation Coordinator must, based upon a review of the

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documentation used to deny eligibility, inform the grievant and the CDDP in writing of his or her decision regarding eligibility. The notice must state the reasons for the decision.

(iv) Decision by the D&E Coordinator. If the Diagnosis and Evaluation Coordinator's decision upholds the CDDP denial of eligibility and if resolutions have not been reached, the individual, his or her family member, legal representative, or advocate may petition the Department for a review by the Department's Eligibility Grievance Review Committee within 15 days of receipt of the notice from the D&E Coordinator.

(v) Department eligibility grievance review committee. The Administrator or designee will appoint a grievance review committee to review all grievances of eligibility determinations that fail to be resolved at the local level or by the D & E Coordinator.

(I) The committee must be composed of at least a Department representative, a local service provider program representative and a county case management representative. The Administrator shall appoint the Committee and name the Chairperson.

(II) In case of a conflict of interest the Administrator will temporarily appoint an alternative representative to the committee.

(vi) Upon receipt of the request for formal review the Department must:

(I) Schedule a grievance committee review meeting within 30 days of written request by the requesting party for a formal review of the decision;

(II) Notify in writing, each party involved in the disagreement of the date, time and location of the committee review meeting, allowing at least 15 days from the meeting notification to the scheduled meeting time; and

(III) Record the review committee meeting.

(vii) Individual rights. The Grievance Review Committee must afford individuals the following rights:

(I) The opportunity to review documents and other evidence relied upon in reaching the decision being appealed;

(II) The opportunity to be heard in person and to be represented; and

(III) The opportunity to present witnesses or documents to support their position and to question witnesses presented by other parties.

(viii) Within 15 days after the conclusion of the meeting, the grievance review committee must provide written recommendations to the Administrator.

(ix) The Administrator must make a decision and send written notification of the recommendations and implementation process to all grievance review meeting participants within 15 days of receipt of the recommendations.

(x) The decision of the Administrator is final. Any further review is pursuant to the provisions of ORS 183.484 for judicial review to the Marion County Circuit Court.

(C) Dispute with service provider or CDDP services. A grievance may be filed regarding an inability to resolve a dispute concerning the appropriateness of services described in the service plan provided by a CDDP sub-contractor or regarding dissatisfaction with services provided by the CDDP.

(i) The CDDP must follow its policies and procedures regarding receipt and resolution of a grievance.

(ii) The CMHDDP Director or his or her designee must provide to the grievant or appellant a written decision regarding the grievance or appeal within 30 days of receipt of the grievance or appeal.

(I) The written decision regarding the grievance or appeal must contain the rationale for the decision, and must list the reports, documents, or other information relied upon in making the decision.

(II) Along with the written decision, the grievant must also be provided a notice that the documents relied upon in making the decision may be reviewed by the individual or the person who filed the grievance or appeal; and

(III) Be provided a notice that the grievant has the right to request a review of the decision by the Department. Such notice, must be written in clear, simple language and at a minimum explain how and when to request such a review and when a final decision must be rendered by the Administrator.

(iii) Department review. Following a decision by the CMHDDP Director or his or her designee regarding a grievance or appeal, the grievant may request a review by the Administrator.

(I) The grievant or appellant must submit a request for review within 15 days from the date of the decision by the CMHDDP Director or his or her designee.

(II) The Administrator or his or her designee must complete a review and provide a written decision to the grievant or appellant within 45 days of receipt of the request for review. The written decision must contain the rationale for the decision.

(III) The decision of the Administrator or his or her designee is final. Any further review is pursuant to the provisions of ORS 183.484 for judicial review to the Marion County Circuit Court.

(3) Appeals. Individuals, their guardian, or legal representative may appeal specific decisions by the CDDP, a service provider or a state training center as follows:

(a) Residential. Appeals of entry, exit or transfer decisions within residential services may only be initiated according to the "24-Hour Residential Services" (OAR 411-325-0010 to 0480) and the "Supported Living (OAR 309-041-0550) rules or any successor rules as they may be revised from time to time;

(b) Employment. Appeals of entry, exit or transfer decisions within employment services or community inclusion services may only be initiated according to the "Employment and Alternatives to Employment Services" (OAR 411-345-0150) rule or any successor rules as they may be revised from time to time;

(c) Medicaid. Appeals of Medicaid eligibility decisions may only be initiated according to the "Fair Hearings", (OAR 410-120-0760 to 410-120-1060, Medical Assistance Programs), rule or any successor rules as they may be revised from time to time; and

(d) Eastern Oregon Training Center. Appeals of State Training Center decisions may only be initiated according to OAR 309-118-0000, Grievance Procedure for Use in State Institutions or any successor rules as they may be revised from time to time.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0190

Program Review and Certification

(1) Department review of CDDP. The Department may review the CDDP implementation of these rules as provided for in OAR 411-320-0180.

(2) Certificate of compliance. If, following a Department review, the CDDP is in substantial compliance with these rules the Department will issue a Certificate of Compliance to the CDDP.

(3) Department follow-up. If, following a review, the CDDP or case management provider is not in substantial compliance with these rules the Department may offer technical assistance or request corrective action. The CDDP will perform the necessary corrective measures required by and in the time specified by the Department. The Department may conduct such reviews as necessary to insure corrective action has been achieved.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

411-320-0200

Variations

(1) Criteria for a variance. Variances that do not jeopardize individuals' health or safety may be granted to a CDDP if there is a lack of resources to meet the standards required in this rule and the alternative services, methods, concepts or procedures proposed would result in services or systems that meet or exceed the standards. All variances must be submitted to and approved by the Department prior to implementation.

(2) Variance application. The CDDP requesting a variance must submit, in writing, an application to the Department that contains the following:

(a) The section of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) A description of the alternative practice, service, method, concept or procedure proposed, including how the health and safety of individuals receiving services will be protected to the extent required by these rules;

(d) A plan and timetable for compliance with the section of the rule from which the variance is sought; and

(e) Signed documentation from the CDDP reflecting the justification for the proposed variance.

(3) Department review. The Administrator must approve or deny the request for a variance.

(4) Notification. The Department will notify the CDDP of the decision. This notice must be given to the CDDP within forty-five (45) days of the receipt of the request by the CPPD.

(5) Appeal of variance denial. Appeal of the denial of a variance request must be made in writing to the Administrator whose decision is final.

(6) Written approval. The CDDP may implement a variance only after written approval from the Department. The Intergovernmental Agreement is amended to the extent that the variance changes a term in that agreement.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 430.610 -430.670, 427.005 - 427.007

Hist.: SPD 24-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 28-2004, f. & cert. ef. 8-3-04

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Adm. Order No.: SPD 29-2004(Temp)

Filed with Sec. of State: 8-6-2004

Certified to be Effective: 8-6-04 thru 1-3-05

Notice Publication Date:

Rules Amended: 411-015-0015, 411-015-0100

Subject: Chapter 411, Division 015, rules 411-015, 0015 and 0100 are being temporarily amended to include services to those clients who are determined eligible for GA. The GA program provides cash assistance to individuals with severe physical or mental impairments who are waiting for their Supplemental Security Income (SSI) benefits to be approved by the Social Security Administration (SSA).

These rules were temporarily amended in November 2003, to reinstate General Assistance (GA) clients who met limitations as defined in 411-015-0015, however, when the rule was permanently amended in April, 2004, GA clients were inadvertently omitted from the text in 0015 and were referred to as clients eligible for GAM, rather than GA, in rule 0100. Amending the Division 015 Temporary rule that is currently effective will allow for ongoing services to clients who are eligible for these services and can be permanently incorporated when the rule is made permanent.

Rules Coordinator: Lynda Dyer—(503) 945-6398

411-015-0015

Current Limitations

The Department has the authority to establish by Administrative Rule the priority level within which to manage its limited resources. The Department is currently able to serve:

(1) Persons determined eligible for OSIPM, GA or TANF and are assessed as meeting at least one of the priority levels (1) through (13) as defined in OAR 411-015-0010.

(2) Persons eligible for Oregon Project Independence funded services if they meet at least one of the priority levels (1) through (18) of OAR 411-015-0010.

(3) Persons needing Risk Intervention Services in areas designated to provide such services. Persons with the greatest priority under OAR 411-015-0010 will be served first.

(4)(a) Persons sixty-five years of age or older determined eligible for Developmental Disability services or having a primary diagnosis of mental illness are eligible for nursing facility and community based care services if they meet Sections (1), (2), or (3) of this rule and are not in need of specialized mental health treatment services or other specialized Department residential program intervention as identified through the PASARR or mental health assessment process.

(b) Persons under sixty-five years of age determined eligible for developmental disability services or having a primary diagnosis of mental illness are not eligible for Department nursing facility services unless determined appropriate through the PASARR process.

(c) Persons under sixty-five years of age determined to be eligible for developmental disabilities services or having a primary diagnosis and primary need for service due to mental illness are not eligible for Title XIX Home and Community Based Care Waivered Services paid for under the Department's 1915C Waiver for seniors and people with physical disabilities.

(5) Title XIX Home and Community Based Care Waivered Services paid for under the Department's 1915 (c) Waiver are not intended to replace the resources available to a client from their natural support system of relatives, friends, and neighbors. Services may be authorized only when the natural support system is unavailable, insufficient or inadequate to meet the needs of the client. Clients with excess income shall contribute to the cost of care pursuant to OAR 461-160-0610 and 461-160-0620.

Stat. Auth.: ORS 410.060, 410.070 & ORS 411

Stats. Implemented: ORS 410.070

Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 5-1986, f. & ef. 4-14-86; SSD 9-1986, f. & ef. 7-1-86; SSD 12-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 12-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 21-1991, f. 12-31-91, cert. ef. 1-1-92; Renumbered from former 411-015-0000(4); SSD 1-1993, f. 3-19-93, cert. ef. 4-1-93; SDSD 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 1-2003(Temp), f. 1-7-03, cert. ef. 2-1-03 thru 6-3-03; SDP 3-2003(Temp), f. 2-14-03, cert. ef. 2-18-03 thru 6-3-03; SPD 5-2003(Temp), f. & cert. ef. 3-12-03 thru 6-3-03; SPD 6-2003(Temp), f. & cert. ef. 3-20-03 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03; SPD 16-2003(Temp), f. & cert. ef. 10-27-03 thru 4-23-04; SPD 5-2004(Temp), f. & cert. ef. 3-23-04 thru 4-27-04; SPD 8-2004, f. & cert. ef. 4-27-04; SPD 20-2004(Temp), f. & cert. ef. 7-7-04; SPD 29-2004(Temp), f. & cert. ef. 8-6-04 thru 1-3-05

411-015-0100

Eligibility for Nursing Facility or Community-Based Care Services

To be eligible for nursing facility services, Community-based care waiver services for aged and physically disabled, Independent Choices, Spousal Pay, or the Program of All-inclusive Care for the Elderly (PACE), a person must:

(a) Be age 18 or older; and

(b) Be eligible for OSIPM, GA or TANF; and meet the functional impairment level within the service priority levels currently served by Seniors and People with Disabilities as outlined in OAR 411-015-0000 and the requirements in OAR 411-015-0015; or

(d) To be eligible to have services paid through the State Spousal Pay Program, the person must meet requirements as listed above in (a), (b), (c), and in addition, the requirements in OAR 411-030-0080.

(2) Persons who are age 17 or younger and reside in a nursing facility are eligible for nursing facility services only. They are not eligible to receive community-based care waiver services, including Spousal Pay or Independent Choices program services.

Stat. Auth.: ORS 410 & 414.065

Stats. Implemented: ORS 410.070

Hist.: SSD 7-1991(Temp), f. & cert. ef. 4-1-91; SSD 13-1991, f. 6-28-91, cert. ef. 7-1-91; SDSD 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 1-2003(Temp), f. 1-7-03, cert. ef. 2-1-03 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03; SPD 17-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SPD 8-2004, f. & cert. ef. 4-27-04; SPD 29-2004(Temp), f. & cert. ef. 8-6-04 thru 1-3-05

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

Adm. Order No.: VRS 5-2004

Filed with Sec. of State: 8-5-2004

Certified to be Effective: 8-5-04

Notice Publication Date: 7-1-04

Rules Adopted: 582-001-0010, 582-010-0021, 582-010-0022, 582-020-0085, 582-050-0005, 582-085-0004, 582-085-0005

Rules Amended: 582-001-0001, 582-001-0003, 582-001-0005, 582-010-0010, 582-010-0020, 582-010-0025, 582-010-0030, 582-020-0015, 582-020-0030, 582-020-0110, 582-030-0030, 582-030-0040, 582-050-0000, 582-050-0010, 582-050-0020, 582-050-0050, 582-050-0060, 582-060-0010, 582-060-0020, 582-070-0010, 582-070-0020, 582-070-0025, 582-070-0030, 582-070-0040, 582-070-0041, 582-070-0042, 582-070-0043, 582-070-0044, 582-075-0010, 582-075-0020, 582-075-0030, 582-075-0040, 582-080-0010, 582-080-0020, 582-080-0030, 582-080-0040, 582-090-0010, 582-100-0040

Rules Repealed: 582-050-0030, 582-050-0040, 582-070-0005, 582-085-0010, 582-085-0020, 582-085-0040, 582-085-0050, 582-100-0010, 582-100-0020, 582-100-0030

Subject: 1. References to disability determination and independent living services are removed from Chapter 582, except that rules specific to independent living funds are established in Division 85.

2. References to policies and manuals are removed or updated throughout Chapter 582.

3. References to statutes, regulations, administrative rules, employee job classifications, and program names are removed or updated throughout Chapter 582.

4. Rules are amended to make grammatical changes and improvements, remove unintended ambiguity, and incorporate current terminology under the federal regulations.

5. OAR 582-001-0001: Incorporates statutory exceptions to rule amendment notice requirements for technical changes (spelling, grammatical mistakes, statute numbers) and amended filings, and updates the notice timeline consistent with state statute.

6. OAR 582-001-0005 is amended to clarify the relationship among state statutes, the OVRS State Plan, Chapter 582, and the Uniform and Model Rules of Procedure of the Attorney General. The incorporation of the 1997 Model Rules is deleted. Ten of the 2004 Model and Uniform Rules of the Attorney General are adopted: 137-001-0030 (Conduct of Rulemaking Hearings), 137-001-0040 (Rule-making Record), 137-001-0080 (Temporary Rulemaking Requirements), 137-003-0040 (Conducting Contested Case Hearing), 137-003-0045 (Telephone Hearings), 137-003-0050 (Evidentiary

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Rules), 137-003-0055 (Ex Parte Communications), 137-003-0615 (Judicial Notice and Official Notice of Facts), 137-004-0010 (Unacceptable Conduct), and 137-004-0800 (Public Records Exemption for Home Address).

7. Adds OAR 582-001-0010 adding definitions that apply throughout Chapter 582. Where these same terms are defined elsewhere in Chapter 582 (OAR 582-010-0010, 582-070-0005) the definition in the other division is removed. Definitions are updated for consistency with 34 CFR 361. The following terms are defined: Act; Administrator, Applicant, Assessment for determining eligibility and vocational rehabilitation needs, Assistive technology device, Assistive technology service, CFR, Client Assistance Program or CAP, Client's Representative, Community Rehabilitation Program or CRP, Comparable services and benefits, Competitive employment, DHS, Eligible individual, Employment outcome, Extended employment, Extended services, Extreme medical risk, Family member, Impartial hearing officer, Integrated setting, Maintenance, Mediation, OAR, Ongoing support services, ORS, OVRS, Parent or Guardian, Personal assistance services, Physical and mental restoration services, Physical or mental impairment, Post-employment services, Provider of community rehabilitation services, Qualified and impartial mediator, Rehabilitation engineering, Rehabilitation technology, State plan, Substantial impediment to employment, Supported employment, Supported employment services, Transition services, Transitional employment, Transportation, Vocational rehabilitation services.

8. OAR 582-010-0020 is split into three rules (adding new rules 582-010-0021 and 582-010-0022) for ease of reading and clarification of which rules apply to which vendors. OAR 582-010-0020 is amended to indicate that the CRP Coordinator may exempt an employer from the rules in Division 582-010 for services provided to a specific client that are not services for which the employer would be reimbursed on a routine basis.

9. OAR 582-010-0021 clarifies that OVRS is not requiring criminal history checks of certain listed vendor categories (that are regulated by other agencies). The rule also expressly allows providers of child care who are not eligible to apply for registration with the Child Care Division of the Employment Department to be placed on the Approved Vendor List if they successfully complete a Criminal History Check from either DHS or the Child Care Division of the Employment Department. The rule allows providers of personal assistance services who are not qualified or certified providers for this service under Chapter 411 of the Oregon Administrative Rules to be placed on the Approved Vendor List if they successfully complete a DHS Criminal History Check. Providers of child care and providers of personal assistance services who are required by this rule to satisfy criminal history check requirements are also required to comply with criminal history check requirements with respect to each new employee or volunteer providing services to an OVRS client.

10. OAR 582-010-0022, 582-010-0025(8), and 582-080-0020(6) add explicit requirements that the following vendor categories comply with criminal history checks (unless these vendors are licensed by a state or federal agency other than OVRS and acting within the scope of their license): Assessment for determining eligibility and vocational needs, including technicians for assessment tests (and excluding assessments by prospective employers of the client); Job development, placement, and retention services; Orientation and mobility services; Extended employment; Supported employment services and extended services; Services to family members (excluding child care) when necessary to the vocational rehabilitation of the individual; vendors who provide training, write resumes, consult on self-employment plans, assist with a self-employed business or write PASS plans (excluding those with no in-person client contact); tutors; and peer mentors. In addition, within these vendor categories, all employees and volunteers providing services to OVRS clients will be subject to criminal records checks. This requirement is applicable at the time of application or re-application (approvals

for the vendor list have a two-year duration). OAR 582-010-0020 is amended to indicate that a provider of community rehabilitation services and any another vendor required under Chapter 582 of the Oregon Administrative Rules to clear a DHS Criminal History Check may be placed temporarily on the Approved Vendor List by the CRP Coordinator if the circumstances justify a temporary approval, and that the temporary approval may be terminated by OVRS at any time and shall expire automatically once DHS completes the criminal history check process.

11. OAR 582-010-0025 is amended to add the requirement that Category B providers fully inform OVRS clients of the purpose and results of all service delivery efforts made on their behalf; and be respectful, inclusive, and accommodating of OVRS clients regardless of disability.

12. OAR 582-010-0030 is amended to add that engaging in any behavior or comments likely to cause public embarrassment to OVRS clients is grounds for suspension or removal from the Approved Vendor List.

13. OAR 582-020-0015 is amended to allow a mediation agreement the option of stating that the agreement will not become part of the casefile record.

14. OAR 582-020-0030 is amended to allow a client the option of withdrawing a hearing request by orally notifying the Impartial Hearing Officer if the Hearing Officer confirms the withdrawal with a written dismissal.

15. OAR 582-020-0085 is added to establish a presumption that a prehearing conference will take place and describe the issues that may be covered.

16. OAR 582-020-0110 is amended to explicitly authorize an Impartial Hearing Officer to dismiss an abandoned request for hearing and to define that term. It is also amended to explicitly authorize a dismissal when the client withdraws a request for hearing either orally or in writing.

17. OAR 582-030-0030(1) is amended to clarify that the restriction on client access to records is not limited to records from public agencies.

18. Throughout Chapter 582, references to "severe" and "most severe" disabilities are changed to "significant" and "most significant" disabilities consistent with current terminology under federal law.

19. Several rules are amended, OAR 582-050-0030 and 582-050-0040 are deleted, and OAR 582-050-0005 is added to make Chapter 582 consistent with current federal regulations on eligibility determinations, presumed eligibility, trial work experiences, and extended evaluations.

20. OAR 582-060-0020 is amended to be consistent with current federal regulations on the termination of successful clients.

21. OAR 582-070-0020 and 582-070-0030 are amended to be consistent with federal requirements for paying maintenance expenses.

22. OAR 582-070-0020 is amended to clarify that OVRS does not pay for personal care assistance if the client is entitled to payment from another source.

23. OAR 582-070-0025 on vehicle purchases and modifications is amended to improve its internal consistency.

24. OAR 582-070-0030 is amended to clarify that a prescription is one of the requirements for OVRS to support drug expenses if controlled substances are involved.

25. OAR 582-070-0030 is amended to remove the requirement that an independent consultant authorize psychotherapy services, but permitting OVRS to restrict services to those a consultant recommends.

26. OAR 582-070-0030 is amended to be consistent with current federal requirements on funding of physical and mental restoration services.

27. OAR 582-070-0040 is amended to clarify that if a client is closed as other than rehabilitated, or if tools, supplies, equipment, vehicles, etc., funded by OVRS are not needed while a client is receiving plan services or not needed for a client employed at the

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time of a successful closure, any such non-prescription property is subject to repossession by OVRs.

28. Several rules are amended to delete references to “consumers” and make references to “clients” consistent throughout Chapter 582.

29. OAR 582-075-0030 is amended to clarify that a supplier of records is not entitled to any payments if the supplier fails to provide the records requested within a specific deadline identified in the letter requesting the records, and OVRs is not able to make use of the records as a result.

30. Four rules in Division 85 on Medical Services Vendor Selection Policies are deleted and their text is merged into Division 80 Vendor Selection Policies. OAR 582-080-0000 is amended to clarify vendor selection policies.

31. OAR 582-090-0010 is amended to clarify that there is no mandate for OVRs to provide non-employment certifications to individuals who are not clients.

32. OAR 582-100-0010, 582-100-0020, 582-100-0030 are deleted as unnecessary.

33. OAR 582-100-0040 is amended to clarify, consistent with federal law, that the administrative rules establishing priority for an Order of Selection are superseded by federal law and the OVRs State Plan if there is a conflict.

Rules Coordinator: Robert Trachtenberg—(503) 945-6734

582-001-0001

Notice of Proposed Rule

Except for permanent rule changes allowed under ORS 183.335(7) (some technical changes) or 183.335(12) (amended filings), prior to the adoption, amendment, or repeal of any permanent rule, the Office of Vocational Rehabilitation Services (OVRs) shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State’s Bulletin at least twenty-one (21) days prior to the effective date.

(2) By mailing a copy of the notice to persons on the OVRs mailing list of interested persons for administrative rule changes.

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

- (a) Capitol Press Room and Associated Press;
- (b) President, Oregon Chapter National Rehabilitation Association;
- (c) Chair, State Rehabilitation Council;
- (d) Executive Director, Oregon Rehabilitation Association;
- (e) Director, Client Assistance Program of the Oregon Disabilities Commission;

(f) Director, Oregon Disabilities Commission; and

(g) Legislators per ORS 183.335(15) at least 49 days before the effective date.

(4) Notices mailed under OAR 582-001-0001(2) and (3)(a)-(f) shall be sent at least 28 days before the effective date.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented: ORS 183.335, ORS 183.341 & ORS 344.530(2)

Hist.: [VRD 19, f. & ef. 11-10-75; VRD 1-1990, f. & cert. ef. 11-26-90; VRD 2-1993, f. & cert. ef. 9-15-93]; VRD 2-1993, f. & cert. ef. 9-15-93; VRD 5-1997, f. & cert. ef. 11-21-97; Renumbered from 582-001-0000; VRS 5-2004, f. & cert. ef. 8-5-04

582-001-0003

Purpose for Adoption of Procedural Rules

Adoption provides for a standard procedure to be used in all matters relating to the Administrative Procedures Act, state statutes and administrative rules about vocational rehabilitation services, the federal Rehabilitation Act of 1973, as amended, the federal regulations implementing the Rehabilitation Act, and the State Plan.

Stat. Auth.: ORS 183 & ORS 344

Stats. Implemented: ORS 183.325 - 183.410, 183.413 - 183.470, 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 25, f. & ef. 9-28-76; VRD 1-1990, f. & cert. ef. 11-26-90; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04

582-001-0005

General Procedures

The Office of Vocational Rehabilitation Services hereby adopts the following Rules from the 2004 Uniform and Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon: 137-001-0030 (Conduct of Rulemaking Hearings), 137-001-0040 (Rulemaking Record), 137-001-0080 (Temporary Rulemaking Requirements), 137-003-0040 (Conducting Contested Case Hearing), 137-003-0045 (Telephone Hearings), 137-003-0050 (Evidentiary Rules), 137-003-0055 (Ex Parte

Communications), 137-003-0615 (Judicial Notice and Official Notice of Facts), 137-004-0010 (Unacceptable Conduct), and 137-004-0800 (Public Records Exemption for Home Address). These Model Rules shall apply to issues not addressed by the federal Rehabilitation Act of 1973, as amended (29 U.S.C. 701 et seq.), and the implementing federal regulations, state statutes, State Plan, and OVRs administrative rules in Chapter 582.

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

Stat. Auth.: ORS 344.530(2)

Stats. Implemented: ORS 183.335, 183.341 & 344.530(2)

Hist.: VRD 14, f. 10-30-73, ef. 11-25-73; VRD 25, f. & ef. 9-29-76; VRD 4-1978, f. 3-14-78, ef. 3-15-78; VRD 1-1980, f. & ef. 2-25-80; VRD 6-1981, f. & ef. 12-8-81; VRD 1-1990, f. & cert. ef. 11-26-90; VRD 2-1993, f. & cert. ef. 9-15-93; VRD 5-1997, f. & cert. ef. 11-21-97; VRS 5-2004, f. & cert. ef. 8-5-04

582-001-0010

Definitions for Chapter 582

The following definitions apply to each Division in Chapter 582 of the Oregon Administrative Rules unless otherwise indicated:

(1) “Act” refers to the federal Rehabilitation Act of 1973, as amended (29 U.S.C. 701 et seq.).

(2) “Administrator” refers to the Administrator of the Office of Vocational Rehabilitation Services.

(3) “Applicant” refers to an individual who submits an application for vocational rehabilitation services in accordance with 34 CFR 361.41(b)(2).

(4) “Assessment for determining eligibility and vocational rehabilitation needs” refers to, as appropriate in each case--

(a) A review of existing data to determine if an individual is eligible for vocational rehabilitation services; and to assign priority for an order of selection if in effect; and

(b) To the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make the eligibility determination and assignment;

(c) To the extent additional data are necessary to make a determination of the employment outcomes and the nature and scope of vocational rehabilitation services to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual. This comprehensive assessment:

(A) Is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan of employment of the eligible individual;

(B) Uses as a primary source of information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements: Existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection for the individual; and Information that can be provided by the individual and, if appropriate, by the family of the individual;

(C) May include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual; and

(D) May include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

(d) Referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

(e) An exploration of the individual’s abilities, capabilities, and capacity to perform in work situations, which must be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

(5) “Assistive technology device” refers to any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability.

(6) “Assistive technology service” refers to any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device, including:

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(a) The evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in his or her customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition by an individual with a disability of an assistive technology device;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for an individual with a disability or, if appropriate, the family members, guardians, advocates, or authorized representatives of the individual; and

(f) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with a disability.

(7) "CFR" refers to the Code of Federal Regulations.

(8) "Client Assistance Program" or "CAP" refers to a federally-funded program authorized under **34 CFR 370** that is independent of OVRS and whose purpose is to provide information, advocacy, and legal representation to individuals seeking OVRS services.

(9) "Client's Representative" refers to any person identified by the client as being authorized to speak or act on behalf of the client or to assist the client in any matter pertaining to services of OVRS, unless a representative has been appointed by a court to represent the client, in which case the court-appointed representative is the client's representative.

(10) "Community Rehabilitation Program" or "CRP" refers to:

(a) A program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

(A) Medical, psychiatric, psychological, social, and vocational services that are provided under one management.

(B) Testing, fitting, or training in the use of prosthetic and orthotic devices.

(C) Recreational therapy.

(D) Physical and occupational therapy.

(E) Speech, language, and hearing therapy.

(F) Psychiatric, psychological, and social services, including positive behavior management.

(G) Assessment for determining eligibility and vocational rehabilitation needs, including technicians for assessment tests.

(H) Rehabilitation technology.

(I) Job development, placement, and retention services.

(J) Evaluation or control of specific disabilities.

(K) Orientation and mobility services for individuals who are blind.

(L) Extended employment.

(M) Psychosocial rehabilitation services.

(N) Supported employment services and extended services.

(O) Services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome.

(P) Personal assistance services.

(Q) Services similar to the services described in subsections (A) through (P) of this definition, including vendors who provide training, write resumes, consult on self-employment plans, assist with a self-employed business, or write PASS plans.

(b) For the purposes of this definition, the word program means an agency, organization, or institution, or unit of an agency, organization, or institution, that provides directly or facilitates the provision of vocational rehabilitation services as one of its major functions. It does not include the prospective employer of the client.

(11) "Comparable services and benefits" refers to:

(a) Services and benefits that are:

(A) Provided or paid for, in whole or in part, by other Federal, State, or local public agencies, by health insurance, or by employee benefits;

(B) Available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's individualized plan for employment in accordance with **34 CFR 361.53**; and

(C) Commensurate to the services that the individual would otherwise receive from OVRS.

(b) For the purposes of this definition, comparable benefits do not include awards and scholarships based on merit.

(12) "Competitive employment" refers to work:

(a) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

(b) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

(13) "DHS" refers to the Oregon Department of Human Services.

(14) "Eligible individual" refers to an applicant for vocational rehabilitation services who meets the eligibility requirements of **34 CFR 361.42(a)**.

(15) "Employment outcome" refers to, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment, as defined in OAR 582-001-0010(12), in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(16) "Extended employment" refers to work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act.

(17) "Extended services" refers to ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this part and **34 CFR** part 363 after an individual with a most significant disability has made the transition from support provided by OVRS.

(18) "Extreme medical risk" refers to a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.

(19) "Family member", for purposes of receiving vocational rehabilitation services in accordance with **34 CFR 361.48(i)**, refers to an individual:

(a) Who either:

(A) Is a relative or guardian of an applicant or eligible individual; or

(B) Lives in the same household as an applicant or eligible individual;

(b) Who has a substantial interest in the well-being of that individual;

and

(c) Whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

(20) "Impartial hearing officer" refers to an individual who:

(a) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education) — an individual is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer;

(b) Is not a member of the State Rehabilitation Council for OVRS;

(c) Has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(d) Has knowledge of the delivery of vocational rehabilitation services, the State plan, and the Federal and State regulations governing the provision of services;

(e) Has received training with respect to the performance of official duties; and

(f) Has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual.

(21) "Integrated setting":

(a) With respect to the provision of services, refers to a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals;

(b) With respect to an employment outcome, refers to a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

(22) "Maintenance" refers to monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the

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individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment. Examples: The following are some examples of expenses that would meet the definition of maintenance. The examples are illustrative only, do not address all possible circumstances, and are not intended to substitute for individual counselor judgment:

(a) The cost of a uniform or other suitable clothing that is required for an individual's job placement or job-seeking activities.

(b) The cost of short-term shelter that is required in order for an individual to participate in assessment activities or vocational training at a site that is not within commuting distance of an individual's home.

(c) The initial one-time costs, such as a security deposit or charges for the initiation of utilities, that are required in order for an individual to relocate for a job placement.

(d) The costs of an individual's participation in enrichment activities related to that individual's training program.

(23) "Mediation" refers to the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies. Mediation under the program must be conducted in accordance with the requirements in 34 CFR 361.57(d) by a qualified and impartial mediator as defined in 34 CFR 361.5(b)(43).

(24) "OAR" refers to the Oregon Administrative Rules.

(25) "Ongoing support services", as used in the definition of "Supported employment"

(a) Refers to services that are:

(A) Needed to support and maintain an individual with a most significant disability in supported employment;

(B) Identified based on a determination by OVRs of the individual's need as specified in an individualized plan for employment; and

(C) Furnished by OVRs from the time of job placement until transition to extended services, unless post-employment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement or multiple placements if those placements are being provided under a program of transitional employment;

(b) Must include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability based on:

(A) At a minimum, twice-monthly monitoring at the worksite of each individual in supported employment; or

(B) If under specific circumstances, especially at the request of the individual, the individualized plan for employment provides for off-site monitoring, twice monthly meetings with the individual;

(c) Consist of:

(A) Any particularized assessment supplementary to the comprehensive assessment of rehabilitation needs;

(B) The provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

(C) Job development and training;

(D) Social skills training;

(E) Regular observation or supervision of the individual;

(F) Follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

(G) Facilitation of natural supports at the worksite;

(H) Any other service identified in the scope of vocational rehabilitation services for individuals, described in **34 CFR 361.48**; or

(I) Any service similar to the foregoing services.

(26) "ORS," refers to the Oregon Revised Statutes.

(27) "OVRs" refers to the Office of Vocational Rehabilitation Services.

(28) "Parent or Guardian" refers to a person or persons having legal responsibility for the overall welfare and well-being of a client under age 18 or a client who, if over age 18, is considered legally incompetent.

(29) "Personal assistance services" refers to a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability. The services must be designed to increase the individual's control in life and ability to perform everyday activities on or off the job. The services must be necessary to the achievement of an employment outcome

and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.

(30) "Physical and mental restoration services" refers to --

(a) Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;

(b) Diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with State licensure laws;

(c) Dentistry;

(d) Nursing services;

(e) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

(f) Drugs and supplies;

(g) Prosthetic and orthotic devices;

(h) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with State licensure laws;

(i) Podiatry;

(j) Physical therapy;

(k) Occupational therapy;

(l) Speech or hearing therapy;

(m) Mental health services;

(n) Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services, or that are inherent in the condition under treatment;

(o) Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

(p) Other medical or medically related rehabilitation services.

(31) "Physical or mental impairment" refers to:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(b) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(32) "Post-employment services" refers to one or more of the services identified in **34 CFR 361.48** that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. Post-employment services are intended to ensure that the employment outcome remains consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. These services are available to meet rehabilitation needs that do not require a complex and comprehensive provision of services and, thus, should be limited in scope and duration. If more comprehensive services are required, then a new rehabilitation effort should be considered. Post-employment services are to be provided under an amended individualized plan for employment; thus, a re-determination of eligibility is not required. The provision of post-employment services is subject to the same requirements as the provision of any other vocational rehabilitation service. Post-employment services are available to assist an individual to maintain employment, e.g., the individual's employment is jeopardized because of conflicts with supervisors or co-workers, and the individual needs mental health services and counseling to maintain the employment; to regain employment, e.g., the individual's job is eliminated through reorganization and new placement services are needed; and to advance in employment, e.g., the employment is no longer consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(33) "Provider of community rehabilitation services" refers to any CRP, business, or independent contractor that is paid by OVRs to provide any service listed in OAR 582-001-0010(10).

(34) "Qualified and impartial mediator" refers to an individual who:

(a) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, employee of a State office of mediators, or employee of an institution of higher education) — an individual serving

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as a mediator is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by a public agency to serve as a mediator;

(b) Is not a member of the State Rehabilitation Council for OVRs;

(c) Has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(d) Is knowledgeable of the vocational rehabilitation program and the applicable Federal and State laws, regulations, and policies governing the provision of vocational rehabilitation services;

(e) Has been trained in effective mediation techniques consistent with any State-approved or -recognized certification, licensing, registration, or other requirements; and

(f) Has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual during the mediation proceedings.

(35) "Rehabilitation engineering" refers to the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.

(36) "Rehabilitation technology" refers to the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(37) "State plan" refers to the State plan for vocational rehabilitation services submitted by OVRs under **34 CFR 361.10**.

(38) "Substantial impediment to employment" refers to a physical or mental impairment that (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities.

(39) "Supported employment" refers to:

(a) Competitive employment in an integrated setting, or employment in integrated work settings in which individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals with ongoing support services for individuals with the most significant disabilities:

(A) For whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

(B) Who, because of the nature and severity of their disabilities, need intensive supported employment services from OVRs extended services after transition as described in OAR 582-001-0010(17) to perform this work; or

(b) Transitional employment, as defined OAR 582-001-0010(42), for individuals with the most significant disabilities due to mental illness.

(40) "Supported employment services" refers to ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment that are provided by OVRs:

(a) For a period of time not to exceed 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time to achieve the employment outcome identified in the individualized plan for employment; and

(b) Following transition, as post-employment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

(41) "Transition services" refers to a coordinated set of activities for a student designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's individualized plan for employment.

(42) "Transitional employment", as used in the definition of "Supported employment," refers to a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most significant disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

(43) "Transportation" refers to travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems. Examples: The following are examples of expenses that would meet the definition of transportation. The examples are purely illustrative, do not address all possible circumstances, and are not intended to substitute for individual counselor judgment.

(a) Example 1: Travel and related expenses for a personal care attendant or aide if the services of that person are necessary to enable the applicant or eligible individual to travel to participate in any vocational rehabilitation service.

(b) Example 2: The purchase and repair of vehicles, including vans, but not the modification of these vehicles, as modification would be considered a rehabilitation technology service.

(c) Example 3: Relocation expenses incurred by an eligible individual in connection with a job placement that is a significant distance from the eligible individual's current residence.

(44) "Vocational rehabilitation services":

(a) If provided to an individual, refers to those services listed in **34 CFR 361.48**; and

(b) If provided for the benefit of groups of individuals, also refers to those services listed in **34 CFR 361.49**.

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

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.530, 344.550

Hist.: VRS 5-2004, f. & cert. ef. 8-5-04

582-010-0010

Definitions

For the purposes of chapter 582, division 10 of the Oregon Administrative Rules, the following definitions apply:

(1) "Accreditation" is the term signifying that a community rehabilitation program meets standards of performance set by an organization or methodology listed in these rules.

(2) "Approval" is a term signifying that OVRs standards for vendor selection are met, and the vendor may be utilized by a local OVRs office to provide OVRs purchased services for individuals with disabilities.

(3) "Certification" refers to the acknowledgment by OVRs that the CRP has completed required application procedures and, if applicable, met specific accreditation standards.

(4) "Department of Administrative Services" (DAS) refers to the administrative unit of the State of Oregon that is responsible for setting certain standards that apply to all state vendors and whose standards may apply to OVRs vendors.

(5) "Interim Approval" refers to the authority of OVRs to approve a CRP and purchase its services within a limited time period while an application for CRP vendor "Approval" or "Certification" is being processed.

(6) "Rehabilitation Facility" refers to a CRP or unit of a larger organization that meets the definition for a CRP and that is operated for the primary purpose of providing vocational rehabilitation services to individuals with disabilities and that provides singularly or in combination, one or more of the services listed in OAR 582-001-0010(10).

(7) "State Standards for Vendor Approval" refers to a set of criteria, applied as appropriate to the type of program and used by OVRs to evaluate a provider's operation and to determine whether the provider may be listed as an approved vendor. State Standards are in addition to any federal requirements in the Rehabilitation Act or regulations and shall for CRPs, at a minimum and as appropriate, relate to physical plant, health and safety, production, insurance, physical accessibility, organization, fiscal management, personnel, program management, client issues, program evaluation, human rights (including the safeguarding of confidential information about clients), and community relations.

(8) "Statement of Assurances and Conditions" means a document executed and signed by a provider of community rehabilitation services attesting to an understanding of and intent to comply with applicable criteria in these rules and any attending policy for implementing these rules.

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

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

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Hist.: VRD 17, f. 8-28-74, ef. 9-25-74; VRD 5-1978, f. 4-20-78, ef. 5-1-78; VRD 2-1980, f. & ef. 7-2-80; VRD 1-1992, f. & cert. ef. 1-30-92; VRD 3-1993, f. & cert. ef. 10-15-93; VRS 2-2003, f. & cert. ef. 12-31-03; VRS 5-2004, f. & cert. ef. 8-5-04

582-010-0020

Approval Policy for All Providers of Community Rehabilitation Services

(1) Approval Required: No person or public or private organization shall, on behalf of OVRS, provide vocational rehabilitation services and receive vocational rehabilitation fees without first submitting all required application materials and being placed on the Approved Vendor List of OVRS.

(2) At the discretion of OVRS, separate approvals may be required for separate sites and/or for different programs operated under the same management.

(3) Approvals under OAR 582-010-0020 are valid for a period of two years, with the exception of Interim Approvals, which are valid for the term or condition stated. Prior to the expiration of a two-year approval, a provider of community rehabilitation services must reapply for approval.

(4) OVRS may require full or partial reapplication when a CRP undergoes significant changes in its management or operation.

(5) Providers of community rehabilitation services that are individuals or sole proprietors without employees/contractors who provide direct services to OVRS clients must qualify under state law as independent contractors but do not have to provide verification of accreditation.

(6) A notice of approval or denial for "Approved" or "Interim Approval" status will be provided in writing to the CRP within 30 days of OVRS receipt of requirements stated in this rule.

(7) It is the responsibility of the provider of community rehabilitation services to assure that the requirements of OAR 582-010-0020 are fully met at all times.

(8) A provider of community rehabilitation services and any other vendor required under Chapter 582 of the Oregon Administrative Rules to complete a Criminal History Check may be placed temporarily on the Approved Vendor List by the CRP Coordinator if the circumstances justify a temporary approval. The temporary approval may be terminated by OVRS at any time and shall expire automatically once DHS completes the criminal history check process.

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

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 17, f. 8-28-74, ef. 9-25-74; VRD 5-1978, f. 4-20-78, ef. 5-1-78; VRD 2-1980, f. & ef. 7-2-80; VRD 1-1992, f. & cert. ef. 1-30-92; VRD 3-1993, f. & cert. ef. 10-15-93; VRS 2-2003, f. & cert. ef. 12-31-03; VRS 5-2004, f. & cert. ef. 8-5-04

582-010-0021

Approval Policy for Category A Providers

(1) Category A providers of community rehabilitation services are those providers exclusively paid by OVRS to provide the following listed services:

- (a) Medical, psychiatric, psychological, social, and vocational services that are provided under one management;
- (b) Evaluation or control of specific disabilities;
- (c) Physical and occupational therapy;
- (d) Recreational therapy;
- (e) Speech, language and hearing therapy;
- (f) Psychiatric, psychological and social services, including positive behavior management;
- (g) Psychosocial rehabilitation services
- (h) Rehabilitation technology;
- (i) Testing, fitting, or training in the use of prosthetic and orthotic devices;

(j) Personal assistance services;

(k) Child care: or

(1) Professionals or entities licensed by a state or federal agency (excluding OVRS), acting within the scope of their license, and providing any services covered by OAR 582-010-0022(1).

(2) In addition to compliance with any other applicable requirements in Chapters 410 and 582 of the Oregon Administrative Rules, these providers are eligible for the approved vendor list if they maintain compliance with the relevant licensing or certifying body.

(3) Providers of child care who are not eligible to apply for registration with the Child Care Division of the Employment Department under OAR 414-205-0000 may be placed on the Approved Vendor List if they successfully complete a Criminal History Check from either DHS or the Child Care Division of the Employment Department.

(4) Providers of personal assistance services who are not qualified or certified providers for this service under Chapter 411 of the Oregon

Administrative Rules may be placed on the Approved Vendor List if they successfully complete a DHS Criminal History Check.

(5) OVRS requires that providers of child care and providers of personal assistance services who are required by this rule to satisfy criminal history check requirements shall also comply with DHS criminal history check requirements with respect to each new employee or volunteer who will provide "care" (as defined at OAR 410-007-0210(4)) to OVRS clients prior to the start of care for an OVRS client. Prior to reapplication for the Approved Vendor List, these providers may be required by OVRS to repeat a criminal history check as a result of information received about vendor qualifications, behavior or performance.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.530, 344.550

Hist.: VRS 5-2004, f. & cert. ef. 8-5-04

582-010-0022

Approval Policy for Category B Providers

(1) Except as provided at OAR 582-010-0022(2), Category B providers of community rehabilitation services are those providers paid by OVRS to provide the following listed services:

(a) Assessment for determining eligibility and vocational needs, including technicians for assessment tests;

(b) Job development, placement, and retention services;

(c) Orientation and mobility services;

(d) Extended employment;

(e) Supported employment services and extended services;

(f) Services to family members (except child care) when necessary to the vocational rehabilitation of the individual; and

(g) Services similar to the services described in OAR 582-010-0022(1)(a)-(g), including vendors who provide training, write resumes, consult on self-employment plans, assist with a self-employed business, or write PASS plans.

(2) Professionals licensed by a state or federal agency (excluding OVRS), acting within the scope of their license, and providing any services listed in OAR 582-010-0022(1) shall be regulated as Category A providers and not subject to OAR 582-010-0022. The CRP Coordinator may exempt an employer from the rules in Division 582-010 for services provided to a specific client that are not services for which the employer would be reimbursed on a routine basis.

(3) Except as provided in OAR 582-010-0022(8), Category B providers are eligible for the approved vendor list if they meet all of the following criteria prior to providing any services to OVRS or its clients in addition to compliance with any other applicable requirements in Chapters 410 and 582 of the Oregon Administrative Rules:

(a) Submit materials required as part of the OVRS application process;

(b) Submit proof of insurance at the level established under Department of Administrative Services guidelines;

(c) Submit a signed Statement of Assurances and Conditions;

(d) Successfully complete the criminal history check requirements.

(A) OVRS requires that Category B providers complete criminal history checks at the time of application for placement on the Approved Vendor List and re-application for placement on the Approved Vendor List; and to complete a DHS criminal history check if required by OVRS as a result of information received about vendor qualifications, behavior or performance.

(B) At the time of application or re-application for placement on the Approved Vendor List, OVRS also requires that Category B providers complete criminal history checks with respect to all employees and volunteers who provide "care" (as defined at OAR 410-007-0210(4)) to OVRS clients.

(C) OVRS further requires that Category B providers complete criminal history checks with respect to each new employee or volunteer who will provide "care" (as defined at OAR 410-007-0210(4)) to OVRS clients prior to the start of care for an OVRS client.

(4) Providers of Category B community rehabilitation services that are non-profit or for-profit organizations, or sole proprietorships with employees/contractors who provide direct services to OVRS clients must provide verification of accreditation or proof of a pending application for accreditation.

(5) A Statement of Assurances and Conditions must be provided and signed by the designated representative of the provider, and reviewed mutually by OVRS and the provider for compliance and continued applicability, and must include:

(a) A description of the scope and nature of service(s), conditions, criteria and procedure under which each service is provided, and rates of payment for each approved service or group of services;

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(b) A statement that prior authorization must be secured in writing from the referring counselor or other appropriate representative of OVRS before client services are provided at a cost to the local OVRS office;

(c) Assurances of compliance with State Standards and federal requirements as appropriate for the specific provider;

(d) Assurances that the provider will compile and submit, as required by OVRS, pertinent process and outcome data concerning the service(s) or groups of services provided; and

(e) Assurances that pertinent program and fiscal records shall be accessible for necessary review and/or audit by or for OVRS.

(6) Interim Approval may be granted to a CRP that has filed the necessary forms to obtain accreditation and is waiting for final "Approval". If "Approval" has been delayed due to reasons of the accreditation body, an extended period of "Interim Approval" may be granted upon receipt of verification from the accreditation body that the delay is not the result of the CRPs failure to address deficiencies in a timely manner.

(7) If OVRS funds are available, grants may be awarded to CRPs who qualify under OAR 582-010-0022(4), unless prohibited by another rule, to assist with meeting CRP "Approval" requirements or to expand resources and services that will be made available to OVRS clients. Application for a grant must be made in writing and contain at a minimum:

(a) A description of the deficiency which prevents the CRP from gaining "Approval" status and how the funds will be used to address the deficiency, or a description of the desired resource or service expansion that the funds will provide along with a demonstration of need by OVRS for such resources or services;

(b) A detailed budget for the use of the grant funds; and

(c) Assurance that the CRP is prepared to assume all costs associated with maintaining a non-deficient status, and ongoing costs to maintain the new resources or services.

(8) Vendors that only provide training, write resumes, consult on self-employment plans, assist with a self-employed business, or write PASS Plans and who have no in-person contact with any OVRS clients are exempt from the criminal records check and insurance requirements of this rule.

Stat. Auth.: ORS 344.530
Stats. Implemented: ORS 344.530, 344.550
Hist.: VRS 5-2004, f. & cert. ef. 8-5-04

582-010-0025

State Standards for Vendor Approval for Providers of Community Rehabilitation Services

In addition to the vendor approval requirements of OAR 582-080, OVRS adopts the following State Standards as required assurances that services to individuals with disabilities are provided in a safe environment and in compliance with applicable state, federal and local laws, rules or regulations. Approval methods will evaluate each applicant's ability to assure compliance with each of the following standards that, for the purposes of these rules, apply to the type of provider being evaluated:

(1) Physical Plant Standards. Provides services in an environment that meets accessibility requirements, is free of known health or safety hazards and in a site(s) which serves to support the accomplishment of its defined purpose(s).

(2) Health and Safety Standards. Meets all applicable governmental requirements, including OSHA standards for the Department of Labor; secures regular inspections and consultations (if applicable) from persons with expertise; and, has an organized internal health and safety program (if applicable).

(3) Production Standards. When work opportunities are directly provided to individuals with disabilities: Establishes production and payment practices which maximize earning potential; assures fair and equitable wages; meets minimum expectations for working hours and conditions; and maintains all applicable certification and documentation for the Wage and Hour Division, U.S. Department of Labor.

(4) Insurance Standard. Maintain required workers' compensation insurance and applicable levels of vehicle, general and (if required) professional liability insurance protection, adequate to compensate staff and workers with disabilities for injuries and damages for which the organization may be liable.

(5) Physical Accessibility Standard. Complies with Section 504 of the Rehabilitation Act, the Architectural Barriers Act of 1968, the Uniform Accessibility Standards and their implementing standards in 41 CFR Part 101-19.6, the American National Standards Institute No. A117-1-1986, and applicable sections of the Americans with Disabilities Act (ADA).

(6) Organizational Standard. The CRP is structured to achieve its stated mission, secure all licenses or permits to do business within its jurisdic-

tion(s) and scope of operation, plan and monitor the efficiency and effectiveness of services, and maintain records and reports that reflect the operation and provision of services and the organization's status.

(7) Fiscal Management Standard. Fiscal affairs relative to provision of rehabilitation services are managed in a manner consistent with its stated purposes and in accordance with a standard of sound business practices and legal requirements, including assurances that any state or federal audit and reporting requirements are met.

(8) Personnel Standard. As applicable, maintains competent qualified staff and written agency personnel policies which support the provision of services essential to the achievement of defined individual and program goals. The provider, when providing client transportation, ensures use of qualified, licensed vehicle operators and appropriate, safe vehicles. Criminal background check has been conducted on required staff/employees and has such on record according to DHS, state, federal and local laws, rules or regulations. When providing medical and related health services, ensures such services are prescribed by or under the formal supervision of persons licensed by the state to prescribe or supervise the provision of these services. Maintains pertinent professional and business licensure or certification as appropriate to the type of program or service(s) provided to clients.

(9) Program Management Standard. Ensures that services provided are individually tailored and coordinated in order to enhance each client's employment independence, integration, and/or productivity as identified within each Individualized Plan for Employment and through client participation in service planning, implementation and evaluation, using language or mode of communication most compatible with the individual client's abilities and culture.

(10) Program Evaluation Standard. Utilizes an approved method to enable it to identify the results of services to individuals with disabilities against established goals. Provides timely reports to OVRS of such information, and by such means, as OVRS may require for evaluation of ongoing program effectiveness, costs, and appropriateness of services provided by the provider.

(11) Human Rights Standard. Ensures, in its policies and practices, compliance with all laws and regulations dealing with non-discrimination, human and civil rights (including ADA), personal dignity and choice, and confidentiality.

(12) Community Relations Standard. The provider bases its program on documented evidence of the needs of prospective and current clients and maintains effective communications to assure that the programs and services are responsive and appropriately utilized.

(13) Code of Conduct Standard. Fully informs OVRS clients of the purpose and results of all service delivery efforts made on their behalf. The provider is respectful, inclusive, and accommodating of OVRS clients regardless of disability.

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

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 17, f. 8-28-74, ef. 9-25-74; VRD 24, f. & ef. 9-29-76; VRD 26, f. & ef. 7-1-77; VRD 5-1978, f. 4-20-78, ef. 5-1-78; VRD 2-1980, f. & ef. 7-2-80; VRD 1-1992, f. & cert. ef. 1-30-92; VRD 3-1993, f. & cert. ef. 10-15-93; VRS 2-2003, f. & cert. ef. 12-31-03; VRS 5-2004, f. & cert. ef. 8-5-04

582-010-0030

Termination or Denial of Approval or Interim Approval

(1) The decision to deny or terminate "Approval" or "Interim Approval" shall be made in writing by OVRS. This notice shall contain the reason, the effective date, any requirements for reinstatement if applicable, and the appeals process.

(2) OVRS will provide compensation for verifiable, authorized services provided by the provider of community rehabilitation services prior to the effective date of termination.

(3) No OVRS funds will be provided for services or grant activities after the effective date as stated in the OVRS notice.

(4) OVRS may provide a 30-day notice of termination or denial where any of the following reasons apply:

(a) Mutual agreement;

(b) Failure to provide or complete the required application;

(c) Termination of accreditation by the certifying body; or

(d) Failure to meet a service commitment.

(5) OVRS may terminate or suspend an approval without 30-days notice for any of the following reasons:

(a) Engagement in or toleration of sexual harassment of any kind toward a client, i.e., deliberate or repeated comments, gestures or physical contact of sexual nature;

(b) Violation of any applicable federal, state or civil rights law;

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(c) Commitment of fraud, misrepresentation, or serious error of authorization on billing statement;

(d) Acting alone or engaging in collusion to withhold information, or submit false or misleading documentation in order to generate payment;

(e) Acting alone or engaging in collusion to violate any OVRs Administrative Rule (Chapter 582);

(f) Instructing any individual to engage in behavior contrary to the requirements of OVRs Administrative Rules (Chapter 582); or

(g) Engagement in any behavior or comments likely to cause public embarrassment to OVRs clients.

(6) An informal appeal of a decision to deny or terminate approval may be made to the OVRs Administrator within 30 days of the date of the written decision.

Stat. Auth. ORS 344.530

Stats. Implemented: ORS 344.530, 344.550

Hist.: VRS 2-2003, f. & cert. ef. 12-31-03; VRS 5-2004, f. & cert. ef. 8-5-04

582-020-0015

Mediation

(1) OVRs will offer assistance to help clients request mediation.

(2) OVRs will inform its clients that they may request the assistance of the Client Assistance Program in seeking mediation.

(3) A client who is dissatisfied or disagrees with a decision that affects the provision of vocational rehabilitation services may request that the differences be resolved through mediation. The client may use the OVRs Request for Mediation form or its equivalent, to request mediation. If an equivalent is used, the request shall be in writing and shall include the client's name, address, phone number; the date; and a brief statement as to the basic issue(s) of disagreement and how the client would like the issue(s) resolved.

(4) Participation in the mediation process is voluntary on the part of both the client and OVRs. If OVRs declines to mediate an issue following a request for mediation under OAR 582-020-0015(3), OVRs shall provide written notice to the client that mediation is declined and the client shall be advised of their right to request an Impartial Fair Hearing, consistent with OAR 582-020-0020, if a request is not already pending.

(5) Selection of Mediator:

(a) OVRs shall select and/or maintain a pool of mediators who are listed on the Oregon State Agency Mediator Roster of the State of Oregon Department of Justice, who have indicated an interest or expertise in disability related issues, and who qualify as mediators under 34 CFR 361.5(b)(43).

(b) Upon receipt of a request for mediation from the client, OVRs will contact on a rotating basis a mediator from among those in the pool who are geographically near the OVRs office of the client. If that mediator is not available within two weeks, other mediators will be contacted using this same identification process until one is identified who can provide timely services. If no mediator is mutually selected from the pool of mediators geographically near the OVRs office of the client, OVRs will contact on a rotating basis the mediators from a wider geographic range.

(c) Each party shall be given the opportunity at the outset to agree to or reject an identified mediator prior to the beginning of mediation services.

(6) Agreement to Mediate:

(a) Prior to the beginning of the first mediation session, the mediator shall provide an Agreement to Mediate for signature by both parties, consistent with the format in current use by OVRs.

(b) The mediation shall occur between the OVRs counselor or assigned OVRs employee and the client. The client shall be allowed the choice of being represented during mediation sessions by the Client Assistance Program or another advocate. The inclusion or participation of any other individuals for either side shall be at the discretion of the mediator, unless otherwise prohibited by law.

(c) All discussions shall be confidential and may not be used as evidence in any subsequent Impartial Fair Hearing, administrative or civil proceeding.

(7) Conclusion of Mediation:

(a) At any point during the mediation process, either party or the mediator may elect to terminate the mediation.

(b) A successful mediation shall be concluded with a written agreement prepared by the mediator and signed by the OVRs counselor or assigned OVRs employee and the client. Both parties shall receive a copy of the signed agreement. This final agreement shall become part of the OVRs casefile record, unless otherwise agreed. If this agreement includes any changes to the Individualized Plan for Employment (IPE), a revision to the IPE or amended IPE that incorporates the change(s) shall be written and signed by the counselor or assigned OVRs employee and the client. No

other written record of these mediation discussions will be retained by the mediator, OVRs or the client.

(c) If an agreement is not reached, OVRs shall provide the client with written notice that the mediation process has ended and the client shall be advised of their right to request an Impartial Fair Hearing, consistent with OAR 582-020-0020, if a request is not already pending. No other written record of these mediation discussions will be retained by the mediator, OVRs or the client.

(d) Nothing in OAR 582-020-0015(7) shall prohibit the mediator, OVRs, or the client from maintaining and retaining documentation to the extent necessary for work schedule or payment purposes.

(8) Rights After Mediation If OVRs received the written request for mediation within 60 days of the decision in dispute, the client may request an opportunity to present this issue or group of issues to an Impartial Hearing Officer by filing a written request under OAR 582-020-0030 within 60 days of either the written notice that mediation is declined under OAR 582-020-0015(4) or the written notice that mediation has ended under OAR 582-020-0015(7)(c).

Stat. Auth.: ORS 344.530 & 344.590

Stats. Implemented: ORS 344.530, 344.550 & 344.590

Hist.: VRS 1-2004, f. & cert. ef. 1-30-04; VRS 5-2004, f. & cert. ef. 8-5-04

582-020-0030

Hearing Request

(1) A client who is dissatisfied with or aggrieved by a decision that affects the provision of vocational rehabilitation services may request a hearing. The client will use the OVRs Request for Impartial Fair Hearing form or its equivalent to request a hearing. If an equivalent is used, the request shall be in writing and shall include:

(a) A description of the OVRs decision(s) concerning the provision of vocational rehabilitation services that are the subject of the disagreement; and

(b) A statement that the client disagrees or is dissatisfied with the decision; and

(c) A description of how the issue(s) could be resolved to the client's satisfaction; and

(d) A request for a hearing; and

(e) The signature of the client, or as appropriate, of the client's guardian or representative.

(2) OVRs shall forward the request to an Impartial Hearing Officer if the hearing request:

(a) Includes the information required by OAR 582-020-0030(1); and

(b) There is no immediate agreement by the client to delay the hearing timeline for mediation or informal resolution.

(3) If OVRs believes that the hearing request does not meet the requirements of OAR 582-020-0030(1), OVRs may contact the client or client's representative promptly to obtain a corrected request. If the hearing request is corrected, OVRs will forward the corrected hearing request to the Impartial Hearing Officer and the time period under OAR 582-020-0040(2) shall start with the date that OVRs receives the correction. If the client prefers to proceed under the original hearing request, OVRs shall forward the original hearing request to the Impartial Hearing Officer.

(4) At the time OVRs forwards a hearing request to the Impartial Hearing Officer, OVRs may request in writing that the Impartial Hearing Officer dismiss the hearing request because it does not comply with OAR 582-020-0030(1) and/or 582-020-0040(1). The Impartial Hearing Officer shall provide the client an opportunity to respond to the request for dismissal and shall submit a written decision prior to the date scheduled for hearing on the merits of the hearing request.

(5) If the client or the client's guardian or representative requests assistance or the client is unable to request a hearing without assistance, OVRs shall assist the client in completing the hearing request.

(6) The client may withdraw a request for hearing any time before there is a final order. The withdrawal shall be either submitted in writing to OVRs, or the client may orally notify or confirm a withdrawal to the Impartial Hearing Officer and the oral withdrawal is valid if confirmed by a written dismissal of the hearing request by the Impartial Hearing Officer.

(7) If the request for hearing is withdrawn:

(a) Prior to the selection of the Impartial Hearing Officer, the OVRs Agency Representative shall transmit the withdrawal to the OVRs Dispute Resolution Coordinator;

(b) After the selection of the Impartial Hearing Officer, OVRs will assure that the Impartial Hearing Officer is notified, and request that an order dismissing the request for hearing be issued.

Stat. Auth.: ORS 344.530(2) & 344.590

Stats. Implemented: ORS 183.310 - 183.550, 344.511 - 344.690 & Ch. 734, OL 1971

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Hist.: VRD 21, f. & ef. 3-5-76; VRD 1-1981, f. & ef. 12-1-81; VRD 1-1990, f. & cert. ef. 11-26-90; VRD 2-1993, f. & cert. ef. 9-15-93; VRD 4-1997, f. & cert. ef. 11-20-97; VRS 1-2004, f. & cert. ef. 1-30-04; VRS 5-2004, f. & cert. ef. 8-5-04

582-020-0085

Prehearing Conferences

(1) Prior to hearing, the Impartial Hearing Officer shall conduct at least one prehearing conference to facilitate the conduct and resolution of the case, unless the client and OVRS both agree that no such conference is desired.

(2) The purposes of a prehearing conference may include, but are not limited to the following:

(a) To facilitate a decision on any requests by OVRS to dismiss the hearing request if these have not been resolved prior to the prehearing conference;

(b) To facilitate discovery and to resolve disagreements about discovery;

(c) To identify, simplify and clarify issues;

(d) To eliminate irrelevant issues;

(e) To obtain stipulations of fact;

(f) To provide to the Impartial Hearing Officer and parties, in advance of the hearing, copies of all documents intended to be offered as evidence at the hearing and the names of all witnesses expected to testify;

(g) To authenticate documents;

(h) To decide the order of proof and other procedural matters pertaining to the conduct of the hearing;

(i) To discuss the use of a collaborative dispute resolution process in lieu of or preliminary to holding the contested case hearing; and

(j) To discuss settlement or other resolution or partial resolution of the case.

(3) The prehearing conference may be conducted in person or by telephone.

(4) The Impartial Hearing Officer shall make a written record of any stipulations, rulings and agreements. Stipulations to facts and to the authenticity of documents and agreements to narrow issues shall be binding upon the agency and the parties to the stipulation unless good cause is shown for rescinding a stipulation or agreement.

Stat. Auth.: ORS 344.530 & 344.590

Stats. Implemented: ORS 344.530, 344.550, 344.590

Hist.: VRS 5-2004, f. & cert. ef. 8-5-04

582-020-0110

Impartial Hearing Officer's Decision

(1) The Impartial Hearing Officer's decision shall be based on the approved State Plan, the federal Rehabilitation Act, federal vocational rehabilitation regulations, relevant state statutes, the Oregon Administrative Rules, and/or OVRS policy.

(2) The Impartial Hearing Officer shall provide a full written report of the findings and grounds for his or her decision to the client, client's representative if applicable, OVRS counselor, OVRS Agency Representative, and the OVRS Field Office within the time prescribed by OAR 582-020-0040(3).

(3) The decision of the Impartial Hearing Officer shall be final upon the date of mailing to the client and OVRS, except that either party may request a Formal Administrative Review under OAR 582-020-0125.

(4) An Impartial Hearing Officer may dismiss a client request for hearing if the client has abandoned the request. A request may be considered abandoned if:

(a) The client, following sufficient notice and attempts at contact, does not participate in a scheduled hearing; or the Impartial Hearing Officer and OVRS are unable to contact the client to schedule a pre-hearing conference or hearing; and

(b) The absence of the client prevents compliance with the hearing timeline established under OAR 582-020-0040(2).

(5) An Impartial Hearing Officer may dismiss a client request for hearing after receiving oral or written notice or confirmation from the client that the request for hearing is withdrawn.

Stat. Auth.: ORS 344.530(2) & 344.590

Stats. Implemented: ORS 183.310 - 183.550, 344.511 - 344.690 & Ch. 734, OL 1971

Hist.: VRD 4-1997, f. & cert. ef. 11-20-97; VRS 1-2004, f. & cert. ef. 1-30-04; VRS 5-2004, f. & cert. ef. 8-5-04

582-030-0030

Release to Clients, Parents, Guardians and Legal Representatives

(1) Upon written request using DHS Form 2093, its equivalent, or its successor, the requested information from the OVRS case file shall be released to an OVRS client or, as appropriate, the client's representative, in a timely manner, with the following exceptions:

(a) Case file information obtained from another agency or organization, treatment records, and psychological evaluations may only be released under the conditions established by the treatment provider or source of the records or under the conditions established by agreement between OVRS and the treatment provider or source of the records.

(b) If a client or (as appropriate) a parent, guardian, or other representative presents a written request to review medical or psychological reports from the client's OVRS file and the counselor believes direct release of such information to any of the above persons may be harmful to the client, the following procedures must be followed:

(A) The counselor will contact the practitioner(s) who wrote the report(s) to request an opinion as to whether the practitioner believes direct release of the information would be harmful to the client; or, if a practitioner is unavailable;

(B) The counselor will obtain an opinion from the appropriate office medical or psychological consultant as to whether the consultant believes direct release of the information would be harmful to the client; the consultant is to record his/her opinion on the Medical/Psychological Review Record in the medical jacket (R-114);

(C) If the practitioner or consultant states that direct release would not be harmful, the counselor will release the requested OVRS information directly to the client or (as appropriate) to the client's parent, guardian, or designated representative;

(D) If the practitioner or consultant states that direct release would be harmful, the counselor will request but not require the client to designate an appropriate and qualified physician or psychologist of the client's choosing for the purpose of reviewing and interpreting the contents of the report(s) to the client. If the client agrees, the counselor will schedule the appointment, mail copies of the report(s) to the practitioner, and if the client so requests, execute an Authorization for Purchase to pay the practitioner for an office visit at the OVRS current approved rate of payment.

(E) Medical, psychological, or other information that OVRS determines may be harmful to the individual may not be released directly to the individual, but if release is allowed under these rules, must be provided to the individual through a third party chosen by the individual, which may include, among others, an advocate, a family member, a qualified medical or mental health professional, unless a representative has been appointed by court to represent the individual in which case the information must be released to the court-appointed representative.

(2) Informed written consent from the client is required for the release of mental health or substance abuse information to a parent or guardian for any client age 14 or over.

(3) Informed written consent from the client is required for the release of general medical information to a parent or guardian for any client age 15 or over.

(4) Informed written consent from the client is required for the release of any information about sexually transmitted diseases or birth control to a parent or guardian for any client regardless of age.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 22, f. & ef. 3-5-76; VRD 3-1981, f. & ef. 12-1-81; VRD 4-1991, f. & cert. ef. 12-13-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 3-2004, f. & cert. ef. 3-12-04; VRS 5-2004, f. & cert. ef. 8-5-04

582-030-0040

Exceptions to Written Consent Requirements

(1) Required Reporting and Response to Investigations:

(a) OVRS employees must report to the appropriate authorities abuse of individuals age 65 and over, ORS 124.060, under the age of 18, ORS 419B.010, individuals 18 age or over with developmental disabilities or mental illness, ORS 430.765, and residents of long-term care facilities, ORS 441.640;

(b) OVRS must release client information if required by federal law or in response to investigations in connection with law enforcement, fraud or abuse (unless expressly prohibited by federal or state laws or regulations, such as OAR 410-014-0020(2)(j) which identifies limits on disclosures of protected health information to law enforcement) or in response to an order issued by a judge, magistrate or other authorized judicial officer.

(2) Response to Child Support Enforcement. A person authorized under federal law may access information for the Federal Parent Locator Service under ORS 25.265.

(3) OVRS may release client information to protect the individual or others when the individual poses a threat to his or her safety or to the safety of others.

(4) For Deceased Persons:

(a) Vital Statistics. These rules do not restrict the disclosure of OVRS client identifying information relating to the death of a client under laws

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requiring the collection of such vital statistics or permitting inquiry into the cause of death;

(b) Consent by Personal Representative. Other requirements of these rules notwithstanding, if written consent to such disclosure is required, that consent may be given by an executor, administrator or other personal representative appointed under applicable state law. If there is no such appointment, consent may be given by the spouse or other responsible member of the client's family.

(5) Participation in State Agency Information Exchange: OVRS will participate in the State Shared Information System (SIS) or Performance Reporting Information System (PRISM), and DHS information sharing to the extent allowed by and consistent with state and federal law and/or regulations. Where client authorization is required, OVRS may obtain informed written consent using forms specific to these information exchanges.

(6) OVRS may disclose the minimum information necessary for internal OVRS administrative purposes to the Department of Human Services; federal Rehabilitation Services Administration; or other state or federal agencies with regulatory authority over OVRS or administrative responsibilities necessary for OVRS services.

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

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 4-1991, f. & cert. ef. 12-13-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 3-2004, f. & cert. ef. 3-12-04; VRS 5-2004, f. & cert. ef. 8-5-04

582-050-0000

Standards

(1) Referrals to and applications for Vocational Rehabilitation Services provided by OVRS shall be handled equitably and expeditiously, with equitable statewide distribution of available staff and other resources.

(2) OVRS shall process all new referrals and applications promptly.

(3) When an Order of Selection is invoked, emphasis in screening of new referrals and processing of applicants shall be placed upon both a determination of eligibility and the severity of the impairment. Priority for services goes first to eligible individuals with the most significant disabilities. Other priority-of-service groups or sub-groups are added or deleted through amendment to the State Plan.

(4) Except when the record shows that delay is reasonable and mutually acceptable, evaluation (for the purposes of basic eligibility determination) shall begin promptly and to the maximum extent possible will be expedited through use of existing information, especially that from the records of schools, Social Security, personal physicians and family members.

(5) Once OVRS has received an application for vocational rehabilitation services, including applications for vocational rehabilitation services made through common intake procedures in One-Stop centers established under section 121 of the federal Workforce Investment Act of 1998, an eligibility determination must be made within 60 days, unless:

(a) Exceptional and unforeseen circumstances beyond the control of OVRS preclude making an eligibility determination within 60 days and OVRS and the individual agree to a specific extension of time; or

(b) A trial work experience or exploration of the individual's abilities, capabilities, and capacity to perform in work situations is carried out in accordance with 34 CFR 361.42(e) or, if appropriate, an extended evaluation is carried out in accordance with 34 CFR 361.42(f).

(6) OVRS shall not make a determination of ineligibility on the basis that an individual with a significant disability is too severely impaired unless a trial work experience, community based assessment, or extended evaluation results in clear and convincing evidence that such individual is presently incapable of an employment outcome as result of the provision of further Vocational Rehabilitation Services.

(7) OVRS will not close an applicant's record of services prior to making an eligibility determination unless the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and OVRS has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative to encourage the applicant's participation.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - ORS 344.690 & ORS 344.710 - ORS 344.730

Hist.: VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04

582-050-0005

Trial Work Experiences and Extended Evaluations

(1) Trial work experiences for individuals with significant disabilities.

(a) Prior to any determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of

an employment outcome because of the severity of that individual's disability, OVRS shall conduct an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support such a determination.

(b) OVRS shall develop a written plan to assess periodically the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences, which must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the individual.

(c) Trial work experiences include supported employment, on-the-job training, and other experiences using realistic work settings.

(d) Trial work experiences must be of sufficient variety and over a sufficient period of time for OVRS to determine that:

(A) There is sufficient evidence to conclude that the individual can benefit from the provision of vocational rehabilitation services in terms of an employment outcome; or

(B) There is clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome due to the severity of the individual's disability.

(e) OVRS shall provide appropriate supports, including assistive technology devices and services and personal assistance services, to accommodate the rehabilitation needs of the individual during the trial work experiences.

(2) Extended evaluation for certain individuals with significant disabilities.

(a) Under limited circumstances if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted before OVRS is able to make the determinations described in OAR 582-050-0005(1)(d), OVRS will conduct an extended evaluation to make these determinations.

(b) During the extended evaluation period, vocational rehabilitation services must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the individual.

(c) During the extended evaluation period, OVRS will develop a written plan for providing services necessary to make a determination OAR 582-050-0050(1)(d).

(4) During the extended evaluation period, OVRS provides only those services that are necessary to make the determinations described OAR 582-050-0050(1)(d) and terminates extended evaluation services when OVRS is able to make the determinations.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 3-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04

582-050-0010

General Provisions

(1) Eligibility requirements are applied without regard to sex, handicap, race, age, creed, color, or national origin of the applicant. Unless otherwise stated in the context, the rules in OAR 582-050 pertain only to Vocational Rehabilitation Services.

(2) Except for individuals whose impairments fall within the definition of legal blindness, or are of a rapidly progressive nature leading to legal blindness, OVRS shall not exclude any group of individuals from eligibility for services solely on the basis of type of disability or impairment.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 3-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 5-2004, f. & cert. ef. 8-5-04

582-050-0020

Criteria

Applicants must meet the following conditions before they may be "eligible" for Vocational Rehabilitation Services:

(1) A determination by qualified personnel that the applicant has a physical or mental impairment.

(2) A determination by qualified personnel that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant.

(3) A determination by a qualified vocational rehabilitation counselor employed by OVRS that the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

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(4) A presumption, in accordance with OAR 582-050-0020(5), that the applicant can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

(5) Presumption of benefit. OVRs presumes that an applicant who meets the eligibility requirements OAR 582-050-0020(1) and (2) can benefit in terms of an employment outcome unless OVRs demonstrates, based on clear and convincing evidence, that the applicant is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the applicant's disability.

(6) Presumption of eligibility for Social Security recipients and beneficiaries. Any applicant who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act is:

(a) Presumed eligible for vocational rehabilitation services under OAR 582-050-0020(1) and (2); and

(b) Considered an individual with a significant disability as defined in 34 CFR 361.5(b)(31).

(7) If an applicant for vocational rehabilitation services asserts that he or she is eligible for Social Security benefits under Title II or Title XVI of the Social Security Act (and, therefore, is presumed eligible for vocational rehabilitation services under OAR 582-050-0020(6)), but is unable to provide appropriate evidence, such as an award letter, to support that assertion, OVRs must verify the applicant's eligibility under Title II or Title XVI of the Social Security Act by contacting the Social Security Administration. This verification must be made within a reasonable period of time that enables OVRs to determine the applicant's eligibility for vocational rehabilitation services within 60 days of the individual submitting an application for services in accordance with 34 CFR 361.41(b)(2).

(8) Any applicant who is presumed eligible under OAR 582-050-0020(6) must require vocational rehabilitation services and intend to achieve an employment outcome that is consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(9) OVRs may close the file any applicant who is presumed eligible under OAR 582-050-0020(6) if a community-based assessment, trial work experience, or extended evaluation — consistent with the standards of OAR 582-050-0005 results in clear and convincing evidence that the applicant is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the applicant's disability.

Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 3-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04

582-050-0050

Citizenship

Citizenship is not a basic criteria for eligibility. A person may be eligible for Vocational Rehabilitation Services if he/she meets the basic criteria for eligibility (OAR 582-050-0020) and he/she is:

(1) A United States citizen (birth or naturalization).

(2) A permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(3) In the United States for other than a temporary purpose and provides evidence from the Immigration and Naturalization Service, with intention to become a permanent resident.

(4) A permanent resident of the United States as determined by the Immigration and Naturalization Service.

(5) Present in the state and available for services, able to demonstrate and/or document the likelihood of being able to complete an Individualized Plan for Employment culminating in employment, and is legally entitled to hold employment in this country.

Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 4-1981, f. & ef. 12-1-81; VRD 2-1991, f. & cert. ef. 9-11-91; VRS 5-2004, f. & cert. ef. 8-5-04

582-050-0060

Residency

(1) There shall be no residency requirement, durational or otherwise, which excludes services to an otherwise eligible individual who is present in the state, available and able to participate in services leading to an employment outcome.

(2) OVRs may, through mutual agreement, cooperate with another state's Vocational Rehabilitation Agency in the implementation or supervision of planned services of an Individualized Plan for Employment.

(3) For a non-resident who lives in a contiguous state, but who is available and wishes to apply for services in Oregon, the OVRs case-car-

rying counselor will negotiate with the Vocational Rehabilitation Agency of the applicant's home state to determine which single state agency will accept the application.

(4) Reasonable effort is made to assure that duplicate services are not provided concurrently in more than one state VR Agency nor shall more than one file per client be open and active within OVRs.

(5) When an Oregon client in open plan status establishes residence in another state and is no longer available to participate actively with the Oregon case-carrying counselor in the provision of services, the counselor may:

(a) Negotiate with the Vocational Rehabilitation Agency of the new state-of-residence to obtain assistance in supervision of the OVRs Services needed to complete the plan and obtain employment; or

(b) Close the case file as "ineligible" for further services due to the client's unavailability and, if requested by the client, provide copies of appropriate in-file data to the Vocational Rehabilitation Agency of the new state-of-residence.

Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 4-1981, f. & ef. 12-1-81; VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04

582-060-0010

Termination of Services Because of Ineligibility

(1) When the applicant does not meet one or more of the criteria for eligibility, a statement certifying the ineligibility shall be recorded in the case file and the case closed.

(2) Certification of ineligibility following an application for services:

(a) Can be made only after full participation with the individual or, as appropriate, the parent, guardian, or other representative, or after offering a clear opportunity for such consultation; and

(b) If inability to benefit from services in terms of an employment outcome is due to the severity of the disability, may be made only after providing a trial work experience or extended evaluation as set out in OAR 582-050-0005.

(3) Notification of Ineligibility: All applicants found ineligible for Vocational Rehabilitation Services shall be so notified in writing at the time of case closure (unless closure is due to death of the applicant or inability to locate or contact). The written notification will include:

(a) Notification that the case is being closed;

(b) Reasons for ineligibility;

(c) Instructions regarding availability of the Client Assistance Program, procedures for mediation and/or a hearing by an impartial hearing officer, should the applicant disagree with the disposition of his/her case as provided in OAR 582-020-0020.

Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 2-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04

582-060-0020

Termination of Services After Eligibility

(1) Termination of Services — Not Rehabilitated:

(a) An eligible client can be closed when reasonable alternatives no longer exist to initiate or complete a Rehabilitation Program for the client, or suitable progress is not made to achieve or complete identified intermediate objectives leading to employment;

(b) The decision to close such a case can be made only with the full participation of the client, or as appropriate, the parent, guardian, or other representative. Exceptions to this procedure will be made when the client refuses to participate, is no longer present in the state or his or her whereabouts becomes unknown, or the client's medical condition is rapidly progressive or terminal;

(c) At the time of closure it is required that the client be informed in writing of the reason(s) for termination, of services, availability of the Client Assistance Program, and procedures for requesting mediation and/or a hearing by an impartial hearing officer as provided in OAR 582-020-0020.

(2) Termination of Services — Rehabilitated:

(a) An eligible client may be closed as rehabilitated only if all of the following requirements are met:

(A) The client achieved the employment outcome that is described in the individual's IPE consistent with the client's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(B) The client has maintained the employment outcome for an appropriate period of time, but not less than 90 days, necessary to ensure the sta-

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bility of the employment outcome, and the client no longer needs vocational rehabilitation services.

(C) The client and counselor consider the employment outcome to be satisfactory and agree that the client is performing well in the employment.

(D) The client is informed through appropriate modes of communication of the availability of post-employment services.

(b) Clients closed rehabilitated must be advised in writing that their file has been closed and the basis on which this determination has been made;

(c) Clients closed rehabilitated must be informed at time of closure that they may, if dissatisfied with this decision, request mediation and/or a hearing by an impartial hearing officer and of availability of the Client Assistance Program as provided in OAR 582-020-0020.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 2-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1991, f. & cert. ef. 9-11-91; VRS 5-2004, f. & cert. ef. 8-5-04

582-070-0010

General Policy

NOTE: For community rehabilitation programs and medical or related services refer also to OAR 582-010, 582-075 and 582-080.

It is the policy of the OVRS to reimburse vendors who provide previously-authorized services and/or supplies to persons who qualify for such services.

(1) Vendors shall be paid in accordance with the lesser of:

(a) The vendor's usual charge for such service, i.e., that fee for service which the vendor under ordinary circumstances charges to the general public for such services; or

(b) A pre-determined charge that has been negotiated between the vendor and an agency person authorized to consummate agreements between this agency and the vendor.

(2) In addition to any such general contracts or agreements, actual services to individuals must be specifically prior authorized and are not considered approved or billable until the vendor receives a completed Agency Authorization for Purchase (AFP) form or its equivalent, listing specific prior authorized services and estimated billable amounts, signed by the appropriate agency representative(s):

(a) Only in extreme emergencies may services be prior authorized verbally and any such verbal authorization must be documented promptly and followed with a written AFP within 72 hours;

(b) Apparent fraud, misrepresentation or substantial discrepancies between services rendered and billed amounts shall be investigated and, as appropriate, legal steps taken to prevent or recover overpayments.

(3) Except as specified in OAR 582-070-0010(4), Rehabilitation Services funds will not be expended before OVRS determines that "comparable benefits and services" are not available to meet, in whole or in part, the cost of such services, unless such a determination would interrupt or delay:

(a) The progress of the individual toward achieving the employment outcome identified in the Individualized Plan for Employment;

(b) An immediate job placement; or

(c) The provision of vocational rehabilitation services to any individual who is determined to be at extreme medical risk, based on medical evidence provided by appropriate qualified medical personnel. Further, except for student loans, for training provided in institutions of higher education (any training institutions where such grant assistance may likely be available) OVRS assures that maximum effort has been made by OVRS and the client to obtain and use any "comparable benefits or services" before expending Rehabilitation Services funds.

(4) The following vocational rehabilitation services are exempt from a determination of the availability of comparable services and benefits:

(a) Assessment for determining eligibility and vocational rehabilitation needs;

(b) Counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(c) Referral and other services to secure needed services from other agencies, including other components of the statewide workforce investment system, if those services are not available from OVRS;

(d) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(e) Rehabilitation Technology, including telecommunications, sensory, and other technological aids and devices.

(f) Post-employment services consisting of any of the services in OAR 580-070-0010(4)(a - e); and

(5) Purchases shall be of the most reasonable and satisfactory quality at the lowest available cost, subject to supervisory and/or administrative

review and/or approval prior to authorization; accordingly, OVRS reserves the right to establish upper limits on the utilization of existing services, subject to an exception process.

(6) Preliminary diagnostic assessment is limited to a review of existing data and such additional data as is necessary to determine eligibility or, for Rehabilitation Services, to assign priority for order of selection for service (when appropriate). Comprehensive assessment and/or extended evaluation services may be provided only until eligibility/ineligibility or extent and scope of needed Rehabilitation Services can be determined. Additionally, other services are available (including the use of Rehabilitation Technology services, as appropriate) to determine the nature, scope and types of services needed to attain a specific vocational rehabilitation objective of the eligible client. Continued eligibility is contingent upon reasonable progress by the client toward attainment of measurable intermediate objectives within time-lines arrived at and agreed to through joint counselor/client development of the plan and any amendments thereto.

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

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRS 2-2004, f. & cert. ef. 3-9-04; VRS 5-2004, f. & cert. ef. 8-5-04

582-070-0020

Specific Policies

Specific rules pertain to the provision of the following services:

(1) On-the-Job Training:

(a) Payment to on-the-job trainers/employers for training services will be negotiated at the lowest reasonable level and will always be considered as reimbursement for actual expenses and/or trainer time; the trainer/employer cannot expect to make a profit from such payments;

(b) Offset against client wages will be negotiated with the trainer/employer on a mutual sharing basis at the lowest reasonable level to adequately pay the client for his/her productive work efforts with the trainer/employer ultimately paying the entire wage. Total length of the training program and length of OVRS involvement in payments will be negotiated on the basis of the complexity of the training and the amount of relevant skill and knowledge the client possesses prior to entering training.

(2) Training: Educational and training services, except on-the-job training, must be purchased from public educational organizations in Oregon. Exceptions are authorized only when:

(a) No publicly-supported school provides the courses necessary for the client's needs in order to reach the vocational objective; or

(b) A client cannot utilize publicly-supported schools because of his or her disability; or

(c) OVRS's financial participation in the plan is no greater than if the client had enrolled at the nearest appropriate publicly-supported school; or

(d) The net cost to Oregon governmental agencies is significantly less; or

(e) The training services for the client will be significantly delayed.

(3) Client Maintenance: OVRS will only pay or provide for maintenance expenses consistent with the definition of this term at OAR 582-001-0010(22) and 34 CFR 361.5(b)(35).

(4) Clothing Purchases: Clothing purchases may be authorized if the need is a result of participation by the client in a rehabilitation program and the client does not possess sufficient financial resources to provide for these expenses. These must be appropriate in type and in a price range, comparable to clothing items normally used by persons engaged in similar rehabilitation, training or employment settings.

(5) Client/Applicant Transportation: travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a required vocational rehabilitation service. Assistance by the Office of Vocational Rehabilitation Services (OVRS) with transportation services will be subject to the following:

(a) Where local public transportation is available and can be used by the client, any reimbursement will not exceed the public transportation rate. Use of transportation costing in excess of the least expensive mode available to the client requires written justification, by the counselor, prior to authorization (e.g., disability prevents using the least costly mode);

(b) Where public transportation is not available or cannot be used by the client due to his/her disability, reimbursement may be authorized by the counselor for use of private vehicle or other appropriate forms of transportation;

(c) Only when determined by OVRS to be the most feasible means of providing for necessary client transportation for rehabilitation services may vehicle modification be authorized. Any vehicle modification must be prior approved by the local OVRS Field Services Manager, Field Operations Manager, or Administrator (or designee), depending on the expenditure

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level. Administrative level approval is obtained prior to authorizing any such costs in excess of \$5,000.00 per service; vehicle modifications are subject to OVRS established policies for purchasing authorization;

(d) The field counselor will inform the client that costs associated with insurance, repair and replacement are to be managed by the client after a modification is complete;

(e) It is the policy of OVRS to not purchase vehicles; however, the Administrator of the Office of Vocational Rehabilitation Services, or the Administrator's designee, may grant an exception and furnish payment of all or part of the purchase of a motor vehicle where the conditions in OAR 582-070-0025(2) are applicable.

(f) Whenever an exception is made by OVRS allowing payment toward the cost of a motor vehicle, OVRS will require that OVRS be shown as the primary lien holder until successful case closure has been achieved. Ownership is transferred to the client only if the vehicle is needed to participate in employment, and there is a successful case closure. When client ownership is not justified based on these two criteria, the vehicle shall be repossessed and reassigned or otherwise disposed of by OVRS.

(6) Community Rehabilitation Programs' Services.

NOTE: Refer also to OAR 582-010.

(a) State-wide rates are intended to pay only the anticipated cost of standard rehabilitation services. This fee schedule may be adjusted for a specific CRP to reflect non-standard types or levels of service, or statewide for standard service, if a significant increase or decrease in the actual cost of serving clients occurs;

(b) For Community Rehabilitation Programs operated under private auspices, fees may be negotiated taking into consideration costs such as buildings, staffing and equipment. For publicly owned and operated Community Rehabilitation Programs (e.g., state or county owned or operated) fees, if any, must be based upon and not exceed actual costs.

(7) Extended Evaluation: OVRS will provide only those services authorized under OAR 582-050-0005.

(8) Personal Care Assistance (PCA): Is provided only when necessary to allow client to benefit from other rehabilitation services, including evaluation, and when the client is not entitled to PCA services from another source:

(a) Client as Employer: The client, in most cases, as the employer of the PCA may be reimbursed for necessary PCA services required to participate in rehabilitation services;

(b) Third Party Vendor: Direct payment to the PCA vendor by OVRS requires prior approval by the Field Services Manager in addition to the requirements of Oregon Administrative Rules chapter 582, division 10;

(c) Written Contract: In most instances the client is to be the employer of his/her own personal care assistant. OVRS may assist the client to establish an appropriate written contract with the provider.

(9) Interpreter Service: Is provided only when necessary to assist the client to derive full benefit from other rehabilitation services:

(a) Limitation: To be provided by OVRS only when "comparable benefits" are not available;

(b) For the Deaf and Hearing Impaired: OVRS gives preference to using interpreters certified by the National Registry of Interpreters for the Deaf and/or one who is on the approved vendor list of the State Association of the Deaf. When deemed mutually acceptable by the client and the counselor, another interpreter may be utilized;

(c) Regional Resources: The Deaf and Hearing Impaired Access Program may be used as a resource to both clients and staff for securing interpreters.

(10) Other Support Services Providers: May be selected for specific skills needed. Where provider licenses, insurance, certificates and state or local codes are indicated OVRS reasonably attempts to assure that appropriate levels are met before authorizing services from the provider. (See OAR 582-080 for additional rules on vendor selection.)

(11) Insurance: Providers shall obtain and maintain insurance as required by law for that provider; additionally, where OVRS is providing for services, appropriate levels of personal, automobile, professional and general liability insurance may be required, depending on the type of service.

(12) Occupational Licenses, Tools and Equipment for Training and/or Employment:

(a) May be provided when required for either extended evaluation or in other plan statuses, including post employment. OVRS accepts no responsibility for client lease/rental agreements or the leased/rented items other than to reimburse the client for such prior authorized expenditures;

(b) Repossessed items will be used whenever appropriate and available;

(c) Except for personally prescribed items, title/ownership of an OVRS purchased (or jointly purchased) item is held by OVRS (or jointly with OVRS) until case closure when ownership may be transferred to the client for non-expendable items deemed by OVRS to be needed for continued success in the client's program.

(13) Land and/or Stationary Buildings: Are never purchased by OVRS as a service to an individual client. Existing buildings may be modified when necessary to enable an eligible client to attain a vocational plan goal. No permanent additions or weight bearing partitions are to be erected as services to individuals.

(14) Moving Expenses: May be provided for training or employment only when it has been determined by OVRS that it is less costly and/or more beneficial than having the client commute. OVRS retains the right to deny reimbursement for client opted commuting/moving costs in excess of the least costly alternative.

(15) Rehabilitation Technology Services (RTS): May be applied at any time during rehabilitation services to address barriers to the client's participation in evaluation, training, and employment:

(a) Approved Vendors: OVRS ensures that providers used by OVRS are qualified in the areas of engineering skills and/or technology required for a given service. Selected Community Rehabilitation Programs' Approvals may include RTS, when State Standards for Approvals are met for RTS;

(b) Authorization of: RTS is not conditioned upon unavailability of Comparable Benefits or Services, but all reasonably available comparable services shall be used before authorizing expenditure by OVRS. Personal services contracts for RTS require Field Services Manager approval prior to implementation.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRD 1-1996(Temp), f. 2-26-96, cert. ef. 3-1-96; VRS 1-2003, f. & cert. ef. 9-23-03; VRS 2-2003, f. & cert. ef. 12-31-03; VRS 5-2004, f. & cert. ef. 8-5-04

582-070-0025

Vehicle Purchase/Vehicle Modification

(1) The following definitions apply to this rule:

(a) "Approved Vendor" means a dealer who is recognized by OVRS as an approved installer/retailer of specified devices;

(b) "Qualified Mechanic" means American Standard Automotive/American Standard Engineering certified;

(c) "Qualified Vehicle Modification Evaluation" means an evaluation performed by a licensed occupational therapist;

(d) "Reasonable transportation alternatives" include, but are not limited to, car repairs to an already owned vehicle; use of mass transit or other community transportation options; a move to another area which allows access to employment, mass transit and community transportation options; family members, volunteers, paid driver/attendants, car pool or other public transportation options; or reasonable accommodations by the client's employer;

(e) "Vehicle Modification" means services involving the purchase and installation of adaptations or devices in a vehicle.

(2) It is not the policy of the Office of Vocational Rehabilitation Services (OVRS) to provide funds for individuals to lease or purchase motor vehicles that require a license to operate; however, the Administrator of the Office of Vocational Rehabilitation Services, or the Administrator's designee, may grant an exception and furnish payment of all or part of the purchase of a motor vehicle when no other options are available to support the employment goal if:

(a) The exception is not prohibited by state or federal statute, rule or regulation; and

(b) The exception is granted only after OVRS and the client have explored all reasonable transportation alternatives; and

(c) OVRS has also made the following determinations:

(A) Purchase of a motor vehicle eliminates a barrier to the employment plan goal and OVRS has determined that no other reasonable alternative is available because any available alternatives would delay the employment plan or place the client at extreme medical risk.

(B) Available financial resources, which include, but are not limited to comparable services and benefits, Plans for Achieving Self-Support, grants, or other resources, do not meet the minimum cost of the motor vehicle sufficient to eliminate a barrier to the employment plan;

(C) The client will have sufficient income and resources after successful client file closure in order to meet his/her daily living expenses and the cost of motor vehicle operation and replacement.

(3) Scope of Vehicle Modifications:

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(a) As Rehabilitation Technology, defined as necessary to address vocational barriers confronted by individuals with disabilities in the area of transportation, OVRS may not purchase the following:

(A) Modifications to a van if it would be possible to modify a sedan style automobile to meet the individual's need for transportation;

(B) Modifications to a vehicle if the individual owns or has use of another vehicle that would meet the individual's transportation needs; or

(C) Modifications to a vehicle for an individual to drive if the result of a qualified vehicle modification evaluation indicates that the individual is not capable of driving due to the individual's disability.

(b) Conditions for OVRS participation in costs associated with vehicle modification include the following:

(A) The client does not own another vehicle, which would meet their transportation needs;

(B) The client has or is able to obtain a valid driver's license, if modifications for driving are made;

(C) It is planned that the client will be the primary driver of the modified vehicle, if modifications for driving are made;

(D) The vehicle must be registered in the name of the client and/or the client's parents or guardian;

(E) The proposed modification has been determined to be needed as the result of a qualified vehicle modification evaluation;

(F) Individuals who are provided motor vehicle modification/adaptation services by OVRS shall obtain, at their own cost, insurance on such modifications, since OVRS will not correct or replace motor vehicle modifications damaged in an accident.

(c) Vehicle requirements for OVRS participation in the cost of modifications are as follows:

(A) It has been determined that other alternatives for meeting transportation needs are not available, and transportation as afforded by the affected vehicle is essential to the achievement of the Individualized Plan for Employment goal;

(B) The vehicle to be modified has been judged safe and is in reasonably good condition, as determined by a qualified mechanic;

(C) All proposed modifications are consistent with applicable vehicle safety laws;

(D) OVRS will not provide modifications for a vehicle that OVRS has previously modified except as provided in OAR 582-070-0025(5);

(E) OVRS will not provide such optional equipment as may generally be purchased through an automobile dealer at the time the vehicle is purchased — including radio, air conditioning, automatic transmission, power brakes, and power windows unless such equipment is required as a result of the client's disability and is categorized in the Occupational Therapists driver's evaluation as necessary to the modification of the vehicle;

(F) OVRS assumes no responsibility for general maintenance or repair of modified vehicles;

(G) OVRS assumes no warranty responsibility for modifications, equipment, or parts. The installer or supplier may warrant them.

(d) OVRS conditions for vendor selection are as follows:

(A) Vehicle modifications shall be purchased from vendors or dealers who are listed and on file with OVRS as an approved vendor of the devices;

(B) Such purchases will be made in accordance with State procurement regulations and OVRS purchase policy and procedures.

(4) If the client will be the motor vehicle driver, OVRS will require a qualified professional Occupational Therapist evaluation, and the Occupational Therapist evaluation must conclude that the client can get or maintain a Driver License through the State Department of Motor Vehicles.

(5) Second or subsequent modifications are limited to those needed to accommodate changes in the individual's medical condition, except that a second or subsequent motor vehicle modification or purchase may be authorized after a determination by the vocational rehabilitation counselor that confirms the client's failure to comply with the prior agreement to maintain, repair and replace the previous modifications or motor vehicle was for good cause based on:

(a) Disability-related expenses exceeding the individual's financial ability to provide for the necessary maintenance, repair or replacement of the previous modification or motor vehicle; or

(b) Employment status changed which resulted in the individual's inability to maintain, repair or replace the previous modification or vehicle; or

(c) Other unavoidable financial obligations, as documented by the OVRS field counselor, that impaired the individual's ability to maintain, repair or replace the previous modification or vehicle.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 2-1996, f. & cert. ef. 8-28-96; VRS 1-2003, f. & cert. ef. 9-23-03; VRS 5-2004, f. & cert. ef. 8-5-04

582-070-0030

Limitations of Payments

NOTE: For medical and related services refer also to OAR 582-075 and 582-080; and, for providers of community rehabilitation services refer also to OAR 582-010.

(1) Payment in Full: Vendors providing any services authorized by OVRS shall not make any charge to or accept any payment from the client/applicant or his/her family for such services unless the amount of the service charge or payment to be borne by the client is previously agreed to by the individual or his/her family, known to and, where applicable, approved by OVRS.

(2) Client Financial Participation and the Financial Needs Test: Except as expressly exempted, services funded by OVRS are subject to Client Financial Participation. Clients will be allowed or required to contribute financially as set forth in OAR 582-070-0030. The contribution requirements apply starting July 1, 2004 for clients submitting applications for services, requests for post-employment services, and for annual IPE reviews.

(a) The purpose of client participation in service costs is to encourage the commitment of the client to their vocational rehabilitation goal, create a cooperative relationship with the client, and conserve limited OVRS resources.

(b) Except as provided in OAR 582-070-0030(2)(j) and (k), the following individuals are exempted from the Financial Needs Test and Client Financial Participation:

(A) Any individual who has been determined eligible for and is currently the recipient/beneficiary of Social Security Benefits under Title II (Social Security Disability Insurance, SSDI) or Title XVI (Supplemental Security Income, SSI) of the Social Security Act;

(B) Recipients of qualifying needs-based public assistance programs, including Self Sufficiency Cash Benefits, Oregon Health Plan, Temporary Assistance for Needy Families, and Food Stamps, and excluding financial aid for post-secondary education;

(C) Homeless or transient individuals.

(c) Except as provided in OAR 582-070-0030(2)(j) and (k), the following services are exempt from Client Financial Participation:

(A) Assessment for determining eligibility, vocational rehabilitation needs, or priority for services, including assessment by personnel skilled in rehabilitation technology;

(B) Vocational rehabilitation counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(C) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce investment system and to advise those individuals about client assistance programs;

(D) Job related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(E) Personal assistance services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability;

(F) Auxiliary aids or services required to participate in the vocational rehabilitation program, such as interpreter services including sign language and oral interpreter services for individuals who are deaf or hard of hearing; or tactile interpreting services for individuals who are deaf-blind.

(d) Under the Financial Needs Test, clients with annual family income of less than either 250 percent of the federal poverty guidelines or \$60,000 are not subject to Client Financial Participation and are exempt from the guidelines set out in OAR 582-070-0030(2)(e).

(e) Client Financial Participation will be determined on an annual basis, not to exceed the annual cost of non-exempt services to OVRS, applying the following contribution schedule:

(A) Clients with family income between \$60,000 and \$69,999 are subject to a mandatory financial contribution of \$700.

(B) Clients with family income between \$70,000 and \$79,999 are subject to a mandatory financial contribution of \$900.

(C) Clients with family income between \$80,000 and \$89,999 are subject to a mandatory financial contribution of \$1300.

(D) Clients with family income between \$90,000 and \$99,999 are subject to a mandatory financial contribution of \$1700.

(E) Clients with family income between \$100,000 and \$109,999 are subject to a mandatory financial contribution of \$2100.

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(F) Clients with family income between \$110,000 and \$119,999 are subject to a mandatory financial contribution of \$2900.

(G) Clients with family income between \$120,000 and \$129,999 are subject to a mandatory financial contribution of \$3700.

(H) Clients with family income at \$130,000 or higher are subject to a mandatory financial contribution of \$3700 plus ten percent of their family income in excess of \$130,000.

(f) OVRs will use the following definitions to calculate Client Financial Participation:

(A) "Income" is determined by the adjusted gross income from the most recent federal tax return, unless unusual circumstances merit other documentation.

(B) "Family income" consists of income from the client, the spouse of the client if residing with the client, and includes parents if the client is under 18 and living with parents, or the parents claim the client as a dependent on federal taxes, or the client maintains dependent status for financial aid reasons.

(C) "Federal poverty guidelines" are the current poverty guidelines of the United States Department of Health and Human Services.

(D) "Size of the family unit" for purposes of selecting the appropriate federal poverty guideline includes those family members residing with the client or claimed on federal taxes as dependents; but if the client is under 18 and living with parents, or the parents claim the client as a dependent on federal taxes, or the client maintains dependent status for financial aid reasons, the family unit may include those family members residing with the parents or claimed on the federal taxes of the parents as dependents

(g) If the client or their family choose not to share information about their income as part of the calculation of the financial needs test, an annual, mandatory client contribution of \$3700 shall be established, not to exceed the annual cost of non-exempt services to OVRs, unless OVRs concludes that the annual family income of a client may exceed \$130,000 in which case the client contribution shall be established at 100 percent for items and services subject to Client Financial Participation.

(h) Subsequent Financial Needs Tests will be conducted with the annual review of the Individualized Plan for Employment, and may also be conducted if there is a change in the financial situation of either the client or the family unit.

(i) "Extenuating Circumstances" will be considered when the counselor identifies other information related to the individual's financial situation that negatively affects the individual's ability to participate in the cost of the rehabilitation program or if requiring the expected financial contribution will result in undue delay in the rehabilitation program. In determining whether to make an adjustment for extenuating circumstances, OVRs may consider the client's current income and the reasons for the request. If there are extenuating circumstances that justify an exception, OVRs may delay or waive all or part of the client's financial contribution. In such cases the counselor will:

(A) Obtain written approval of their supervisor;

(B) Provide documentation of the reasons for the exception;

(C) Maintain both the signed exception and the documentation of circumstances in the client file record.

(j) If a client prefers an upgrade, enhancement, optional feature, or more expensive vendor of essentially the same equipment or item available from a less expensive vendor, and this preference is not required to satisfy the vocational rehabilitation goals that justify the expenditure, OVRs and the client may agree that the client will pay the difference in cost between the service or item purchased and the service or item available that would have satisfied the vocational rehabilitation goals that justify the expenditure. In this situation, client payment is required regardless of whether the financial needs test authorizes client payments; and any client payments in this situation do not count toward the client's mandated financial contribution.

(k) An Individualized Plan for Employment (IPE) may include voluntary client contributions. A client agreement in an IPE to make a voluntary contribution is not enforceable.

(3) Student Financial Aid: OVRs assures that "maximum" effort is made by Rehabilitation Services clients to secure student financial aid for any approved training in institutions of higher education. "Maximum" effort includes making timely application for such grant assistance on a consistent basis and utilizing such benefits as are available in lieu of Vocational Rehabilitation funding:

(a) Coverage: All clients, including graduate students, must apply for all financial aid benefits each academic year, but student loans are not required nor treated as "comparable benefits." After identifying all costs associated with enrollment and attendance in the training, and after identi-

fying all available resources, including but not limited to Financial Aid, SSDI/SSI, family, loans, work-study, the counselor and client will mutually agree as to which costs will be paid for with the available funds.

(b) Other Comparable Benefits or Services: If a third party (e.g., employer, insurance company, WCD) is required to or agrees to pay or reimburse to OVRs all of the case service rehabilitation costs of the client, the financial aid grant offer need not be applied against the plan costs nor treated as a "comparable benefit;"

(c) Late Applications: Pending determination of student aid by the financial aid officer, Division funds can be expended for education-related expenses between the date of application and determination of the client's eligibility for assistance provided that such expenditures are reduced by any amounts of comparable benefits subsequently received, excepting student loans;

(d) Duplicate Payments: When student financial aid is approved arrangements must be made promptly to reduce projected OVRs payments and/or recover duplicate payments;

(e) Parent Non-Participation: With the Field Services Manager's approval, the counselor may fund the parental contribution portion of the student's budget (as prepared by the college or university FAO) if the parents refuse or are unable to contribute.

(4) For Industrially-Injured Workers: OVRs will provide only for the cost of those rehabilitation services which are not the responsibility of the employer, insurer or the Oregon Worker's Compensation Division.

(5) Increased Cost Maintenance: OVRs will not provide client maintenance except for additional costs incurred while participating in authorized services, such as when the client must maintain a second residence away from the regular household in order to achieve a rehabilitation goal. Such maintenance will be provided according to the provisions under OAR 582-070-0020(3), 582-001-0010(22), and 34 CFR 361.5(b)(35).

(6) Physical and Mental Restoration Services: Are provided only to ameliorate a diagnosed physical or mental condition that presents a substantial impediment to employment for the eligible individual. The services must be essential for the individual's achievement of a vocational goal:

(a) Drugs:

(A) When a physician (MD or OD) or dentist recommends prescription medication, if practical, the lowest price (e.g., generic) will be obtained prior to issuing an authorization;

(B) Controlled substances require a prescription; an attending physician's statement under ORS 475.309(2)(a) does not qualify as a prescription.

(b) Dental Services: Dental care may be provided by OVRs when the condition of teeth or gums imposes a major impediment to employment (e.g., endangers health, emergency needs, or serious cosmetic needs). Dentures may be purchased from licensed dentists or certified denturists;

(c) Eye Glasses: Eye glasses may be purchased when determined essential for evaluation of eligibility or the achievement of the vocational goal, limited to basic frames and lenses unless other features are medically required (e.g., sun glasses, tints, contact lenses);

(d) Wheelchairs: A wheelchair may be purchased when it is essential to a vocational living plan. Wheelchairs must be prescribed by a physiatrist or, if one is not available, physical therapist or other qualified medical specialist;

(e) Hearing Aids: Hearing aids may be provided only when essential to evaluation, vocational services or the individual's ability to obtain or retain employment. In order to purchase hearing aids for a client, the following are required:

(A) An evaluation by a physician skilled in diseases of the ear or an otologist; and

(B) An evaluation by a speech and hearing center or by a private audiologist.

(f) Other Prosthetic Devices: Prosthetic devices may be purchased only upon the authorization of the counselor and with a written prescription by a specialist;

(g) Psychotherapy: Group or individual psychotherapy may be provided in those instances when required for a person to reach a vocational goal and when an immediate and positive goal related impact is anticipated. A specific number of sessions or a specified time limit is required. OVRs may limit these services to those recommended by an OVRs psychological or psychiatric consultant;

(h) Physical or mental restoration services will not be provided by OVRs for the treatment of an acute or chronic medical complication or emergency unless these are associated with or arise out of the provision of physical or mental restoration services in the IPE, or are inherent in the condition under treatment as described in the IPE.

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(i) Corrective surgery or therapeutic treatment will not be provided or funded by OVRS if it is not likely within a reasonable period of time to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment.

(j) OVRS will not provide or fund transsexual surgery;

(7) Services not Provided: The following services cannot be provided or authorized at any time by OVRS:

(a) Any client-incurred debt;

(b) Any services obtained by the client prior to the date of application;

(c) Purchase of land or stationary buildings;

(d) Fines or penalties, such as traffic violations, parking tickets, library fines, etc.;

(e) Breakage fees and other refundable deposits;

(f) Contributions and donations;

(g) Entertainment costs;

(h) Payments to credit card companies;

(i) Authorization to supermarkets or grocery stores for food items;

(j) Basic Client Maintenance;

(k) Except for eye glasses or hearing aids essential to completing diagnostic/evaluation services (to determine Rehabilitation Services eligibility) in applicant status, or occupational tools or licenses essential to Extended Evaluation Services, the following may never be authorized for an individual who has applied but has not yet been found eligible for rehabilitation services:

(A) Prosthetic devices;

(B) Occupational tools and licenses;

(C) Placement services.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1981, f. & ef. 12-1-81; VRD 2-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRS 2-2004, f. & cert. ef. 3-9-04; VRS 5-2004, f. & cert. ef. 8-5-04

582-070-0040

Repossession/Disposition of Non-Expendable Property

(1) For tools, supplies, equipment, vehicles, etc., funded by OVRS and needed by the client for employment at time of closure as employed (from Individualized Plan for Employment or post-employment services), ownership or title is transferred to the client.

(2) If a client is closed as other than rehabilitated, or if tools, supplies, equipment, vehicles, etc., funded by OVRS are not needed while a client is receiving plan services or not needed by a client employed at the time of a successful closure, where practical and appropriate, such property shall be repossessed and reassigned or otherwise disposed of by OVRS:

(a) For such property with a current value of \$700 or less the counselor shall make a reasonable effort to repossess the property through voluntary cooperation by the involved client, client's family or other individual who may be in current possession of said property, including small claims court; and

(b) For current values estimated to be over the amount of \$700 OVRS shall pursue, if necessary, other available legal means to regaining such property, or its equivalent value, including obtaining advice or assistance from the Office or the Attorney General.

(3) Any property funded by OVRS that has been purchased via prescription (such as glasses, hearing aids, wheelchairs) may be retained by the client, with justification at closure documented in the client record.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 2-1992, f. & cert. ef. 4-20-92; VRS 5-2004, f. & cert. ef. 8-5-04

582-070-0041

Self Employment Including Micro-Enterprises

Self-employment is an employment option that offers people with disabilities an opportunity to enter the labor market and contributes to self-sufficiency and independence. Self-employment, including micro-enterprises, should be consistent with the client's strengths, resources, priorities, concerns, abilities, capabilities, interests, providing the client full opportunity to exercise informed choice in the selection of their employment outcome.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented:

Hist.: VRD 1-2000, f. & cert. ef. 7-24-00; VRS 5-2004, f. & cert. ef. 8-5-04

582-070-0042

Definitions

The following definitions apply to Rules 582-070-0041 through 582-070-0044:

(1) "Business plan" means a document that describes the organization and operation of the proposed business. It is prepared by the client, with assistance, as needed, from the counselor and/or Small Business Development Center at a local community college, a micro-enterprise organization, private business consultant, consultant from the Service Corps of Retired Executives (SCORE) or other similar source(s). The business plan will be used by the counselor and client, in consultation with a qualified expert, to evaluate the viability of the business, as well as provide the client with a blue print for the business. The business plan will outline the financial projections of the business, the business marketing plan, and the method and schedule of ongoing record keeping and analysis that will be used to evaluate the progress of the business. If the plan is viable, it can also be used to apply for any needed funding.

(2) "Self-employment" means working for oneself, in a business that sells goods or services. Self-employment may be a sole proprietorship, partnership, or corporation. If the business plan includes a partnership or corporation, and OVRS funding is requested, the client must be the controlling partner or controlling shareholder of the corporation.

(3) "Start-up costs" mean those costs as described in the business plan required in order for a business to begin operation. Start up costs that are considered reasonable and necessary will only be considered for funding by OVRS after all comparable services and benefits have been applied. Reasonable and necessary start-up costs required to establish the business may be provided by the OVRS in accordance with applicable purchasing rules and regulations.

(4) "Viable" when used with "business plan" means a business plan that has a reasonable chance of success leading to self sufficiency, based upon a market feasibility study; financial review of projected revenue, expenditures and assets; and the demonstrated technical and business management skills and abilities of the client. An analysis of the ongoing costs required for the operation of the business and the resources that will cover those expenses will also be necessary to determine whether the projected resources will be sufficient to cover ongoing operational costs of the business. In order to be "viable" the demonstrated client technical skills must be commensurate with those required of the self-employment venture. A business plan, to be viable, has been reviewed, in consultation with the client and the OVRS Counselor, by an individual or organization with a credible background in business planning. Although OVRS does not require that a client utilize loan funds as a comparable benefit, a business plan may require loan funding or additional funding sources other than OVRS (e.g., family, friends) in order to be considered viable.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented:

Hist.: VRD 1-2000, f. & cert. ef. 7-24-00; VRS 5-2004, f. & cert. ef. 8-5-04

582-070-0043

Nature and Scope of OVRS Services/Role of the Vocational Rehabilitation Counselor and the Individualized Plan for Employment

(1) The primary role of the Vocational Rehabilitation Counselor when assisting the client in obtaining self-employment is to address the client's barriers to employment. The Vocational Rehabilitation Counselor will ensure the client's business plan and the Individualized Plan for Employment (IPE) incorporates the strengths, resources, priorities, concerns, abilities, capabilities, and interests identified in a comprehensive assessment. In order to ensure the client is provided full opportunity to exercise informed choice, OVRS may:

(a) Help the client evaluate his or her abilities, and interest in managing a business, including both formal evaluation, as well as observation and assessment of the client's planning skills, ability to formulate a marketing and business plan, aptitudes to perform skills intrinsic in the operation of the business, initiative, commitment, and follow-through on tasks;

(b) Help the client develop a viable business plan;

(c) Help the client research and obtain the resources necessary for the business plan;

(d) Identify, in full consultation with the client, the measurements that will be used to determine progress toward the planned outcome.

(e) Work with the client to understand the risks and responsibilities of owning and operating a business, especially when funds are borrowed to capitalize and support ongoing business needs; and

(f) Assist with reasonable and necessary start-up costs of viable business plans when appropriate.

(2) If the client's formal business plan is determined to be viable, the counselor and client will complete the client's Individualized Plan for Employment (IPE). The IPE must:

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(a) Specify needed services and costs, including training in specific skill areas in starting and owning a business, if the client lacks skills necessary for successful business management;

(b) Identify Assistive Technology and any other accommodations required;

(c) Identify all resources available to fund the business plan, as described in OAR 582-070-0044(2).

(d) Include a plan to monitor and evaluate the success of the business through scheduled reviews with the client, and client-provided financial and marketing activity reports, as defined in the business plan.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented:

Hist.: VRD 1-2000, f. & cert. ef. 7-24-00; VRS 5-2004, f. & cert. ef. 8-5-04

582-070-0044

Funding Requirements for a Viable Business Plan

(1) Under most circumstances, OVRS should not be considered a primary resource for the capital required for a self-employment venture. When no comparable benefits and services are available, OVRS may fund reasonable and necessary start up costs for a business as part of a client's Individualized Plan for Employment. In order for a plan to be viable, other funding sources may be necessary to cover costs identified in the business plan that would not be covered by OVRS.

(2) Funding for the business plan may include, but is not limited to, the client's own resources; comparable services and benefits; loans from banks, finance companies or venture capitalists; grants; foundations; loans or loan guarantees from the Small Business Administration; local and state economic development funds; help from family or friends; a Social Security Plan for Achieving Self Support (PASS); or other such sources.

(3) The client is not required to accept a loan or utilize a PASS plan to fund the business plan. However, to be viable, a business plan may require additional funding such as that in a subsection (2) to cover the cost of the business venture.

(4) Except for reasonable and necessary initial start-up costs, OVRS will not pay for ongoing functions intrinsic to the operations of the business. Any request for initial start-up costs must include:

(a) The determination that OVRS and the client have explored all reasonable self-employment funding options, as identified in subsection (2); and

(b) The determination that available financial resources, as identified in subsection (2), will not meet the reasonable and necessary start-up costs for the business.

(c) Verification from the qualified expert approving the business plan that the requested start up costs are reasonable, necessary, and representative of what would be required for a start up business to begin operations.

(5) OVRS will assume no financial liability for debts, including existing debt. Any loss will not be reimbursed by OVRS.

(6) If additional funding such as that in subsection (2) is required to cover the cost of the business venture, the client shall decide, based upon informed choice about the funding options available, whether to proceed with the business plan. This may include deciding to accept a loan for capitalization and ongoing business expenses.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented:

Hist.: VRD 1-2000, f. & cert. ef. 7-24-00; VRS 5-2004, f. & cert. ef. 8-5-04

582-075-0010

General Policy

(1) The Office of Vocational Rehabilitation Services (OVRS) does not have the authority to reimburse vendors for the cost of goods and services if OVRS has not authorized payment prior to the provision of goods and services. OVRS shall reject all charges without such prior authorization.

(2) Except as provided in subsection (3) of this rule and OAR 582-075-0030, the amount that OVRS shall pay vendors for previously authorized medical or psychological services shall be the lesser of the following:

(a) The lowest fee that the vendor charges the general public or other state agencies for the service; or

(b) One of the following prescribed fees:

(A) The maximum fee prescribed by the Workers' Compensation Schedule.

(B) For medical, psychological, laboratory, and other services not governed by that schedule, OVRS shall pay the amount derived by applying the cost ratio between that schedule and the Oregon Medical Assistance Program (OMAP) Schedule to the fee prescribed by the OMAP schedule.

(3) With prior written approval by the Field Services Manager, OVRS may exceed the fee prescribed by subsection (2) of this rule when financial or human considerations outweigh the difference in cost.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented: ORS 344.511 - 344.690

Hist.: VRD 1-1991, f. 1-14-91, cert. ef. 3-1-91; VRD 4-1993, f. & cert. ef. 11-1-93; VRD 6-1997, f. 12-31-97, cert. ef. 1-1-98; VRS 5-2004, f. & cert. ef. 8-5-04

582-075-0020

Definitions

(1) "Brief narrative," as used in Division 075, means a document from a treating vendor that summarizes client treatment to date and current status; responds briefly to 3-5 specific questions posed by OVRS, if any; and is usually one or two pages.

(2) "Complete narrative," as used in Division 075, means a document from a treating vendor that describes an extended client history, addresses six or more specific topics, and is usually three or more pages.

(3) "Vendor," as used in Division 075, means an entity that provides goods and/or services at the request of OVRS.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented: ORS 344.511 - 344.690

Hist.: VRD 1-1991, f. 1-14-91, cert. ef. 3-1-91; VRD 4-1993, f. & cert. ef. 11-1-93; VRD 1-1997(Temp), f. 5-8-97, cert. ef. 6-15-97; OAR 582-075-0020(Temp) suspended by VRD 2-1997(Temp), f. 6-13-97, cert. ef. 6-15-97; VRD 6-1997, f. 12-31-97, cert. ef. 1-1-98; VRS 5-2004, f. & cert. ef. 8-5-04

582-075-0030

Medical Evidence of Record (MER) and Narrative Charges

(1) OAR 582-075-0010(2) and (3) do not govern payment for Medical Evidence of Record and Narratives.

(2) OVRS payment for existing medical records shall not exceed the lesser of the following:

(a) The lowest fee that the vendor charges the general public or other state agencies for the service; or

(b) When the invoice itemizes the number of pages copied and provided:

(A) \$18.00 for ten or fewer pages;

(B) \$0.25 per page for pages 11 to 20;

(C) \$0.10 per page for pages greater than 21; and

(D) A total maximum payment of \$22.50.

(c) When the invoice does not itemize the number of pages copied and provided, a total maximum payment of \$18.00.

(3) Additional payment will not be made for second or subsequent requests when the information to be provided was available to the vendor when the original request was processed.

(4) Integrated records will be paid as a single record request.

(5) When OVRS receives copies of existing medical records within 7 days from the date recorded on the OVRS record request, OVRS shall pay the vendor an additional \$5.00. Time shall be measured from the date of the OVRS written request to the date that OVRS electronically receives the copies or receives them in the rehabilitation services local office.

(6) When OVRS and a vendor enter a public contract for the contractor to obtain existing medical records on behalf of OVRS and perform additional related services:

(a) The contract governs payment to the contractor;

(b) The fee schedule prescribed by subsection (2) governs the contractor's payment to those from whom the contractor obtains the medical records.

(c) No bonus, as prescribed by subsection (5) of this rule shall be paid by OVRS or by the contractor.

(7) When purchasing a brief narrative, OVRS shall pay the amount billed up to a maximum payment of \$35.00.

(8) When purchasing a complete narrative, OVRS shall pay the amount billed up to a maximum payment of \$75.00.

(9) A supplier of records under this rule is not entitled to any payments if the supplier fails to provide the records requested within a specific deadline identified in the letter requesting the records, and OVRS is not able to make use of the records as a result.

Stat. Auth.: ORS 344.530(2)

Stats. Implemented: ORS 344.511 - 344.690

Hist.: VRD 1-1991, f. 1-14-91, cert. ef. 3-1-91; VRD 4-1993, f. & cert. ef. 11-1-93; VRD 1-1997(Temp), f. 5-8-97, cert. ef. 6-15-97; OAR 582-075-0030(Temp) suspended by VRD 2-1997(Temp), f. 6-13-97, cert. ef. 6-15-97; VRD 6-1997, f. 12-31-97, cert. ef. 1-1-98; VRS 5-2004, f. & cert. ef. 8-5-04

582-075-0040

Limitations of Payments

The vendor shall accept the fees prescribed by Division 75 as payment in full. If a vendor's usual and customary fee for a service exceeds the fee prescribed by Division 075, the client and/or his or her family shall not be liable to the vendor for any portion of a vendor's usual and customary fee unless the client and/or his or her family agrees in writing to assume the

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additional charges. Without such explicit agreement, the vendor must accept the OVRs payment, including any client copayment, as payment in full.

Stat. Auth.: ORS 344.530(2)
Stats. Implemented: ORS 344.511 - 344.690
Hist.: VRD 6-1997, f. 12-31-97, cert. ef. 1-1-98; VRS 5-2004, f. & cert. ef. 8-5-04

582-080-0010

General Policy

(1) It is the policy of OVRs to purchase goods and services only from qualified vendors, in accordance with state licensure laws, OVRs Approval Standards, state purchasing regulations and applicable federal regulations. Goods and services will be purchased that are within the purview of the particular license or approval standards.

(2) It is policy not to discriminate against a vendor based upon sex, race, creed, ethnic origin or disability. Favoritism by OVRs in the selection or use of a vendor — resulting from considerations unrelated to informed client choice, cost, quality, or other criteria in these rules — will be avoided. Other factors being equal, a suitable vendor nearest the client will be used. OVRs maintains a listing of approved vendors selected to provide services to the OVRs.

(3) OVRs may select vendors or a pool of vendors on the basis of informed client choice in the context of third-party funding and comparative cost considerations. In addition, quality of service, facilities, barrier free access, program length, timeliness of needed services, and the vendor's history of timely and completeness of reports may be considered by OVRs in making a selection.

(4) It is OVRs policy that medical services will normally be purchased through the treating source when that source is willing and qualified to provide the authorized service at the rates OVRs would otherwise pay in the client's geographic location.

(5) OVRs may select vendors or a pool of vendors for medical services on the basis of informed client choice in the context of medical insurance and comparative cost considerations. In addition, quality of service, facilities, barrier free access, program length, timeliness of needed services, and the vendor's history of timely and completeness of reports may be considered by the OVRs in making a selection. When more than one medical provider is listed in the geographic area, selection of appropriate medical providers may be made on distance from the client, an equal distribution of services, or rotation of available vendors.

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

Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 6-1978, f. 5-18-78, ef. 6-1-78; VRD 3-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRS 5-2004, f. & cert. ef. 8-5-04

582-080-0020

Standards for Selection of Vendors

The following standards supplement any other requirements that may apply to the same vendors. In all instances, the authorizing vocational rehabilitation counselor (with the guidance of the Field Services Manager) has the primary responsibility to assure that the vendor is on the OVRs approved vendor list and meets the applicable standards. When there is no client preference or circumstances which would dictate otherwise, vendor choice will be made from the pool of approved vendors available in the community, moving consecutively through the list in alphabetical order:

(1) Licensed professional individuals — (physicians, dentists, pharmacists, psychologists, academic teachers, etc.). Licensable professional individuals must be licensed by the appropriate state licensing boards as required by law to provide services as private practitioners. It is the responsibility of the vocational rehabilitation counselor to use only licensed individuals. If the vocational rehabilitation counselor has reason to believe that a professional vendor is not appropriately licensed, the counselor is to discontinue further use until the matter can be cleared by OVRs. For additional requirements refer to OAR 582-010-0005 through 582-010-0030.

(2) Service organizations — (hospitals, medical groups, mental health clinics, child care facilities, placement agencies, group homes, foster homes, nursing homes, sheltered workshops, community rehabilitation programs, etc.). Service organizations must be qualified under state law or certified or accredited by a recognized state or national organization or be official arms of state or local government, and/or approved under the terms of OAR Chapter 582 for vendor selection. For all practicing groups of licensable, certifiable or other professionals, sections (1), (5), and (6) of this rule apply. For additional requirements pertaining to providers of community rehabilitation services refer to OAR 582-010-0005 through 582-010-0030.

(3) Commercial vendors — (supplies or material goods, transportation, insurance, shipping, and other commercial services, etc.). Commercial

vendors must conform to all applicable state licensing requirements. All purchases will be made in accordance with state purchasing policies. In addition, the vendor must be able to provide the requested goods and services at the levels of quantity and quality and in the required time period authorized by the vocational rehabilitation counselor.

(4) Training vendors — (universities, community colleges, proprietary schools and OJT trainers, and correspondence schools, etc.). Training vendors must conform to all applicable licensing requirements. Degree granting academic institutions must be accredited by a regional or national accrediting organization. Except when circumstances such as overall cost or specific need of a client justify otherwise, state-supported schools are used. OVRs conducts studies based on periodic sampling of training vendors to assure acceptable quality, reasonable costs, and effective results from the services provided. The studies may, on an annual basis, include a review of factors such as cost, utilization levels and rehabilitation survival rates for each community rehabilitation program or major training vendor used. OJT vendors will only be utilized if the vocational rehabilitation counselor and (as appropriate) the counselor's supervisor are assured in terms of their professional judgment, that the trainer/employer can deliver the training services as per the terms of the OJT contract.

(5) Certified professionals — (interpreters for the deaf, psychological and vocational counselors, occupational therapists, etc.). Certifiable professionals must possess a current certificate from a recognized state or national professional association or organization. If the vocational rehabilitation counselor questions the validity of the credentials, the counselor should refer the matter to the CRP Coordinator for guidance.

(6) Non-certified or non-licensed professionals — (e.g. tutors, peer mentors). In instances where a professional individual is not subject to licensing requirements or the OVRs approval process for providers of community rehabilitation services, the qualifications of the vendor must be determined to the satisfaction of the authorizing vocational rehabilitation counselor, the client and (as appropriate) the counselor's supervisor prior to the authorization of services. In addition:

(A) Peer mentors and tutors must be approved by the CRP Coordinator prior to placement on the Approved Vendor List;

(B) OVRs requires that tutors and peer mentors comply with DHS criminal history checks at the time of application for placement on the Approved Vendor List, re-application for placement on the Approved Vendor List, and if required by OVRs as a result of information received about vendor qualifications, behavior or performance; and

(C) OVRs requires that peer mentors submit proof of insurance at the level established under Department of Administrative Services guidelines.

Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 6-1978, f. 5-18-78, ef. 6-1-78; VRD 3-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRS 2-2003, f. & cert. ef. 12-31-03; VRS 5-2004, f. & cert. ef. 8-5-04

582-080-0030

Selection Policy for Out-of-State Vendors

The vendor selection policies of Divisions 582-080, OAR 582-010 and 582-075 will be used for all out-of-state vendors. The vocational rehabilitation counselor may contact the other Vocational Rehabilitation state agency for vendor information and to check rates.

Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 6-1978, f. 5-18-78, ef. 6-1-78; VRD 3-1992, f. & cert. ef. 4-20-92; VRS 5-2004, f. & cert. ef. 8-5-04

582-080-0040

Conflict of Interest Regarding Vendor Selection

No employee or representative of OVRs may take any action that would result in the person's private financial benefit, nor shall the action benefit any member or any business with which he/she or any member of his/her household is associated. All OVRs employees must give notice to their immediate supervisor of all potential conflicts of interest. If the supervisor agrees that there is a conflict of interest, the supervisor shall send the matter through supervisory channels to the appointment authority for resolution.

Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 6-1978, f. 5-18-78, ef. 6-1-78; VRS 5-2004, f. & cert. ef. 8-5-04

582-085-0004

Independent Living Service Providers Receiving Vocational Rehabilitation Funds

An independent living service provider who receives funds for vocational rehabilitation services must comply with the same standards applica-

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ble in Chapter 582 of the Oregon Administrative Rules to other providers of the specific vocational rehabilitation services funded.

Stat. Auth. ORS 344.530
Stats. Implemented: ORS 344.530, 344.550
Hist.: VRS 5-2004, f. & cert. ef. 8-5-04

582-085-0005

Providers Receiving Independent Living Services Funds

(1) Providers must satisfy the following requirements to receive funds allocated under Section 713(1) of the federal Rehabilitation Act:

(a) Approval of the State Independent Living Council for the specific funds provided; and

(b) Satisfy all applicable state licensure or certification requirements for the specific services funded; and either

(c) Satisfy the requirements of Section 702 of the federal Rehabilitation Act to qualify as a "Center for Independent Living"; or

(d) Qualify for and be placed on the OVRS Approved Vendor List for the specific services funded.

(2) Providers must satisfy the following requirements to receive funds allocated under Section 713(3) of the federal Rehabilitation Act:

(a) Approval of the State Independent Living Council for the specific funds provided; and

(b) Satisfy the requirements of Sections 702 and 725 of the federal Rehabilitation Act concerning Centers for Independent Living as well as Standards and Assurances.

Stat. Auth. ORS 344.530, 344.540
Stats. Implemented: ORS 344.530, 344.540, 344.550
Hist.: VRS 5-2004, f. & cert. ef. 8-5-04

582-090-0010

Certification of Disability Generally

(1) The Office of Vocational Rehabilitation Services (OVRS) will provide certification services on request for individuals with disabilities seeking employment under a governmental entity's special hiring practices if a certificate is required.

(2) OVRS will provide certification services on request for clients who require documentation of disability for specific programs such as Tri-Met Honored Citizen Cards and the Public Utility Commission Telecommunications Devices Access Program.

(3) Individuals seeking a certification of disability shall provide OVRS with the certification instructions and form of the governmental organization if requested, and provide documenting evidence of their disability.

(4) OVRS may provide certification of disability services regardless of whether individuals apply for OVRS services under 34 CFR 361.41, qualify for services under 34 CFR 361.42, or have an open case with OVRS for vocational rehabilitation services.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 344.530
Stats. Implemented: ORS 344.530
Hist.: VRD 1-1979, f. & ef. 10-1-79; VRD 5-1981, f. & ef. 12-1-81; VRD 1-1993, f. & cert. ef. 9-7-93; VRS 4-2004, f. & cert. ef. 4-2-04; VRS 5-2004, f. & cert. ef. 8-5-04

582-100-0040

Order of Selection for Services

(1) If VR Services cannot be provided equitably and expeditiously to all eligible individuals who apply, the Administrator of OVRS shall invoke an Order of Selection.

(2) This Order of Selection shall assure that eligible individuals with the most significant disabilities are served before other eligible individuals.

(3) Such an Order of Selection and any suborders of priority (deemed necessary) shall be established by amending the federally approved State Plan.

(4) General Terms applicable unless contrary to the State Plan or federal law:

(a) Except for Extended Evaluation Plans, persons already in active plan status on or before the effective date of the Order and post employment plan services shall not be impacted by invoking an Order of Selection;

(b) As soon as it is known that OVRS will invoke Order of Selection or move to a different priority level within an Order of Selection affected individuals and referral sources are notified;

(c) Except when an individual has become unavailable or requests case closure earlier in the process, referrals and applications shall continue to be handled equitably and expeditiously toward establishment of either Eligibility or Ineligibility for each individual;

(d) Extended Evaluation Plan Services of up to 18 months may be provided but shall be continued only for as long as is required to establish whether or not an otherwise eligible individual has the potential to achieve

employment and/or the nature and scope of needed services that OVRS has the ability to deliver;

(e) Guidance shall be provided to impacted individuals and potential referrals sources, and appropriate referrals made to alternative resources;

(f) Individuals found eligible shall be classified according to the terms of the Order of Selection portion of the federally approved State Plan for VR Services and definitions in 34 CFR 361;

(g) In all situations, eligible individuals classified as Most Significant shall be served before other eligible individuals;

(h) Otherwise eligible individuals who are classified or fall in a subgroup below the priority level for which OVRS has sufficient staff and other resources to provide plan services equitably and expeditiously, are advised of their priority status, the likelihood of receiving future services in that status, and the possibility and appropriateness of file closure;

(i) Public safety officers whose disabling conditions were sustained while performing in the line of duty shall be given special consideration as a group and shall be served first within whatever category of priority they appear.

(5) Priority of Service Order. Open plans implemented before the effective date of an Order of Selection and those needing Post Employment services shall not be impacted. Otherwise, subject to the availability of sufficient staff and other resources, the following priorities shall be applied equitably state wide:

(a) Priority One. Eligible persons classified as Most Significant shall be served first, in the order of each individual's date of application and within each suborder of priority one (if suborders have been established);

(b) Priority Two. All other eligible persons are served in the order of each individual's date of application, within each suborder of priority (if suborders have been established and documented in the federally approved State Plan for Rehabilitation Services).

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

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 3-1980, f. & ef. 7-2-80; VRD 3-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04

Department of Revenue Chapter 150

Adm. Order No.: REV 4-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 7-31-04

Notice Publication Date: 6-1-04

Rules Adopted: 150-321.706(2), 150-321.706(4), 150-321.706(7), 150-321.709(1)(b), 150-321.712(1)

Rules Amended: 150-294.311(30), 150-294.352(8), 150-321.609(1), 150-321.609(2)-(A), 150-321.609(2)-(C), 150-321.609(2)-(D)

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

Rules Ren. & Amended: 150-OL 2003, Ch. 454, Sec. 1(1) to 150-321.700(1)

Subject: To adopt, amend, repeal and renumber administrative rules relating to property and timber taxation and local budget law.

Rules Coordinator: Xann-Marie Culver—(503) 947-2099

150-294.311(30)

Definition of Organizational Unit

As used in ORS 294.305 to 294.565, an organizational unit is an administrative subdivision of a municipal corporation accountable for specific services, functions, or activities.

Example 1: Cities may allocate expenditures within the general fund to organizational units such as: City Recorder, Police Department, Fire Department, Library, etc.

Example 2: Counties may allocate expenditures within the general fund to organizational units such as: Assessor's Office, Treasurer's Office, Clerk's Office, Health Department, etc.

Example 3: For municipalities other than cities or counties, the governing body may identify organizational units within the general fund by the responsibilities assigned, e.g., General Administration, Plant Maintenance, etc.

Stat. Auth.: ORS 305.100 & 294.495

Stats. Implemented: ORS 294.311

Hist.: 12-1-77, Renumbered from 150-294.311(19); TC 18-1979, f. 12-20-79, cert. ef. 12-31-79, REV 4-1998, f. & cert. ef. 6-30-98, Renumbered from 150-294.311(23); Renumbered

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from 150-294.311(26) by REV 6-2003, f. & cert. ef. 12-31-03; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-294.352(8)

General Operating Contingencies

(1) An estimate for general operating contingency may be included in any operating fund. The general operating contingency is not a fund, but an appropriation within a fund. This type of appropriation is allowed on the assumption that in the operation of any municipal corporation certain expenditures will become necessary which cannot be foreseen and planned in the budget.

(a) The estimate for a general operating contingency, like other budget estimates, must be a good faith estimate. The estimate must be reasonable and based on past experience, comparable information, or through the use of risk analysis.

(b) The estimate for general operating contingencies must not be used to compensate for improper estimating practices in the preparation of the budget.

(2) A fund that finances an activity, the cost of which can be accurately estimated, must not include an appropriation for a general operating contingency.

Example 1: A debt service fund for general obligation bonds cannot include a general operating contingency. The requirements for a debt service fund are known at the time the budget is prepared. Therefore, there is no unknown or unascertainable aspect to the expenditures from the fund.

(3) A non-operating fund must not have an estimate for general operating contingencies.

Example 2: A reserve fund is used to save money for future expenditure. Since this is a type of nonoperating fund, it must not have an estimate for a general operating contingency. An expenditure must not be made directly from the general operating contingency appropriation. The amount must be transferred from the general operating contingency appropriation to another existing appropriation. The general operating contingency is then reduced, and the appropriation in question is increased correspondingly.

(a) The amount, in aggregate, that may be transferred by resolution of the governing body during any fiscal year or budget period is limited to 15 percent of the total appropriations budgeted in the fund, per ORS 294.450(2).

(b) Total transfers may exceed 15 percent of the total appropriation budgeted in a fund following the adoption of a supplemental budget prepared for that purpose. See ORS 294.480 for the supplemental budget process.

Example 3: The General Fund has total appropriations in the amount of \$100,000, including a \$20,000 appropriation for the general operating contingency. Only \$15,000 of the general operating contingency may be transferred (by one or more transfers) by a resolution of the governing body. Any portion of the remaining \$5,000 can be transferred only through a supplemental budget.

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

Stat. Auth.: ORS 305.100 & 294.495

Stats. Implemented: ORS 280.060

Hist.: 2-66; 12-67; RD 11-1984, f. 12-5-84, cert. ef. 12-31-84; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.609(1)

Check Scaling at the Point of First Measurement

(1) The department must be given access to any location where timber is first measured at any time the site is open for business in order to inspect or check scale the grading and measuring practices for timber subject to ORS 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754.

(2) Scalars or companies controlling the sites must make all pertinent information for the check scale available to the department.

Stat. Auth.: ORS 305.100 & ORS 321.609

Stats. Implemented: ORS 321.609

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.609(2)-(A)

Timber Harvest Records

Every owner must keep records of harvested timber that is subject to the Small Tract Forestland Severance Tax and the Forest Products Harvest Tax. These records must be retained as described in OAR 150-321.609(2)-(D). Timber harvest records required to be retained include:

(1) Contractual or financial agreements relative to the ownership and harvest of timber.

(2) Location of the harvest unit, including a map of the unit.

(3) The quantity of harvested timber.

(4) Log brands used by location and date.

(5) Log load trip tickets by harvest unit by accounting period.

(6) Original records of scaling, measuring, and grading of forest products harvested.

(7) Any other bills, receipts, invoices, data processing tapes, or other documents of original entry supporting the entries in the books of account,

as well as all schedules and work papers used in the preparation of the tax returns.

Stat. Auth.: ORS 305.100 & ORS 321.609

Stats. Implemented: ORS 321.609

Hist.: 12-31-77, 12-31-79, Renumbered from 150-321.342; 12-31-80, Renumbered from 150-321.342(2)-(A); RD 8-1988, f. 12-19-88, cert. ef. 12-31-88; RD 3-1996, f. 12-23-96, cert. ef. 12-31-96; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.609(2)-(C)

Records Kept by Automated Data Processing

(1) The Department of Revenue will accept records kept by automated data processing systems if:

(a) Supporting source documents are identified and kept on file so that a complete audit of the automated data processing records can be performed.

(b) Computer programs, program documentation, and program flow charts showing embedded formulas and the resulting computations are available for examination by the department.

(2) The department may verify the accuracy of any automated data processing programs used for computing log grading and scaling volumes for timber subject to ORS 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754.

(3) The department may perform tests to verify the accuracy of automated data processing programs using the equipment used to supply the service.

(a) Tests will consist of mock scale tickets prepared by the department with a maximum of 500 logs for each scaling method.

(b) Test printouts will be in scale ticket form, individual log detail form and in load summary form as produced for the timber owner.

(c) The test data must be run and the information sent to the department within thirty days after the date that the department sends the mock scale tickets.

(d) All testing will be at the expense of the party using automated data processing for log grading and scaling.

(4) Automated data processing records are to be retained as prescribed in OAR 150-321.609(2)-(D).

Stat. Auth.: ORS 305.100 & 321.609

Stats. Implemented: ORS 321.609

Hist.: 12-31-77, 12-31-79, Renumbered from 150-321.342; TC 7-1980, f. 11-28-80, cert. ef. 12-31-80; RD 8-1988, f. 12-19-88, cert. ef. 12-31-88, Renumbered from 150-321.243(2)-(C); RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.609(2)-(D)

Preservation of Records and Their Reproductions

All records or reproductions of records pertaining to scaling, measuring, grading and reporting of a timber harvest(s) subject to the Small Tract Forestland Severance Tax and the Forest Products Harvest Tax must be maintained for inspection. These records must be maintained for six years from the completion of a harvest or until final resolution of an appeal from an assessment relating to such harvest, whichever is later.

Stat. Auth.: ORS 305.100 & 321.609

Stats. Implemented: ORS 321.609

Hist.: 12-31-77, 12-31-79, Renumbered from 150-321.342 to 150-321.342(2)-(D); 12-31-80, Renumbered from 150-321.342(2)-(D); RD 8-1988, f. 12-19-88, cert. ef. 12-31-88; RD 3-1996, f. 12-23-96, cert. ef. 12-31-96; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.700(1)

Common Ownership

(1) For purposes of ORS 321.700(1), "Direct ownership" means ownership of forestland by one or more individuals or control of property rights in forestland granted under a real estate contract, trust or other written agreement.

(2) "Majority interest" means an interest greater than 50 percent.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.700(1)

Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from OL 2003, Ch 454, Sec. 1(1) by REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.706(2)

Acceptable Signatures for Small Tract Forestland Application

(1) Acceptable signatures of the forestland owner(s) on a small tract forestland application are as follows:

(a) For an individual, the individual or the person with legal guardianship or power of attorney to represent the individual.

(b) For a partnership, a general partner designated by the partnership as authorized to represent the partnership.

(c) For an S corporation, a shareholder designated by the S corporation as authorized to represent the S corporation.

(d) For an estate or trust, the trustee, executor, or other authorized representative.

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(e) For a C corporation, an officer of the corporation authorized to represent the C corporation.

(f) For an LLC or LLP, a member designated by the LLC or LLP as authorized to represent the LLC or LLP.

(2) A contract purchaser(s) may sign, if they have authority to make the application under the terms of the purchase contract.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.706(2)
Hist.: REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.706(4)

Powers Delegated to County Assessor

Pursuant to ORS 321.706(4) the department delegates to the county assessor the authority to:

(1) Require any person to furnish any information the assessor deems necessary to determine whether forestland is qualified for small tract forestland designation.

(2) Enter upon and inspect the land included in a small tract forestland application and any contiguous parcels under common ownership as identified in ORS 321.700(3).

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.706
Hist.: REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.706(7)

Definition of Taxpayer for Appeal of Small Tract Forestland Application Denial

"Taxpayer," as used in ORS 321.706(7), means an owner of forestland that is the subject of an application for qualification as small tract forestland.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.706(7)
Hist.: REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.709(1)(b)

Contiguous Parcels Held in Common Ownership

The following examples illustrate when contiguous parcels under common ownership must be included in an application for small tract forestland assessment as required by ORS 321.709(1)(b). For purposes of this rule, all parcels are designated forestland or highest and best use forestland.

(1) Example 1: Parcel # 1 is owned by three individuals, Bob, John and Greg. Parcel # 2 is contiguous to Parcel # 1 and is owned by husband and wife (Bob and Julie). Parcel # 3 is contiguous to Parcel # 2 and is owned by Julie. Parcels # 1 and # 3 are not contiguous.

(a) Parcel # 1 is the subject of an application for small tract forestland. Parcel # 2 must be included in the application as a contiguous parcel, since Bob has an ownership interest as an individual in both parcels. Parcel # 3 is not required to be included in the application, since Julie does not have an ownership interest as an individual in Parcel # 1.

(b) Parcel # 2 is the subject of an application for small tract forestland. Parcel # 1 must be included in the application as a contiguous parcel, since Bob has an ownership interest as an individual in Parcels # 1 and # 2. Parcel # 3 must also be included in the application as a contiguous parcel, since Julie has an ownership interest as an individual in Parcels # 2 and # 3.

(c) Parcel # 3 is the subject of an application for small tract forestland. Parcel # 2 must be included in the application as a contiguous parcel, since Julie has an ownership interest as an individual in Parcels # 2 and # 3. Parcel # 1 is not required to be included in the application, since Julie does not have an ownership interest as an individual in Parcel # 1.

(2) Example 2: Parcel # 4 is owned by a partnership, 3 J's Partnership. The three partners, Bob, John and Greg, each have a 1/3 ownership interest. Parcel # 5 is contiguous to Parcel # 4 and is owned by husband and wife (Bob and Julie). Parcel # 6 is contiguous to Parcel # 5 and is owned by Bob. Parcels # 6 and # 4 are not contiguous.

(a) Parcel # 4 is the subject of an application for small tract forestland. Parcels # 5 and # 6 are not required to be included in the application, since Bob does not own a majority interest in 3 J's Partnership.

(b) Parcel # 5 is the subject of an application for small tract forestland. Parcel # 6 must be included in the application as a contiguous parcel, since Bob has an ownership interest as an individual in Parcels # 5 and # 6. Parcel # 4 is not required to be included in the application, since Bob does not own a majority interest in 3 J's Partnership.

(c) Parcel # 6 is the subject of an application for small tract forestland. Parcel # 5 must be included in the application as a contiguous parcel, since Bob has an ownership interest as an individual in Parcels # 5 and # 6. Parcel # 4 is not required to be included in the application, since Bob does not own a majority interest in 3 J's Partnership.

(3) Example 3: Parcel # 7 is owned by a corporation, Bob and Julie Inc. Bob has a 60 percent interest in the corporation. Parcel # 8 is contiguous to Parcel # 7 and is owned by a partnership, 3 J's Partnership. Bob has a 2/3 ownership interest in the partnership. John and Greg each have a 1/6 interest. Parcel # 9 is contiguous to Parcel # 8 and is owned by 2 J's LLC. Bob and Julie each have a 50 percent interest in the LLC. Parcels # 9 and # 7 are not contiguous.

(a) Parcel # 7 is the subject of an application for small tract forestland. Parcel # 8 must be included in the application as a contiguous parcel, since Bob owns a majority interest in both Bob and Julie Inc. and 3 J's Partnership. Parcel # 9 is not required to be included in the application, since Bob does not own a majority interest in 2 J's LLC.

(b) Parcel # 8 is the subject of an application for small tract forestland. Parcel # 7 must be included in the application as a contiguous parcel, since Bob owns a majority interest in both Bob and Julie Inc. and 3 J's Partnership. Parcel # 9 is not required to be included in the application, since Bob does not own a majority interest in 2 J's LLC.

(c) Parcel # 9 is the subject of an application for small tract forestland. Parcels # 7 and # 8 are not required to be included in the application, since Bob does not own a majority interest in 2 J's LLC. If Bob owned a majority interest in 2 J's LLC, Parcel # 8 and Parcel # 7 would be deemed held in common ownership and contiguous because Bob would have owned a majority interest in all three parcels.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.709 (1)(b)
Hist.: REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.712(1)

Notification to County Assessor by Small Tract Forestland Owner

(1) ORS 321.712(1) requires a small tract forestland owner(s) to give written notice to the county assessor when:

(a) The owner acquires tax lots that are contiguous to small tract forestland they own, or

(b) The owner acquires or sells forestland that results in their owning less than 10 or more than 5,000 acres of Oregon forestland, or

(c) There is a change in use of any portion of their small tract forestland to a use that is not a forestland use.

(2) This written notification must be made within 90 days of the date of acquisition, sale or change of use.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.712(1)
Hist.: REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

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Rules Renumbered: 150-309.026(2) to 150-309.026(2)-(A), 150-321.353(1) to 150-321.257(3), 150-OL 2003, Ch. 454, Sec. 1(13) to 150-321.700(13), 150-OL 2003, Ch. 454, Sec. 4(1)(c) to 150-321.709(1)(c), 150-OL 2003, Ch. 454, Sec. 4(3) to 150-321.709(3), 150-OL 2003, Ch. 621, Sec. 109(1) to 150-321.719(1), 150-321.812 to 150-321.833, 150-321.815(5) to 150-321.839(5), 150-323.155 to 150-323.160(1), 150-323.160(2) to 150-323.160(3)-(B), 150-OL 2003, Ch. 541, Sec. 3 to 150-305.193, 150-OL 2003, Ch. 454, Sec. 1(12) to 150-321.700(12), 150-321.815(3)(b) to 150-321.839(3)(b)

Subject: These rules are being renumbered to the current statute number they reference.

Rules Coordinator: Xann-Marie Culver—(503) 947-2099

150-305.193

Implied Consent

(1) A "designee" as used in this rule is a person, firm, organization, or agency authorized by a taxpayer to receive the taxpayer's confidential information. Taxpayer consent for the department to disclose to a designee may be in writing, verbal, or implied. See OAR 150-314.840.

(2) Without evidence of the filing of written consent to disclose the taxpayer's information, the department may determine that a person is authorized to receive confidential information with respect to a particular tax matter by that person representing to the department that they are authorized to receive the information and revealing to the department knowledge of tax information that is:

(a) Related to the tax matter that is the subject of the inquiry or communication;

(b) Of a nature that is generally known only to the taxpayer; and

(c) Of a nature that taxpayers ordinarily do not share with others except for the purpose of empowering the person to participate in the taxpayer's tax matters. Information disclosed by the department will be limited based on the nature of information a person presents.

(3) The following examples illustrate how the department may conclude that a taxpayer has given implied consent to the department to disclose confidential information.

Example 1: A Certified Public Accountant (CPA) calls the department, states that he is authorized to receive confidential tax information and reveals knowledge of Mary's private tax information from a department billing or notice. The department concludes that Mary has given the department implied consent to disclose information to the CPA relating to that issue since she presumably gave a copy of her billing or notice to the CPA.

Example 2: A Licensed Tax Consultant (LTC) calls the department while preparing Tom and Sue's tax return to confirm estimated tax payments made during the tax year. The practitioner, after representing that Tom and Sue have authorized disclosure, is able to provide the date and amount of each scheduled payment. The department concludes that Tom and Sue have given the department implied consent to confirm the payment information provided since they presumably gave the LTC their tax information.

Example 3: A lawyer qualified to practice in Oregon calls the department wanting to set up a payment arrangement for her client, Ashley. She states that she is represent-

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ing Ashley and presents knowledge of the tax debt and Ashley's personal financial situation. The department concludes that Ashley has given implied consent to discuss and negotiate a payment plan with the lawyer.

Example 4: While speaking on the telephone with a department customer service representative, Margaret asks if she may have her daughter listen and participate in the conversation on another telephone extension or a speaker phone. The department concludes that Margaret has given consent to disclose her confidential information to her daughter during the telephone call.

Example 5: Carlos comes to the department's walk-in assistance center and brings a friend to help interpret his questions. The department concludes that Carlos has given implied consent to disclose his confidential tax information to his friend during that visit.

Example 6: Jerry, age 19, is stationed overseas with the U.S. Army. His mother calls the department indicating that she is authorized to receive Jerry's confidential tax information and with information from a billing notice issued to Jerry three months previously, along with a copy of Jerry's return. She offers to make full payment on the debt using her credit card, if the department will provide the payoff balance. The department concludes that Jerry has given the department implied consent to provide the balance due to his mother.

Example 7: Jim and Julie file Oregon personal income tax returns jointly, but Jim files a Lane Transit District Self-Employment Tax return in his name only for his Schedule C business. Julie calls the department to discuss a billing notice issued on the LTD return. She tells the department that she performs all bookkeeping services for his business and has the return, notices and knowledge of all business transactions. The department concludes that Jim has given implied consent for the department to disclose information to Julie to resolve the billing notice.

Example 8: Martin, representing that he is an employee in the tax section of XYZ, Inc. authorized to discuss the business's tax matters, calls the department with information from a department billing notice requesting a payoff amount. The department concludes that XYZ, Inc. has given the department implied consent to provide Martin with the payoff amount.

Example 9: ZYX Corporation contracts with Advent Payroll Service to perform all of its payroll functions, including remittance of payroll withholding deposits and quarterly payroll reports. Advent registers with the department to remit ZYX's payments via electronic funds transfer by filing required tax information. The department concludes that ZYX has given the department implied consent to disclose payment-related confidential information to Advent in order to process payments received.

Example 10: Connie, an Elderly Rental Assistance recipient, asks her caseworker from Senior and Disabled Services to contact the department regarding benefits she received from that agency. The caseworker indicates that Connie has authorized her to receive confidential information and demonstrates full knowledge of Connie's ERA claim. The department concludes that Connie has given implied consent for the department to discuss her claim with the caseworker.

(4) If the department is unable to sufficiently determine that a taxpayer has given express or implied consent to disclose confidential information, written consent will be required.

Example 1: Donna calls the department inquiring as to whether Avis, her mother, received tax refunds during the past two years. Donna indicates that Avis has authorized her to receive confidential information. Although Donna provides Avis' full name, address, and social security number, she does not demonstrate any knowledge of Avis' tax returns or filing history. She does not have any notices or department letters to Avis in her possession. The department concludes that Avis has not given the department implied consent to disclose her confidential tax information to Donna. To receive the information, Donna will need to provide the department with written consent to disclose from Avis.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 305.193

Hist.: REV 4-2003, f. & cert. ef. 12-31-03; Renumbered from 150-OL 2003, ch. 541, sec 3; REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-309.026(2)-(A) Petitions for Reduction of Value

(1) The jurisdiction of the board of property tax appeals, as an administrative body established by statute, is limited to those actions specifically granted by statute. Because the statute is specific that the board may hear petitions to reduce the value of property, the board's jurisdiction does not include appeals to increase the overall value of the property. If the board receives petitions requesting an increase in the value of property, it shall dismiss those petitions for lack of jurisdiction.

(2) If a petition is filed requesting a reduced total value without specifying reductions for land and improvements, the board may increase the land or improvements as long as the net result is to sustain or reduce the total value on the roll.

(3) If a petition is filed or amended under ORS 309.100 requesting a reduction in one portion of the value and no change in the other portion of the value, the board may only act on the portion for which the reduction has been requested.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.026

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92, Renumbered from 150-309.026(2)(e); RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; RD 9-1997, f. & cert. ef. 12-31-97; Renumbered from 150-309.026(2); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.257(3) Forestland Classification

The forestland classification for western Oregon is as follows: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.257(3)

Hist.: RD 6-1994, f. 12-15-94, cert. ef. 12-30-94; Renumbered from 150-321.353(1); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.700(12)

Establishing the Identity of the Taxpayer for Severance Tax

For purposes of establishing the identity of the taxpayer for the severance tax, OAR 150-321.005(9) applies.

Stat. Auth.: ORS 305.100; 321.609

Stats. Implemented: ORS 321.700

Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-Oregon Laws 2003, Ch. 454, Section 1(12); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.700(13)

Timber Subject to the Small Tract Forestland Severance Tax

(1) Timber subject to the Small Tract Forestland Severance Tax is the following:

(a) All logs that can be measured in board feet and meet the requirements of sawmill grades or better.

(A) Logs must be measured in western Oregon by the current edition of Official Rules for the following Log Scaling and Grading Bureaus: Columbia River, Northern California, Pacific Rim, Southern Oregon, Yamhill, developed by the Northwest Log Rules Advisory Group (NWL-RAG). All sections of the publication are recognized including the Appendix.

(B) Logs must be measured in eastern Oregon by the Scribner Decimal "C" Eastside Short Log Rule, using the NWLRAG Eastside Log Scaling Handbook, First Edition 2003.

(b) Logs chipped in the woods, except chips produced from material not meeting log merchantability standards in subsection (a) above and used as hog fuel.

(2) Timber not subject to Small Tract Forestland Severance Tax is secondary products, other than chips, manufactured in the woods and produced from logs normally left in the forest or burned as slash. Examples are shake or shingle bolts, fence posts, firewood, and arrow bolts.

(3) When timber is harvested from the eastside, but scaled using westside log scaling rule, the volume must be adjusted to reflect the eastside log scaling rule volume. Taxpayers may use their own conversion factors if they are supported by statistically sound sample data; otherwise, the westside volume must be multiplied by 1.28 to get the equivalent eastside scaled volume.

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

Stat. Auth.: ORS 305.100, 321.609, 321.700

Stats. Implemented: OR Laws 2003, Ch. 454, Sect. 1(13)

Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-OL 2003, Ch. 454, Section 1(13); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.709(1)(c)

Minimal Stocking and Species Requirements for Small Tract Forestland Assessment

(1) To qualify, the land must have growing upon it at least the number of established trees per acre according to OAR 629-610-0020(4)-(8) established by the state forester. Also, for the land to qualify, the established trees must be of a marketable species acceptable to the state forester as established in OAR 629-610-0050.

(2) If the land does not meet the minimum requirements of subsection (1), the owner must present to the assessor a written plan for establishing trees to meet the minimum requirements for stocking. The plan must contain and meet the following requirements:

(a) A description of the area that shows the location, number of acres, ground cover, present stocking, steepness of slope, and direction slope faces.

(b) A list of needed site preparation requirements prior to planting. An example would be brush or grass removal, rodent eradication, disease and insect problems, slash disposal, protection from grazing or browsing animals, and tillage of soil.

(c) Planting information that lists the species to be planted, time of year that planting will take place, number of trees per acre to be planted, and method of planting.

(d) At least one-fifth (20 percent), but not less than two acres, of the area in the plan must be planted by December 31 of the first assessment year that the land is designated as forestland. Each additional year thereafter a minimum of one-fifth (20 percent) of the area must be planted, in addition to the previous year's requirements. At the end of the fifth year after the assessor approves designation, 100 percent of the area in the plan must be planted. Extensions to planting requirements may be granted by the

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assessor if a loss of planted stock occurs due to conditions beyond the control of the landowner.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 305.100, 321.609, 321.709
Stats. Implemented: ORS 321.709
Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-OL 2003, Ch. 454, Sec. 4 (1)(c); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.709(3)

Notation on Assessment and Tax Roll

The assessment and tax roll must show the notation "Small Tract Forestland — Potential Additional Tax Liability" for each parcel of land that is assessed as small tract forestland.

Stat. Auth.: ORS 305.100, 321.609
Stats. Implemented: ORS 321.709
Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-OL 2003, Ch. 454, Section 4(3); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.719(1)

Common Ownership

"Person" means an individual, a public or private corporation, a limited liability company, a limited liability partnership, an unincorporated association, a partnership, a government, or a governmental instrumentality.

Stat. Auth.: ORS 305.100, 321.609
Stats. Implemented: ORS 321.719
Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-OL 2003, Ch. 621, Section 109(1); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.833

Common Ownership

Definitions:

(1) "Person" means an individual, a public or private corporation, a limited liability company, a limited liability partnership, an unincorporated association, a partnership, a government or a governmental instrumentality.

(2) "Majority interest" means an interest of greater than 50 percent.
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.833
Hist.: Renumbered from 150-Ch. 1078 Sec. 2 & 35 1999 Session by REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-321.812, 12/31/03; Renumbered from 150-321.812; REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.839(3)(b)

Date of Acquisition

In answering the question on the application for designation as forestland concerning date of acquisition, the applicant must list the exact date of acquisition if the forestland was acquired within the five year period immediately preceding the date of the application. If the forestland was acquired more than five years before the date of the application, that fact must be stated, but dates are not required.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.839
Hist.: 11-71; Renumbered from 150-321.815(2)(b) by REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-321.815(3)-(b); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.839(5)

Notification by Assessor of Denial of Application

The assessor will send the written notice denying the application, in whole or in part, for designation of forestland to the applicant by certified mail.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.839
Hist.: 11-71; Renumbered from 150-321.815(4) by REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-321.815(5); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.160(1)

Tax Stamp Units of Sale; Minimum Sales

(1) The department may set minimum unit purchases for each sale. The sale of cigarette tax stamps is restricted to licensed distributors and their properly authorized employees whose signature cards are in the possession of the designated agent of the department.

(2)(a) Heat-applied decal tax stamps of the denominated value of 20 units per pack each are sold in rolls containing 30,000 stamps. Such stamps are sold in full rolls only and the smallest sale unit is one roll.

(b) Heat-applied decal tax stamps of the denominated value of 25 units per pack each are sold in rolls containing 7,200 stamps. Such stamps are sold in full rolls only and the smallest sale unit is one roll.

(c) Heat-applied decal tax stamps of the denominated value of 20 units per pack are sold in pads containing 10 sheets of 100 stamps per sheet. The smallest sale unit for this type of stamp is one pad of 10 sheets totaling 1,000 stamps.

(d) Heat-applied decal tax stamps of the denominated value of 10 units per pack are sold in sheets containing 100 stamps. The smallest sale unit for this type of stamp is 10 sheets totaling 1,000 stamps.

Stat. Auth.: ORS 305.100, 323.440
Stats. Implemented: ORS 323.160
Hist.: 6-66; 9-71; RD 8-1984, f. 12-5-84, cert. ef. 12-31-84; RD 5-1993, f. 12-30-93, cert. ef. 12-31-93; REV 11-1999, f. 12-30-99, cert. ef. 12-31-99; Renumbered from 150-323.155; REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.160(3)-(B)

Responsibility for Affixing of Tax Stamps

(1) The distributor that first distributes cigarettes to anyone in the state of Oregon must affix the required tax stamps to the packs of cigarettes. This requirement applies to distributors that are physically located inside or outside of Oregon.

Example 1: If a distributor sells cigarettes to a dealer in Oregon, the distributor must affix the required tax stamps.

Example 2: If distributor A sells cigarettes to distributor B who is within Oregon, distributor A must affix the required tax stamps.

(2) If the distributor that first distributes cigarettes in Oregon fails to affix the required tax stamps, any subsequent distributor possessing unstamped cigarettes must affix the required tax stamps before distributing those cigarettes in Oregon.

(3) A distributor that fails to affix the tax stamps as required by section (1) may be subject to civil and criminal penalties as provided in ORS 323.480 to 323.482.

(4) Distributors are not required to affix tax stamps to cigarettes that are free from tax under ORS 323.040, 323.050, 323.055, or 323.060.

Stat. Auth.: ORS 305.100, 323.440
Stats. Implemented: ORS 323.160
Hist.: REV 8-2002, f. & cert. ef. 12-31-02; Renumbered from 150-323.160(2); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

Adm. Order No.: REV 6-2004

Filed with Sec. of State: 7-30-2004

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Rules Adopted: 150-118.010(2), 150-118.010(7), 150-137.300(3), 150-137.302(7), 150-180.455, 150-183.341(4), 150-314.665(5), 150-316.272, 150-316.282(4), 150-323.107, 150-323.110, 150-323.130, 150-323.170, 150-323.480(1)-(B), 150-323.530, 150-323.535, 150-323.630-(A), 150-323.630-(B)

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

Rules Repealed: 150-183.390, 150-315.148(5), 150-118.010(2)(T), 150-118.010(7)(T), 150-180.455(T), 150-316.272(T), 150-323.480(1)-(B)(T), 150-323.630-(A)(T), 150-323.480(1)-(A)(T)

Rules Ren. & Amended: 150-323.480(1) to 150-323.480(1)-(A), 150-323.220 to 150-323.220-(A)

Subject: To adopt or amend administrative rules relating to personal income tax, collections, business income and excise taxes, tobacco tax, criminal fines and assessments, and administrative rules procedures.

Rules Coordinator: Xann-Marie Culver—(503) 947-2099

150-118.010(2)

Deductions Allowed on Either the Inheritance Tax Return or the Fiduciary Income Tax Return

Deductions allowed under sections 2053 or 2054 of the Internal Revenue Code (IRC) may be claimed on either the Oregon inheritance tax return (Form IT-1) or the Oregon fiduciary income tax return (Form 41), but not both. The personal representative of an estate may make different elections for federal and Oregon returns. If the deductions are claimed on the Oregon Form 41, attach a statement that the deductions are not being claimed on the Oregon Form IT-1. For federal purposes, those deductions may be taken on either the federal estate tax return (Form 706) or the federal estate income tax return (Form 1041) under IRC 642(g).

Example 1: Peter dies in 2004 with a gross estate of \$900,000. The personal representative of the estate elects to deduct \$19,500 of expenses on the federal Form 1041. For Oregon, the personal representative elects to take the deduction on the Oregon Form IT-1. The amount deducted on the federal Form 1041 must be added back to income on the Oregon Form 41.

Example 2: Sally dies in 2004 with a gross estate of \$950,000. The personal representative of the estate elects to deduct \$10,000 of expenses on the federal Form 1041. The personal representative does not claim these deductions on the Oregon Form IT-1. The deductions claimed on the federal Form 1041 flow through to the Oregon Form 41. No modification to income is required.

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Example 3: Mildred dies in 2004 with a gross estate of \$2,000,000. The personal representative of the estate elects to claim a deduction of \$15,000 on the federal Form 706. For Oregon, the personal representative elects to claim the deduction on the Oregon Form 41. The election is made by subtracting the deduction from the Oregon return. The deduction is not allowed on the Oregon Form IT-1 if it was claimed on the Oregon Form 41. The personal representative must reduce the deductions by \$15,000 on the Oregon Form IT-1.

[Forms: Forms referenced in this rule are available from the Agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 118.010

Hist.: REV 2-2004(Temp), f. 4-30-04 cert. ef. 5-1-04 thru 9-30-04; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-118.010(7)

Separate Oregon Elections

(1) For deaths after December 31, 2001, the Oregon inheritance tax is computed using the Internal Revenue Code (IRC) in effect on December 31, 2000. Federal changes enacted after this date, including the "Economic Growth and Tax Relief Reconciliation Act of 2001", do not affect the computation of Oregon tax. Oregon allows separate elections, including but not limited to elections provided by IRC Sections 2031(c), 2032, 2032A, 2033A, 2056 and 2056A, that would have been allowed under federal law in effect as of December 31, 2000, whether or not a federal estate tax return is filed. The Oregon elections are irrevocable. If a federal estate tax return is not required with respect to the decedent's death, the Oregon elections must be made in the same manner as required under the IRC on a return filed with the Oregon Department of Revenue.

Example 1: The personal representative may not make a qualified terminal interest property (QTIP) election on the 2004 Oregon Inheritance Tax Return under the following circumstances. Harold dies in 2004 with an estate valued at \$950,000. He is survived by his wife, Wanda. They had provided for a credit shelter trust funded by an amount equal to the unused federal exclusion amount. The trust is set up to distribute or accumulate income to someone other than the spouse and allows for discretionary distribution of income to the surviving spouse. The trust does not qualify for a QTIP election under IRC 2056(b)(7), as in effect as of December 31, 2000.

Example 2: The personal representative may make a QTIP election on the 2004 Oregon Inheritance Tax Return under the following circumstances. Winifred dies in 2004 with an estate valued at \$1,500,000. She is survived by her husband, Harvey. They had provided for a credit shelter trust funded by an amount equal to the unused federal exclusion amount. The trust provides for all income to be distributed to the surviving spouse and otherwise qualifies for the federal QTIP election. The personal representative files a 2004 federal estate tax return without claiming a QTIP election. The personal representative may file the 2004 Oregon return claiming a QTIP election because that election would have been allowed under federal law effective on December 31, 2000.

(2) If a QTIP election is taken when the first spouse dies, the estate of the surviving spouse must include the value of any property included in the QTIP election provided in IRC 2044. The Oregon and federal gross estate amount will be different for the surviving spouse's estate when a separate election is taken for Oregon only.

Example 3: Same situation as example 2. The personal representative claimed an Oregon only QTIP election on Winifred's Oregon IT-1 return. Harvey dies in 2005. Harvey's estate for Oregon will include the value of the Oregon only QTIP taken for Winifred per IRC 2044 "Certain property for which a marital deduction was previously allowed". Harvey's gross estate for Oregon and for federal will be different because of the Oregon only QTIP election taken on Winifred's Oregon IT-1 return.

(3) For purposes of the Oregon tax, the obligations of electing parties, agreements required of persons benefiting from elections, and the inclusion of property in the gross estate of a surviving beneficiary are the same as under the IRC.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 118.010

Hist.: REV 2-2004(Temp), f. 4-30-04 cert. ef. 5-1-04 thru 9-30-04; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-137.300(3)

Criminal Fine and Assessment Account Distribution

The department will transfer moneys available in the Criminal Fine and Assessment Account after final deposits into the account for the calendar quarter have been made by the Oregon Department of Revenue and Oregon Judicial Department.

(1) The department will transfer 66.35 percent of the moneys in the Criminal Fine and Assessment Account, reduced by the amount reported by the Department of Justice to the Department of Revenue under ORS 137.300(4), to the General Fund.

(2) The department will transfer 33.65 percent of the moneys in the Criminal Fine and Assessment Account to the Criminal Fine and Assessment Public Safety Fund.

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

Stat. Auth.: ORS 137.300

Stats. Implemented:

Hist.: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-137.302(7)

Criminal Fine and Assessment Public Safety Fund Distribution

The department will distribute moneys available in the Criminal Fine and Assessment Public Safety Fund on a quarterly basis following a deposit made from the Criminal Fine and Assessment Account.

(1) Distribution to recipient agencies is made quarterly based on the allocation of funds described in Oregon Laws 2003, chapter 699.

(2) After the debt service obligations described in ORS 137.302(5) are satisfied, if the remaining moneys in the Criminal Fine and Assessment Public Safety Fund are insufficient to pay for the quarterly distributions to the remaining recipients, these distributions shall be reduced proportionally in sufficient amounts to accommodate the revenue shortfall.

(3) If the remaining moneys in the Criminal Fine and Assessment Public Safety Fund are more than sufficient to pay for the quarterly distributions to the remaining recipients, any excess money would remain in the fund and be included in next quarter's distribution calculation.

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

Stat. Auth.: ORS 137.300

Stats. Implemented:

Hist.: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-180.455

Civil Penalties for Non Participating Manufacturers of the Master Settlement Agreement

(1) The Department of Revenue may assess a civil penalty against any person who sells, holds or possesses cigarettes for sale in Oregon that are cigarettes of a tobacco product manufacturer or brand family that were acquired at a time that the particular tobacco product manufacturer or brand family was not included on the nonparticipating manufacturer directory developed by the Oregon Department of Justice.

(a) The department will apply the following guidelines to determine the amount of the penalty, including the factors described in subsection (3) of this rule:

Incident—Penalty Not to Exceed—Minimum Penalty

First—Warning notice

Second—\$100 per pack—\$1,000

Third—\$500 per pack—\$1,000

Fourth—\$1,000 per pack—\$1,000

Fifth and subsequent—\$5,000 per pack—\$1,000

(b) For any single incident, including each sale, possession for sale or offer to sell, the department will not impose a total penalty that exceeds the greater of \$5,000 or 500 percent of the retail value of the cigarettes.

(2) The Department of Revenue may assess a civil penalty against any person who affixes an Oregon tax stamp to a package of cigarettes produced by a tobacco product manufacturer or brand family that, at the time the stamp was affixed, was not included on the Dept. of Justice's directory of nonparticipating manufacturers. The department will apply the following guidelines to determine the amount of the penalty, including consideration of the factors described in subsection (3) of this rule:

Incident—Penalty Not to Exceed—Minimum Penalty

First—Warning notice

Second—\$100 per stamp affixed—\$1,000

Third—\$500 per stamp affixed—\$1,000

Fourth—\$1,000—per stamp affixed—\$1,000

Fifth and subsequent—\$5,000 per stamp affixed—\$1,000

(3) The department may consider the following factors when determining the civil penalty for the violations listed in subsection (1) and (2) of this rule:

(a) Number of previous inspections by the Department of Revenue held at the business;

(b) Number of previous violations of Chapter 323 provisions;

(c) Size of business; and

(d) Any other factors the department considers relevant to its determination.

Stat. Auth.: ORS 305.100 & 323.440

Stats. Implemented: ORS 180.455

Hist.: REV 1-2004(Temp), f. & cert. ef. 4-1-04 thru 8-1-04; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-183.341(2)

Oregon Attorney General's Model Rules of Procedure Under the Administrative Procedure Act

(1) The Department of Revenue, for its rulemaking functions, adopts the following Model Rules of Procedure under the Administrative Procedure Act as those rules were in effect January 15, 2004:

(a) Definitions, 137-001-0005;

(b) Public Input Prior to Rulemaking, 137-001-0007;

(c) Assessment for Use of Collaborative Process in Rulemaking, 137-001-0008;

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- (d) Use of Collaborative Dispute Resolution in Rulemaking, 137-001-0009;
- (e) Limitation of Economic Effect on Businesses, 137-001-0018;
- (f) Conduct of Rulemaking Hearings, 137-001-0030;
- (g) Rulemaking Record, 137-001-0040;
- (h) Agency Rulemaking Action, 137-001-0050;
- (i) Secretary of State Rule Filing, 137-001-0060;
- (j) Petition to Promulgate, Amend, or Repeal Rule, 137-001-0070;
- (k) Temporary Rulemaking Requirements, 137-001-0080.

(2) The department has not adopted the rule specifying formatting standards, Rulemaking Format, 137-001-0011.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 183.341

Hist.: RD 7-1988, f. 12-19-88, cert. ef. 12-31-88; RD 4-1992, f. & cert. ef. 12-29-92; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-183.341(4)

Notifying Interested Parties of Intended Rulemaking Actions

(1) The Department of Revenue has established a process to allow interested parties to request notification of the department's intended rulemaking activities.

(a) Persons may mail written requests for notification to: Oregon Department of Revenue, Attn: Rules Coordinator, Director's Office, 955 Center St NE, Salem, OR 97301-2555.

(b) Requests may also be sent by electronic mail to: rulescoordinator@state.or.us.

(2) A person whose request is received by the Rules Coordinator on or before the 20th day of the month will receive notification of any intended rulemaking actions as published in the Oregon Bulletin for the next succeeding month. A person whose request is received after the 20th day of the month will receive notification of any actions scheduled for the second succeeding month.

Example: In June, Renee sent a request to be added to the mailing list of interested parties. If the Rules Coordinator receives the request on June 20, Renee will receive notification of any intended actions as published in the July issue of the Oregon Bulletin. If, instead, the Rules Coordinator receives the request on June 25, Renee will receive notification beginning with intended actions as published in the August issue of the Oregon Bulletin.

(3) A request for notification will remain in effect for future rulemaking actions until the person withdraws the request or the department determines that the address used for sending notification is invalid.

(4) The department will send notification of its intended rulemaking activity by mail or, if requested, by electronic mail. For purposes of ORS 183.335(8), if the interested party chooses to receive notification electronically, that notice is considered "mailed" on the date it is sent by the department to the requestor.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 183.335, 183.341

Hist.: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-314.280-(N)

Modified Factors for Financial Organizations

(1) This rule is based on a model regulation adopted by the Multistate Tax Commission to promote uniform treatment of this item by the states. A financial organization having income from business activity that is taxable both within and without this state must allocate and apportion its net income as provided in this rule for tax years beginning on or after January 1, 1993. All items of nonbusiness income (income that is not includable in the apportionable tax base) must be allocated pursuant to the provisions of ORS 314.610 through 314.645 and the rules thereunder. A financial organization organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or a territory or possession of the United States whose effectively connected income (as defined under the Federal Revenue Code) is taxable both within this state and within another state, other than the state in which it is organized, must allocate and apportion its net income as provided in this rule.

(2)(a) For tax years beginning on or after January 1, 1991 and before May 1, 2003, all business income must be apportioned to this state by multiplying the income by a fraction. The numerator of the fraction is two times the receipts factor, as described in section (4) of this rule, plus the property factor, as described in section (5) of this rule, plus the payroll factor, as described in section (6) of this rule. The denominator of the fraction is four. If one of the factors is missing, the remaining factors are added and the sum is divided by three (divide by two if the missing factor is the receipts factor). A factor is missing if both its numerator and denominator are zero, but it is not missing merely because its numerator is zero.

(b) For tax years beginning on or after May 1, 2003, all business income must be apportioned to this state by multiplying the income by a

multiplier equal to 80 percent of the receipts factor described in section (4) of this rule plus 10 percent of the property factor described in section (5) of this rule plus 10 percent of the payroll factor described in section (6) of this rule.

(c) Each factor must be computed according to the method of accounting (cash or accrual) used by the taxpayer for the taxable year.

(d) See OAR 150-314.280-(M) for other methods of apportionment and allocation or modification of the method in this rule that may be allowable.

(3) Definitions as used in this rule, unless the context otherwise requires:

(a) "Billing address" means the location indicated in the books and records of the taxpayer on the first day of the taxable year (or on such later date in the taxable year when the customer relationship began) as the address where any notice, statement, or bill relating to a customer's account is mailed.

(b) "Borrower or credit card holder located in this state" means:

(A) A borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state; or

(B) A borrower that is not engaged in a trade or business or a credit card holder whose billing address is in this state.

(c) "Commercial domicile" means:

(A) The headquarters of the trade or business, that is, the place from which the trade or business is principally managed and directed; or

(B) If a taxpayer is organized under the laws of a foreign country, or of the Commonwealth of Puerto Rico, or any territory or possession of the United States, such taxpayer's commercial domicile is deemed for the purposes of this rule to be the state of the United States or the District of Columbia from which such taxpayer's trade or business in the United States is principally managed or directed. It is presumed, subject to rebuttal, that the location from which the taxpayer's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, no matter where the services of such employees are performed, as of the last day of the taxable year.

(d) "Credit card" means credit, travel or entertainment card.

(e) "Credit card issuer's reimbursement fee" means the fee a taxpayer receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services provided by the merchant to the credit card.

(f) "Financial corporation" has the same meaning as "financial organization" in subsection (3)(g) of this rule.

(g) "Financial organization" is defined in ORS 314.610(4).

(h) "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans do not include: loans representing property acquired in lieu of or pursuant to a foreclosure under section 595 of the federal Internal Revenue Code; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; noninterest bearing balances due from other depository institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a REMIC, or other mortgage-backed or asset-backed security; and other similar items.

(i) "Loan secured by real property" means that 50 percent or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(j) "Merchant discount" means the fee (or negotiated discount) charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

(k) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(l) "Person" means an individual, estate, trust, partnership, corporation, and any other business entity.

(m) "Principal base of operations" with respect to transportation property means the place of more or less permanent nature from which said property is regularly directed or controlled. With respect to an employee,

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the “principal base of operations” means the place of more or less permanent nature from which the employee regularly:

(A) Starts his or her work and to which the employee customarily returns in order to receive instructions from the employer, or

(B) Communicates with customers or other persons, or

(C) Performs any other functions necessary to the exercise of the employee’s trade or profession at some other point or points.

(n) “Real property owned” and “tangible personal property owned” means real and tangible personal property, respectively,

(A) On which the taxpayer may claim depreciation for federal income tax purposes; or

(B) Property to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes (or could claim depreciation if subject to federal income tax). Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(o) “Regular place of business” means an office at which the taxpayer conducts business in a regular and systematic manner and that is continuously maintained, occupied, and used by employees of the taxpayer.

(p) “State” is defined in ORS 314.610, paragraph (8).

(q) “Syndication” means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(r) “Taxable” is defined as “taxable in another state” in ORS 314.620.

(s) “Transportation property” means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers, or the like.

(4) Receipts Factor.

(a) In general. The receipts factor is a fraction as provided in ORS 314.665(1). The receipts factor includes only those receipts described herein that constitute business income and are included in the computation of the apportionable income base for the taxable year.

(b) Receipts from the lease of real property. See OAR 150-314.665(4).

(c) Receipts from the lease of tangible personal property.

(A) Except as described in paragraph (B) of this subsection, the numerator of the receipts factor includes receipts from the lease or rental of tangible personal property owned by the taxpayer if the property is located within this state when it is first placed in service by the lessee.

(B) Receipts from the lease or rental of transportation property owned by the taxpayer are included in the numerator of the receipts factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state is determined by multiplying the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(d) Interest from loans secured by real property.

(A) The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from loans secured by real property if the property is located within this state. If the property is located both within this state and one or more other states, the receipts described in this subsection are included in the numerator of the receipts factor if more than 50 percent of the fair market value of the real property is located within this state. If more than 50 percent of the fair market value of the real property is not located within any one state, then the receipts described in this subsection must be included in the numerator of the receipts factor if the borrower is located in this state.

(B) The determination of whether the real property securing a loan is located within this state is made as of the time the original agreement was made, and any and all subsequent substitutions of collateral are disregarded.

(e) Interest from loans not secured by real property. The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the borrower is located in this state.

(f) Net gains from the sale of loans. The numerator of the receipts factor includes net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of section 1286 of the Internal Revenue Code.

(A) The amount of net gains (but not less than zero) from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (d) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(B) The amount of net gains (but not less than zero) from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (e) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(g) Receipts from credit card receivables. The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

(h) Net gains from the sale of credit card receivables. The numerator of the receipts factor includes all net gains (but not less than zero) from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (g) of this section and the denominator of which is the taxpayer’s total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(i) Credit card issuer’s reimbursement fees. The numerator of the receipts factor includes all credit card issuer’s reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (g) of this section and the denominator of which is the taxpayer’s total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card-holders.

(j) Receipts from merchant discount. The numerator of the receipts factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. Such receipts are computed net of any card holder charge backs, but are not reduced by any interchange transaction fees or by any issuer’s reimbursement fees paid to another for charges made by its card- holders.

(k) Loan servicing fees.

(A) The numerator of the receipts factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (d) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(B) The numerator of the receipts factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (e) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(C) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor must include such fees if the borrower is located in this state.

(l) Receipts from services. See OAR 150-314.665(4).

(m) Receipts from investment assets and activities and trading assets and activities.

(A) Interest, dividends (less Oregon dividend deduction), net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities are included in the receipts factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities, trading account assets, federal funds; securities purchased and sold under agreements to resell or repurchase, options, future contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions. With respect to the investment and trading assets and activities described in subparagraphs (i) and (ii) of this paragraph, the receipts factor includes the amounts described in such subparagraphs.

(i) The receipts factor includes the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

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(ii) The receipts factor includes the amount by which interest, dividends (less Oregon dividend deduction), gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities.

(B) The numerator of the receipts factor includes interest, dividends (less Oregon dividend deduction), net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities described in paragraph (A) that are attributable to this state.

(i) The amount of interest, dividends (less Oregon dividend deduction), net gains (but not less than zero) and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator of the receipts factor is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the average value of such assets that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator of the receipts factor is determined by multiplying the amount described in subparagraph (i) of paragraph (A) from such funds and such securities by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such funds and such securities.

(iii) The amount of interest, dividends (less Oregon dividend deduction), gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, (but excluding amounts described in subparagraphs (i) and (ii) of this paragraph), attributable to this state and included in the numerator of the receipts factor is determined by multiplying the amount described in subparagraph (ii) of paragraph (A) by a fraction, the numerator of which is the average value of such trading assets that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(iv) For purposes of this paragraph, average value is determined using the rules for determining the average value of tangible personal property set forth in subsections (c) and (d) of section (5).

(C) In lieu of using the method set forth in paragraph (B) of this subsection, the taxpayer may elect, or the department may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in this paragraph.

(i) The amount of interest, dividends (less Oregon dividend deduction), net gains (but not less than zero), and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator of the receipts factor is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator of the receipts factor is determined by multiplying the amount described in subparagraph (i) of paragraph (A) from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends (less Oregon dividend deduction), gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions (but excluding amounts described in subparagraphs (i) and (ii) of this paragraph) attributable to this state and included in the numerator is determined by multiplying the amount described in subparagraph (ii) of paragraph (A) by a fraction, the numerator of which is the gross income from such trading assets and activities that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(D) If the taxpayer elects or is required by the department to use the method set forth in paragraph (C) of this subsection, it must use this method on all subsequent returns unless the taxpayer receives prior written permission from the department, or the department requires, the use of a different method.

(E) The taxpayer has the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one such regular place of business is in this state and one such regular place of business is outside this state, such asset or activity is considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, such policies and guidelines are presumed to be established at the commercial domicile of the taxpayer.

(n) All other receipts. The numerator of the receipts factor includes all other receipts pursuant to the rules set forth under ORS 314.665.

(o) Attribution of certain receipts to commercial domicile. All receipts that would be assigned under this section to a state in which the taxpayer is not taxable are included in the numerator of the receipts factor, if the taxpayer's commercial domicile is in this state.

(5) Property Factor.

(a) In general. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real property, tangible personal property, loans, and credit card receivables located and used within this state during the taxable year and the denominator of which is the average value of all such property located and used both within and without this state during the taxable year.

(b) Property included. The property factor includes only property the income or expenses of which are included (or would have been included if not fully depreciated or expensed, or depreciated or expensed to a nominal amount) in the computation of the apportionable income base for the taxable year.

(c) Value of property owned by the taxpayer.

(A) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(B) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged off in whole or in part for federal income tax purposes, the portion of the loan charged off is not outstanding. A specifically allocated reserve established pursuant to regulatory or financial accounting guidelines that is treated as charged off for federal income tax purposes is treated as charged off for purposes of this section.

(C) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the receivable charged off is not outstanding.

(d) Average value of property owned by the taxpayer. See OAR 150-314.655(2)-(A) and 150-314.655(3).

(e) Average value of real property and tangible personal property rented to the taxpayer. See OAR 150-314.655(2)-(B).

(f) Location of real property and tangible personal property owned by or rented to the taxpayer.

(A) Except as described in paragraph (B) of this subsection, real property and tangible personal property owned by or rented to the taxpayer is considered to be located within this state if it is physically located, situated, or used within this state.

(B) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft is deemed to be used in this state and the amount of value that is included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this state cannot be determined, then the property is deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle is deemed to be used wholly in the state in which it is registered.

(g) Location of loans.

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(A)(i) A loan is considered to be located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state is presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the loan to such regular place of business; and

(III) The taxpayer uses said records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(iii) The presumption of proper assignment of a loan provided in subparagraph (A)(ii) of this section may be rebutted upon a showing by the department, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When such presumption has been rebutted, the loan is located within this state if:

(I) The taxpayer had a regular place of business within this state at the time the loan was made; and

(II) The taxpayer fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur within this state.

(B) In the case of a loan that is assigned by the taxpayer to a place without this state that is not a regular place of business, it is presumed, subject to rebuttal by the taxpayer on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the taxpayer's commercial domicile, as defined by subsection (3)(c), was within this state.

(C) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue will be reviewed on a case-by-case basis and consideration will be given to such activities as the solicitation, investigation, negotiation, approval, and administration of the loan. The terms "solicitation," "investigation," "negotiation," "approval," and "administration" are defined as follows:

(i) Solicitation. Solicitation is either active or passive. Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. Such activity is located at the regular place of business that the taxpayer's employee is regularly connected with or working out of, regardless of where the services of such employee were actually performed. Passive solicitation occurs when the customer initiates the contact with the taxpayer. If the customer's initial contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is determined by the facts in each case.

(ii) Investigation. Investigation is the procedure whereby employees of the taxpayer determine the credit-worthiness of the customer as well as the degree of risk involved in making a particular agreement. Such activity is located at the regular place of business that the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(iii) Negotiation. Negotiation is the procedure whereby employees of the taxpayer and its customer determine the terms of the agreement (e.g., the amount, duration, interest rate, frequency of repayment, currency denomination, and security required). Such activity is located at the regular place of business that the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(iv) Approval. Approval is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement. Such activity is located at the regular place of business that the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed. If the board of directors makes the final determination, such activity is located at the commercial domicile of the taxpayer.

(v) Administration. Administration is the process of managing the account. This process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement, and proceeding against the borrower or the security interest if the borrower is in default. Such activity is located at the regular place of business that oversees this activity.

(h) Location of credit card receivables. For purposes of determining the location of credit card receivables, credit card receivables are treated as loans and are subject to the provisions of subsection (g) of this section.

(i) Period for which properly assigned loan remains assigned. A loan that has been properly assigned to a state, absent any change of material fact, remains assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if the loan has a preponderance of substantive contact to a regular place of business there.

(6) Payroll factor. In general. The payroll factor is determined as provided in ORS 314.660 and the rules thereunder.

(7) When an Oregon consolidated group includes both financial corporations and nonfinancial corporations, Oregon returns must be filed as follows:

(a) If a financial corporation and one or more nonfinancial corporations are subject to taxation by Oregon:

(A) The financial corporation must file a return in its name under the provisions of ORS 317.710(5)(b), apportioning the income of the entire unitary group included in its federal consolidated return under the provisions of this rule. The factor numerators must include the Oregon property, payroll and receipts of the financial corporation only. The denominators must include the total property, payroll, and sales or receipts of the entire unitary group that is included in income or loss subject to apportionment.

(B) The nonfinancial corporations subject to Oregon taxation must file a consolidated return in the name determined under the provisions of OAR 150-317.710(5)(a)-(A). The income of the entire unitary group included in their consolidated federal return, including the financial corporation, must be apportioned using the standard apportionment factors under ORS 314.655 through 314.665. The numerators of the apportionment factors must include the Oregon property, payroll, and sales of the nonfinancial corporations and exclude the Oregon property, payroll, and receipts of the financial corporation. The denominators of the apportionment factors must include the property, payroll, and sales or receipts of the entire unitary group that is included in income or loss subject to apportionment.

(b) If a financial corporation is the only member of the unitary group subject to Oregon taxation, the income of the entire unitary group included in its consolidated federal return must be apportioned as provided in this rule. The Oregon property, payroll, and receipts of the financial corporation must be included in the apportionment factor numerators. The total property, payroll, and receipts or sales of the entire unitary group that is included in income or loss subject to apportionment must be included in the apportionment factor denominators.

(c) If no financial corporation is subject to Oregon taxation, but one or more nonfinancial corporations are, the standard apportionment factors provided in ORS 314.655 through 314.665 must be applied to the income of the entire unitary group, including any financial corporations. The Oregon property, payroll, and sales of the nonfinancial corporations must be included in the apportionment factor numerators. The denominators of the apportionment factors must include the property, payroll, and sales or receipts of the entire unitary group that is included in income or loss subject to apportionment.

Stat. Auth.: ORS 305.100 & 314.280

Stats. Implemented: ORS 314.280

Hist.: RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; REV 8-2002, f. & cert. ef. 12-31-02; REV 2-2003, f. & cert. ef. 7-31-03; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-314.650

Apportionment Formula

(1) All business income of each trade or business of the taxpayer is apportioned to this state by use of the apportionment formula set forth in ORS 314.650.

(2) For tax years beginning before January 1, 1991, the numerator of the apportionment formula is the sum of the property factor (see OAR 150-314.655(1)-(A)), the payroll factor (see OAR 150-314.660(1)) and the sales factor (see OAR 150-314.665(1)-(A)) of the trade or business of the taxpayer. The denominator of the apportionment formula is three.

(3) For tax years beginning on or after January 1, 1991, the numerator of the apportionment formula is the sum of the property factor, the payroll factor and two times the sales factor. The denominator of the apportionment formula is four.

(4) For tax years beginning on or after January 1, 1989, if the denominator of the property, payroll, or sales factor is zero, the denominator of the apportionment formula is reduced by the number of factors with a denominator of zero.

(5) The apportionment factors of a corporation that is a member of a partnership, limited liability company treated as a partnership or unincor-

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porated joint venture (i.e. the "related entity"), which is a part of the corporation's overall business operations, include the corporation's share of the property, payroll and sales of the related entity. For the purpose of computing the apportionment factors, transactions between the corporation and the related entity must be eliminated to the extent of the corporation's percentage of interest in the related entity. The corporation's share of the related entity's property, payroll and sales is based on its percentage of interest in the related entity, which is equal to the ratio of its capital account plus its share of the related entity's debt to the total of the capital accounts of all members of the related entity plus total related entity debt. The capital accounts of the members must reflect the average of the accounts for the period of the tax return. The average of the capital accounts may be computed by averaging the beginning and ending balances or monthly balances. Capital accounts of a related entity must be adjusted to reflect a member's adjusted basis in contributed property, rather than fair market value. The corporation's share of a related entity's debt is determined under IRC 752(a) and 752(b) and the regulations thereunder, irrespective of whether or not the related entity is a true partnership.

(6) When gain on the disposition of property is not taxed in the year of disposition, but deferred and included in the taxable income of a later year, the deferred income is apportioned using the apportionment percentage of the year of disposition. See OAR 150-314.665(5) regarding computation of the Oregon sales factor for the year of disposition.

Example: Major Manufacturing Corporation (MMC) exchanges tangible personal property used in its business activity in Oregon for similar property in California during tax year 2002. The gain from the exchange is deferred to tax year 2004 under section 1031 of the Internal Revenue Code. The amount of gain or loss computed under ORS 317.327 and included in 2004 Oregon taxable income must be apportioned using the Oregon apportionment percentage computed for 2002, the year of disposition.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.650

Hist.: 8-73; RD 7-1983, f. 12-20-83, cert. ef. 12-31-83; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; REV 7-1998, f. 11-13-98 cert. ef. 12-31-98; REV 12-1999, f. 12-30-99, cert. ef. 12-31-99; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-314.665(5)

Gross Receipts Related to Deferred Gain or Loss

(1) In general. In all cases where gain or loss is realized for accounting purposes in the year of the associated transaction, but not fully recognized for tax purposes in that year, the total gross receipts from the transaction must be included in the sales factor for the year of the transaction if the associated gain or loss is considered business income or loss under ORS 314.610, except where:

(a) the gross receipts are excluded from "sales" under ORS 314.665(6)(a) and (6)(c); or

(b) the net gain rather than gross receipts is included in the sales factor under ORS 314.665(6)(b). Also see OAR 150-314.615-(G) regarding the apportionment of installment sale income and OAR 150-314.650 regarding apportionment of deferred gain subject to tax in a year after the year of disposition.

Example 1: Big Equipment Sales Corporation (BESC) has locations in Oregon and Idaho. BESC sold a large piece of construction equipment in 2003 on an installment contract. The total sales price was \$1,000,000. BESC must include the full sales price of \$1,000,000 in the sales factor for tax year 2003.

(2) Gross receipts from deferred gain on exchanges of property. In regard to exchanges of property qualifying for the deferral of tax on the gain or loss under section ORS 317.327 and sections 1031 or 1033 of the Internal Revenue Code, "gross receipts" means the fair market value of the property acquired on the date of exchange.

Example 2: Major Manufacturing Corporation (MMC) exchanges tangible personal property used in its business activity in Oregon for property of like kind in California during tax year 2002. The fair market value of the acquired property is \$800,000 on the date of the exchange. The gross receipts from the exchange of property are not excluded from MMC's "sales" under ORS 314.665(6)(a) or (6)(c). MMC's sales factor numerator and denominator for tax year 2002 must include \$800,000, the gross receipts from the exchange as measured in 2002.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.665, 317.327

Hist: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-315.164

Farmworker Housing Credit

(1) General Information.

(a) A credit is available to taxpayers who construct, install, or rehabilitate housing for farmworkers and their immediate families.

(b) The credit is available for farmworker housing projects that are physically begun on or after January 1, 1990.

(c) Depreciation and amortization expenses associated with the farmworker housing project are not decreased by the amount of the tax credit allowed.

(d) The taxpayer's adjusted basis in the housing project is not decreased by any tax credits allowed.

(e) For tax years beginning on or after January 1, 2004, ORS 315.167 provides that the owner or operator of farmworker housing or a contributor as described in ORS 315.164(1)(b) must apply to the Housing and Community Services Department for a letter of credit approval no later than six months after beginning a farmworker housing project.

(2) Qualifications for the Tax Credit.

(a) The farmworker housing project must be located in Oregon to qualify for the credit.

(b) The housing project must be limited to occupancy by farmworkers during the tax year in order to qualify for the credit. If the housing is occupied at any time during the year by persons other than farmworkers and their immediate families, the housing will not qualify for the credit. Nor can the housing be used for any other function except housing for farmworkers.

(c) The taxpayer claiming the credit must:

(A) Obtain a letter of credit approval from the Oregon Housing and Community Services Department (OHCSA); and

(B) Certify on an annual basis that any units that were occupied during the tax year were occupied only by farmworkers or their immediate families. The letter of credit approval and the certification must be maintained in the taxpayer's records and made available to the department on request.

(d) The OHCSA administers the application and eligibility process for this credit. See chapter 813, divisions 41 and 42 of the Oregon Administrative Rules, and contact OHCSA for more information.

(3) Computation of the Tax Credit For Projects Completed in Tax Years Beginning On or After January 1, 2002

(a) The credit is equal to 50 percent of the costs directly associated with the construction or rehabilitation of the farmworker housing project including costs for financing, construction, excavation, installation, and permits. Construction includes acquisition of new or used prefabricated or manufactured housing. Acquisition costs of land and existing improvements on that land used for the project are not included in the computation.

(b) The credit first may be claimed in the year the project is completed or in any of the nine succeeding tax years. No more than 20 percent of the total credit may be claimed in any one tax year. The housing is not required to be occupied prior to the end of the tax year in which the project is completed in order for the credit to be claimed.

(c) Tax credits not used in a tax year may be carried forward for up to nine years. Any credit carried forward is used first, before the allowable current year credit.

(d) Costs of rehabilitation include capital expenditures only. The allowable costs are those incurred for additions or improvements to property (or related facilities) with a useful life of five years or more. Rehabilitation costs do not include the cost of acquiring the building or an interest in the building.

(4) Computation of the Tax Credit for Projects Completed in Tax Years Beginning before January 1, 2002. The credit is equal to 30 percent of costs described in subsection (3)(a) if completed after December 31, 1995, and 50 percent if completed before December 31, 1995. The credit is claimed in equal installments over a consecutive five-year period beginning in the year the farmworker housing project is completed. The credits may be carried forward for up to five years. Otherwise, the computation of the credit is the same as specified in section (3) of this rule.

(5) Disallowance and Forfeiture of Tax Credit. The tax credit will be disallowed and any prior years' credits forfeited in the case of:

(a) Fraud or misrepresentation by the taxpayer to obtain the credit.

(b) A taxpayer who is an owner or operator who fails to substantially comply with occupational health and safety rules, regulations, or standards. The Department of Consumer and Business Services will notify the department of any farmworker housing project failing to substantially comply with these standards.

(c) A taxpayer who is an owner or operator who fails to obtain required registration as a farmworker camp with the Department of Consumer and Business Services.

(d) A taxpayer who is an owner or operator of a farmworker housing project that is not operated by a person who holds a valid endorsement as a farmworker camp operator, if required under ORS 658.730.

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(6) Sale of Farmworker Housing Project. If the farmworker housing project is sold, the original investor may continue to claim the tax credit, provided all other provisions are met.

Example: LeRay began construction of a farmworker housing project on his property on July 1, 1995. The project was completed on December 15, 1995, and on that date complied with the applicable health and safety standards. The housing was registered with the Department of Consumer and Business Services, and LeRay obtained endorsement as a farm camp operator. LeRay must claim the credit on his 1995 return, even though no units are occupied until 1996. If LeRay sells the property, he may continue to claim the credit only by obtaining a statement from the new owner of the property, certifying that any occupied units are occupied only by farmworkers and their immediate families. Upon audit or examination, LeRay must provide a statement for each year in which the credit is claimed if requested by the department.

(7) Transfer of Credit to Contributor. For tax years beginning on or after January 1, 2005, an owner or operator may transfer up to 100 percent of the total credit the owner or operator may claim. For tax years beginning on or after January 1, 2002 and before January 1, 2005, an owner or operator of farmworker housing may transfer to one or more contributors up to 80 percent of the total credit the owner or operator may claim. A contributor claiming the credit and the owner or operator must file a joint statement to be attached to the return on which the credit is claimed. The statement must include:

(a) The owner or operator's name, federal employer ID number (FEIN), Oregon business identification number (BIN), and designation as either the owner or operator;

(b) The contributor's name, FEIN, and BIN;

(c) The amount and percentage of the credit transferred;

(d) The total amount of credit the owner or operator may claim, before any transfer to contributors; and

(e) Signatures of or on behalf of the owner or operator and the contributor.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 315.164

Hist.: 9-20-89, 12-31-89; RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91, Renumbered from 150-316.116(Note)-(B); RD 7-1993, f. 12-30-93, cert. ef. 12-31-93, Renumbered from 150-316.154; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; REV 8-2001, f. & cert. ef. 12-31-01; REV 8-2002, f. & cert. ef. 12-31-02; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-316.272

Deductions Allowed on Either the Inheritance Tax Return or the Fiduciary Income Tax Return

Certain deductions may not be taken on both the Oregon inheritance tax return (Form IT-1) and the Oregon fiduciary income tax return (Form 41). See OAR 150-118.010(2) for details.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.272

Hist.: REV 2-2004(Temp), f. 4-30-04 cert. ef. 5-1-04 thru 9-30-04; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-316.282(4)

Oregon Qualified Trust Tax Return

(1) General Rule. A trustee who has met certain conditions set forth in IRC Section 685, and has elected to file returns as a qualified funeral trust for federal purposes, must file an Oregon Form 41 (Oregon Fiduciary Income Tax Return) as a resident funeral trust.

(2) Filing requirements. The trustee may file a single, composite Oregon resident funeral trust return for some or all trusts for which the trustee has filing responsibility, including trusts that had a short tax year.

(3) Computation of Tax. When filing a composite return, the trustee must compute the tax separately for each trust and enter the total on the form. If an individual trust would require a tax rate above the minimum tax rate, the trustee must attach a schedule showing how the Oregon tax is computed for each trust.

(4) Due Date. The Oregon resident funeral trust return is due the 15th day of the fourth month after the close of the tax year.

(5) Effective Date. The provisions of this rule apply to tax years beginning on or after January 1, 2004.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.282

Hist.: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-316.369

Innocent Spouse, Separation of Liability, and Equitable Relief Provisions

(1) Internal Revenue Service (IRS) Determination Made to Grant Relief. The department will grant relief from liability for tax under ORS 316.369 if the person seeking relief provides proof that the IRS has made a determination under IRC §6015 that relieved the person of liability for federal taxes for the same tax year. As soon as the determination is made

regarding the request for relief, the department will send a letter to each spouse informing them of the department's determination.

(2) No IRS Determination Made or IRS Denied Relief. A taxpayer who has filed an Oregon joint return may seek relief from liability by applying to the Department of Revenue even if the taxpayer has not applied for relief to the IRS. Or, if the IRS has denied relief, the taxpayer may ask the department to make a separate determination for relief from state liability. To request innocent spouse relief under the provisions of section (4), allocation of liability under the provisions of section (5), or equitable relief under the provisions of section (6), the taxpayer must write a letter to the department that includes the taxpayer's name, address, Social Security number, the taxpayer's spouse's (or former spouse's) name and Social Security number, the tax years for which the taxpayer is requesting relief for, and the type of relief the taxpayer is requesting. The department will treat the request for relief from liability as also constituting a request for any applicable refund. A taxpayer may file a request for innocent spouse relief, allocation of liability, or equitable relief with the department at any time. There is no statute of limitation on requesting relief under these provisions.

The department will send a letter to the nonrequesting spouse if relief is requested from joint and several liability on a joint return and will allow the nonrequesting spouse to submit information related to the determination of the request for relief from liability. As soon as the determination is made regarding the request for relief, the department will send a letter to each spouse informing them of the department's determination.

(3) Definitions. For purposes of this rule:

(a) Understatement of Tax. An understatement of tax generally is the difference between the total amount of tax that should have been shown on the taxpayer's Oregon return and the amount of tax that actually was shown on the Oregon return. This includes a deficiency that arises in the original processing of the return and a deficiency due to an audit.

(b) Erroneous Items. Erroneous items include unreported income and an incorrectly reported deduction, credit, or basis. Unreported income is any gross income item the spouse of the requesting taxpayer received but did not report. An incorrectly reported deduction, credit, or basis is any improper deduction, credit, or property basis the spouse of the requesting taxpayer claims.

(c) Spouse. All references to spouse mean the spouse on the joint return for which relief is requested.

(4) Innocent Spouse. Innocent spouse relief is available only for deficiencies or assessed deficiencies. This provision does not authorize relief from liabilities that taxpayers reported properly on the joint return but did not pay. If the following four conditions are met, the individual will qualify for innocent spouse relief. The department will relieve the individual of state liability for tax in whole or in part (including interest, penalties, and other amounts) for the taxable year.

(a) Conditions:

(A) The requesting spouse filed a joint return for the taxable year for which relief is sought;

(B) On such return there is an understatement of tax attributable to erroneous items of the spouse with whom the requesting spouse filed the return;

(C) The requesting spouse establishes that he or she did not know, and had no reason to know, of the understatement when signing the return;

(D) Taking into account all of the facts and circumstances, it is unreasonable in the department's judgment to hold the requesting spouse liable for the deficiency attributable to the understatement.

(b) If the taxpayer seeking relief asks for a refund of state tax payments, the taxpayer also must provide proof that he or she made the payments to the Oregon Department of Revenue. If the department grants relief, it will refund payments made by the requesting spouse according to the procedures and refund limitations of ORS 305.270 and 314.415. This applies to any requests for relief received by the department on or after August 1, 2004.

(5) Allocation of liabilities for taxpayers no longer married, legally separated, or no longer living together. Relief is available only for deficiencies or assessed deficiencies. This provision does not authorize relief from liabilities that taxpayers reported properly on the joint return but did not pay.

(a) An individual may apply to allocate a deficiency if the following two conditions are met:

(A) The requesting spouse filed a joint return for the taxable year for which relief is sought; and

(B) At the time of the request, the requesting spouse is no longer married to, is legally separated from, or has not been a member of the same

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household as the other spouse at any time during the 12-month period ending on the filing date of the request.

(b) Relief under allocation of liability is subject to several limitations:

(A) A request will be denied if assets were transferred between the requesting spouse and the other spouse as part of a fraudulent scheme.

(B) Relief is not available if the department can demonstrate that the requesting spouse had actual knowledge when he or she signed the return of an item that gave rise to a deficiency.

(C) Relief will only be available if the liability exceeds the value of any disqualified assets (as defined in Internal Revenue Code §6015(c)(4)(B)) transferred to the requesting spouse by the nonrequesting spouse.

(D) The department will not refund payments made by the requesting spouse on the liability for which relief was granted if those payments were made before relief was granted. This applies to any requests for relief the department receives on or after August 1, 2004.

(6) Equitable relief. Equitable relief is available for unpaid liabilities that were reported properly on the joint return and for understatements of tax.

(a) To be eligible for equitable relief, all of the following conditions must be satisfied:

(A) The requesting spouse filed a joint return for the taxable year for which relief is sought;

(B) Relief is not available under either the innocent spouse or allocation of liability provisions;

(C) No assets were transferred between the spouses filing the joint return as part of a fraudulent scheme by the spouses;

(D) There were no disqualified assets transferred to the requesting spouse by the other spouse; and

(E) The requesting spouse did not file the return with fraudulent intent.

(b) The department will grant equitable relief generally in cases where all of the following elements are satisfied:

(A) At the time relief is requested, the requesting spouse is no longer married to the other spouse, or is legally separated from the other spouse, or has not been a member of the same household as the other spouse at any time during the 12-month period ending on the date relief was requested;

(B) When the requesting spouse signed the return, the requesting spouse had no knowledge or reason to know that the tax would not be paid; and

(C) The requesting spouse will suffer economic hardship if relief is not granted. The department will determine economic hardship by taking into account all of the facts and circumstances concerning the requesting spouse's financial situation, including but not limited to:

(i) Ability to pay now and in the future;

(ii) Personal assets such as stocks, bonds, dividends, retirement accounts, automobiles, equipment, etc.;

(iii) Ability to borrow funds;

(iv) Financial statements provided by the taxpayer; and

(v) Any other financial information that the department requests.

(c) The following is a partial list of the positive and negative factors that the department will take into account in determining whether to grant relief. No single factor will be determinative of whether equitable relief will or will not be granted in any particular case. All factors will be considered and weighed appropriately. The list includes but is not limited to the following:

(A) Factors in favor of relief.

(i) Marital status. The requesting spouse is separated (whether legally separated or living apart) or divorced from the nonrequesting spouse.

(ii) Economic hardship. The requesting spouse would suffer economic hardship if relief from liability is not granted.

(iii) Abuse. The requesting spouse was abused by the nonrequesting spouse, but such abuse did not amount to duress.

(iv) No knowledge or reason to know. In the case of a liability that was properly reported but not paid, the requesting spouse did not know and had no reason to know that the liability would not be paid. In the case of a liability that arose from a deficiency, the requesting spouse did not know and had no reason to know of the items giving rise to the deficiency.

(v) Other spouse's legal obligation. The other spouse has a legal obligation as part of a divorce decree or agreement to pay the outstanding liability. This will not be a factor weighing in favor of relief if the requesting spouse knew or had reason to know, when the divorce decree or agreement was entered into that the other spouse would not pay the liability.

(vi) Attributable to the nonrequesting spouse. The liability for which relief is sought is solely attributable to the nonrequesting spouse.

(B) Factors weighing against relief.

(i) Attributable to the requesting spouse. The unpaid liability or item giving rise to the deficiency is attributable to the requesting spouse.

(ii) Knowledge or reason to know. When the requesting spouse signed the return, the requesting spouse knew or had reason to know of the item giving rise to a deficiency or that the reported liability would not be paid.

(iii) Significant benefit. The requesting spouse has significantly benefited from the unpaid liability or items giving rise to the deficiency.

(iv) Lack of economic hardship. The requesting spouse will not experience economic hardship if relief from the liability is not granted.

(v) Noncompliance with Oregon income tax laws. The requesting spouse has not made a good faith effort to comply with Oregon income tax laws in the tax years following the tax year or years to which the request for relief relates.

(vi) Requesting spouse's legal obligation. The requesting spouse has a legal obligation as part of a divorce decree or agreement to pay the liability. If, taking into account all the facts and circumstances, the department determines that it would be unreasonable, in the department's judgment, to hold the requesting spouse liable for the liability, the department may relieve a requesting spouse of all or part of the joint liability.

(d) If the taxpayer seeking relief asks for a refund of state tax payments, the taxpayer also must provide proof that he or she made the payments to the Oregon Department of Revenue. If the department grants relief, it will refund only payments the requesting spouse made after the request for relief was filed with the department. Refunds are subject to the refund procedures and limitations of ORS 305.270 and 314.415. This applies to any request for relief the department receives on or after August 1, 2004.

(7) Appeal Rights. If the department denies the relief requested under any of the provisions described above, the department will send the requesting spouse a conference decision letter that will have appeal rights. To appeal the conference decision, the requesting spouse must file an appeal with the Magistrate Division of the Oregon Tax Court within 90 days of the date of the conference decision letter. Whether or not relief was granted, the nonrequesting spouse can not appeal the determination.

(8) Time Period For Requesting Relief. A taxpayer may request relief from liability for tax at any time. There is no statute of limitation on requesting relief. However, the department will not grant relief under any provision of ORS 316.369 if the requesting spouse has entered into a closing agreement or settlement agreement with the department or if the year at issue has been litigated at the Oregon Tax Court, and the requesting spouse was a party to the litigation.

(9) Relief provided under ORS 316.368. If the requesting spouse does not qualify for relief under ORS 316.369, the department will determine if relief can be granted under ORS 316.368.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.369

Hist.: RD 10-1983, f. 12-20-83, cert. ef. 12-31-83; RD 11-1985, f. 12-26-85, cert. ef. 12-31-85; REV 9-1999, f. 12-30-99, cert. ef. 12-31-99; REV 8-2001, f. & cert. ef. 12-31-01;

Renumbered from 150-316.369(2); REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-316.777

Exempt Income of Native Americans

(1) ORS 316.777 exempts from Oregon taxation certain income earned by an enrolled member of a federally recognized Indian tribe. To qualify under these provisions, at the time the income is earned the tribal member must reside in "Indian country" in Oregon, and the income must be derived from sources within Indian country in Oregon. A tribal member who resides outside of Indian country can not exclude income from Oregon tax under the provisions of ORS 316.777. The person is subject to the statutes and rules governing Oregon residents and nonresidents and is taxed accordingly.

(2) Definitions: For purposes of this rule:

(a) "Current reservation boundaries" means the boundaries in existence at the time of the transaction.

(b) "Indian country" means any federally recognized Indian reservation in Oregon or other land in Oregon that has been set aside for the residence of tribal Indians under federal protection, and includes:

(A) Any land within the current reservation boundaries of a federally recognized reservation regardless of ownership.

(B) Tribal- or member-owned land outside current reservation boundaries if held in trust for the benefit of the tribe or its members.

(C) Land that the federal government allotted to a tribal member that since the time of the allotment has been continuously either:

(i) Held in trust by the federal government for the benefit of an individual tribal member(s), i.e. a trust allotment; or

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(ii) Owned by a tribal member(s) with continuing federal restrictions against sale of the land, i.e., a restricted allotment.

(3) Income derived from sources within Indian country includes:

(a) Wages earned for work performed in Indian country;

(b) Income from a business or real estate located in Indian country;

(c) Distributions, including earnings, from retirement plans, if the contributions to the plan were derived from or connected with services performed in Indian country;

(d) Unemployment compensation, if the benefits are received as a result of work performed in Indian country;

(e) Interest, dividends, capital gain from the sale of stock, and other income from intangibles regardless of the location of the bank accounts or other intangible assets.

(4) To be exempted from Oregon personal income tax withholding, a tribal member whose wages are exempt from Oregon tax must furnish the member's employer with an extract from the tribal rolls as proof of enrolled status. Any employer of a qualified exempt tribal member who has documentary proof under this rule must keep this proof as part of the employer's payroll records.

(5) The following examples illustrate the provisions of this rule:

Example 1: Margaret, an enrolled member of the Confederated Tribes of Warm Springs, lives and works on the reservation of the Confederated Tribes of the Umatilla Indian Reservation. Under ORS 316.777, her income is exempt from state income tax.

Example 2: Claire, an enrolled member of the Coquille Indian Tribe, resides on reservation land in Oregon and works as an accountant for the city of Coos Bay at City Hall. Claire's income is taxable by Oregon because she resides on, but does not work on, Indian country on Oregon.

Example 3: Charles, an enrolled member of the Confederated Tribes of the Umatilla Indian Reservation, resides on the reservation of the Confederated Tribes of the Umatilla Indians. For six months of each year, he works on a fishing trawler off the Alaska coast. During the remaining six months, he is employed as a forester by the Blue Mountain Timber Company. None of his work is performed in Indian country. Charles owns a Certificate of Deposit, (CD), at a bank in Portland, Oregon. Charles is taxed on the income he earns fishing in Alaska and on his wages from the timber company because none of that income is earned in Indian country. Charles is not taxed on the interest from the CD because that income is considered to be earned on the reservation on which he lives.

Example 4: Using the facts in Example 3, assume that Charles is retired and receives a pension from the lumber company. His pension income is subject to state tax because the contributions made to the plan were not related to services performed in Indian country.

Example 5: William, an enrolled member of the Navajo Nation, is a resident of the Navajo Nation reservation in Arizona. During the summer months, he temporarily lives and works on the reservation of the Burns Paiute Tribe in Oregon. Under ORS 316.777, Oregon will not tax any of William's wages earned on the reservation of the Burns Paiute Tribe because he lives and works in Indian country in Oregon and he is an enrolled member of a federally recognized Indian tribe.

Example 6: John, an enrolled member of the Confederated Tribes of the Grande Ronde, resides on land that he inherited from his father's estate. The land came into John's family through an allotment by the federal government to tribal members. The federal government holds the land in trust for the benefit of John. It is allotment land. As long as John lives on allotment land and works in Indian country, his income is exempt from Oregon tax.

Example 7: Ben, an enrolled member of the Confederated Tribes of the Grande Ronde, lives on land that a prior owner, who was also a tribal member, received from the federal government in an allotment. Ben owns the land, but the federal restrictions prohibit him from selling it. Those restrictions have been in place since the federal government allotted the land, but they will be lifted next month. The land is allotment land now, but it will not be after the restrictions are lifted. Once the federal restrictions are lifted, all of Ben's income is taxed by Oregon. The land is no longer Indian country and Ben may sell the land.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.777

Hist.: RD 11-1985, f. 12-26-85, cert. ef. 12-31-85; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; RD 6-1996, f. 12-23-96, cert. ef. 12-31-96; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-317.013

Capital Losses — Carrybacks and Carry-overs

(1) The Oregon modification for capital losses has been repealed for tax years beginning on or after January 1, 1986. Therefore, federal law applies to capital losses occurring in tax years beginning on or after January 1, 1986.

(a) Capital losses can be deducted to the extent of capital gains in the same tax year.

(b) Capital losses in excess of capital gains can be carried back three tax years, even into tax years beginning prior to January 1, 1986, and forward five tax years.

(c) Capital loss carrybacks and carryovers shall be used only to reduce capital gains in the tax years to which they are carried.

(d) A capital loss carryback cannot be used to create or increase a net loss in the tax year to which it is carried.

(2) Oregon provisions, such as the requirement that corporations be unitary to be included in the consolidated Oregon return and the apportionment provisions, may result in differences between the Oregon and federal capital loss deductions and carryovers.

(a) Capital losses in excess of capital gains in tax years beginning prior to January 1, 1986 cannot be carried forward since those losses were deductible in full in the tax year they occurred.

(b) When a corporation or consolidated group of corporations is taxable within and without this state, its Oregon net capital loss carryback and carryover must be computed using the apportionment provisions. The Oregon capital loss is computed using the apportionment factor for the tax year of the loss. The capital loss is applied to the Oregon capital gains for the year of carryback or carryover. Oregon capital gains are computed using the apportionment factor for the tax year of the gain.

Example 1: Corporation X has a federal net capital loss of \$3,000 for 2002. X's apportionment factor for 2002 is 40 percent. In 1999, X had a federal net capital gain of \$1,000 and its Oregon apportionment factor was 50 percent. X has a \$1,200 (\$3,000 x 40 percent) Oregon net capital loss available for carryback to 1999. X will deduct \$500 (\$1,000 x 50 percent) on the 1999 return and must carry the remaining \$700 of loss forward to other tax years. (c) Oregon net capital losses that are attributed to corporations that continue to be included in the same consolidated Oregon return may be deducted fully against the Oregon consolidated net capital gain of the tax years to which such losses are carried.

Example 2: Corporations X and Y filed a consolidated Oregon return in 2002 reporting a net capital loss of \$5,000 that is attributable to Y. The consolidated apportionment factor for 2002 is 40 percent. In 1999, X and Y filed a consolidated Oregon return reporting a net capital gain of \$10,000 attributable to X. The consolidated Oregon apportionment factor in 1999 was 25 percent. The Oregon capital loss carryback of \$2,000 (\$5,000 x 40 percent) from 2002 is fully deductible in 1999 because it does not exceed the Oregon consolidated net capital gain of \$2,500 (\$10,000 x 25 percent).

(3) If a corporation is included in a combined return, separate return or in a different consolidated return in the year of the capital loss and the capital loss is carried into a year when a consolidated Oregon return is filed, the Oregon capital loss carryover may be subject to the federal separate return limitation year (SRLY) limitations in Treas. Regs. 1.1502-22.

(a) If a net capital loss is reported on a separate Oregon return by a corporation doing business only in Oregon, the SRLY limitation applies if the loss is carried to a tax year in which a consolidated return is filed, apportionment is not required, and the corporation with the loss (the limited member) is not the parent corporation. To compute the Oregon SRLY limitation, first recompute the consolidated net capital gain by excluding the capital gains and losses and the IRC section 1231 gains and losses of the limited member. Then subtract the recomputed consolidated net capital gain from the total consolidated net capital gain (computed without regard to any net capital loss carryover or carrybacks).

Example 3: Corporation R filed a separate Oregon return for 2001 reflecting an Oregon net capital loss of \$3,000. Corporation R did not have net capital gains in any of the prior three years. For 2002, Corporation R was included in a consolidated Oregon return with Corporations S and T. The consolidated group was not subject to the apportionment provisions. [Table not included. See ED. NOTE.]

(b) If a corporation is included in a consolidated Oregon return in the year of the consolidated net capital loss and files a separate Oregon return or is included in a different consolidated Oregon return in the year to which the net capital loss is carried, the Oregon consolidated net capital loss is attributed to the corporations with net capital losses for purposes of determining the allowable net capital loss carryover. The portion of an Oregon consolidated net capital loss attributable to a member of a consolidated group is an amount equal to such Oregon consolidated net capital loss multiplied by a fraction, the numerator of which is the net capital loss of such member and the denominator of which is the sum of the net capital losses of those members of the consolidated group having net capital losses.

Example 4: X Corp. and unitary subsidiaries Y and Z filed a consolidated Oregon return for 2001, their first year in business. X had a \$3,000 capital loss, Y had a \$2,000 capital gain and Z had a \$1,000 capital loss (consolidated net capital loss of \$2,000). The 2001 Oregon apportionment factor for the consolidated group is 75 percent. On December 31, 2001, X Corp. sold 100 percent of Z's stock to an outside investor. The capital loss that can be carried forward to the 2002 consolidated return of X and Y is computed as follows: [Table not included. See ED. NOTE.]

(c) If corporations carry their net capital losses to a tax year in which separate tax returns are filed, the net capital losses can be deducted by each corporation only if a net capital gain is shown on the separate tax return. The net capital loss deduction is further limited by the amount of the net capital gain attributable to Oregon based on the Oregon apportionment factor.

Example 5: Assume the same facts as in the prior example. The 2002 separate Oregon return of Z shows a net capital gain of \$200 with an Oregon apportionment factor of 50 percent. The net capital loss deduction allowed is \$100 (\$200 x 50 percent). Z has a net capital loss carryover to 2003 of \$275.

(d) If a group of unitary corporations, taxable within and without this state, filed a consolidated return for the year of the net capital loss and carries the net capital loss after apportionment back to a year in which a combined return is filed, the net capital loss must be allocated among the corporations as provided under the SRLY limitations in Treas. Reg. 1.1502-22. The net capital gain of the unitary group in the combined year must be apportioned among the corporations based on each corporation's Oregon apportionment percentage.

Example 6: Corporations X, Y, and Z file a consolidated Oregon return for 1987.

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showing a net capital loss. The loss is carried back to 1984, in which the same three corporations filed a combined return. The computation of the 1987 net capital loss carried back and absorbed in 1984 is as follows: [Table not included. See ED. NOTE.]

(4) If a corporation, taxable within and without this state, filed a separate return or was included in a different consolidated return for the year of the net capital loss and carries the net capital loss after apportionment to a year in which a consolidated return is filed, the net capital loss can be deducted only to the extent that the same corporation has a net capital gain which is attributed to Oregon. If the consolidated group in the carryover year is subject to the apportionment provisions, the net capital gain of the member must be attributed to Oregon based on the consolidated Oregon apportionment factor.

Example 7: In its first tax year 2001, B Corporation had a net capital loss of \$6,000. Because of its 50 percent Oregon apportionment factor, \$3,000 of the loss is apportioned to Oregon. On January 1, 2002, 100 percent of B's stock was purchased by P Corporation. Because they were unitary, P and B file a 2002 consolidated Oregon return that includes B's net capital gain of \$1,000 and P's net capital gain of \$3,000. The consolidated return apportionment factor is 35 percent. On the 2002 consolidated return, only \$350 of B's \$3,000 net capital loss carryover can be deducted (the lesser of \$1,000 x .35 or \$4,000 x .35).

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 317.013

Hist.: RD 10-1986, f. & cert. ef. 12-31-86; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-317.018

Adoption of Federal Law

(1) For tax years beginning on or after January 1, 1983 and before January 1, 1985, the definition of taxable income under Oregon corporation excise tax is tied to federal law, as amended on or before December 31, 1982, with certain modifications. See Oregon Laws 1983, Chapter 162 for complete provisions. (2) For tax years beginning on or after January 1, 1985 and before January 1, 1987, the definition of taxable income under Oregon corporation excise tax law is tied to federal law, as amended on or before December 31, 1984, with certain modifications. See Oregon Laws 1985, Chapter 802, Section 21 for complete provisions.

(3) For tax years beginning on or after January 1, 1987 and before January 1, 1989, the definition of taxable income under Oregon corporation excise tax law is tied to federal law, as amended on or before December 31, 1986, with certain modifications. See Oregon Laws 1987, Chapter 293, Section 33 for complete provisions.

(4) For tax years beginning on or after January 1, 1989 and before January 1, 1991, the definition of taxable income under Oregon corporation excise tax law is tied to federal law, as amended on or before December 31, 1988, with certain modifications. See Oregon Laws 1989, Chapter 625, Section 16 for complete provisions.

(5) For tax years beginning on or after January 1, 1991 and before January 1, 1993, the definition of taxable income under Oregon corporation excise tax law is tied to federal law, as amended on or before December 31, 1990, with certain modifications. See Oregon Laws 1991, Chapter 457, Section 9 for complete provisions.

(6) For tax years beginning on or after January 1, 1993 and before January 1, 1995, the definition of taxable income under Oregon corporation excise tax law is tied to federal law, as amended on or before December 31, 1992, with certain modifications. See Oregon Laws 1993, Chapter 726, Section 39 for complete provisions.

(7) For tax years beginning on or after January 1, 1995 and before January 1, 1997, the definition of taxable income under Oregon Corporation excise tax law is tied to federal law, as amended on or before April 15, 1995, with certain modifications. This is the case even where the amendments take effect or become operative after that date. See Oregon Laws 1995, chapter 556, Section 13 for complete provisions.

(8) For tax years beginning on or after January 1, 1997 and before January 1, 2003, the definition of taxable income under Oregon Corporation excise tax law is tied to federal law applicable for the tax year of the taxpayer. See Oregon Laws 1997, Chapter 839, Section 28 for complete provisions.

(9) For tax years beginning on or after January 1, 2003 and before January 1, 2006, the definition of taxable income under Oregon Corporation excise tax law is generally tied to federal law, as amended on or before December 31, 2002. Regarding various retirement plans, tax-deferred or tax-exempt savings programs, depreciation, or deductions under federal law sections 167, 168, or 179, Oregon Corporation excise tax law is tied to federal law applicable for the tax year of the taxpayer.

(10) For tax years beginning on or after January 1, 2006, Oregon Corporation excise tax law is tied to federal law applicable for the tax year

of the taxpayer. See Oregon Laws 2003, Chapter 77, Section 10 for complete provisions.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 317.018

Hist.: 10-5-83, 12-31-83; 12-31-85; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; RD 4-1997, f. 9-12-97, cert. ef. 12-31-97; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.105

When Distributor's License Required

(1) A distributor's license is required for each place of business at which a person engages in the distribution of cigarettes as defined in ORS 323.015(2). A distributor's license is required for any person distributing cigarettes in Oregon, including:

(a) every cigarette manufacturer selling cigarettes in this state to persons other than licensed distributors;

(b) Every person who imports cigarettes into this state for sale;

(c) Every person who obtains untaxed cigarettes from a cigarette manufacturer for resale; and

(d) Common carriers engaged in interstate or foreign passenger service, who sell cigarettes on their facilities in Oregon, and persons authorized to sell cigarettes on the facilities of such common carriers. For the purpose of this rule "facilities of a common carrier" are limited to the mobile equipment of the carrier used for the transportation of passengers.

(2) A person who files an application for a distributor's license under ORS 323.105 must include with the application a written statement certifying that the person will comply with ORS 180.435 and 180.440 pertaining to cigarettes of certain nonparticipating manufacturers.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 323.105

Hist.: 6-66; 9-71; TC 9-1980, f. 11-28-80, cert. ef. 12-31-80; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.107

When Cigarette Wholesaler's License is Required; Denial of Application

(1) A cigarette wholesaler's license is required for any person selling cigarettes as defined in ORS 323.010(17). A wholesaler is required to obtain a license for each place of business at which the wholesaler engages in the sale of cigarettes.

(2) The Department of Revenue may deny a license application if there is false or incomplete information on the application or if the department determines that the applicant will not comply with the provisions of ORS 323.005 to 323.482. When deciding whether to deny a wholesaler's license, the department may consider, but is not limited to, the following factors:

(a) Whether the applicant has previously failed to pay a tobacco related tax;

(b) Whether the applicant has engaged in conduct punishable as a crime under ORS Chapter 323 or any other state's or federal tobacco laws; or

(c) Whether the applicant has violated any part of ORS Chapter 323 or any rule adopted under that chapter;

(3) If the applicant is other than an individual, the department will apply the factors described in subsection (2) both to the applicant and, if the applicant is an organization, to the individual(s) within the organization with the primary responsibility for ensuring compliance with cigarette tax laws;

(4) If the department denies a license application, the applicant has 30 calendar days from the date of denial to file an appeal in the manner provided in ORS 305.404 to 305.560.

Stat. Auth.: ORS 305.100, 323.440

Stats. Implemented: ORS 323.107

Hist.: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.110

Security Bond Requirements for Cigarette Distributors

(1) A purchase may not exceed a bond or other security amount if a licensee or applicant for a license elects to pay for cigarette tax stamps on deferred status. The amount of the bond or other security will be equal to the total maximum deferred payment purchase that may be made in any one calendar month.

(2) If at any time the distributor reaches its bond or security limit, the bond or security becomes ineffective, or the surety cancels the bond or security, then the distributor may only purchase stamps on a cash basis until the bond or security is renewed.

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Stat. Auth.: ORS 305.100, 323.440
Stats. Implemented: ORS 323.107
Hist: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.130

Denial of a Cigarette Distributor's License

(1) The Department of Revenue may deny a license application if there is false or incomplete information on the application or if the department determines that the applicant will not comply with the provisions of ORS 323.005 to 323.482. When deciding whether to deny a distributor's license, the department may consider, but is not limited to, the following factors:

(a) Whether the applicant has previously failed to pay a tobacco related tax;

(b) Whether the applicant has engaged in conduct punishable as a crime under ORS Chapter 323 or any other state's or federal tobacco laws; or

(c) Whether the applicant has violated any part of ORS Chapter 323 or any rule adopted under that chapter;

(2) If the applicant is other than an individual, the department will apply the factors described in subsection (1) both to the applicant and, if the applicant is an organization, to the individual(s) within the organization with the primary responsibility for the payment of the cigarette taxes on behalf of the applicant;

(3) If the department denies a license application the applicant has 30 calendar days from the date of denial to file an appeal in the manner provided in ORS 305.404 to 305.560.

Stat. Auth.: ORS 305.100, 323.440
Stats. Implemented: ORS 323.107
Hist: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.140

Notification of Proposed Suspension or Revocation of Cigarette Distributor or Wholesaler License; Appeal; Final Notification

The Department of Revenue may suspend or revoke a distributor or wholesaler license if the department determines that the distributor or wholesaler will not comply with the provisions of ORS 323.005 to 323.482. When deciding whether to suspend or revoke a license the department may consider, but is not limited to, the following factors:

(1) Whether the distributor has failed to pay a tobacco related tax;

(2) Whether the distributor or wholesaler has engaged in conduct punishable as a crime under ORS Chapter 323 or any other state's or federal tobacco laws; and

(3) Whether the distributor or wholesaler has violated any part of ORS Chapter 323 or any rule adopted under that chapter.2) When the department decides to suspend or revoke an existing valid distributor or wholesaler license, the department will send a notice to the distributor or wholesaler of the suspension or revocation, stating the reasons for such action. The distributor or wholesaler has 30 calendar days from the date on the notice to file an appeal under ORS 305.404 to 305.560.

(4) If a distributor or wholesaler requests a hearing within the appeal period in subsection (2), the license suspension or revocation will not become effective until a final determination of the appeal by the Tax Court or the Oregon Supreme Court.

(5) If a distributor or wholesaler does not request a hearing within the appeal period in subsection (2), suspension or revocation becomes effective on the 31st day after the date on the notice of suspension or revocation.

(6) The notices described in sections (2) and (4) will be mailed to the distributor or wholesaler by certified mail, return receipt requested, using the last known address of the distributor or wholesaler. Return of the notice as undeliverable or because the distributor or wholesaler fails or refuses to pick up or accept the notices will not extend the appeal period or delay the action specified in the final notice.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 323.140
Hist.: REV 8-2002, f. & cert. ef. 12-31-02; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.170

Payment Type for Cigarette Stamps

Every licensed distributor purchasing tax stamps from the department must pay for the stamps with cash, cashiers check, or money order.

Stat. Auth.: ORS 305.100, 323.440
Stats. Implemented: ORS 323.170
Hist: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.175

Deferred Payment Purchases; Bond Requirement; Credit Authorization; Return of Bond

(1) To purchase tax stamps on a deferred payment basis a distributor must file an application with the Department of Revenue on a form prescribed by the department.

(2) A security bond must accompany the application and is to be deposited with the department as provided in ORS 323.110, or the application must be accompanied by cash or securities to be deposited with the State Treasurer as provided as provided in ORS 323.120. The amount of the bond, cash or security deposited will be the fixed amount of deferred payment purchases the distributor may make in any one calendar month.

(3) If a distributor's license is revoked by the department, or is withdrawn by the licensee, the department will direct the State Treasurer to return any security that may be held by the State Treasurer under ORS 323.120, to the former licensee after the department has determined that all liabilities owed by the distributor to the department have been paid in full.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 323.180
Hist.: 6-66; 9-71; RD 8-1984, f. 12-5-84, cert. ef. 12-31-84; REV 6-1999, f. 12-1-99, cert. ef. 12-31-99; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.190

Restoration of Deferred Payment Plan Privileges for Purchasing Cigarette Tax Stamps

When the privilege of purchasing tax stamps on the deferred payment plan has been suspended by the Department of Revenue as provided in ORS 323.190, the suspension will remain in effect until the department issues written notice that the deferred payment plan has been restored . Paying the delinquency alone will not necessarily restore the privilege of utilizing the deferred payment plan.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 323.190
Hist.: 6-66; 9-71; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.220-(A)

Segregation of Cigarette Inventories

(1) For the purposes of this rule, the term "cigarettes" includes:

- (a) Cigarettes intended to be sold individually; and
- (b) Cigarettes intended to be sold in a pack.

(2) The following rules apply to inventories of cigarettes held by distributors:

(a) Untaxed cigarettes must be stored in an area separate from cigarettes bearing tax stamps.

(b) Cigarettes stamped with the tax stamp of another state must be stored in a separate area from cigarettes bearing an Oregon tax stamp.

(2) Any dealer who serves as his own distributor or who buys directly from a manufacturer and is licensed as a distributor must maintain strict separation of the wholesale and retail stocks of cigarettes and must maintain separate records of the wholesale portion of the business and keep such records, including invoices, separate and apart for the inspection of the wholesale business by the Department of Revenue. The records must show the amount of stamps purchased, stamps affixed, records of purchases of cigarettes and of all sales, whether to himself as a retailer, from himself as a distributor or to another than himself as a retailer.

(3) All invoices, records, files and other information shall be available for inspection by representatives of the department for a period of five years from the date of the transaction.

(4) The requirement to segregate cases or cartons of cigarettes under subsections (1) and (2) of this rule is satisfied if the distributor or dealer keeps the stocks of cigarettes separated by clearly marking the cases or cartons of cigarettes indicating whether the packs of cigarettes inside are taxed or untaxed, and whether they are wholesale or retail stock.

Stat. Auth.: ORS 305.100, 323.440
Stats. Implemented: ORS 323.220
Hist.: 6-66; 9-71; REV 6-1999, f. 12-1-99, cert. ef. 12-31-99; Renumbered from 150-323.220; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.480(1)-(A)

Civil Penalties for Violation of Cigarette Tax Provisions

(1) The Department of Revenue may impose civil penalties on any person who violates any provision of cigarette tax law. The violations include, but are not limited to, those described under subsection (3) of this rule.

(2) The following civil penalties will be imposed on a per incident basis for the violations in subsection (3) of this rule:

Incident—Penalty not to exceed
First—Warning notice
Second—\$250

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Third—\$500

Fourth and subsequent—\$1,000

(3) The civil penalties outlined in subsection (2) of this rule may be imposed for the following violations of ORS 323.005 to 323.482:

(a) ORS 323.060: Failure by a user or consumer to pay tax;

(b) ORS 323.105: Failure by a distributor to apply for and obtain a distributor's license;

(c) ORS 323.107: Failure by a wholesaler to apply for and obtain a wholesaler's license and make, preserve and supply records;

(d) ORS 323.130: Failure to display a license at the business location for which it was issued;

(e) ORS 323.165(1): Failure to obtain written approval from the Department of Revenue before selling, exchanging, or transferring unaffixed stamps to another person;

(f) ORS 323.170: Failure by a distributor to pay for stamps as provided in ORS 323.005 to 323.482 and failure by a distributor to notify the department of the number of packages of cigarettes to which the distributor affixes a stamp;

(g) ORS 323.185(1): Failure of the distributor to make payments of amounts owing for stamps purchased on the deferred-payment basis;

(h) ORS 323.205: Failure of manufacturers selling and shipping cigarettes into this state to other than a licensed distributor to:

(A) Deliver a written statement with each sale or consignment of cigarettes,

(B) Deliver a duplicate of that statement to the Department of Revenue, and

(C) File each cancellation or modification of the written statement and any other information necessary to the reconciliation of accounts with the Department of Revenue,

(i) ORS 323.211: Failure of distributors, dealers, and other persons engaging in the sale of cigarettes through the use of a vending machine(s) to affix the statutorily required card or decal in a conspicuous place on each machine;

(j) ORS 323.215: Failure of distributors, dealers, and other persons selling cigarettes through a vending machine(s) to keep detailed records of each machine showing the location of the machine and the date the machine was placed in that location;

(k) ORS 323.220: Failure of distributors and persons dealing in, transporting or storing cigarettes in this state to:

(A) Keep on premises records, receipts, invoices, and other pertinent papers, and

(B) Refrain from destroying records if so ordered by the Department of Revenue;

(l) ORS 323.225: Failure of transporters seeking to possess or acquire untaxed cigarettes for transportation or transport upon highways, roads, or streets of this state to:

(A) Obtain and keep a permit in the transporting vehicle during the transportation of the cigarettes, and

(B) Have the required invoices or bill of lading in the transporting vehicle;

(m) ORS 323.335: Failure of:

(A) Distributors to pay tax,

(B) Taxpayers other than licensed distributors to pay tax, and

(C) Common carriers and persons authorized to sell cigarettes on the facilities of common carriers to pay tax;

(n) ORS 323.340(1): Failure of licensed distributors to file reports;

(o) ORS 323.343: Failure of any person not a distributor, who had cigarette activity in this state, to file a report;

(p) ORS 323.355: Failure of common carriers and persons authorized to sell cigarettes on the facilities of common carriers to file reports and submit payment of tax due with the reports; and

(q) ORS 323.360: Failure of a consumer or user subject to the tax resulting from a distribution of cigarettes to file reports and submit payment of the tax due with the reports.

(4) The department may consider the following factors when deciding the civil penalty under this rule:

(a) Number of previous inspections held by the Department of Revenue at the place of business;

(b) Number of previous violations of Chapter 323 provisions;

(c) Size of business; and

(d) Any other factors or information the department considers relevant to its determination.

(5) A civil penalty authorized by ORS 323.480(1) and this rule may be imposed on any person, as defined in ORS 323.010, who is responsible for complying with ORS 323.005 to 323.482.

Stat. Auth.: ORS 305.100 & 323.440

Stats. Implemented: ORS 323.480

Hist.: REV 3-2002, f. 6-26-02, cert. ef. 6-30-02; REV 1-2004(Temp), f. & cert. ef. 4-1-04 thru 8-1-04, Renumbered from 150-323.480(1); REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.480(1)-(B)

Civil Penalties for Violation of Cigarette Tax Stamping Provisions

(1) The Department of Revenue may assess a civil penalty against any person who is required to comply with ORS 323.005 to 323.482 and who:

(a) Fails to prepay cigarette taxes by purchasing stamps from the department and affixing the stamps to unstamped packages of cigarettes prior to distributing those cigarettes, as required by Oregon Laws 2003, chapter 804, section 3; or

(b) Fails to affix an appropriate stamp to each package of cigarettes prior to distribution of the cigarettes, as required by ORS 323.160(3).

(2) For purposes of ORS 323.480 and this rule, each pack of cigarettes distributed in violation of ORS 323.005 to 323.482 constitutes a separate violation and is subject to penalty as follows:

Incident—Penalty not to exceed—Minimum Penalty

First—Warning notice

Second—\$10 per pack—\$1,000

Third—\$50 per pack—\$1,000

Fourth—\$100 per pack—\$1,000

Fifth and subsequent—\$1,000 per pack—\$1,000

NOTE: Distributors will be assessed a minimum penalty of \$1,000 for the second and any subsequent incidents.

(3) The department may consider the following factors when determining the civil penalty under this rule:

(a) Number of previous inspections by the Department of Revenue held at the business;

(b) Number of previous violations of chapter 323 provisions;

(c) Size of business; and

(d) Any other information the department considers relevant to its determination.

Stat. Auth.: ORS 305.100 & 323.440

Stats. Implemented: ORS 323.480

Hist.: REV 1-2004(Temp), f. & cert. ef. 4-1-04 thru 8-1-04; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.520

When Tobacco Product Distributor's License Required

A distributor's license is required for each place of business at which a person engages in the distribution of tobacco products as defined in ORS 323.500. A tobacco product distributor's license is required for any person distributing tobacco products in Oregon, including:

(1) Bringing or causing to be brought, into this state, tobacco products for sale, storage, use or consumption;

(2) Making, manufacturing, or fabricating tobacco products in this state for sale, storage, use or consumption in this state;

(3) Shipping or transporting tobacco products to retail dealers in this state, to be sold, stored, used or consumed by those retail dealers in this state;

(4) Storing untaxed tobacco products in this state that are intended to be for sale, use or consumption in this state; or

(5) Selling untaxed tobacco products in this state.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 323.520

Hist.: RD 6-1985, f. 12-26-85, cert. ef. 12-31-85; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.530

Other Tobacco Product Distributor License Application Denial

(1) The Department of Revenue may deny a license application if there is false or incomplete information on the application or if the department determines that the applicant will not comply with the provisions of ORS 323.500 to 323.640. When deciding whether to issue or deny a distributor's license, the department may consider, but is not limited to, the following factors:

(a) Whether the applicant has previously failed to pay a tobacco related tax;

(b) Whether the applicant has engaged in conduct punishable as a crime under ORS Chapter 323 or any other state's or federal tobacco laws;

(c) Whether the applicant has violated any part of ORS Chapter 323 or any rule adopted under that chapter.

(2) If the applicant is other than an individual, the department will apply the factors described in subsection (1) both to the applicant and, if the applicant is an organization, to the individual(s) within the organization with the primary responsibility for the payment of the tobacco taxes on behalf of the applicant;

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(3) If the department denies a license application, the distributor has 30 calendar days from the date of denial to file an appeal in the manner provided in ORS 305.404 to 305.560.

Stat. Auth.: ORS 305.100, 323.575
Stats. Implemented: ORS 323.530
Hist: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.535

Suspension or Revocation of Other Tobacco Product Distributors License; Appeal; Final Notification

(1) The Department of Revenue may suspend or revoke a distributor license if the department determines that the distributor will not comply with the provisions of ORS 323.500 to 323.640. When deciding whether to suspend or revoke a license the department may consider, but is not limited to, the following factors:

- (a) Whether the distributor has failed to pay a tobacco related tax;
- (b) Whether the distributor has engaged in conduct punishable as a crime under ORS chapter 323 or any other state's or federal tobacco law; and
- (c) Whether the distributor has violated any part of ORS chapter 323 or any rule adopted under that chapter.

(2) When the department decides to suspend or revoke an existing valid license, the department will send a notice to the distributor of the suspension or revocation, stating the reasons for such action. The distributor has 30 calendar days from the date on the notice to file an appeal under ORS 305.404 to 305.560.

(3) If a distributor requests a hearing within the appeal period in subsection (2), the license suspension or revocation will not become effective until a final determination of the appeal by the Tax Court or the Oregon Supreme Court.

(4) If a distributor does not request a hearing within the appeal period in subsection (2) suspension or revocation becomes effective on the 31st day after the date on the notice of suspension or revocation.

(5) The notices described in sections (2) and (4) will be mailed to the distributor by certified mail, return receipt requested, using the last known address of the distributor. Return of the notice as undeliverable or because the distributor fails or refuses to pick up or accept the notices will not extend the appeal period or delay the action specified in the final notice.

Stat. Auth.: ORS 305.100, 323.575
Stats. Implemented: ORS 323.535
Hist: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.630(A)

Civil Penalties for Violation of Other Tobacco Products Tax

(1) The Department of Revenue may impose civil penalties on any person who violates any provision of Other Tobacco tax law. The violations include, but are not limited to, those described under subsection (3) of this rule.

(2) The following civil penalties will be imposed on a per incident basis for the violations in subsection (3) of this rule: [Table not included. See ED. NOTE.]

(3) The civil penalties outlined in subsection (2) of this rule may be imposed for the following violations of ORS 323.500 to 323.645:

- (a) ORS 323.520: Failure by a distributor to apply for and obtain a distributor's license;
- (b) ORS 323.530: Failure to display a license at the business location for which it was issued;
- (c) ORS 323.538: Failure by distributor to provide a sales invoices containing the following:
 - (A) Name and address of the seller;
 - (B) Name and address of the purchaser;
 - (C) Quantity and product description of the tobacco products
 - (D) Price paid for the tobacco products;
 - (E) Any discount applied in determining the price paid for the tobacco products;
- (F) The applicable license identification number for the distributor;
- (G) A certified statement by the distributor that all taxes due under ORS 323.500 to 323.645 have been or will be paid.

(d) ORS 323.540: Failure of distributors or any persons dealing in, transporting or storing tobacco products in this state to:

(A) Keep on premises records, receipts, and invoices of product held, purchased, manufactured, brought in or caused to be brought in from outside this state or shipped or transported to retail dealers in this state, and of all sales of tobacco products made, except to consumers; and

(B) Keep all books and records for the required five years after initial date of sale.

(4) The department may consider the following factors when deciding the civil penalty under this rule:

- (a) Number of previous inspections held by the Department of Revenue at the place of business;
- (b) Number of previous violations of Chapter 323 provisions;
- (c) Size of business; and
- (d) Any other factors or information the department considers relevant to its determination.

(5) A civil penalty authorized by ORS 323.630 and this rule may be imposed on any distributor, as defined in ORS 323.500(7), who is responsible for complying with ORS 323.500 to 323.645.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 305.100, 323.575
Stats. Implemented: ORS 323.630
Hist: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

150-323.630(B)

Civil Penalties for Failure to Pay Other Tobacco Products Tax

(1) The Department of Revenue may assess a civil penalty against any person who is required to comply with ORS 323.500 to 323.645 and who fails to pay the other tobacco products tax.

(2) For purposes of ORS 323.630 and this rule, each tobacco product distributed in violation of ORS 323.500 to 323.645 constitutes a separate violation and is subject to penalty as follows: [Table not included. See ED. NOTE.]

(a) Distributors will be assessed a minimum penalty of \$1,000 for the second and any subsequent incidents.

(3) The department may consider the following factors when determining the civil penalty under this rule:

- (a) Number of previous violations of ORS Chapter 323 provisions;
- (b) Frequency of violations and time since the last violation; and
- (c) Any other information the department considers relevant to its determination.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 305.100, 323.575
Stats. Implemented: ORS 323.630
Hist: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04

Adm. Order No.: REV 7-2004

Filed with Sec. of State: 8-11-2004

Certified to be Effective: 8-11-04

Notice Publication Date:

Rules Renumbered: 150-323.160 to 150-323.160(2)

Subject: This rule is renumbered to the current statute number.

Rules Coordinator: Xann-Marie Culver—(503) 947-2099

150-323.160(2)

Manner of Affixing Stamps

(1) Stamps must be affixed to each individual package of cigarettes, as distinguished from cartons or large containers, in an aggregate denomination not less than the amount of tax upon the contents therein.

Example 1: licensed cigarette distributor receives a shipment of cigarettes from a manufacturer in packages containing 16 cigarettes each. The distributor intends to distribute those cigarettes within the state of Oregon. The distributor must affix to each package of cigarettes an Oregon tax stamp in the denomination value of at least 20 units per pack.

Example 2: A licensed cigarette distributor receives a shipment of cigarettes from a manufacturer in packages containing 5 cigarettes each. The distributor intends to distribute those cigarettes within the state of Oregon. The distributor must affix to each package of cigarettes an Oregon tax stamp in the denomination value of at least 10 units per pack.

(2) Stamps must be affixed to the bottoms of such packages in such a manner as to be clearly visible to subsequent purchasers. No other stamp, label, decal, mark or sign shall be affixed to or displayed on the bottom of a package of cigarettes without prior written approval from the department. Such approval will be given only to licensed cigarette agents who agree to purchase such indicia from the department.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 323.
Hist.: REV 11-1999, f. 12-30-99, cert. ef. 12-31-99; Renumbered from 150-323.160, Rev 7-2004, f. & cert. ef. 8-11-04

Department of Veterans' Affairs

Chapter 274

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

Filed with Sec. of State: 8-5-2004

Certified to be Effective: 8-6-04 thru 10-4-04

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 274-020-0341

Rules Suspended: 274-020-0341(T)

Subject: This Temporary rule amends and supersedes the Temporary OAR filed on May 10, 2004 and effective May 11, 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 6, 2004, shall have the interest rate of 5.5 percent with an origination fee of 1.0 percent or 5.375 percent with an origination fee of 1.5 percent.

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-020-0341

Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

(a) Four percent on all loans through August 21, 1969;

(b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

(A) Effective August 22, 1969, 5.2 percent;

(B) Effective September 4, 1969, 6.9 percent;

(C) Effective December 10, 1969, 7.1 percent;

(D) Effective April 8, 1970, 6.8 percent;

(E) Effective August 19, 1970, 6.4 percent;

(F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

(a) Effective May 27, 1971, 5.9 percent on all loans;

(b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;

(c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;

(d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(f) Effective January 1, 1983, 6.7 percent on loans for which applications were received on or after July 1, 1979, and on or before December 31, 1980;

(g) Effective January 1, 1983, 8.2 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981;

(h) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(i) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed before October 15, 1982.

(3) As provided by ORS 407.325, the interest rate on variable rate personal property loans shall be as follows:

(a) Effective May 30, 1975, 7.9 percent on personal property and leaseholds. Leaseholds were defined as real property on October 4, 1977, with rates established as provided in section (2) of this rule;

(b) Effective November 1, 1981, 13 percent on loans for which applications were received on or after August 24, 1981;

(c) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(d) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(e) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds disbursed before October 15, 1982;

(4) Effective January 1, 1986, the interest rate on certain loans shall be changed as follows:

(a) The interest rate on 6.2 percent loans becomes 7.2 percent;

(b) The interest rate on 6.7 percent loans becomes 7.7 percent;

(c) The interest rate on 7.9 percent loans becomes 8.9 percent;

(d) The interest rate on 8.2 percent loans becomes 9.2 percent.

(5) As provided by ORS 407.327, the interest rate on loans made on or after:

(a) April 15, 1992, shall be fixed and shall be 7.6 percent on loans for which applications were received on or after April 8, 1992.

(b) August 17, 1992, shall be fixed and shall be 7 percent on loans with a maturity date of 15 years or less, and 7.3 percent on loans with a maturity date in excess of 15 years.

(c) April 1, 1993, shall be fixed and shall be 6.7 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(d) November 1, 1993, shall be fixed and shall be 6.0 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

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(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

- (A) 5.95 percent with an origination fee of 1.0 percent;
- (B) 5.79 percent with an origination fee of 1.5 percent; or
- (C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) ODVA's Veterans' Loan Program 1990 loans:
 - (i) 5.55 percent with an origination fee of 1.0 percent;
 - (ii) 5.39 percent with an origination fee of 1.5 percent; or
 - (iii) 5.25 percent with an origination fee of 2.0 percent.
- (B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:
 - (i) 5.95 percent with an origination fee of 1.0 percent;
 - (ii) 5.79 percent with an origination fee of 1.5 percent; or
 - (iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) ODVA's Veterans' Loan Program 1990 loans:
 - (i) 5.25 percent with an origination fee of 1.0 percent; or
 - (ii) 4.99 percent with an origination fee of 1.5 percent.
- (B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:
 - (i) 5.25 percent with an origination fee of 1.0 percent; or
 - (ii) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(w) July 25, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) 5.375 percent with an origination fee of 1.0 percent; or
 - (B) 5.25 percent with an origination fee of 1.5 percent. (Temporary)
- (x) August 1, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:
- (A) 5.50 percent with an origination fee of 1.0 percent; or
 - (B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(y) August 15, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) 5.75 percent with an origination fee of 1.0 percent; or
- (B) 5.625 percent with an origination fee of 1.5 percent.

(z) 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)

(aa) 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)

(ab) 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.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

- (a) November 12, 1997, shall be fixed and shall be 7.95 percent.
- (b) February 2, 1998, shall be fixed and shall be 7.5 percent.

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

Stats. Implemented: ORS 407.325 & 407.327

Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-5-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-

1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92; DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA -1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03; DVA 6-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 10-17-03; DVA 7-2003(Temp), f. 7-31-03, cert. ef. 8-1-03 thru 10-17-03; DVA 8-2003(Temp), f. 8-14-03, cert. ef. 8-15-03 thru 10-17-03; DVA 10-2003, f. & cert. ef. 9-23-03; DVA 13-2003(Temp), f. & cert. ef. 10-8-03 thru 4-5-04; DVA 2-2004(Temp), f. 1-21-04, cert. ef. 1-22-04 thru 4-5-04; DVA 4-2004, f. 3-25-04, cert. ef. 3-26-04; DVA 5-2004(Temp), f. 4-6-04, cert. ef. 4-8-04 thru 10-4-04; DVA 7-2004(Temp), f. 4-28-04, cert. ef. 4-29-04 thru 10-4-04; DVA 8-2004(Temp), f. 5-10-04, cert. ef. 5-11-04 thru 10-4-04; DVA 9-2004(Temp), f. 8-5-04 cert. ef. 8-6-04 thru 10-4-04

Employment Department Chapter 471

Adm. Order No.: ED 4-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 6-1-04

Rules Adopted: 471-030-0044, 471-030-0054, 471-030-0074, 471-030-0126

Rules Amended: 471-010-0010, 471-010-0020, 471-010-0050, 471-010-0054, 471-030-0023, 471-030-0037, 471-030-0055, 471-030-0065, 471-030-0075, 471-031-0017, 471-031-0067, 471-031-0080, 471-031-0085, 471-031-0110, 471-040-0005, 471-040-0015, 471-040-0020, 471-040-0021, 471-040-0023, 471-040-0025, 471-040-0026, 471-040-0030, 471-040-0035, 471-040-0040

Rules Repealed: 471-030-0200, 471-030-0126(T), 471-040-0040(T)

Subject: The Employment Department is amending:

OAR 471-010-0010 to update and add to the notice requirements for rules; OAR 471-010-0020 to adopt the latest "Attorney General's Model Rules of Procedure" for rulemaking; OAR 471-010-0050 to add and clarify definitions; and OAR 471-010-0054 to update when and what authorized disclosures the Department can make.

The Employment Department is adopting:

OAR 471-030-0044 to clarify the meaning of "systematic and sustained effort to obtain work"; OAR 471-030-0054 to clarify who may present a written admission; OAR 471-030-0074 to clarify school employee's employment periods; and OAR 471-030-0126 to make permanent 471-030-0126 regarding Absence Due to Alcohol or Drug Use.

The Employment Department is amending:

OAR 471-030-0023 to clarify the date when the three-year period for extending a base year begins; OAR 471-030-0037 to clarify the process for deciding prevailing wage rates; OAR 471-030-0055 to update references; OAR 471-030-0065 to update references; and OAR 471-030-0075 to clarify the process for deciding if "reasonable assurance" exists.

The Employment Department is repealing:

OAR 471-030-0200 "Precedent Decisions"; and OAR 471-030-0126 Temporary rule regarding Absence Due to Alcohol or Drug Use.

The Employment Department is amending:

OAR 471-031-0067 retroactively to correct a filing error; OAR 471-031-0080 retroactively to correct a filing error; OAR 471-031-0085 retroactively to correct a filing error; and OAR 471-031-0110 retroactively to correct a filing error. These rules changes were pre-

ADMINISTRATIVE RULES

viously submitted to the Secretary of State and became effective June 23rd, 2002. These rules are identical to the rules previously filed with the Secretary of State on June 23rd, 2002.

The Employment Department is amending:

OAR 471-031-0017 to clarify a definition.

The Employment Department is amending:

OAR 471-040 (all) to update references; and OAR 471-040-0040 to address the procedure that will be followed when the filing party failed to appear at the hearing that led to the decision on appeal.

The Employment Department is repealing:

OAR 471-040-0040 Temporary rule regarding "Reopening of a Case" rules to address the procedure that will be followed when the filing party failed to appear at the hearing that led to the decision on appeal.

Rules Coordinator: Richard L. Luthé—(503) 947-1724

471-010-0010

Rules Procedure

Prior to the adoption, amendment, or repeal of any permanent rule, the Employment Department 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, e-mailing or faxing a copy of the notice to persons on the Employment Department's mailing list established pursuant to ORS 183.335(7) at least twenty-eight (28) days prior to the effective date.

(3) By mailing, e-mailing or faxing a copy of the notice to the legislators specified in ORS 183.335(15) of this section at least 49 days before the effective date.

(4) By mailing a copy of the notice to the Associated Press, the United Press International, the Capitol Press Room, and to a newspaper of statewide circulation.

Stat. Auth.: ORS 183.335, 657.260, 657.265 - 657.270, 657.335, 657.610 & Ch. 729, OL 1993

Stats. Implemented: ORS 183.335 & ORS 183.360

Hist.: IDE 149, f. & ef. 12-29-75; IDE 1-1984, f. & ef. 3-21-84; ED 4-1994, f. & cert. ef. 9-2-94; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-010-0020

Attorney General's Model Rules

Division 1 of the Attorney General's Model Rules of Procedure effective December 9, 2003, shall be applicable to rulemaking functions of the Employment Department.

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

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.610 & 183.341

Hist.: IDE 150, f. & ef. 2-9-76; IDE 1-1978, f. & ef. 3-6-78; IDE 1-1980, f. & ef. 1-11-80; IDE 9-1981, f. & ef. 12-14-81; IDE 1-1984, f. & ef. 3-21-84; IDE 1-1986, f. & ef. 2-7-86; IDE 1-1988, f. & cert. ef. 4-1-88; IDE 1-1991, f. & cert. ef. 4-1-91; IDE 1-1992, f. & cert. ef. 2-3-92; IDE 1-1996, f. 4-24-96, cert. ef. 4-29-96; ED 2-1997, f. 10-24-97, cert. ef. 11-3-97; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-010-0050

Definitions

(1) "Agent" means an individual who is authorized to act for or in the place of another individual or entity.

(2) "Aggregate information" means:

(a) For information relating to businesses: there must be at least three firms and no one firm makes up more than 80% of the data item being measured;

(b) For information relating to individuals: there must be at least six individuals in each aggregated data group being released.

(3) "Customer" means any employer, individual, public agency, public employee (other than Oregon Employment Department staff in the performance of duty), non-governmental entity or member of the public that provides information to the department or receives a department service.

(4) "Confidential information" means information obtained from employing units, employees or other individuals pursuant to ORS Chapter 657.

(5) "Discharge of duties" means the duties related to the department programs and services pursuant to ORS Chapter 657, which includes, but is not limited to:

(a) Administration of the department;

(b) Delivery of department and workforce programs and services in accordance with state or federal law;

(c) Cooperation with public employees in federal and state agencies administering unemployment insurance laws including, but not limited to system administration, coverage, collection of contributions, determination of eligibility and payment of benefits;

(d) Cooperation with public employees in state agencies administering recognized Oregon compensation and retirement, relief or welfare laws;

(e) Administration of federal or state grant programs awarded to the department in accordance with applicable laws, regulations or guidelines associated with the grant program;

(f) General duties of an agency head including, but not limited to cooperation with law enforcement and elected officials; or

(g) Cooperation with public employees in federal and state agencies charged with enforcing anti-discrimination and fair employment practice laws.

(6) "Functional control" means supervision by an Employment Department management employee over the work activities of a hosted worker, in the area of the public labor exchange (selecting and referring job seekers on employer openings on jobs listed with the Employment Department, directly assisting employers in listing jobs, and providing marketing or outreach services to the business community).

(7) As used in ORS Chapter 657.665(3)(a), the following terms have the following meaning:

(a) "Governmental planning functions" means duties authorized by law which are undertaken by state, federal, or local government agencies, to facilitate policy decisions about the future. These functions include, but are not limited to, economic or similar modeling, impact analysis, projections, and forecasting;

(b) "Governmental performance measurement functions" means duties authorized by law which are undertaken by state, federal, or local government agencies regarding the success and impact of government programs;

(c) "Governmental program analysis functions" means duties authorized by law which are undertaken by state, federal, or local government agencies to better understand the impact and operation of government programs. These functions include, but are not limited to, fiscal analysis, budget analysis, and workload analysis;

(d) "Governmental socioeconomic functions" means duties authorized by law which are undertaken by state, federal, or local government agencies to better understand the socioeconomic conditions in which the governmental entity is operating. These functions include, but are not limited to, the analysis of demographic, labor force, employment, and income trends; and

(e) "Governmental policy analysis functions" means duties authorized by law which are undertaken by state, federal, or local government agencies to determine or better understand the impact of policy choices and decisions. These functions include, but are not limited to, economic impact analysis, trend analysis, and economic or similar modeling.

(8) "Hosted Worker" means a non-Department employee or volunteer who works, at least partially, under the functional control of an Employment Department management staff. The roles and responsibilities as well as the duties and confidentiality implications must be addressed in a written agreement with the Hosted Worker's actual employer or the Worker if there is no employer.

(9) "Informed consent" means that, prior to collecting or disclosing information from customers:

(a) The customer shall be informed of:

(A) How the information will be used;

(B) The authority which authorizes the collection or disclosure of the information;

(C) Whether the collection or disclosure of the information is mandatory or voluntary;

(D) The effects on the customer, if any, of not allowing collection or disclosure of the information; and

(E) The customer's ability to "opt in" or "opt out" of giving their consent for their information to be collected or disclosed.

(b) If the information from the customer is to be submitted to the Employment Department by a one-stop delivery system partner for a cross-match with Employment Department information, the customer shall also be informed that:

(A) The information may be shared with the Employment Department; and

(B) The information to be shared may be matched with information from Employment Department records.

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(10) "Need-to-Know" means that access to, possession of, or other use of customer-related information is essential in order to carry out official duties. It does not include:

(a) Accessing confidential information to satisfy curiosity, for personal gain, or to provide the information to friends, spouses, relatives or any other unauthorized individual;

(b) Discussing confidential information among co-workers except as needed to perform official duties; or

(c) Disclosing or discussing confidential information on personal time or in non-work settings.

(11) "One-stop delivery system" means the workforce development activities provided by one-stop delivery system partner entities as authorized by the Workforce Investment Act and HB 3835 (Chapter 684; Oregon Laws 2001) and described in local Memorandums of Understanding (MOU) developed by workforce investment boards and approved by the Governor's Office of Education & Workforce Policy.

(12) "One-stop delivery system partner" means entities authorized by the Workforce Investment Act and HB 3835 (Chapter 684; Oregon Laws 2001) and described in local Memorandums of Understanding (MOU) developed by workforce investment boards and approved by the Governor's Office of Education & Workforce Policy.

(13) "Party" has the same meaning as in ORS 183.310(6).

(14) "Person" has the same meaning as in ORS 183.310(7).

(15) "Recognized compensation and retirement, relief or welfare laws," includes, but is not limited to the following:

(a) Indigent Defense Program administered by the State Court Administrator pursuant to ORS 151.430 et. seq.;

(b) Compensation of Crime Victims administered by the Department of Justice pursuant to ORS 147.005 et. seq.;

(c) Housing for low income individuals administered by local housing authorities pursuant to ORS Chapter 456;

(d) Programs administered by the Family Health Insurance Assistance Program pursuant to ORS 735.722 et. seq.; and

(e) Programs administered by the Department of Human Services, including, but not limited to:

(A) Children, Adults and Families administering;

(i) Foster care maintenance payments for youth administered in conjunction with the Oregon Youth Authority pursuant to ORS 420.810 et. seq.;

(ii) Maintenance payments to individuals with occupational handicaps administered pursuant to ORS 344.511 et. seq.;

(iii) Temporary Assistance to Needy Families; and

(iv) Food Stamps.

(B) Seniors and People with Disabilities.

(16) "Third Party" means an individual or entity other than an agent to whom the customer has authorized and directed disclosure.

(17) "Written disclosure agreement" means an interagency or other applicable agreement for sharing or disclosing information by written, electronic, paper, verbal or other means.

(18) "Workforce Investment Act" means the federal Workforce Investment Act of 1998 as codified in Public Law 105-220.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.665 & 657

Hist.: IDE 150, f. & ef. 2-9-76; IDE 152, f. 9-28-77, ef. 10-4-77; IDE 6-1980, f. & ef. 9-8-80; IDE 2-1984, f. & ef. 9-28-84; IDE 3-1985, f. & ef. 12-16-85; ED 4-1994, f. & cert. ef. 9-2-94; ED 1-1996, f. 4-24-96, cert. ef. 4-29-96; ED 2-2000(Temp), f. 6-9-00, cert. ef. 6-11-00 thru 12-8-00; ED 7-2000, f. 12-1-00, cert. ef. 12-3-00; ED 10-2001, f. 9-28-01, cert. ef. 9-30-01; ED 7-2002(Temp), f. 9-27-02, cert. ef. 9-29-02 thru 3-28-03; ED 4-2003(Temp), f. 3-27-03, cert. ef. 3-29-03 thru 9-24-03; ED 12-2003, f. 9-19-03, cert. ef. 9-21-03; ED 16-2003, f. 12-31-03, cert. ef. 1-4-04; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-010-0054

Authorized Disclosure

(1) The department is authorized to disclose confidential information or records to public agencies, provided that a written disclosure agreement is in place, under the following circumstances:

(a) In the "discharge of duties" as authorized by the department Director;

(b) For public administration of compensation and retirement, relief or welfare laws;

(c) To state and federal government agencies authorized by ORS Chapter 657;

(d) For the purpose of providing payment of unemployment insurance benefits; or

(e) To state, federal, and local government agencies for governmental planning, performance measurement, program analysis, socioeconomic analysis, and policy analysis functions, consistent with Sections (2) and (3) of this rule.

(2) The department is authorized to disclose confidential information or records for governmental planning, performance measurement, program analysis, socioeconomic analysis, and policy analysis functions by state, federal, or local agencies only if:

(a) The information is only used for planning, performance measurement, program analysis, socioeconomic analysis, or policy analysis purposes;

(b) The information is necessary for the successful performance of those planning, performance measurement, program analysis, socioeconomic analysis, or policy analysis activities; and

(c) The requesting agency's authorizing statute reasonably provides that the agency perform planning, performance measurement, program analysis, socioeconomic analysis, or policy analysis functions.

(3) As used in ORS Chapter 657.665(3)(a), the terms "Governmental planning, performance measurement, program analysis, socioeconomic analysis and policy analysis functions" do not authorize the disclosure of confidential information:

(a) For purposes of mass mailings or marketing; That was collected by way of surveys conducted for statistical purposes, including those conducted in collaboration with the U.S. Bureau of Labor Statistics;

(c) For program eligibility or enforcement purposes; or

(d) Regarding individual persons, unless those persons have given their informed consent for such disclosure.

(4) The department is authorized to disclose confidential information or records as authorized under ORS Chapter 657 to non-governmental entities if the non-governmental entity enters into a written disclosure agreement with the department that:

(a) Requires informed consent from the individual to whom the information pertains;

(b) Safeguards the information once in the hands of the non-governmental entity; and

(c) Requires the non-governmental entity to pay all costs associated with the disclosure.

(5) The department is authorized to disclose confidential information or records to a third party or agent if:

(a) The Oregon Employment Department staff receives a written authorization signed and dated by the customer that specifically states the information that may be disclosed;

(b) The written authorization is witnessed or verified by Oregon Employment Department staff, or notarized;

(c) The third party or agent presenting the request is the same party authorized to receive the information.

(6) The Department is authorized to disclose confidential information or records to one-stop delivery system partners within the state or local one-stop delivery system if:

(a) An agreement between the Employment Department and the one-stop delivery system partner(s), addressing confidentiality and authorized uses of the customer information, has been completed;

(b) The customer whose information or records are being disclosed has provided informed consent authorizing that the information may be shared or disclosed; and

(c) Notice is provided that a consent, or authorization, is on file within the one-stop delivery system.

(7) Unless otherwise authorized by these rules the department is authorized to disclose confidential information or records to a customer only under the following provisions:

(a) The Oregon Employment Department staff is sure that the information was provided by the customer, or was previously provided to the customer; or

(b) For Oregon Employment Department wage records, the wage records are identified under the name, social security number or account number of the customer; and

(c) The Oregon Employment Department staff is sure that the customer's identity is the customer to which the information directly relates.

(8) The department is authorized to disclose confidential information or records to the customer's attorney or Certified Public Accountant without written authorization by the customer if the attorney or CPA affirmatively represents their client relationship with the customer. Disclosure to any other agent of the customer requires a written authorization under Section (5) of this rule.

(9) The department is authorized to disclose:

(a) Confidential information or records necessary to prepare for a pending hearing to the extent necessary for the proper presentation of an Oregon Unemployment Insurance benefit claim at a hearing before an Administrative Law Judge, once a request for hearing has been filed, or for

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a review arising under a state or federal program administered by the department to a party or agent of a party.

(b) Hearing information or records to a party or agent of a party to the hearing that have been entered into the official record of the hearing. Information or records submitted but not received into evidence remain confidential and are not subject to disclosure except to the party submitting the information or records.

(10) The department is authorized to disclose confidential information or records pursuant to a customer's request, to a legislator or other elected official, or their staff, if the department receives a copy of the customer's letter to the legislator or other elected official. The department will treat the letter as the customer's authorization for the legislator or other elected official, or their staff, to disclose the information necessary to fulfill the customer's request. If no letter is available, Oregon Employment Department staff will provide customer information only after verifying with the legislator or other elected official, or their staff, that the contact is from the customer. If contact was not from the customer, a written authorization is required.

(11) The department is authorized to disclose confidential information or records without the customer's specific authorization and without a written disclosure agreement under the following provisions:

(a) In the "discharge of duties" as authorized by the department Director for Oregon Employment Department programs under ORS Chapter 657;

(b) For mandatory disclosures under the Social Security Act or other federal law; or

(c) In accordance with state or federal laws requiring cooperation with properly identified law enforcement officers or District Attorneys in the performance of their duties and pursuant to a warrant for the arrest of an individual;

(d) To a court in a civil, criminal or grand jury proceeding to which the State of Oregon is a party;

(e) To authorized personnel of agencies of other states for the purpose of administering federally funded unemployment insurance programs, Temporary Assistance to Needy Families, child support enforcement programs, and food stamps;

(f) To properly identified officials of the United States Social Security Administration and the United States Department of Health and Human Services for audit and administration of the Supplemental Security Income Program;

(g) To properly identified officials of the United States Department of Agriculture for audit and administration of the food stamp program; or

(h) To properly identified officials of state and federal agencies charged with administration of fair employment practices and anti-discrimination activities.

(12) The department is authorized to publish aggregated information, even if that information is based on confidential records, using the standards in OAR 471-010-0050(2). Customers or one-stop delivery system partners receiving confidential information for approved purposes are required to adhere to the same confidentiality and aggregation standards that the Employment Department uses.

(13) Oregon Employment Department staff are expected to comply with Oregon child abuse reporting laws under ORS Chapter 419B.010, elderly abuse reporting laws under ORS Chapter 124.060, and patient abuse reporting laws under ORS 677.190.

(14) When an authorized representative of the department has been served a subpoena or other legal compulsory process to produce or disclose information from department records and the disclosure of such information is not specifically allowed under ORS Chapter 657 or this rule:

(a) The Director shall promptly inform the Assistant Attorney General assigned to the department of such demand;

(b) If the disclosure would, in the opinion of the Assistant Attorney General, be inconsistent with the provisions of state law or any policy or rule adopted pursuant to such law, the Assistant Attorney General shall take action to prevent the disclosure.

(15) Drug or alcohol abuse information or records received from federally funded treatment programs, facilities or activities may not be used or redisclosed by the department without the written consent of the patient.

(16) The Workforce Investment Act establishes a one-stop delivery system through which core services are provided, including those of the Wagner-Peyser Act (29 U.S.C. 49 et. Seq.), and where one-stop delivery system partners work on a collaborative and cooperative basis. The Workforce Investment Act also calls for the state to use Unemployment Wage Records, to the extent possible by state law, for the purpose of evaluation performance outcomes by other one-stop delivery system partners. It

is the responsibility of the Director of the Employment Department to disclose all appropriate information to one-stop delivery system partners for necessary delivery of service, program evaluation, and performance measurement purposes. For these purposes, the following activities are within the Director's "discharge of duties:"

(a) The department is authorized to disclose confidential unemployment insurance wage records to one-stop delivery system partners for performance measurement purposes only under the following conditions:

(A) The requesting entity is a one-stop delivery system partner as described in OAR 471-010-0050(11);

(B) The individual for whom information is requested must have given informed consent for the information to be shared;

(C) The information requested shall not be used for eligibility determination, case management, intake, compliance, or any other purposes, except as required by state or federal law; and

(D) There must be an interagency or other applicable agreement with the one-stop delivery system partners that provides for safeguarding of the disclosed information, prohibits re-disclosure of the information without the express consent of the Employment Department, and imposes sanctions for the unauthorized disclosure of confidential information.

(b) Job listing information provided by employers to the Employment Department for the purpose of administering the public labor exchange. At the employer's direction the following information may be shared with job seekers who are interested in a particular job opening:

(A) For "self-refer" job listings, the job will be listed with all needed information displayed directly for all interested job seekers, who may then contact the employer directly; or

(B) For "suppressed" job listings, the needed information is only provided to job seekers who are determined to be qualified for the job listing, and who are then given contact information by the Employment Department or authorized Hosted Workers.

(c) Information, not including employer wage records or employer tax data, necessary for providing services to businesses for activities within the one-stop delivery system or for activities of the regional Workforce Response Teams (described in the Governor's Executive Order #03-16). The information to be shared may include details such as who to contact, planned contact schedules, employer training needs, and results of contacts and telephone calls for coordinated service delivery to the business community if there is an agreement with the one-stop delivery system partner(s) or the Workforce Response Team. The agreement should provide for steps in safeguarding confidential employer information

(d) The department is authorized to disclose job seeker information to one-stop delivery system partners under the following conditions:

(A) The requesting entity is a one-stop delivery system partner as described in OAR 471-010-0050(11);

(B) There is an interagency or other applicable agreement with the one-stop delivery system partner describing how the information will be used, that provides for the safeguarding of the information, and imposes sanctions for the unauthorized re-disclosure of the information;

(C) The individual for whom information is requested must have been provided with informed consent; and

(D) The information to be disclosed must be:

(i) Based on the one-stop delivery system partner's "need to know" to perform official duties of their program; or

(ii) The individual job seeker has specifically directed or authorized the sharing of the information.

(17) Oregon Employment Department staff, hosted workers and any other entities or individuals with access to Employment Department information are authorized to access confidential information only on a "need to know" basis, as needed to perform official duties.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.665 & 657

Hist.: IDE 6-1980, f. & ef. 9-8-80; IDE 1-1981, f. & ef. 1-15-81; IDE 1-1982, f. & ef. 6-30-82; IDE 2-1984, f. & ef. 9-28-84; IDE 3-1985, f. & ef. 12-16-85; ED 1-1991, f. & cert. ef. 4-1-91; ED 1-1996, f. 4-24-96, cert. ef. 4-29-96; ED 2-2000(Temp), f. 6-9-00, cert. ef. 6-11-00 thru 12-8-00; ED 7-2000, f. 12-1-00, cert. ef. 12-3-00; ED 3-2001(Temp), f. 3-16-01, cert. ef. 3-18-01 thru 9-14-01; ED 10-2001, f. 9-28-01, cert. ef. 9-30-01; ED 9-2002(Temp), f. 11-27-02 cert. ef. 12-1-02 thru 5-30-03; ED 9-2003, f. 5-22-03, cert. ef. 5-25-03; ED 16-2003, f. 12-31-03, cert. ef. 1-4-04; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-030-0023

Incapable of Work for the Purpose of Extending the Base Year

(1) As used in ORS 657.170, "incapable of work" means inability to engage in any gainful occupation solely because of physical or mental defect, disease or injury as verified in writing by a licensed medical or therapeutic practitioner, or other evidence satisfactory to the Director.

(2) For purposes of applying ORS 657.170(2), where the date of the injury and the date on which claimant became temporarily totally disabled

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are not the same, the three-year time period for seeking a base year extension shall begin at the start of the claimant's period of temporary total disability, not on the date of the injury.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.170
Hist.: IDE 3-1981, f. & ef. 2-16-81; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-030-0037

Prevailing Rate of Pay

(1) For the purposes of ORS 657.176(2)(d), and for the purposes of ORS 657.195(1)(b), work is not suitable if the rate of pay is substantially less favorable than the rate prevailing in the locality. A rate of pay is substantially less favorable than the rate prevailing in the locality when the rate of pay is at least ten percent lower than the average rate of pay for similar work in the locality. The average rate of pay prevailing in the locality shall be determined by employees of the Employment Department adjudicating office using available research data compiled by the department.

(2) In applying the provisions of ORS 657.176(2)(e), and for the purposes of ORS 657.195(1)(b), if inadequate rate of pay was one of the reasons for refusing to accept new work, the work is not suitable if the rate of pay is substantially less favorable than the rate of pay prevailing in the locality. A rate of pay is substantially less favorable than the rate prevailing in the locality when the rate of pay is at least ten percent lower than the average rate of pay for similar work in the locality. The average rate of pay prevailing in the locality shall be determined by employees of the Employment Department adjudicating office using available research data compiled by the department.

Stat. Auth.: ORS 657.610
Stats. Implemented: ORS 657.176(2)(d) & 657.176(2)(e) & 657.195(1)(b)
Hist.: IDE 151, f. 9-28-77, ef. 10-4-77; ED 2-1991, f. & cert. ef. 10-14-91; ED 2-1992, f. & cert. ef. 6-29-92; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-030-0044

Systematic and Sustained Search for Work

(1) For purposes of ORS 657.325(10), the term "systematic and sustained effort to obtain work" means:

(a) "Systematic effort" is a thorough search for work conducted in accordance with a written plan that is calculated to produce positive results and that has been approved by the Director or the authorized representative.

(b) "Sustained effort" is ongoing work-seeking activity personally performed by the individual within each week for which the individual claims benefits and which is reasonably calculated to obtain work at the earliest possible time. Passive availability alone, including registration with a union or unions, a temporary/leasing agency or agencies or a state workforce agency or agencies, does not meet this standard.

(c) To satisfy the requirements of (a) and (b), above, an individual must perform a more diligent and intense effort to obtain work than that required to satisfy eligibility requirements for regular benefits.

(2) An authorized representative of the Employment Department must provide written notice, as outlined in **20 CFR Ch. V Part 615.8(h)(1)-(4)**, of the meaning the term "systematic and sustained effort to obtain work" to the individual as it applies to the individual's work-seeking activities. The Department must provide this notice prior to any week for which the individual is denied eligibility as a result of the application of this term.

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

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.325
Hist.: ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-030-0054

Theft Cases

For purposes of satisfying ORS 657.176(3)(b), any person, party or entity may present the Employment Department with the written admission.

Stat. Auth.: ORS 657.610
Stats. Implemented: ORS 657.176
Hist.: ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-030-0055

Continuous Jurisdiction

(1) In accordance with the provisions of subsection (2) of ORS 657.290, the following employees are designated by the Director as having the authority to act for and in the name of the Director in matters of reconsideration and correction of decisions and claims, to the full extent provided in subsections (1) and (2) of ORS 657.290:

- (a) Assistant Director for Unemployment Insurance;
- (b) Manager of Benefits.

(2) If the Director finds, as new facts not previously known to the Director or the designees specified in section (1) of this rule, that a claimant

or an employing unit has suffered or would suffer substantial adverse effect because of:

(a) Misinformation provided to such party by an employee of the Employment Department; or

(b) Improper application of Employment Department Law or administrative rules by an employee of the Employment Department, the Director, or one of the designees specified in section (1) of this rule, may take appropriate action to restore to the injured party all rights and benefits which were improperly denied.

(3) Notice of action taken in accordance with the provisions of section (2) of this rule shall be provided to all other parties who may suffer substantial adverse effect as a result of the correcting action taken. Such notice shall be subject to hearing, review and appeal in accordance with ORS 657.265 to 657.282.

Stat. Auth.: ORS 657.610
Stats. Implemented: ORS 657.290
Hist.: IDE 150, f. & ef. 2-9-76; IDE 5-1979, f. & ef. 8-27-79; IDE 1-1984, f. & ef. 3-21-84; IDE 2-1984, f. & ef. 9-28-84; ED 1-1987, f. & ef. 1-12-87; ED 5-1992, f. & cert. ef. 12-14-92; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-030-0065

Discretionary Filing Procedures

(1) Pursuant to the provisions of ORS 657.155(1)(a) and to support the policy of prompt payment of benefits when due, the Director may discretionarily authorize the use of special or alternative forms and procedures for filing unemployment insurance claims under any of the following conditions:

- (a) Mass layoffs from employment;
- (b) Irregular working schedules;
- (c) Plant, factory, firm, or business closure;
- (d) Extraordinary weather conditions;
- (e) Damage or impairment to Employment Department facilities;
- (f) Disaster;
- (g) Petroleum fuel shortages; or
- (h) Other unusual conditions.

(2) In the exercise of the Director's discretion the Director shall consider:

- (a) The number of claimants and employing units affected;
- (b) Travel, transportation, and mailing facilities;
- (c) Frequency of and anticipated duration of periods of unemployment;
- (d) Prospects of re-employment for unemployed workers;
- (e) Labor organization involvement;
- (f) Administrative expense and feasibility; and
- (g) Any other factors that may be significant and material.

(3) When an official identified in section (4) of this rule finds that any of the conditions specified in section (1) of this rule exists, that official may:

(a) Waive the registration requirements of ORS 657.155 for up to four consecutive weeks for which benefits are claimed;

(b) Waive the initial, additional or reopened claim filing requirements of OAR 471-030-0040(2) to permit filing such claims in a week subsequent to the time period allowed in OAR 471-030-0040. The time extension is to be determined by the Director in a manner calculated to insure equity and provide prompt payment of benefits and may vary from one set of circumstances to another.

(4) The use of special forms and procedures as proposed by this rule may be authorized by the following employees only:

- (a) Deputy Director;
- (b) Assistant Director for Unemployment Insurance;
- (c) Manager of Benefits.

Stat. Auth.: ORS 657.610
Stats. Implemented: ORS 657.255
Hist.: IDE 150, f. & ef. 2-9-76; IDE 5-1979, f. & ef. 8-27-79; IDE 3-1981, f. & ef. 2-16-81; IDE 1-1984, f. & ef. 3-21-84; IDE 2-1984, f. & ef. 9-28-84; ED 1-1991, f. & cert. ef. 4-1-91; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-030-0074

School Employees

(1) ORS 657.167 and 657.221 apply only when the individual claiming benefits was employed by the educational institution in the period immediately preceding the holiday, vacation or recess period. For individuals claiming benefits for a vacation or holiday week, the individual must have been employed by the educational institution in the week immediately prior to the period claimed. For individuals claiming benefits for a customary recess period between academic terms or years, the individual must have been employed by the educational institution in the academic year or term immediately prior to the period claimed. Wages from non-education-

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al employers shall not be considered in making a determination of whether the claimant was employed.

(2) The provisions of ORS 657.167 and 657.221 apply irrespective of whether or not the individual works only during an academic year or works in a year-round position.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.167, 657.221
Hist.: ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-030-0075

“Reasonable Assurance” Defined

(1) With respect to the application of ORS 657.167 and 657.221, “reasonable assurance” means a written contract, written notification, or any agreement, express or implied, that the employee will perform services in the same or similar capacity for any educational institution during a subsequent academic year or term or in the period immediately following a recess period.

(2) An individual who receives assurance of performing a greater quantity of the same or similar work after a holiday, vacation or recess period than that performed prior to the vacation, holiday or recess period has received reasonable assurance of performing work in the same or similar capacity.

(3) Where the totality of the employment relationship reasonably assures that an individual will perform services in a same or similar capacity in a subsequent period, the reasonable assurance cannot be ended or abated by any unilateral action of the individual. A decision to quit work, even for good cause, and even if the resignation is accepted by the employer, does not end or abate the reasonable assurance.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.167 & 657.221
Hist.: IDE 150, f. & ef. 2-9-76; IDE 152, f. 9-28-77, ef. 10-4-77; IDE 1-1984, f. & ef. 3-21-84; IDE 3-1985, f. & ef. 12-16-85; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-030-0126

Absence Due to Alcohol or Drug Use

(1) “Drug” has the meaning given in ORS 475.005(6);

(2) “Documentation of program participation” means a signed statement by an authorized representative of the recognized program that the individual is engaged in a course of treatment;

(3) “Participation” means to be engaged in a course of treatment through a recognized drug or alcohol rehabilitation program;

(4) “Recognized alcohol rehabilitation program” means a program authorized and licensed under the provisions of OAR chapter 415, or authorized and licensed under similar provisions in another state;

(5) “Recognized drug rehabilitation program” means a program authorized and licensed under the provisions of OAR chapter 415, or authorized and licensed under similar provisions in another state.

Stat. Auth.: ORS 657.610
Stats. Implemented.: ORS 657.176
Hist.: ED 1-2004(Temp), f. 4-9-04, cert. ef. 4-11-04 thru 10-8-04; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-031-0017

Corporate Officer/Director Election

(1) For the purposes of ORS 657.044 an election not to provide coverage shall apply to all corporate officers who are directors of the corporation, who have a substantial ownership interest in the corporation and who are members of the same family.

(a) The term “substantial ownership” means total family ownership equal to or greater than seventy-five percent of the corporation with each family member who is a corporate officer and director having ownership interest.

(b) The term “family” means two or more individuals related as parents, stepparents, grandparents, spouses, sons-in-law, daughters-in-law, brothers, sisters, children, stepchildren, adopted children or grandchildren.

(c) The election not to provide coverage shall be in writing and shall be effective on the first day of the calendar quarter in which the election was filed, or a later date when so specified in the election.

(2) The election is not effective unless approved by the Director of the Employment Department. The Director shall mail a notice of approval or denial of the employing unit’s election to the last known address as shown in the Employment Department’s records. Such notice shall become final 20 calendar days after notice is mailed unless within such time the employing unit files with the Director, a request for a hearing with respect thereto.

(3) Hearings shall be conducted in accordance with the provisions of division 040 of OAR chapter 471.

(4) Judicial review of decisions issued pursuant to this rule shall be as provided for review of orders in contested cases in ORS 183.310 through

183.550. The Director of the Employment Department is designated as a party for purposes of hearings under this rule.

(5) Upon motion of the Director of the Employment Department or upon application of an interested employer, the Director may in accordance with ORS 657.676 reconsider a notice issued pursuant to section (3) of this rule.

(6) A request for hearing on the denial of an employing unit’s election must be in writing and submitted by the employer or the employer’s agent. The date of filing any request for hearing under this rule shall be determined in accordance with provisions of OAR 471-010-0040.

(7) The employees listed in OAR 471-031-0145 and the Tax Section Supervisor of Status may act on behalf of the Director for the purposes of sections (2) and (5) of this rule.

(8) An employing unit which has elected not to provide coverage may elect coverage under ORS 657.425.

Stat. Auth.: ORS 657.610
Stats. Implemented: ORS 657.044
Hist.: ED 1-1998, f. 2-20-98, cert. ef. 2-27-98; ED 6-2002, f. 9-20-02, cert. ef. 9-22-02; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-031-0067

One Percent Penalty

(1) The Director of the Employment Department shall assess the penalty authorized by ORS 657.457 and mail notice of the assessment of such penalty to the employer’s last known address as shown in the Employment Department’s records on or before October 20 each year. Such penalty shall become final on the November 10 immediately following the assessment.

(2) On or after the date of the assessment, but prior to the November 10 immediately following the assessment, the employer may request waiver of the penalty based on “good cause” as that term is defined in OAR 471-031-0151.

(3) If an employer makes a request for waiver of the penalty within the time prescribed in Section (2) of this rule, the Director shall make a decision, either granting or denying the waiver, and mail notice thereof to the employer’s last known address as shown in the employment Department’s records. If, prior to the November 10 immediately following the assessment, the employer establishes “good cause,” as defined in OAR 471-031-0151, for failure to file all reports or pay all taxes due by September 1, the Director shall grant the request for waiver and remove the penalty from the employer’s account. If the employer fails to establish “good cause,” as defined in OAR 471-131-0151, prior to the November 10 immediately following the assessment, the director shall deny the request for waiver. If the request for waiver is denied, the director shall notify the employer that a request for a contested case hearing may be filed within 20 days after mailing of the penalty waiver decision.

(4) The period within which an employer request a waiver of the penalty or a hearing on the denial of a waiver may be extended a reasonable time upon a showing of “good cause” for the late request as defined in OAR 471-040-0010.

(5) Hearings held and referee decisions issued pursuant to section (3) of this rule shall be in accordance with the provisions of chapter 471, division 040.

(6) Judicial review of referee decisions issued pursuant to this rule shall be as provided for review of orders in contested cases in ORS 183.310 through 183.550. The Director of the Employment Department is designated as a party for purposes of hearings under this rule.

(7) Upon motion of the director of the Employment Department or upon application of an interested employer, the Director may reconsider a penalty imposed under ORS 657.457 irrespective of whether it has become final:

(a) Such reconsideration shall be restricted to penalties resulting from clerical errors or errors of computation and may include a new decision upon any grounds or issues not previously ruled upon or new facts nor previously known to the Director;

(b) A new decision made as a result of reconsideration shall be subject to hearing and judicial review in accordance with this rule.

(8) A request for waiver of the penalty for “good cause,” must be in writing. The date of any request for waiver under this rule shall be:

(a) The postmarked date on the request, if mailed; or

(b) The machine imprinted date on the request, if transmitted by facsimile device; or

(c) In the absence of a postmark or machine imprinted date, the most probable date of mailing as determined by the Director.

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(9) The employees listed in OAR 471-031-0145 and the Supervisor of Tax Recovery may act on behalf of the Director for the purposes of section (1), (2), and (3) of this rule.

(10) The effective date for implementing this rule shall be retroactive to June 23rd, 2002.

Stat. Auth.: ORS 183, 657.457, 657.610 & OL 1993, Ch. 778
Stats. Implemented: ORS 657.457
Hist.: ED 3-1994, f. 8-24-94, cert. ef. 8-28-94; ED 6-1994(Temp), f. & cert. ef. 10-26-94; ED 3-1999, f. 6-29-99, cert. ef. 7-4-99; ED 4-2002, f. 6-20-02 cert ef 6-23-02; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-031-0080

Tax Compromise Policy

(1) It shall be the policy of the Director to compromise tax claims pursuant to the provisions of ORS 657.515(7) where it appears that such action would be in the best interests of all parties involved and the statutory criteria for a settlement has been met.

(2) The effective date for implementing this rule shall be retroactive to June 23rd, 2002.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.515 & 657.517
Hist.: 1DE 150, f. & ef. 2-9-76; ED 4-2002, f. 6-20-02 cert ef 6-23-02; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-031-0085

Employer Wages and Hours of Work Report

(1) In addition to the quarterly tax report and payment as provided in these rules, each employer shall file an employer's quarterly report of employees' wages and hours of work on forms as required by ORS 657.571 and such other reports as may be required by the Director, duly completed in all respects.

(a) If an employer does not record hours worked as part of the payroll system, the employer may provide a reasonable estimate of hours rounded up to the next hour worked by each employee including estimates based on:

(A) Average hours worked in a day, multiplied by the number of days worked;

(B) Average time to complete a piece or component, multiplied by the number of pieces or components completed; or

(C) Total time worked in an average month multiplied by the number of months worked in the quarter. A month of full time work averages 174 hours.

(b) If the estimation methods in (a) do not adequately reflect hours worked in the employer's business, the employer may use reasonable alternative methods of estimating hours. The employer shall keep a record of the method and data used in providing such estimates as required in OAR 471-031-0005(3).

(2) An employer may, with the Director's approval, substitute Electronic Data Processing (EDP) medium for the report or reports required in section (1) of this rule. The employer's quarterly report of employees' wages and hours of work form furnished by the Director must be attached to or filed with the substitute EDP medium. All reports must be legible and complete as to the information required by this rule and the instructions contained on the report forms. Any report may be returned to the employer if improperly prepared, incomplete, or illegible and such employer shall be deemed to have failed to file reports as required by this rule and ORS 657.660.

(3) The employer's quarterly report of employees' wages and hours of work shall be made on or before the last day of the month following the close of the calendar quarter to which such report relates; provided, however, that when the due date falls upon a Saturday, Sunday, or a legal holiday, the report shall not be due until the next business day.

(4) An employer failing to file a complete and legible employer's quarterly report of employees' wages and hours of work as required in this rule and ORS 657.660 shall be subject to the penalties provided in ORS 657.457 and 657.663.

(5) The effective date for implementing this rule shall be retroactive to June 23rd, 2002.

Stat. Auth.: ORS 657.610
Stats. Implemented: ORS 657.457, 657.570, 657.660 & 657.663
Hist.: 1DE 150, f. & ef. 2-9-76; 1DE 2-1982, f. & ef. 12-8-82; ED 1-1998, f. 2-20-98, cert. ef. 2-27-98; ED 4-2001, f. 3-23-01, cert. ef. 3-25-01; ED 4-2002, f. 6-20-02 cert ef 6-23-02; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-031-0110

Action at Law, Verification, Liens, Distraint Warrants

The Assistant Director for UI Programs, Manager of Tax, or other person designated by the Director is authorized for and on behalf of the Director to:

(1) Verify all pleadings filed in actions at law, and to perform such acts necessary in the prosecution of such actions at law.

(2) Execute and file lien claims and distraint warrants for taxes, interest, and penalty due and owing the Unemployment Compensation Trust Fund and the Employment Department Special Administrative Fund.

(3) The effective date for implementing this rule shall be retroactive to June 23rd, 2002.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.457 & 657.504 - 657.575
Hist.: 1DE 150, f. & ef. 2-9-76; 1DE 5-1979, f. & ef. 8-27-79; 1DE 1-1985, f. & ef. 11-18-85; ED 4-2002, f. 6-20-02 cert ef 6-23-02; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-040-0005

Request for Hearing

(1) A Request for hearing may be filed on forms provided by the Employment Department or similar offices in other states. Use of the form is not required provided the party specifically requests a hearing.

(2) A request for hearing may be filed in person, by mail, or by fax, with any Employment Department office in Oregon or any other employment security agency in any other state. A request for hearing may also be filed by e-mail or by telephone with the Office of Administrative Hearings in Oregon.

(3) The filing date for any request for hearing shall be determined as follows:

(a) When delivered in person to any Employment Department office in the state of Oregon, or to any other employment security agency in any other state, the date of delivery, as evidenced by the receipt date stamped or written by the public employee who receives the document, shall be the filing date.

(b) When filed by mail, the date that the document is deposited in the United States mail, as evidenced by the postmark affixed by the United States Postal Service, shall be the filing date.

(c) When filed by fax, the date of filing shall be the encoded date on the fax document unless such date is absent, illegible, improbable or challenged, in which case the fax receipt date, if available, shall be the date of filing. If a filing date cannot otherwise be determined, the most probable date of faxing as determined by the Employment Department, shall be the date of filing.

(d) When filed by e-mail, the date of filing shall be the initial date of transmission of the e-mail.

(e) When filed by telephone, the date of filing shall be the date marked or stamped by the agency employee accepting the request for hearing.

(4) A request for hearing with respect to a claim for benefits shall not stay the payment of any benefits not placed in issue by the request for hearing, nor shall it stay an order previously entered allowing benefits.

Stat. Auth.: ORS 183.335, 657.260, 657.265 - 657.270, 657.335, 657.610 & OL 1993, Ch. 729
Stats. Implemented: ORS 657.280, ORS 657.610 & ORS 657
Hist.: 1DE 150, f. & ef. 2-9-76; 1DE 5-1979, f. & ef. 8-27-79; ED 4-1994, f. & cert. ef. 9-2-94; ED 3-1999, f. 6-29-99, cert. ef. 7-4-99; ED 7-2003, f. 4-25-03, cert. ef. 4-27-03; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-040-0015

Notice of Hearing

(1) To afford all parties a reasonable opportunity for a fair hearing, notice of hearing setting forth the time, date, place, and issue(s) in general shall be personally delivered or mailed at least five days in advance of the hearing to parties or their authorized agents at their last known address as shown by the record of the Director.

(2) The following parties shall be notified of a hearing when a request for hearing has been filed as provided by ORS 657.265 or 657.355:

(a) The Director;

(b) The claimant;

(c) The employing unit entitled to notice of the determination or decision under ORS 657.265; and any employing unit that could be expected to have information relating to the issue(s) of the hearing.

(3) In all other cases for which ORS Chapter 657 provides for hearing, parties who shall be notified of a hearing are:

(a) The Director; and

(b) The employer or employing unit which has filed a request or application for hearing.

(4) To best serve the parties involved, an administrative law judge may set a hearing at a convenient location or convenient locations.

(5) An administrative law judge may consolidate two or more hearings whenever it appears to the administrative law judge that such procedure will not unduly complicate the issues or jeopardize the rights of any of the parties.

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Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.280 & 657.610
Hist.: IDE 150, f. & ef. 2-9-76; IDE 153, f. 12-23-77, ef. 1-1-78; IDE 2-1980, f. & ef. 2-5-80; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-040-0020

Subpoenas

(1) At the timely request of a party or on the administrative law judge's own initiative, an administrative law judge may issue a subpoena requiring a person to appear at a scheduled hearing for the purpose of giving testimony, or producing books, records, documents, or other physical evidence.

(2) A party that submits a request for subpoena should show:

(a) The name of the witness and the address where the witness can be served the subpoena;

(b) That the testimony of the person is material; and

(c) That the person will not voluntarily appear.

(3) If the requesting party wishes the witness to produce books, records, documents, or other physical evidence, the party should also show:

(a) The name or a detailed description of the specific books, records, documents, or other physical evidence the witness should bring to the hearing;

(b) That such evidence is material; and

(c) That such evidence is in the possession of the person who will not voluntarily appear and bring such evidence to the hearing.

(4) An administrative law judge may limit the number of subpoenas for witnesses material to the proof of any one issue at the hearing.

(5) Service of the subpoena upon the witness is the responsibility of the party requesting the subpoena.

(6) A witness who attends a hearing pursuant to subpoena issued under this rule is entitled to witness fees and mileage as provided in Rule 55 E. (1), Rules of Civil Procedure, and in ORS 44.415(2) for subpoenaed witnesses. Fees will be paid by check mailed subsequent to the conclusion of the hearing. The witness shall request payment of fees by completion of forms approved by the Employment Department. Payment of fees shall be made promptly upon receipt of the request for payment.

(7) Only witnesses, other than parties, who attend a hearing pursuant to subpoena issued under this rule may be paid or reimbursed by the Employment Department for witness fees and mileage.

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

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.280 & 657.610

Hist.: IDE 150, f. & ef. 2-9-76; IDE 153, f. 12-23-77, ef. 1-1-78; IDE 8-1981, f. & ef. 11-2-81; IDE 1-1985, f. & ef. 11-18-85; ED 1-1991, f. & cert. ef. 4-1-91; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-040-0021

Postponement of Hearing

(1) At the request of a party or on the administrative law judge's own initiative, an administrative law judge may order, orally or in writing, that a hearing be postponed.

(2) A postponement may be granted by Office of Administrative Hearings staff at the request of a party if:

(a) The request is promptly made after the party becomes aware of the need for postponement; and

(b) The party has good cause, as stated in the request, for not attending the hearing at the time and date set.

(3) For the purpose of subsection (2)(b) of this rule, good cause exists when:

(a) The circumstances causing the request are beyond the reasonable control of the requesting party; and

(b) Failure to grant the postponement would result in undue hardship to the requesting party.

Stat. Auth.: ORS 183.335, 657.260, 657.265 - 657.270, 657.335, 657.610 & Ch. 729, OL 1993

Stats. Implemented: ORS 657.280 & ORS 657.610

Hist.: IDE 153, f. 12-23-77, ef. 1-1-78; ED 4-1994, f. & cert. ef. 9-2-94; ED 8-2003, f. 5-22-03, cert. ef. 5-25-03; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-040-0023

Telephone Hearings

(1) Unless precluded by law, the Employment Department may, in its discretion, hold a hearing or portion of a hearing by telephone. Nothing in this rule precludes the Department from allowing some parties or witnesses to attend by telephone while others attend in person.

(2) The Department may direct that a hearing be held by telephone upon request or on its own motion.

(3) The Department shall make an audio or stenographic record of any telephone hearing.

(4) Prior to commencement of an evidentiary hearing that is held by telephone, each party and the Department shall provide to all other parties and to the Department copies of documentary evidence that it will seek to introduce into the record.

(5) Nothing in this rule precludes any party or the Department from seeking to introduce documentary evidence in addition to evidence described in section (4) during the telephone hearing and the presiding officer shall receive such evidence, subject to the applicable rules of evidence, if inclusion of the evidence in the record is necessary to conduct a full and fair hearing. If any evidence introduced during the hearing has not previously been provided to the Department and to the other parties, the hearing may be continued upon the request of any party or the Department for sufficient time to allow the party or the Department to obtain and review the evidence.

(6) The Department may delegate to the administrative law judge the discretion to rule on issues raised under this rule.

(7) As used in this rule, "telephone" means any two-way electronic communication device.

Stat. Auth.: ORS 657.266, 657.270, 657.317, 657.610, & 183.105(7)

Stats. Implemented: ORS 657.280 & 657.610

Hist.: IDE 2-1980, f. & ef. 2-5-80; ED 2-1995, f. 8-29-95, cert. ef. 9-3-95; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-040-0025

The Hearing

(1) The purpose of the hearing is to inquire fully into the matters at issue and to make a decision on the basis of the evidence adduced at the hearing.

(2) No administrative law judge shall participate in a hearing if the administrative law judge has any private interest in the outcome of the hearing or holds any bias or prejudice which would impair a fair and impartial hearing. All testimony at any hearing before an administrative law judge shall be under oath or affirmation.

(3) The administrative law judge shall conduct and control the hearing. The administrative law judge shall determine the order of the presentation of evidence, administer oaths, examine any witnesses, and may either on the administrative law judge's own or a party's request exclude witnesses from the hearing room. Parties, or their authorized agents, shall have the right to give testimony and to call and examine witnesses.

(4) Parties may appear on their own behalf or by authorized agent or counsel. The administrative law judge may require agents, other than counsel, when appearing without the party, to provide written authorization to appear for such party. When a party makes a general appearance at a hearing, defects in notice are waived.

(5) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded but erroneous rulings on evidence shall not preclude the administrative law judge from entering a decision unless shown to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of serious affairs shall be admissible. If a question of privilege arises, the administrative law judge shall fully and clearly inform the party of any rights as to such privilege and deal with procedural problems created by the existence of such issue in a way which protects the party's right to a fair hearing. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(6) All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except for notice taken, no other factual information or evidence shall be considered by the administrative law judge in making the decision. The experience, technical competence, and specialized knowledge of the administrative law judge may be utilized in the evaluation of the evidence presented. The administrative law judge may offer and receive evidence deemed relevant and essential by the administrative law judge to a fair disposition of the issues.

(7) The administrative law judge may take official notice of judicially cognizable facts. The administrative law judge may take notice of general, technical, or scientific facts within the administrative law judge's specialized knowledge and may take notice of documents, records, and forms retained within the Employment Department's files. The administrative law judge shall notify the parties of any official notice taken during the hearing or in the decision prior to such decision becoming final. Parties shall be afforded an opportunity to contest the material so noticed during the hearing or prior to the administrative law judge's decision becoming final.

(8) In any hearing, the administrative law judge shall render a decision on the issue and law involved as stated in the notice of hearing. The

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administrative law judge's jurisdiction and authority is confined solely to the issue(s) arising under the Employment Department Law. Subject to objection by any party, the administrative law judge may also hear and enter a decision on any issue not previously considered by the authorized representative of the Director and which arose during the hearing. The administrative law judge may continue the hearing or remand the matter to the authorized representative for consideration and action upon such issue(s) under the provisions of ORS 657.265. However, in no event shall the administrative law judge accept jurisdiction of a new issue and proceed with hearing on such issue when an interested party to such new issue has not waived right to notice.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.280, 657.610 & 657
Hist.: IDE 150, f. & ef. 2-9-76; IDE 153, f. 12-23-77, ef. 1-1-78; ED 3-1999, f. 6-29-99, cert. ef. 7-4-99; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-040-0026

Continuance of Hearing

(1) At the request of a party or on the administrative law judge's own initiative, an administrative law judge may order, orally or in writing, that a hearing be continued.

(2) A administrative law judge may grant a continuance at the request of a party if:

(a) The request is made prior to the issuance of the administrative law judge's decision; and

(b) The party has good cause, as stated in the request, for continuing the hearing.

(3) For the purpose of subsection (2)(b) of this rule, good cause exists when:

(a) The circumstances causing the request are beyond the reasonable control of the requesting party; and

(b) Failure to grant the continuance would result in undue hardship to the requesting party.

(4) An administrative law judge other than the one who presided at the first hearing may conduct a continued hearing.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.280, 657.610 & 657
Hist.: IDE 153, f. 12-23-77, ef. 1-1-78; ED 3-1999, f. 6-29-99, cert. ef. 7-4-99; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-040-0030

Referee's Decision

(1) The administrative law judge shall promptly prepare and serve a written decision after the conclusion of the hearing.

(2) The administrative law judge's decision shall be based upon the evidence in the hearing record and upon any stipulated or officially noticed facts. Any findings of fact by the administrative law judge shall be based upon reliable, probative, and substantial evidence.

(3) The administrative law judge's decision shall be in an approved form and shall contain:

(a) A caption clearly identifying the parties;

(b) A statement of jurisdiction;

(c) A statement of the issues and law involved;

(d) Findings of fact;

(e) Conclusions based upon the findings of fact; or a statement adopting conclusions set forth in the appealed administrative decision; and

(f) A decision setting forth the action to be taken.

(4) Copies of the administrative law judge's decision shall be personally delivered or mailed to the parties, or their authorized agents, at their last address of record.

(5) An administrative law judge may issue an amended decision prior to the previous decision becoming final. The amended decision shall be served as required by these rules and shall be subject to review.

(6) In accordance with the provisions of subsection (4) of ORS 657.270, an application for review of a administrative law judge's decision may be filed by the Director or the Director's designee.

Stat. Auth.: ORS 657.610
Stats. Implemented: ORS 657.280, 657.610 & 657.270(4)
Hist.: IDE 150, f. & ef. 2-9-76; IDE 153, f. 12-23-77, ef. 1-1-78; IDE 5-1979, f. & ef. 8-27-79; IDE 2-1982, f. & ef. 12-8-82; IDE 2-1984, f. & ef. 9-28-84; ED 1-1987, f. & ef. 1-12-87; ED 1-1991, f. & cert. ef. 4-1-91; ED 5-1992, f. & cert. ef. 12-14-92; ED 3-1999, f. 6-29-99, cert. ef. 7-4-99; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-040-0035

Dismissals of Requests for Hearing

(1) An administrative law judge may order that a request for hearing be dismissed upon request from the appellant to withdraw the request for hearing.

(2) An administrative law judge may order that a request for hearing be dismissed upon request of the Director or the Director's authorized representative after either one has:

(a) Issued a new or amended determination or decision that grants the appellant that which was placed in issue by the request for hearing; or

(b) Withdrawn or cancelled the determination or decision upon which the request for hearing was based.

(3) On the administrative law judge's own initiative, an administrative law judge may order that a request for hearing be dismissed if:

(a) The appellant fails to file the request for hearing within the time allowed by statute or rule;

(b) The appellant employer, under ORS 657.485, fails to set forth with the request for hearing the reason therefor;

(c) The appellant fails to appear at the hearing at the time and place stated in the notice of hearing;

(d) The request for hearing has been filed prior to the service of the decision or determination that is the subject of the request;

(e) The request for hearing is made by a person not entitled to a hearing on the merits or is made with respect to a determination or decision of the Director or authorized representative with respect to which there is no lawful authority to request a hearing.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.280, 657.610 & 657.485
Hist.: IDE 150, f. & ef. 2-9-76; IDE 153, f. 12-23-77, ef. 1-1-78; ED 3-1999, f. 6-29-99, cert. ef. 7-4-99; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

471-040-0040

Reopening of a Case

(1) After service of an administrative law judge's decision as set forth in ORS 657.270, an administrative law judge may reopen the case at any time if the party:

(a) Requesting the reopening failed to appear at the hearing;

(b) Makes, in writing to the administrative law judge promptly after gaining knowledge of the decision, a request to reopen; and

(c) Has good cause for failing to appear at the hearing.

(2) Good cause for the purpose of subsection (1)(c) of this rule exists when:

(a) Notice of hearing was not personally delivered or mailed to the party or the party's authorized agent at the last known address as shown by the Employment Department record; or

(b) The circumstances causing the failure to appear are beyond the reasonable control of the party.

(3) The administrative law judge's ruling on a request to reopen the case shall be in writing and served upon the parties.

(4) The Office of Administrative Hearings will treat as a request to reopen the hearing any application for review that a party files with the Employment Appeals Board or the Employment Department, where the filing party failed to appear at the hearing that led to the decision on appeal, unless the applicant specifically states in the application that the applicant does not wish to have the case reopened. In the event that the Office of Administrative Hearings subsequently denies the request to reopen the hearing, it shall return the case to the Employment Appeals Board, which will then proceed to review the merits of the substantive decision. The original application for review shall serve as the basis for the Employment Appeals Board's review of the merits of that decision.

(5) This rule is effective for all hearings held under OAR chapter 471, division 040 after the effective date of this rule.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.280, 657.610 & 657
Hist.: IDE 150, f. & ef. 2-9-76; IDE 153, f. 12-23-77, ef. 1-1-78; ED 3-1999, f. 6-29-99, cert. ef. 7-4-99; ED 2-2004(Temp), f. 5-3-04, cert. ef. 5-4-04 thru 10-31-04; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04

Adm. Order No.: ED 5-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 6-1-04

Rules Amended: 471-041-0060

Rules Repealed: 471-041-0150, 471-041-0060(T)

Subject: The Employment Appeals Board is amending:

OAR 471-041-0060 to update "Application for Review."

The Employment Appeals Board is repealing:

OAR 471-041-0150; and OAR 471-041-0060 Temporary rule 471-041-0060 regarding "Application for Review."

Rules Coordinator: Richard L. Luthe—(503) 947-1724

ADMINISTRATIVE RULES

471-041-0060

Application for Review

(1) A party, or the party's authorized representative, entitled to receive a Hearing Decision in an unemployment insurance matter over which the EAB has jurisdiction, may file an Application for Review. An Application for Review shall:

- (a) Be in writing, and in legible form;
- (b) Explicitly state that the applicant requests EAB review of a Hearing Decision and identify the Hearing Decision for which review is requested;
- (c) Specify the claimant's name;
- (d) Specify the applicant's current mailing address;
- (e) Specify the applicant's name or the name of the applicant's representative; and
- (f) Specify if the applicant intends to file a written argument.

(2) An application for review may be filed in person, by mail or by fax to the office of the EAB or to any office of the Employment Department. An Application for Review may be filed in person or by mail to any Employment Security Agency in any other state or jurisdiction where the claimant is claiming benefits.

(3) If filed by mail, the application must be properly addressed and bear sufficient postage.

(4) If faxed, the application must be received by 5:00 p.m. The EAB will not accept faxed documents after 5:00 p.m. on any business day, nor will the EAB accept documents faxed on Saturdays, Sundays or legal holidays.

(5) The EAB shall dismiss any application for review which does not conform to the requirements of subsections (a) through (e) of this rule.

(6) Where a party filing an application for review did not appear at the hearing that led to the decision being appealed, the Employment Appeals Board will treat the application for review as a request to reopen the hearing under OAR 471-040-0040, unless the applicant specifically states in the application that the applicant does not wish to have the case reopened. The Employment Appeals Board will forward such application for review to the Office of Administrative Hearings, which will treat the application as a request to reopen the hearing, pursuant to OAR 471-040-0040(4).

(7) Notwithstanding OAR 471-041-0060(6), where a party's failure to appear led to a substantive decision — one that did more than dismiss the case for the failure to appear — and where the Office of Administrative Hearings subsequently denies the request to reopen, the Office of Administrative Hearings shall return the case to the Employment Appeals Board, which will then proceed to review the merits of the substantive decision. The original application for review shall serve as the basis for the Employment Appeals Board's review of the merits of that decision.

(8) This rule is effective for all hearings scheduled under OAR chapter 471, division 041 after the effective date of this rule.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.685

Hist.: EAB 1-1983(Temp), f. & ef. 9-14-83; EAB 1-1984, f. & ef. 3-20-84; ED 3-1993, f. & cert. ef. 10-1-93; ED 4-1993, f. & cert. ef. 11-22-93; Renumbered from 472-010-0005; ED 1-1995, f. & cert. ef. 1-9-95; ED 6-1996, f. 10-15-96, cert. ef. 10-21-96; ED 5-1999, f. 7-28-99, cert. ef. 8-1-99; ED 3-2004(Temp), f. 5-3-04, cert. ef. 5-4-04 thru 10-31-04; ED 5-2004, f. 7-30-04, cert. ef. 8-1-04

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Adm. Order No.: ED 6-2004

Filed with Sec. of State: 8-5-2004

Certified to be Effective: 8-8-04

Notice Publication Date: 6-1-04

Rules Amended: 471-020-0010, 471-020-0020, 471-020-0030, 471-020-0035, 471-020-0040

Subject: The Employment Department is amending:

- OAR 471-020-0010 to update references;
- OAR 471-020-0020 to update references;
- OAR 471-020-0030 to update a reference;
- OAR 471-020-0035 to update references; and
- OAR 471-020-0040 to update references.

Rules Coordinator: Richard L. Luthe—(503) 947-1724

471-020-0010

Definitions

As used in OAR 471-020-0010 to 471-020-0030, unless the context requires otherwise:

(1) "Active Status" means a period beginning when an individual is eligible to receive and is being paid unemployment insurance benefits pursuant to OAR 471-030-0036, and ending at Saturday midnight of the third

week following the week in which the most recent benefit check was issued to the individual.

(2) "Enrollment" means entry of information provided under ORS 657.159, 657.715, 657.720 or OAR 471-020-0020 into the Business & Employment Services online job match system.

(3) "Job attached" means:

- (a) An individual with a definite return-to-work date; or
- (b) An individual who obtains all work assignments through a closed union hiring hall.

(4) "Matching process" means the process of comparing an individual's knowledge, skills and abilities for referral to an employer's job opening.

(5) "Qualified" means the individual's skills and experience meet or exceed the employer's job requirements.

(6) "Profiled" means the application of a ranking system, using criteria established in OAR 471-030-0034, to establish the relative likelihood of a claimant exhausting the maximum benefit amount available in a benefit year.

(7) "Reemployment Services" may include any of the services listed in ORS 657.156(1)(b) and includes subsidized employment.

(8) "Subsidized" means a job listing or employment that meets the requirements of ORS 411.892.

(9) "Suitable" means the factors listed in ORS 657.190 and 657.195. Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.156 & ORS 657.159

Hist.: ED 1-1999(Temp), f. & cert. ef. 1-8-99 thru 7-6-99; ED 4-1999, f. 6-29-99, cert. ef. 7-4-99; ED 6-2004, f. 8-5-04 cert. ef. 8-8-04

471-020-0020

Claimant Reemployment Services

(1)(a) Except for individuals identified in OAR 471-020-0021, all unemployment insurance claimants shall submit such information as may be required by the Oregon Employment Department to carry out job placement services for the individual including, but not limited to, the individual's job qualifications, training and experience. Such information shall be entered into the Business & Employment Services online job match system concurrent with, or as soon as possible following, the filing of an initial claim for unemployment insurance benefits. Entry of this information shall constitute enrollment.

(b) Individuals identified in OAR 471-020-0021 shall be provided information about accessing reemployment services and may volunteer for placement in subsidized JOBS Plus employment pursuant to subsection (5) of this rule.

(2) All unemployment insurance claimants are provided access to reemployment services.

(a) Following enrollment, all unemployment insurance claimants who are not job attached shall be profiled in accordance with the provisions of ORS 657.156 to identify claimants who are likely to exhaust benefits. Local Employment Department offices shall be provided a list of profiled claimants. Profiled claimants shall be considered for reemployment services in rank order, as resources permit.

(b) Any unemployment insurance claimant shall be selected for reemployment services, as resources permit, if the individual:

- (A) Appears on the list of profiled claimants; or
- (B) Appears on the list of claimants who have claimed benefits for eight consecutive weeks.

(3) Except for individuals identified in OAR 471-020-0021, the Employment Department shall use the matching process to refer claimants, who are not job attached, to available, suitable subsidized and unsubsidized job listings. A claimant matched to a job listing shall be referred, subject to any applicable state or federal requirements and the employer's referral requirements, to the employer filing the job listing if the claimant is among the qualified job seekers matched to the job listing and the job is determined to be suitable for the claimant.

(4) All unemployment insurance claimants, who are not job attached, shall continue to be matched and referred to available, suitable subsidized and unsubsidized openings while in active status.

(5) All unemployment insurance claimants, whether job attached or not, may volunteer for placement in subsidized JOBS Plus employment. Any claimant volunteering for subsidized employment shall be promptly referred to any employer offering available, suitable subsidized employment.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.155, ORS 657.156 & ORS 657.159

Hist.: ED 1-1999(Temp), f. & cert. ef. 1-8-99 thru 7-6-99; ED 4-1999, f. 6-29-99, cert. ef. 7-4-99; ED 6-2004, f. 8-5-04 cert. ef. 8-8-04

ADMINISTRATIVE RULES

471-020-0030

JOBS Plus Program

(1) As used in ORS 657.925, "JOBS Plus Program" means the processes used and services provided pursuant to OAR 471-020-0020, ORS 657.925 and 411.892.

(2) As used in ORS 657.925, "job referral process" means the processes set forth in ORS 657.159 and OAR 471-020-0020.

(3) As used in ORS 657.925, an "unemployment insurance recipient" is an individual who:

(a) Is an Oregon resident;

(b) Has a current Oregon benefit year as defined in ORS 657.010(3), or is being paid benefits provided for by Oregon or federal law extending such benefit year;

(c) Has a balance remaining on the current Oregon benefit year, or is being paid benefits provided for by Oregon or federal law extending such benefit year;

(d) Was paid benefits under ORS 657.155 for the most recent week claimed; and

(e) Is in active status as defined in OAR 471-020-0010.

(4) As used in ORS 657.925(6), "at the time of application" means:

(a) If filing in person at a local field office, the process of filling out the forms necessary to file an initial claim for Unemployment Insurance benefits; or

(b) If filing by a method other than filing in person at a local field office, the process of filling out and submitting the forms necessary to file an initial claim for Unemployment Insurance benefits, including, but not limited to, receiving a written claim determination.

(5) As used in ORS 657.925(6) "reviewing the recipient for referral" means the employment services processes outlined in OAR 471-020-0010 through 471-020-0021.

(6) As used in ORS 657.925(6), "reassess the recipient's reemployability" means the process of determining if the Department should refer an unemployment insurance recipient, including those unemployment insurance recipients that are considered "job attached" as defined in OAR 471-020-0010(3), to suitable work under ORS 657.

(7) As used in ORS 411.892(13), "employment development plan" means the claimant reemployment and worker profiling processes used by the Employment Department, including the Individual Service Plan processes.

(8) An unemployment insurance recipient must meet the eligibility criteria set forth in section (3) above:

(a) On the date of referral to a JOBS Plus Program position; and

(b) On the date of hire into a JOBS Plus Program position.

(9) If an unemployment insurance recipient accepts a JOBS Plus Program subsidized position, that individual's participation in the JOBS Plus Program ends when the individual leaves or completes the JOBS Plus Program subsidized position.

(10) If an unemployment insurance recipient has not accepted a JOBS Plus Program subsidized position, that individual's participation in the JOBS Plus Program ends when the individual no longer meets the criteria set forth in section (3) above.

(11) As used in ORS 657.925, an unemployment insurance recipient has been referred to the JOBS Plus Program when the recipient has been advised of the mandatory requirements contained in and the availability of services set forth in OAR 471-020-0020, ORS 657.925, and 411.892.

(12) As used in ORS 411.892(2), "jobs made available to program participants" refers to subsidized positions, which may include:

(a) A recurring training position, provided that the unemployment insurance recipient is aware that the position is a recurring training position, the recurring training position does not displace a regular employee or fill otherwise unfilled positions previously established by the employer; or

(b) A temporary or limited duration position, provided that the unemployment insurance recipient is aware that the position is a temporary or limited duration position, the temporary or limited duration position does not displace a regular employee or fill unfilled positions previously established by the employer.

(13) As used in ORS 411.892(1), an employer may be disqualified from participating in an Employment Department JOBS Plus Program Work Site Agreement when:

(a) The employer fails to follow the terms of a Work Site Agreement entered into with the Employment Department. In all such cases, the Employment Department shall:

(A) Contact the employer regarding the alleged violation of the Work Site Agreement;

(B) Investigate the alleged violation of the Work Site Agreement; and

(C) Send the employer a written determination stating the results of the investigation, and the employer's right to request a review of the determination.

(b) Authority to disqualify employers from participating in an Employment Department JOBS Plus Program Work Site Agreement shall reside with the Director, the Deputy Director, or the designated Assistant Director for Field Services.

(14) As used in ORS 411.892(1), an employer may be excluded for a period of up to three years from participation in the Employment Department's JOBS Plus Program when:

(a) The employer fails to abide by program requirements, including a pattern of disqualifications from Work Site Agreements entered into with the Employment Department; a pattern of terminating participants prior to completion of training; or otherwise demonstrates unwillingness to comply with the stated intent of the program. In all such cases, the Employment Department shall:

(A) Contact the employer regarding the alleged violation of the program;

(B) Investigate the alleged violation of the program; and

(C) Send the employer a written determination stating the results of the investigation, and the employer's right to request a review of the determination.

(b) Authority to exclude employers from participating in the Employment Department's JOBS Plus Program, including the authority to exclude an employer immediately, shall reside with the Director, the Deputy Director, or the Assistant Director For Business And Employment Services.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.156, ORS 657.159 & ORS 657.925

Hist.: ED 1-1999(Temp), f. & cert. ef. 1-8-99 thru 7-6-99; ED 4-1999, f. 6-29-99, cert. ef. 7-4-99; ED 8-2001, f. 6-29-01, cert. ef. 7-1-01 thru 12-28-01; ED 16-2001, f. 12-19-01, cert. ef. 12-23-01; ED 1-2002(Temp), f. 1-11-02, cert. ef. 1-13-02 thru 7-12-02; ED 3-2002, f. 4-19-02, cert. ef. 4-21-02; ED 6-2004, f. 8-5-04 cert. ef. 8-8-04

471-020-0035

Job Orders

(1) All jobs listed with the Employment Department's job listing system must:

(a) Be for an identifiable current job opening, or an identifiable future job opening;

(b) Establish an employer-employee relationship;

(c) Pay at least minimum wage, unless exempted by state or federal law; and

(d) Not contain terms or conditions of employment contrary to state or federal law.

(2) The Employment Department will not list job listings replacing workers that are out of work due to a labor dispute, as defined in OAR 471-030-0097.

(3) No job listing will be accepted that charges a fee to candidates, unless:

(a) The fee is for a drug test and is charged only to individuals who have been offered work contingent on passing the drug test;

(b) The fee is for a physical examination to determine that the job offered is within the physical capabilities of the applicant and is only charged to individuals who have been offered work contingent upon passing the physical examination; or

(c) The fee is for a license, test or check (such as a background check) that is required by statute or law and is charged only to individuals who have been offered work contingent on obtaining the required license or passing the required test or check.

(4) Unless the conditions of any job listing can reasonably be shown to be a "bona fide occupational requirement" (BFOQ), as determined by the Department, all employers making use of the Employment Department's job listing system will abide by all state and federal laws relating to Equal Employment Opportunity, including prohibition against discrimination on the basis of:

(a) Race, color, or ethnicity;

(b) Religion;

(c) National origin;

(d) Sex;

(e) Age;

(f) Physical or mental disability; or

(g) Marital status.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.610 & ORS 657.705 - ORS 657.725

Hist.: ED 3-2003, f. 2-14-03, cert. ef. 2-16-03; ED 6-2003, f. 4-25-03, cert. ef. 4-27-03; ED 6-2004, f. 8-5-04 cert. ef. 8-8-04

ADMINISTRATIVE RULES

471-020-0040

Discontinuation and Reinstatement of Services To An Employer

(1) The Employment Department may initiate discontinuance of service to an employer who:

(a) Refuses to alter or withdraw job listings containing specifications that are contrary to employment-related law;

(b) Refuses to provide assurances that the jobs offered (and not withdrawn) are in compliance with employment-related laws;

(c) Misrepresents the terms or conditions of employment, or fails to comply fully with assurances made on job listings;

(d) Is found by final determination of an enforcement agency to be in violation of an employment-related law and the Employment Department has been notified of this final determination;

(e) Has violated Employment Department regulations;

(f) Refuses to accept qualified workers referred through the Agricultural Recruitment System;

(g) Refuses to cooperate in the conduct of field checks resulting from referrals on Agricultural Recruitment System listings; or

(h) Repeatedly causes the field office to initiate discontinuation of service procedures.

(2) For employers who are alleged to have not complied with the terms of the temporary labor certification, the Employment Department shall notify the Department of Labor's Regional Administrator of the alleged non-compliance for investigation and pursuant to § 655.210 consideration of ineligibility for subsequent temporary labor certification.

(3) If services are to be discontinued, a notification shall be sent to the employer. The notification may inform the employer of immediate denial of services pending investigation of allegations if, in the judgment of the Department, continuation of services during the investigation would cause substantial harm to a significant number of workers. In all other cases, the notification will inform the employer that services will be discontinued in twenty working days unless the employer:

(a) Provides sufficient evidence that contradicts the finding of a violation; or,

(b) Provides assurances that future actions will be in compliance with the appropriate employment related laws.

(4) The notification from the Employment Department will state that the employer has the right to request a hearing before a hearing officer within the same twenty working days. The option to request a hearing is not available when stoppage of service is the result of final determination by an enforcement agency.

(5) The Employment Department may reinstate service to an employer:

(a) When the Department accepts the employer's presentation of:

(A) Evidence that the policies, procedures, or conditions that led to the discontinuation of services have been corrected and are not likely to recur; or

(B) Evidence that the employer has responded adequately to enforcement agency findings;

(b) Upon the order of an administrative law judge to reinstate service; or

(c) The employer is reinstated by order of the Department of Labor's Regional Administrator or Federal Administrative Law Judge following a hearing.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.610 & ORS 657.705 - ORS 657.725

Hist.: ED 3-2003, f. 2-14-03, cert. ef. 2-16-03; ED 6-2004, f. 8-5-04 cert. ef. 8-8-04

**Employment Department,
Child Care Division
Chapter 414**

Adm. Order No.: CCD 3-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 8-1-04

Notice Publication Date: 6-1-04

Rules Amended: 414-050-0000, 414-050-0005, 414-061-0050, 414-205-0055, 414-350-0010, 414-400-0050, 414-500-0010, 414-500-0020, 414-500-0030, 414-500-0050, 414-500-0060, 414-500-0080

Rules Repealed: 414-005-0000, 414-005-0010, 414-005-0020

Subject: The Employment Department, Child Care Division, is repealing:

ORAR 414-005-0000, 414-005-0010 & 414-005-0020 as the Children's Trust Fund has been dissolved.

The Employment Department, Child Care Division, is amending:

ORAR 414-050-0000 to adopt the latest "Attorney General's Model Rules of Procedure" for rulemaking; and ORAR 414-050-0005 to update and add to the notice requirements for rules.

The Employment Department, Child Care Division, is amending:

ORAR 414-061-0050 to include a reference to "firearm prohibition orders."

The Employment Department, Child Care Division, is amending:

ORAR 414-205-0055 to remove a phase-in period that has ended.

The Employment Department, Child Care Division, is amending:

ORAR 414-350-0010 to edit references, and to add the definition of "sanitizing."

The Employment Department, Child Care Division, is amending:

ORAR 414-400-0050 to edit references.

The Employment Department, Child Care Division, is amending:

ORAR 414-500-0010; 414-500-0020; 414-500-0030; 414-500-0050; 414-500-0060; & 414-500-0080 retroactively to correct a filing error.

These rules changes were previously submitted to the Secretary of State and became effective June 21st, 2002. These rules are identical to the rules previously filed with the Secretary of State on June 21st, 2002.

Rules Coordinator: Richard L. Luthe—(503) 947-1724

414-050-0000

Hearings and Rulemaking Procedures

The Attorney General's Model Rules of Procedure effective December 9, 2003 shall be applicable to rulemaking functions and to all contested case hearings of the Child Care Division of the Employment Department.

Stat. Auth.: ORS 657.610; 657A.260

Stats. Implemented: ORS 657A.180, 657A.260, 657A.360, 657A.601 & 657A.360

Hist.: CSD 17-1993, f. & cert. ef. 12-17-93; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-10-601; CCD 1-1996, f. & cert. ef. 3-19-96; CCD 1-1999, f. & cert. ef. 5-26-99; CCD 1-1999, f. & cert. ef. 5-26-99; CCD 2-2001, f. 5-17-01, cert. ef. 5-20-01; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-050-0005

Rules Procedure

Prior to the adoption, amendment, or repeal of any permanent rule, the Child Care Division 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, e-mailing or faxing a copy of the notice to persons on the applicable Child Care Division mailing list established pursuant to ORS 183.335(7) at least twenty-eight (28) days prior to the effective date.

(3) By mailing, e-mailing or faxing a copy of the notice to the legislators specified in ORS 183.335(15) of this section at least 49 days before the effective date.

(4) By mailing a copy of the notice to the:

(a) Associated Press;

(b) United Press International;

(c) The Capitol Press Room; and

(d) A newspaper of statewide circulation.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 183.355(1)(b) & ORS 183.355(1)(c)

Hist.: CCD 3-1994, f. & cert. ef. 8-2-94; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-061-0050

History to be Considered

(1) CCD has determined that serious felonies and misdemeanors involving violence or unauthorized sexual conduct, especially with children or otherwise vulnerable persons, is fundamentally inconsistent with any responsibility for care of children. Conviction of crimes listed in Category I of this rule shall disqualify a subject individual from being enrolled in the Criminal History Registry, unless the subject individual provides sufficient evidence of suitability as described in section (6) of this rule.

(a) The crimes in Category I include:

(A) 162.165 Escape I;

(B) 162.185 Supplying Contraband;

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- (C) 163.095 Aggravated Murder;
- (D) 163.115 Murder;
- (E) 163.118 Manslaughter I;
- (F) 163.125 Manslaughter II;
- (G) 163.145 Criminally Negligent Homicide;
- (H) 163.165 Assault III;
- (I) 163.175 Assault II;
- (J) 163.185 Assault I;
- (K) 163.200 Criminal Mistreatment II;
- (L) 163.205 Criminal Mistreatment I;
- (M) 163.225 Kidnapping II;
- (N) 163.235 Kidnapping I;
- (P) 163.275 Coercion;
- (Q) 163.355 Rape III;
- (R) 163.365 Rape II;
- (S) 163.375 Rape I;
- (T) 163.385 Sodomy III;
- (U) 163.395 Sodomy II;
- (V) 163.405 Sodomy I;
- (W) 163.408 Unlawful Sexual Penetration II;
- (X) 163.411 Unlawful Sexual Penetration I;
- (Y) 163.415 Sexual Abuse III;
- (Z) 163.425 Sexual Abuse II;
- (AA) 163.427 Sexual Abuse I;
- (BB) 163.435 Contributing to Sexual Delinquency of Minor;
- (CC) 163.445 Sexual Misconduct;
- (DD) 163.515 Bigamy;
- (EE) 163.525 Incest;
- (FF) 163.535 Abandonment of a Child;
- (GG) 163.545 Child Neglect II;
- (HH) 163.547 Child Neglect I;
- (II) 163.555 Criminal Nonsupport;
- (JJ) 163.575 Endangering the Welfare of a Minor;
- (KK) 163.670 Using Child in Display of Sexually Explicit Conduct;
- (LL) 163.684 Encouraging Child Sexual Abuse I;
- (MM) 163.685 Encouraging Child Sexual Abuse II;
- (NN) 163.686 Encouraging Child Sexual Abuse III;
- (OO) 163.688 Possession of Materials Depicting Sexually Explicit Conduct of a Child I;
- (PP) 163.689 Possession of Materials Depicting Sexually Explicit Conduct of a Child II;
- (QQ) 163.693 Failure to Report Child Pornography;
- (RR) 163.732 Stalking;
- (SS) 164.075 Theft by Extortion;
- (TT) 164.225 Burglary I;
- (UU) 164.325 Arson I;
- (VV) 164.395 Robbery III;
- (WW) 164.405 Robbery II;
- (XX) 164.415 Robbery I;
- (YY) 166.085 Abuse of Corpse II;
- (ZZ) 166.087 Abuse of Corpse I;
- (AAA) 166.155 Intimidation II;
- (BBB) 166.165 Intimidation I;
- (CCC) 166.220 Unlawful Use of a Weapon;
- (DDD) 166.270 Possession of Weapons by Certain Felons;
- (EEE) 166.272 Unlawful Possession of Machine Guns, Certain Short Barreled Firearms and Firearms Silencers;
- (FFF) 166.275 Possession of Weapons by Inmates of institutions;
- (GGG) 166.382 Possession of Destructive Device;
- (HHH) 166.384 Unlawful Manufacture of Destructive Device;
- (III) 166.429 Firearms Used in Felony;
- (JJJ) 166.660 Unlawful Paramilitary Activity;
- (KKK) 166.720 Racketeering Activity;
- (LLL) 167.012 Promoting Prostitution;
- (MMM) 167.017 Compelling Prostitution;
- (NNN) 167.062 Sadomasochistic Abuse or Sexual Conduct in Live Show;
- (OOO) 167.065 Furnishing Obscene Materials to Minors;
- (PPP) 167.070 Sending Obscene Materials to Minors;
- (QQQ) 167.075 Exhibiting an Obscene Performance to a Minor;
- (RRR) 167.080 Displaying Obscene Materials to Minors;
- (SSS) 167.087 Disseminating Obscene Material;
- (TTT) 167.090 Publicly Displaying Nudity or Sex for Advertising Purposes;
- (UUU) 167.212 Tampering with Drug Records;

- (VVV) 167.262 Adult Using Minor in Commission of Controlled Substance Offense; or
- (WWW) 181.599 Failure to Report as Sex Offender.
- (b) CCD will consider the following crimes if they were committed 15 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Assault III; Bigamy; Burglary I; Coercion; Contributing to Sexual Delinquency of Minor; Criminal Mistreatment II; Criminal Nonsupport; Kidnapping II; Possession of Weapons by Certain Felons; Racketeering Activity; Rape III; Robbery II; Robbery III; Sexual Misconduct; Stalking; Supplying Contraband; and Unlawful Use of a Weapon.
- (c) CCD will consider the following crimes if they were committed 20 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Abuse of a Corpse I; Abuse of a Corpse II; Adult Using Minor in Commission of Controlled Substance Offense; Arson I; Assault I; Assault II; Compelling Prostitution; Criminal Mistreatment I; Criminally Negligent Homicide; Disseminating Obscene Material; Escape I; Failure to Report Child Pornography; Failure to Report as Sex Offender; Firearms Used in Felony; Incest; Intimidation I; Intimidation II; Kidnapping I; Manslaughter I; Manslaughter II; Possession of Destructive Device; Possession of Weapons by Inmates of Institutions; Promoting Prostitution; Publicly Displaying Nudity or Sex for Advertising Purposes; Robbery I; Sadomasochistic Abuse or Sexual Conduct in Live Show; Tampering with Drug Records; Theft by Extortion; Unlawful Manufacture of Destructive Device; Unlawful Paramilitary Activity; and Unlawful Possession of Machine Guns, Certain Short Barreled Firearms and Firearms Silencers.
- (d) CCD will consider the following crimes regardless of the length of time since they were committed: Abandonment of a Child; Aggravated Murder; Child Neglect I; Child Neglect II; Displaying Obscene Materials to Minors; Encouraging Child Sexual Abuse I; Encouraging Child Sexual Abuse II; Encouraging Child Sexual Abuse III; Endangering the Welfare of a Minor; Exhibiting an Obscene Performance to a Minor; Furnishing Obscene Materials to Minors; Murder; Possession of Materials Depicting Sexually Explicit Conduct of a Child I; Possession of Materials Depicting Sexually Explicit Conduct of a Child II; Rape I; Rape II; Sending Obscene Materials to Minors; Sexual Abuse I; Sexual Abuse II; Sexual Abuse III; Unlawful Sexual Penetration I; Unlawful Sexual Penetration II; Sodomy I; Sodomy II; Sodomy III; and Using Child in Display of Sexually Explicit Conduct.
- (e) These rules also apply to:
 - (A) A conviction of a crime in another jurisdiction which is the substantial equivalent of a crime listed in Category I;
 - (B) An adjudication by a juvenile court that a youth has committed an act that is the substantial equivalent of a crime listed in Category I; and
 - (C) Any attempts or solicitations to commit any Felony or Misdemeanor crime listed in Category I.
- (f) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.
- (2) CCD has further determined that felonies and misdemeanors involving theft, fraud, or deception, crimes against the state and public justice, and major traffic violations may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual was convicted of a crime listed in Category II of this rule, CCD will seek to obtain and review information on all intervening circumstances and other background information related to criminal activity, subject to section (6) of this rule. Based on this information, the Division will make a decision whether or not to enroll the subject individual in the Criminal History Registry.
 - (a) The crimes in Category II include:
 - (A) 162.025 Bribe Receiving;
 - (B) 162.065 Perjury;
 - (C) 162.155 Escape II;
 - (D) 162.205 Failure to Appear I;
 - (E) 162.235 Obstructing Governmental or Judicial Administration;
 - (F) 162.265 Bribing a Witness;
 - (G) 162.275 Bribe Receiving by a Witness;
 - (H) 162.285 Tampering with a Witness;
 - (I) 162.305 Tampering with Public Records;
 - (J) 162.325 Hindering Prosecution;
 - (K) 162.405 Official Misconduct II;
 - (L) 162.415 Official Misconduct I;

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(M) 163.160 Assault IV;
(N) 163.190 Menacing;
(O) 163.195 Recklessly Endangering Another Person;
(P) 163.208 Assault on a Public Safety Officer;
(Q) 163.465 Public Indecency;
(R) 163.700 Invasion of Personal Privacy;
(S) 164.055 Theft I;
(T) 164.057 Aggravated Theft I;
(U) 164.215 Burglary II;
(V) 164.315 Arson II;
(W) 164.365 Criminal Mischief I;
(X) 165.013 Forgery I;
(Y) 165.022 Criminal Possession of a Forged Instrument I;
(Z) 165.032 Criminal Possession of a Forgery Device;
(AA) 165.055 Fraudulent Use of a Credit Card (over \$750);
(BB) 165.070 Possessing Fraudulent Communications Device;
(CC) 165.074 Unlawful Factoring of Credit Card Transaction;
(DD) 165.085 Sports Bribery;
(EE) 165.090 Sports Bribe Receiving;
(FF) 166.015 Riot;
(GG) 166.065 Harassment;
(HH) 166.090 Telephone Harassment;
(II) 166.190 Pointing Firearm at Another;
(JJ) 166.240 Carrying of Concealed Weapons;
(KK) 166.250 Unlawful Possession of Firearms;
(LL) 167.007 Prostitution;
(MM) 167.222 Frequenting a Place Where Controlled Substances are Used;
(NN) 167.320 Animal Abuse I;
(OO) 167.322 Aggravated Animal Abuse I;
(PP) 167.330 Animal Neglect I;
(QQ) 411.630 Unlawfully Obtaining Public Assistance;
(RR) 411.675 Submitting Wrongful Claim or Payment Prohibited;
(SS) 411.840 Unlawfully Obtaining or Disposing of Food Stamp Benefits;
(TT) 471.410 Providing Liquor to Person under 21 or to Intoxicated Person;
(UU) 475.992 Prohibited Acts Generally; Penalties; Affirmative Defense for Certain Peyote Uses (controlled substance offenses);
(VV) 475.993 Prohibited Acts for Registrants; Penalties;
(WW) 475.994 Prohibited Acts Involving Records and Fraud; Penalties;
(XX) 475.995 Penalties for Distribution to Minors;
(YY) 475.996 Crime Category Classification for Violation of ORS 475.992; Proof of Commercial Drug Offense;
(ZZ) 475.999 Penalty for Manufacture or Delivery of Controlled Substance within 1,000 feet of School;
(AAA) 811.140 Reckless Driving;
(BBB) 811.182 Criminal Driving while Suspended or Revoked;
(CCC) 811.540 Fleeing or Attempting to Elude Police Officer;
(DDD) 811.700 Failure to Perform Duties of Driver When Property Damaged (hit and run, property);
(EEE) 811.705 Failure to Perform Duties of Driver to Injured Persons (hit and run, injury); or
(FFF) 813.010 Driving Under the Influence of Intoxicants.

(b) CCD will consider the following crimes if they were committed 5 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Bribe Receiving; Bribe Receiving by a Witness; Bribing a Witness; Criminal Driving while Suspended or Revoked; Criminal Possession of a Forged Instrument I; Criminal Possession of Forgery Device; Failure to Appear I; Forgery I; Fraudulent use of a Credit Card (over \$750); Hindering Prosecution; Failure to Perform Duties of Driver to Injured Persons (hit and run, injury); Failure to Perform Duties of Driver When Property Damaged (hit and run, property); Obstructing Governmental or Judicial Administration; Criminal Driving while Suspended or Revoked; Official Misconduct I; Official Misconduct II; Perjury; Possessing Fraudulent Communications Device; Reckless Driving; Sports Bribe Receiving; Sports Bribery; Submitting Wrongful Claim or Payment Prohibited; Tampering with a Witness; Tampering with Public Records; Unlawful Factoring of Credit Card Transaction; Unlawfully Obtaining or Disposing of Food Stamp Benefits; Unlawfully Obtaining Public Assistance.

(c) CCD will consider the following crimes if they were committed 7 years or less prior to the date the subject individual signed the Consent for

Criminal Records Check and Request for Enrollment in the Criminal History Registry: Aggravated Animal Abuse I; Animal Abuse I; Animal Neglect I; Assault IV; Carrying of Concealed Weapons; Criminal Mischief I; Driving under the Influence of Intoxicants; Fleeing or Attempting to Elude Police Officer; Harassment; Menacing; Recklessly Endangering Another Person; Telephone Harassment; Theft I; and Unlawful Possession of Firearms.

(d) CCD will consider the following crimes if they were committed 10 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Aggravated Theft I; Arson II; Assault on a Public Safety Officer; Burglary II; Escape II; Invasion of Personal Privacy; Pointing Firearm at Another; Providing Liquor to Person Under 21 or to Intoxicated Person; Public Indecency; and Riot.

(e) CCD will consider the following crimes if they were committed 15 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Crime Category Classification for Violation of ORS 475.992/Proof of Commercial Drug Offense; Frequenting a Place Where Controlled Substances are Used; Prohibited Acts for Registrants; penalties; (C) Prohibited Acts Generally; Penalties; Affirmative Defense for Certain Peyote Uses (controlled substance offenses); (D) Prohibited Acts involving Records and Frauds; Penalties; and (E) Prostitution.

(f) CCD will consider the following crimes if they were committed 20 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Penalties for Distribution to Minors; and Penalty for Manufacture or Delivery of Controlled Substance within 1,000 feet of School.

(g) These rules also apply to:

(A) A conviction of a crime in another jurisdiction which is the substantial equivalent of a crime listed in Category II;

(B) An adjudication by a juvenile court that a youth has committed an act that is the substantial equivalent of a crime listed in Category II; and

(C) Any attempts or solicitations to commit any Felony or Misdemeanor crime listed in Category II.

(h) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(3) CCD has determined that founded child protective services cases and firearm prohibition orders may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual has a founded child protective services case or active firearm prohibition order, CCD will seek to obtain and review information related to the case, subject to section (6) of this rule. Based on this information, the Division will make a decision whether or not to enroll the subject individual in the Criminal History Registry.

(4) If CCD determines that additional information is needed to assess a person's suitability to be enrolled in the Criminal History Registry, the subject individual shall provide the requested information within the required timeframes. The additional information may include, but is not limited to, an evaluation or assessment by a physician, counselor or other qualified person, documents to determine positive identification of the subject individual, and court documents.

(5) If a subject individual is in a diversion program or similar agreement for any Category I or Category II crime, the subject individual must provide written documentation of compliance with the terms of diversion or similar agreement. Based on this information, the Division will make a decision whether or not to enroll the subject individual in the Criminal History Registry.

(6) Factors to be considered in determining suitability, based on information available to CCD and information provided by the subject individual, include:

(a) Types and number of incidences;

(b) Passage of time since the incident occurred;

(c) Circumstances surrounding the incident;

(d) Intervening circumstances since the occurrence of the incident;

and

(e) Relationship of the facts under subsections (a) through (d) of this section to the individual's suitability to work with children.

(7) CCD will not bar from enrollment in the Criminal History Registry any subject individual because of the existence or contents of a juvenile record that has been expunged by the court.

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

Stat. Auth.: ORS 657A.030

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Stats. Implemented: ORS 657A.030
Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03;
CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-205-0055

Training Requirements

(1) When a person first applies for registration as a family child care provider, the Child Care Division shall, prior to approving the registration, receive evidence from the person that the person has:

- (a) Completed the Family Child Care Overview session;
- (b) A current certification in infant and child first aid and cardiopulmonary resuscitation;
- (c) A current food handler certification pursuant to ORS 624.570; and
- (d) Completed two hours of training on child abuse and neglect issues.

(2) When a registered family child care provider submits a renewal application, the Child Care Division shall, prior to approving it, receive evidence from the provider that the provider has:

- (a) A current certification in first aid and infant and child cardiopulmonary resuscitation;
- (b) A current food handler certification pursuant to ORS 624.570; and
- (c) Completed a minimum of eight hours of training related to child care during the two years preceding the renewal date.

(3) In lieu of the training requirements in subsection (1) of this rule, except for the requirement to attend a Family Child Care Overview session, a person applying for registration may provide documentation that the person is enrolled in the Professional Development Registry at an Entry Level.

(4) In lieu of the training requirements in subsection (2) of this rule, a provider submitting a renewal application may provide documentation that the provider is enrolled in the Professional Development Registry at an Entry Renewal Level.

Stat. Auth.: ORS 657A.260
Stats. Implemented: ORS 657A.260
Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01;
CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-350-0010

Definitions

The following words and terms, when used in OAR 414-350-0000 through 414-350-0400, have the following meanings:

(1) "Activity Area" means the area of the home that is available, during all the hours of operation, for the children's activities. This area excludes the food preparation area of the kitchen, bathrooms, storage areas, and those parts of rooms occupied by heating stoves, furniture and stationary equipment not used by children.

(2) "Attendance" means children actually present in the home at any given time.

(3) "Capacity" means the total number of children allowed in the certified family child care home at any one time, based on the available square footage, the ages of the children to be served and the total number of staff.

(4) "Caregiver" means any person, including the provider, who cares for the children in the certified family child care home and works directly with the children, providing care, supervision and guidance.

(5) "Certification" means the certification that is issued by CCD to a certified family child care home pursuant to ORS 657A.280.

(6) "Certified Family Child Care Home" or "Home" means: a child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 12 children at any one time.

(7) "Child Care" means the care, supervision, and guidance on a regular basis of a child, unaccompanied by a parent, guardian, or custodian, during a part of the 24 hours of the day, with or without compensation. Child care does not include the care provided:

- (a) In the home of the child;
- (b) By the child's parent or guardian, or person acting in loco parentis;
- (c) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;
- (d) On an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care;
- (e) By providers of medical services; or
- (f) By a person who is a member of the child's extended family, as determined by the division on a case-by-case basis.

(8) "Child Care Child" means any child six weeks of age or older and under 13 years of age, or a child with special needs under the age of 18 who requires a level of care over and above the norm for his/her age, and for whom the provider has supervisory responsibility in the temporary absence of the parent.

(9) "CCD" means the Child Care Division of the Employment Department or the Administrator or staff of the Division.

(10) "Child Care Facility" means any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, except those excluded under ORS 657A.250. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.

(11) "Criminal History Registry" means CCD's Registry of individuals who have been approved to work in a child care facility in Oregon pursuant to ORS 657A.030 and OAR 414-061-0000 through 414-061-0120.

(12) "Enrollment" means all children registered to attend the certified family child care home.

(13) "Guidance and Discipline" means the on-going process of helping children develop self control and assume responsibility for their own acts.

(14) "Infant" means a child who is at least 6 weeks of age but is not yet walking alone.

(15) "Night Care" means care given to children who sleep at the home for all or part of the night.

(16) "Occasional" means infrequently or sporadically, including but not limited to care that is provided during summer or other holiday breaks when children are not attending school, but not to exceed 70 calendar days in a year.

(17) "Operator" means the person responsible for the overall operation of the home and who has the authority to perform the duties necessary to meet certification requirements. In a certified family child care home, the operator is the provider.

(18) "Owner" means the person who holds the certified family child care business as property and has a major financial stake in the operation of the home.

(19) "Parent" means parent(s), custodian(s), or guardian(s) exercising physical care and legal custody of the child.

(20) "Potentially hazardous food" means any food or beverage containing milk or milk products, eggs, meat, fish, shellfish, poultry, cooked rice, beans or pasta, and all other previously cooked foods, including leftovers.

(21) "Pre-school Age Child" means a child 36 months of age to eligible to be enrolled in the first grade and, during the months of summer vacation from school, eligible to be enrolled in the first grade in the next school year.

(22) "Professional Development Registry" means the voluntary registry at the Oregon Center for Career Development in Childhood Care and Education at Portland State University that documents the training, education and experience of individuals who work in childhood care and education.

(23) "Program" means all activities and care provided for the children during their hours of attendance at the certified family child care home.

(24) "Provider" means the person in the certified family child care home who is responsible for the children in care, is the children's primary caregiver, and in whose name the certification is issued. In a certified family child care home, the provider is the operator.

(25) "Qualifying Teaching Experience" means 1,500 hours, gained in at least three-hour blocks, within a 36-month period, with a group of children in an on-going group setting. Such a setting includes a kindergarten, preschool, child care center, certified or registered family child care home, Head Start program, or equivalent. Qualifying teaching experience must be documented. Time spent in a college practicum or practice teaching is considered qualifying teaching experience. The following does not constitute qualifying teaching experience: leader of a scout troop; Sunday school teacher; and coaching.

(26) "Sanitizing" means using a bactericidal treatment that provides enough heat or concentration of chemicals for enough time to reduce the bacterial count, including disease-producing organisms, to a safe level on utensils, equipment, and toys.

(27) "School-Age Child" means a child eligible to be enrolled in the first grade or above and, during the months of summer vacation from school, a child eligible to be enrolled in the first grade or above in the next school year.

(28) "Serious complaint" means a complaint filed against a certified child care home by a person who has alleged that:

- (a) Children are in imminent danger;

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(b) There are more children in care than allowed by certified capacity;

(c) Corporal punishment is being used;

(d) Children are not being supervised;

(e) Multiple or serious fire, health or safety hazards are present in the home;

(f) Extreme unsanitary conditions are present in the home; or

(g) Adults are in the home who are not enrolled in the Criminal History Registry.

(29) "Special Needs Child" means a child under the age of 18 who requires a level of care over and above the norm for his/her age due to a physical, developmental, behavioral, mental or medical disability.

(30) "Substitute Caregiver" means a person who acts as the children's primary caregiver in the certified family child care home in the temporary absence of the provider.

(31) "Supervision" means the act of caring for a child or group of children. This includes awareness of and responsibility for the ongoing activity of each child. It requires a caregiver to be within sight and/or sound of the children, knowledge of children's needs, and accountability for children's care and well-being. Supervision also requires that staff be near and have ready access to children in order to intervene when needed.

(32) "Toddler" means a child who is able to walk alone but is under 36 months of age. "Younger toddler" means a child who is able to walk alone but is under 24 months of age; "older toddler" means a child who is at least 24 months of age but under 36 months of age.

(33) "Useable Exit" means an unobstructed door or window through which caregivers and children can evacuate the home in case of a fire or emergency. Doors must be able to be opened from the inside without a key, and window openings must be at least 20 inches wide and 22 inches in height, with a net clear opening of 5 square feet and a sill no more than 48 inches above the floor.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0705; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 5-1999(Temp), f. 10-21-99, cert. ef. 10-23-99 thru 1-1-00; CCD 10-1999, f. 12-29-99, cert. ef. 1-1-00; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03; CCD 7-2003, f. 12-23-03, cert. ef. 12-28-03; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-400-0050

Billing Method

(1) CCD payments for child care are made by check to the provider on behalf of the client after all care for the month has been given. The invoice is to be submitted by the provider on forms approved by the Child Care Division.

(2) Registered family child care providers must bill at an hourly rate (with the exception that they may bill at a daily rate for before and/or after school care) not to exceed the total authorized.

(3) Child care center and certified family child care providers may bill at an hourly, daily, weekly, or monthly rate not to exceed the total authorized.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657A.010

Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0350; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-500-0010

Applicability of Rules

(1) OAR 414-500 sets forth the Child Care Division's requirements for contracts concerning child care resource and referral funding and activities that are subject to Oregon laws governing child care resource and referral agencies, ORS 657A.100 through 657A.190.

(2) If any court of law finds that any clause, phrase, or provision of these rules is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portion of these rules.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657A.010-657A.190

Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CC 1-1993(Temp), f. & cert. ef. 7-14-93; CC 2-1993, f. & cert. ef. 12-22-93; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 414-010-0010; CCD 7-2001(Temp), f. 12-19-01, cert. ef. 12-23-01 thru 6-21-02; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-500-0020

Definitions

These words and terms used in chapter 414, division 500 have the following meanings:

(1) "Child Care" means the care and supervision of a child who is unaccompanied by a parent, guardian, or custodian and which is provided during a part of the 24 hours of a day, with or without compensation.

(2) "Division" means the Child Care Division of the Employment Department.

(3) "Core Services" means the following basic services provided by an R & R:

(a) Create and maintain a database on provider supply;

(b) Provide consumer education, consultation, and referrals for parents;

(c) Encourage the development of [new] child care resources and provide ongoing technical assistance to providers;

(d) Provide technical assistance to employers; and

(e) Record, analyze, and report data on requests for services.

(4) "Nontraditional hours" means hours before 8:00 AM, between 12:00 and 1:00 PM, after 5:00 PM, weekends, and holidays.

(5) "Parent" means the person(s) exercising physical care and custody of a child.

(6) "Provider" means any person or facility that provides child care including a child care center, group child care home, family child care home, recreation program, or any other person or facility providing child care.

(7) "Resource & Referral Agency" or "R & R" means a community-based public or private nonprofit agency with a program that provides, as a minimum, the core services as defined in OAR 414-500-0020.

(8) "Resource & Referral Network" means a non-profit organization whose purpose is to coordinate and support local Resource and Referral agencies and services statewide.

(9) "Service Delivery Area" or "SDA" means a geographic area designated by the Child Care Division, or its agent or designee, for the delivery of resource and referral services.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657A.100-657A.190

Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CC 1-1993(Temp), f. & cert. ef. 7-14-93; CC 2-1993, f. & cert. ef. 12-22-93; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 414-010-0020; CCD 7-2001(Temp), f. 12-19-01, cert. ef. 12-23-01 thru 6-21-02; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-500-0030

Administrative Requirements for Resource and Referral Agencies

(1) Any R & R or Resource & Referral Network contracting -to provide child care resource and referral services under ORS 657A.010 for the administration of ORS 657A.030 and 657A.250 through 657A.530 shall:

(a) Be a "Resource & Referral Agency" or "Resource & Referral Network" as defined in OAR 414-500-0020.

(2) Each R & R shall:

(a) Demonstrate community support and endorsement;

(b) Demonstrate a commitment to provide, strengthen, and promote the financial support of R & R core services and the long-term financial stability of R & R programs;

(c) Demonstrate collaboration with local child care providers, provider groups, parents, social service and government agencies, employers, and institutions of public education in the development and operation of the R & R;

(d) Have an advisory group that represents diverse segments of the child care community. The R & R shall ensure input into R & R operations from parents, providers, employers, and community representatives;

(e) Have staff with at least two years of post-secondary education, experience, and/or training, commensurate with job responsibilities, in the following:

(A) Early childhood education, human services, counseling, or a related field of study;

(B) Child care or child development;

(C) Parent education;

(D) Provider support; or

(E) Program management.

(f) Directly provide the core services;

(g) Not discriminate against any family on the basis of race, color, or ethnicity; religion; national origin; citizenship; sex; age; physical or mental disability; marital status, or because of a child's need for special care;

(h) Make services accessible to families, with particular sensitivity to ethnic and cultural minorities, languages spoken, families with special needs, and the economically disadvantaged;

(i) Provide services to all types of child care providers, except those under Child Care Division disciplinary action;

(j) Match funds awarded by the Child Care Division, or its agent or designee, with an equal amount of other financial support, including in-

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kind contributions. Matching funds may be used to directly provide R & R services, or enhance R & R services;

(k) Publicize its services;

(l) Maintain fiscal records consistent with accepted accounting practices;

(m) Collect financial statistics on a regular basis and make financial reports at times and in the form prescribed by the Child Care Division, or its agent or designee;

(n) Maintain program records, including statistical records, and provide program records to the Child Care Division, or its agent or designee, at times and in the form prescribed by the Child Care Division, or its agent or designee;

(o) Cooperate in a program and facility review (including meetings with consumers, review of records, review of policy and procedures, review of staffing and staff qualifications, and meetings with any staff directly or indirectly involved in the provision of services) at any reasonable time by the Child Care Division, or its agent or designee;

(p) Retain all records and other documents related to the provision of resource and referral services for at least three years, unless otherwise specified in a contractual agreement with the Child Care Division, or its agent or designee; and

(q) Have a complaint policy, regarding instances in which the health and/or safety of a child is at risk, that is approved by the Child Care Division, or its agent or designee.

(3) Satisfactory performance by an R & R and/or the Resource & Network shall be a condition for the renewal of a contract.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657A.100-657A.190

Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CC 1-1993(Temp), f. & cert. ef. 7-14-93; CC 2-1993, f. & cert. ef. 12-22-93; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 414-010-0030; CCD 7-2001(Temp), f. 12-19-01, cert. ef. 12-23-01 thru 6-21-02; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-500-0050

Services to Parents

(1) The R & R shall provide consultation and/or assistance to parents on:

(a) Finding, selecting, and maintaining a quality child care arrangement;

(b) Sources for child care subsidies for low income families;

(c) Available and appropriate child care;

(d) Child care during nontraditional hours;

(e) Available and appropriate child care and respite care services for children with special needs; and

(f) Child care for sick children.

(2) Access to referral information shall include telephone referrals to be made available for at least 20 hours per week of operation, including nontraditional hours.

(3) The R & R shall make referrals to:

(a) Certified or registered child care providers; and

(b) Providers who are legally exempt from certification or registration.

(4) The R & R shall make every effort to be accessible to parents in the service delivery area (SDA).

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657A.100-657A.190

Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 414-010-0050; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-500-0060

Services to Providers

The R & R shall provide information, technical assistance, and support to existing and potential child care providers.

(1) The R & R shall provide information and technical assistance on:

(a) Establishing new child care resources including registration or certification, city zoning or licensing requirements, program and business development, and assistance in finding information from other sources;

(b) Improving the quality of services offered;

(c) Improving business skills;

(d) Helping existing child care providers to maximize their ability to serve the children and parents of the community; and

(e) Facilitating communication between existing child care providers.

(2) The R & R shall consult with the local Child Care Division licensing representative, provider organizations, the local planning department, the community college, small business assistance programs, and any other

person, agency, or service that has skills and knowledge that could assist in developing services to providers.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657A.100-657A.190

Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CC 1-1993(Temp), f. & cert. ef. 7-14-93; CC 2-1993, f. & cert. ef. 12-22-93; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 414-010-0060; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-500-0080

Records of Requests for Services

(1) The R & R shall maintain records of requests for services.

(2) Documentation of requests for services shall consist of:

(a) Number and time of day and date of calls and contacts to the R & R;

(b) Ages of children for whom care is requested; and

(c) Time of day or night for which child care is requested, identifying special times including before and after school, nights, weekends, and swing shift.

(3) Information on services requested shall be maintained in such a manner that it is easily accessible for dissemination and evaluation purposes.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657A.100-657A.190

Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CCD 1-1994, f. & cert. ef. 1-12-94, Renumbered from 414-010-0080; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

**Office of Energy
Chapter 330**

Adm. Order No.: DOE 4-2004

Filed with Sec. of State: 8-2-2004

Certified to be Effective: 8-2-04

Notice Publication Date: 5-1-04

Rules Amended: 330-070-0073

Subject: The standards that were changed include:

- Refrigerators-freezers qualifying for an Oregon Residential Energy Tax Credit must have at least 20 percent lower energy consumption than allowed by the July 1, 2001 USDOE standards for refrigerators. The previous rules stated refrigerators-freezers had to have at least 15 percent lower energy consumption.

- Dishwashers qualifying for an Oregon Residential Energy Tax Credit must have an energy factor of 0.61 cycles/kWh or higher. The previous rules stated that the energy factor had to be 0.58 cycles/kWh or higher.

- Qualifying dishwashers must now have a maximum water use per cycle, as tested, of 6.5 gallons. The previous rules did not specify water usage for dishwashers. To conserve water and to be consistent with the water usage requirement for tax credit qualifying clothes washers, a water usage factor was added to the requirements for tax credit qualifying dishwashers.

Rules Coordinator: Kathy Stuttaford—(503) 378-4128

330-070-0073

Guidelines for Energy Efficient Appliances and Alternative Fuel Devices

(1) Energy efficient appliances must meet or exceed the following energy efficiency ratings, as measured in accordance with current United States Department of Energy (USDOE) test procedures where applicable, and be currently listed with ODOE as qualifying premium efficiency appliances.

(2) Where USDOE test procedures do not exist, ODOE will designate a nationally recognized test procedure that will apply instead.

(3) Clothes washers:

(a) For the purpose of this program, clothes washer efficiency performance is determined using the USDOE Appendix J1 test procedure for residential clothes washers in effect at the time the rules are adopted.

(b) Clothes washers with a tub volume greater than 2.0 cubic feet, as measured in accordance with the USDOE Appendix J1 clothes washer test procedure shall have a minimum Modified Energy Factor (MEF) of 1.42 and a maximum Water Factor (WF) of 9.50 gal/cubic foot/cycle.

(c) Clothes washers with a tub volume of 2.0 cubic feet or less, as measured in accordance with the USDOE Appendix J1 test procedure for clothes washers shall have a minimum Modified Energy Factor (MEF) of 1.42 and a maximum Water Factor (WF) of 10.25 gal/cubic foot/cycle.

(4) Refrigerator-Freezers:

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(a) Must have at least 20 percent lower energy consumption than that allowed by the July 1, 2001 USDOE standard for refrigerator/freezers;

(b) Must have a total net volume (sum of the fresh food compartment and freezer compartment volumes) of at least 12 cubic feet, but less than 30 cubic feet; and

(c) Must have a fully automatic defrost cycle.

(5) Dishwashers:

(a) Dishwashers must have an Energy Factor of 0.61 cycles/kWh or higher; and

(b) Effective January 1, 2004, dishwashers must have tax credit eligibility based on an Energy Factor derived from the DOE Dishwasher Test Procedure effective September 28, 2003.

(c) Effective August 2, 2004, dishwashers must have a maximum water use per cycle, as tested, of 6.5 gallons.

(6) Water Heating Appliances:

(a) Water heater efficiency requirements:

(A) Equipment efficiency requirements are based on the USDOE Energy Factor, as derived from the USDOE Appendix E test procedure for residential water heating equipment in effect at the time the rules are adopted.

(B) Electric units shall have an Energy Factor of 1.0 or greater;

(C) Natural gas, propane, or oil-fired units shall have an Energy Factor of 0.70 or greater.

(b) Combined space/water-heating system efficiency must be based on the water heating Energy Factor for Combined Systems (CEF) as derived from the American National Standards Institute/American Society of Heating, Refrigerating, and Air Conditioning Engineers (ANSI/ASHRAE) 124-1991 test method. Water heaters that are part of a combined space and water heating system may not receive a tax credit for space heating efficiency as a boiler in addition to the tax credit as a water heating appliance.

(7) For Wastewater Heat Recovery Systems, field performance data submitted to and approved by ODOE must be the basis for tax credit qualification. The following rules also apply:

(a) The systems must meet all plumbing code requirements for vented double-wall heat exchangers;

(b) The system must not interfere with the proper operation of the dwelling's wastewater system; and

(c) Energy recovered must be re-introduced into the dwelling's hot water supply system.

(8) Performance Checked Space Conditioning Duct Systems must meet the following requirements:

(a) All joints and seams in duct work outside the conditioned space must be sealed, when accessible, with mastics that meet NFPA class 1 requirements, that are UL 181 listed, and that meet ASTM standards C557 and C919-79.

(b) All closure systems must be applied according to the manufacturer's instructions or as specified by these standards.

(c) If the home serviced by the performance checked duct system is new, or the building envelope is being altered, the house must meet residential energy conservation requirements of the Oregon Structural Specialty Code or of the Oregon One and Two Family Dwelling Code in effect at the time the home is constructed or structurally altered.

(d) Duct leakage must be tested using ODOE-approved, calibrated duct testing equipment and ODOE approved testing protocols.

(e) Testing to verify that these standards have been achieved must be conducted by contractors approved by ODOE or by an ODOE-designated agent or representative.

(f) In addition to general requirements (a) through (e), performance checked duct systems must meet situation specific standards for eligibility, materials, design, installation, air tightness and safety, as specified in the Oregon Department of Energy Premium Efficiency Duct System Standards, dated October 30, 2003.

(g) Measures eligible for the purpose of calculating a performance checked duct system tax credit include:

(A) New construction

(i) Duct sealing labor and materials;

(ii) Heating and cooling load calculations;

(iii) Duct system sizing and design calculations;

(iv) Labor and materials for installing multiple returns;

(v) Labor and materials for installing passive pressure relief grilles;

(vi) Duct testing; and

(vii) Labor and materials for bringing duct systems inside heated space.

(B) New ducts in existing homes

(i) Duct sealing labor and materials;

(ii) Heating and cooling load calculations;

(iii) Duct system sizing and design calculations;

(iv) Labor and materials for installing multiple returns;

(v) Labor and materials for installing passive pressure relief grilles;

and

(vi) Duct testing.

(C) Duct repair and sealing/existing ducts in existing homes

(i) Duct sealing labor and materials;

(ii) Labor and materials for installing multiple returns;

(iii) Labor and materials for installing passive pressure relief grilles;

and

(iv) Duct testing.

(h) To apply for a performance checked duct tax credit, the following information must be submitted in a form approved by ODOE:

(A) Application and verification form;

(B) Test results worksheet for "new construction," "new duct systems in existing homes," or "duct repair and sealing"/existing ducts in existing homes, as applicable;

(C) Copies of heating and cooling load calculations and/or duct sizing calculations, as applicable, shall be made available to ODOE upon request; and

(D) Itemized invoice identifying measures detailed in (g).

(i) The amount of the tax credit for performance checked duct systems must be 25 percent of the eligible costs detailed in (g), up to \$250.

(9) Performance Checked Heat Pumps and Central Air Conditioners must meet the following standards.

(a) Systems must be tested and serviced as needed to confirm correct refrigerant charge and air flow by contractors certified by ODOE or its approved agent, based on procedures approved by ODOE.

(b) Approved supplemental air flow test methods must be used, including: flow grid, duct blaster, strip heat, or flow hood. Supplemental air flow test results must include pre-repair and post repair air flow readings in cubic feet per minute, cfm.

(c) To verify electronically commutated motor (ECM) installation results, the wattage of the existing fan motor and new ECM fan motor must be measured using a wattmeter or by clocking the revenue meter using the following procedure:

(A) Turn off all circuit breakers except the breaker to the AC/HP air handler.

(B) Turn on the air handler fan (cooling speed).

(C) At the meter, use a stopwatch, and for a period of at least 90 seconds, count the number of revolutions of the wheel. Record seconds and number of revolutions.

(D) Record meter data: kWh and multiplier if any.

(E) Calculate the watt draw of the fan: Watts = [kWh x number of revolutions x multiplier x 3600]/seconds.

(d) Eligible measures must be confirmed by the system diagnostic tests using ODOE approved protocols in use at the time of measure installation. Duplicate tax credits may not be claimed.

(e) Measures eligible for the purpose of calculating a performance checked heat pump/air conditioner tax credit include:

(A) System diagnostic tests;

(B) Adding or removing refrigerant when initial diagnostic tests indicate need for refrigerant adjustment and post repair tests indicate correct charge has been installed;

(C) Altering the duct system to improve air flow when initial diagnostic tests show low air flow and post repair tests show an air flow improvement of 10 percent or more;

(D) Cleaning the inside coil when initial diagnostic tests indicate low air flow and post repair tests show an air flow improvement of 10 percent or more; and

(E) Replacing an existing inside fan motor with an electronically commutated motor (ECM) when initial diagnostic tests show low air flow and tests after ECM installation show an air flow improvement of 10 percent or more.

(f) To apply for a performance checked heat pump/air conditioner tax credit, the following information must be submitted in a form approved by ODOE:

(A) Application and verification form;

(B) Performance checked heat pump/AC diagnostics data entry form;

(C) Pre and post repair system air flow measurements using approved methods listed in (b), if applicable;

(D) Watt draw of existing fan motor and new ECM, if applicable; and

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(E) Itemized labor and materials cost information for applicable measures, testing, and repairs.

(g) The amount of the performance checked heat pump/AC tax credit must be 25 percent of the cost of testing and repair, up to \$250.

(10) Alternative Fuel Vehicles must have equipment installed to make the vehicle capable of storing and utilizing an alternative fuel for vehicle propulsion. Equipment may consist of original equipment manufacturer components; or

(a) Components for natural gas powered vehicles that meet EPA1-A requirements current at the time these rules are adopted; or

(b) Other components as recognized by ODOE as necessary for alternative fuel use.

(11) Alternative Fuel Fueling Systems must be installed to meet all state and local fire and life safety codes and be capable of refueling/recharging an alternative fuel vehicle within 14 hours.

(12) Energy Recovery Ventilators (ERVs) must:

(a) Be tested, rated and certified through the Home Ventilating Institute (HVI) Division of the Air Movement and Control Association (AMCA) International, Inc., and listed in the HVI directory;

(b) Be capable of at least 30 percent Latent Recovery/Moisture Transfer (LRMT) at 32°F when operating on the lowest fan speed;

(c) Have a maximum EUI(HERV) of 1.5 watts/cfm at the lowest fan speed for which performance data is published in the HVI directory; and

(d) Have a minimum Sensible Recovery Efficiency (SRE) of:

(A) 65 percent at 32°F/0°C when operating at the lowest fan speed;

(B) 60 percent at 32°F/0°C when operating at the highest fan speed;

and

(C) 60 percent at -13°F/-25°C when operating at the lowest fan speed, if rated at this condition.

(13) Heat Recovery Ventilators must:

(a) Be tested, rated and certified through the Home Ventilating Institute (HVI) Division of the Air Movement and Control Association (AMCA) International, Inc., and listed in the HVI directory;

(b) Have a maximum EUI of 1.5 watts/cfm at the lowest fan speed for which performance data is published in the HVI directory; and

(c) Have a minimum Sensible Recovery Efficiency (SRE) of:

(A) 65 percent at 32°F/0°C when operating at the lowest fan speed;

(B) 60 percent at 32°F/0°C when operating at the highest fan speed;

and

(C) 60 percent at -13°F/-25°C when operating at the lowest fan speed, if rated at this condition.

(14) Very High Efficiency Air Conditioning Systems must:

(a) Be a central, split-system designed and installed to operate in conjunction with the air handling unit or furnace of a home's heating system;

(b) Be tested and rated in accordance with the DOE test procedure for residential air-conditioning systems in effect at the time these rules are adopted, and certified by, and be listed in the directory of the Air Conditioning and Refrigeration Institute (ARI) in effect at the time these rules are adopted;

(c) Consist of a matched outdoor unit and indoor unit (air handler and coil or furnace and coil), as tested, rated and listed in the ARI Directory;

(d) Have a minimum SEER rating at DOE B conditions of 14.5;

(e) Have a minimum EER rating at DOE A conditions of 12.5; and

(f) Be installed in accordance with the protocols specified in section 330-070-0073(10)(a) through 330-070-0073(10)(g) of these rules.

(15) Very High Efficiency Air Source Heat Pump Systems must:

(a) Be a central, split-system;

(b) Be tested and rated in accordance with the USDOE Appendix M test procedure for residential air-conditioning systems in effect at the time these rules are adopted, and be certified by, and be listed in the directory of the Air Conditioning and Refrigeration Institute (ARI) that is in effect at the time these rules are adopted;

(c) Consist of a matched outdoor unit and indoor unit (air handler and coil or furnace and coil), as tested, rated and listed in the ARI Directory;

(d) Have a minimum DOE Region IV HSPF rating of 8.50;

(e) Have a minimum SEER rating at DOE "B" conditions of 13.0;

(f) Have a minimum EER rating at DOE "A" conditions of 11.0; and

(g) Be installed in accordance with the protocols specified in section 330-070-0073(9)(a) through 330-070-0073(9)(g) of these rules.

(16) Very High Efficiency Warm Air Furnace Systems must:

(a) Be tested and rated in accordance with the USDOE Appendix N test procedure for furnaces in effect at the time these rules are adopted, and be certified by and listed in the directory of the Gas Appliance Manufacturers Association (GAMA) in effect at the time these rules are adopted;

(b) Have a minimum AFUE rating of 0.90 (90 percent);

(c) Use outdoor air for combustion; and

(d) The air handler for the unit must have an electronically commutated, permanent magnet variable speed DC (ECPM) motor, or have an EUI(FURNACE) of less than 0.02.

(17) Very High Efficiency Air Handlers must:

(a) Be installed as part of a hydronic space heating system; and

(b) Be equipped with an electronically commutated, permanent magnet variable speed DC (ECPM) motor.

(18) Very High Efficiency Hot Water Boiler Systems must:

(a) Be tested and rated in accordance with the USDOE Appendix N test procedure for furnaces in effect at the time these rules are adopted, and be certified by and listed in the directory of the Gas Appliance Manufacturers Association (GAMA) in effect at the time these rules are adopted; and

(b) Have a minimum AFUE rating of 0.88 (88 percent).

(19) A Very High Efficiency Air Conditioning, Air Source Heat Pump or Furnace system may receive a supplemental tax credit amount, determined by ODOE, based on additional energy savings if the duct system to which it is attached is tested and certified in accordance with the protocols specified in Section 330-070-0073 (9) (a) through 330-070-0073 (9) (g). This amount is in addition to the tax credit amount for the Very High Efficiency Air Conditioning, Air Source Heat Pump or Furnace system itself, and in addition to the tax credit amount provided for the duct testing and certification itself. In order to earn the supplemental tax credit amount, the air conditioning and/or heating system must be installed, the duct system must be tested and certified, and the applications for all tax credit amounts associated with the system must be received, as a single package, at ODOE by April 1st of the tax year following the tax year for which the credits are being claimed.

(20) Any other standards adopted by ODOE for energy efficient appliances and alternative fuel devices, their components, and/or systems as determined by the Director of the Oregon Department of Energy.

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

Stat. Auth.: ORS 469.0860.

Stats. Implemented: ORS 316.116

Hist.: DOE 1-1982, f. 1-12-82, ef. 2-1-82; DOE 1-1986, f. & ef. 2-7-86; DOE 4-1987, f. 12-18-87, ef. 1-1-88; DOE 1-1996, f. & cert. ef. 4-1-96; DOE 1-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 1-1999, f. 12-21-99, cert. ef. 1-1-00; DOE 2-2000, f. 12-29-00, cert. ef. 1-1-01; DOE 2-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 1-2004, f. & cert. ef. 1-21-04; DOE 4-2004, f. & cert. ef. 8-2-04

Oregon Department of Education Chapter 581

Adm. Order No.: ODE 10-2004

Filed with Sec. of State: 8-4-2004

Certified to be Effective: 8-4-04

Notice Publication Date: 12-1-03

Rules Amended: 581-015-0126

Subject: This amendment is to correct the last line of OAR 581-015-0126. Private Alternative schools registered under OAR 581-021-0072 do **not** need to be approved under this rule if the contracting school district is providing the special education and related services identified in the child's IEP. The word "not" was inadvertently left out when this rule was filed in January 2003.

If you have questions about this rule, please contact Suzy Harris at (503) 378-3600, ext. 2333 or e-mail suzy.harris@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us.

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-015-0126

Standards for Approval of Private Schools as Contractors with Public Agencies

(1) Private schools that intend to provide early intervention (EI), early childhood special education (ECSE) or special education under a written agreement with a public agency, shall apply annually to the Department's Office of Special Education for approval.

(2) The annual application shall include documentation that the private school meets:

(a) The applicable fire codes of the local or state fire marshal;

(b) Facility occupancy and use standards set forth by the appropriate local building inspectors;

(c) Health standards of the county health department; and

(d) The requirements set by:

ADMINISTRATIVE RULES

- (A) OAR 581-022-1420 (emergency plans and safety programs);
- (B) OAR 581-022-1430 (asbestos management plans); and
- (C) OAR 581-022-1440 (infectious diseases).

(D) In place of requirements (A), (B), and (C) above, private schools providing EI/ECSE services only may submit documentation that the private school meets the safety requirements set by the Child Care Division of the Oregon Department of Employment.

(e) The private school shall maintain commercial general liability insurance with policy limits of at least \$500,000. The private school shall provide the Department with the name of the insurance company, the number of the insurance policy, the policy limits covered by the policy, and the effective term of the policy.

(3) The annual application shall include assurances, on a form provided by the Department, that the private school:

(a) Uses curriculum content, teaching practices and management practices that do not violate the constitutional prohibition on religious entanglement;

(b) Implements the EI/ECSE or special education services as described in each child's individualized family service plan or individualized education program;

(c) Has procedures in place regarding staff hiring and evaluation that require:

(A) The careful checking of personal and professional references for all potential employees;

(B) Criminal background checks in compliance with ORS 181.539, 326.603, 326.607 and 342.232 for all potential employees;

(C) A regular schedule of staff evaluations of the competencies of all employees to work with children;

(D) In place of requirements (A), (B) and (C) above, private schools providing EI/ECSE services only may follow the hiring and evaluation requirements set by the Child Care Division of the Oregon Department of Employment;

(d) Maintains the confidentiality of student records consistent with the Family Educational Rights and Privacy Act, 34 CFR § 99 et. seq. and Oregon Administrative Rules relating to student records;

(e) Has a policy of nondiscrimination;

(f) Notifies the Department and the contracting public agency of any written complaint it receives concerning the EI/ECSE or special education programs and services being provided;

(g) Notifies the contracting public agency of the need for any change in a child's educational program and does not make changes in a child's individualized education program or individualized family service plan, the EI/ECSE or special education program or services, or placement, unless the contracting public agency consents to the changes; and

(h) Initiates and convenes individualized education program and individualized family service plan meetings only when this assistance is requested by a written agreement with the contracting public agency;

(i) Evaluates a child only when this assistance is requested by a written agreement with the contracting public agency;

(j) Provides licensed staff in compliance with either paragraphs (A) or (B) or both of this subsection:

(A) EI/ECSE: For private schools providing EI/ECSE for children preschool children, at least one individual who is qualified to provide EI/ECSE and meets the requirements of OAR 581-015-1100(2) and (3) shall be available to serve the population of students described in the application; or

(B) School Age: For private schools providing special education for school age children, at least one individual qualified to provide special education and licensed according to rules established by the Teacher Standards and Practices Commission shall be available to serve the population of students described in the application. Private schools may provide special education and related services to students with disabilities placed by public agencies by employing professionals who are licensed within their own specialties. Pursuant to OAR 584-036-0010, these personnel are not required to hold licensure from the Teacher Standards and Practices Commission.

(k) Provides hours of instruction that meet state standards;

(l) Grants credit toward high school graduation consistent with OAR 581-022-1130 and 581-022-1350(2) and (3);

(m) Ensures that students have the opportunity to participate in district-wide and state-wide assessments of student achievement; and

(n) For school-age programs, meets the state curriculum standards set pursuant to OAR 581-022-1210.

(4) The annual application shall include a plan, on a form provided by the Department, describing the EI/ECSE or special education program for

which the private school requests approval. The plan shall include the following elements:

(a) A description of the population to be provided EI/ECSE or special education programs or services; and

(b) A description of the specific EI/ECSE or special education programs or services that the private school provides.

(5) This rule does not apply to public agencies providing educational programs at treatment centers under ORS 581-015-0044.

(6) Private alternative schools registered under OAR 581-021-0072 do not need to be approved under this rule if the contracting school district is providing the special education and related services identified in the child's IEP.

Stat. Auth.: ORS 343.041 & 343.055

Stats. Implemented: ORS 343.041 & 343.221

Hist.: 1EB 28-1978, f. & ef. 7-20-78; EB 18-1994, f. & cert. ef. 12-15-94; ODE 18-2000, f. & cert. ef. 5-23-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; ODE 10-2004, f. & cert. ef. 8-4-04

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Adm. Order No.: ODE 11-2004

Filed with Sec. of State: 8-4-2004

Certified to be Effective: 8-4-04

Notice Publication Date: 6-1-04

Rules Amended: 581-053-0002

Subject: Administration of Pupil Transportation: this amendment updates the year, which allows vehicles to move from one location to another.

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

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-053-0002

Administration of Pupil Transportation

(1) Definitions of terms used in OAR 581-053-0002 through 581-053-0550 shall be as follows:

(a) A school bus shall be as defined in ORS 801.460;

(b) A school activity vehicle shall be as defined in ORS 801.455;

(c) For purposes of OAR 581-053-0006, a diabetic is a person who takes insulin.

(d) Pupil transporting vehicles shall include all school buses as well as other vehicles that are owned or under contract with the school districts, private or parochial schools and are used to transport pupils to or from school or an authorized school activity or function.

(2) School districts shall provide transportation in compliance with all applicable laws and administrative rules.

(3) School districts or other employers shall not require or knowingly permit any person to operate a school bus or other pupil transporting vehicle in violation of any applicable rules of the Oregon Department of Education or Oregon laws.

(4) School boards shall adopt and implement written policies that insure that transportation officials receive notification of students having special medical or behavioral protocols identified in student records and that drivers receive appropriate training related to specified protocols, including requirements of confidentiality.

(5) School districts shall adopt and implement written transportation policy, including provisions regarding student suspensions and expulsions from district-provided transportation.

(a) Written transportation suspension and expulsion policy shall include at least the following:

(A) Definitions for the terms "suspension" and "expulsion" from district-provided transportation services and identify the specific applicable time limits; and

(B) Identification of criteria used for student suspension and expulsion from district-provided pupil transportation services; and

(C) Special provisions for the application of the policy to students receiving services under the Individuals with Disabilities Education Act; ORS 339.250, and 343.363; or

(b) An adoption as local board policy all elements listed below:

(A) Students may be suspended from district-provided pupil transportation services when such suspensions are executed within the provisions contained in OAR 581-021-0065(1) through (3) and all applicable procedures are consistent with OAR 581-053-0002(9), 581-053-0010, and the Individuals with Disabilities Education Act;

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(B) The school district board shall limit the term of a suspension for a specific incident to a specific number of days. The maximum shall not exceed 10 school days when transportation is provided;

(C) Upon the occurrence within one school year of a subsequent incident or any occurrence of a severe disciplinary problem constituting a demonstrable safety hazard for the pupil-transporting vehicle or persons inside/outside the vehicle, the student may be expelled from district-provided transportation services for a period not to exceed one school year. Parent notification and procedural rules for yearlong length expulsions must be included in local board-approved transportation policy and must comply with those set forth for student expulsion in OAR 581-021-0070. An expulsion may extend into a second term or semester if the current term or semester ends within such a short period of time that the expulsion would be too short to be effective;

(D) Suspensions and expulsions shall be ordered by the school board, the executive officer of the school district or his or her designated representative. The district school board shall have the right of final review if the school board itself does not take the action. The school board may affirm, amend, modify, or rescind any suspension or expulsion order.

(6) School buses and all other pupil transporting vehicles shall be maintained in safe operating condition and shall meet or exceed the minimum standards in effect at the time of purchase, plus any subsequent rules applicable to the vehicle.

(7) Any additions of vehicle equipment or alterations in the vehicle construction not provided for in the applicable minimum standards for Oregon school buses or school activity vehicles are prohibited without prior approval from the Oregon Department of Education.

(8) All school buses and school activity vehicles that will be transporting students for the first time in a school system in Oregon must conform, or be made to conform within thirty days of notice of nonconformity, to the minimum standards for Oregon school buses or school activity vehicles currently in force as they apply to each vehicle. Written notification must be sent to the Superintendent of Public Instruction when relocating school or activity buses for a period exceeding 10 days. School and activity buses with a manufacture date prior to September 1, 1993 shall not be relocated. Type 21 activity vehicles may not be entered into the fleet for the first time with a manufacture date prior to April 1, 1977. Oregon Department of Education personnel may give a written order that a vehicle is unsafe and shall not be used to transport students when there is reason to believe that a deficiency is such that continued operation of the vehicle may jeopardize the safety of students or the public. The vehicle owner shall notify the Oregon Department of Education that the deficiency is corrected before transporting students.

(9) Vehicle maintenance records shall be kept for each vehicle used to transport students. These records shall be available to Department of Education personnel upon request. The following minimum information shall be kept for each vehicle by date and mileage at the time of service, adjustment or repair:

- (a) Chassis lubrications;
- (b) Engine oil and filter changes;
- (c) Major engine tune-ups and repairs;
- (d) All adjustment, service and repair of brake system;
- (e) All adjustment, service and repair of steering mechanism and other related parts;
- (f) Tires; and
- (g) Drive train components.

(10) A seat that fully supports the passenger shall be provided for every passenger on all pupil-transporting vehicles. Seating is not permitted on any portion of the vehicle not designed for that purpose. Passengers shall not be permitted to stand while vehicle is in motion.

(11) Safety instruction:

(a) All regularly transported pupils in schools which provide pupil transportation shall receive the following instruction at least once within the first six (6) weeks of the first half and once within the first six (6) weeks of the second half of each school year:

(A) Safe school bus riding procedures, including but not limited to loading, unloading, crossing, etc.;

(B) Use of emergency exits; and

(C) Planned and orderly evacuation of the school bus in case of emergency, including participation in actual evacuation drills.

(b) All pupils in schools where pupil transportation is provided who are not regularly transported shall receive the following instruction at least once in the first half of each school year:

(A) Safe school bus riding procedures; and

(B) Use of emergency exits.

(c) Records listing safety instruction course content and dates of training shall be maintained locally.

(12) All school buses manufactured prior to September 1, 1979 shall be equipped to meet all requirements of the applicable minimum standards for Oregon school buses in effect on that date.

(13) School systems shall provide for the required training, examination, and testing of their school bus and school activity vehicle drivers to comply with Oregon Department of Education rules. Appropriate specialized training designed for special needs transportation shall be provided prior to allowing drivers to transport students with disabilities. Records to document training and testing shall be maintained by school districts. Such records shall be made part of each driver's driver-training record file. Records shall be made available to Oregon Department of Education personnel or the driver upon request.

(14) School districts or contractors employing school bus drivers or Type 10 or Type 20 school activity vehicle drivers shall immediately notify the Department of Education if they have reason to believe any change in the driver(s)' criminal or driving record has occurred which could affect their ability to:

(a) Maintain a school bus driver permit or certificate under the provisions of OAR 581-053-0006(8); or

(b) Meet the requirements listed in OAR 581-053-0545 and 581-053-0550 for activity vehicle drivers.

(15) Schools or contractors selling a used school bus shall be responsible for removing all markings that would identify it as a school bus including the school bus safety lights. Exception: If the school bus is sold for the purpose of transporting school children to and from school, the school bus identification and school bus safety lights need not be removed. If sold for the purpose of transporting workers, the school bus safety lights need not be removed.

(16) Schools or contractors planning to rebuild a school bus shall first secure approval from the Pupil Transportation Section, Oregon Department of Education. (This does not apply to repair of damage.) All rebuilt school buses must meet current Oregon Minimum Standards for School Buses and applicable Federal Department of Transportation regulations.

(17) Special vehicles used for transportation of students with disabilities or for specific educational purposes that do not meet all current Oregon Minimum Standards for School Buses must be approved by the Pupil Transportation Section, Oregon Department of Education.

(18) Appeal for Variance.

(a) A school or contractor desiring to purchase a school bus or school activity vehicle which cannot meet all required minimum construction standards for school buses or school activity vehicles as applicable in Oregon must forward an "Appeal for Variance" request to the State Superintendent of Public Instruction, Salem, Oregon. This appeal must be made by the highest ranking official with the local operation and contain at least the following information:

(A) The need for such a vehicle;

(B) Why a standard school bus or school activity vehicle will not suffice;

(C) List of items, which will not meet applicable standards; and (D) Passenger capacity of vehicle.

(b) This variance provision is designed for unique changes or alterations necessary to accommodate special equipment or conditions.

(19) In case of an accident involving serious injury or death, the Oregon Department of Education shall be notified immediately.

(20) A school district or contractor shall notify the Department of Education in writing within 30 days of notification of school bus driver who:

(A) No longer meet the physical requirements for school bus drivers in OAR 581-053-0006(7)

(B) Have received a conviction for a driving violation or criminal offenses specified in OAR 581-053-0006(8).

(C) Have had their driving privileges revoked, restricted or suspended.

(D) Fail to comply with testing or screening requirements established by the Federal Highway Administration for commercial drivers.

(21) School district shall report to the Department of Education statistics related to pupil transportation: Information required shall be related to mileage, numbers and types of school buses, and numbers of students.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: 1EB 13-1978, f. 4-3-78, ef. 9-1-78; 1EB 5-1979, f. & ef. 3-30-79; EB 3-1987, f. & ef. 2-18-87; EB 43-1988, f. 12-16-88, cert. ef. 1-1-89; EB 5-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 7-2002, f. & cert. ef. 3-11-02; ODE 1-2003(Temp), f. & cert. ef. 3-4-03 thru 8-1-03; ODE 11-2003, f. & cert. ef. 6-13-03; ODE 11-2004, f. & cert. ef. 8-4-04

ADMINISTRATIVE RULES

Adm. Order No.: ODE 12-2004

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Rules Amended: 581-053-0006

Subject: A new *Behind-the-Wheel* manual changes the training hour requirements from 10 to 15 hours and a new Core Manual drops classroom hours from 10 to 8 hours. It also includes other minor changes.

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

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-053-0006

School Bus Driver Training and Certification

No person shall transport pupils in a school bus or a vehicle with a capacity of more than 20 passengers not subject to regulations of the Oregon Public Utilities Commission or Federal Department of Transportation, unless such person has completed all requirements for a school bus driver's permit or certificate and meets the standards established by the Department for issuance of permits or certificates. No person shall transport pupils in a school bus of any size and type without first receiving documented instruction in its safe operation. Emergency drivers who meet all requirements listed in OAR 581-053-0006(4) may only operate a school bus within the prescribed limitations.

(1) School Bus Driver Permits. The Oregon Department of Education shall issue a school bus driver permit to applicants who meet the permit criteria but do not qualify for a school bus driver's certificate. A person cannot reapply for a permit for at least 12 months from date of permit expiration. An applicant must meet the following criteria to qualify for a school bus driver permit. The applicant shall:

(a) Possess a valid Commercial Driver License (CDL) with proper endorsements for the vehicle being driven.

(b) Pass an approved physical examination within six months prior to application;

(c) Pass a behind-the-wheel test as prescribed by the Oregon Department of Education within one year of application. This permit shall not be valid for operating a vehicle of a higher-class size than that authorized by the driver's CDL;

(d) Pass a check of driving and criminal records by the Oregon Department of Education;

(e) File with the Department an application provided by the Department, signed by the local employer's designated official assuring immediate notification to the Department of any knowledge of the applicant's driving and criminal record status that could affect the qualifications for a school bus driver's permit as listed in OAR 581-053-0006(8);

(f) Complete a minimum of fifteen hours of approved behind-the-wheel training by a trainer certified by the Oregon Department of Education within one year of application. Hours of behind-the-wheel training shall be those hours spent by the trainee with a certified trainer or an assistant approved by the Oregon Department of Education in actual operation of the vehicle or vehicles the applicant will be expected to drive;

(g) Read and speak the English language sufficiently to converse with the general public, to understand highway signs and signals in the English language, to respond to official inquiries and make entries on reports and records;

(h) Exemption: If an applicant has regularly driven a bus of a size and type similar to that which the driver will be expected to drive, for a period of at least six months within the past three years, the applicant shall be required to complete four hours of approved behind-the-wheel training. The employer must have written acknowledgment from the applicant's previous employer verifying bus-driving experience if this exception is to be exercised.

(2) School Bus Driver's Certificate. The Oregon Department of Education shall issue an original school bus driver's certificate to qualified individuals who meet the following requirements:

(a) Has filed with the Oregon Department of Education an application or school bus permit conversion card provided by the Department, signed by an official designated by the local employer certifying that the driver:

(A) Has completed the Core Course for school bus drivers within the last four years taught by a certified Core instructor approved by the Oregon Department of Education;

(B) Possesses a valid first aid card that verifies that the applicant has completed at least the American Red Cross First Aid program requirements or an equivalent course that is consistent with US Department of Labor Occupational Safety and Health Administration Guidelines for First Aid Programs, Directive Number CPL 2-2.53 effective January 7, 1991. A valid first aid card shall be maintained at all times;

(C) Has demonstrated the knowledge and ability to perform the duties of a school bus driver;

(D) To the best of the local employer's knowledge, has not been convicted of any driving or criminal offense listed in OAR 581-053-0006(8) which could prevent certification; and

(E) Has a training record on file with the local employer meeting the requirements of the certificate being requested.

(b) Possesses a valid permit; or:

(A) Possesses a valid Commercial Drivers License with the proper endorsements for the vehicle being driven. The Oregon Department of Education may approve an out of state operator's license if it is consistent in provisions with the required Oregon license;

(B) Has passed an approved physical examination within six months prior to application;

(C) Has passed a behind-the-wheel test as prescribed by the Oregon Department of Education within one year of application. The certificate shall not be valid for operating a vehicle of a higher-class size than that authorized by the driver's Commercial Drivers License;

(D) Has passed a check of driving and criminal records by the Oregon Department of Education;

(E) Has completed a minimum of fifteen hours of approved behind-the-wheel training within one year of application by a trainer certified by the Oregon Department of Education. Hours of behind-the-wheel training shall be those hours spent by the trainee with a certified trainer or an assistant approved by the Oregon Department of Education in actual operation of the vehicle or vehicles the applicant will be expected to drive.

(F) Reads and speaks the English language sufficiently to converse with the general public; understands highway signs and signals in the English language; is able to respond to official inquiries and make entries on reports and records.

(c) Exemption: If an applicant has regularly driven a bus of a size and type similar to that which the driver will be expected to drive, for a period of at least six months within the past three years, the applicant shall be required to complete four hours of approved behind-the-wheel training. The employer must have written acknowledgment from the applicant's previous employer verifying bus-driving experience if this exception is to be exercised.

(3) Certificate Renewal. The Oregon Department of Education shall renew a school bus driver's certificate for the driver who:

(a) Possesses, or has possessed within the last 12-month period, a valid Oregon School Bus Driver's Certificate;

(b) Possesses a valid CDL with proper endorsements for the vehicle being driven. The Oregon Department of Education may approve an out of state operator's license if it is consistent in provisions with the required Oregon license;

(c) Has passed an approved physical examination within six months prior to application;

(d) Has passed a check of current driving and criminal records by the Oregon Department of Education;

(e) Has filed with the Oregon Department of Education an application provided by the Department, signed by an official designated by the local employer certifying that the driver:

(A) Has completed the Core or Core Refresher Course for school bus drivers within the last four years taught by a certified Core or Core Refresher instructor approved by the Oregon Department of Education;

(B) Possesses a valid first aid card that verifies that the applicant has completed at least the American Red Cross First Aid program requirements or an equivalent course that is consistent with US Department of Labor Occupational Safety and Health Administration Guidelines for First Aid Programs, Directive Number CPL 2-2.53 effective January 7, 1991. A valid first aid card shall be maintained at all times;

(C) Has completed Oregon Department of Education approved classroom training averaging at least eight hours annually while certified as a school bus driver during the preceding four-year period.

(f) Has been certified as able to satisfactorily perform the duties of a school bus driver by the official designated by the local employer on forms provided by the Oregon Department of Education;

ADMINISTRATIVE RULES

(g) To the best of the local employer's knowledge, has not been convicted of any driving or criminal offense listed in OAR 581-053-0006(8) which could prevent certification;

(h) Has training record on file with local employer that meets the requirements of the certificate being requested;

(i) Makes application for a certificate within four months before expiration or within one year after expiration or suspension of a current certificate. Any driver whose school bus driver's certificate has been expired for 12 months or more will be considered an original applicant;

(j) The certificate shall not be valid for operating a vehicle of a higher-class size than that authorized by the driver's CDL.

(A) Any driver need pass a behind-the-wheel test only once as long as the driver maintains a valid school bus driver's certificate;

(B) Additional tests may be required by the Oregon Department of Education if reasonable doubt of driver competency exists.

(4) Temporary Driver. A person who does not currently possess a valid school bus driver's certificate may be used temporarily if such driver:

(a) Is judged competent by the local school authorities;

(b) Possesses a valid CDL with proper endorsements for the vehicle being driven. The Oregon Department of Education may approve an out of state operator's license if it is consistent in provisions with the required Oregon license;

(c) Possesses a valid medical card.

(d) Is on a list of approved temporary drivers maintained by the Oregon Department of Education. A temporary driver must pass the same check of driving and criminal records as required for a certified school bus driver. The temporary driver shall meet all qualifications prescribed on the temporary driver application. This form must be signed by the authorized official of the school district and submitted to the Oregon Department of Education for approval. Approval as a temporary driver shall expire on July 1 annually; and

(e) Temporary drivers shall not drive more than ten driving days in any school year. No temporary driver may be used for more than ten days in any school year without written permission from the Oregon Department of Education.

(5) Expiration:

(a) Permits expire 120 days after issuance and may not be renewed. The holder of a valid permit may apply for a school bus driver's certificate at any time all requirements have been met for such certificate.

(b) For applicants 18 through 54 years of age, a certificate issued on July 1 shall expire on July 1 two years later. For applicants 55 years of age or older and persons with a diabetic condition as defined in OAR 581-053-0002(1)(c), a certificate issued on July 1 shall expire on July 1 one year later unless a reduced time period is identified by the examining physician. Any certificate issued from March 1 through June 30 shall have the same expiration date as a certificate issued on the following July 1. Any certificate issued from July 2 through the last day of February shall have the same expiration date as a certificate issued on the previous July 1.

(6) Age Restrictions: To obtain an original school bus driver's certificate or permit or to renew a school bus driver's certificate following a person's 70th birthday, an applicant shall comply with all certification requirements and must successfully complete a Department of Education behind-the-wheel test within 30 days prior to the date of application. The test must be administered by a behind-the-wheel tester/trainer currently certified by the Department of Education. A copy of the test shall be attached to the application form.

(7) Physical Examinations:

(a) An applicant for a permit, certificate, or renewal must have passed an approved physical examination administered within six months prior to date of application by a physician or physician assistant licensed under ORS Chapter 677, a nurse practitioner certified under ORS 678.375, or a Chiropractic physician licensed under ORS Chapter 684. Physicians completing the required Oregon Department of Education forms for persons having a diabetic condition as defined in this rule, must be a Board Certified Endocrinologist, Board Certified Diabetologist, Board Certified Family Practitioner or Board Certified Internist;

(b) In addition, a cardiac stress test shall be required with certificate application given any evidence of myocardial infarction within the past three months or unstable angina pectoris. The examining physician may also require a resting ECG or other testing as determined appropriate related to coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse or congestive heart failure;

(c) Physical examination and certificate application forms adopted by the Oregon Department of Education shall be utilized by applicants for

school bus driver's certificates. The Bureau of Motor Carrier Safety physical examination form effective January 1, 1986, may be used in lieu of the physical examination forms adopted by the Oregon Department of Education. However, the examining health care professional's signature and appropriate checks must appear on School Bus Driver Application;

(d) An applicant will be refused a school bus driver's permit or certificate unless such person possesses the minimum qualifications described below:

(A) Mental and physical condition:

(i) No impairment of use of foot, leg, finger, hand or arm, or other structural defect or limitation, likely to interfere with safe driving or other responsibilities of a school bus driver. Drivers may be required to demonstrate ability to: open and close a manually operated bus entrance door control with a force of at least 30 pounds; climb and descend steps with a maximum step height of 17 1/2 inches; operate two hand controls simultaneously and quickly; have a reaction time of 3/4 of a second or less from the throttle to the brake control; carry or drag a 125 pound person 30 feet in 30 seconds or less; depress a brake pedal with the foot to a pressure of at least 90 pounds; depress a clutch pedal with the foot to a pressure of at least 40 pounds unless operating an automatic transmission; exit from an emergency door opening of 24 x 48 inches at least 42 inches from the ground in ten seconds or less. Drivers must be physically able to open all emergency exits installed in any school bus they drive;

(ii) No mental, nervous, organic, or functional disease or disability likely to interfere with safe driving or other responsibilities of a school bus driver.

(B) Visual acuity of at least 20/40 (Snellen) in each eye either with or without corrective lenses and a binocular acuity of at least 20/40 (Snellen) in both eyes either with or without corrective lenses. Form field of vision shall not be less than a total of 140 degrees and the ability to distinguish colors red, green, and yellow. Drivers requiring corrective lenses shall wear properly prescribed lenses at all times while driving;

(C) Hearing. First perceives a forced whispered voice in the better ear not less than five feet with or without the use of a hearing aid, or if tested by the use of an audiometric device, applicant shall not have average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard Z24.5-1951. Drivers requiring a hearing aid shall wear such properly operating aid at all times while driving;

(D) The driver shall not use to excess, or be addicted to alcoholic beverages, narcotics, or drugs. Compliance with any alcohol or drug screening requirements established by the Federal Highway Administration for commercial driver's license shall be maintained at all times;

(E) Drivers who have had a loss of consciousness or loss of control (cognitive function) due to a diabetic event may not apply for a school bus certificate or permit for one (1) year, provided there has not been a recurrent hypoglycemic reaction requiring assistance of another person within the previous five (5) years. A period of one year of demonstrated stability is required following the first episode of hypoglycemia.

(F) Drivers with a diabetic condition as defined in OAR 581-053-0002(1)(c) shall comply with all the following requirements:

(i) Self-monitor blood glucose and demonstrate conformance with requirements, more than 100mg/dl and less than 300 mg/dl, within one hour before driving pupil transporting vehicles and approximately every four hours while on duty using an FDA approved device;

(ii) Report immediately to their employer, any failure to comply with specific glucose level requirements as listed in (F)(i) and (v) of this rule, or loss of consciousness or control;

(iii) Maintain a daily log of all glucose test results for the previous six month period and provide copies to his/her employer, the examining physician and the Oregon Department of Education upon request;

(iv) Carry a source of readily absorbable/fast-acting glucose while on duty;

(v) Undergo and submit physician-signed results of the HbA1c test indicating values more than 5.9 and less than 9.6 to their employer for transmission to the Oregon Department of Education every six months;

(vi) Undergo and submit the results of annual examination to detect any peripheral neuropathy, unstable diabetic retinopathy or clinically significant eye disease that prevents the individual from meeting current vision standards included in this rule, or circulatory insufficiency;

(vii) Provide a signed statement by the examining physician indicating that within the past three years the driver has completed instruction to address diabetes management and driving safety; signs and symptoms of hypoglycemia and hyperglycemia, and what procedures must be followed if complications arise;

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(viii) Submit all required Oregon Department of Education forms signed by the appropriate medical professionals within the prescribed time-limits.

(G) The driver is no longer qualified to operate a pupil-transporting vehicle and must be removed immediately from driving duties for the following:

(i) Results of an HbA1c test indicating values less than 6.0 or greater than 9.5 unless accompanied by the required medical opinion that the event was incidental and not an indication of failure to control glucose levels;

(ii) Results of self-monitoring indicate glucose levels less than 100 mg/dl or greater than 300 mg/dl, until self-monitoring indicates compliance with specifications;

(iii) Experiencing a loss of consciousness or control relating to diabetic condition;

(iv) Failing to maintain or falsifying the required records.

(H) If the driver has severe hypertension (grade 3 retinopathy), the driver is not qualified to operate a school bus;

(I) The driver is not qualified to operate a school bus if he/she has an established medical history or clinical diagnosis of epilepsy or any other condition likely to cause loss of consciousness or any loss of ability to control a motor vehicle. This section is included to comply with Title 49 CFR 391.41(b)(8).

(e) In cases of serious illness, injury, or change in physical or mental condition which may impair ability to fulfill the duties and responsibilities of a school bus driver as required in OAR 581-053-0015 and those described in this rule, re-examination and medical approval are required prior to resumption of driving.

(8) Driving and Criminal Records:

(a) The Oregon Department of Education shall review the driving record of each applicant before a permit or certificate is issued or renewed. Applicants who have held a driver's license in a state other than Oregon anytime during the preceding three-year period shall furnish, upon request, a copy of the driving record from such state or states to the Oregon Department of Education at time of application;

(b) The Oregon Department of Education shall review the criminal record of a driver upon original application for a permit, certificate or renewal;

(c) An applicant shall be refused a school bus driver's certificate or a current certificate shall be suspended or revoked if the applicant or driver:

(A) Has ever been convicted of crime listed in ORS 342.143;

(B) Has ever been convicted of a crime involving violence, threat of violence, or theft. This shall not apply if applicant or driver has been free from custody, probation and parole for the preceding three-year period from date of application;

(C) Has ever been convicted of a crime involving activity in drugs or alcoholic beverages. This shall not apply if the applicant or driver has been free from custody, probation, and parole for the preceding three-year period from date of application;

(D) Has had a driver's license suspended by the Division of Motor Vehicles of any state, within the preceding three year period, for a cause involving the unsafe operation of a motor vehicle or because of driving record;

(E) Has been convicted within the preceding three-year period of:

(i) Hit-and-run driving;

(ii) Driving under the influence of intoxicants as defined in ORS 813.010;

(iii) Reckless driving as defined in ORS 811.140;

(iv) Fleeing or attempting to elude a police officer while driving a motor vehicle;

(v) Failure to perform the legal duties of a driver involved in an accident or collision which results in injury or death of any person.

(F) Has had driving privileges revoked or suspended as a habitual offender under ORS 809.600. This shall not apply if applicant or driver has had driving privileges restored under ORS 809.660 for the preceding three years;

(G) Has a driving record for the preceding three-year period that has an accumulation of 31 or more points based upon the following point system:

(i) Each chargeable accident and each conviction for a moving violation of traffic laws shall have a value of 10 points. A chargeable accident is one in which the driver is answerable as the primary cause of, or chargeable with the result of an accident;

(ii) One point shall be subtracted from the total number of points for each full month, since the last chargeable accident or conviction, to the time of driving record check; however, all subtracted points will be reinstated if

any additional moving violation convictions or chargeable accidents occur within the three-year calculation period;

(9) Refusals and Suspensions:

(a) The Oregon Department of Education may refuse, suspend or revoke the certificate of a school bus driver for noncompliance with certification or physical requirements, giving false or incomplete information on application forms, or failure to comply with laws, rules and regulations applicable to school bus drivers. Applications with obvious incomplete or inaccurate information will be returned to the employer with no action taken regarding denial or approval;

(b) The Oregon Department of Education shall suspend the driver's school bus driver certificate or permit immediately upon the receipt of appropriate documentation indicating that driver's failure to comply with any regulations identified in OAR 581-053-0006(7)(d)(E) and (F) related to persons with diabetes;

(c) The Oregon Department of Education may reinstate a school bus driver certificate or permit if a driver provides or demonstrates the following:

(A) Submit application for reinstatement with form 581-2278-e;

(B) Provide copies of blood sugar records for three months immediately prior to reinstatement application indicating stable blood sugars as certified by qualifying physician including a copy of a conforming HbA1c results for this period;

(C) Drivers who have had certificates suspended/revoked for falsification of records may not apply for reinstatement for 3 years;

(D) Drivers who have had a loss of consciousness or loss of control due to a diabetic related episode may apply for reinstatement under the guidelines included in OAR 581-053-0006(7)(d)(E).

(d) Upon suspension or revocation, the certificate holder shall surrender the suspended or revoked certificate to the Oregon Department of Education;

(e) Hearings on appeal for refusal, suspension or revocation of school bus driver's certificates shall be pursuant to ORS Chapter 183;

(f) A certificate may be suspended for any period up to 90 days. If conditions of the suspension have not been met within the suspension period, the certificate shall be revoked.

(10) Change of Name, Address or Employer. Upon change of name, address or employer, a driver must notify the Oregon Department of Education within 30 days. A duplicate certificate will be issued if necessary.

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

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105 & 820.110 - 820.120

Hist.: 1EB 19-1978, f. 6-19-78, ef. 7-1-78; 1EB 32-1978, f. & ef. 9-5-78; 1EB 4-1979, f. 3-30-79, ef. 7-1-79; 1EB 8-1981, f. & ef. 4-1-81; 1EB 13-1981(Temp), f. & ef. 7-29-81; 1EB 7-1982, f. & ef. 2-18-82; EB 3-1987, f. & ef. 2-18-87; EB 43-1988, f. 12-16-88, cert. ef. 1-1-89; EB 25-1993, f. & cert. ef. 7-30-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 14-2001(Temp) f. & cert. ef. 6-15-01 thru 12-1-01; ODE 8-2002, f. & cert. ef. 3-11-02; ODE 12-2004, f. & cert. ef. 8-4-04

Adm. Order No.: ODE 13-2004

Filed with Sec. of State: 8-4-2004

Certified to be Effective: 8-4-04

Notice Publication Date: 6-1-04

Rules Amended: 581-053-0015

Subject: Rules pertaining to school bus drivers — correct a numbering problem and change the accident dollar amount.

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

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-053-0015

Rules Pertaining to School Bus Drivers

(1) School bus drivers shall observe all local and state traffic laws and ordinances.

(2) Drivers shall enforce local school board and Oregon Department of Education rules governing pupils riding school buses.

(3) Drivers shall observe local school board and Oregon Department of Education rules pertaining to school bus drivers.

(4) After stopping at a railway crossing as required by law, the driver shall turn off any noise-producing device with the exception of two-way radio communication. The driver shall then open the bus entrance door and driver window, look and listen for an approaching train, then close the door before proceeding across the tracks.

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(5) The driver shall assist in conducting student instruction and evacuation drills as directed by the school administration.

(6) Drivers shall report to their employer(s) within 15 days:

(a) Any conviction for driving or criminal offenses specified in OAR 581-053-0006(8) or any involvement in an accident as defined in OAR 581-053-0006(8)(c)(G)(i).

(b) Any involvement in an accident as defined in OAR 581-053-0006(8)(c)(G)(i).

(c) If their CDL is no longer valid.

(7) A school bus driver shall:

(a) Never drive backwards on the school grounds prior to looking behind the bus, sounding the horn, and placing a responsible person to guard the rear;

(b) Not leave the bus when pupils are in it until the motor is shut off, the brakes set, a manual transmission put in gear and the key removed from the ignition;

(c) Not disengage the clutch or gears to allow the bus to coast;

(d) Stop to load or unload pupils only at designated places;

(e) See that all doors on the bus are kept closed while the bus is in motion;

(f) Bring the bus to a complete stop before taking on or letting off pupils. Whenever possible the driver shall stop at a place where the road may be clearly seen for several hundred feet in either direction;

(g) Not permit anyone to hang on or hitch onto the outside of the bus;

(h) Not use a public-owned bus for any purpose other than transporting pupils to and from schools, except on special order of school officials;

(i) Not permit anyone else to operate the bus or controls, except with the permission of school officials or the bus contractor;

(j) Not permit animals on the bus except guide dogs and assistance animals from recognized programs that will be accepted when accompanying blind, deaf, or physically impaired persons. Guide/assistance animals or animals in training as defined in ORS 346.680 are also accepted when they comply with all the following:

(A) Are enrolled and identified in an assistance animal training program registered with and regulated by an appropriate county extension service or designated state agency;

(B) Have a comprehensive immunization record on file with the district;

(C) Are always clearly and distinctively identified as an assistance animal in training, e.g., "green guide-dog jacket";

(D) Are accompanied by the trainer identified in district records;

(E) Continue to demonstrate their ability to ride safely with students, posing no hazards or distractions; and

(F) Comply with any additional requirements and safeguards specified by the local district.

(k) Not permit firearms or other weapons to be carried in the bus;

(l) Not operate the bus with a trailer attached;

(m) Not fill the fuel tank while pupils are in the bus or while the motor is running;

(n) Not transport any person who is not a pupil, a teacher, or an official of the school while traveling the regular route, unless authorized to do so by a responsible school official. School officials may authorize other persons to ride in the school buses on special occasions having to do with school affairs;

(o) Make certain that all aisles and passageways are kept clear;

(p) Not permit signs of any kind to be attached to the bus, except those specifically permitted by law or regulation;

(q) Report to school officials immediately when buses are overloaded as described in OAR 581-053-0002 and ORS 820.180(1)(b);

(r) Stop the bus if any difficulty arises or if disorder prevails in the bus and not proceed until the situation is remedied. Misconduct of pupils shall be reported to the proper school official;

(s) Not use tobacco on the school bus and shall not permit passengers to use tobacco on the bus;

(t) Not be under the influence of any alcoholic beverage or any drug likely to affect the person's ability to operate the vehicle safely while on duty; shall not consume an alcoholic beverage, regardless of its alcoholic content or any drug likely to affect the person's ability to operate the vehicle safely while on duty or within eight hours before going on duty to operate a pupil transporting vehicle;

(u) Not allow pupils to leave the bus except at their designated stop without the authorization of school officials;

(v) Allow time for pupils to be seated before putting the bus in motion;

(w) Complete any training required by the Oregon Department of Education or local employer;

(x) Make written reports of accidents involving the pupil-transporting vehicle to the Oregon Department of Education. Reports shall be mailed within 72 hours of the accident. Drivers shall use forms provided by, or approved by, the Oregon Department of Education. An accident is defined as an occurrence that results in any of the following:

(A) An injury requiring medical or dental treatment;

(B) Any damage to property other than the pupil-transporting vehicle;

(C) Damage to the pupil-transporting vehicle in excess of seven hundred and fifty dollars.

(y) Make other reports as required by the local district, the Oregon Department of Education and the Motor Vehicles Division:

(aa) Use all securement straps and attachments for students with adaptive/assistive devices in a manner consistent with their design;

(bb) Not transport pupils seated on three-wheeled mobile seating devices.

(z) Not use a cellular telephone while operating a school bus except under the following conditions:

(A) For the purpose of communication with any of the following regarding an emergency situation:

(1) An emergency system response operator or 911 public safety communications dispatcher;

(2) A hospital or emergency room;

(3) A physician's office or health clinic;

(4) An ambulance or fire department rescue service;

(5) A fire department;

(6) A police department;

(A) To call for assistance if there is a mechanical breakdown or mechanical problem impairing the operation of the bus or

(B) When the school bus is parked.

(8) Use of Bus Safety Lights:

(a) When pupils must cross the highway to board, or after leaving the bus, the driver shall actuate the amber flashing warning lights 100 to 300 feet before the stop. The driver shall stop the bus in the right hand traffic lane. The red lights shall remain flashing until all pupils have safely crossed the roadway;

(b) When pupils need not cross the roadway to board, or after leaving the bus, the driver shall:

(A) When practicable, stop completely off the main traveled portion of the roadway. The driver shall not actuate the bus safety lights;

(B) Where it is not practicable to stop completely off the main traveled portion of the roadway the driver shall actuate the amber flashing warning lights 100 to 300 feet before the stop. The driver shall stop the bus in the right-hand traffic lane. The red lights shall remain flashing until pupils have safely boarded or left the bus.

(9) Driving Hour Limitations:

(a) A driver of a school bus must comply with one of the following two options:

(A) No person shall drive a school bus or other pupil-transporting vehicle more than ten total hours during any consecutive fifteen-hour period. At the end of ten hours of driving or a fifteen hour period, whichever occurs first, the driver shall not again drive a school bus or pupil transporting vehicle until at least eight hours have elapsed;

(B) The driver of a school bus or pupil transporting vehicle, after driving a regular morning route transporting pupils from home to school, may again operate a bus or pupil transporting vehicle, but not more than eight hours in a consecutive ten hour period or until 12 midnight, whichever occurs first, provided the driver has at least four hours free from actual operation of a bus following the end of the morning route. To qualify under this provision the driver shall have been free from bus driving duties for at least eight consecutive hours prior to the regular morning route.

(b) A driver shall not drive more than three hours continuously without taking at least a 15-minute break from driving duties;

(c) Emergency extension of driving hours. In the event of an unforeseen emergency, e.g., mechanical breakdown, accident or adverse road conditions, a driver may complete the trip without being in violation of the provisions of this rule if such trip could have reasonably been completed as originally scheduled without violation of this rule.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: 1EB 118, f. 11-28-67, ef. 12-25-67; 1EB 134, f. 6-26-72, ef. 7-15-72; 1EB 216, f. 2-17-76, ef. 3-15-76; 1EB 15-1978, f. 4-3-78, ef. 9-1-78; 1EB 6-1979, f. & ef. 3-30-79; EB 3-1987, f. & ef. 2-18-87; EB 43-1988, f. 12-16-88, cert. ef. 1-1-89; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 13-2004, f. & cert. ef. 8-4-04

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Rules Amended: 581-053-0507

Subject: Industry changes have changed the weights and classifications on vehicles.

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

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-053-0507

School Bus Definitions

(1) A Type "A" school bus is a vehicle with a gross weight rating of 12,000 pounds or less.

(2) A Type "A-1" school bus is a vehicle with a gross weight rating between 12,000 and 19,500 pounds, and a passenger capacity not to exceed 36.

(3) A Type "B" school bus is a vehicle with a gross weight rating of more than 10,000 pounds, but less than 19,500 pounds. Most of the engine is beneath and/or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels.

(4) A Type "C" school bus is a vehicle with all or part of the engine in front of the windshield and the entrance door is behind the front wheels.

(5) A Type "D" school bus is a vehicle with the engine mounted in the front behind the windshield, midship, or rear. The entrance door is ahead of the front wheels.

Stat. Auth.: ORS 820

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: IEB 17-1985, f. 10-29-85, ef. 11-1-85; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 1-2004, f. & cert. ef. 10-4-04; ODE 14-2004, f. & cert. ef. 8-4-04

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Subject: Industry changes have changed the weights and classifications on vehicles.

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

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581-053-0512

Minimum Standards for School Bus Chassis

(1) Air Cleaner:

(a) The engine intake air cleaner shall be furnished and properly installed by the chassis manufacturer to meet engine specifications;

(b) All Type C and Type D buses equipped with diesel engines shall have an air cleaner restriction indicator properly installed by the chassis manufacturer to meet engine specifications.

(2) Axles: The front and rear axles and suspension assemblies shall have a gross weight rating at least equal to that portion of the load as would be imposed by the chassis manufacturer's maximum gross weight rating for each axle.

(3) Air System: All buses equipped with air systems for brakes shall provide and identify an appropriate air port for plumbing in air powered accessories.

(4) Air-Operated Accessories: Air-operated accessories shall be plumbed into the vehicle's air supply system in compliance with all the following:

(a) Safeguarded by a check valve or equivalent device located between the air supply system and the accessory to prevent air loss due to accessory failure. This shall include the supply line for a designated accessory air tank;

(b) Connected to the air supply system in compliance with all applicable Federal Motor Vehicle Safety Standards;

(c) Connected in the manner prescribed by the vehicle manufacturer.

(5) Brakes:

(a) Air brakes are required on all buses having a manufacturer's gross vehicle weight rating of 26,001 pounds or greater;

(b) An air or power actuated service braking system and parking brake shall be provided;

(c) Buses using air or vacuum in the operation of the brake system shall be equipped with warning signals, readily audible and visible to the driver, that will give a continuous warning when the air pressure available in the system for braking is 60 psi (pounds per square inch) or less or the vacuum in the system available for braking is 8 inches of mercury or less. An illuminated gauge shall be provided that will indicate to the driver, the air pressure in pounds per square inch or the inches of mercury vacuum available for the operation of the brake.

(A) Vacuum-assist brake systems shall have a reservoir used exclusively for brakes which shall be adequate to ensure loss in vacuum at full stroke application of not more than 30 percent with engine not running. Brake system on gas-powered chassis shall include suitable and convenient connections for the installation of separate vacuum reservoir;

(B) Any brake system dry reservoir shall be so safeguarded by a check valve or equivalent device, that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored dry air or vacuum shall not be depleted by the leakage or failure.

(d) Buses using a hydraulic assist-booster in the operation of brake system shall be equipped with a warning signal, readily audible and visible to the driver, which will provide continuous warning in the event of a loss of fluid flow from primary source or loss of electric source powering the backup system;

(e) The brake lines and booster-assist lines shall be protected from excessive heat and vibrations and be so installed as to prevent chafing;

(f) All brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis components except for inspection dust covers or wheels;

(g) Air brake systems shall be equipped with manual drain valves on all air tanks. A provision shall be made to operate manual drain valve(s) on first (wet) reservoir(s) from the side of the bus unless one of the following options is provided:

(A) Automatic moisture ejector on the first (wet) reservoir;

(B) An air dryer that has the drying ability to insure an adequate margin of safety under normal and adverse operating conditions;

(C) Skirt-mounted controls for manual drain valve(s) shall not extend beyond the outer side of bus skirt panel.

(6) Bumper, Front:

(a) Front bumper shall be furnished by chassis manufacturer as part of the chassis for Type A, A-1, B, and C buses. Type D buses shall have bumpers furnished by the body manufacturer;

(b) Front bumper shall extend beyond forward-most part of body, grille, hood and fenders and shall extend to outer edges of fenders at bumper top line;

(c) Front bumper, except breakaway bumper ends shall be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight without permanent distortion to bumper, chassis or body;

(d) An energy absorbing front bumper may be used providing its design shall incorporate a self-restoring energy absorbing system of sufficient strength to:

(A) Push another vehicle of similar GVW without permanent distortion to the bumper, chassis, or body;

(B) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following performance standards:

(i) 7.5 MPH fixed barrier impact (FMVSS cart and barrier test);

(ii) 4.0 MPH corner impact at 30 degrees (Part 581 CFR Title 49);

(iii) 20.0 MPH into parked passenger car (class B, C, and D buses of 18,000 pounds GVW or more).

(C) The manufacturer of the energy absorbing system shall provide evidence from an approved test facility (capable of performing the above FMVSS test(s)) that their product conforms to the above.

(7) Chains, Automatic: Automatic tire chains (traction) may be installed at drive wheels in conformance with manufacturing specifications and any applicable chassis manufacturer standards. (Note: Air-applied chain systems must comply with air-operated accessory requirement included in this rule.)

(8) Certification: Chassis manufacturer will, upon request, certify to the state agency having pupil transportation jurisdiction that their product meets minimum standards on items not covered by certification issued under requirements of National Traffic and Motor Vehicle Safety Act.

(9) Clutch:

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(a) Clutch torque capacity shall be equal to or greater than, the engine torque output;

(b) A starter interlock shall be installed to prevent actuation of the starter if the clutch is not depressed on all buses manufactured after January 1, 1999.

(10) Color: Chassis and front bumper shall be black; hood, cowl and fenders shall be in National School Bus Yellow. Hood may be painted low-luster yellow. Wheels may be painted either black or school bus yellow. (Silver lock rings are acceptable.) Type A, A-1, and B buses may have manufacturer standard white or black wheels.

(11) Drive Shaft: Drive shafts over 24 inches in length shall be protected by metal guard or guards around circumference of drive shaft to reduce the possibility of the shaft whipping through floor or dropping to ground if broken. Guards shall be mounted around front half of each drive shaft section.

(12) Electrical System:

(a) Battery:

(A) Storage battery shall have a minimum cold cranking capacity rating equal to the cranking current required for 30-seconds at 0° Fahrenheit (-17.8c) and a minimum reserve capacity rating of 120-minutes at 25 amp. Higher capacities may be needed dependent upon optional equipment and local environmental conditions;

(B) Since the batteries in Type C and D buses are to be located in a slide-out or swing-out body tray, the battery shall be temporarily mounted on the chassis frame by the chassis manufacturer. In this case the final location of the battery and the appropriate cable lengths provided by the chassis manufacturer shall be according to the SBMI Design Objectives Booklet, May 1990 edition.

(b) Circuits: An appropriate identifying diagram (color and number coded) for electrical circuits shall be provided to the body manufacturer for distribution to the end user for all buses purchased after September 1, 1993;

(c) Generator or Alternator:

(A) All buses shall have a generator or alternator with a minimum rating of at least 100 amperes (in accordance with Society of Automotive Engineer rating) with minimum charging of 50 percent of maximum rated output at manufacturer's recommended engine idle speed (12 volt system), and shall be ventilated and voltage-controlled and, if necessary, current-controlled;

(B) Direct-drive generator or alternator is permissible in lieu of belt drive. Belt drive shall be capable of handling the rated capacity of the generator or alternator with no detrimental effect on other drive components;

(C) Dual belt drive or equivalent shall be used on Type C and D buses with generator or alternator.

NOTE: Refer to Exhibit 1 for estimating required generator or alternator capacity.

(d) Wiring:

(A) General — All wiring shall conform to current applicable recommended practices of the Society of Automotive Engineers. All wiring shall use a standard color coding and each chassis shall be delivered with a wiring diagram that coincides with the wiring of the chassis;

(B) Chassis manufacturer shall install a readily accessible terminal strip or plug on the body side of the cowl, or at accessible location in engine compartment of vehicles designed without a cowl, which shall contain the following terminals for the body connections:

- (i) Main 100 amp body circuit;
- (ii) Tail lamps;
- (iii) Right turn signal;
- (iv) Left turn signal;
- (v) Stop lamps;
- (vi) Back up lamps;
- (vii) Instrument panel lights.

(13) Engine Compartment: Automatic/Manual Engine Fire Extinguishers: Automatic fire extinguisher systems may be installed in the engine compartment on buses. System must have a visible gauge easily read from the driver's seat and a manual activation switch clearly identified and located in the driver's compartment. The entire system must be UL (Underwriters Laboratories) Approved and assure protection from passenger compartment. Extinguisher system manual activation switch/control shall be safeguarded from accidental activation by a pull-pin or equivalent device. The extinguisher, if mounted in the passenger compartment, shall not be readily removable for use elsewhere, but dedicated for the engine compartment.

(14) Exhaust System:

(a) Exhaust pipe, muffler, and tailpipe shall be outside bus body compartment and attached to chassis;

(b) Tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16 gauge steel tubing;

(c) Tailpipe shall meet one of the following options:

(A) Tailpipe shall extend at least to the rear bumper edge but not more than 2 inches beyond and be mounted outside of chassis frame rail at end point;

(B) Tailpipe may extend to, but not beyond the body limits on the left side of the bus forward or rearward of the rear tires outboard of chassis centerline as described in section 14(c)(C) of this rule. If the tailpipe terminates forward of the rear tires it shall terminate not more than 24 inches or less than 6 inches forward of rear tires. No tailpipe shall terminate beneath any emergency exit or fuel fill receptacle;

(C) Type A, A-1, B, C, and D buses — 48.5 inches minimum from centerline of chassis

NOTE: Tailpipe may not exit on the right side of vehicle. See OAR 581-053-0517(41).

(d) Exhaust system shall be properly insulated from fuel tank and connections by securely attached metal shield at any point where it is 12 inches or less from tank or tank connections on all gasoline or alternative fueled vehicles;

(e) Muffler shall be constructed of corrosion-resistant material.

(15) Fenders, Front, Type C Vehicles:

(a) Total spread of outer edges of front fenders, measured at fender line, shall exceed total spread of front tires when front wheels are in straight-ahead position;

(b) When equipped, front fenders shall be properly braced and free from any body attachments.

(16) Frame:

(a) Frame or equivalent shall be of such design and strength characteristics as to correspond at least to standard practice, for trucks of same general load characteristics which are used for highway service;

(b) Any secondary manufacturer that modifies the original chassis frame shall guarantee the performance of workmanship and materials resulting from such modification;

(c) Any frame modification shall not be for the purpose of extending the wheelbase;

(d) Holes in top or bottom flanges of frame side rail shall not be permitted except as provided in original chassis frame. There shall be no welding to frame side rails except by chassis or body manufacturer;

(e) Frame lengths shall be provided in accordance with SBMI Design Objectives, May 1990 edition.

(17) Fuel Tank:

(a) Fuel tank shall be provided by the chassis manufacturer. Buses with a passenger capacity of 58 or less shall be equipped with a fuel tank or tanks of minimum 30 gallon capacity with at least a 25 gallon actual draw. Buses with a capacity of 58 or more shall be equipped with a minimum 60 gallon fuel tank with an actual draw of 50 gallons or more. Type A and A-1 buses may be equipped with manufacturers' standard tank;

(b) No portion of the fuel system, which is located rear of the engine compartment, except the filler tube, shall extend above the top of the chassis frame rail. Fuel lines shall be mounted to obtain maximum possible protection from the chassis frame;

(c) Fuel filter with replaceable element shall be installed between fuel tank and engine;

(d) Fuel tank installation shall be in accordance with SBMI Design Objectives effective May 1990 and in compliance with all applicable Federal Motor Vehicle Safety Standards:

(A) Type A, A-1, B, C, and D bus fuel tanks may be mounted on left chassis frame rail or behind rear wheels. Type D buses with rear engines may have the tank mounted ahead of the rear axle between the frame rails;

(B) Tank(s) shall be mounted, filled and vented outside of body. The tank(s) location shall not permit fuel spillage to drip or drain on any portion of the exhaust system.

(e) Alternate engine fuel tank installation shall be in accordance with Oregon Department of Education specifications. No dual fuel or bi-fuel systems are allowed.

(18) Governor:

(a) An engine governor is permissible. However, when it is desired to limit road speed, road-speed governor should be installed;

(b) When engine is remotely located from driver, governor shall be installed to limit engine speed to maximum revolutions per minute recommended by engine manufacturer.

(19) Heating System, Provision For: The chassis engine shall have plugged openings for the purpose of supplying hot water for the bus heating system. The opening shall be suitable for attaching 3/4 inch pipe thread/hose connector. The engine shall be capable of supplying water having a temperature of at least 170° F at a flow rate of 50 pounds/minute at the return end of 30 feet of 1 inch inside diameter automotive hot water

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heater hose. (SBMI Standard No. 001 — Standard Code for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment.)

(20) Horn: Bus shall be equipped with horn or horns of standard make, each horn capable of producing complex sound in bands of audio frequencies between approximately 250 and 2,000 cycles per second and tested per SAC Standard J-377.

(21) Instruments and Instrument Panel:

(a) Chassis shall be equipped with following instruments and gauges. (Lights in lieu of gauges are not acceptable except as noted):

(A) Speedometer;

(B) Odometer, which will give accrued mileage including tenths of miles;

(C) Voltmeter: A graduated charge and discharge ammeter compatible with generating capacities is permitted in lieu of or in addition to a voltmeter;

(D) Oil-pressure gauge;

(E) Water temperature gauge;

(F) Fuel gauge;

(G) Upper beam headlight indicator;

(H) Air pressure or vacuum gauge according to brake system used: Light indicator or gauge required on vehicle equipped with hydraulic-over hydraulic brake system;

(I) Turn signal indicator;

(J) Tachometer, when engine is remotely located from driver;

(K) Glow plug indicator light, where appropriate.

(b) All instruments shall be easily accessible for maintenance and repair;

(c) Above instruments and gauges shall be mounted on instrument panel in such a manner that each is clearly visible to and lies within a 140 degree field of vision for a 95th percentile female anthropomorphic dummy while in normal seated position;

(d) Instrument panel shall have lamps of sufficient candlepower to illuminate all instruments and gauges and shift selector indicator for automatic transmission.

(22) Oil Filter: Oil filter of replaceable element or cartridge type shall be provided and shall be connected by flexible oil lines if it is not built-in or engine mounted design. Oil filter shall have a capacity of at least one quart.

(23) Openings: All openings in floorboard or firewall between chassis and passenger-carrying compartment, such as for gearshift lever and parking brake lever, shall be sealed. Access plates to cover openings shall have adequate gaskets and be fastened securely.

(24) Passenger Load:

(a) Actual gross vehicle weight (GVW) is the sum of the chassis wet weight, plus the body weight, plus the driver's weight, plus total seated pupil weight:

(A) For purposes of calculation, the driver's weight is 150 pounds;

(B) For purposes of calculation, the pupil weight is 120 pounds per pupil.

(b) Actual gross vehicle weight (GVW) shall not exceed the chassis manufacturer's gross vehicle weight rating (MGVWR) for the chassis;

(c) Manufacturer's gross vehicle weight rating and other chassis information shall be furnished by the manufacturer, the manufacturer's representative or seller to the Oregon Department of Education on forms furnished by the department.

(25) Power and Gradeability: Gross vehicle weight (GVW) shall not exceed 165 pounds per net published horsepower of the engine at the manufacturer's recommended maximum number of revolutions per minute.

(26) Retarder System: Retarder system, if installed, shall maintain the speed of the fully loaded school bus at 19.0 MPH on a seven percent grade for 3.6 miles without incurring damage to the retarder or vehicle.

(27) Shock Absorbers: Bus shall be equipped with front and rear double-acting shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

(28) Springs:

(a) Capacity of springs or suspension assemblies shall be commensurate with chassis manufacturer's gross vehicle weight rating;

(b) If rear springs are used they shall be of progressive type. Front leaf springs shall have a stationary eye at one end and shall be protected by a wrapped leaf in addition to the main leaf.

(29) Steering Gear:

(a) Steering gear shall be approved by chassis manufacturer and designed to assure safe and accurate performance when vehicle is operated with maximum load and at maximum speed;

(b) Steering mechanism that allows for external adjustment to correct for lost motion shall provide an accessible adjustment location;

(c) No changes shall be made in steering apparatus which are not approved by chassis manufacturer;

(d) There shall be clearance of at least two inches between steering wheel and cowl, instrument panel, windshield, or any other surface;

(e) Power steering of the integral type is required. Power steering shall be approved and installed by chassis manufacturer or authorized chassis representative;

(f) The steering system shall be designed to provide for means for lubrication of all wear-points, if wear points are not permanently lubricated.

(30) Throttle: The force required to operate the throttle shall not exceed 16 pounds throughout the full range of accelerator pedal travel.

(31) Tires and Rims:

(a) Tires and rims of proper size and tires with load rating commensurate with chassis manufacturer's gross vehicle weight rating shall be provided. The use of multi-piece rims and/or tube type tires shall not be permitted on any school bus ordered after January 1, 1999;

(b) Dual rear tires shall be provided. Type A vehicles may have single rear tires;

(c) All tires on new buses shall be of same size. Load range of tires shall meet or exceed the gross axle weight rating as required by FMVSS 120;

(d) If bus is equipped with spare tire and rim assembly, it shall be of the same size as those mounted on the vehicle;

(e) A spare tire, when carried, shall be suitably mounted in an accessible location outside passenger compartment. Type A, and A-1 buses may have spare tire securely mounted in left rear corner of passenger compartment;

(f) Recapped tires are prohibited on the front of the bus;

(g) Regrooved tires are not permitted on any bus;

(h) Minimum tread depth on tires shall be:

(A) Front axle — 4/32 inch;

(B) Rear axle — 2/32 inch.

(i) Tread depth shall be measured as follows: The minimum depth in any two adjacent major grooves at three locations spaced approximately equally around the outside of the tire but not on wear indicators.

(32) Tow Hooks: Chassis manufacturer shall provide at least one front tow hook on Type C and D buses.

(33) Transmission:

(a) Transmission shall have an input torque capacity greater than maximum net torque developed by engine;

(b) When automatic or semi-automatic transmission is used, it shall provide for not less than three forward and one reverse speed. The shift selector, if applicable, shall provide a detent between each gear position when shift selector is not steering column mounted. Type C and D buses shall be equipped with a transmission temperature gauge;

(c) When manual transmission is used, second gear and higher shall be synchronized. A minimum of three forward speeds and one reverse must be provided.

(34) Turning Radius:

(a) Chassis with a wheel base of 264 inches or less shall have a right and left turning radius of not more than 42 1/2 feet, curb to curb measurement;

(b) Chassis with a wheelbase of 265 inches or more shall have a right and left turning radius of not more than 44 1/2 feet, curb to curb measurement.

(35) Undercoating: Chassis manufacturer shall coat undersides of front fenders with compound to protect surfaces and prevent rust which meets or exceeds federal specifications TT-C-520a, using modified test procedures as defined under "Undercoating" of body standards.

(36) Weight Distribution:

(a) Weight distribution of fully loaded bus on level surface shall be such as to not exceed the manufacturer's front gross axle weight rating and rear gross axle weight rating;

(b) Weight distribution of fully loaded bus on level surface shall be such that not more than 75 percent of gross vehicle weight is on rear tires and not more than 35 percent is on front tires. Type B and D buses with engine inside front of body and entrance door ahead of front wheels shall have not more than 75 percent of gross vehicle weight on rear tires nor more than 50 percent on front tires. If entrance door is behind front wheels, not more than 75 percent of gross vehicle weight shall be on rear tires not more than 40 percent on front tires. With engine in rear, not more than 75

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percent of gross vehicle weight shall be on rear tires nor more than 40 percent on front tires.

[ED. NOTE: Exhibits referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 327.013 & 820.100 - 820.120
Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120
Hist.: IEB 17-1985, f. 10-29-85, ef. 11-1-85; EB 44-1988, f. 12-16-88, cert. ef. 1-1-89; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 15-2004, f. & cert. ef. 8-4-04

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Subject: Industry changes have changed the weights and classifications on vehicles.

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

Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-053-0517

Minimum Standards for School Bus Bodies

(1) Aisle:

(a) Minimum clearance of all aisles shall be 12 inches;

(b) Aisle supports of seat backs shall be slanted away from aisle sufficiently to give aisle clearance of 15 inches at tops of seat backs.

(2) Battery:

(a) Battery is to be furnished by chassis manufacturer;

(b) When battery is mounted as described in electrical section, Battery of Chassis Standard, i.e., the body manufacturer shall securely attach battery on slide-out or swing-out tray in closed, vented compartment in body skirt whereby battery may be exposed to outside for convenient servicing and removal. Battery compartment door or cover shall be hinged at front or top and secured by adequate and conveniently operated latch or other type fastener;

(c) Access to battery through body floor not permitted;

(d) Buses may be equipped with a battery shut-off switch. The switch is to be placed in a location not readily accessible to the driver or passengers.

(3) Body Sizes: It is the body supplier's responsibility to determine that the completed body-on-chassis type bus will fulfill weight distribution requirements as explained in OAR 581-053-0512, Bus Chassis, section (30), Weight Distribution. Body manufacturer shall determine the vehicle's maximum designed and equipped passenger capacity and post it along with GVWR and vehicle compliance information.

(4) Bumper (Front): See OAR 581-053-0512, Bus Chassis, section (6) Bumper, Front. Deer guards may be added to a front bumper to protect the front grill. Deer guards may not be in any portion of the driver's forward view, including use of all mirrors.

(5) Bumper (Rear):

(a) Rear bumper for all body on chassis units shall be of pressed steel channel or equivalent material at least 3/16-inch thick and eight inches wide (high), and of sufficient strength to permit pushing by another vehicle without distortion. Type A and A-1 buses (not body on chassis) may be manufacturers' standard;

(b) Bumper for all body on chassis units shall wrap around back corners of bus. It shall extend forward at least 12 inches, measured from rear-most point of body at floor line. Type A and A-1 buses (not body on chassis) may be manufacturers' standard;

(c) Bumper shall be attached to chassis frame in such manner that it may be easily removed, shall be so braced as to develop full strength of bumper section from rear or side impact, and shall be so attached as to prevent the insertion of small fingers between the body and bumper;

(d) Bumper shall extend beyond rear-most part of body surface at least one inch, measured at floor line;

(e) An energy absorbing rear bumper may be used providing a self-restoring energy absorbing bumper system so attached as to prevent the hitching of rides and of sufficient strength to:

(A) Permit pushing by another vehicle without permanent distortion to the bumper, chassis, or body;

(B) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following performance standards:

(i) 2.0 MPH fixed barrier impact (FMVSS cart and barrier test);

(ii) 4.0 MPH corner impact at 30 degrees (Part 581 CFR Title 49);

(iii) 5.0 MPH buses (Part 581 CFR Title 49).

(C) The manufacturer of the energy absorbing system shall provide evidence from an approved test facility (capable of performing the above FMVSS tests) that their product conforms to the above.

(6) Ceiling: See section (19) of this rule, Insulation, and section (20), of this rule, Interior.

(7) Color:

(a) The school bus body shall be painted a uniform National School Bus Yellow. The body exterior paint trim, bumper, lamp hoods, and emergency door lettering shall be black. The roof of the bus may be painted white. The white color may extend across the roof down to the drip rails or within 6 inches above the passenger windows on the sides of the bus except that front and rear caps shall remain National School Bus Yellow. Retroreflective material may be used as trim on rear bumper. Beltline lettering may be yellow;

(b) Retroreflective material approved by the Department of Education shall be installed as a background for the required school bus lettering both on the front and rear of the body of buses purchased after September 1, 1993. Maximum dimensions: 12" x 36", unless equipped with approved lighted school bus signs. Retroreflective material shall have reflective values equal or greater than 3M Scotchlite Diamond Grade and retain at least 50 percent of those values for a minimum of six years;

(c) Additional retroreflective material, if used, shall be automotive engineering grade or better, meeting initial reflectance values in FHWA FP-85 and retaining at least 50 percent of those values for a minimum of six years. Retroreflective materials and markings, if used, may include any or all of the following:

(A) Front and rear bumper: may be marked diagonally 45 degrees down to centerline of pavement with two-inch wide strips of noncontrasting reflective material;

(B) Rear of the bus body may be marked with a strip of retroreflective National School Bus Yellow matching material no greater than two inches wide to be applied to the back of the bus, extending from the left lower corner of the "SCHOOL BUS" lettering, across to the left side of the bus; then vertically down to the top of the bumper; across the bus on a line immediately above the bumper to the right side, then vertically up to a point even with the strip placement on the left side, and concluding with a horizontal strip terminating at the right lower corner of the "SCHOOL BUS" letter;

(C) Sides of bus body: may be marked with retroreflective National School Bus Yellow matching material comprising background for letters at least six inches but no more than twelve inches in width, extending the length of the bus body and located (vertically) as close as practicable to the beltline. Two-inch wide reflective material having high intensity reflectance values (3M Scotchlite Diamond Grade or equivalent) may be substituted for the six inch to twelve-inch wide materials;

(D) See appendix for diagram defining locations of marking referred to above.

(8) Construction:

(a) Construction shall be of prime commercial quality steel, or other metal, or other material with strength at least equivalent to all-steel as certified by bus body manufacturer;

(b) Construction shall provide a water-tight and reasonably dustproof unit;

(c) Must meet or exceed applicable federal motor vehicle safety standards for construction, effective April 1, 1977.

(9) Crossing Arm: A crossing arm may be mounted on the front of a school bus in accordance with the following specifications:

(a) Installed on the front bumper as close as practicable to the right (curb) side, opening left to right and providing an extension of the curbside of bus;

(b) Arm shall be located at least 18 inches but not more than 24 inches above ground level and in the closed position, arm shall not cover numbers on license plate;

(c) Installed in a manner to limit the outward deployment to 90 degrees from the front bumper;

(d) Arm shall extend 72 inches from the front bumper in its extended position;

(e) Arm shall be activated through the existing bus safety light system assuring the driver is required to take no additional action to either deploy or retract the arm. No outward movement of the arm may occur before red flashing sequence begins;

(f) Override switches are prohibited;

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(g) Crossing arm must be safeguarded from damage due to pushing or pulling by hand through the use of a clutch-like device or equivalent, double spring hinges are not acceptable);

(h) The arm may be equipped with an amber flashing light that functions only when the arm is in the fully extended position;

(i) Entire unit shall have no sharp edges or other projections that could injure children or others due to casual contact;

(j) Unit shall provide secure mounting opportunities to prevent misalignment or failure due to extreme weather conditions;

(k) Shall meet or exceed all requirements in SAE Standard J1133;

(l) Shall be either air, vacuum, or electrically operated and in conformance to section (39)(g) of this rule;

(m) Crossing arm color shall either appear in an unpainted state or comply with trim requirements listed in section (7)(a) of this rule;

(n) All components and connections shall be weatherproofed.

(10) Defrosters:

(a) Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the windshield, the window to the left of the driver and the glass in the viewing area directly to the right of the driver to reduce the amount of frost, fog and snow;

(b) The defroster units shall have separate blower motors, in addition to the heater motors. Type A and A-1 buses may have manufacturers' standard defrosters;

(c) A right front windshield and door defrosting unit with a separate hot water core and separate blower motors shall be provided on Type C buses;

(d) The defrosting system shall conform to SAE performance standards J-381 and 382;

(e) The defroster and defogging system shall be capable of furnishing heated outside ambient air, except that part of the system furnishing additional air to the windshield, entrance door and stepwell may be of the recirculation air type;

(f) Auxiliary fans are not to be considered as a defrosting and defogging system:

(A) Auxiliary fans, if used, must be mounted above the windshield, so as not to interfere with the driver's vision of the roadway, mirrors or students outside the bus;

(B) The fan blades shall be covered with a protective cage.

(11) Doors: Service Door:

(a) Service door shall be under control of driver, and so designed as to afford easy release and provide a positive latching device for manual operating door so as to afford easy release and prevent accidental opening. When hand lever is used, no part shall come together so as to shear or crush fingers;

(b) Service door shall be located on right side of bus opposite driver and within direct view;

(c) Service door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 68 inches. Type A and A-1 buses shall have a minimum opening of 1,200 square inches;

(d) Service door shall be of split type, sedan type or jack-knife type. (Split type door includes any sectioned door, which divides and opens inward or outward.) If one section of split type door opens inward and other opens outward, front section shall open outward. Manual door controls shall not require more than 25 pounds of force to operate at any point throughout the range of operation;

(e) If power operated, pressure shall be controlled by a regulator valve or switch and provision shall be made for opening the door manually in the event of driver disability or mechanical failure. Emergency release valve or switch for power operated doors shall be located in an accessible place, in plain view, as near the service door as practicable. Valve or switch shall be properly identified and "open" and "closed" position plainly marked;

(f) Sedan type door which opens inward in normal use shall be equipped with an adequate device for emergency opening outward;

(g) Lower as well as upper panels shall be of approved safety glass. Bottom of lower glass panel shall not be more than ten inches from top surface of bottom step. Top of upper glass panel shall not be more than six inches from top of door. Type A and A-1 buses shall have a minimum 350 square inch upper glass panel;

(h) Vertical closing edges shall be equipped with flexible material to protect children's fingers. Type A and A-1 buses may be equipped with chassis manufacturers' standard entrance door;

(i) There shall be no door to left of driver. (This shall not be interpreted to conflict with emergency doors or windows.) Type A, A-1 and B buses may be equipped with manufacturers' left side driver's door;

(j) All doors shall be equipped with an energy absorbing pad at the top edge of each door opening. Pad shall be at least 3 inches wide and 1 inch thick and extend the full width of the door opening. Pad not required on Type A, A-1 and B buses, left side driver's door.

(12) Emergency Exits:

(a) All buses purchased after January 1, 1999 shall be equipped with required emergency exits and identification listed in 49 CFR Part 571 FMVSS 217 as it has been adopted by National Highway Traffic Safety Administration for June 9, 1995 implementation plus all applicable standards specified in this rule: These rule changes apply to buses ordered after July 1, 2004

(b) For buses equipped with a rear emergency door additional exits as listed below:

(A) Buses designed or equipped with a passenger capacity of 1-22 shall provide [one of] the following:

(i) 2 swing-out windows, one on each side of the bus approximately mid-point of the passenger compartment and One FMVSS 217 complying roof hatch; or

(ii) Side windows with a 12 inch vertical drop and One FMVSS 217 complying roof hatch.

(B) Buses designed or equipped with a passenger capacity of 23 to 45 shall provide:

(i) One FMVSS 217 complying left side emergency door and One FMVSS 217 complying roof hatch; or

(ii) Two FMVSS 217 complying swing-out windows one on each side of the bus approximately mid-point of the passenger compartment and One FMVSS 217 complying roof hatch.

(C) Buses designed or equipped with a passenger capacity of 46 to 62 shall provide:

(i) One FMVSS 217 complying left side emergency door and One FMVSS 217 complying roof hatch; or

(ii) Four FMVSS 217 complying swing-out windows; two on each side of the bus approximately mid-point of the passenger compartment, but not immediately adjacent to each other and one FMVSS 217 complying roof hatch.

(D) Buses designed or equipped with a passenger capacity of 63 and above shall provide:

(I) One FMVSS 217 complying left side emergency door and One FMVSS 217 complying roof hatch; or

(iii) Four FMVSS 217 complying swing-out windows; two on each side of the bus approximately mid-point of the passenger compartment, but not immediately adjacent to each other and One FMVSS 217 complying roof hatch.

(c) For buses equipped with a rear push-out window, a left side emergency door shall be provided and the following additional exits as listed below:

(A) Buses designed or equipped with a passenger capacity of 1-22 shall provide one of the following:

(i) Two FMVSS 217 swing-out windows, one on each side of the bus approximately mid-point of the passenger compartment; or

(ii) Side windows with a 12 inch vertical drop and One FMVSS 217 complying roof hatch.

(B) Buses designed or equipped with a passenger capacity of 23-45 shall provide:

(I) Two FMVSS 217 complying swing-out windows and One FMVSS 217 complying roof hatch.

(C) Buses designed or equipped with a passenger capacity of 46-57 shall provide:

(i) One FMVSS 217 complying right side door and One FMVSS 217 complying roof hatch; or

(ii) Four FMVSS 217 complying swing-out windows and One FMVSS 217 complying roof hatch.

(D) Buses designed or equipped with a passenger capacity of 58 and above shall provide:

(i) One FMVSS 217 complying right side door and One FMVSS 217 complying roof hatch; or

(ii) Four FMVSS 217 complying swing-out windows; and One FMVSS 217 complying roof hatch

(d) Selection of the added exits (if any) necessary to comply with the "additional emergency exit area" requirements of FMVSS 217 shall be made by the vehicle purchaser in conformance to applicable rules;

(e) Manufacturer shall identify all emergency exits used for calculations relating to FMVSS 217 compliance and list the daylight (clear) opening for each exit;

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(f) A document identifying the following shall be provided by the vehicle seller to the Oregon Department of Education and bus purchaser prior to the bus being introduced into a bus system for the first time:

- (A) Bus manufacturer;
- (B) Bus identification number;
- (C) Bus designed and equipped passenger capacity;
- (D) Bus purchaser and district(s) served;
- (E) All emergency exits used for FMVSS 217 compliance; and
- (F) Total square inches/square cm clear opening for each emergency exit provided in the bus.

(g) Swing out windows shall provide a minimum clear opening of 18" x 24". If side emergency swing-out windows can be opened from outside the bus the words "Emergency Exit" shall be placed directly above the window in letters at least two inches high on the exterior of the bus. If the words "Emergency Exit" are placed on the exterior of the bus above swing-out windows inoperable from outside, the label must include the following statement in letters approximately one inch high "Operates From Inside Only."

(h) Rear emergency door exits:

(A) Type A and A-1 buses with double rear emergency doors shall be hinged on the outside and have a three point fastening device;

(B) Upper portion of emergency door shall be equipped with approved safety glazing, exposed area of not less than 400 square inches;

(C) Lower portion of rear emergency door shall be equipped with approved safety glass and shall have an exposed area of not less than 350 square inches of approved safety glazing. Type A and A-1 buses are not required to have lower rear emergency door glazing;

(D) There shall be no steps leading to emergency door;

(E) Clearance between outside emergency door handle and the emergency door shall not exceed 1/4-inch when handle is in closed position. Handle shall not provide a firm handhold to someone trying to "hitch" a ride. Handles shall be positioned to prevent snagging of clothing or pinching of fingers;

(F) Emergency door hinge shall not provide an opening for insertion of fingers when door is closed;

(G) If emergency door is lockable, provision must be made to prevent the bus from starting while the door is locked. An audible warning that does not affect engine operation shall be provided to alert the driver should the door be locked while the bus is in operation;

(H) An adequately padded head bumper shall be placed on the interior directly above any emergency exit door opening. The pad shall extend the full width of the door opening and shall be at least three inches wide and one inch thick.

(i) Approximately one inch/three centimeter retroreflective exterior perimeter marking shall be yellow in color, of automotive engineering grade material, and in compliance with both the retroreflective requirement of FMVSS and durability specifications listed in National Minimum Standards for reflective material;

(j) Roof emergency exit:

(A) Roof emergency exit, when required, shall be installed in a school bus body in accordance with FMVSS 217;

(B) A roof exit shall be waterproof and provide a minimum clear opening of 16" x 16"; and have an audible warning signal able to be heard at the drivers area. These rule changes apply to buses ordered after July 1, 2004

(C) Roof exit may also serve as a roof ventilator; however, this may not be used in place of the required static vent.

(13) Emergency Equipment:

(a) Belt cutter: Each bus equipped with passenger seat belts or webbed restraining devices shall have a belt cutter mounted in the driver's compartment, readily accessible and in plain view of the driver. Device shall be of a design offering protected cutting edges to prevent accidental or intentional injury to drivers or passengers;

(b) Emergency road reflectors:

(A) Each bus shall be equipped with at least three DOT triangle reflectorized disabled vehicle warning devices;

(B) Reflectors must be in a container securely mounted with nut-and-bolt fasteners enhanced with large flat (fender) washers or held in place by a nut-and-bolt mounted metal bracket that also protects and secures the container lid. Both shall be located in an accessible location. Reflectors shall not be mounted in any engine compartment;

(C) If not mounted in plain view of the driver, the location shall be clearly designated.

(c) Body fluid cleanup kit: Buses purchased after September 1, 1993 shall have a removable moisture proof and dust proof body fluid cleanup

kit, mounted in an accessible place within the driver's compartment. This place shall be marked to identify its location. Contents shall include at least the following items:

(A) Two pair rubber/latex gloves;

(B) Two four-ounce packages of stabilized chlorine absorbent deodorant (or equivalent) capable of stabilizing at least 1 litre/36 fl. oz. of body fluids;

(C) One spatula for pick up of congealed fluid;

(D) One plastic bag in which to place congealed fluid;

(E) One red plastic bag with tie, identified for infectious waste and as a bio-hazard;

(F) One two-ounce bottle of germicidal detergent to apply to a contaminated area;

(G) Four paper towels to wipe up contaminated area;

(H) One one-ounce antiseptic alcohol hand rinse (or equivalent);

(I) One placard of step by step use instructions;

(J) Germicidal detergents, stabilized chlorine absorbent deodorant, alcohol hand rinse, or their equivalents shall provide documentation of EPA approval regarding their microbiological efficacy for at least the following:

(i) Staphylococcus aureus;

(ii) Pseudomonas aeruginosa;

(iii) Salmonella choleraesuis;

(iv) Streptococcus species;

(v) Herpes simplex Type II;

(vi) HIV (Associated with AIDS);

(vii) Fungi (athlete's foot);

(viii) Poliovirus; and

(ix) Tuberculosis.

(K) Documentation of efficacy for Hepatitis B may be hospital or test studies. The certified effective shelf life of these products shall be a minimum of 12 months. Product expiration date shall be clearly displayed on all time-sensitive products.

(d) Fire extinguishers:

(A) Each bus shall be equipped with at least one pressurized, dry, chemical type fire extinguisher, mounted in a bracket and located in the driver's compartment, readily accessible and in plain view of the driver. A pressure gauge shall be mounted on the extinguisher so as to be readily read without removing the extinguisher from its mounted position;

(B) The fire extinguisher shall be of a type approved by the Underwriters Laboratories, Inc., with a rating of not less than 2 A-10 BC. The extinguisher shall have a minimum five pound capacity and equipped with a hose and nozzle;

(C) The operating mechanism shall be sealed with a type of seal that will not interfere with the use of the fire extinguisher;

(D) Extinguishers with plastic heads are not permitted.

(e) First aid kit:

(A) Each bus shall have a readily removable, moisture proof and dust-proof first-aid kit container mounted in an accessible place within driver's compartment. If not mounted in plain view of the driver, the location shall be clearly designated;

(B) The first aid kit contains a minimum of 24 units that shall include the following:

(i) One 1" adhesive compress — 16 per unit;

(ii) Two 2" bandage compress — 4 per unit;

(iii) Two 3" bandage compress — 2 per unit;

(iv) Two 4" bandage compress — 1 per unit;

(v) Two 3" x 3" plain gauze pads — 4 per unit;

(vi) Two 2" x 6 yards gauze roller bandage — 1 per unit;

(vii) Three 1/2 square yard gauze;

(viii) Three 24" x 72" gauze;

(ix) Four Triangular bandage;

(x) One 1/2 x 5 yard adhesive tape-one per unit;

(xi) One round nose scissors and tweezers. Latex gloves-one pair; and

(xii) One microshield for mouth to mouth airway (to lay on top of other contents).

(C) Specific local requirements may be substituted in lieu of 2 units of 1/2 square yard gauze.

(14) Floor:

(a) Floor in underseat area, including tops of wheelhousing, driver's compartment and toeboard, shall be covered with rubber floor covering or equivalent having minimum overall thickness of .125 inch:

(A) Floor covering in aisle shall be of aisle-type fire-resistant rubber or equivalent, wear-resistant and ribbed. Minimum overall thickness shall be .1875 inch measured from tops of ribs;

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(B) Floor covering must be permanently bonded to floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of type recommended by manufacturer of floor-covering material. All seams must be sealed with waterproof sealer.

(b) Edge of floor at stepwell shall be treated as a step edge and shall be protected as required in section (37)(c) of this rule;

(c) A vapor and liquid proof inspection plate provided for access to the fuel tank sending unit is permissible;

(d) A subfloor of 5-ply plywood, at least 5/8 inch nominal thickness or equivalent, may be installed over the standard school bus floor. Plywood shall equal or exceed properties of exterior-type softwood plywood, C-D grade as specified in standards issued by the Department of United States Commerce. Floor shall be level from front to back and from side to side except for wheelhousing, toeboard and driver's seat platform areas;

(e) For Type A and A-1 buses that are not constructed with a standard school bus floor, the existing metal floor in the passenger area shall be covered with not less than 1/2-inch nominal thickness exterior C-D grade plywood. All plywood seams shall extend from side to side (laterally), longitudinal seams not permitted.

(15) Heaters:

(a) At least one heater of hot water type is required in all buses;

(b) If only one heater is used, it shall be of fresh-air or combination fresh-air and recirculation type;

(c) If more than one heater is used, additional heaters may be of recirculation air type;

(d) The heating system shall be capable of maintaining throughout the bus a temperature of not less than 50 degree Fahrenheit at average minimum January temperature as established by the U.S. Department of Commerce, Weather Bureau, for the area in which the vehicle is to be operated;

(e) All heaters installed by body manufacturers shall bear a name plate which shall indicate the heater rating in accordance with SBMI Standard No. 001, said plate to be affixed by the heater manufacturer which shall constitute certification that the heater performance is as shown on the plate;

(f) Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or sharp edges, and shall not interfere with or restrict the operation of any engine function. Heater hose shall conform to SAE J20c. Heater hoses on the interior of the bus shall be shielded to prevent scalding of the driver or passengers;

(g) Each hot water heater system installed by a body manufacturer shall include a shutoff valve installed in the pressure and return lines near the engine in an accessible location. There shall be a water flow regulating valve or airflow regulating door for the front heater installed for convenient operation by the driver while seated;

(h) Return heater lines on body company installed heaters shall be equipped with bleeder valves in an accessible location to allow for removal of heater line air;

(i) Combustion type heaters may be installed and shall comply with all the following:

(A) The combustion type heater must be installed outside the passenger compartment;

(B) Exhaust exit from the heater must meet the same location requirements as for engine exhaust;

(C) The heater must have been tested by a qualified laboratory and certified as complying with the following regulations:

(i) Code of Federal Regulations, CFR 300-399, Transportation Heaters, 393.77 and CFR 49: Part 571, Transportation: Motor Vehicle Safety Standard 301; Fuel System Integrity;

(ii) American Institute of Electrical and Electronic Engineers, IEEE1: Temperature Limits in Rating Electrical Equipment;

(iii) UL 307A: Liquid Fuel-Burning Heating Appliances, UL 756C: Polymeric Materials — Use in Electrical Equipment, and UL 796: Printed Wiring Boards;

(iv) TE-12: Impact Testing of Vehicular Components.

(D) Provide isolation valves at the heater for both the coolant feeder and return lines;

(E) Heater must be equipped with a pressure relief valve preset to release any internal system pressure over 50 psi;

(F) An impact switch for the heater's electric fuel pump that will stop the pump with special inertial mechanics.

(j) Portable heaters may not be used.

(16) Identification:

(a) School bus bodies shall bear the words "School Bus" in black letters at least eight inches high and of proportionate width on both front and rear of body. Lettering shall be placed as high as possible without impairment of its visibility;

(b) A warning sign, calling attention to the school bus stop law shall be installed on the rear of all school buses. It shall be centered on the back of the bus and occupy the space, belt high, directly beneath the upper window in the rear door. Signs on transit type buses shall occupy approximately the same area. Signs on Type A buses with double rear door having obstructions such as door handles and recessed license plate holders that prevent sign centering shall be placed completely on the right side (rear) door in a manner that all reflective letters are located on that door and as high on the lower portion of the door as practicable in relationship to the door handle, but the top of the sign may be no more than four inches below handle shaft. Sign shall conform to the following:

(A) Decals with white reflectorized letters conforming to retroreflective requirements listed in section (7)(c) of this rule mounted on a flat black background;

(B) Decal shall be 9 inches by 30 inches with lettering as shown below:

UNLAWFUL TO PASS
WHEN RED LIGHTS FLASH

(C) It is prohibited for any school bus to display a warning sign, which does not meet the above requirements;

(D) The name of the school district IE:(and contractor company name if applicable) contractor company name shall be placed on the side of each bus. Such signs shall appear in the area directly below the side windows and the letters and figures in such signs shall not be less than four inches nor more than six inches in height and of proportionate width;

(E) School team name or contractor's insignia may be placed above the side windows on the front portion of the bus body. All such lettering must be approved by the Pupil Transportation Section of the Oregon Department of Education;

(F) At least one bus identification number at least four inches in height shall be placed on a flat vertical surface on each side and on the front and rear of the bus. At least one complete unit number shall be visible from any point 50 feet from the bus. Symbols may be used in lieu of numbers. Type A and A-1 bus numbers may be three inches in height. Bus identification numbers are not required if the school has only one route bus;

(G) Only signs and lettering approved by state law or by the regulations of the Department of Education shall appear on the inside or outside of a school bus.

(17) Inside Height: Clear inside body height shall be 72 inches or more measured at any point on the longitudinal center line from front vertical bow to rear vertical bow. Type A bus height shall be not less than 62 inches.

(18) Instruments, Gauges, Indicators: Body manufacturer shall in no manner obstruct the driver's visibility of required instruments, gauges or indicators provided by the chassis manufacturer. Body instrument panel lights shall be controlled by an independent rheostat switch.

(19) Insulation:

(a) Ceiling and walls in all new buses purchased after September 1, 1985, shall be insulated with proper material to deaden sound and to reduce vibration to a minimum. Thermal insulation of fire-resistant and non-water absorbing material approved by Underwriters Laboratories, Inc., is required in body ceiling and walls;

(b) If floor insulation is desired it must be 5-ply, at 5/8-inch thick plywood as specified in section (14) of this rule.

(20) Interior:

(a) Interior of bus shall be free of all unnecessary projections likely to cause injury including luggage/book racks on buses purchased after September 1, 1993 or retrofitting occurring after that date. This standard requires inner lining on ceilings and walls. If ceiling is constructed so as to contain lapped joints, forward panel shall be lapped by rear panel and exposed edges shall be beaded, hemmed, flanged or otherwise treated to minimize sharp edges;

(b) Ceiling of bus shall be free of all projections that can cause injury in the event of a collision or rollover (see section (30) of this rule.);

(c) All materials used in the interior of a school bus body shall meet the requirements of Federal Motor Vehicle Safety Standard No. 302, Flammability of Interior Materials;

(d) Construction of buses manufactured after September 1, 1993 shall assure noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 DBA when tested according to the procedure found in the Appendix (Noise Test Procedure).

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(21) Lamps and Signals:

(a) All lamps on exterior of bus shall conform with and be installed as required by Oregon Motor Vehicle law and the Federal Motor Vehicle Safety Standard No. 108, effective January 1985;

(b) Headlamps, when furnished by body manufacturer, shall be of proper intensity and adjustment as specified by Oregon Motor Vehicle law;

(c) Stop-tail lamps: Buses shall be equipped with four combination red stop-tail lamps. Two combination lamps with a minimum 38 square inches of illuminated area shall be mounted on the rear of the bus on the beltline or immediately below. Two combination lamps with a minimum 12 square inches of illuminated area shall be placed on the rear of the body between the beltline and the floor line. Rear license plate lamp may be combined with one lower tail lamp. Stop lamps shall be activated by the service brakes and shall emit a steady light when illuminated. Type A and A-1 buses with bodies supplied by chassis manufacturer may have manufacturer's standard stop and tail lamps;

(d) Clearance and identification lights: Each bus shall be equipped with clearance and identification lights as required by Oregon Motor Vehicle law and Federal Motor Vehicle Safety Standard No. 108;

(e) Reflectors: Each bus shall be equipped with reflectors as required by Oregon Motor Vehicle law and Federal Motor Vehicle Safety Standard No. 108;

(f) Directional signals: Each bus shall be equipped with front and rear turn signal lamps that conform to requirements of the Oregon Motor Vehicle law. Lamps shall have a minimum illuminated area of 38 square inches. Lamps shall be amber in color whether mounted at the front or rear. Type A and A-1 buses may be equipped with manufacturer's standard front turn signals. Signal lamps shall be independent units and connected to chassis-supplied turn signal switch and four-way hazard warning switch to cause simultaneous flashing of turn signal lamps when needed as vehicular traffic hazard warning. A turn signal lamp with a minimum of 4 candlepower shall be mounted on each body side at approximately seat level height, located to the rear of the entrance door on the right side of the body and approximately the same location on the left side. These are to be connected to and function with the regular turn signal lamps. Type B buses may have the right side body turn signal forward of the entrance door;

(g) Back-up lamps: Two back-up lamps shall be provided in accordance with Federal Motor Vehicle Safety Standard 108;

(h) Back-up warning alarm: An automatic audible alarm shall be installed on the rear of all buses purchased after November 1, 1985, that complies with the Society of Automotive Engineers (SAE 994 Backup Alarm Standard specifying 97 ±4dB(A);

(i) Interior dome lamps: Interior lamps shall be provided which will adequately illuminate interior aisles. There shall be at least one interior lamp for every two rows of passenger seats. One or two rear dome lamp(s) shall be wired through a separate switch. Separate circuit for rear dome lamp(s) is not required on buses with less than five rows of seats;

(j) Stepwell lamp: A stepwell lamp shall be provided which will adequately illuminate the entire stepwell. The lamp circuit shall be wired through the headlamp or clearance lamp system and shall be activated only when the door is opened;

(k) School Bus Safety Lights:

(A) Each school bus shall be equipped with a system meeting FMVSS 108 consisting of four red signal lamps designed to conform to SAE Standard J887, "School Bus Red Signal Lamps," July 1964, and four amber signal lamps designed to that standard, except for color, and except that their candle power shall be at least 2-1/2 times that specified for red signal lamps. Lamps shall have minimum of 17.25 square inches and shall be clearly visible in direct sunlight from a distance of 500 feet along axis of vehicle;

(B) The system shall be wired so that the system is activated by a manually operated spring-loaded switch clearly labeled and distinguishable from other switches. Wiring of the system through the ignition or any other circuit other than a complete electrical system cut off switch is not permitted. A circuit master switch is permitted if the manually operated activating switch and the master switch are together in one switch and can be operated by one finger at same time in a similar fashion;

(C) For buses equipped with power-controlled entrance doors, an additional spring loaded switch that will activate the red school bus safety lights prior to opening entrance door is permissible;

(D) The flashing mechanism shall be capable of carrying the full current load of the signal system;

(E) Right and left signal lamps shall flash alternately. Each signal lamp shall flash not less than 60 nor more than 120 flashes per minute. The

"on" period shall be long enough to permit bulb filament to come up to full brightness;

(F) Pilot lamps/monitors:

(i) Each bus shall be equipped with two, 3/8-inch illuminated pilot lamps — one amber and one red — to indicate when the respective amber or red system is actuated. Pilot lamps shall be placed within a 140° field of vision for a 95th percentile female anthropomorphic test dummy seated in a normal driving position. Pilot lamps shall also provide an unmistakable indication that the flasher system is operating and an unmistakable indication if any circuit is broken, any lamp is not operating or the system is not otherwise functioning normally unless a separate monitoring system performs all those functions; or

(ii) Each bus shall be equipped with a monitor system utilizing 3/8-inch illuminated red and amber lamps to indicate when the respective amber or red system is actuated. Monitor shall be placed within a 140° field of vision for a 50th percentile anthropomorphic test dummy seated in a normal driving position. Monitor shall also provide an unmistakable indication that the flasher system is operating and an unmistakable indication if any circuit is broken, any lamp is not operating or the system is not functioning normally.

(G) School Bus Safety Light system shall operate as follows:

(i) With entrance door closed, depress activation switch. Amber pilot light and amber bus safety lights shall go on;

(ii) Open entrance door; amber bus safety lights shall go off, and red pilot light and red bus safety lights shall go on;

(iii) Close entrance door; pilot and bus safety lights shall go off;

(iv) Reopen entrance door without depressing hand switch; no bus safety lights shall go on. Depress hand switch, red pilot light and red bus safety lights shall go on.

(H) There shall be a canceling switch that will deactivate the amber bus safety lights and flasher sequence if they are accidentally activated or if the driver discovers there is no need to make a stop after activating the switch;

(I) Installation requirements:

(i) Both red and amber signal lamps shall be installed in accordance with SAE Standard J887, except that each amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. Each signal lamp shall be mounted with its axis substantially parallel to the longitudinal axis of the vehicle;

(ii) Front and rear alternately flashing bus safety lights shall be spaced as far apart laterally as practicable;

(iii) Alternately flashing bus safety lights shall be mounted at the front above the windshield and at the rear so that the lower edge of the lens is not lower than the top line of the side windows;

(iv) Vertical and lateral vision of the front and rear alternately flashing warning bus safety lights shall not be obstructed by any part of the body or lamphouse insofar as standard bus body construction will permit;

(v) Where practicable, the area around lens of each alternately flashing warning bus safety light and extending outward at least 3 inches or more shall be painted black;

(vi) Front amber school bus safety lights shall be visible (directly or indirectly) from the driver's area inside the bus;

(vii) A separate fuse or circuit breaker, adequate to prevent damage to the system in the event of a short circuit, shall be provided between the power source and flasher system.

(J) Strobe Lamp:

(i) A white flashing lamp, approved by the Oregon Department of Education, may be installed on the longitudinal center of the roof on rear half of the bus but no closer than one foot from the rear of the bus body. The lamp shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than 6-1/2 inches or maximum legal vehicle height;

(ii) The lamp shall have a separate switch and be wired through the vehicle hazard lamp system. A pilot lamp to indicate when the light is in operation is required.

(22) Metal Treatment:

(a) All metal used in construction of bus body shall be zinc- or aluminum-coated or treated by equivalent process before bus is constructed. Included are such items as structural members, inside and outside panels and floor sills; excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts;

(b) All metal parts that will be painted shall be (in addition to above requirements) chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed or conditioned by equivalent process;

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(c) In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas and surfaces subjected to abrasion during vehicle operation;

(d) As evidence that above requirements have been met, samples of materials and sections used in construction of bus body, when subjected to 1000-hour salt spray test as provided for in latest revision of ASTM designation, B-117 "Standard Method of Salt Spray (Fog) Testing," shall not lose more than 10 percent of material by weight.

(23) Mirrors:

(a) Exterior Mirror Systems:

(A) All buses purchased after September 1, 1993 shall be equipped with mirror systems complying with 49 CFR Part 571, FMVSS 111 as adopted by the National Highway Traffic Safety Administration for December 3, 1993 implementation, plus all applicable standards specified in this rule;

(B) Manufacturer shall certify compliance with mirror and direct/indirect visibility standards listed in the aforementioned FMVSS 111 and provide copy to bus purchaser for all buses manufactured prior to January 1, 1994.

(b) Interior Mirror:

(A) Interior mirror shall be either clear view laminated glass or clear view glass bonded to a backing which retains the glass in the event of breakage[s]. Mirror shall be a minimum of 6" x 30". Mirror shall have rounded corners and protected edges;

(B) Type A buses shall be equipped with a mirror providing at least 96 square inches of flat mirror surface;

(C) Bus seller shall certify compliance with mirror and direct/indirect visibility standards listed in the aforementioned FMVSS 111 and provide a copy to used bus purchasers when certification is not available from manufacturer for all buses manufactured prior to January 1, 1994.

(24) Mounting:

(a) Chassis frame shall support rear body cross member. Bus body shall be attached to chassis frame at each main floor sill, except where chassis components interfere, in such a manner as to prevent shifting or separation of body from chassis under severe operating conditions;

(b) Body front shall be attached and sealed to chassis in such manner as to prevent entry of water, dust or fumes through joint between chassis cowl and body;

(c) When floor is provided by bus body manufacturer, adequate insulating padding shall be placed at all contact points between body and chassis frame. Insulating material shall be approximately 1/4-inch thick and shall be so attached as to prevent movement under severe operating conditions.

(25) Mud Flaps:

(a) Mud flaps or splash aprons are required for rear wheels on all school buses and shall be provided by the body manufacturer;

(b) Flaps shall be of heavy-duty rubberized material or equivalent and shall extend at least the full width of tires from a point above the center of the tires to a point not more than ten inches above the surface of the highway when such vehicle is empty.

(26) Overall Length: Maximum length for school buses shall be limited to 40 feet (see OAR 581-053-0512, Bus Chassis, section (33), Turning Radius: ORS 818.080).

(27) Overall Width: Overall width of bus shall not exceed the maximum permitted by Oregon Motor Vehicle laws.

(28) Overhang: Body shall be so mounted as to comply with requirements described in chassis weight distribution standard. Body length extending beyond the rear axle shall not exceed three-fourths the length of the vehicle's wheel base per Oregon Vehicle Code.

(29) Racks: The installation of any kind of exterior luggage rack outside the bus is prohibited. This does not prohibit enclosed luggage compartments.

(30) Radios and Public Address Systems:

(a) Interior speakers mounted in the ceiling panels shall be either flush mounted or may protrude not more than 1-1/2 inches if the speaker housing is free of any corners or projections which can cause injury by striking with the head or in the event of a collision or rollover. Speakers protruding more than 1-1/2 inches may be mounted in the vertical end panels above the windshield or back windows as long as speakers are free of corners or projections that could cause injury;

(b) Speakers shall not be placed above any aisle;

(c) Buses purchased after November 1, 1985, shall be equipped with a public address system having interior and exterior speakers and a switch to separate from inside and outside.

(31) Rub Rails:

(a) There shall be one rub rail located on each side of bus approximately at seat level which shall extend from rear side of entrance door completely around bus body (except for emergency door and access panel(s)) to point of curvature near outside cowl on left side;

(b) There shall be one rub rail located approximately at floor line which shall cover same longitudinal area as upper rub rail, except at wheel-housing, and shall extend only to radii of right and left rear corners;

(c) Both rub rails shall be attached at each body post and all other upright structural members;

(d) Both rub rails shall be four inches or more in width, shall be of 16-gauge steel, suitable material of equivalent strength, and shall be constructed in corrugated or ribbed fashion;

(e) Both rub rails shall be applied to the outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. For Type A and A-1 buses using chassis manufacturer's body, or Type B, C and D buses using rear luggage or engine compartment, rub rails need not extend around rear corners.

(32) Sanders: Where used, sanders shall:

(a) Be of hopper cartridge-valve type;

(b) Have metal hopper with all interior surfaces treated to prevent condensation of moisture;

(c) Be of at least 100 pound (grit) capacity;

(d) Have cover on filler opening of hopper, which screws into place, sealing unit airtight;

(e) Have discharge tubes extending to front of each rear wheel under fender;

(f) Have no-clogging discharge tubes with slush-proof, nonfreezing rubber nozzles;

(g) Be operated by electric switch with telltale light mounted on instrument panel;

(h) Be exclusively driver-controlled.

(33) Seat Belt:

(a) A Type 2 lap belt/shoulder harness seat belt shall be provided for the driver. Each belt section shall be bootied to keep belt and the button or buckle type latch off floor when not in use. Shoulder belt assemblies on Type B, C, and D buses shall provide for a height adjustment of at least four inches at its upper point of attachment to the bus. Belt shall be anchored or guided in a manner at the seat frame to prevent the driver from sliding sideways when belt is in use. Locking retractors may be either an ELR (Emergency Locking Retractor) or an ALR (Automatic Locking Retractor). All ALR equipped buses received after July 1, 1989, must include an approved anti-cinching device;

(b) Seat belts for passengers: Passenger seat belts may be installed in school buses with a GVWR of more than 10,000 pounds. The attachments, belts and installation shall meet the requirements of Federal Motor Vehicle Safety Standard Nos. 208, 209 and 210 as they apply to school buses with a GVWR of 10,000 pounds or less.

(34) Seats and Crash Barriers:

(a) Seats and barriers shall meet requirements of Federal Motor Vehicle Safety Standard No. 222;

(b) All seats shall have minimum depth of 15 inches;

(c) In determining seating capacity of bus, the minimum allowable rump width shall be 13 inches;

(d) Seat, seat back cushion and crash barrier shall be covered with a material having a minimum 42-ounce finished weight, 54-inch width and finished vinyl coating of 1.06 broken twill, or other material with equal tensile strength, tear strength, seam strength, adhesion strength, resistance to abrasion, resistance to cold, and flex separation. Material shall meet or exceed the criteria contained in the School Bus Seat Upholstery Fire Block Test for all buses purchased after September 1, 1993 (see Appendix);

(e) All seats shall be forward facing and shall be securely fastened to that part(s) of bus that support them with a nut-and-bolt type of fastener. Each seat leg shall be secured to the floor by a minimum of two nut-and-bolt type fasteners of at least grade 5 SAE strength. Sheet metal screw-type fasteners without a nut are not acceptable, except in areas where it is not possible to install a nut-and-bolt type fastener. Type A and A-1 bus seat fasteners shall meet the requirements of Federal Motor Vehicle Safety Standards 209 and 210;

(f) No bus shall be equipped with jump seats or portable seats. Flip-up seats at side emergency exit doors are allowed;

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(g) Seat spacing shall not be less than 24 inches between the front of the back of each seat and the rear of the back of the seat immediately ahead. This shall be measured at cushion height on a plane parallel to the center line of the bus;

(h) Driver's seat shall be so located in relationship to the steering wheel that the driver may assume a natural position while driving, have a clear view of the road, and sufficient leg room to operate safely and effectively the brake and clutch pedals and accelerator without cramping or interference. Minimum distance between steering wheel and back rest of driver's seat shall be 11 inches. Driver's seat shall have a fore-and-aft adjustment of not less than four inches and shall on Type B, C, and D buses be capable of being raised and lowered at least three inches and shall be strongly attached to comply with acceptable installation procedures:

(A) Driver's seat supplied by the body company shall be a high back suspension seat with a minimum seat back adjustment of 15 degrees, not requiring the use of tools, and with a head restraint to accommodate a 95th percentile female anthropomorphic dummy as defined in FMVSS 208. The driver's seat shall be secured with nuts, bolts, and washers or flanged-headed nuts;

(B) Driver's seat positioning and range of adjustment shall be designed to accommodate comfortable actuation of the foot control pedal by 95 percent of the adult female population.

(i) Each passenger seat and driver's seat shall have a positive type retention system to prevent the seat cushion from disengaging from the seat frame at the front and rear in the event of an accident or rollover.

(35) Steering Wheel: (See OAR 581-053-0512(29), Steering Gear, also.) Steering wheel outside circumference shall have at least two inches of clearance at all points.

(36) Steps:

(a) Service door entrance may be equipped with two-step or three-step stepwell. Risers in each case shall be approximately equal and shall not exceed 10 inches in height. When plywood floor is used on steel, differential may be increased by thickness of plywood used:

(A) First step at service door shall be not less than 10 inches and not more than 14 inches from ground, based on standard chassis specifications;

(B) Type D buses shall be equipped with a three-step stepwell. First step at service door shall not be less than 12 inches and not more than 16 inches from the ground based on standard chassis specifications.

(b) Steps shall be enclosed to prevent accumulation of ice and snow;

(c) Steps shall not protrude beyond side body line;

(d) Steps (if any) on Type A and A-1 buses not manufactured originally as school buses may be chassis manufacturer's standard;

(e) At least one grab handle not less than 20 inches in length shall be provided to assist passengers during entry or egress in unobstructed locations inside doorway. Grab handle shall be designed, installed and maintained to minimize the opportunity for entanglement of passenger clothing and belongings.

(37) Step Treads:

(a) All steps, including floor line platform area, shall be covered with 3/16-inch rubber floor covering or other materials equal in wear resistance and abrasion resistance to top grade rubber;

(b) Metal back of tread, minimum 24-gauge cold roll steel, shall be permanently bonded to ribbed rubber;

(c) 3/16-inch ribbed step tread shall have a 1-1/2-inch white nosing as integral piece without any joint;

(d) Rubber portion of step treads shall have the following characteristics:

(A) Special compounding for good abrasion resistance and high coefficient of friction;

(B) Flexibility so that it can be bent around a 1/2-inch mandrel both at 130 degrees F and 20 degrees F without breaking, cracking or crazing;

(C) Show a durometer hardness 85 to 95.

(38) Steps, Windshield Access: There shall be at least one folding step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning the windshield and lamps except when windshield and lamps are easily accessible from the ground. Standard does not apply to chassis not originally manufactured as school buses.

(39) Stop Signal Arms: All buses purchased after September 1, 1993 and all buses in service after August 1, 1995 shall be equipped with stop signal arms mounted in accordance with the following requirements:

(a) Shall meet all applicable requirements of the Federal Motor Vehicle Safety Standard 49 CFR 571.131;

(b) Shall be installed on the left side of the bus; the vertical center of the stop blade shall be at least seven inches but not more than 14 inches

below the window line, on the first body post to the rear of the driver or as close as practicable;

(c) Shall be a metal octagon shaped sign 18 inches wide and 18 inches long exclusive of the mounting bracket. A windguard shall be provided. All sheet metal parts shall be 16 gauge metal or heavier;

(d) Shall have the word "STOP" on both sides in white letters six inches high and of proportionate width on a red background. The outer edge shall have a white border one-half inch wide. All other parts of the assembly shall be painted black;

(e) Shall be equipped with two, four-inch, double faced alternating flashing red lamps to be mounted near the perimeter of the sign with a minimum of 12 inches spacing between lamp centers. The stop arm and lamps shall be wired to the circuit of the flashing red warning lamps mounted on the front and rear of the bus and shall operate simultaneously with the red bus safety lamps. Lamps shall have a luminous intensity no greater than 300 candela or equivalent. Lamps may be incandescent or strobe ORS 820.105;

(f) May be reflectorized:

(A) Reflectorized material shall be of automotive engineering grade or better;

(B) Reflectorized material may be retroreflective or reflective.

(g) Shall be either air, vacuum, or electrically operated:

(A) Air operated stop arms:

(i) Air may be supplied from an air accessory tank or from the first (wet) tank;

(ii) If source is from the first (wet) tank a pressure protection valve shall be installed to prevent the tank air supply from falling below 60 pounds;

(iii) Stop arm system must have a pressure regulating valve;

(iv) All fittings shall be brass.

(B) Vacuum operated stop arms:

(i) Vacuum shall be supplied from a separate accessory tank. Tank shall be protected by a check valve;

(ii) All fittings shall be brass.

(40) Sun Visor: Interior adjustable sun visor, not less than 6 by 30 inches in size, shall be installed above windshield in position convenient for use by driver. If transparent visor is used, it shall be of such material so as not to prevent distinguishing between the colors of red and green traffic signals. Vehicles not originally manufactured as school buses may be equipped with manufacturer's standard visor. Buses purchased after November 1, 1985, shall have visors with protected edges.

(41) Tail Pipe: (See OAR 581-053-0512, Bus Chassis, section (14) also.) Tail pipe shall extend to outside surface of the rear bumper but not more than two inches beyond the rear bumper. The tail pipe may be routed through the rear bumper. If tail pipe is routed to the left side of body, the tail pipe shall extend at least to body skirt, but not more than one inch beyond body skirt. Tailpipe shall exit in the rear of the vehicle or to the left side of the bus. Tailpipe shall not exit beneath any fuel filler location or beneath any emergency exit.

(42) Tool Compartment: A metal container of adequate strength and capacity for storage of tire chains, tow chains and such tools as may be necessary, may be provided. Container may be located inside or outside of passenger compartment. If inside, it shall have a cover and positive type latch to prevent opening in event of a severe impact or bus rollover, and shall be attached to the floor with a nut and bolt fastener, or may be securely attached to a seat frame under a seat.

(43) Tow Hooks:

(a) Type C buses shall be equipped with two rear tow hooks, or one center tow hook tied to both frame rails, that have sufficient strength to pull or be pulled by another vehicle of the same GVWR. Tow hooks shall be installed in order that no permanent distortion to the body or chassis will result if the bus must be towed. (See also OAR 581-053-0512, Bus Chassis, section (31), Tow Hooks.);

(b) Type D vehicles shall be equipped with two rear tow hooks or tow eyes, and at least one front tow hook or eye, mounted or capable of immediate mounting. Hooks or eyes shall have sufficient strength to pull or be pulled by another vehicle of the same GVWR.

(44) Under carriage luggage compartments: Luggage compartments may be installed on the outside of the bus mounted below the floor level or in the rear of the bus. Access to compartments must be from the outside only. Compartment doors must have a positive retention to hold the doors open. Compartment doors must be lockable. These rule changes apply to buses ordered after July 1, 2004

(45) Undercoating:

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(a) Entire underside of bus body, including floor sections, cross member and below floor line side panels, shall be coated with rust-proofing compound for which compound manufacturer has issued notarized certification of compliance to bus body builder that compound meets or exceeds all performance and qualitative requirements of paragraph 3.4 of Federal Specification TT-C-520b using modified test procedures* for following requirements:

(A) Salt spray resistance — pass test modified to five percent salt and 1,000 hours;

(B) Abrasion resistance — pass;

(C) Fire resistance — pass.

(b) Undercoating compound shall be applied with suitable airless or conventional spray equipment to recommended film thickness and shall show no evidence of voids in cured film. *Test panels are to be prepared in accordance with paragraph 4 6.12 of TT-C-520a with modified procedure requiring that tests be made on a 48-hour air cured film at thickness recommended by compound manufacturer.

(46) Ventilation:

(a) Body shall be equipped with suitable, controlled ventilating system of sufficient capacity to maintain proper quantity of air under operating conditions without opening of windows except in extremely warm weather;

(b) Static-type nonclosable exhaust ventilation shall be installed in low-pressure area of roof.

(47) Video surveillance cameras may be installed inside or on the forward bulkhead (header) above the windshield in compliance with the following requirements:

(a) Surface mounted camera/camera housing/video recording devices or those extending into the passenger compartment shall be mounted as close as practicable directly above the driver but not to extend into the area directly forward of the aisle beyond the existing 6" x 30" rear view mirror or the installation complies with all of the following:

(A) The camera/recorder/housing extends into the passenger compartment no more than 9 inches;

(B) Extends down from the ceiling no more than five inches;

(C) Is no wider than five inches; and

(D) Is located as close as practicable to the mid-point of the header at the highest possible position.

(b) If camera/camera housing or video receiving device extends into the passenger compartment all edges must be rounded and/or protected with enclosure of shatterproof construction;

(c) Flush mounted camera systems (no extension into passenger compartment) may be mounted in any desired position on the bulkhead;

(d) Camera/camera housing must be adequately secured to the bulkhead or ceiling in a manner to prevent separation from the vehicle in the event of a collision or mishap. Securement system shall be capable of withstanding a force of 5,672 Newtons applied from any direction without separation from the bus;

(e) Camera mounting design must allow ready access for camera and video recording medium removal;

(f) All electrical connections shall be made with UL approved wiring and protected by grommets any place it passes through metal panels.

(48) Weight Distribution:

(a) Weight distribution of fully loaded bus on level surface shall be such as to not exceed the manufacturer's front Gross Axle Weight Rating (GAWR) and rear Gross Axle Weight Rating;

(b) Weight distribution of fully loaded bus on level surface shall be such that not more than 75 percent of gross vehicle weight is on rear tires and not more than 35 percent is on front tires. Type B and D buses with engine inside front of body and entrance door ahead of front wheels shall have not more than 75 percent of gross vehicle weight on rear tires nor more than 50 percent on front tires. If entrance door is behind front wheels, not more than 75 percent of gross vehicle weight shall be on rear tires nor more than 40 percent on front tires. With engine in rear, not more than 75 percent of gross vehicle weight shall be on rear tires nor more than 40 percent on front tires.

(49) Wheelhousing:

(a) The wheelhousing opening shall allow for easy tire removal and service;

(b) Wheelhousing shall be attached to floor sheets in such a manner as to prevent any dust, water or fumes from entering the body. Wheelhousing shall be constructed of 16-gauge steel, or other material of equal strength;

(c) The inside height of the wheelhousing above the floor line shall not exceed 12 inches;

(d) The wheelhousing shall provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels;

(e) No part of a raised wheelhousing shall extend into the emergency door opening.

(50) Windshield and Windows:

(a) All glass in windshield, windows and doors shall be of approved safety glass so mounted that its identification mark is visible and of a quality to prevent distortion in any direction. All glazing materials shall be on the approved list of the Oregon Department of Motor Vehicles;

(b) Windshield shall be of safety plate glass AS-1 grade as specified by American National Standards Institute Safety Code Z26.1-1966;

(c) Windshield glass may be heat absorbing and may have a horizontal gradient band starting slightly above the line of the operator's vision and gradually decreasing in light transmission to 20 percent or less at the top of the windshield in compliance with Federal Motor Vehicle Safety Standard 205;

(d) Glass in all side windows, doors and rear windows shall be AS-2 or better grade, as specified in Z26.1-1966, or AS-4 coated abrasion resistant rigid plastic meeting requirements of Federal Motor Vehicle Safety Standard 205. Rigid plastic cannot be used for windshields or windows immediately to the left or right of the driver;

(e) Side windows shall conform to the following:

(A) Buses shall provide full drop or split sash windows which provide an unobstructed opening of at least 12 inches and not more than 14 inches in height, obtained by lowering the sash, and at least 22 inches in width. Type A, A1 buses may have a full drop or split sash windows which provide an unobstructed opening of at least 9 inches and not more than 13 inches in height, obtained by lowering the sash, and at least 22 inches in width, provided the bus has 2 swing-out windows.

(B) One window on each side of the bus may be less than 22 inches in width.

(51) Windshield Washers: Bus shall be equipped with electric or air operated windshield washers.

(52) Windshield Wipers: Bus shall be equipped with two windshield wipers of air or electric type, that meets FMVSS 104 powered by motor or motors of at least two speeds and with sufficient power to operate wipers under severe weather conditions. Type A, A-1 bus manufacturer's standard is permitted.

(53) Wind deflectors may be installed according to manufacturer's standards on the rear roof to deflect snow, dust and dirt from the rear window.

(54) Wiring:

(a) All wiring shall conform to current standards of Society of Automotive Engineers;

(b) Circuits:

(A) Wiring shall be arranged in circuits, as required, with a circuit protection system. A system of color or number coding shall be used for all buses purchased after September 1, 1993 and an appropriate identifying diagram shall be provided the end user along with the wiring diagram provided by the chassis manufacturer. The following interconnecting circuits shall be color coded as noted:

(i) Left rear directional light — yellow;

(ii) Right rear directional light — dark green;

(iii) Stop lights — red;

(iv) Back-up lights — blue;

(v) Tail lights — brown;

(vi) Ground — white;

(vii) Ignition feed, primary feed — black;

(viii) The color of cables shall correspond to SAE J1128.

(B) Wiring shall be arranged in at least seven regular circuits, as follows:

(i) Head, tail, stop (brake) and instrument panel lamps;

(ii) Clearance and stepwell lamps (stepwell lamp shall be activated when service door is opened);

(iii) Dome lamp;

(iv) Ignition and emergency door signal;

(v) Turn signal lamps;

(vi) School Bus Safety Lights;

(vii) Heaters and defrosters.

(C) Any of above combination circuits may be subdivided into additional independent circuits;

(D) Whenever possible, all other electrical functions (such as sanders and electric-type windshield wipers) shall be provided with independent and properly protected circuits.

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(c) The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted;

(d) All wiring shall have an amperage capacity equal to or exceeding the designed load. All wiring splices are to be done at an accessible location and noted as splices on wiring schematic;

(e) Each body circuit shall be coded by number or letter on a diagram of easily readable size and be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel;

(f) Body power wire is to be attached to special terminal on the chassis;

(g) All wires passing through metal openings shall be protected by a grommet;

(h) Wires not enclosed within body shall be fastened securely at intervals of not more than 18 inches. All joints shall be soldered or joined by equally effective connectors and shall be moisture and corrosion resistant.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 327.013 & ORS 820.100 - ORS 820.120
Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120
Hist.: IEB 17-1985, f. 10-29-85, ef. 11-1-85; EB 16-1987(Temp), f. 7-30-87, ef. 9-27-87; EB 30-1987, f. & ef. 12-9-87; EB 44-1988, f. 12-16-88, cert. ef. 1-1-89; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 16-2004, f. & cert. ef. 8-4-04

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Adm. Order No.: ODE 17-2004

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

Certified to be Effective: 8-10-04

Notice Publication Date: 5-1-04

Rules Amended: 581-051-0100

Subject: The amendments will implement recent changes in federal regulation and will clarify current rule language.

If you have questions regarding this rule, please contact Joyce Dougherty at (503) 378-3600, ext. 2607 or e-mail Joyce.Dougherty@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

581-051-0100

School Nutrition Programs

(1) Authority and direction for the operation of school nutrition programs in Oregon shall be derived from the United States Department of Agriculture, the Oregon Revised Statutes, Oregon Administrative Rules and rules of district school boards.

(2) Claims for reimbursement by schools participating in the USDA School Nutrition Programs:

(a) Shall be submitted in a form designated by the Oregon Department of Education; and

(b) Must be received in the Oregon Department of Education by the fifteenth day of the month following the month for which claim is made.

(3) Food sold in competition with the School Breakfast Program or National School Lunch program shall not be allowed during the breakfast and/or lunch periods unless the funds accrue to the nonprofit food service program, the school or student organizations as may be defined by the district school board.

(a) The sale of items from the USDA Categories of Foods of Minimal Nutritional Value 7 CFR 210, Appendix B during the breakfast and/or lunch periods in the food service area is prohibited. However, if approved by the school district board, foods of minimal nutritional value may be sold outside the food service area during the breakfast and/or lunch periods.

(A) "Foodservice Area" means any area on school premises where NSLP and SBP meals are both served and eaten. Areas where students eat NSLP and SBP meals that are completely separate from the serving area are also part of the foodservice area.

(B) Financial penalties to the school food service program resulting from FMNV being served during meal time in the food service area by school policy or practice will be repaid to the program from the general fund.

(b) A copy of the Board action of approval must be filed with the School Nutrition Programs Section, Oregon Department of Education.

Stat. Auth.: ORS 326 & 327, 7 CFR 210
Stats. Implemented: ORS 327.137
Hist.: IEB 2-1986, f. 1-7-86, ef. 1-8-86; ODE 17-2004, f. & cert. ef. 8-10-04

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Adm. Order No.: ODE 18-2004

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Notice Publication Date: 5-1-04

Rules Amended: 581-051-0400

Subject: The amendments will implement recent changes in federal regulation and will clarify current rule language.

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581-051-0400

Breakfast Programs

This rule outlines the criteria for a waiver from the breakfast program:

(1) As used in this rule:

(a) "Site" means the school where the children participating in the United States Department of Agriculture (USDA) lunch program are enrolled;

(b) "Lunch" means USDA reimbursable lunch;

(c) "Breakfast" means USDA reimbursable breakfast.

(2) A school district may apply to the State Board of Education for a waiver from providing a breakfast program for all or for individual sites if it is financially unable to implement or maintain a breakfast program.

(3) A request to the State Board of Education for a waiver shall be made by the local school superintendent or designee and contain at least the following:

(a) A projected revenue and expense statement for one year for the breakfast program including descriptions of each line item;

(b) Copy of one month's menus;

(c) Copy of the staffing pattern for the breakfast program;

(d) Projected breakfast participation levels and the percentage of those qualifying for free, reduced-price and paid meals;

(e) Number of students currently approved for free and reduced price for the National School Lunch Program;

(f) Anticipated breakfast charges for paid and reduced-price meals;

(g) A statement explaining why the school district is financially unable to provide the breakfast program.

(h) Copy of class schedule for each site included in the waiver request.

(4) For each request received, the State Superintendent shall make a recommendation to the State Board of Education based on the data submitted by the requesting district.

(5) Waiver requests are evaluated by Oregon Department of Education Child Nutrition staff to assist the State Superintendent in making a recommendation. Evaluation may include an on-site visit.

(6) The State Board of Education, upon review of the Superintendent's recommendations and data submitted by requesting districts, may grant a waiver for a period not to exceed two years, after which the district may submit a request for an extension of the waiver for an additional year.

Stat. Auth.: OL 1991, Ch. 500
Stats. Implemented: ORS 327.535
Hist.: EB 13-1992, f. & cert. ef. 4-7-92; ODE 18-2004, f. & cert. ef. 8-10-04

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Adm. Order No.: ODE 19-2004

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Notice Publication Date: 5-1-04

Rules Amended: 581-051-0500

Subject: The amendments will implement recent changes in federal regulation and will clarify current rule language.

If you have questions regarding this rule, please contact Joyce Dougherty at (503) 378-3600, ext. 2607 or e-mail Joyce.Dougherty@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

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581-051-0500

Purpose of Rules

These rules are adopted to assist Oregon School Districts in the development of contracts for food service management services.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 19-2004, f. & cert. ef. 8-10-04

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Adm. Order No.: ODE 20-2004
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Subject: The amendments will implement recent changes in federal regulation and will clarify current rule language.

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581-051-0510

Definitions

The following definitions apply to the Rules 581-051-0500 to 581-051-0590.

(1) "Competitive Negotiation" means a method of procurement whereby proposals are solicited from a number of sources, proposals are evaluated according to published criteria, and negotiations are conducted with one or more of the proposers.

(2) "Contract" means an agreement in writing, including the Sponsor's solicitation document and the accepted portions of the proposal, between a Sponsor and a Food Service Management Company, describing the work to be done and the obligations of the parties.

(3) "Department" means the Department of Education.

(4) "Sponsor" means any Oregon school district and any school, of high school grade or under, recognized as part of the educational system of this state and operating under private nonprofit or public ownership, in a single building or campus; and public or licensed private nonprofit residential child care facility; or any other entity meeting the definition of "school food authority" under 7 CFR Section 210 et seq., Section 220 et seq., Section 225 et seq., and Section 226 et seq.

(5) "Food Service Management Company" means a commercial enterprise or nonprofit association that contracts or proposes to contract with a Sponsor to manage any aspect of school food service. FSMC may contract or propose to contract with Sponsors participating in the Child and Adult Care for meals only.

(6) "Food Service Management Services" means management of any aspect of food service.

(7) "Federal Policy" means any directive adopted and published by the United States Department of Agriculture which regulates or interprets regulations, or which recommends procedures or standards for implementation, of Child Nutrition Programs. Federal policy specifically includes, but is not limited to, the publications "Contracting with Food Service Management Companies: Guidance for School Food Authorities," June 1995, and "Contracting with Food Service Management Companies: Guidance for State Agencies," June 1995, and any amendments and revisions to said publications.

(8) "Meal Equivalency Ratio" means the number of dollars in non-reimbursable food sales per equivalent pattern meal. It is a component of payment structure in many FSMC contracts. Where contracts provide for payment of a fee based on the number of meals and allow service of foods other than reimbursable pattern meals (such as a la carte food sales, catered food sales, and other similar food sales), the contract shall provide that sales of food other than reimbursable pattern meals be converted into an equivalent number of reimbursable meals.

(a) The ratio is based on National School Lunch Program meals.

(b) The value of a reimbursable meal is the current free reimbursement rate plus the per meal commodity rate.

(9) "National School Lunch Program" means the program under which participating schools operate a nonprofit lunch program in accordance with Part 210, Title 7, Code of Federal Regulations. Cash assistance and donated food assistance are made available to schools pursuant to this program.

(10) "Proposal" means a competitive offer, binding on the offer or and submitted in response to a Request for Proposals, where proposal evaluation and contract award is based on criteria such as proposer qualifications and experience, service features and characteristics, quality and efficiency, and conformance with the specifications and requirements of the solicitation. Price must be an evaluation criterion for proposals, but will not necessarily be the predominant basis for contract award.

(11) "Requests for Proposals" means an instrument of competitive negotiation used to solicit proposals from a number of sources.

(12) "Responsible Offeror" means an individual, firm or corporation who has the experience and capacity in all respects to perform fully the contract requirements, the integrity and reliability which will assure good faith performance, and who has not been disqualified by regulation.

(13) "School Year" means the period from July 1 of each calendar year to June 30 of the following calendar year.

(14) "Twenty-One Day Cycle Menu" means the menu with food item specifications developed in accordance with 7 CFR Section 210.10 or 210.10a, as applicable.

(15) "Vendor" means a commercial enterprise or nonprofit association that contracts or proposes to contract with a Sponsor to provide only food without management. These organizations are not Food Service Management Companies (FSMC).

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 20-2004, f. & cert. ef. 8-10-04

Adm. Order No.: ODE 21-2004
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Subject: The amendments will implement recent changes in federal regulation and will clarify current rule language.

If you have questions regarding this rule, please contact Joyce Dougherty at (503) 378-3600, ext. 2607 or e-mail Joyce.Dougherty@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

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581-051-0520

Scope of Rules

These rules apply to the solicitation, award, renewal, and execution of contracts between Sponsors and FSMCs within this State. Agreements that provide only for the provision of food, without management, are not subject to these rules.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 16, 220.16, 225.17, 226.22 & 7 CFR part 3015,

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 21-2004, f. & cert. ef. 8-10-04

Adm. Order No.: ODE 22-2004
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Rules Amended: 581-051-0530

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If you have questions regarding this rule, please contact Joyce Dougherty at (503) 378-3600, ext. 2607 or e-mail Joyce.Dougherty@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

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581-051-0530

Responsibilities of the Oregon Department of Education

(1) The Oregon Department of Education shall receive and disburse federal funds made available by acts of Congress for the assistance of public and private nonprofit organizations, including Districts, as defined herein, in providing food services to children and adults according to the provisions of the National School Lunch Program, School Breakfast Program, Special Milk Program, Child and Adult Care Food Program and Summer Food Service Program.

(2) The Department shall not disburse funds to any Sponsor if it finds that such Sponsor is substantially in violation of any provision of these rules or of the Richard B. Russell National School Lunch Act, 42 U.S.C. Sec. 1751 as amended or Child Nutrition Act of 1966, 42 U.S.C. Sec. 1771 as amended. Upon determining that a Sponsor is substantially in violation, the Department shall promptly notify the Sponsors and its retained FSMC, if any, in writing of the determination to withhold funds. The sponsor shall recover funds withheld only after the defect is corrected. The Sponsor shall also have the right to appeal the determination in accordance with the Contested Case Procedures promulgated by the Oregon State Attorney General.

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(3) The Department shall annually review all contract documents between Sponsors and FSMCs for conformity to these rules. The Department shall publish a Request for Proposal (RFP) and contract outlining the required general form and language of contract between Sponsors and FSMCs. The use of the department developed RFP and contract, which is attached here to and by this reference incorporated in these rules, by the Sponsor to secure services from an FSMC is mandatory.

(4) The Department shall conduct administrative and nutrition reviews of contracting Sponsors at least once every five years. Such reviews will include an assessment of the Sponsor's compliance with 7 CFR 210.16.

(5) Upon request, the Department may provide technical assistance to Sponsors related to the National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, or Summer Food Service Program. Such assistance may include, but is not limited to:

- (a) Development of a 21-day cycle menu with food item specifications;
- (b) Nutrition monitoring and advising;
- (c) Audit of fiscal and other records;
- (d) Training of Sponsor Staff;
- (e) Coordination with FSMCs; and
- (f) Arbitration of disputes over interpretation of a Contract.

(6) Whenever review and approval of an action or document by the Department is required by these rules, the Department shall review and either approve or disapprove promptly. In the event that the Department has neither approved nor disapproved such document or action within 30 days, the document or action shall be deemed to have been approved.

Stat. Auth.: ORS 326.051, 7 CFR 210. 220, 225, 226 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f.& cert. ef. 1-12-99; ODE 22-2004, f. & cert. ef. 8-10-04

Adm. Order No.: ODE 23-2004

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581-051-0550

Contracts Authorized

No Sponsor shall execute a contract or otherwise agree, formally or informally, to purchase food service management services except when all of the following conditions are fulfilled:

(1) The contract is in compliance with all applicable laws, rules and regulations, including but not limited to guidelines promulgated and published by the United States Department of Agriculture pursuant to the National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, or Summer Food Service Program;

(a) The agreement for Food Service Management Services is made in writing, contains all terms required by OAR 581-051-0580 herein;

(b) The FSMC has been selected after a procurement process that conforms to the requirements of OAR 581-015-0570 herein;

(2) The contract is approved by the Sponsor's board or governing body; and

(3) The contract has been reviewed and approved by the Department.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f.& cert. ef. 1-12-99; ODE 23-2004, f. & cert. ef. 8-10-04

Adm. Order No.: ODE 24-2004

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If you have questions regarding this rule, please contact Joyce Dougherty at (503) 378-3600, ext. 2607 or e-mail Joyce.Dougherty

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581-051-0555

Contract Renewal

The sponsor shall renew its contract with FSMC only if all of the following conditions are satisfied:

(1) The original contract allows for annual renewal and the total contract term does not exceed five years, original contract year plus four renewals;

(2) The Sponsor consents to the renewal by action of the board;

(3) There is no change in financial terms, unless so designated in the original agreement. Contracts may not allow for an unlimited or discretionary change to the meal fee at renewal. Contracts may allow for an annual change to the meal fee not to exceed 20 percent.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f.& cert. ef. 1-12-99; ODE 24-2004, f. & cert. ef. 8-10-04

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581-051-0560

Responsibilities of Sponsors

Every Sponsor shall:

(1) Hire or retain a FSMC only in accordance with these rules and with federal policy.

(2) Includes in its request for proposals the 21-day cycle menu with food specifications.

(3) Ensure that food provided by FSMCs is consistent with the 21-day cycle menu, meet food specifications and of good quality; changes to the 21-day cycle menu may be made after 21 days of implementation, upon mutual agreement of the sponsor and the FSMC;

(4) Monitor the operation and performance of the FSMC to ensure that the FSMC complies with the contract, with these rules and with federal policy. The Sponsor shall maintain records of same, and provide such records to the Department upon request;

(5) Coordinate, monitor, review and control food service operations, and perform the responsibilities that must be retained by Sponsors under federal policy, including but not limited to:

(a) National School Lunch Program, School Breakfast Program, Special Milk Program;

(b) Signature authority of state agency – sponsor agreement;

(c) Activities contained in the free and reduced price policy statement;

(d) Claiming;

(e) Use of nonprofit food service account revenues only for allowable costs;

(f) Ensure full utilization of federally donated foods for the benefit of the school food service program;

(g) Annual food safety inspections;

(h) Establishing an advisory board composed of parents, teachers and students to assist in menu writing three times a year;

(6) Child and Adult Food Program:

(a) Assign Sponsor staff with authority to manage program;

(b) Assure compliance with regulations;

(c) Approve Confidential Income Statements and develop OMAR;

(d) Monitor sites;

(e) Correct problems found during site monitoring or record reviews;

(f) Train staff with CACFP duties;

(g) Attend annual ODE training for CACFP Sponsors;

(h) Approve menus;

ADMINISTRATIVE RULES

(i) Review and maintain all required CACFP records; actual menus served, documentation demonstrating CACFP menu compliance; invoices for meals purchased; confidential income statements,

(j) Validate and submit reimbursement claims;

(k) Communicate with FSMC;

(l) Complete annual ODE Agreement Renewal application Summer Food Service Program:

(A) Ordering meals for sites;

(B) Maintaining program records;

(C) Submitting claim for reimbursement;

(D) Training and monitoring sites;

(E) Determining eligibility for free and reduced price meals in order to establish site eligibility.

(7) Administer the contract so as to provide for good, efficient and effective use of public funds, and avoid delegating responsibility for contract administration to the FSMC;

(8) If the contract provides for reimbursement of costs to the FSMC, independently monitor costs incurred under the contract for compliance with 7 CFR Sec. 3015, 3016 or 3019, and other applicable federal policies; and

(9) Perform all functions required by federal regulation and by guidance of the United States Department of Agriculture.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015

Stats. Implemented:

Hist.: ODE 6-1999, f.& cert. ef. 1-12-99; ODE 25-2004, f. & cert. ef. 8-10-04

Adm. Order No.: ODE 26-2004

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Subject: The amendments will implement recent changes in federal regulation and will clarify current rule language.

If you have questions regarding this rule, please contact Joyce Dougherty at (503) 378-3600, ext. 2607 or e-mail Joyce.Dougherty@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

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581-051-0565

Responsibilities of Food Service Management Companies

(1) A FSMC shall sign and perform its duties under a contract for food service management services in accordance with these rules and federal policy.

(2) The FSMC shall serve meals substantially as described in the sponsor's 21-day cycle menu, and which shall not be of lesser quality, appeal, or nutritional value than as described in the 21-day cycle menu.

(3) The FSMC shall maintain complete business and financial records of the food service operations and shall make them available upon request to the Department or its authorized designee.

(4) The FSMC shall refrain from performing any function under USDA regulations and procedures, which is the non-delegable responsibility of a School Food Authority.

(5) The FSMC shall seek reimbursement of food costs and administrative expenses only as follows:

(a) Food costs must be 100 percent of actual and reasonable costs paid to independent third parties who negotiate with the FSMC at arms' length. If food is manufactured or provided by the FSMC itself, the FSMC must independently demonstrate to the satisfaction of the Sponsor and of the Department that such costs are not above market. If the FSMC receives from third parties any rebate or discount against commodity or purchased food costs which have been charged to the Sponsor, such rebates and discounts must be refunded to the Sponsor; and

(b) Reimbursable administrative expenses must be actual and reasonable and must relate solely to administration of the food service management at the particular Sponsor served and not to Sponsors or customers of the FSMC in general.

(6) All food service management companies who contract with Oregon schools and other sponsors to provide food services will be required to meet the same employee screening standards as other school district employees. Such standards should include, but not be limited to fingerprint screening and criminal conviction screening applicable to school employees. Such standards should be consistent with ORS 326.603 and OAR 581-22-0716.

Stat. Auth.: ORS 326.051, 7 CFR 210.16, 226.21, 225.15(h) & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f.& cert. ef. 1-12-99; ODE 26-2004, f. & cert. ef. 8-10-04

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581-051-0570

Procurement Procedures Required

(1) Sponsors shall procure food service management services in accordance with the requirements of these rules, as well as with 7 CFR Part 3015, 3016, 3019 and other applicable contracting laws. Each sponsor shall also comply with such public contracting rules and regulations as it may have adopted, or if a sponsor has adopted no public contracting rules and regulations as it may have adopted, or if a sponsor has adopted no public contracting rules and regulations, the sponsor shall comply with the **Oregon Attorney General's Model Public Contract Rules**, OAR 37-030-000 et seq.

(2) Sponsors shall conduct procurement for food service management services in a manner as to maximize free and open competition by issuance of Requests for Proposals.

(a) The Request for Proposal shall:

(i) Specify the scope of work required;

(ii) Specify the criteria which will be used to evaluate proposals, and the relative importance of each criterion; and

(iii) Specify the manner in which proposals will be evaluated.

(b) The RFP shall include a contract form which is identical to the document issued by the Department pursuant to OAR 581-051-0530(3),

(c) The Sponsor shall provide the Department with a copy of the RFP 60 days prior to publication for review.

(d) The Sponsor shall solicit proposals from qualified sources to permit reasonable competition, consistent with the nature and requirements of the procurement;

(e) The Sponsor shall evaluate the proposals in accordance with the published criteria and shall ensure that it has, or shall else retain, adequate technical expertise to reasonably evaluate the proposals. The Sponsor may avail itself of technical assistance from the Department as authorized in OAR 581-051-0530(5);

(f) The Sponsor will negotiate price and terms with top-ranked offerors.

(g) The Sponsor shall make award to the responsible offeror whose proposal is most advantageous to the District;

(h) The Sponsor shall submit the contract with the selected proposer to the Department for review within 10 days after Board or governing body of the District has approved the selected proposer.

(i) The sponsor shall submit the final contract to the Department within 10 days after signature;

(j) Alternative procurement methods may be approved by the Department.

(3) Sponsors shall not:

(a) Place any unreasonable requirement upon proposers that would tend to exclude qualified proposers;

(b) Foster or encourage any collusion between proposers or other noncompetitive practice;

(c) Allow any conflict of interest that is prohibited by Oregon law;

(d) Use a form of RFP or contract that has been provided by an FSMC in preparing the Request for Proposal;

(e) Negotiate with any proposer prior to evaluation of all proposals;

(f) Disclose the contents of any proposal to another proposer until all proposals are opened and made public;

(g) Provide relevant information to only some and not to all proposers.

(4) Exception for secondary contract. Any Sponsor may, without Requests for Proposals, enter into an agreement with any other Sponsor

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which has a valid contract for food service management, for the provision of meals, provided that:

- (a) The subordinate Sponsor is otherwise qualified as a School Food Authority under 7 CFR;
- (b) The subordinate Sponsor entered into a written agreement for delivery of meals;
- (c) The proceeds of such meals and reimbursements are kept in segregated accounts under the management of the subordinate Districts; and
- (d) The subordinate Sponsor fulfills the obligations of a Sponsor under OAR 581-051-0560 herein.

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

Stat. Auth.: ORS 326.051, 7 CFR 210.21, 220.16, 225.17, 226.22 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 27-2004, f. & cert. ef. 8-10-04

Adm. Order No.: ODE 28-2004

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

Certified to be Effective: 8-10-04

Notice Publication Date: 5-1-04

Rules Amended: 581-051-0580

Subject: The amendments will implement recent changes in federal regulation and will clarify current rule language.

If you have questions regarding this rule, please contact Joyce Dougherty at (503) 378-3600, ext. 2607 or e-mail joyce.Dougherty@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

581-051-0580

Contract Terms Required

(1) Financial terms and payment provisions must be objective and unambiguous, such that two different parties are able to independently calculate the cost or payment and obtain identical results. Administrative and management fees must be itemized in detail to accurately describe the actual costs incurred by the FSMC for which the Sponsor will make payment.

(2) All revenue and expenses must accrue to the non-profit school food service account, never the District or the FSMC.

(3) Where a contract provides for special functions outside the non-profit school food service, the contract must delineate the cost allocation for those special functions in such a manner as to demonstrate that labor costs will not be double billed for program meals and special function meals.

(4) The contract shall provide a fiscal guarantee to the District.

(5) Where the contract permits a la carte food sales and the conversion of a la carte sales into equivalent pattern meals, the calculation to make that conversion is to be the current NSLP free reimbursement rate plus the commodity value rate.

(6) No change in charges payable to the FSMC from the Sponsor shall be permitted upon contract renewal unless the contract in place contains specific terms permitting such change.

(7) Annual increases in charges payable to the FSMC from the Sponsor upon contract renewal shall be limited to such reasonable predictions of anticipated increased costs as are defined in the original Contract.

(8) Contracts shall be based on a one-month accounting period, consistent with Department and Sponsor accounting practices.

(9) The following terms are prohibited and may not be included in any contract for the management of food service operations in Oregon schools:

(a) A "cost plus" fee structure in which the Sponsor pays to the FSMC cost plus a percentage of cost or income;

(b) Duplicate fee structures that permit a FSMC to bill management fees and charge the same costs as cost-reimbursable expenses;

(c) Purchasing clauses, where the Sponsor makes purchases that limit the selection of vendors to only those approved by the FSMC;

(d) Acceleration clauses that require full payment of multi-year equipment purchases if the contract is not renewed;

(e) Interest may not be charged for past due invoices, equipment purchases, or any other reason to the extent that federal program funds are used in payment;

(f) Contingent return provisions that make the financial guarantee of the contract contingent upon contract renewal or multi-year performance of the contract;

(g) Automatic renewal of the contract, or any other process for renewal inconsistent with OAR 581-051-0550 or any provision acting as penalty for non-renewal;

(h) Subcontracting of food service management operations;

(i) Loans from the FSMC to the District, whether in the form of direct lending, advances of payments, or deferral of invoices due; and

(j) Restrictions on the ability of the Sponsor to rehire non-management FSMC food service employees in the event that the contract is not renewed.

Stat. Auth.: ORS 326.051, 7 CFR 210.16, 220.16, 225.15(h), 226.21 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 28-2004, f. & cert. ef. 8-10-04

Oregon Economic and Community Development Department Chapter 123

Adm. Order No.: EDD 12-2004

Filed with Sec. of State: 7-27-2004

Certified to be Effective: 7-27-04

Notice Publication Date: 7-1-04

Rules Adopted: 123-001-0700, 123-001-0725, 123-001-0750

Subject: These changes are necessary because of changes made by the 2003 legislature, specifically HB 2300 and HB 2549 to OAR Chapter 123, Division 145. Division 145 generally governs the processes and procedures for Vertical Housing Development Zones, including imposition of an application fee for project certification (to receive partial exemption from provided taxes).

These new Division 001 procedural rules set forth the Department's procedures for any contested cases resulting from implementation of Division 145.

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

123-001-0700

Purpose, Scope and Definitions

(1) OAR 123-001-0700 to 123-001-0799 establish procedural steps and options for handling appeals, in the manner of a contested case under ORS 183.310 to 183.550, when the Department denies one of the following applications for tax benefits (as so described in divisions of this chapter of administrative rules):

(a) Application for certification as an advanced telecommunication facility respective to the tax credit under ORS 315.511 (Division 106);

(b) Application for certification as a vertical housing development project for the partial exemption from property taxes under ORS 285C.471 (Division 145); and

(c) Application either for preliminary certification or for annual certification to exempt the taxable income apportionable to a facility under ORS 316.778 or 317.391 (Division 155), other than when denial results from objection to preliminary certification by the city, county or port.

(2) Except as described in section (1) of this rule (or as otherwise provided under state law or elsewhere in this chapter of administrative rules), a proceeding, hearing, determination or decision by the Department, Director, Commission or any subsidiary body thereto shall be neither appealable in the manner of a contested case nor construed in any way as a contested case hearing, process or order.

(3) OAR 123-001-0700 to 123-001-0799 are intended only to supplement mandatory elements of contested case proceedings under the Administrative Procedures Act for matters specific to the Department. Therefore, OAR 137-003-0501 to 137-003-0700 are incorporated into and adopted as part of this division of administrative rules, by reference.

(4) For purposes of OAR 123-001-0700 to 123-001-0799, unless the context demands otherwise:

(a) "Applicant" means the person (including but not limited to a business firm) that sought approval for certification by submitting the respective application listed in section (1) of this rule, as identified in the application form; such person is thus the affected party or appellant for purposes of the contested case, and the address given in the form is assumed correct for mailing the Notice.

(b) "Notice" means the formal written statement on Department letterhead that is initially sent to the Applicant, who would be denied certification, in accordance with OAR 123-001-0725.

Stat. Auth.: ORS 183.341(2), 183.415(4), 183.464(2), 285A.075(5), 285A.110(1), 285C.530(3)

Stats. Implemented: ORS 183.415, 183.464, 285C.465, 285C.503, 285C.506, 285C.530

Hist.: EDD 12-2004, f. & cert. ef. 7-27-04

123-001-0725

Steps and Reservations of the Department

(1) As described in OAR 123-001-0700(1), the Department shall send Notice to the Applicant, such that:

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(a) The Notice shall be sent by registered or certified mail;
(b) If a copy is sent also by regular, first-class mail, it must be so mailed at least five days prior to the Notice as described in subsection (a) of this section; and

(c) A copy is also furnished to the Department of Revenue/county assessor as appropriate.

(2) The Notice, on Department letterhead, shall include but is not limited to the following:

(a) The date and other pertinent facts of the Department's receipt of the application;

(b) Brief explanation of why the Department is unable to approve it;

(c) Reference to the specifically relevant statutory subsection(s) or administrative rule section(s), and further explanation, as warranted, regarding how these references support the Department's conclusion(s);

(d) Statement of the Applicant's right to a contested case hearing on the matter before an administrative law judge and to be represented by legal counsel;

(e) Designation of the Department's current file on the application as the record for purposes of proving a prima facie case upon default; and

(f) Instruction on how the Applicant must file a written request in order to receive the hearing, such that the request is received by the Department on or before a specified date not less than 30 calendar days after the Notice.

(3) The Department reserves the option (at its sole discretion) to withdraw the proposed denial and grant certification to the Applicant for any reason, prior to a final order, including but not limited to the re-submission of a new application or the consideration of evidence that alters the Department's prior conclusion(s), as otherwise allowed under the applicable laws.

(4) Upon default by the Applicant, including but not limited to failure to timely file a request for a hearing with the Department, the Department shall promptly issue a final order denying certification, furnishing a copy to the Department of Revenue/county assessor as appropriate.

(5) If the Applicant files a timely request for a contested case hearing, the case shall be referred to the Office of Administrative Hearings and a copy of the referral furnished to the Applicant, General Counsel, and the Department of Revenue/county assessor as appropriate.

(6) The administrative law judge will issue a proposed order, pursuant to applicable proceedings of the contested case hearing, and except as set forth in subsection (7)(a) or (b) of this rule, that proposed order shall become final by order of the administrative law judge not less than 45 calendar days after the issuance of the proposed order.

(7) A proposed order in section (6) of this rule shall not become final if:

(a) The Department gives timely written notification to the parties and the administrative law judge of its intent to alter the findings or effect of the order, subsequent to which it shall issue an amended proposed order and/or final order, as warranted.

(b) Within 30 calendar days from issuance of the proposed order, a party files written exceptions that concisely present the party's entire argument against the proposed order, and the Department subsequently requests in writing that the administrative law judge undertake further steps, such as an official response to the exceptions or hearing new or additional evidence; such exceptions must be filed with both the Department and the administrative law judge.

Stat. Auth.: ORS 183.341(2), 183.415(4), 183.464(2), 285A.075(5), 285A.110(1), 285C.530(3)

Stats. Implemented: ORS 183.415, 183.464, 285C.465, 285C.503, 285C.506, 285C.530

Hist.: EDD 12-2004, f. & cert. ef. 7-27-04

123-001-0750

Representations by Agency Representative

For purposes of any contested case hearing before an administrative law judge:

(1) Subject to the approval of the office of Attorney General of the State of Oregon under ORS chapter 180, an officer or employee of the Department is authorized to appear on behalf of the Department.

(2) Such a Department representative may not present legal argument on behalf of state government.

(3) The Department retains its full prerogative, with or without intervention by the administrative law judge, to consult with or otherwise involve the office of Attorney General, including but not necessarily limited to the sole purpose of having the office of Attorney General present legal argument at the hearing or to file written legal argument within a reasonable time after conclusion of the hearing.

(4)(a) "Legal argument" includes arguments on:

(A) The jurisdiction to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to the Department; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the statutes or rules to the facts in the contested case;

(B) Comparison of prior actions of the agency in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(D) The admissibility of evidence; and

(E) The correctness of procedures being followed in the contested case hearing.

Stat. Auth.: ORS 183.452(2), 285B.075(5), 285A.110(1)

Stats. Implemented: ORS 183.452

Hist.: EDD 12-2004, f. & cert. ef. 7-27-04

Adm. Order No.: EDD 13-2004

Filed with Sec. of State: 7-27-2004

Certified to be Effective: 7-27-04

Notice Publication Date: 7-1-04

Rules Adopted: 123-145-0700, 123-145-1100

Rules Ren. & Amended: 123-145-0010 to 123-145-0100, 123-145-0020 to 123-145-0200, 123-145-0030 to 123-145-0300, 123-145-0040 to 123-145-0400, 123-145-0050 to 123-145-0500, 123-145-0090 to 123-145-0600, 123-145-0060 to 123-145-1000, 123-145-0070 to 123-145-1200, 123-145-0080 to 123-145-1300

Subject: These changes are necessary because of changes made by the 2003 legislature, specifically HB 2300 and HB 2549. This filing generally amends, corrects and enhances the text of this chapter. Division 145 governs the processes, constructs, and technical matters for Vertical Housing Development Zones, including imposition of an application fee for project certification (to receive partial exemption from provided taxes).

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

123-145-0100

Purpose and Objectives

(1) For purposes of ORS 285C.450 to 285C.480, this division of administrative rules clarifies and implements processes, criteria and policies for vertical housing development zones (VHDZs), as designated by the Director in particular areas of the state pursuant to a local government application. In a VHDZ, developments of upper-floor housing in conjunction with commercial uses are partially exempt from property taxes under ORS 285C.471, subject to application by the project's developer/owner and certification by the Department.

(2) These administrative rules are not meant to interfere with the fiscal parameters or the direct administration of property taxes by county assessors, and they do not supersede administrative rules of the Department of Revenue in OAR chapter 150, as adopted or amended in the future for such purposes.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.453(5)

Stats. Implemented: ORS 285C.450 – 285C.480

Hist.: EDD 6-2002, f. & cert. ef. 4-1-02; Renumbered from 123-145-0010; EDD 13-2004, f. & cert. ef. 7-27-04

123-145-0200

Definitions

As used in this division of administrative rules, unless the context clearly indicates otherwise:

(1) "Allowed Area" means a contiguous area within the jurisdiction of the City/county Applicant, constituting sites and property that are entirely inside one or more of the following:

(a) "Light rail station area," as defined in a regional or local transportation plan to be within a one-half mile radius of an existing or planned light rail station, as measured by a direct line that is the radius of a circle;

(b) "Transit oriented area," as defined in a regional or local transportation plan to be within one-quarter mile of fixed route transit service, as measured by a direct line or the most directly accessible pedestrian route, consistent with the prevailing local planning standard or applicable municipal development regulation; or

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(c) "Core area of an urban center," which is any incorporated area encompassed by one or more of the following:

(A) Existing 'central business district' or 'downtown area' according to the city's zoning ordinances, US Census Bureau or comparable source of definition/designation;

(B) Defined 'central city,' 'regional center,' 'town center,' 'main street' and/or 'station community' in the Portland Metro 2040 Regional Growth Concept, or 'nodal development area' in the Eugene-Springfield Metropolitan Area Transportation Plan;

(C) Area satisfying the definition for a 'commercial node,' 'commercial center,' 'community center,' 'special transportation area' or 'urban business area' in the Oregon Highway Plan;

(D) Transit-oriented development or pedestrian/restricted-access district in the acknowledged comprehensive plan of the city; or

(E) Similar type of area under official criteria, designation or standards.

(2) "Certified Project" means a project that the Department has certified, as described in OAR 123-145-1100, based on a proposal and description that conforms to a "vertical housing development project" (as defined under ORS 285C.450), the location of which is in a designated VHDZ.

(3) "City/county Applicant" means a city or county or combination thereof, as provided under ORS 285C.453(1) to (3), that seeks designation of a proposed VHDZ to be located in an Allowed Area.

(4) "Commercial Use" or "Uses" means the nonresidential, ongoing and publicly accessible operations or activities of a business firm or organization, including but not limited to retail, community facilities, education, food service, manufacturing, office space, public services and so forth; alone, parking or storage (even if paid for) does not satisfy this section.

(5) "Department" means the State of Oregon Economic and Community Development Department.

(6) "Director" means the Director of the Oregon Economic and Community Development Department.

(7) "Local Taxing District" means any municipal corporation that levies ad valorem taxes on property in a tax code area to be located within a proposed VHDZ designation, except for the City/county Applicant (or a service or urban renewal district entirely within or commensurate to a City/county Applicant's jurisdiction and with an equivalent governing body)

(8) "Project Applicant" means a person or organization that fills out and files an application with the Department to be approved as a Certified Project, and that is:

(a) The legal owner of the building or buildings comprising the Certified Project or of the land, on which relevant improvements are newly constructed, if title to improvements is not otherwise distinguishable from land ownership;

(b) Under contract to manage the property for the owner;

(c) Under contract with the owner to develop the property and to then lease or purchase it from the owner; or

(d) An authorized representative of the owner for purposes of the development.

(9) "Residential Use" or "Uses" means regular, sustained occupancy as a primary domicile, housing, living quarters or apartment through ownership, condominium, lease or rental agreement and shall not be construed to include hotels, motels, hostels, rooming houses, bed & breakfast operations or other such transient accommodations.

(10) "Special District" means a Local Taxing District that is also of a type listed under ORS 198.010 or 198.180.

(11) "VHDZ" means a vertical housing development zone under ORS 285C.450 to 285C.480, as designated by the Director based on a City/county Applicant's proposal.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.453(5)

Stats. Implemented: ORS 285C.453

Hist.: EDD 6-2002, f. & cert. ef. 4-1-02; Renumbered from 123-145-0020; EDD 13-2004, f. & cert. ef. 7-27-04

123-145-0300

Participation of Special Districts

In accordance with the provisions under ORS 285C.453:

(1) To elect not to participate in a VHDZ, a Special District shall inform the City/county Applicant of its decision to opt out of the designation:

(a) Within 45 days after the date on which proper, written notification was mailed to all Local Taxing Districts; and

(b) By furnishing a copy of a resolution or other official instrument duly adopted and issued by the governing body of the Special District pursuant to notification.

(2)(a) Not later than 30 days after filing the application, the City/county Applicant must submit to the Department a final statement regarding the Special Districts (if any) that have opted out of the VHDZ and thus consequent exemptions;

(b) If applicable, this statement shall list each such Special District along with a copy of the furnished instrument; and

(c) The City/county Applicant shall also send copies to the Special Districts Association of Oregon (SDAO), Salem (Attn: 'Vertical Housing Development Zone').

(3) The City/county Applicant may deem a Special District that fails to respond, according to section (1) of this rule, to be participatory in the VHDZ designation and excluded from being listed as described in section (2) of this rule.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.453(5)

Stats. Implemented: OL 2001, Ch. 888

Hist.: EDD 6-2002, f. & cert. ef. 4-1-02; Renumbered from 123-145-0020; EDD 13-2004, f. & cert. ef. 7-27-04

123-145-0400

Content and Processing of Zone Applications

For purposes of ORS 285C.453, 285C.456 and 285C.459:

(1) An application proposing designation of a VHDZ may be filed with the Department at any time, 15 or more days after notification to Local Taxing Districts was sent

(2) The application is made on a form, prescribed and provided by the Department, and submitted to: Business Development, Oregon Economic & Community Development, State Lands Building Suite 200, 775 Summer Street NE, Salem, Oregon 97301-1280.

(3) In addition to the application form completed by the City/county Applicant, the application must contain:

(a) Copy of the requisite resolution(s) adopted by the city's or county's governing body and requesting (or as applicable, consenting to) designation of the proposed VHDZ;

(b) A listing of all Local Taxing Districts, a copy of the written notification mailed to them, and an affidavit of mailing that it was duly sent, in accordance with ORS 285C.453 and OAR 123-145-0300;

(c) A description of the area sought to be designated as the VHDZ, including but not limited to a scale map clearly showing the proposed VHDZ boundary and a complete list of property tax accounts to be encompassed by it; and

(d) Clear, conclusive evidence or documentation that the VHDZ area proposed for designation is inside an Allowed Area.

(4) The Department shall review the application and associated materials submitted by the City/county Applicant.

(5) The Director or the Director's designee shall determine to approve or deny the application within 60 days of the Department's receipt of a complete application, but not before receiving a statement as described in OAR 123-145-0300(2). (If the statement is not submitted within the requisite 30-day period, the Department may consider the application to be incomplete until the statement is received)

(6) If the application is denied, the Department shall send a written explanation to the City/county Applicant, which may reapply.

(7) Approval of the application depends on the proposed VHDZ's location in an Allowed Area, as well as the accuracy and completeness of the information submitted by the City/county Applicant, as required by applicable laws, this division of administrative rules and the application form and instructions.

Stat. Auth.: ORS 285A.075(5), 285A.110(1) & 285C.453(5)

Stats. Implemented: ORS 285C.453, 285C.456 & 285C.459

Hist.: EDD 6-2002, f. & cert. ef. 4-1-02; Renumbered from 123-145-0040; EDD 13-2004, f. & cert. ef. 7-27-04

123-145-0500

Zone Designations

For purposes of ORS 285C.456 and 285C.459:

(1) The Department shall send a copy of the formal designation action to the City/county Applicant, the Department of Revenue and the affected county assessor(s), and included with the notification to the assessor shall be:

(a) Copies of materials delineating the area of the VHDZ; and

(b) The name of any Special District that opted out of the VHDZ, as described in OAR 123-145-0300.

(2) Once designated, a VHDZ shall continue to exist indefinitely, except as described in OAR 123-145-0700.

(3) The boundary of a VHDZ may not be modified.

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(4) A city or county may seek additional designations, provided that any subsequent designation does not include any area inside an existing VHDZ.

(5) ORS 308.225 applies to the boundary of a VHDZ.

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

Stats. Implemented: ORS 285C.456 & 285C.459

Hist.: EDD 6-2002, f. & cert. ef. 4-1-02; Renumbered from 123-145-0050; EDD 13-2004, f. & cert. ef. 7-27-04

123-145-0600

Municipally Sponsored Development Projects

(1) ORS 285C.462 grants special authority for a city and/or county to acquire real property located in an VHDZ for the purpose of developing or furthering the development of the property for Commercial and/or Residential Uses within its jurisdiction. This grant is in addition and without prejudice to such authority that otherwise exists under laws of this state.

(2)(a) If a city/county does acquire real property by ownership or through an equity interest, as described in section (1) of this rule, then the city or county may permit the development to be undertaken, only if the governing body of the city or county has determined that it will encourage high-density (multi-level) housing or the efficient use of transit facilities within the VHDZ.

(b) This section applies regardless if the city or county undertakes the development of the property independently, jointly or in partnership with a private entity, or if the developer(s) of the real property own and operate the property, or they sell or otherwise dispose of the property at any time during or after its development, at or below market value.

(3) Section (2) of this rule does not apply to all developments sponsored by the city/county, such as the following:

(a) Facilities intended primarily for the provision of public services by the city or county or as the location for city/county operations; or

(b) Property, the sale of which generates net proceeds for the city/county in excess of the real market value of its ownership/equity interest.

(4) This rule has no bearing on what constitutes a vertical housing development project for purposes of certification by the Department or the exemption under ORS 285C.471.

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

Stats. Implemented: ORS 285C.462

Hist.: EDD 6-2002, f. & cert. ef. 4-1-02; Renumbered from 123-145-0090; EDD 13-2004, f. & cert. ef. 7-27-04

123-145-0700

Zone Termination

At any time, the City/county Applicant of a designated VHDZ may have it terminated under ORS 285C.480, such that:

(1) The City/county Applicant furnishes to the Department a copy of a resolution or resolutions lately adopted by each governing body that requests termination of the VHDZ by the Director;

(2) In issuing an official action to terminate the VHDZ, the Director may make the termination effective at any time within 90 days from receiving the official request, taking into account pending applications for project certification;

(3) The partial exemption is allowed for any Certified Project, as so approved by the Department before the effective date of the VHDZ's termination;

(4) The Department shall send notice of termination under this section to the City/county Applicant, the Department of Revenue and the county assessor(s), as well as persons using or seeking to use the VHDZ for the partial exemption, of whom the Department is aware; and

(5) A subsequent VHDZ may consist of area from a terminated VHDZ; in particular, this is how a VHDZ may effectively be expanded, such that the newly designated VHDZ:

(a) Is designated concurrent with the termination; and

(b) Encompasses all of the terminated VHDZ's area, as well as additional Allowed Area.

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

Stats. Implemented: ORS 285C.480

Hist.: EDD 13-2004, f. & cert. ef. 7-27-04

123-145-1000

Project Certification Applications

For purposes of ORS 285C.465:

(1) At any time during the year, a Project Applicant may file an application for certification by completing the form, as prescribed by and available from the Department, and by submitting it to: Business Development, Oregon Economic & Community Development, State Lands Building Suite 200, 775 Summer Street NE, Salem, Oregon 97301-1280.

(2) The Department shall accept such an application subject to:

(a) Complete information as required under ORS 285C.465(2), in this division of administrative rules, or by the Department in the application form and instructions;

(b) Application fee by check or money order payable to the Department in the amount of the lesser of \$500, or \$100 times the total number of floors (among one or more buildings), on which is undertaken any of the construction, reconstruction or rehabilitation comprising the proposed Certified Project; and

(c) Filing with the Department before any applicable unit for Residential Use is already occupied or reoccupied, and before any such unit is ready for re/occupancy as evidenced by either of the following:

(A) The relevant permitting authority has not issued a temporary or permanent certificate of occupancy; or

(B) Occupancy is otherwise effectively prevented because the proposed Certified Project has not yet been completed, where no new permit is required.

(3) If an application is rejected as not acceptable under this rule, then:

(a) The Department shall return it to the Project Applicant with notice as described in OAR 123-001-0700 to 123-001-0799.

(b) It may be resubmitted, and the Department, at its sole discretion as appropriate under the circumstances, may accept it based on the original date of filing in the case where occupancy or readiness to occupy has since occurred.

(4) The Department shall evaluate each acceptable application, as provided under ORS 285C.465(4) and (5), including but not limited to materials attached to or accompanying the form, as submitted consistent with this rule.

(5) The application fee shall be returned or refunded to the Project Applicant if the application is rejected or certification denied, pending a final order to that effect.

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

Stats. Implemented: ORS 285C.465 & 285C.468

Hist.: EDD 6-2002, f. & cert. ef. 4-1-02; Renumbered from 123-145-0060; EDD 13-2004, f. & cert. ef. 7-27-04

123-145-1100

Agency Certification of Projects

(1) The Department's processing of each complete application for project certification and the determination to approve or deny it shall be concluded within 60 days from when a complete application is received by the Department.

(2) In order to certify a vertical housing development project, as it is described in the application, the Department must find that:

(a) The location or site of the proposed project is in an existing VHDZ;

(b) The project as proposed meets the requirements in OAR 123-145-1200; and

(c) In the case of reconstruction or rehabilitation of any existing improvement, the described work will substantially alter or enhance the utility, condition, design or nature of the structure, such that the following alone is not sufficient for this purpose, irrespective of cost or implementation throughout a building:

(A) Maintenance and repairs;

(B) Refurbishment or redecoration that merely replaces, updates or restores certain fixtures, surfaces or components; and

(C) Similar such work of a superficial, obligatory or routine nature.

(3) If the application is approved, the Department shall:

(a) Issue a letter to the Project Applicant with an explanation of the partial exemption on the Certified Project's property under ORS 285C.471; and

(b) Send a copy of the letter and of the application and associated materials to the county assessor of the county in which the Certified Project is located.

(4) If the application is denied, the Department:

(a) Shall send notice consistent with OAR 123-001-0700 to 123-001-0799; and

(b) May allow reapplication, consistent with OAR 123-145-1000(3)(b).

(5) Certification of a proposed multi-structure project may be partial approved, such that:

(a) The Department's letter of approval formally circumscribes the Certified Project to exclude one or more improvements, for example, in the case of an existing building that fails the standard in subsection (2)(c) of this rule; and

(b) Notice consistent with OAR 123-001-0700 to 123-001-0799 is also sent with respect to the excluded portion of the project.

ADMINISTRATIVE RULES

(6) Certification does not guarantee that property will be exempt under ORS 285C.471.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 285C.465 & 285C.468
Hist.: EDD 13-2004, f. & cert. ef. 7-27-04

123-145-1200

Mandatory Elements of a Project

(1) A vertical housing development project must satisfy the following criteria:

(a) It comprises a building or an associated group of buildings/structures;

(b) Construction, reconstruction or rehabilitation has been undertaken with respect to each building or associated structure, including but not limited to additions that expand or enlarge an existing building, before readiness to re/occupy;

(c) Each building consists of one or more upper-level floors for Residential Use; and

(d) The ground-level floor (at least) of each building is for Commercial Use

(2) For purpose of section (1) of this rule:

(a) One or more floors below the floor or floors for Residential Use but directly above the ground-level floor may likewise be for Commercial Uses.

(b) To be 'for' Residential Use or 'for' Commercial Use does not mean that a building floor is actually being occupied accordingly, but rather that it is at least intended and ready for such use and is not converted or occupied for a contrary use.

(c) The Commercial Use for a particular floor or floors is satisfied even if such use does not entirely comprise that level, but all building/structural area with ground-level street or pedestrian frontage must be exclusively for Commercial Uses.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 285C.450, 285C.468 & 285C.471
Hist.: EDD 6-2002, f. & cert. ef. 4-1-02; Renumbered from 123-145-0070; EDD 13-2004, f. & cert. ef. 7-27-04

123-145-1300

Partial Property Tax Exemptions for Certified Projects

For purposes of the partial exemption from ad valorem taxes under ORS 285C.471:

(1) In order to grant an exemption, the county assessor must be in receipt of relevant certification from the Department, as described in OAR 123-145-1100(3).

(2) Except as modified by sections (3) and (4) of this rule, the exemption applies to the real market value increase directly attributable to the construction, reconstruction or rehabilitation of real property improvements associated with the Certified Project, in each of the tax years for which the exemption is available, including but not limited to on-site development, but the exemption does not include the pre-existing value of land, buildings or structures (prior to the project) or any machinery and equipment.

(3) The property exemption rate equals 20 percent (0.2) multiplied by the number of floors (among all associated buildings exempt in that year), up to but not exceeding four such floors, that are:

(a) Exclusively for Residential Use; and

(b) Constructed, reconstructed or rehabilitated as part of the (overall) vertical housing development project.

(4) The county assessor shall take steps necessary to ensure that the exemption does not affect property taxes otherwise levied by and due to a Special District identified as not participating in the VHDZ pursuant to OAR 123-145-0500(1)(b).

(5) The exemption on a particular building or associated structure is available for 10 consecutive tax years beginning with the tax year immediately following the calendar year during which the building's Residential Use areas are first occupied or reoccupied or ready for re/occupancy.

(6) If during the period of partial tax exemption, any part of a floor for Residential Use (as described in section (3) of this rule) is converted to or used and occupied for nonresidential use, the county assessor shall terminate the exemption on the entire project containing the floor for the remainder of the period.

(7) Within 30 days of a denial, termination or disqualification of the partial exemption, the county assessor shall notify the Project Applicant (and the owner if different) that the action may be appealed to the Oregon Tax Court under ORS 305.404 to 305.560.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 285C.450 & 285C.471
Hist.: EDD 6-2002, f. & cert. ef. 4-1-02; Renumbered from 123-145-0080; EDD 13-2004, f. & cert. ef. 7-27-04

Adm. Order No.: EDD 14-2004

Filed with Sec. of State: 8-2-2004

Certified to be Effective: 8-2-04

Notice Publication Date: 7-1-04

Rules Adopted: 123-020-0100

Rules Repealed: 123-020-0050

Rules Ren. & Amended: 123-020-0005 to 123-020-0105, 123-020-0010 to 123-020-0110, 123-020-0015 to 123-020-0115, 123-020-0020 to 123-020-0120, 123-020-0025 to 123-020-0125, 123-020-0030 to 123-020-0130, 123-020-0035 to 123-020-0135, 123-020-0040 to 123-020-0140

Subject: This division of administrative rules describes the process for bringing a port formation request to the Economic & Community Development Department. These amendments are necessary to make permanent the temporary amendments filed on February 3, 2004 as a result of the 2003 Legislative Session, specifically HB 2300. The old rule is more restrictive than the current statutes and the Department of Justice advised the Department to amend its rules to allow application by country order.

This filing is intended to correct, suspend and replace all temporary filings in effect as of the date of this notice.

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

123-020-0100

Purpose and Scope

This division of administrative rules describes the steps and necessary elements for the Commission to approve the formation of a Port, as required under ORS 285A.627(2).

Stat. Auth.: ORS 285.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.627
Hist.: EDD 14-2004, f. & cert. ef. 8-2-04

123-020-0105

Definitions

As used in this division of administrative rules, unless the context requires otherwise:

(1) "Applicant" means an entity that may legitimately seek and propose the formation of a new Port, and that submits a request for the Commission's approval.

(2) "Commission" means the State of Oregon Economic and Community Development Commission appointed under ORS 285A.040.

(3) "Department" means the State of Oregon Economic and Community Development Department as organized under ORS 285A.070.

(4) "Port" means a municipal corporation organized under ORS chapter 777 or 778, which may be known as a "port authority" or "port district."

(5) "Director" means the Director of the Economic and Community Development Department.

Stat. Auth.: ORS 285.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04; EDD 3-2004(Temp), f. 2-3-04, cert. ef. 2-21-04 thru 8-1-04; Renumbered from 123-020-0005; EDD 14-2004, f. & cert. ef. 8-2-04

123-020-0110

Application

An Applicant for the formation of a port must:

(1) Send the following, prior to any official filing with the appropriate county, to Attn: Port Formation Application, Oregon Economic and Community Development Department, State Lands Building Suite 200, 775 Summer Street NE, Salem, OR 97301-1280:

(a) A sample of the petition or order to be used for purposes of ORS 198.705 to 198.955, as applicable;

(b) A letter formally requesting formation of the proposed Port;

(c) A legal description and map of the port boundaries; and

(2) The Department may assess and collect an application fee to help cover some or all the costs of reviewing an application. The costs to be covered, the amount of the fee and when it will be assessed will be an adopted Department policy. The Applicant should request the current Department policy on application fees prior to submitting its application.

(3) Materials requested in OAR 123-020-0015 to 123-020-0035.

Stat. Auth.: ORS 285.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.627

Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04; EDD 3-2004(Temp), f. 2-3-04, cert. ef. 2-21-04 thru 8-1-04; Renumbered from 123-020-0010; EDD 14-2004, f. & cert. ef. 8-2-04

ADMINISTRATIVE RULES

123-020-0115

Criteria

In carrying out its function as statewide coordinating, planning, and research agency for all Ports in the State of Oregon, and to insure the most orderly, efficient, and economical development of the state port system, the Commission, through the Department, will take into consideration and may request information from the Applicant regarding the following:

- (1) The need for port services in the territory to be included within the proposed Port;
- (2) The adequacy of funding for the proposed Port; and
- (3) The orderly development of the proposed Port and its effects upon the development of a state port system.

Stat. Auth.: ORS 285.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.627
Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04; EDD 3-2004(Temp), f. 2-3-04, cert. ef. 2-21-04 thru 8-1-04; Renumbered from 123-020-0015; EDD 14-2004, f. & cert. ef. 8-2-04

123-020-0120

Need for Port Services

In evaluating the need for port services, the Commission will take the following into account:

- (1) That reasonable alternatives to the formation of a Port have been considered;
- (2) That significant adverse effects on other public or private agencies offering similar services within the proposed service area have been considered;
- (3) That economic benefits and opportunities such as increased employment, income, and cost savings have been considered; and
- (4) That proposed Port boundaries are reasonable in terms of tax assessment and property ownership.

Stat. Auth.: ORS 285.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.627
Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04; EDD 3-2004(Temp), f. 2-3-04, cert. ef. 2-21-04 thru 8-1-04; Renumbered from 123-020-0020; EDD 14-2004, f. & cert. ef. 8-2-04

123-020-0125

Viability of Formation

In reviewing the viability and merits of a proposed Port, the Commission will consider the following, in addition to the latest draft copy of the economic feasibility statement for district formation, if applicable, under ORS 198.749:

- (1) A proposed budget of the proposed Port showing, among other things, capital improvements, staffing, and other sums and expenses required to implement and operate the proposed Port for a reasonable period;
- (2) Adequacy of the existing tax base and proposed tax rate and the source and amounts of any other revenues estimated to be required; and
- (3) Other financial information requested.

Stat. Auth.: ORS 285.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.627
Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04; EDD 3-2004(Temp), f. 2-3-04, cert. ef. 2-21-04 thru 8-1-04; Renumbered from 123-020-0025; EDD 14-2004, f. & cert. ef. 8-2-04

123-020-0130

Orderly Development of Port and State Port System

The Department encourages and seeks public views on the following issues as they relate to the formation of a specific port district:

- (1) Relationship of the proposed Port activities to locally approved land use plans and the provision of other local public services or utilities;
- (2) Coordination with affected environmental, economic, and social agencies, including the impact on affected taxing jurisdictions; and
- (3) Effects of the proposed activities on transportation facilities and services.

Stat. Auth.: ORS 285.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.627
Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04; EDD 3-2004(Temp), f. 2-3-04, cert. ef. 2-21-04 thru 8-1-04; Renumbered from 123-020-0030; EDD 14-2004, f. & cert. ef. 8-2-04

123-020-0135

Commission Request for Additional Information

In addition to what is described in this division of administrative rules, the Commission or the Department may request such other relevant

facts or information, as is deemed appropriate in considering the formation of a new Port.

Stat. Auth.: ORS 285.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.627
Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04; EDD 3-2004(Temp), f. 2-3-04, cert. ef. 2-21-04 thru 8-1-04; Renumbered from 123-020-0035; EDD 14-2004, f. & cert. ef. 8-2-04

123-020-0140

Review and Commission Approval or Denial

(1) An Applicant will not seek, nor will any agency of a county government do either of the following, until such time as the Commission approves the formation of the port:

- (a) Conduct a deciding vote on port formation by the governing body of the county; or
- (b) Place the question of the port's formation on the ballot of a special or general election.

(2) Upon receipt of a request under OAR 123-020-0010, the Department will review the submitted materials and may request additional information that the Department believes necessary for the Commission's deliberation.

(3) Following its review and receipt of any additional information, the Department will assemble materials and information along with a summary of the proposed port's advantages and disadvantages relative to OAR123-020-0015 to 123-020-0030 that may include a recommendation of action.

(4) The Department, through its Director will submit proposal summary and recommendation to the Commission.

(5) The Commission schedules a meeting to consider final approval of the requested port formation. The agenda for this meeting must be publicly available and be sent to the Applicant and other interested parties at least 21 days prior to such meeting. The meeting must afford an opportunity for public commentary.

(6) At the meeting described in this rule or a subsequent meeting, the Commission will formally approve or deny the proposed port's formation, as it deems appropriate.

(7) If the Commission denies a port formation request, it will indicate in writing the reasons and the remedies, if any, that would allow the applicant to be reconsidered, (8) If formation of the port is approved by the Commission:

- (a) The Commission will issue a formal declaration of its approval that the Department will provide to the Applicant and to the Chair of the Board of County Commissioners for the respective county or counties; and
- (b) The Applicant will proceed with and abide by all applicable procedures and requirements under ORS chapters 198 and 777.

Stat. Auth.: ORS 285.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.627
Hist.: EDD 6, f. & ef. 4-30-76; EDD 2-2003(Temp), f. & cert. ef. 3-4-03 thru 8-29-03; EDD 7-2003(Temp), f. 8-28-03, cert. ef. 8-30-03 thru 2-20-04; EDD 3-2004(Temp), f. 2-3-04, cert. ef. 2-21-04 thru 8-1-04; Renumbered from 123-020-0040; EDD 14-2004, f. & cert. ef. 8-2-04

Adm. Order No.: EDD 15-2004

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Notice Publication Date: 7-1-04

Rules Adopted: 123-025-0012

Rules Amended: 123-025-0010, 123-025-0015, 123-025-0017, 123-025-0021, 123-025-0023, 123-025-0025, 123-025-0030

Subject: This filing is intended to make permanent the temporary rules filed February 3, 2004 and incorporate comments received at the public hearing held March 16, 2004.

This division of administrative rules describes the procedures, standards and criteria for operating the Port Planning and Marketing Fund program. The 2003 Legislature repealed the June 30, 2003 sunset for this program. The Department is amending this division of administrative rules to incorporate the new legislation, to clean up the text, and to rearrange the format of the rule to make it easier to read and understand.

This filing is intended to suspend and replace all temporary filings in effect as of the date of this notice.

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

ADMINISTRATIVE RULES

123-025-0010

Definitions

For the purposes of these rules, the following terms will have the following definitions, unless the context clearly indicates otherwise:

(1) "Department" means the State of Oregon Economic and Community Development Department.

(2) "Director" means the Director of the Department.

(3) "Port" means a municipal corporation organized under ORS chapter 777 or 778, which may be known as a "port authority" or "port district."

(4) "Fund" means Port Planning and Marketing Fund.

(5) "Project" means any activity that is eligible for assistance from the Port Planning and Marketing Fund.

(6) "Peer Review Committee" means a committee of representatives from Oregon Ports that sets standards for typical Port Planning and Marketing Fund projects and reviews products of funded projects prior to disbursement of final payment.

Stat. Auth.: ORS 285A.075(5)

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

Hist.: EDD 8-1985(Temp), f. 10-22-85, ef. 11-1-85; EDD 5-1987, f. & ef. 10-9-87; EDD 6-1997, f. & cert. ef. 4-25-97; EDD 5-2001(Temp) f. & cert. ef. 7-13-01 thru 1-9-02; EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04

123-025-0012

Annual Funding of Program

The Department will transfer 2.25% of the assets of the Port Revolving Fund, not to exceed the annual accrued net income from the Port Revolving Fund into the Port Planning and Marketing Fund annually as calculated on receipt of the Fund Audit each year.

Stat. Auth.: ORS 285A.075(5)

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

Hist.: EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04

123-025-0015

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)

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

Hist.: EDD 8-1985(Temp), f. 10-22-85, ef. 11-1-85; EDD 5-1987, f. & ef. 10-9-87; EDD 6-1997, f. & cert. ef. 4-25-97; EDD 5-2001(Temp) f. & cert. ef. 7-13-01 thru 1-9-02; EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04

123-025-0017

Application Review and Approval

(1) Upon receipt of a completed application the Department will determine whether the Project is eligible for funding. Projects that meet the following criteria are eligible:

(a) The Project will enhance the Port's ability to conduct trade and commerce;

(b) The Project is not an unnecessary duplication of marketing efforts among Ports. However it is recognized that regional or cooperative projects may require Ports to simultaneously perform similar tasks;

(c) The Project does not subsidize regular Port operating expenses; and

(d) The Project will not require or rely upon continuing subsidies from the Department.

(2) If the Project is not eligible, the Department will, within 60 days:

(a) Reject the application; or

(b) Require the applicant to submit additional information as may be necessary.

Stat. Auth.: ORS 285A.075(5)

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

Hist.: EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04

123-025-0021

Project Funding Priorities

At the beginning of each state fiscal year the Department and the Ports will make reasonable efforts to identify and initiate high priority projects. Funding of up to 50% of the that year's transfer of funds will be reserved exclusively for high priority projects for the first four months of

the state fiscal year, after which it will become available for any eligible project. High priority projects are:

(1) Regional or cooperative projects that benefit more than one Port.

(2) Projects that leverage other marketing and development efforts by the state or other government units.

(3) Projects to develop strategic business, marketing or financial plans for Ports or updates to such plans that are required to keep the plans current for a period of five years.

(4) Projects must meet the standards set by the Peer Review Committee.

Stat. Auth.: ORS 285A.075(5)

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

Hist.: EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04

123-025-0023

Grant Awards and Match

(1) Grant awards must be the lesser of \$25,000 or 75% of the total Project cost.

(2) The required local share of the Project cost can be cash or a combination of cash and in-kind services. If both cash and in-kind services are used for the required 25% match, cash must be 75% or more of the total and in-kind services must be 25% or less of the total match.

(3) Grants will be awarded only when there are sufficient funds available in the Fund.

Stat. Auth.: ORS 285A.075(5)

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

Hist.: EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04

123-025-0025

Project Administration

(1) Grant awards must be the lesser of \$25,000 or 75% of the total Project cost.

(2) The required local share of the Project cost can be cash or a combination of cash and in-kind services. If both cash and in-kind services are used for the required 25% match, cash must be 75% or more of the total and in-kind services must be 25% or less of the total match.

(3) Grants will be awarded only when there are sufficient funds available in the Fund.

Stat. Auth.: ORS 285A

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

Hist.: EDD 8-1985(Temp), f. 10-22-85, ef. 11-1-85; EDD 5-1987, f. & ef. 10-9-87; EDD 5-2001(Temp) f. & cert. ef. 7-13-01 thru 1-9-02; EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04

123-025-0030

Sanctions, Exceptions and Appeals

(1) The Department and the Port must execute a grant contract prior to disbursement of grant funds.

(2) Documentation of Project costs incurred by a Port must be submitted to the Department prior to disbursement of funds.

(3) Disbursement of grant funds to a Port will not exceed one disbursement per month. Ten percent of the grant funds will be withheld until the Peer Review Committee approves the appropriate deliverables of the project.

(4) Upon request the Port must provide the Department with a copy of documents, studies, reports, and materials developed during the Project, including written report on activities or results of the Project, or any other information that may reasonably be requested by the Department.

(5) Prior to final disbursement, the Peer Review Committee will review all documents produced as a result of the project. The Committee will evaluate and make recommendations to the Department on value of resulting document(s) and how closely the project delivered the outcome anticipated in the application.

(6) Any monies disbursed but not used for an approved project, must be returned to the Department.

Stat. Auth.: ORS 285A.075(5)

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

Hist.: EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04

Adm. Order No.: EDD 16-2004

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Notice Publication Date: 7-1-04

Rules Amended: 123-030-0004, 123-030-0010, 123-030-0020, 123-030-0030, 123-030-0040, 123-030-0050

ADMINISTRATIVE RULES

Subject: This division of rules describes the procedures, standards and criteria for operating the Port Revolving Fund program. The 2003 legislature made changes to this program and this filing updates this division to incorporate those changes.

The Oregon Port Revolving Fund provides long-term loans to ports at below-market interest rates. The 23 locally formed Port Districts are the only entities eligible for Port Revolving Fund loans. The variety of projects eligible is very broad. Projects must be located within port district boundaries.

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

123-030-0004

Definitions

For the purposes of these rules the following terms have the following definitions unless the context clearly indicates otherwise:

(1) "Commission" means the Economic and Community Development Commission.

(2) "Department" means the State of Oregon Economic and Community Development Department.

(3) "Director" means the Director of the Department.

(4) "Finance Committee" means the Finance Committee appointed by the Oregon Economic and Community Development Commission.

(5) "Flexible manufacturing space project" means a project for the acquisition, construction, improvement or rehabilitation, in whole or in part, of any building suitable for the conduct of manufacturing processes and, by design, able to be readily modified when necessary to accommodate the operations of the tenants of the building. The term includes any pre-project planning activities for a flexible manufacturing space project.

(6) "Fund" means the Oregon Port Revolving Fund.

(7) "Port" means a municipal corporation organized under ORS chapter 777 or 778, that may be known as a "port authority" or "port district."

(8) "Project means any activity that is eligible for assistance from the Port Revolving Fund.

Stat. Auth.: ORS 285A.075(5)

Stats. Implemented: ORS 285A.666 - 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04

123-030-0010

Need for the Port Revolving Fund Project

(1) Applications must include sufficient information that will demonstrate the need for the project. The information must include, but not be limited to, the following:

(a) Whether reasonable alternatives to the proposed project have been considered;

(b) Whether economic benefits and opportunities such as increased employment, increased personal income, and cost savings are evident;

(c) Whether the applicant has a prospective user or other near-term use of the proposed project; and

(d) That the project satisfies the applicable requirements of OAR chapter 123, division 8.

(2) In the event the loan is primarily for a proposed project to facilitate the location or expansion of an industry pursuant to ORS 285A.666-285A.732, the industry expansion to be induced by the loan must include one or more of the following activities:

(a) Manufacturing or other industrial production;

(b) Agricultural development or food processing;

(c) Aquaculture development or seafood processing;

(d) Development or improved utilization of natural resources;

(e) Research and development;

(f) Medical, clinical, engineering, or other scientific testing;

(g) Corporation headquarters facilities;

(h) Destination resort and recreational development;

(i) Storage and warehousing facilities;

(j) Product distribution facilities;

(k) Transportation or freight facilities including, but not limited to, airports;

(l) Introduction of new technology or new types of economic development to broaden an area's economic base; or

(m) Other activities consistent with the target industries or reverse investment programs of the Oregon Economic and Community Development Department.

(3) Need for the project will not be considered established for the purpose of these rules for in-state plant relocation unless the following conditions are met:

(a) The firm engaging in in-state plant relocation has demonstrated that the relocation is necessary for reasons beyond its control;

(b) The relocation will provide a substantial increase or prevent a substantial direct reduction in total Oregon employment.

Stat. Auth.: ORS 285A.075(5)

Stats. Implemented: ORS 285A.666 - 285A.732

Hist.: EDD 9, f. & cert. ef. 10-14-77; EDD 17-1990, f. & cert. ef. 6-28-90; EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04

123-030-0020

Application Requirements

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.

(1) 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.

(2) A fee of \$100 will be charged for each loan application submitted to the Department. All application fees will be made by check or money order and made payable to the Oregon Port Revolving Fund.

(3) All applications for loans from the Oregon Port Revolving Fund must indicate the proposed collateral to secure the loan and must include the following information:

(a) If the port's taxing authority is proposed to be pledged as collateral, a statement certified by the county assessor's office that sets forth the current millage rate, the projected new millage rate, if required, to pay off the loan, the port's maximum current limitation, and a statement indicating whether the proposed pledge is within the port's current maximum millage limitation;

(b) If any of the port's personal or real property is proposed to be pledged as collateral, the Department may require a formal appraisal, certified by an appropriate licensed authority, attesting to the value of all collateral proposed to be held as security.

Stat. Auth.: ORS 285A.075(5)

Stats. Implemented: ORS 285A.666 - 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04

123-030-0030

Application Review and Approval

(1) To approve an application for assistance from the fund, the Finance Committee must make the determinations as follows:

(a) The project is consistent with the requirements governing assistance from the Fund. 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 port has certified to the Department that there will be adequate funds available to repay any loans made;

(d) The loan security includes the pledge of revenues and/or other funds, and are sufficient, when considered with other security, to assure repayment;

(e) The applicant is willing and able to enter into a contract with the Department for repayment of the loan;

(f) The applicant has received all necessary permits required by federal, state and local agencies;

(g) The project activities constitute an eligible project;

(h) Moneys in the fund are or will be available for the project;

(i) The requirements under ORS 285A.055 for approval have been satisfied;

(j) The applicant will not owe more than \$3 million to the Port Revolving Fund if the loan is approved.

(2) The Finance Committee may provide preliminary approval of a loan application at any time and identify all necessary requirements for final approval.

(3) If the application is denied, the matter will be set aside unless the applicant requests further action under ORS Chapter 183.

Stat. Auth.: ORS 285A.075(5)

Stats. Implemented: ORS 285A.666 - 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04

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123-030-0040

Loan Contract Terms and Conditions

(1) Interest rates will be set by the Department at market rates, but not less than Treasury Notes of a similar term minus 1 percent.

(2) The term of the loan will not exceed 20 years from the date of the contract or the useful life of the project, whichever is less.

(3) For a flexible manufacturing space project, the loan contract may provide that no interest accrue until the building is 25 percent occupied, or until three years after the date of the loan contract, whichever is earlier.

(4) The loan contract will:

(a) Be in a form as provided by the Department, and

(b) Provide that the Finance Committee may institute appropriate action to prevent use of project facilities financed by the fund if the port is delinquent in its repayments.

Stat. Auth.: ORS 285A.075(5)

Stats. Implemented: ORS 285A.666 - 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04

123-030-0050

Sanctions, Exceptions and Appeals

(1) The Department may invoke sanctions against Ports that fail to comply with the requirements governing the Fund. 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. The following circumstances may warrant sanctions:

(a) State statutory requirements have not been met; or

(b) There is a deviation from the contract.

(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 undisbursed 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 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.

(4) Appeals of local government decisions regarding a Project must be made at the local level.

(5) The Director will consider appeals of the Department's funding decisions. Only the Applicant may appeal. **Appeals must be submitted in writing to the Director within 30 days of the event or action that is being appealed.** An application that would have been funded but for a technical error in the Department's review will be funded as soon as sufficient funds become available, provided the Project is still viable and eligible under these rules. The Director's decision is final.

(6) 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)

Stats. Implemented: ORS 285A.666 - 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04

Adm. Order No.: EDD 17-2004

Filed with Sec. of State: 8-2-2004

Certified to be Effective: 8-2-04

Notice Publication Date: 7-1-04

Rules Adopted: 123-035-0000, 123-035-0005, 123-035-0010

Subject: This division describes the procedures and standards for the Ports Representative Group as authorized by the 2003 Legislature in HB 2300.

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

123-035-0000

Purpose

The purpose of these rules is to provide procedures and standards for the Ports Representation Group authorized by ORS.

Stat. Auth.: ORS 285A.075(5)

Stats. Implemented: ORS 285A.666-285A.732

Hist.: EDD 2-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 17-2004, f. & cert. ef. 8-2-04

123-035-0005

Definitions

For the purposes of these rules, the following terms will have the following definitions, unless the context clearly indicates otherwise:

(1) "Department" means the State of Oregon Economic and Community Development Department.

(2) "Director" means the Director of the Department.

(3) "Commission" means the Economic and Community Development Commission.

(4) "Port" means a municipal corporation organized under ORS chapter 777 or 778 that may be known as a "port authority" "or" "port district".

Stat. Auth.: ORS 285A.075(5)

Stats. Implemented: ORS 285A.666-285A.732

Hist.: EDD 2-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 17-2004, f. & cert. ef. 8-2-04

123-035-0010

Purpose and Duties

(1) The Oregon Ports Representation Group will consist of the general manager and one commissioner, or their designees, from each Oregon port.

(2) The Group will meet annually.

(3) Decisions require a quorum.

(4) The purpose of the Group is to serve as a body to advise the Economic and Community Development Department, the Economic Development Commission and the Governor and the Legislative Assembly on matters relating to the development and implementation of state policies and programs related to ports and to assist in the coordination of such activities.

(5) The Group will evaluate and develop recommendations for a statewide policy agenda to help guide this state's efforts to facilitate port development. The agenda will be in the form of:

(a) Analysis

(b) Conclusions

(c) Recommendations

(6) This agenda will help set state and federal policies that affect ports. Such policies include but are not limited to:

(a) Policies related to dredging by the United States Army Corps of Engineers;

(b) Developing multimodal transportation facilities for the movement of goods through ports;

(c) Converting facilities to productive economic use;

(d) Resolving natural resource and habitat issues that affect ports; and

(e) Promoting local economic development efforts in port districts.

(7) The Group will submit a report to the Oregon Economic and Community Development Commission to be included in its biennial report to the Legislative Assembly. The report will include:

(a) The findings of the Group on the effectiveness of state efforts to promote port development and maritime commerce;

(b) An analysis of conditions that impede increased port development and maritime commerce;

(c) Identification of conditions that impede competitiveness of the ports in Oregon; and

(d) Recommendations for the removal of those conditions.

Stat. Auth.: ORS 285A.075(5)

Stats. Implemented: ORS 285A.666-285A.732

Hist.: EDD 2-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 17-2004, f. & cert. ef. 8-2-04

Adm. Order No.: EDD 18-2004

Filed with Sec. of State: 8-2-2004

Certified to be Effective: 8-2-04

Notice Publication Date: 7-1-04

Rules Amended: 123-042-0020, 123-042-0030, 123-042-0040, 123-042-0070, 123-042-0080, 123-042-0150, 123-042-0160, 123-042-0180, 123-042-0190

Rules Repealed: 123-042-0050, 123-042-0060, 123-042-0075, 123-042-0130, 123-042-0140, 123-042-0170

Subject: This division describes the process for administering and distribution of funds under the Special Public Works Fund. The administrative rules are being amended to reflect statutory changes from the 2003 legislative session, specifically HB 2300 and 2011.

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The changes are necessary because the old rules are more restrictive and not in compliance with the new law.

Temporary rules were issued February 3, 2004. A public hearing was held on March 16, 2004 for comments on the temporary rules. This filing is intended to clean up the language of the temporary rules, make them permanent, and incorporate comments raised at the March meeting.

This filing is intended to suspend and replace all temporary rules in effect as of the date of this notice.

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

123-042-0020

Definitions

As used in this division of administrative rules, all capitalized terms have the meanings set forth below, unless the context clearly indicates otherwise.

(1) "Applicant" means a Municipality as defined in ORS 285B.410 that is eligible for, and has submitted a completed application for, financial assistance from the Department.

(2) "Firm Business Commitment" means a project in response to a specific business development, expansion or retention proposal where assistance is necessary to enable the proposal to proceed and where permanent, full-time equivalent jobs will be created or retained. The project shall support industrial development and be consistent with local comprehensive plans and implementing ordinances.

(3) "Brownfield" has the meaning given in ORS 285B.410(4)(a).

(4) "Debt Service Reserve" means moneys set aside in an account to be used in the event Recipients are unable to meet the financial obligations created by the loan.

(5) "Department" means the State of Oregon Economic and Community Development Department.

(6) "Designated Disaster Area" means any county, city or special district in the state identified with emergency or major disaster affected areas that has been determined eligible for federal assistance.

(7) "Direct Project Management Costs" means new expenses incurred by a municipality to support, plan and manage a Project funded, in whole or in part, through financial assistance under ORS 285B.410 to 285B.482 during the planning and construction phases of the project.

(8) "Director" means the Director of the Department.

(9) "Distressed Area" means a county, city, community or other geographical area that is designated in accordance with division 024 of this chapter.

(10) "Eligible Commercial Jobs" means jobs that are created or retained by businesses selling goods or services in markets for which national or international competition exists.

(11) "Eligible Commercial Uses" means non-industrial activities by businesses selling goods or services in markets for which national or international competition exist or the promotion of downtown revitalization through improvements to municipally owned property that clearly serve to render a downtown area or main street more competitive or improve its economic vitality.

(12) "Emergency Project" means a project that will restore municipally owned Essential Community Facilities to their pre-disaster design, function, and capacity, after an emergency as defined by ORS 401.025(4) as determined by both Oregon Emergency Management and the Federal Emergency Management Administration. Emergency projects shall be located in a Designated Disaster Area where federal disaster relief assistance is committed.

(13) "Environment" includes ecological receptors, the waters of the state, any drinking water supply, any land surface and subsurface strata, sediments, saturated soils, subsurface gas, or ambient air or atmosphere.

(14) "Environmental Conditions" refers to potential aspects of the proposed industrial land that may impact the footprint of the proposed project on the site, including but not limited to:

(a) The existence of wetlands as defined by ORS 196.800(16);

(b) Brownfields as defined in ORS 285A.185

(c) Historic Properties as defined in ORS 358.653(1);

(d) Archaeological Objects and Sites as defined in ORS 358.905(1)(a-c).

(15) "Fund" means the Special Public Works Fund created by ORS 285B.455. The Fund is capitalized through a biennial limitation of Oregon Lottery resources, the sale of State Revenue Bonds and interest earnings on Fund balances and Loan repayments.

(16) "Grants" means awards from the Fund to a Recipient to reimburse or pay eligible project expenses without an expectation of repayment.

When there is no specific reference to Cash, Conditional, or Non-cash Grants, the reference shall include all Grant types:

(a) "Cash Grants" means awards from the Fund that are available to pay eligible project costs.

(b) "Conditional Grants" means awards from the Fund that shall be repaid unless specified conditions are met.

(c) "Non cash Grants" means moneys paid directly from the fund to pay some or all financing, bond issuance and Debt Service Reserve costs, on state revenue bonds.

(17) "Industrial Land" means sites of suitable sizes, types, locations, and service levels for a variety of industrial uses consistent with local comprehensive planning and zoning.

(18) "Industrial Land Development" means activities undertaken for properly zoned parcels of land to prepare the sites for development or to make the land ready for use.

(19) "Industrial Land Environmental Conditions Assessment" means investigation, identification and assessment of environmental conditions upon industrial zoned lands such as:

(a) Preliminary assessments conducted in accordance with OAR 342-122-0072;

(b) Environmental action as defined in ORS 285A.188(a)(B) and 285A.188(a)(C);

(c) Wetlands Delineation or Determination Report as defined by OAR 141-090-0020;

(d) Land Surveys and Geo-technical reports;

(e) Mitigation Plans for fish and wildlife habitat as defined in OAR 635-415-0005 and consistent with OAR 635-415-0020;

(f) Archeological Objects and Sites pursuant to ORS 358.905 et seq. and OAR 736-051-0060 to 0090;

(g) Historic Properties pursuant to ORS 358.653(1).

(20) "Issuance Costs" means costs associated with the issuance of State Revenue Bonds.

(21) "Loans" means debt financing offered through the Fund. When there is otherwise no specific reference to Direct or Bond Funded Loans, the reference shall include both Loan types:

(a) "Direct Loans" means loans funded with un-obligated moneys from the Fund.

(b) "Bond Funded Loans" means loans funded in whole or part through the sale of State Revenue Bonds.

(22) Mitigation" means the reduction of adverse effects of a proposed project by considering, in the following order:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures; and

(e) Compensating for the impact by replacing or providing comparable substitute resources.

(23) "Mitigation of Environmental Conditions" means activities undertaken to reduce the adverse effects of either the previous use of the property on a proposed project; or, the reduction of adverse effects of a proposed project on the environment. Activities may include, but are not limited to;

(a) Environmental action as defined in ORS 285A.188 (a)(D) and according to the definitions of remedial action or removal of hazardous substances as defined in ORS 465.200;

(b) Wetlands mitigation, banking, and credits as defined in ORS 196.600(2) and further defined in OAR 141-085-0010, except for purposes as stated in ORS 285B.410(4)(a);

(c) In-kind or In-Proximity Habitat Mitigation and Mitigation Banking as defined in OAR 635-415-0005 and consistent with OAR 635-415-0020;

(d) Mitigation of impacts to archaeological sites, which could include activities ranging from avoidance to excavation.

(24) "Municipality" means an entity as defined in ORS 285B.410(5).

(25) "Needs and Issues Inventory" means an on-going collection and prioritization of local community and regional concepts for economic and community development projects. The Inventory is managed by the Department.

(26) "Project" means an activity or group of activities as defined in these rules where an applicant has requested financial assistance from the

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Fund, in whole or in part, in order to complete the activity or group of activities. The total project cost includes funding from all sources including any monies received from the Department. When there is no specific reference to Community Facility, Essential Community Facility, Infrastructure, or Technical Assistance, the reference includes all Project types.

(a) "Community Facilities Project" means a project for the acquisition, construction or development of community facilities, including the acquisition of land, the mitigation of environmental conditions on industrial lands, the construction, acquisition, renovation or reconstruction of buildings, structures and other real property, and the acquisition or construction of related equipment and fixtures.

(b) "Essential Community Facilities Project" includes the following: City halls; city and county courts; county courthouses; community centers, including senior centers, youth centers, boys and girls clubs, head start facilities and day care centers; domestic violence centers; emergency services buildings, including 911 facilities, ambulance facilities and fire stations; emergency shelters, including homeless shelters and shelters for people with disabilities; facilities for abused children; facilities for migrant farm workers; food banks; police stations; jails; juvenile justice centers; libraries; medical facilities, including public health clinics, drug and alcohol treatment facilities, mental health treatment facilities, and transitional housing for mentally ill .

(c) "Infrastructure Project" means all types of projects as defined in ORS 285B.410(4).

(d) "Technical Assistance Project" means a project for economic, environmental, or engineering or architectural feasibility that may be done in preparation for a Community Facilities or Infrastructure construction project. This type of project includes costs of any activities defined in ORS 285B.416(1).

(e) "Planning Project" means a project to conduct engineering and architecture activities and direct project management necessary in the construction of an infrastructure or community facilities project.

(27) "Public Assistance Program" means the program administered by the Oregon Emergency Management for federally declared disasters where federal funds from the Federal Emergency Management Agency are used to mitigate impact from a disaster as described in ORS 401.025(4).

(28) "Recipient" means an applicant that has received financing from the fund.

(29) "State Revenue Bonds" means bonds issued by the State of Oregon. The bonds are payable from specific revenue sources and are not a pledge of the full faith and credit of the State of Oregon.

Stat. Auth.: ORS 285B.419
Stats. Implemented: ORS 285B.410 - 285B.464
Hist.: ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 7-2001(Temp), f. & cert. ef. 11-6-01 thru 3-29-02; EDD 4-2002, f. & cert. ef. 2-26-02; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04

123-042-0030

Infrastructure Projects

(1) Eligible Applicant as defined in ORS 285B.410(5)

(2) Eligible Project Types, Activities and Costs:

(a) Construction projects for the following municipally owned infrastructure facilities:

(A) Public Transportation facilities as defined in ORS 285B.410(7).

(B) Roads as defined in ORS 285B.410(8).

(C) Sewage treatment as defined in ORS 285B.410(9).

(D) Solid waste disposal sites as defined in ORS 285B.410(10).

(E) Storm drainage systems as defined in ORS 285B.410(11).

(F) Telecommunications infrastructure as defined in ORS 285B.410(12).

(G) Water Supply Works as defined in ORS 285B.410(14).

(H) Activities defined in ORS 285B.410(4)(a).

(b) Project development and financing activities including but not limited to:

(A) Support activities necessary to the construction phase of an eligible Project including:

(i) Contingencies for construction activities and additionally required engineering/architectural services when approved by the department;

(ii) Costs of financing such as issuance costs, debt service reserves, interest on construction loans or bond anticipation notes when incurred in funding a Project;

(iii) Direct Project Management costs specifically for the direct benefit of the project. For example, data gathering, oversight of construction in sensitive areas, inspections, testing; personal service agreements for specialized inspections, testing, or providing technical advice.

(iv) Activities listed in ORS 285B.416(2)

(B) Environmental Action on Brownfield as defined in ORS 285A.185 and 188.

(C) Mitigation of Environmental Conditions on Industrial land as defined in ORS 285B.410(2).

(c) Project expenditures made prior to funding the project if such reimbursement is allowed pursuant to 26 C.F.R. §1.150-2.

(d) "Planning Project" includes the following:

(A) A stand alone project that includes but is not limited to activities listed in OAR 123-042-0020(24), and water, sewer, and road improvements required for industrial land development, and pre-construction activities as defined in ORS 285B.416(2), or

(B) Part of a phased infrastructure construction project that includes activities defined in ORS 285B.416(2).

(C) A Project in preparation for an Infrastructure construction project as defined under these rules.

(D) The application must meet the requirements listed in section (7) of this rule.

(e) Activities for Eligible Commercial Uses as defined in these rules. Activities include but are not limited to: construction or improvements to curbs, sidewalks, streetlights, landscaping, utilities, streets, access, or parking, when included in a downtown revitalization plan or activities to assist businesses selling goods or services in markets for which national or international competition exist.

(3) Project Criteria and Limitations:

(a) The Infrastructure Project shall be owned by a municipality and may be operated either by the municipality or by a person under a management contract or operating agreement with the municipality.

(b) All Infrastructure Projects must principally benefit industrial (manufacturing) or Eligible Commercial Uses and be a Firm Business Commitment Project. Infrastructure Projects that primarily focus on relocating business or economic activity from one part of the state to another are not eligible for assistance.

(c) Projects in counties, cities, or other geographic areas designated as distressed by the Department shall be given priority for program funding.

(d) Infrastructure projects must meet one or more of the criteria for project priority specified in ORS 285B.419(1)(a) through (j).

(e) Improvements funded through this program must remain in municipal ownership for 5 years after completion of the project. If this condition is not met, any grant funds awarded shall convert to a loan and must be repaid.

(f) The number of jobs created will be those created up to 2 years from the business's commencement of business operations or as the department determines.

(g) An applicant for a construction project award must certify that it has, or will adopt during the project period, a program for ongoing operation, maintenance and replacement of the project that is acceptable to the Department. The Applicant is responsible for maintaining the accounting records that document projected ongoing operation and maintenance expenditures. If the Applicant demonstrates why the project should not require an Operation, Maintenance, and Replacement plan the Department may determine such a plan is not required.

(4) Loan

(a) Projects that are not financially feasible shall not be funded. The Department will award financing in a manner that maximizes the use of available resources and maintains credit standards. The Department shall determine the amount and type of funding, interest rate and terms of the loan.

(b) The Loan shall be a full faith and credit obligation which is payable from any taxes which the borrower may levy within the limitations of Article XI of the Oregon Constitution and all legally available revenues and other funds of the Borrower. Specific revenues of the Borrower may also be pledged.

(c) For Bond Funded Loans, the Department will pass through the final coupon rates of the bond to the borrower. Until bonds are sold, the borrower will pay interest on loan funds drawn down, at the applicable direct loan rate, as set by the Department.

(d) Direct Loans: Interest rates of Direct Loans are based on market rates for similar debt and are set at the time of the award.

(e) Term of Loans: The maximum term of a construction loan shall not exceed the usable life of the proposed project or 25 years, whichever is less.

(f) Infrastructure or Planning Project Loans are subject to the following:

(A) The maximum amount will be based upon the Department's determination of the applicant's ability to repay a loan, but shall not exceed

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\$15,000,000 per project for any combination of Bond Funded and Direct Loans.

(B) Recipient must agree to comply with ORS 285B.443.

(5) Grants:

(a) Infrastructure projects may receive grants as follows:

(A) As Cash Grants, Conditional Grants, or both, after a financial analysis by the Department determines a loan is not feasible.

(B) Infrastructure projects receiving Loans may also receive Non cash Grants.

(b) A project based upon Eligible Commercial Jobs or a Firm Business Commitment may receive grant funds only after the department has determined:

(A) Jobs will be created or retained as a result of any funding awarded; and

(B) The department has received confirmation from the applicant of a Firm Business Commitment that will not occur if the municipality does not receive a grant as part of the award for construction funding; or

(C) The department has received a confirmation from the applicant that jobs will be lost if the applicant does not receive a grant as part of the award for construction funding.

(D) If these conditions exist and the department determines it is in the best interest of the State, the analysis for a loan will only consider the total project cost after the eligible grant amount has been deducted from the requested total project funding.

(E) The Department has received in accordance with Division 70 a copy of the First Source Hiring Agreement or assurance from the applicant that one will be entered into before the grant or loan is awarded.

(c) Projects subject to subsections (a) and (b) may be awarded up to \$5000 per job created or retained.

(d) The maximum grant assistance is \$500,000 per project.

(e) In addition to a Firm Business Commitment or Eligible Commercial Jobs grant, recipients may receive additional grant funding based on the following:

(A) There is a gap remaining between the grant and loan award and the total project cost.

(B) If (A) exists, then any additional grant will be subject to the \$500,000 total project grant limit or an amount to make the loan affordable, but the maximum grant amount shall not exceed the real market value of the real property after the improvements have been made and that value placed on the assessment rolls, whichever is less.

(f) Both Firm Business Commitment Projects and Eligible Commercial Jobs Projects are eligible for Non-cash Grants and Conditional Grants.

(g) The number of jobs created are those created up to 2 years from commencement of business operations or as the department determines.

(h) Job creation or retention will be documented to the satisfaction of the department.

(i) Any change in municipal ownership within 5 years of the completion of the project will result in a repayment of any grants awarded from this program.

(6) Application Requirements:

(a) A Municipality may submit an application to the Department either through invitation or following the Department's procedures.

(b) Project applications extending beyond the municipal boundaries of one government must be accompanied by an intergovernmental cooperation agreement setting out the duties and obligations of each entity.

(c) The Department will process only completed applications. Applications must comply with ORS 285B.428. The Department may waive the feasibility report if it determines such a report is not required.

(d) Applicants requesting assistance for Telecommunications Infrastructure projects must comply with ORS 285B.428(2)(d).

(7) Application Review and Approval:

(a) The Department shall determine whether the application and accompanying materials are sufficient to determine eligibility requirements under these rules.

(b) If the submitted application and accompanying materials are not satisfactory the department may do one or all of the following:

(A) Reject the application or accompanying materials;

(B) Require additional information as may be necessary;

(C) Require revisions to the feasibility study or report that provide documentation the proposed construction project will meet program requirements.

(c) The Department shall give priority for assistance to Projects that meet the criteria of ORS 285B.419(1).

(8) Funding Award:

(a) The Department shall make a loan award based upon the Municipality's ability to repay a loan.

(b) To award assistance the Department must make the following determinations:

(A) The Applicant, application, and accompanied materials are in compliance with ORS 285B.434 and these rules;

(B) Other funds needed to complete the project are available and committed to the project. If a portion of the other funds needed to complete the project is not available at the time an award is made, the award shall be conditional on securing the other needed funds.

(c) Disbursements will be as determined by the Department.

(d) Construction Projects and Planning Projects, in counties, cities, or other geographic areas designated as distressed by the Department shall be given priority for program funding.

Stat. Auth.: ORS 285B.419

Stats. Implemented: ORS 285B.410 - 285B.464

Hist.: IRD 1-1986(Temp), f. & ef. 1-14-86; IRD 9-1986, f. 6-30-86, ef. 7-1-86; EDD 1-1987(Temp), f. 8-17-87, ef. 8-20-87; EDD 5-1988, f. & cert. ef. 2-17-88; Renumbered from 120-050-0030; EDD 26-1990, f. & cert. ef. 10-11-90; EDD 9-1992, f. & cert. ef. 4-29-92; ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 7-2001(Temp), f. & cert. ef. 11-6-01 thru 3-29-02; EDD 4-2002, f. & cert. ef. 2-26-02; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04

123-042-0040

Community Facilities and Essential Community Facilities Emergency Projects Community Facilities Project

Community Facilities:

(1) Eligible Applicant as defined in ORS 285B.410(5).

(2) Eligible Project Types, Activities, and Costs:

(a) The acquisition, construction, or development of municipally owned Community Facilities. The project may include activities to achieve the following: acquisition of land, mitigation of environmental conditions on industrial lands, the construction, acquisition, renovation or reconstruction of buildings, structures and other real property, and the acquisition or construction of related equipment and fixtures.

(b) Project development and financing activities including but not limited to:

(A) Support activities necessary for the construction of a Project including but not limited to contingencies for construction activities and additional engineering/architectural services when approved by the Department;

(B) Costs of financing such as issuance costs, debt service reserves, interest on construction loans or bond anticipation notes when incurred in funding a Project;

(C) Direct Project Management Costs for work performed specifically for the direct benefit of the project. For example: data gathering, oversight of construction in sensitive areas, inspections, testing; personal service agreements for specialized inspections, testing, or providing technical advice is all eligible.

(c) "Planning Project" includes the following:

(A) A stand alone project that includes but not limited to activities listed in OAR 123-042-0020(23), and planning for water, sewer, and road improvements required for industrial land development and those pre-construction activities as found in ORS 285B.416(2); or

(B) A Project in preparation for a Community Facilities construction project as defined in these rules.

(d) The application must meet the requirements listed in section (6) of this rule.

(3) Project Criteria and Limitations:

(a) Projects in counties, cities, or other geographic areas designated as distressed by the Department shall be given priority for program funding.

(b) The following criteria are used to determine if a Community Facilities Project is eligible for assistance from the Fund:

(A) The Community Facility shall be owned by a municipality, and may be operated either by the municipality or by a person under a management contract or operating agreement with the municipality and shall remain in municipal ownership for 5 years after completion of the project.

(B) The Applicant must document that it has adequate financial resources and that there is a substantial local commitment to ensure the project success, and that the benefits of the project will be preserved over the long-term.

(C) The Applicant must document the need for the project and that the project will benefit a broad cross-section of the community or improve the local economy. Demonstration of need can occur at the application stage.

(c) The Department may require an engineering or architectural review study prior to making an award for a Community Facilities Project.

(d) Assistance must be in accordance with ORS 285B.422.

ADMINISTRATIVE RULES

(e) Applicants will submit with the application an Operation, Maintenance, and Replacement Plan that will cover the constructed improvements. The Applicant is responsible for maintaining the accounting records that document projected ongoing operation and maintenance expenditures. If the Applicant demonstrates why the project should not require an Operation, Maintenance, and Replacement plan the Department may determine such a plan is not required.

(4) Loan:

(a) Projects that are not financially feasible shall not be funded. The Department will award financing in a manner that maximizes the use of available resources and maintains credit standards. The Department shall determine the amount and type of funding, interest rate and terms of the loan.

(b) The Loan shall be a full faith and credit obligation which is payable from any taxes which the borrower may levy within the limitations of Article XI of the Oregon Constitution and all legally available revenues and other funds of the Borrower. A pledge of specific revenues of the Borrower may also be pledged.

(c) For Bond Funded Loans, the Department will pass through the final coupon rates of the bond to the borrower. Until bonds are sold, the borrower will pay interest on loan funds drawn down, at the applicable direct loan rate, as set by the Department.

(d) Direct Loans: Interest rates of Direct Loans are based on market rates for similar debt and are set at the time of the award.

(e) Term of Loans: The maximum term of a construction loan shall not exceed the usable life of the proposed project or 25 years, whichever is less.

(f) Community Facilities or Community Facilities Planning Projects may receive loans based upon the Department's determination of the applicant's ability to repay a loan, but in no case will the maximum exceed \$15,000,000 per project for any combination of Bond Funded and Direct Loans.

(g) In order to receive a loan, recipient must agree to comply with ORS 285B.443 except subsection (1)(b).

(5) Community Facilities planning or construction projects are not eligible for Cash or Conditional grants.

(6) Application Requirements:

(a) A Municipality may submit an application to the Department either through invitation or following the Department's procedures.

(b) Project applications with overlapping municipal boundaries must be accompanied by an intergovernmental cooperation agreement setting out the duties and obligations of each entity.

(c) The Department will process only completed applications. Applications must comply with the requirements of ORS 285B.428. The Department may waive a feasibility report if it determines such a report is not required.

(7) Application Review and Approval:

(a) The Department shall determine whether the application and accompanying materials are sufficient to determine eligibility requirements under these rules.

(b) If the submitted application and accompanying materials are not satisfactory the department may do one or all of the following:

(A) Reject the application or accompanying materials;

(B) Require additional information as may be necessary;

(C) Require revisions to the feasibility study or report that provide documentation the proposed construction project will meet program requirements.

(c) Construction Projects and Planning Projects, in counties, cities, or other geographic areas designated as distressed by the Department shall be given priority for program funding.

(8) Funding Award:

(a) To award assistance the Department must make the following determinations:

(A) The proposed project is feasible, and the municipality has certified to the Department that there will be adequate funds available to repay any loans made from the Fund; and

(B) The security for the loan includes the pledge of the municipality's full faith and credit and any other available funds that are sufficient, when considered with other security, to assure repayment; and

(C) Eligible moneys in the Fund are or will be available for the Project; and

(D) The Project is consistent with the requirements governing assistance from the Fund and ORS 285B.434; and

(E) Other funds needed to complete the project are available and committed to the project. If a portion of the other funds needed to complete the

project is not available at the time an award is made, the award shall be conditional on securing the other needed funds.

(b) Construction Projects and Planning Projects, in counties, cities, or other geographic areas designated as distressed by the Department shall be given priority for program funding.

(c) The application for funding does not include a request for grant financing.

Essential Community Facilities Emergency Projects

(9) Eligible Applicant as defined in ORS 285B.410(5); and an entity that can meet the requirements established for Federal Disaster Assistance as administered by Oregon Emergency Management.

(10) Eligible Project Types and Activities and Costs:

(a) Activities required returning an Essential Community facility to its pre-disaster condition as a result of an "Emergency" as defined in ORS 401.025(4) and this rule. Activities will be consistent with those allowed under these rules and the Public Assistance Program

(b) The Project activities are not a duplication of eligible activities under the Public Assistance Program

(c) Costs of financing such as issuance costs, debt service reserves, interest on construction loans or bond anticipation notes when incurred in funding a Project.

(d) A "Planning Project" including the following:

(A) Those activities defined ORS 285B.416(2).

(B) A Project in preparation for an Essential Community Facilities Emergency construction project eligible under these rules.

(11) Project Criteria and Limitations

(a) The following criteria are used to determine if an Essential Community Facilities Emergency Project is eligible for assistance from the Fund:

(A) The project must result from an emergency as defined in ORS 401.025(4);

(B) The project must be for a federal declared emergency or major disaster;

(C) The benefited area must be included in the Designated Disaster Area;

(D) Project activity costs are not a duplication of eligible costs under the Public Assistance Program;

(E) Emergency Project Funding is limited to Essential Community Facilities impacted by the disaster described in (11)(b) above; and

(F) The Essential Community Facility will be owned by a municipality, and be operated either by the municipality or by a person under a management contract or operating agreement with the municipality.

(G) The funding requested is in the amount of the local matching funds required for the federal disaster relief assistance committed to the project.

(H) The amount of grant funding for the project is within the limitation as per ORS 285B.440(2).

(I) The amount of funds awarded from the fund for Essential Community Facilities Emergency Projects do not exceed the limits of ORS 285B.422(3)(c) and ORS 285B.455 (5)(b).

(b) The application must meet the requirements listed in section (6) of this rule.

(12) Grant:

(a) Essential Community Facility Emergency Projects can receive grants as follows:

(A) The award complies with ORS 285B.419(3)(b), 438(1) and 455(5)(b);

(B) The maximum grant a Municipality may receive cannot exceed \$1 million.

(C) Grant awards must be in compliance with ORS 285B.440(1) and (2); and

(D) The total grant money awarded from this fund cannot exceed \$2.5 million in a biennium.

(E) An award of a Non-Cash Grant to pay the debt issuance costs and the debt service reserve on Bond Funded Loans, if a Bond Funded Loan is used to finance the project.

(b) Planning Project undertaken in preparation for an Essential Community Facility Emergency Project may receive grants as follows:

(A) A grant award cannot exceed 85% of the total project cost.

(B) Maximum grant to any municipality from this fund is limited by ORS 285B.440 (1) and (2); and

(C) A grant cannot exceed the local matching fund requirement for the federal disaster relief assistance committed to the Emergency Project.

(D) The maximum grants awarded from this fund cannot exceed \$2.5 million in a biennium.

(13) Application Requirements:

ADMINISTRATIVE RULES

(a) A Municipality may submit an application to the Department through invitation or following the Department's procedures.

(b) Project applications with overlapping municipal boundaries must be accompanied by an intergovernmental cooperation agreement setting out the duties and obligations of each entity.

(c) The Department will process only completed applications. Applications must comply with the requirements of ORS 285B.428. The Department may waive a feasibility report if it determines such a report is not required.

(14) Application Review and Approval;

(a) The Department shall determine whether the application and accompanying materials are sufficient under these rules.

(b) If the submitted application and accompanying materials are not satisfactory, the department may do the following:

(A) Reject the application or accompanying materials;

(B) Require additional information as may be necessary;

(C) Require revisions to any feasibility study or report required under these rules.

(c) Applications for emergency restoration of Essential Community Facilities under these rules will receive priority for processing.

(15) Funding Award:

(a) To award assistance the Department must make the following determinations:

(A) The Department will consider proposed Essential Community Facilities Emergency Project as being feasible, based on the historical operation of the facility, and the project is in compliance with OAR 123-042-0020(12).

(B) Eligible moneys in the Fund are available for the Project.

(b) Construction Projects and Planning Projects, in counties, cities, or other geographic areas designated as distressed by the Department shall be given priority for program funding.

Stat. Auth.: ORS 285B.419

Stats. Implemented: ORS 285B.410 - 285B.464

Hist.: EDD 3-1987(Temp), f. 8-17-87, ef. 8-20-87; EDD 5-1988, f. & cert. ef. 2-17-88; EDD 26-1990, f. & cert. ef. 10-11-90; EDD 9-1992, f. & cert. ef. 4-29-92; ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 7-2001(Temp), f. & cert. ef. 11-6-01 thru 3-29-02; EDD 4-2002, f. & cert. ef. 2-26-02; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04

123-042-0070

Rail Road Projects

(1) Eligible Applicant as defined in ORS 285B.410(5).

(2) Eligible Project Types and Activities and Costs:

(a) An abandoned railroad lines project in accordance with ORS 285B.410(4)(b).

(A) The project may include operation or maintenance costs if the project also includes acquisition, reconstruction, or rehabilitation.

(b) For existing or new rail lines, eligible activities include :

(A) Activities limited to those not considered to be a maintenance function for the operation of the rail line;

(B) Eligible activities including but not limited to activities required for reconstruction of rails, ballast, and bridges;

(C) Activities required for new construction or extension of industrial spurs or sidings.

(D) Direct Project Management such as work performed specifically for the direct benefit of the project.

(c) "Planning Project" includes the following:

(A) A stand-alone project that includes but is not limited to those activities in OAR 123-042-0020(23)

(B) Planning for water, sewer, and road improvements required for industrial land development and those pre-construction activities described in ORS 285B.416(2); or

(C) Part of a phased project such as a Design-Construct project that includes those activities defined in ORS 285B.416(2).

(D) A Planning Project must be in preparation for a Rail Road Infrastructure construction project eligible under these rules.

(E) The application must meet the requirements listed in section (6) of this rule.

(3) Project Criteria and Limitations:

(a) This section only applies to "abandoned railroad lines" as defined in ORS 285B.410(4)(b) that demonstrate:

(A) The line is abandoned or designated by the owner and operator for abandonment;

(B) The applicant is in consultation with the Oregon Department of Transportation and other affected agencies regarding the project.

(C) If the line is acquired by the applicant, potential new rail traffic must be documented;

(D) The applicant must be able to negotiate a preliminary acquisition contract with the owner and operator of the line at the time of submission of an application for financial assistance.

(E) A final acquisition contract is received from the owner within 60 days of a Department award of funding.

(F) At the time of submission of an application for financial assistance the applicant must provide a contract with a short line operator or document that the applicant is able to operate the line itself.

(G) Applicant must document a financial commitment from shippers such that applicant will receive revenues sufficient to operate the line for 5 years on at least a break even basis or demonstrate that the applicant will subsidize the line for at least five years.

(b) This section only applies to applications for financial assistance for industrial spurs or sidings as follows:

(A) The project must include the creation or retention of jobs based on rail freight service; or

(B) Applicant must be able to document that shippers expect job losses without rail freight service and the lack of economic alternative.

(C) Applicant must be in consultation with the Oregon Department of Transportation and other affected agencies regarding the project.

(c) Projects in counties, cities, or other geographic areas designated as distressed by the Department shall be given priority for program funding.

(d) Applicants will submit with the application an Operation, Maintenance, and Replacement Plan that will identify the anticipated revenues by source and the minimum annual amount that will be spent for the first five years of the facility life and includes the constructed improvements. The Applicant is responsible for maintaining the accounting records that document the operation and maintenance expenditures. If the Applicant can demonstrate why the project should not require an Operation, Maintenance, and Replacement plan the Department may determine that a plan is not required. Acceptable justification may include such reason as, the project will not require expenditures for operation and maintenance over the long term.

(4) Loan:

(a) Projects that the Department determines are not financially feasible shall not be funded. The Department will award financing in a manner that maximizes the use of available resources and maintains the desired credit standards. The Department shall determine the amount, type, interest rate and terms of the loan.

(b) The Loan shall be a full faith and credit obligation which is payable from any taxes which the borrower may levy within the limitations of Article XI of the Oregon Constitution and all legally available revenues and other funds of the Borrower. A pledge of specific revenues of the Borrower may be pledged in addition to the foregoing.

(c) For Bond Funded Loans, the Department will pass through the final coupon rates of the bond to the borrower. Until bonds are sold, the borrower will pay interest on loan funds drawn down, at the applicable direct loan rate, as set by the Department.

(d) Direct Loans: Interest rates of Direct Loans are based on market rates for similar debt and are set at the time of the award. The term of a Direct Loan shall begin on the first date of disbursement of loan funds.

(e) Term of Loans: The maximum term of a construction loan shall not exceed the usable life of the proposed project or 25 years, whichever is less.

(f) Rail Road Infrastructure Projects are eligible for Loans as follows:

(A) Any combination of Bond Funded Loan or Direct Loan, up to \$15,000,000 per project.

(B) In order to receive a loan, recipient must agree to comply with ORS 285B.443.

(C) The maximum amount awarded under these rules will be based upon the ability of the applicant to repay a loan.

(D) Abandoned railroads may receive loans as in (4)(f)(A) above for Operation and Maintenance costs if project also includes acquisition, reconstruction, and rehabilitation.

(g) Planning Project in preparation for a railroad infrastructure construction project may receive loans subject to the following:

(A) The maximum amount will be based upon the Department's determination of the ability of the applicant to repay a loan, but in no case will exceed \$15,000,000 per project for any combination of Bond Funded and Direct Loans.

(5) Grant:

(a) Infrastructure projects can receive grants as follows:

(A) Cash or Conditional Grants, or both after a financial analysis by the Department determines a loan is not feasible.

ADMINISTRATIVE RULES

(B) Rail Road Infrastructure Projects receiving Loans are also eligible to receive Non cash Grants.

(b) A Rail Road Infrastructure project based upon a Firm Business Commitment can receive grant funds only after the department has determined the following:

(A) The department has received as part of the application a confirmation from the applicant that the development or expansion of the business will not occur if the municipality does not receive a grant as part of the award for construction funding.

(B) If this condition exists and the department determines that it is in the best interest of the municipality, the analysis for a loan will only cover the remaining total project cost after the eligible grant has been deducted from the funding request.

(C) The Department in accordance with Division 70, has received a copy of the First Source Hiring Agreement or an assurance that such an agreement will be entered into before the grant or loan is awarded.

(c) Firm Business Commitment projects can receive up to \$5,000 per job created or retained. The maximum grant assistance is \$500,000 per project. No financial analysis will be performed; the awarding of a grant will be determined by the findings under (A) above.

(d) Business Commitment Projects are eligible for Non-cash Grants and Conditional Grants.

(e) Abandoned railroads may receive grants for Operation and Maintenance costs if project also includes acquisition, reconstruction, and rehabilitation.

(f) A grant cannot exceed 85% of the total project cost.

(g) Maximum grant award to any municipality from this fund is limited by ORS 285B.440(1) and (2).

(h) The number of jobs created will be those created up to 2 years from the commencement of operations or as the department determines.

(i) Job retention will be documented to the satisfaction of the department.

(j) Any change in municipal ownership within 5 years of project completion will trigger repayment of any grants awarded under this program.

(6) Application Requirements:

(a) A Municipality may submit an application to the Department either through invitation or following the Department's procedures.

(b) Project applications with overlapping municipal boundaries must be accompanied by an intergovernmental cooperation agreement setting out the duties and obligations of each entity.

(c) The Department will process only completed applications. Applications must comply with the requirements of ORS 285B.428. The Department may waive a feasibility report if it determines such a report is not required.

(d) For projects defined in ORS 285B.410(4)(b), a feasibility study is required.

(e) Applicant provides a copy of a First Source Hiring Agreement signed in connection with the job creation commitments from businesses benefiting from the project.

(7) Application Review and Approval:

(a) The Department shall determine whether the application and accompanying materials are satisfactory.

(b) If the submitted application and accompanying materials are not satisfactory, the department may do the following:

(A) Reject the application or accompanying materials;

(B) Require additional information as may be necessary;

(C) Require revisions to the feasibility study or report that document how the proposed construction project will meet program requirements.

(c) After all eligibility requirements under ORS 285B.410 thru 285B.467 and these rules have been satisfied the Department shall give priority for assistance to projects that meet criteria under ORS 285B.419(1).

(8) Funding Award:

(a) The Department shall make a maximum loan award based upon a reasonable and prudent expectation of the municipality's ability to repay.

(b) To award assistance the Department must make the following determinations:

(A) The proposed project is feasible and the municipality has certified to the Department that there will be adequate funds available to repay any loans made to the municipality from the Fund;

(B) The existing infrastructure is inadequate to support the projected demand (future capacity) or to prevent industrial or commercial development from occurring or to prevent job losses.

(C) The proposed project is situated in a city or county with a comprehensive land use plan that allows industrial and commercial development of a type and scale that is sufficient to repay the costs of the project;

(D) The loan security including pledges of utility and other revenues, or payments from any owners of specially benefited properties, are sufficient, when considered with other security, to assure repayment;

(E) Moneys in the appropriate accounts of the Fund are or will be available for the project;

(F) The project is consistent with the rules governing assistance from the Fund;

(G) Other funds needed to complete the project are available and committed to the project. If a portion of the other funds needed to complete the project is not available at the time an award is made, the award shall be conditional on securing the other needed funds.

(H) An award to a municipality shall not contain a grant in excess of 85% of the total project costs.

(I) The Applicant must document financial commitment from shippers that applicant will receive revenues sufficient to operate the line for 5 years on at least a break even basis or demonstrate that the applicant will subsidize the line for at least five years

(c) Construction Projects and Planning Projects, in counties, cities, or other geographic areas designated as distressed by the Department shall be given priority for program funding.

(d) Disbursements for eligible expenditures will be from loans then grant funds or as the Department determines. Exceptions may be made under special circumstances with advanced written approval of the Department.

Stat. Auth.: ORS 285B.419

Stats. Implemented: ORS 285B.410 - 285B.464

Hist.: ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 4-2002, f. & cert. ef. 2-26-02; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04

123-042-0080

Technical Assistance Projects

(1) Eligible Applicant as defined in ORS 285B.410(5).

(2) Eligible Project Types and Activities and Costs:

(a) The following are allowable costs for a technical assistance project:

(A) Activities listed in ORS 285B.416(1) as related to industrial land development.

(B) Site assessment for Environmental Mitigation of industrial site as per ORS 285A.188.

(C) Planning activities including, but not limited to Wetlands Delineation, preliminary assessments conducted in accordance with OAR 340-122-0072; environmental actions as defined in ORS 285A.188(a)(B) and 285A.188(a)(C), Archaeological Investigations and general planning for water, sewer, road improvements as required for industrial land development.

(3) Project Criteria and Limitations:

(a) The facility or site does not have to be owned by the applicant at the time of the project.

(b) The documents produced from this project must become the sole property of the applicant at the end of the Technical Assistance project.

(c) The project shall be conducted for industrial land development.

(d) If it is a "Community Facilities Project," ORS 285B.422 applies.

(4) Grant:

(a) The preliminary nature of Technical Assistance Projects creates special circumstances where grant funding may be warranted. Any loan feasibility determination will be based on the recipient's certification at time of application of the following:

(A) The land must be zoned "Industrial" and may not be converted to another use for at least 5 years, or the grant will become a loan that must be repaid.

(B) Grants shall be awarded at the rate of \$200 per acre, up to a maximum of \$40,000 per site. Any award shall not exceed the assessed value of the land as improved by the project.

(C) Limit of one grant per industrial site.

(D) Limit of one grant per applicant per year.

(E) A grant shall not exceed 85% of the total cost of the project

(F) The Department shall not use more than \$900,000 of the Special Public Works Fund for Technical Assistance for municipalities per biennium.

(5) Loan:

(a) The Loan shall be a full faith and credit obligation which is payable from any taxes which the borrower may levy within the limitations of Article XI of the Oregon Constitution and all legally available revenues and other funds of the Borrower. A pledge of specific revenues of the Borrower may be pledged in addition to the foregoing.

ADMINISTRATIVE RULES

(b) Technical Assistance projects are eligible for Loans using the following criteria:

(A) Determination of repayment ability will be based on the applicant's certification of ability to repay the loan;

(B) Interest shall be 75 percent of the rate for other Direct Loans;

(C) The loan term shall not exceed seven years;

(D) Recipient must agree to comply with the requirements of ORS 285B.443(1).

(E) For Industrial zoned lands, loans shall be awarded at \$200 per acre, up to a maximum of \$20,000.

(c) The Department shall not expend more than \$900,000 of the Special Public Works Fund for Technical Assistance grants and loans to municipalities in a biennium.

(6) Application Requirements:

(a) A Municipality may submit an application to the Department either through invitation or following the Department's procedures.

(b) The Department will process only completed applications. Applications must comply with the requirements of ORS 285B.428. The Department may waive the feasibility report if it determines such a report is not required.

(c) Applicant shall certify that if any loan is awarded, there is adequate funding available to repay the loan.

(7) Application Review and Approval:

(a) The Department shall determine whether the application is acceptable and either reject it or require additional information before making a determination..

(b) If the submitted application and accompanying materials are not satisfactory the department may do one or all of the following:

(A) Reject the application or accompanying materials;

(B) Require additional information as may be necessary.

(8) Funding Award:

(a) For Industrial zoned lands, loans shall be awarded at \$200 per acre, up to a maximum of \$20,000 or grants at \$200 per acre, up to a maximum of \$40,000. In no case will the maximum loan and grant award exceed the assessed value of the land.

(b) To award assistance, the Department must determine that:

(A) The application complies with ORS 485B.434.

(B) Other funds are available and committed to the project. If other funds are not available, any financial assistance awarded shall not be disbursed until the other funding is secured.

(C) An award to a municipality shall not contain a grant in excess of 85% of the total project costs.

(D) Money is available from the Fund for the project.

(E) The project is consistent with the rules governing assistance from the Fund.

Stat. Auth.: ORS 285B.419

Stats. Implemented: ORS 285B.410 - 285B.482

Hist.: EDD 3-1987(Temp), f. 8-17-87, ef. 8-20-87; EDD 5-1988, f. & cert. ef. 2-17-88; EDD 26-1990, f. & cert. ef. 10-11-90; EDD 9-1992, f. & cert. ef. 4-29-92; ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 7-2001(Temp), f. & cert. ef. 11-6-01 thru 3-29-02; EDD 4-2002, f. & cert. ef. 2-26-02; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04

123-042-0150

Contract Administration and Disbursements of Funds

(1) The Department may enter into a contract with the Municipality after determining compliance with eligibility criteria as set forth in these rules and ORS 285B.437.

(2) Disbursements will be in accordance with the terms and conditions as stipulated in the contract documents.

Stat. Auth.: ORS 285B.419

Stats. Implemented: ORS 285B.410 - 285B.482

Hist.: ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 7-2001(Temp), f. & cert. ef. 11-6-01 thru 3-29-02; EDD 4-2002, f. & cert. ef. 2-26-02; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04

123-042-0160

Recipient Responsibilities

(1) Recipients shall demonstrate that any service provider retained for their professional expertise is certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty.

(2) The Department shall provide each Recipient with information that guides local record keeping and project reporting activities. The recipient shall maintain accounts and records for all activities associated with the project and shall provide the Department reasonable access to such records. If applicable, the Recipient shall submit semi annual reports on the project to the Department on job creation/retention results and other economic benefits as requested by the Department.

Stat. Auth.: ORS 285B.419

Stats. Implemented: ORS 285B.410 - 285B.482

Hist.: ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 4-2002, f. & cert. ef. 2-26-02; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04

123-042-0180

Sanctions

(1) The Department may invoke sanctions for an "Event of Default" as described in the contract with the Recipient.

(2) Sanctions will be imposed as stipulated in the contract under "Remedies upon Event of Default".

Stat. Auth.: ORS 285B.419

Stats. Implemented: ORS 285B.410 - 285B.482

Hist.: ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04

123-042-0190

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 Applicant may appeal. Appeals must be submitted in writing to the Director within 30 days of the event or action that is being appealed. An application that would have been funded but for a technical error in the Department's review will be funded as soon as sufficient funds become available, provided the Project is still viable. 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 285B.419

Stats. Implemented: ORS 285B.410 - 285B.482

Hist.: ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04

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Adm. Order No.: EDD 19-2004

Filed with Sec. of State: 8-2-2004

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Notice Publication Date: 7-1-04

Rules Amended: 123-055-0100, 123-055-0120, 123-055-0200, 123-055-0240, 123-055-0300, 123-055-0340, 123-055-0400, 123-055-0420, 123-055-0440, 123-055-0460, 123-055-0525, 123-055-0600, 123-055-0620, 123-055-0900

Subject: These rules govern the use of Regional and Rural Investment funds and outline the required planning and distribution including specific performance criteria for the use of those funds.

In accordance with HB 2300 from the 2003 legislative session, this revision modifies "Regional Investment Plans" to become "Regional Investment Strategy" with expanded purposes to leverage and attract capital investment. This bill directs the Economic & Community Development Commission and Regional Investment Board to establish Regional Performance Measures. The bill establishes criteria for Regional Investment Boards to evaluate the effectiveness of activities funded with Regional and Rural investment Funds. These rules replace and repeal all temporary rules in effect as of the date of this filing.

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

123-055-0100

Purpose and Scope

In implementing the Regional Economic Development Act under ORS 285B.230 to 285B.251 and 285B.269, pursuant to amendments by chapter 509, Oregon Laws 1999, this division of administrative rules is intended to clarify, facilitate and establish the following key pieces in the successful design, deliberation, execution and updating of a long-term planning framework for achieving economic development results:

(1) Regional associations and consensus among counties of this state;

(2) Boards of citizens for strategic planning and oversight of funded activities;

(3) Special, broad-based partnership arrangements to augment and, in some cases, to act as an umbrella for county-appointed boards;

(4) Processes for public development and approval of the locally determined investment Strategies; and

(5) Statewide interaction and support.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.230 - 285B.251 & 285B.269

ADMINISTRATIVE RULES

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0120

Definitions

For purposes of this division of administrative rules, unless the context demands otherwise:

(1) **Commission** means the State of Oregon Economic and Community Development Commission established by ORS 285A.040.

(2) **County-based Region** means a Region established by formal recognition of the Department on the basis of county government initiative, without a Regional Partnership.

(3) **Department** means the State of Oregon Economic and Community Development Department as (re)organized under ORS 285A.070.

(4) **Director** means the director of the Department as appointed under ORS 285A.070.

(5) **Fiscal Entity** means a unit of local government, intergovernmental entity or nonprofit corporation jointly designated by the governing bodies of the counties comprising the Region and responsible for assisting the Regional Board in developing, implementing and administering the Investment Strategy, such that:

(a) If the governing bodies of the counties comprising the Region establish the Regional Board as an intergovernmental entity, the Regional Board may be the Region's Fiscal Entity; and

(b) The Fiscal Entity must in all cases have the authority and legal power to enter into a contract with the Department for receipt of Regionally Controlled Funds and with other entities receiving such funds as authorized by the Regional Board pursuant to and for purposes of the Investment Strategy.

(6) **Investment Strategy** means the document described under ORS 285B.239 and prepared by the Regional Board under ORS 285B.242, in accordance with OAR 123-055-0300 to 123-055-0399.

(7) **Partnership-based Region** means a Region for which:

(a) A Regional Partnership is associated with the Regional Board through and with agreement of the county partners; and

(b) Its specific geographic area essentially coincides with that of the Regional Partnership. (This definition in no way limits the types or purposes of Regional Partnerships)

(8) **Region** means a geographic area under ORS 285B.230(1), as described in OAR 123-055-0200, and represented by a Regional Board that prepares and submits an Investment Strategy. It may be either a County-based Region or a Partnership-based Region.

(9) **Regional Board** means a group of individuals appointed by county courts and boards of county commissioners under ORS 285B.230(2) and 285B.242(1), as described in OAR 123-055-0200 to 123-055-0299.

(10) **Regional Partnership** means an association under ORS 285B.230(4), formed by agreement of local and regional partners with the requisite agencies of the state government. It includes but is not limited to a Partnership-based Region.

(11) **Regionally Controlled Funds** means the Regional Investment Fund and Rural Investment Fund, as described in division 057 of this chapter of administrative rules, and the moneys allocated, disbursed or expended there under for the projects of a particular Region, and all interest earned on such money by or for the Region. This term shall in no way be interpreted as affecting resources from any other fund or program under state law or associated with the Department.

(12) **Multi-Region Project** means a project that has a demonstratable economic impact in more than one Region where two or more Regional Investment Boards participate in the funding of the project.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.230 - 285B.251, 285B.269

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0200

Formation and Reconfiguration

(1) Prior to designating a County-based Region, the Department shall do the following:

(a) Communicate with and assist representatives of county governments with considerations in forming a Region, which may include special meetings, fora, etc.; and

(b) Receive materials and advice from the counties= governing bodies, describing the Region's geographic area and the historical, cultural and economic linkages that underpin and justify its creation, including regional planning activities that already exist.

(2) The geographic area of a County-based Region may not include any area in another Region and shall consist of the following:

(a) Two or more counties

(b) The entire area of the counties comprising the Region, unless the remaining portion of a county is contained in a Partnership-based Region; and

(c) A common border between at least two member counties, although any other county in the Region need not be contiguous to any or all of the other counties.

(3) Each Regional Board and its members, as well as the associated Fiscal Entity, operate in the public trust and shall comply (in relevant part or in entirety) with state and local statutes, laws and regulations for the following, and are solely responsible for legal adherence

(4) A Partnership-based Region is not bound by section (1) or (2) of this rule, and may encompass any geographic area consistent with the participation/involvement of relevant sub-county partners. The Department shall recognize it, insofar as it:

(a) Contains no area of another Region;

(b) Includes area in at least two counties; and

(c) Is clearly described in or as part of the Regional Partnership memorandum of understanding or associated information as provided to the Department.

(5) In order for any county area to be divided among two or more Regions:

(a) At least part of the county must be in a Partnership-based Region;

(b) The county's governing body must be a party to each applicable agreement in OAR 123-055-0240 and must appoint one or more members to the respective Regional Boards; and

(c) No such constituent part of the county may be attached to a Region as established or recognized by the Department, until all such parts are associated with an acknowledged Region.

(6) Regions may be reconfigured pursuant to the mutual consent of all affected counties (and partners of an ongoing Regional Partnership), and subject to the preparation, modification or amendment and approval of an Investment Strategy or Strategies for the new/amended Region(s).

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.230, 285B.236, 285B.242

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0240

Regional Accords and Fiscal Entities

(1) The governing bodies of the counties comprising a Region shall jointly enter into a written agreement forming the Region and specifying applicable elements as follows:

(a) The size, makeup and organization of the Regional Board and the methods for nominating and appointing its members by the governing bodies;

(b) Indication of a Regional Partnership in the case of a Partnership-based Region;

(c) Any special name to be used in reference to the Region;

(d) Procedures, policies, duties and authority for the activities of the Regional Board and for the preparation and implementation of the Investment Strategy;

(e) If desired by the governing bodies of the counties comprising the Region, establishment of the Regional Board as an intergovernmental entity under ORS 190.010(5), 190.080 and 190.085 and designation of the Regional Board as the Region's Fiscal Entity; or

(f) Any other matters deemed appropriate by the governing bodies.

(2) If the agreement described in section (1) of this rule establishes the Regional Board as an intergovernmental entity and designates the Regional Board as the Region's Fiscal Entity, that agreement shall also specify the following Content of Regional Investment Strategy:

(a) The authority, duties and functions of the Regional Board in its capacity as the Fiscal Entity for Region;

(b) The Regional Board's financial responsibility and budgetary processes with respect to Regionally Controlled Funds; and

(c) Contractual terms and other relevant administrative or fiduciary issues.

(3) If the Regional Board is not established as an intergovernmental entity that acts as the Region's Fiscal Entity, then the governing bodies of the counties comprising the Region shall jointly designate the Fiscal Entity for the Regional Board and enter into an agreement with that Fiscal Entity (preferably, one that is subsequent to and separate from the agreement described in section (1) of this rule) that specifies the following:

ADMINISTRATIVE RULES

(a) The corporate/legal identity, role, function and duties of the Fiscal Entity for purposes of assisting the Regional Board in developing, implementing and administering the Investment Strategy;

(b) Powers and responsibilities of the Regional Board over the Fiscal Entity;

(c) The authority, financial responsibility and budgetary processes of the Fiscal Entity with respect to decisions by the Regional Board and with respect to the receipt and use of Regionally Controlled Funds; and

(d) Contractual terms and other relevant administrative or fiduciary issues.

(4) The governing bodies of the counties comprising the Region shall jointly notify the Department in writing, as soon as reasonably possible, of the following:

(a) The identity of the Fiscal Entity; and

(b) Any actual or formally contemplated change in the designated Fiscal Entity.

(5) Alternatively for sections (3) and (4) of this rule, the Regional Board may directly designate and contract with the Fiscal Entity, and notify the Department accordingly, if it is established as an intergovernmental entity but not as the Region's Fiscal Entity.

(6) Other agreements that supplement or incorporate what is described in this rule may be executed as necessary and appropriate, especially for a Partnership-based Region.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.230 - 285B.251, 285B.269

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0300

Statutory Priorities

The regional investment program is intended to identify, address and coordinate economic development priorities, as well as coordinate public and private resources, in accordance with ORS 285B.233. Therefore, an Investment Strategy shall explicitly do the following:

(1) Focus on priorities identified by the Regional Board, along with the following priorities, as taken from ORS 285B.230(3):

(a) Supporting communities and populations that have been left out of Oregon's economic expansion and diversification;

(b) Helping companies that are starting up or are already in business in Oregon to compete globally;

(c) Ensuring that economic strategies will reinforce Oregon's long-term prosperity and livability; and

(d) Coordinating regional efforts for economic development, education, workforce development, and;

(2) Demonstrate in measurable terms the extent to which, as well as how, the priorities in section (1) of this rule will be accomplished, as required under ORS 285B.236(2), by relating these to the regional performance measurements and regional benchmarks in the Investment Strategy under ORS 285B.239(7) and to Regional Performance Measures as described in OAR 123-055-0620.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.230, 285B.233, 285B.236 & 285B.239

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0340

Using Other Planning Exercises

Regions are encouraged to take advantage of other planning activities or sources of helpful guidance that exist in association with federal programs or resources, at the local level and in other circumstances, such that:

(1) In preparing and developing an Investment Strategy, a Region may borrow and rely on technical resources, methods and format for strategic or economic planning, or the Region may integrate and make reference to recently completed planning work, including those associated with but not limited to the following:

(a) U.S. Economic Development Administration;

(b) U.S. Empowerment Zone/Enterprise Community Initiative; or

(c) Local comprehensive land use plans.

(2) In using models or relevant work as indicated in section (1) of this rule, the Region shall ensure that all of the elements required under ORS 285B.230 to 285B.251 for a complete Investment Strategy are still included therein and are easily identified or identifiable through use of a key or other instructions in the primary document that the Region adopts.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.230 - 285B.251, 285B.269

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0400

Strategy Preparation, Local Input, Refinement with Department and Regional Adoption

For purposes of developing Investment Strategies:

(1) The Department shall extend reasonable assistance to each Regional Board, its members and its Fiscal Entity, which may include provision of program guidance, attendance at local meetings or contact information for relevant organizations or government agencies, as the Department's time and resources permit. The Department shall neither guide nor lead counties in the development of Investment Strategies and is not responsible for performing in-depth research or information gathering for any Region.

(2) For all Regions:

(a) In addressing the general preparation and substance of the Investment Strategy, the Regional Board shall provide opportunity for consultation with applicable representatives in the Region from the following:

(A) Private industries, the for-profit business community, the non-profit sector and workforce committees;

(B) Local/city governments and public service providers, including ports and other special districts;

(C) Tribal governments or councils; and

(D) State and federal agency partners, especially those listed under ORS 285B.230(4).

(b) In devising the two-year Implementation Strategy that shall describe projects and activities to be undertaken and funded, the Regional Board shall consult with and seek input from the parties described in subsection (a) of this section, either as a convened body or through liaison work by individual board members or the Fiscal Entity.

(c) The Regional Board may work with the Department in the refinement of the Investment Strategy through drafting stages and to ensure compliance with applicable statutes.

(d) Public hearings shall be scheduled and conducted, as follows:

(A) A public hearing shall be held in each county of the Region, no less than two weeks after published notice inviting public comments on the proposed Investment Strategy; and

(B) The Investment Strategy shall be made available to the public for inspection during the two-week period preceding the public hearing.

(e) The Regional Board shall submit the Investment Strategy to the county governing bodies of the Region after the public hearing in that county, so that the governing bodies may take formal action on the Investment Strategy.

(f) In order for the final Investment Strategy to be regionally adopted, it must be approved by motion or resolution of the following:

(A) All of the counties in the Region (by a majority vote of each county governing body, as specified in the county charter); and

(B) The Regional Board (pursuant to its own procedures or bylaws).

(3) In response to a recommendation from the Department, Commission, Governor or Regional Partnership, a final, adopted Investment Strategy may be modified, amended or appended by the Regional Board subject to formal consideration by the county governing bodies, which may at their discretion delegate authority for so changing the Investment Strategy.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.242

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0420

Review/Approval by Commission and Governor or Through Regional Partnership

The Regional Board shall provide a complete copy of the final Investment Strategy, as developed and adopted consistent with OAR 123-055-0400, to the Department, at which point the Investment Strategy may be handled according to either section (1) or (2) of this rule:

(1) Review and approval shall be done through a Regional Partnership, such that:

(a) These functions have been delegated to the Regional Partnership either by communication from the Governor's Office to the Director or by a joint recommendation of the state agency directors under ORS 285B.230(4) (or their regional designees);

(b) The review and approval of the Investment Strategy proceeds according to the Regional Partnership's discretion and criteria, including but not limited to compliance with all applicable statutes; and

(c) Final approval of the Investment Strategy is formally submitted to the Governor or the state agency directors under ORS 285B.230(4) (or their regional designees) for recognition by the Department.

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(2) Without delegation under subsection (1)(a) of this rule, review and approval shall proceed as follows:

(a) The Department examines the Investment Strategy to ensure compliance with applicable statutes and may seek and obtain missing or corrected information, as necessary, from the Regional Board;

(b) The Department submits the Investment Strategy to the Commission with summaries or assessments, as are appropriate or requested by the Commission;

(c) The Commission considers the submission by the Department and;

(d) Pursuant to any consultation that it chooses to have with the Regional Board, the Commission takes action either by returning the Investment Strategy to the Regional Board with instructions for modification or by endorsing it, such that once endorsed by the Commission, the Investment Strategy is recommended to the Governor, and the Governor shall either finally approve the Investment Strategy or return it to the Commission or the Regional Board with appropriate indications.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.242, 285B.242

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0440

Strategy Implementation and Biennial Update

Once approved as described in OAR 123-055-0420:

(1) An Investment Strategy shall be implemented at the direction and by authority of the Regional Board, in cooperation with a Regional Partnership as applicable, such that:

(a) The Department shall assist with implementation, as staff resources and time permit, especially for purposes of coordination with resources at the Department's disposal;

(b) Leverage of resources and opportunities other than Regionally Controlled Funds are to be continually considered for effectively and efficiently achieving economic development results; and

(c) Measuring and reporting progress, spending and so forth under the Investment Strategy shall be integral to implementation.

(2) An Investment Strategy is a living document, and every two years, the Regional Board shall revise it as necessary and improve it wherever suitable, including but not limited to updating the rural action plan and the requisite preparation of a new implementation Strategy. The revised and updated Investment Strategy and the new two-year Investment Strategy shall be developed and approved consistent with OAR 123-055-0400 and 123-055-0420, such that: delegation or the lack thereof by the Governor in the prior biennium, as described OAR 123-055-0420(1), may be changed.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.242, 285B.245

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0460

Relationship of Plan to Regionally Based Funding

For purposes of disbursing Regionally Controlled Funds to a Region, in accordance with division 057 of this chapter of administrative rules:

(1) All disbursements of Regionally Controlled Funds will be made to the Region's Fiscal Entity, as designated in accordance with OAR 123-055-0240.

(2) Except for moneys described in OAR 123-057-0330 or 123-057-0430, the Department may make such disbursements only pursuant to final approval of the Investment Strategy and the two-year implementation Strategy corresponding to that biennium.

(3) Such disbursements further depend on an effective and enforceable contract between the Department and the Fiscal Entity, as described in OAR 123-057-0170 and will not be made without such a contract.

(4) If a Region fails to adopt, submit or have an Investment Strategy finally approved, it may not receive its counties' Regionally Controlled Fund allocations, and the Department at the end of the biennium may proportionally reallocate such moneys to other Regions.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.230 - 285B.251, 285B.269

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0525

Relationship of Local Entities to Partnership

For purposes of Regional Partnerships under ORS 285B.230(4):

(1) The memorandum of understanding among local partners and the directors of the seven state agencies may take the form of two or more

agreements or memoranda for purposes of establishing certain structures, objectives and efforts of the Regional Partnership.

(2) The local partners may join together under separate arrangements to form a mutual agreement as a unit, in order to achieve the following or comparable purposes:

(a) Simplify and more efficiently execute an agreement or memorandum between such unit and the directors of the seven state agencies; and

(b) Allow for designation of one or more representatives of the local partners to do the following:

(A) Act on behalf of that unit (or the union between that unit and the seven state agencies);

(B) Interface with a fiscal agent for handling moneys (though not Regionally Controlled Funds) on behalf of that unit, regardless of whether this fiscal agent is the same as the Fiscal Entity for a corresponding Partnership-based Region.

(3) Not all of the local partners as indicated in ORS 285B.230(4) need to be included in a Regional Partnership, but shall participate only as interested. However:

(a) The county governments, as well as the major cities that are central to the regional economy, are expected to be part of the Regional Partnership; and

(b) No local partner that has a significant and applicable presence in the Regional Partnership's area shall be excluded if expressing a clear desire to actively participate in the general business of the Regional Partnership, prior to its formation. A Regional Partnership may make accommodations for revising its composition, whenever it redefines its basic objectives.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.230

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0600

Agency Efforts

The following are matters for the Department in coordinating Regions and Investment Strategies under ORS 285B.230 to 285B.269 to achieve desirable economic development results across the state:

(1) Investment Strategies provide an opportunity by which the Department can:

(a) Identify commonality among the priorities and objectives of various Regions;

(b) Pursue methods and organized efforts to take advantage of strategic regional investment projects or activities consistent with ORS 285B.263(2); and

(c) Coordinate regional priorities and resources with existing state and local efforts and strategies, especially so that various types of resources may be used (or leveraged) in the most effective, efficient and appropriate way possible, including in cooperation with federal programs and other state agencies.

(2) In response to the quality of a Region's investment planning, the Department shall strive to complement the Region's resources and the flexibility of Regionally Controlled Funds through special consideration in the use of programs and funding sources within the Department's authority.

(3) The Department shall strive to include all parts of the state in this program, by:

(a) Ensuring that every county is included in a Region (and if necessary, may delay Investment Strategy approval or disbursement of Regionally Controlled Funds, pending a county's inclusion in a Region); and

(b) Taking appropriate action to see that each Region's Investment Strategy is approved.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.239, 285B.242, 25B.245 & 285B.248

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0620

Regional Performance Measures and Periodic Performance Reports by Region

In direct relation to the regional benchmarks established in the Investment Strategy under ORS 285B.239(7):

(1) Every Regional Board shall identify quantitative targets for regional performance measures that measure and evaluate the accomplishments of the Region's adopted priorities, including target goals for measuring:

(a) Long-term and short-term job creation and retention, including the number of jobs created and retained and wage levels.

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- (b) Leveraging long-term investments.
- (c) Maximizing moneys leveraged with short-term investments;

(2) Every Regional Board shall propose criteria for the use, distribution and evaluation of its investment funds consistent with its adopted and approved Implementation Strategy.

(3) The proposed regional performance measures and distribution criteria shall be submitted to the Department for review by the Commission, which may recommend changes to the Regional Board, such that the Regional Board may adopt the recommendation or make counter-proposals to the Commission, and so forth, or other procedures may be arranged for negotiating regional performance measures and distribution criteria between the Commission and the Region or Regions, in order to finalize regional performance measures and distribution criteria, which the Commission may ultimately resolve as necessary.

(4) In addition to sections (1) to (3) of this rule, the Commission and the Department may develop models or methods to coordinate and facilitate the adoption and use of regional performance measures and distribution criteria by Regions at their discretion, and as the time and resources of the Commission or Department allow.

(5) Each report under section (4) of this rule shall be submitted to the governing bodies of the counties comprising the Region, the Commission, the Governor, the Legislative Assembly, the Department and other parties of the Regional Board's choosing.

(6) Periodically as determined and described by the Department, every Regional Investment Board shall in accordance with ORS 285B.239(8) to submit reports on regional performance measures allowing the Department and its Commission, the Legislature and the Governor to evaluate the effectiveness of each regions implementation strategy and ensuring the resources are being effectively used.

(7) The reports under section (4) shall, at a minimum, relate to and be integrated with the Regional Board's biennial report to the Governor and the Legislative Assembly on the expenditure of Regional Controlled Funds under ORS 285B.257(4), 285B.235(7)(a,b,c) and 285B.263(6).

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)
Stats. Implemented: ORS 285B.239
Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

123-055-0900

Waiver of Provisions Not Required by Statute

The Director or the Director's designee may waive non-statutory requirements of this division of administrative rules, if demonstrated to the satisfaction of the Director that such a waiver serves to further the goals and objectives of ORS 285B.230 to 285B.251 and 285B.269, and that it contributes to sound economic or community development.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)
Stats. Implemented: ORS 285B.230 - 285B.251, 285B.269
Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 19-2004, f. & cert. ef. 8-2-04

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Adm. Order No.: EDD 20-2004

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Rules Amended: 123-057-0110, 123-057-0130, 123-057-0170, 123-057-0190, 123-057-0210, 123-057-0230, 123-057-0310, 123-057-0330, 123-057-0350, 123-057-0410, 123-057-0430, 123-057-0450, 123-057-0470, 123-057-0510, 123-057-0530, 123-057-0710

Subject: These rules govern the use of Regional and Rural Investment funds and outline the required planning and distribution including specific performance criteria for the use of those funds.

In accordance with HB 2300 from the 2003 legislative session, this revision modifies "Regional Investment Plans" to become "Regional Investment Strategy" with expanded purposes to leverage and attract capital investment. This bill directs the Economic & Community Development Commission and Regional Investment Board to establish Regional Performance Measures. The bill establishes criteria for Regional Investment Boards to evaluate the effectiveness of activities funded with Regional and Rural investment Funds. These rules replace and repeal all temporary rules in effect as of the date of this filing.

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

123-057-0110

Purpose and Scope

This division of administrative rules is intended to establish technical clarity for the actual allocation, distribution, uses and evaluation of a Regional Board's past performance of their implementation Strategies with moneys from the Regional Investment Fund and the Rural Investment Fund, under ORS 285B.254, 285B.257, 285B.260 and 285B.263, for effective implementation of long-term regional Investment Strategy in addition to other available resources.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1), 285B.254(3) & 285B.263(2)
Stats. Implemented: ORS 285B.254, 285B.257, 285B.260 & 285B.263
Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0130

Definitions

For purposes of this division of administrative rules, the definitions described in OAR 123-055-0120 apply. Moreover, unless the context demands otherwise:

(1) **Fixed Assets** mean plant, equipment or other tangible assets of an individual private business that have a useful life lasting longer than one year, and that are normally subject to depreciation for income tax purposes.

(2) **Grant Contract** means the contract between the Department and the Fiscal Entity for disbursement of Regionally Controlled Funds to the Region, as described in OAR 123-057-0170.

(3) **Strategic Regional Investment Opportunity Fund project** means a project or activity funded in collaboration by the department and regional boards, as determined under ORS 285B.263(2), to award projects or activities

(4) **Regional Fund** means the Regional Investment Fund under ORS 285B.260 and 285B.263.

(5) **Rural Fund** means the Rural Investment Fund under ORS 285B.254 and 285B.257.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1), 285B.254(3) & 285B.263(2)
Stats. Implemented: ORS 285B.254, 285B.257, 285B.260 & 285B.263
Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0170

Agreement of Department with Fiscal Entity

For purposes of the Department's distribution of moneys to the Regions:

(1) Prior to the disbursement of any Regionally Controlled Funds to the Region through the Fiscal Entity, there must be a Grant Contract between the Department and the Fiscal Entity, duly authorized, executed and delivered by the Fiscal Entity, such that the following shall already be in effect:

(a) Recognition of the Region as issued by the Director; and

(b) Either the agreement entered into by the governing bodies of the counties comprising the Region and their designated Fiscal Entity or the agreement designating the Regional Board as the Fiscal Entity, in accordance with OAR 123-055-0240, such that the agreement is attached to and referenced in the Grant Contract.

(2) The Department reserves the right to terminate the Grant Contract, terminate the disbursement of Regionally Controlled Funds or take legal action, if the Fiscal Entity fails to maintain its duties, violates its covenants or exceeds its authority under the Grant Contract, an agreement described in OAR 123-055-0240, the Investment Strategy or this division of administrative rule.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1), 285B.254(3) & 285B.263(2)
Stats. Implemented: ORS 285B.254, 285B.257, 285B.260 & 285B.263
Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0190

General Availability and Use of Funds

Subject to the Grant Contract:

(1) No moneys shall be disbursed to the Fiscal Entity until the Investment Strategy or its relevant update has been finally approved in accordance with division 055 of this chapter of administrative rules, except as described in OAR 123-057-0330 and 123-057-0430.

(2) Unless otherwise directed by the Department, Regionally Controlled Funds that are received by the Region through the Fiscal Entity shall be promptly returned to the Department:

(a) If not obligated by formal action of the Regional Board on or before July 1, one year after the end of the biennium; and

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(b) If unexpended at the termination or expiration of the Grant Contract.

(3) Public entities that directly or indirectly receive Regionally Controlled Funds shall comply with public procurement guidelines, minimum wage and hour standards, municipal budget and audit laws, and other applicable state and local regulations.

(4) The Department's payment of Regionally Controlled Funds is subject to the availability of money in the Regional Fund and the Rural Fund. Regions shall proportionately share in any shortfall of lottery revenue.

(5) The Fiscal Entity shall maintain records of all activities associated with the Investment Strategy and expenditures of Regionally Controlled Funds. The Department is entitled to monitor the Fiscal Entity's records to verify compliance with the Grant Contract.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1), 285B.254(3) & 285B.263(2)
Stats. Implemented: ORS 285B.254, 285B.257, 285B.260 & 285B.263
Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0210

Common Requirements

Regionally Controlled Funds for implementing the Investment Strategy shall be obligated and expended subject to the Regional Board's evaluation of the merit and readiness of the project, in accordance with the adopted project selection criteria and subject to the consistency of the project with the priorities of the Investment and implementation Strategy, such that:

(1) All projects or activities funded meet the funding criteria as set forth in the Regional Investment Strategy approved by the Governor to ensure funded projects and activities are in compliance 285B.239(7)(a)-(c) and in accordance with OAR 123-055-0620.

(2) The expenditure of the Regional Controlled Funds must be authorized by the Regional Board, according to the Region's procedures governing such authorization.

(3) Regionally controlled funds shall not be used as prohibited in OAR 123-057-0230.

(4) Any activity or project funded through this division of administrative rules shall indicate that it is state lottery-funded and authorized by the Regional Board in all public documentation and on a publicly visible sign associated with any project involving construction activity. The sign shall be provided by the Regional Board funding the project and the sign shall be approved by the Department prior to placing the sign at the project site.

(5) Any public facility, as defined in ORS 447.210, for which construction costs are in any part paid for with Regionally Controlled Funds, shall be accessible to and made useable by handicapped persons in accordance with the U.S. Americans with Disabilities Act of 1990 (Public Laws 101-336).

(6) Any activity paid for in whole or in part with Regionally Controlled Funds that affects physical development of land shall comply with the applicable requirements of division 008 of this chapter of administrative rules, this state's land use laws and the local comprehensive plan.

(7) An individual private business receiving direct or substantial benefits from Regionally Controlled Funds may be required to comply with division 070 of this chapter of administrative rules for entering into a first-source hiring agreement, but only if required by the Region in the Investment Strategy.

(8) Regionally Controlled Funds may only be provided to private for-profit businesses for a project and activity, whether as a grant or a loan, if that project and activity is consistent in its own right with an activity specified in the Investment Strategy (apart from any general objective for financially inducing business development, recruitment or expansion).

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1), 285B.254(3) & 285B.263(2)
Stats. Implemented: ORS 285B.245, 254.285B, 285B.260, 285B.263 & 461.740
Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0230

Common Prohibitions

Regionally Controlled Funds may not be used to do any of the following:

(1) Retire any debt;

(2) Reimburse any person or municipality for expenditures made or expenses incurred before final approval of the Investment Strategy, except for preparation and administration as described in 123-057-0430;

(3) Substitute for available budgeted resources in supporting ongoing public services or infrastructure that already exist, but rather shall support

only new or enhanced local services benefiting the Region's capacity for economic development;

(4) Maintain existing staff of a public or private entity, except for staff time dedicated to:

(a) The administrative needs of the Investment Strategy or the Regional Board;

(b) Redirected or augmented efforts consistent with the Investment Strategy, such as new technical assistance for enhancing regional coordination or local economic development activities/capacity; or

(c) Continuing to fulfill objectives or activities of the Investment Strategy as initiated in a previous biennium; or

(5) Assist in any way with the relocation of a business facility within this state from one labor market area to another, unless:

(a) The job losses in the originating labor market area are less than or equal to 0.1 percent of the most recently available estimate for the civilian labor force therein; or

(b) The relocation entails an improvement in the quality and a significant increase in the size of the business's total in-state employment, without being detrimental to any rural area, subject to determinations of the Department.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1), 285B.254(3), 285B.257(7) & 285B.263(2)
Stats. Implemented: ORS 285B.245, 285B.254, 285B.257, 285B.260 & 285B.263
Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0310

Objective and Geography

(1) The Rural Fund, as generally allocated by the Commission, provides a flexible source of financial assistance to benefit rural communities and to help them undertake locally-determined economic development projects and programs, potentially ineligible for support through other state or federal sources. It is intended to offer a vehicle by which Regional Boards can leverage other funding sources to the maximum extent possible for improving the economies of rural areas.

(2) The Rural Fund proportion of a project's funding out of Regionally Controlled Funds shall not significantly exceed the project's relative benefit for persons or communities in rural areas, as estimated by the Regional Board when authorizing the project.

(3) Location of the Rural Fund project or activity in a rural area is required, only if significant benefits accrue to the immediate vicinity where the project or activity takes place.

(4) A Regional Board may focus more strategically in defining what is meant by Rural@ for purposes of its Region, but as used in this division of administrative rule, Rural areas@ mean those parts of this state that are outside of:

(a) The acknowledged Portland Metropolitan Area Regional Urban Growth Boundary; and

(b) The acknowledged urban growth boundaries of cities with population of 30,000 or more, including Albany, Bend, Corvallis, Eugene, Springfield, Salem, Keizer or Medford.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1) & 285B.254(3)
Stats. Implemented: ORS 285A.010, 285B.254 & 285B.257
Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0330

Rural Action Plan Development

Moneys from the Rural Fund may be dedicated to technical assistance and staff support for preparing or updating the rural action plan and for developing programs and projects under it, such that:

(1) The amount of money so dedicated is determined by the Regional Board;

(2) The Department may distribute moneys for such dedicated purposes prior to approval of the Investment Strategy with the rural action plan; and

(3) These moneys may be used to pay for relevant work after it has been completed, regardless of OAR 123-057-0230(2).

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1) & 285B.254(3)
Stats. Implemented: ORS 285B.257
Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0350

Funding Pursuant to Rural Action Plan

For purposes of receiving and using Rural Fund money:

(1) A Region without an up-to-date rural action plan may not receive its counties Rural Fund allocations, and such moneys may be proportional-

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ly reallocated to other Regions by the Department at the end of the biennium.

(2) The rural action plan is an element of the Investment Strategy, and shall be reviewed and approved in the context of the regionally adopted or biennially revised Investment Strategy, although it may be approved separately, subject to satisfaction of OAR 123-055-0400 and 123-055-0420, as follows:

(a) At any time during and for the biennium, in order to be amended to an already approved Investment Strategy; or

(b) Prior to the Investment Strategy for purposes of this rule, in anticipation of its inclusion in an Investment Strategy that is already prepared in draft form and will be adopted/updated in the current biennium.

(3) The rural action plan may merely refer to and highlight other Investment Strategy elements for purposes of the Rural Fund, if the Investment Strategy is entirely or mostly oriented towards rural areas.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1) & 285B.254(3)

Stats. Implemented: ORS 285B.254, 285B.257

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 8-2000(Temp), f. 5-2-00, cert. ef. 5-2-00 thru 9-30-00; EDD 13-2000, f. & cert. ef. 8-15-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0410

Regional Investment Fund: Specific Issues Components

(1) The Regional Fund, as allocated by the Commission, differs from the Rural Fund in that its moneys may be used for projects and activities that benefit any part of the Region.

(2) The Regional Fund is used for the following:

(a) Technical assistance and staff support for development and refinement of the Investment Strategy or for development and administration of a Regional Partnership, up to a limit set by the Commission;

(b) Personnel and expenses for administering the Investment Strategy and its implementation; and

(c) Projects and activities implementing the Investment Strategy.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1) & 285B.263(2)

Stats. Implemented: ORS 285B.260, 285B.263

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0430

Dedicated to Strategy Preparation

As determined by the Commission, a maximum percentage of the moneys from the Regional Fund in each biennium may be dedicated by a Regional Board for preparation of the Investment Strategy and for support of a Regional Partnership, such that:

(1) The maximum limit established by the Commission is expressive-ly included in the Grant Contract;

(2) The Department shall take reasonable efforts to make such moneys available prior to approval of the Investment Strategy or a biennial update, including but not limited to executing the Grant Contract and specifically disbursing such moneys through it;

(3) The moneys may only be used for technical assistance and staff support for:

(a) Development and refinement of the Investment Strategy; or

(b) Development and administration of a Regional Partnership; and

(4) Such moneys may be spent on relevant work and expenses incurred prior to disbursement of the funds or final approval of the Investment Strategy, regardless of OAR 123-057-0230(2).

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.263

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0450

Guidelines for Financing Fixed Asset Acquisitions of Private Businesses

For purposes of grants or loans from the Regional Fund to individual private businesses for the acquisition of Fixed Assets, under ORS 285B.263(4), to complement existing public and private financing:

(1) Only a portion (not all) of the moneys for projects and activities (OAR 123-057-0410(3)(d)) in any biennium may be used for such purposes, including but not limited to the capitalization of a revolving loan fund or funds for private business projects.

(2) The Investment Strategy must contain the terms and conditions for such grants or loans, when the Investment Strategy is submitted for review pending final state-level approval, along with other provisions in the Investment Strategy applicable to relevant activities.

Stat. Auth.: ORS 285A.075(5), 285A.110 & 285B.236(1)

Stats. Implemented: ORS 285B.263

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0470

Tourism and Industrial Marketing

For purposes of ORS 285B.245(2) and expending Regional Fund money for projects to market a Region for creating, expanding or retaining tourism or industrial activity, investments and related jobs:

(1) If a Region intends to use any of its Regional Fund allocation for such purposes, then the Investment Strategy must generally show how the projects to be funded will complement and will not conflict with statewide marketing campaigns and efforts aimed at travelers/tourists or at industrial investors, such that:

(a) This section may be fulfilled by describing procedural steps, criteria or the like for selecting and authorizing projects; and

(b) The Investment Strategy needs only to address the basic thrust of statewide campaigns, as they exist at the time that the Investment Strategy is locally adopted or updated in each biennium.

(2) Consistent with OAR 123-055-0600, the Department shall seek to coordinate such marketing efforts at the state and regional level, especially by emphasizing ways to effectively take advantage of each level's respective resources (or other types of resources).

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1)

Stats. Implemented: ORS 285B.245

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0510

Allocation

In each biennium: In accordance with ORS 285B.263(c)(2) and 285B.266(3), the Department may allocate a specific portion of the Strategic Reserve Fund to be used as the Strategic Regional Investment Opportunity Fund.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1) & 285B.263(2)

Stats. Implemented: ORS 285B.263

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0530

Use and Criteria of Strategic Regional Investment Opportunity Project Moneys

In each biennium, the Commission shall allocate funds from the Strategic Reserve Fund to create a Strategic Regional Investment Opportunity Fund. The Department shall allocate a portion of the Fund to each Regional Investment Board based upon consultation with Association of Oregon Counties, League of Oregon Cities, and Oregon Public Ports Association. This allocation shall:

(1) Ensure that each Strategic Regional Investment Opportunity Fund Project actualizes one or more of the following:

(a) The project is developed and brought forward to the Department by a Regional Partnership or Board, Business Development Officers or business partners;

(b) The project can demonstrate a significant private business investment, short or long term job creation or other long-term economic development impacts that results in job creation. ;

(c) Greater competitiveness and productivity by the Regions' traded-sector industries resulting in short term job creation or retention;

(d) The investment of these funds will close a critical gap in funding for one-time

(e) Significant improvement in the variety, wage level and quality of jobs in the participating Regions;

(f) Collaboration with one or more industries or institutions that are important to the Regions' future:

(A) Eliminate barriers that impede competitiveness of existing businesses;

(B) Foster new or expanded businesses emerging in the Regions;

(C) Internationally market goods and services from the Regions; or

(D) Diversify the regional economies; or

(i) Similar goals consistent with or conducive to statewide efforts and priorities for economic and community development.

(2) Insist that Strategic Regional Investment Opportunity Projects adhere to funding standards, as follows:

(a) By satisfying sound investment/underwriting principles;

(b) By combining with funds from private, local, regional, state or federal sources; and

(c) By ensuring that the project is ready to proceed in terms of delivering planned outcomes in a reasonable time, including but not limited to a thorough scope of work in the project application, contract and reporting

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requirements as described in this rule, clear commitment of other resources and the absence of barriers to the project's timely commencement.

(3) Forbid Strategic Regional Investment Opportunity Fund Projects that amount to the following:

(a) A subsidy for ongoing capacity of an organization or for ongoing operation and maintenance of a facility;

(b) Open-ended efforts that lack a demonstrable and realistic plan for effectively concluding the project, generating future resources or ensuring the usefulness of any deliverables/capacity in the future; or

(c) A failure to demonstrate the criteria as described in Section 1(b) if this rule.

(4) The Department shall fund projects in accordance with the following:

(a) The Department shall facilitate the identification and undertaking of Strategic Regional Investment Opportunity Fund Projects, through communications and assistance to Regional Boards and Fiscal Entities through the Department's Business Development Officers. Regions seeking to access their allocated portion of the funds shall do so through their regionally assigned Business Development Officer.

(b) Strategic Regional Investment Opportunity Fund projects addressing projects that meet the criteria as described in this rule may be advanced for approval upon joint recommendation of a Regional Partnership or Regional Boards Response Committee and a Business Development Officer. If the project is recommended, the Business Development Officer will draft a staff recommendation for signature.

(c) Following approval of project funding, projects are assigned to the most appropriate Division within the Department to negotiate final project conditions if any, performance measures and to develop and execute contract documents. The contract will specify the process and timing of disbursements of funds, conditions for reporting results, terms for repayment of funds where appropriate and the process for project closeout.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1) & 285B.263(2)

Stats. Implemented: ORS 285B.263

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

123-057-0710

General Guidance

For purposes of ORS 285B.257(4) and 285B.263(6), each Region shall prepare a biennial report to the Governor and Legislative Assembly:

(1) This biennial report shall be prepared and submitted in conformance with the following:

(a) Format and procedures that the Department may prescribe; and

(b) The Region's periodic performance reports and regional performance measures and distribution criteria including goals pursuant to OAR 123-055-0620 and ORS 285B.239.

(2) The final biennial report shall be due at a time determined by the Department in relation to each general session of the Legislature, and shall include information from prior biennia not covered in the previous biennial report, as well as the most currently available information for the ongoing biennium.

(3) The biennial report shall describe all expenditures of Regionally Controlled Funds and, where multiple state funds are invested in a job creation or retention projects such as Strategic Regional Investment Opportunity Fund projects, the department will:

(a) In some manner, differentiate and proportion between the funding sources when reporting these job creation projects to the Legislature.

(4) The biennial report shall indicate the success of projects and programs as funded or completed, not only in terms of the project or program itself, but also in terms of how each one contributes to:

(a) Carrying out the Investment Strategy as whole;

(b) Affecting performance measures and regional benchmarks specified therein; and

(c) Achieving identified priorities for regional economic priorities, as both defined in statute and by the Region itself in the Investment Strategy.

(5) The biennial report may (in addition to information about expenditures of Regionally Controlled Funds and about funded projects) address the Region's and the Investment Strategy's general progress and impact, especially in coordination with other resources and entities.

(6) The biennial report shall indicate the success of projects and activities as funded in accordance with the regionally adopted two year implementation strategy, and Governor approved, project funding criteria that has been established by the adoption of the strategy and goals as described in ORS 285B.239 thru 285B.263. Based on this report, the regions will be evaluated by Department Staff in accordance with ORS 285B.239(a)(b)(c). If the Department determines through evaluation of the biennial report, the

region has funded projects not complying with the regions adopted distribution criteria, the Department will reduce future allocations from this fund in a like percent of the funds spent on the projects not meeting the adopted criteria established by the strategy.

Stat. Auth.: ORS 285A.075(5), 285A.110, 285B.236(1) & 285B.257(2)

Stats. Implemented: ORS 285B.260 & 285B.263

Hist.: EDD 6-2000, f. & cert. ef. 4-3-00; EDD 6-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 20-2004, f. & cert. ef. 8-2-04

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Rules Amended: 123-006-0005, 123-006-0015, 123-006-0020, 123-006-0025

Rules Repealed: 123-006-0010

Subject: This rule sets forth the Department's personal services contracts screening and selection procedures. This filing is intended to:

1) Clean up the text of the rules and correct the statutory references.

2) Make this division easier to understand and apply.

3) Provide for alternative procedures for work order contracts.

Rules Coordinator: Philip A. Johnson, II—(503) 986-0159

123-006-0005

Introduction

Pursuant to ORS 285A.075(7), the department may enter into personal services contracts as required or appropriate to carry out its authorized mission. This rule sets forth the Department's personal services screening and selection procedures.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.075 & 279.051

Hist.: EDD 4-1991, f. & cert. ef. 5-20-91; EDD 11-2003(Temp), f. & cert. ef. 12-23-03 thru 6-15-04; EDD 11-2004(Temp), f. & cert. ef. 6-15-04 thru 8-5-04; EDD 21-2004, f. & cert. ef. 8-5-04

123-006-0015

Definitions

(1) "Director" means the Director of the Economic & Community Development Department.

(2) "Department" means the Economic & Community Development Department.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.075 & 279.051

Hist.: EDD 4-1991, f. & cert. ef. 5-20-91; EDD 11-2003(Temp), f. & cert. ef. 12-23-03 thru 6-15-04; EDD 11-2004(Temp), f. & cert. ef. 6-15-04 thru 8-5-04; EDD 21-2004, f. & cert. ef. 8-5-04

123-006-0020

Standard Procedures and Exemptions

The Department will comply with the Department of Administrative Services rules for Personal Services Contracts, OAR 125, division 020, for all its personal services contracts, with the following exceptions:

(1) For Architect, Engineering and Related Services contracts, a special class of personal services contracts, the Department will comply with OAR 125, division 025, the Department of Administrative Services rules for Architect, Engineering and Related Professional Services, as if it were a Contracting Agency subject to those rules.

(2) For personal services contracts exempt from ORS Chapter 279, the Department may enter into direct contract negotiations with a vendor.

(3) For personal services contracts relating to the Department's foreign trade offices operating outside the state, the Department will comply with OAR 123, division 125.

(4) For personal services contracts, other than those identified in (a) to (c) of this rule, that are best implemented as multiple work order contracts under an Agreement-to-Agree, the Department will comply with OAR 123-006-0025.

(5) The provisions of OAR 125-020-0210 shall not apply to personal services contracts by the Department.

(6) The provisions of OAR 125-020-0220(1) shall not apply to personal services contracts by the Department.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.075 & 279.051

Hist.: EDD 4-1991, f. & cert. ef. 5-20-91; EDD 11-2004(Temp), f. & cert. ef. 6-15-04 thru 8-5-04; EDD 21-2004, f. & cert. ef. 8-5-04

ADMINISTRATIVE RULES

123-006-0025

Alternative Procedures for Work Order Contracts

(1) Personal services contracts are best implemented as multiple work order contracts under an agreement for services if that implementation will provide substantial savings in time or cost, or both, by using an agreement for services instead of a single contract implementation.

(2) The screening and selection procedures for Agreements for Services other than for Architectural, Engineering or Related Services, are as follows:

(a) If Department reasonably anticipates that the total of any and all work order contract(s) under a single Agreement-for Services will provide for payments to the vendor in excess of \$75,000, the Department will select the vendor through the formal selection process described in OAR 125-020-0310 and 125-020-0320.

(b) For all other Agreements for Services, the Department will select the vendor through the informal selection process described in OAR 125-020-0330, with the exception of 125-020-0330(6).

(c) Notwithstanding subsection (2)(a) and (b), the Department may also enter into Agreements for Services that follow the procedures for emergency contracts in 125-020-0340 with the exception of 125-020-0340(5), or for sole source contracts in 125-020-0350 with the exception of 125-020-0350(2).

(3) The screening and selection procedures for Agreements for Services for Architectural, Engineering or Related Services will follow the procedures in 125-025-0087, or the procedures for sole source contracts in 125-020-0350 with the exception of 125-020-0350(2).

(4) The Department and the selected vendor will sign a non-binding Agreement for Services, in which the vendor acknowledges its readiness to enter into separate work order contracts with the Department that will describe, among other things, the specific services to be performed, the timeline for delivery of the services, and the compensation for the services. Each work order contract subsequently executed with the vendor pursuant to the non-binding Agreement for Services must be within the scope of the solicitation, if any, and will constitute a separate legally binding contract between the Department and the vendor.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.075 & 279.051

Hist.: EDD 4-1991, f. & cert. ef. 5-20-91; EDD 11-2004(Temp), f. & cert. ef. 6-15-04 thru 8-5-04; EDD 21-2004, f. & cert. ef. 8-5-04

Oregon Government Standards and Practices Commission Chapter 199

Adm. Order No.: GSPC 1-2004

Filed with Sec. of State: 8-4-2004

Certified to be Effective: 8-4-04

Notice Publication Date: 5-1-04

Rules Adopted: 199-001-0040

Rules Amended: 199-010-0025, 199-010-0035, 199-010-0060, 199-010-0075, 199-010-0080, 199-010-0085, 199-010-0095, 199-010-0100

Subject: All Division 10 lobbying rule amendments are technical or housekeeping changes to clarify the rules or correct minor errors. A new rule is added to Division 1 that describes criteria for the exercise of prosecutorial discretion in enforcement of ORS 244.040(1)(a) when the receipt of financial benefit or avoidance of financial detriment is minimal and does not substantially conflict with the purposes of ORS Chapter 244.

Rules Coordinator: Virginia Lutz—(503) 378-5105

199-001-0040

Exercise of prosecutorial discretion in enforcement of ORS 244.040(1)(a)

(1) In addition to the criteria described in OAR 199-001-0035 for the exercise of prosecutorial discretion in all matters subject to the Commission's jurisdiction, this rule describes criteria for the exercise of prosecutorial discretion in enforcement of ORS 244.040(1)(a) when the receipt of financial benefit or avoidance of financial detriment is minimal and does not substantially conflict with the purposes of ORS Chapter 244.

(2) The Commission will not proceed following investigation to move a matter to a contested case proceeding for a violation of ORS 244.040(1)(a) in the following circumstances:

(a) If it appears to the Executive Director that a complaint filed with the Commission involves only allegations that fall within one of the exceptions, the Director need not submit the matter to the Commission.

(b) If sufficient information is available prior to the conclusion of the investigatory phase to determine that the alleged violation falls within one of the exceptions, the matter may be dismissed at any earlier stage of the proceeding.

(3) The Commission will not find a violation in the following circumstances:

(a) The financial gain or avoidance of financial detriment is received from a person with a legislative or administrative interest and falls wholly within one of the exceptions to the gift prohibition, ORS 244.040(2) or one of the exceptions to the definition of "gift" in ORS 244.020(8); or

(b) The financial gain or avoidance of financial detriment is offered to the public official or the public official's relative by a single source and the aggregate value of the gain or avoidance of detriment from that single source does not exceed \$50 within a calendar year. The source shall either be a person with no legislative or administrative interest or a governmental agency. The source of the financial benefit or avoidance of financial detriment must consciously offer the public official or public official's relative the financial benefit or avoidance of detriment.

(4) The following examples illustrate the application of these exceptions:

(a) A fire district wishes to hold an annual dinner to recognize its volunteers and staff. The volunteers, staff and board members are allowed to invite a spouse or other relative to attend. If the value of the meal does not exceed \$50 for each person, the exception described in (2)(b) above will apply.

(b) A professional sports team wishes to recognize law enforcement personnel at a sporting event by offering free admission to law enforcement officers and their families. If the value of the free admission for the law enforcement officers and their family does not exceed \$50 for each person, the exception described in (2)(b) above will apply.

(c) A public employee helps herself to office supplies for her own personal use at home. The value of the office supplies does not exceed \$50 in any calendar year. This does not fall within the exception described in (2)(b) above because the source did not consciously offer this benefit to the employee.

(5) The following example illustrates how the receipt of financial benefit or avoidance of financial detriment under the gift statute, ORS 244.040(2), is analyzed to determine if the gain or avoidance of detriment falls wholly within an exception:

(a) A private professional organization invites the board members from a state licensing agency that regulates the members of that profession to attend a conference at a resort hotel. The board members are asked to appear on a panel at the conference. The organization offers to pay the food, lodging and travel expenses for the board members and their spouses. The board members may accept the food, lodging and travel because the event bears a relationship to their public office and they are appearing at the event in an official capacity, so the exception in ORS 244.020(8)(c) applies. The spouses may accept food if consumed in the presence of the giver because the exception in ORS 244.020(8)(d) would apply. The spouses may not accept lodging or travel because there is no applicable exception to the gift prohibition or gift definition for relatives of the public official.

Stat. Auth.: ORS 244.290(5)

Stats. Implemented: ORS 244.290(5)(d)

Hist.: GSPC 1-2004, f. & cert. ef. 8-4-04

199-010-0025

Lobbyist Registration

(1) Individuals not exempted in ORS 171.735 from the lobbying registration law must register within three working days after spending either \$100 or 24 hours during a calendar quarter on lobbying activities.

(2) All lobbyists must register by submitting an official Individual Lobbyist Registration Statement form or a Lobbying Firm Registration Statement form. The forms are available on the Internet at www.gspc.state.or.us/forms_publications.html or from the Oregon Government Standards and Practices Commission, telephone (503) 378-5105.

(3) Lobbyists must file a registration statement for each group or organization they represent. This requirement also applies to persons who lobby on behalf of public agencies. An organization or firm comprised of more than one lobbyist may file one registration statement on behalf of the lobbyists with that organization or firm, on a form provided by the Commission. The registration statement must include the names of all the individual lobbyists authorized to lobby on behalf of the group or organization represented. The form must otherwise conform to the requirements of OAR 199-010-0035. Each named lobbyist shall sign the form certifying to the accuracy of the information on the statement.

ADMINISTRATIVE RULES

(4) All lobbyist registrations expire on December 31 of each odd-numbered year. Renewals filed by March 31 of the following even-numbered year are considered effective as of December 31 of the preceding odd-numbered year when the registration expired.

(5) Once registered with the Commission, a lobbyist must file a registration statement for each additional entity within 3 working days of engaging in representation of that entity.

(6) Either a lobbyist or a represented entity may terminate a lobbyist registration at any time by providing a written notification to the Commission.

Stat. Auth.: ORS 244.290(5)
Stats. Implemented: ORS 171.740
Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2002, f. & cert. ef. 10-18-02; GSPC 1-2004, f. & cert. ef. 8-4-04

199-010-0035

Instructions for Completing Lobbyist Registration Statement

Unless otherwise exempted by ORS 171.735, the Lobbyist Registration Statement must be filed by lobbyists within three working days after spending an aggregate total of either \$100 or 24 hours on lobbying activities during a calendar quarter. The registration statement must include the following information:

(1) Name of Lobbyist – a lobbyist must set forth the lobbyist's full name.

(2) Business Address – The business address must be an address at which the lobbyist can be contacted. A public employee lobbyist shall provide the agency's business address.

(3) Daytime Business Phone, Fax Number and e-mail address – This is the usual daytime business telephone, fax number and e-mail address where the lobbyist can be contacted.

(4) Entity Information – This is the business, organization, person or public agency on whose behalf the person lobbies.

(a) In the case of corporations (either profit or nonprofit), the registration must set forth the legal name of the corporation, together with the address of the registered agent and the address at which the corporation can be readily located.

(b) If the group being represented has an assumed business name, the lobbyist must set forth the assumed business name and the name and address of the person or corporation which owns the business.

(c) In all other cases, the lobbyist must set forth the commonly used name and address of the group or public agency represented and the name and address of the responsible contact person for such group or public agency.

(5) Entity Telephone Numbers and e-mail address – These are a telephone number, a fax number and an e-mail address at which the entity on whose behalf the lobbyist lobbies may be contacted.

(6) Type of Business – A general description of the represented group's business or activity.

(7) Public/Government Agency – Check yes or no as to whether or not the entity is a government agency.

(8) Subject of Legislative Interest – Indicate the general subject or subjects of the lobbyist's legislative interest.

(9) Name of any Member(s) of the Legislative Assembly employed, retained by or otherwise associated with the Lobbyist or the Entity the Lobbyist represents.

(10) Certification – Each lobbyist must certify that the information given in this registration statement is true, complete and correct.

(11) Designation – A responsible official of the entity on whose behalf the lobbyist acts must sign to certify that the lobbyist has been authorized to lobby in behalf of the entity.

Stat. Auth.: ORS 244.290(5)
Stats. Implemented: ORS 171.740
Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2002, f. & cert. ef. 10-18-02; GSPC 1-2004, f. & cert. ef. 8-4-04

199-010-0060

Who Must File

Any person registered as a lobbyist must file expenditure reports. If no expenditures were incurred during the reporting period, a report indicating "No expenses incurred during reporting period" shall be submitted.

Stat. Auth.: ORS 244.290(5)
Stats. Implemented: ORS 171.745
Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2004, f. & cert. ef. 8-4-04

199-010-0075

What is an Expense

(1) Any expenditure by a lobbyist for the purpose of lobbying must be reported. This includes expenditures for any purpose made by a lobbyist for the direct benefit of a legislator or relative or a legislative staff member or relative.

(2) Expenditures shall be listed in five categories:

- (a) Food and refreshments;
- (b) Entertainment;
- (c) Printing, postage and telephone;
- (d) Advertising, public relations, education and research; and
- (e) Miscellaneous.

(3) General overhead expenses for office space, equipment, and support personnel need not be reported in the lobbyist's expenditure reports.

(4) Although expenditures may not be related to any specific legislative purpose or bill, they must be reported if there is any relationship to influencing legislative action. For example, expenses incurred in order to promote good will, such as payment for meals or attendance at sporting events, must be reported.

(5) Lobbyists are not required to report compensation or personal travel, meals and lodging expenses.

(6) Lobbyists are not required to report any political contribution or expenditure to the Government Standards and Practices Commission.

Stat. Auth.: ORS 244.290(5)
Stats. Implemented: ORS 171.745
Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1980(Temp), f. & ef. 12-24-80; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1998(Temp), f. & cert. ef. 9-1-98 thru 2-28-99; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2004, f. & cert. ef. 8-4-04

199-010-0080

How to Report Expenditures

(1) A lobbyist must report all lobbying related expenditures made during reporting periods, as defined in OAR 199-010-0075.

(2) The Lobbyist Expenditure Report form is required for this report.

(3) If the amount of any expenditure required to be included in the statement is not accurately known at the time of the report, an estimate thereof should be submitted and updated in a subsequent report when more accurate information is available.

(4) The report must list the name of the legislative or executive official and the date of each occasion the lobbyist expended in excess of the amount prescribed by ORS 171.745(2) on the official or his relative.

Stat. Auth.: ORS 244.290(5)
Stats. Implemented: ORS 171.740
Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1980(Temp), f. & ef. 12-24-80; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2002, f. & cert. ef. 10-18-02; GSPC 1-2004, f. & cert. ef. 8-4-04

199-010-0085

Who Must File

(1) Any person, business, organization or public agency that engages anyone to lobby, who is registered as a lobbyist under OAR 199-010-0025 of these regulations, must file a report for its lobbying expenditures.

(2) This report is submitted on an Annual Entity Expenditure Report form provided by the commission.

Stat. Auth.: ORS 244.290(5)
Stats. Implemented: ORS 171.750
Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; Suspended by EC 1-1980(Temp), f. & ef. 12-24-80; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2002, f. & cert. ef. 10-18-02; GSPC 1-2004, f. & cert. ef. 8-4-04

199-010-0095

What Expenditures Must Be Included

(1) The Entity Expenditure Report must show the total amount of all expenditures incurred for lobbying. This includes all payments made to lobbyists for lobbying as defined in ORS 171.725, including payments for compensation, overhead, support personnel, and other personal expenses. Excluded are costs for living expenses incurred for a lobbyist performing lobbyist services. For example, the costs of travel and maintaining an apartment in Salem during a legislative session are not reported. The report must also include any other expenses incurred by the entity for lobbying. The amounts reported on an entity expenditure report should not include expenditures reported by a lobbyist if such amounts are not reimbursed by the entity.

(2) The total expenditure in section 1 of the report does not require an itemization; however, itemizations are encouraged. If an entity wishes to show an itemization of expenditures for section 1, it may attach the itemization to the report.

ADMINISTRATIVE RULES

(3) The itemized expenditures in section 2 of the report must list the name of any legislative official and the date of each occasion the entity expended in excess of the amount prescribed by the commission pursuant to ORS 171.725(2) for the official or relative.

(4) Many entities operate public affairs programs that not only include legislative lobbying, but a variety of other activities not subject to the Oregon Lobbying Regulation law. It is often difficult from an accounting standpoint to apportion exactly the costs of such activities between those expenditures that are related to lobbying and those that are not. In such cases, the entity should make a good faith apportionment, and the report should indicate that an apportionment has been made. If in doubt, the entity should seek an advisory opinion from the Commission for guidance in filing future reports.

Stat. Auth.: ORS 244.290(5)

Stats. Implemented: ORS 171.750

Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1989(Temp), f. & cert. ef. 1-18-89; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1998(Temp), f. & cert. ef. 9-1-98 thru 2-28-99; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2002, f. & cert. ef. 10-18-02; GSPC 1-2004, f. & cert. ef. 8-4-04

199-010-0100

Filing Deadlines

Lobbyist Expenditure Reports and Annual Entity Expenditure Reports must be postmarked or received by the Commission on or before the due date indicated in the instructions provided with the reporting forms.

Stat. Auth.: ORS 244.290(5)

Stats. Implemented: ORS 171.740 & ORS 171.750

Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2004, f. & cert. ef. 8-4-04

Oregon State Fair and Exposition Center Chapter 622

Adm. Order No.: SFEC 1-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 7-30-04

Notice Publication Date: 7-1-04

Rules Amended: 622-001-0000, 622-001-0005, 622-030-0005

Subject: Amendments to these rules are for housekeeping purposes. Amendments to 622-001 update the rule to reflect the statutory requirements in ORS 183.335 for agency notice of proposed rule-making. Amendments to 622-030 change the rule to remove the fine for distributing materials without the written consent of the Agency.

Rules Coordinator: Alesia Gadach—(503) 947-3204

622-001-0000

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any permanent rule, the Oregon State Fair and Exposition Center 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 before the effective date of the rule;

(2) By mailing a copy of the notice to persons on the Agency mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

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

- (a) Western Fairs Association;
- (b) Oregon Fairs Association;
- (c) Amusement Business;
- (d) Associated Press;
- (e) Statesman-Journal;
- (f) The Oregonian;
- (g) Capital Press;
- (h) Department of Agriculture;
- (i) Agri-Business Council of Oregon;
- (j) Oregon State Grange;
- (k) Oregon Farm Bureau Federation;
- (l) Oregon State Fair Commission.

(4) By mailing a copy of the Notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule.

Stat. Auth.: ORS 183 & 565.060

Stats. Implemented: ORS 565.080

Hist.: 2FC 88, f. & ef. 12-23-76; FEC 1-1991, f. & cert. ef. 5-15-91; SFEC 1-2003, f. 1-15-03, cert. ef. 1-16-03; SFEC 1-2004, f. & cert. ef. 7-30-04

622-001-0005

Model Rules of Procedure

Pursuant to ORS 183.341, the Oregon State Fair and Exposition Center adopts the Attorney General's Model Rules of Procedure under the Administrative Procedures Act as amended and effective October 3, 2003.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the agency.]

Stat. Auth.: ORS 565.060

Stats. Implemented: ORS 183

Hist.: 2FC 59, f. 1-27-72, ef. 2-15-72; 2FC 70, f. 11-21-73, ef. 12-11-73; 2FC 88, f. & ef. 12-23-76; 2FC 3-1978, f. & ef. 3-8-78; 2FC 3-1981, f. & ef. 11-25-81; FEC 1-1991, f. & cert. ef. 5-15-91; FEC 1-1996, f. & cert. ef. 8-22-96; SFEC 1-2003, f. 1-15-03, cert. ef. 1-16-03; SFEC 1-2004, f. & cert. ef. 7-30-04

622-030-0005

Advertising, Canvassing, or Soliciting — Fairtime

(1) No advertising, canvassing or soliciting, and no dissemination of written materials is permitted within the fenced-in portions of the Oregon State Fair & Exposition Center property, and the air space above, except by persons exhibiting as lessees under exhibit space or sponsorship agreements signed by the Oregon State Fair and Exposition Center.

(2) No person or group shall use the properties of the Oregon State Fair and Exposition Center to advertise products, goods, or services of a commercial nature, or solicit funds without the expressed written consent of the Oregon State Fair & Exposition Center. Canvassing, soliciting, and dissemination of written materials of a non-commercial nature is permitted on the Fair parking lot and on other property of the Oregon State Fair outside the fenced-in portions of the Oregon State Fairgrounds. Such activities must be conducted in accordance with the following conditions:

(a) Parking lot entrances, exits, and travel lanes must not be obstructed. Interference with traffic flow and with the duties of traffic attendants is prohibited.

(b) The use of land vehicles, including but not limited to cars, trucks, and other motorized vehicles, bicycles, scooters, skateboards, and skates is prohibited. Use of air vehicles is prohibited. Use of land vehicles as platforms or other temporary or permanent structures or platforms is prohibited.

(c) A person conducting such activity shall not place pamphlets, leaflets, or other material in or on any vehicles in the parking lots. Such activity must be conducted with pedestrians only, after their vehicles have been parked and they have exited.

(d) Loudspeakers and other sound devices are prohibited.

(e) Activity causing a crowd to gather is prohibited if pedestrian or vehicular traffic is obstructed or impeded.

(f) Activity conducted within twenty feet of an admission gate or ticket booth is prohibited.

(g) Active obstruction of a Fair employee, contractor, subcontractor, agent or visitor's line of travel or active detention of a Fair employee, contractor, subcontractor, agent or visitor against his will is prohibited.

(h) Abusive language and actual or threatened physical harm directed against a Fair employee, contractor, subcontractor, agent or visitor is prohibited.

(3) Any person or group canvassing, soliciting or disseminating materials covered by this administrative rule must fill out a registration form and submit it along with a copy of each item to be distributed, petition to be signed, or any other materials to be used to the Oregon State Fair & Exposition Center, 2330 17th Street NE, Salem, Oregon, 97303, at least 24 hours prior to such canvassing, soliciting or dissemination of material. Materials not submitted at least 24 hours in advance shall not be used.

Stat. Auth.: ORS 565.060

Stats. Implemented: ORS 565.080

Hist.: 2FC 86(Temp), f. & ef. 8-31-76; 2FC 87(Temp), f. & ef. 9-2-76 thru 12-30-76; 2FC 89, f. & ef. 4-22-77; 2FC 4-1978, f. & ef. 7-18-78; FEC 3-1989, f. 8-3-89, cert. ef. 8-4-89; FEC 5-1992, f. & cert. ef. 12-17-92; FEC 2-1993, f. & cert. ef. 7-22-93; SFEC 1-2003, f. 1-15-03, cert. ef. 1-16-03; SFEC 1-2004, f. & cert. ef. 7-30-04

Oregon State Lottery Chapter 177

Adm. Order No.: LOTT 12-2004

Filed with Sec. of State: 7-28-2004

Certified to be Effective: 8-3-04

Notice Publication Date: 7-1-04

Rules Adopted: 177-090-0057

Rules Amended: 177-090-0000, 177-090-0005, 177-090-0010, 177-090-0015, 177-090-0020, 177-090-0025, 177-090-0035, 177-090-0040, 177-090-0045, 177-090-0050, 177-090-0055

Rules Repealed: 177-090-0030, 177-090-0060

ADMINISTRATIVE RULES

Subject: The new language updates the definitions; revises the game description; updates the play dates and times; updates the reference for canceling a ticket according to OAR 177-046-0060; updates the ticket purchase rule; updates the prize pool rule; updates and revises the time for payment of prizes; updates the odds of winning tables; revises the determination of winners rule; adds a new rule entitled "Game Cancellation, Postponement, or Termination"; and repeals the Ticket Accuracy and Governing Law rules for redundancy.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-090-0000

Purpose and Disclaimer

(1) Purpose: These rules establish the procedures and requirements for playing Sports Action, a lottery game operated by the Oregon State Lottery.

(2) Disclaimer: Sports Action is not associated with, sponsored, or authorized by the National Football League (NFL).

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.213

Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0005

Definitions

For the purposes of division 90, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Entry Form" means a play slip used by a player to choose the dollar amount to be wagered, the number of events selected, and the player's chosen option for each event selected.

(2) "Event" means a game or a special play that a player may select.

(3) "Favorite" means the likely winning team of a game as indicated on the official program.

(4) "Game" means a professional football game between two teams.

(5) "Game ticket" or "ticket" means a computer-generated, printed paper issued by an Oregon Lottery on-line terminal as a receipt for the events selected and the options chosen by a player and includes, but is not limited to, the following data: The name "Sports Action", the purchase date, events selected, the option chosen for each selected event, the cost of the ticket, the identifying number for the specific play week, a six-digit retailer number, a serial number, and a bar code.

(6) "Official program" means the Lottery's list of games with point spreads and special plays, including the options for each event a player may select for a particular play week.

(7) "Official Sports Action results" means the Lottery's list of the final outcomes of the events scheduled for a given play week, showing the winning option for each event.

(8) "Option" means one of two possible outcomes for an event.

(9) "Parimutuel" means a system of wagering in which the money allocated for prizes from the total amount of money wagered on an event is divided among prizewinners in proportion to each prizewinner's individual wager.

(10) "Play week" means a seven-day period:

(a) Beginning at 5:00 a.m. on Tuesday and ending at the scheduled start time of the last game on Monday during the pre-season and regular season; and

(b) Beginning at 5:00 a.m. on Monday and ending at the scheduled start time of the last game on Sunday during the post-season playoffs.

(11) "Point spread" means the number of points used to balance the possible outcome of an event, giving equal chance for each event's success.

(12) "Prize category" means a division of the prize pool identified by a specific number of events selected by a player.

(13) "Prize pool" means the amount of money allocated from total sales for prizes.

(14) "Quick Pick" means the random selection by an Oregon Lottery on-line terminal of events played on a ticket and an option for each event selected.

(15) "Special play" means an activity that occurs within a game, including, but not limited to, fumbles, interceptions, and sacks.

(16) "Underdog" means the likely losing team of a game as indicated on the official program.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.010

Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0010

Sports Action Description

(1) General: Sports Action is a Lottery game based on the outcome of a game or special play. Each play week during the Sports Action season, the Lottery will make available an official program, which lists the events for that play week. The play week's official program will contain at least eight events. For each game listed, the official program will indicate the favorite and the underdog and include a point spread. The point spread is added to the underdog score which is then compared to the favorite's score to determine the outcome of a game. The team with the highest score is the winner as specified in OAR 177-090-0055. The Lottery's point spread appearing on the official program is the only point spread applicable to Sports Action.

(2) Player Selections: A player is required to select at least three events on the official program but may select 4, 5, 6, 7, 8, 10, 12, or a maximum of 14 events.

(3) Lottery Selections: The Lottery will list a minimum of eight events up to a maximum of thirty events each week. The Director reserves the right to determine which events will be listed in the official program and whether to apply a point spread.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.010

Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0015

Play Dates and Times

For a given play week, a player may purchase a ticket for an event starting at the beginning of the play week. After the scheduled start time of a game as listed on the official program, a ticket for that game and any special plays in that game can no longer be purchased. A ticket for a specific play week can not be purchased when there are less than three events remaining in that play week.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.213

Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0020

Cost of a Ticket

The cost of a ticket is determined by the amount of money a player chooses to wager. The minimum wager is \$2 per ticket. A player may choose to wager \$2, \$3, \$4, \$5, \$10, or \$20 per ticket.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.240

Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 11-1990, f. & cert. ef. 8-21-90; LC 7-1993, f. & cert. ef. 8-4-93; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0025

Ticket Purchase, Characteristics, and Restrictions

(1) General: A Sports Action ticket may only be purchased from a Lottery on-line retailer during the Sports Action season.

(2) Age of Player: A player must be at least 18 years of age to purchase a Sports Action ticket.

(3) Ticket Purchase Options: A ticket may be purchased from a clerk-operated on-line terminal or from a player-operated on-line terminal.

(a) Purchasing a Ticket from a Clerk-operated On-line Terminal: A player may purchase a ticket from a clerk-operated on-line terminal by completing an entry form and submitting it with the amount of money to be wagered on the ticket to the clerk. The clerk will then issue a ticket to the player. Alternatively, a player may request a Quick Pick ticket from the clerk without using an entry form by informing the clerk of the number of events to be played and paying the amount of money to be wagered on the ticket.

(b) Purchasing a Ticket from a Player-operated On-line Terminal: A player may purchase a ticket from a player-operated on-line terminal only by using an entry form and following the instructions appearing on the terminal screen. Once the entry form is completed, the player must insert into the terminal the entry form and the amount of money to be wagered on the ticket. The terminal will then issue a ticket to the player.

(4) Ticket Characteristics: A game ticket is the only proof of Sports Action game play, including the selections made by a player. The submission of a winning ticket to the Lottery or the on-line retailer is the sole method for claiming a prize. An entry form or a copy of a game ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase, the selections made by a player, or otherwise represent an opportunity to win a prize.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.210

ADMINISTRATIVE RULES

Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0035

Cancellation of Tickets

(1) General: A player may cancel a Sports Action game ticket as set forth in OAR 177-046-0060 by returning the ticket to the selling retailer on the day of purchase prior to the time wagers are disabled before the first event listed on the ticket. After this time, the ticket cannot be canceled.

(2) Refund: In the event that a ticket is canceled in accordance with OAR 177-090-0035(1) and 177-046-0060, the player shall be entitled to a refund from the retailer equal to the cost shown on the player's ticket, not to exceed the maximum ticket cost of \$20.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.210

Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 11-1990, f. & cert. ef. 8-21-90; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0040

Prize Pool

(1) General: The prize pool consists of approximately sixty percent of the total amount of money wagered each week.

(2) Parimutuel: Except for the 3 of 3 and 4 of 4 prize categories, all prizes in each prize category are determined on a parimutuel basis. The prize for correctly selecting all three events in the 3 of 3 pool is \$10 for a minimum \$2 wager. The prize for correctly selecting all four events in the 4 of 4 pool is \$20 for a minimum \$2 wager.

(3) Rounding: Prize amounts are rounded down to the nearest ten cents.

(4) Carry Forward: If there is no winner in a prize category, the prize money in that category is carried forward and added to the prize pool for that prize category in the next play week. For example, if no player from all the players who played fourteen events correctly selects all fourteen winners, the money is carried forward and added to the prize pool for fourteen events in the next play week. If, in the next play week, one or more prize categories do not offer a comparable number of events, the prize pool will be carried forward to the prize category with the most events offered during that play week. For example, if the prize pool for the prize category of 12 of 12 events is carried forward to the next play week, but the largest prize category for that week is 10 of 10 events, the prize pool carried forward will be added to the prize pool for the 10 of 10 events.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.220

Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0045

Payment of Prizes; Ticket Validation Requirements

(1) Payment: Except as otherwise provided herein, prize payments must be claimed, and are made, in accordance with the provisions of OAR 177-070-0025.

(2) Ticket Validation: To be a valid ticket and eligible to receive a prize, a ticket must:

(a) Be validated in accordance with the provisions of OAR 177-070-0035; and

(b) Be a winner under OAR 177-090-0055.

(3) Time: A ticket with a winning event selection for the 3 of 3 and 4 of 4 prize categories may be validated and payable to a winner the day following the last event on the ticket. Other prizes are parimutuel and may be validated and payable on the day following the end of the play week when the Lottery's on-line game system is activated for that day.

(4) Limits: All prizes must be claimed within one year from the end of the play week in which the winning event occurred.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.250(3) & 461.260

Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0050

Odds of Winning

The number of prizes for Sports Action is not pre-determined by the Lottery. The overall prize percentage payout for Sports Action prizes is estimated at sixty percent over time but will vary week to week, as well as year to year, due to factors including, but not limited to, the number of players participating each week and the number of winning wagers. The following

table sets forth the estimated odds of winning Sports Action prizes: [Table not included: See ED. NOTE.]

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

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.220

Hist.: LC 14-1989, f. & cert. ef. 8-28-89; Administrative Correction 4-15-98; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0055

Determination of Winners

(1) Favorite: To be a winning selection, the favorite must defeat the underdog by more points than the point spread.

(2) Underdog: To be a winning selection, the underdog must win the game or lose by fewer points than the point spread.

(3) General: To win, all of a player's event selections must match the final outcomes in the Lottery's official Sports Action results. For example, no prize shall be awarded to players who match 3 of 4 event selections, 5 of 7 event selections, or 11 of 14 event selections.

(4) Official Event Results: The scores and results for an event become official and final for the purpose of playing Sports Action when the Lottery enters the results in the Lottery's central computer system for purposes of validating winning tickets. Once the results are entered, the Lottery shall not recognize any changes, including, but not limited to, the game's final score, or any protests, overturned decisions, or statistical changes made by the professional sports league or organization overseeing the game that changes the outcome of a special play.

(5) Availability of Results: At the end of each play week, the Lottery will provide Sports Action results to the public through appropriate means.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.210, ORS 461.220, ORS 461.230 & ORS 461.250

Hist.: LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0057

Game Cancellation, Postponement, or Termination

(1) Game Cancellation: If a game is officially canceled prior to the start, or during the course of play, the final outcome for the game and for each special play associated with the game will be determined by using the Lottery's random number generator.

(2) Multiple Game Cancellations: If multiple games for a play week are officially canceled, the Director may instead authorize a refund equal to the cost shown on the player's ticket.

(3) Game Postponed: If a game is officially postponed prior to the start, or during the course of play, play on a Sports Action ticket, which includes that game, may continue until the rescheduled starting time for the game. In the exercise of the Director's discretion, the final outcome for a postponed game and any special plays associated with that game may instead be determined by using the Lottery's random number generator.

(4) Game Terminated after Play Has Started: If a game is officially terminated after play has started and the results of that game are declared as official and final by the NFL, the Lottery will adopt those results. Results include the final score of the game and any special plays within that game.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.213

Hist.: LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

Oregon University System Chapter 580

Adm. Order No.: OSSHE 7-2004

Filed with Sec. of State: 7-23-2004

Certified to be Effective: 7-23-04

Notice Publication Date: 6-1-04

Rules Amended: 580-040-0100, 580-040-0205, 580-040-0210, 580-040-0215, 580-040-0223, 580-040-0225, 580-040-0230, 580-040-0235, 580-040-0240, 580-040-0260, 580-040-0275, 580-040-0277, 580-040-0280, 580-040-0285, 580-040-0290, 580-040-0292, 580-040-0295

Rules Repealed: 580-040-0228

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

Rules Coordinator: Marcia M. Stuart—(541) 346-5795

ADMINISTRATIVE RULES

580-040-0100

Screening and Selection for Personal Services Contracts

(1) The Department of Higher Education periodically requires the services of an individual or firm to perform personal or professional services. These rules set forth the screening and selection process to be used for all such contracts, except where a University System institution has adopted its own screening and selection rules, and except for contracts covered by OAR 580-050-0020 (Architectural and Engineering Services).

(2) The Department of Higher Education will contract for personal or professional services when the specialized skills, knowledge and resources are not available within the Department; when the work cannot be done in a reasonable time with the Department's own workforce; when an independent and impartial evaluation of a situation is required by a contractor with recognized professional expertise and stature in a field; when it will be less expensive to contract for the work; or when grants require subcontracting.

(3) For the purposes of this rule, the term:

(a) "Director" means the Director of Legal Services of the Department of Higher Education, or designee;

(b) "Department" means the Department of Higher Education on its own behalf or acting on behalf of a University System institution;

(c) "University System Institution" means a college and university that is a part of the Oregon University System;

(d) "Contractor" means an individual or firm selected to perform personal or professional services for the Department of Higher Education and with whom the Department may contract;

(e) "Personal Services Contract" means a contract for personal or professional services performed by an independent contractor.

(f) "AOUS" means the Chancellor's Office and the institutions of the Oregon University System.

(4) Formal Selection Procedure: This procedure will be used whenever the estimated payment to the contractor exceeds \$25,000. Exceptions to this procedure are specified in sections (5), (6), (7) and (8). The amount of the contract may not be manipulated to avoid the need for informal or formal procedures.

(a) Announcement: The Department will give notice of intent to contract for personal services in a trade periodical or newspaper of general circulation. The notice shall include a description of the proposed project, the scope of the services required, project completion dates and a description of special requirements, if any. The notice will invite qualified prospective contractors to apply. The notice will specify when and where the application may be obtained, to whom it must be returned, and the closing date. The Department will provide notices to the Office of Minority, Women and Emerging Small Business.

(b) Application: The application will consist of a statement that describes the prospective contractor's credentials, performance data and other information sufficient to establish contractor's qualification for the project, as well as any other information requested in the announcement.

(c) Initial Screening: The Director will evaluate the qualifications of all applicants and select a prospective contractor whose application demonstrates that the contractor best fulfills the provisions of paragraph (d)(B) of this section.

(d) The Final Selection Procedure:

(A) Interviews: The Director will interview, through any appropriate medium, the finalists selected from the initial screening.

(B) Award of Contracts: The Director will make the final selection based on applicant capability, experience, project approach, compensation requirements, and references.

(5) Informal Selection Procedure: This procedure may be used when the estimated payment for the proposed services to be performed by the contractor does not exceed \$25,000, or, at the Director's discretion, when the informal selection procedure will not interfere with competition among prospective contractors or reduce the quality of services or increase costs.

(a) Selection: The Department will contact a minimum of three prospective contractors known to the Department to be qualified to offer the sought-after services. An estimated fee will be requested, and the selection will be made by the Director based upon the factors described in paragraph (4)(d)(B) of this rule. If three quotes are not received, the Department will make a written record of its efforts to obtain quotes.

(6) Personal Services Contracts not exceeding \$5,000: The Department may enter into Personal Services Contracts not exceeding \$5,000 without following the procedures identified elsewhere in this rule. However, the Department will make reasonable effort to choose the most qualified contractor. The amount of the contract is not to be manipulated to avoid the need for informal or formal procedures.

(7) Department may negotiate with a single source if the services are available only from one contractor, or the prospective contractor has special skills uniquely required for the adequate performance of the services;

(8) Emergency Appointment Procedure: The Director may select a contractor without following any of the above procedures when conditions require prompt action to protect life or property. In such instance, the recommended appointment and a written description of the conditions requiring the use of this appointment procedure shall be submitted to the Director. The Director will determine if an emergency exists, declare the emergency, and, when appropriate, approve the appointment.

(9) The Department will maintain a file with the office of the Director of Legal Services, on the selection process for all Personal Services Contracts entered on behalf of Department that will include:

(a) The method and copy of announcement;

(b) The names of firms/individuals and cost estimates considered;

(c) A justification of need for the contract;

(d) The basis for selection;

(e) Rationale by which rates were established;

(f) How reasonableness of price was determined;

(g) A copy of the resulting contract and any subsequent amendments.

(10) University System institutions using this rule will maintain a file on the selection process for all Personal Services Contracts entered on behalf of the institution and notify Director of location of the files required in this section. Such files will contain:

(a) The method and copy of announcement;

(b) The names of firms/individuals and cost estimates considered;

(c) A justification of need for the contract;

(d) The basis for selection;

(e) Rationale by which rates were established;

(f) How reasonableness of price was determined;

(g) A copy of the resulting contract and any subsequent amendments.

Stat. Auth.: ORS 279.051 & 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1993, f. & cert. ef. 3-5-93; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0205

Code of Ethics

(1) The following Code of Ethics shall act as a guideline for employees to follow in contracting and purchasing.

(a) Give first consideration to the objectives and policies of OUS and the institution.

(b) Strive to obtain the maximum value for expenditures.

(c) Grant all competitive suppliers equal consideration insofar as state or federal statutes and institutional policies permit.

(d) Conduct business with potential and current suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.

(e) Demand honesty in sales representation whether offered through the medium of an oral or written statement, an advertisement, or a sample of the product.

(f) Encourage all segments of society to participate by demonstrating support for emerging small, disadvantaged, and minority-owned and women-owned businesses and Qualified Rehabilitation Facilities.

(g) Consistent with the provisions of ORS 244, decline personal gifts or gratuities from any current or potential supplier of goods or services to OUS or its institutions.

(h) Refrain from knowingly engaging in any outside matters of financial interest incompatible with the impartial, objective, and effective performance of duties. Activities that may create a conflict of interest must be addressed in accordance with the procedures outlined in OUS's Internal Management Directives.

(i) Receive written consent of originator of proprietary ideas and designs before using them for competitive purchasing purposes.

(j) Foster fair, ethical, and legal trade practices.

(2) The Code is for use only by OUS and its institutions and creates no enforceable obligations for contractors, proposers, bidders or other parties doing business with OUS nor may it be used by contractors, proposers, bidders or other parties doing business with OUS who are challenging actions taken by OUS, its institutions, officers, employees, or agents.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

ADMINISTRATIVE RULES

580-040-0210

Delegation of Authority

(1) Institutions of OUS may follow the procedures in OAR 580-040-0223 to 580-040-0295 or may develop and promulgate their own procedures by Administrative Rule for purchasing and contracting provided that such procedures ensure competitive practices. Procedures developed by the campuses must be approved by the OUS Vice Chancellor for Finance and Administration prior to adoption.

(2) Notwithstanding section (1) of this rule, institutions shall be subject to:

- (a) OAR 580-040-0223;
- (b) OAR 580-040-0228;
- (c) OAR 580-040-0290;
- (d) OAR 580-040-0292; and
- (e) OAR 580-040-0295.

(3) For those institutions following OAR 580-040-0223 to 580-040-0295, the Oregon State Board of Higher Education delegates authority to each OUS president to develop guidelines and oversee practices regarding the purchasing and procurement of, and contracting for, goods and services including information technology and telecommunications at each respective campus consistent with these rules.

(4) OAR 580-040-0223 to 580-040-0295 provide procedures to be used for purchasing and contracting except for:

(a) Contracts covered under the following Oregon Administrative Rules:

(A) OAR 580-040-0100 — Screening and Selection for Personal Services Contracts; or

(B) OAR 580-050-0032 to 580-050-0042 — Facilities contracting; or

(b) Where an OUS institution has adopted its own rules, consistent with OAR 580-040-0223 to 580-040-0295, to cover purchasing and contracting.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0215

Definitions

The following definitions shall apply to all Oregon Administrative Rules contained in this division unless the context requires otherwise:

(1) “Bid”: A competitive offer, which is binding on the bidder, in which price, delivery (or project completion) and conformance with specifications and the requirements of the Invitation to Bid or other competitive bidding method will be the predominant award criteria.

(2) “Bidder”: A person or entity offering to supply goods or services to OUS or any of its institutions in response to an Invitation to Bid or other competitive bidding method.

(3) “Closing”: The date and time announced in the solicitation (e.g., Invitation to Bid or Request for Proposals) as the deadline for submitting bids or proposals.

(4) “Competitive Process”: The process of procuring goods and services by fair and open competition, under varying market conditions, with the intent of minimizing opportunities for favoritism and assuring that contracts are awarded equitably and economically using various factors in determining such equitability and economy.

(5) “Competitive Quotes”: The solicitation of offers from competing bidders. The solicitation may be accomplished by advertisement and/or by OUS or any of its institutions initiating a request to vendors to make an offer. The solicitation and the offer may be in writing or oral.

(6) “Contract”: The written agreement, including OUS’s or any of its institution’s solicitation document and the accepted portions of a bid or proposal, between OUS or any of its institutions and the contractor describing the work to be done and the obligations of the parties. Depending upon the goods and services being procured, OUS or any of its institutions may use “contract” as meaning a purchase order, price agreement, or other contract document in addition to OUS’s or any of its institution’s solicitation document and the accepted portions of a bid or proposal.

(7) “Contract Price”: The total of the awarded bid or proposal amount, including any approved alternates, and any fully executed change orders or amendments.

(8) “Contractor”: The individual, firm, corporation or entity awarded the contract to furnish OUS or any of its institutions the goods, services, or work procured through a competitive process.

(9) “Days”: Calendar days, including weekdays, weekends and holidays, unless otherwise specified.

(10) “Electronic Data Interchange (EDI)”: The movement of electronic information from computer to computer. The electronic transfer of

standard business transaction information between organizations in a structured application.

(11) “Emergency”: Not reasonably foreseeable circumstances that create a substantial risk of loss, damage, interruption of services or threat to the public health or safety that requires prompt execution of a contract to remedy the condition.

(12) “Emerging Small Business (ESB)”: The meaning given in ORS 200.005(3) and (4).

(13) “Facsimile”: Electronic equipment that communicates and reproduces both printed and handwritten material. If used in conjunction with a reference to a document (e.g., facsimile bid), the term refers to a document (in the example given, a bid) that has been transmitted to and received by OUS or any of its institutions via facsimile.

(14) “Invitation to Bid”: The solicitation of competitive, written, signed, and sealed bids in which specification, price and delivery (or project completion) are the predominant award criteria.

(15) “Minority Business Enterprise (MBE)”: The meaning given in OAR 125-030-0000.

(16) “Opening”: The date, time, and place announced in a solicitation for the public opening of written, sealed bids or proposals.

(17) “OUS”: Oregon University System – Based on context can refer to either the University System administrative offices, and/or the institutions of the Oregon University System.

(18) “Price Agreement”: A nonexclusive agreement in which the contractor agrees to provide specific items or services to OUS or an institution at a set price during a specified period of time.

(19) “Proposal”: A competitive offer, binding on the proposer and submitted in response to a Request for Proposals, where proposal evaluation and contract award are based on criteria such as proposer qualifications and experience, product features and characteristics, service quality and efficiency and conformance with the specifications and requirements of the solicitation. Price may be an evaluation criterion for proposals, but will not necessarily be the predominant basis for contract award.

(20) “Proposer”: A person or entity who submits a proposal in response to a Request for Proposals.

(21) “Qualified Vendor Listing”: A list of vendors identified from a Request for Qualifications or Request for Information who are able to provide specific goods or services. Vendors on the list are not, however, under contract to provide those goods or services.

(22) “Request for Information (RFI)”: A written document soliciting information regarding products or services that OUS or an institution is interested in procuring. An RFI should describe the purpose of the procurement and the method to be used in evaluating the responses received.

(23) “Request for Proposal (RFP)”: The solicitation of written, competitive proposals or offers, to be used as a basis for making an acquisition, or entering into a contract when specification and price will not necessarily be the predominant award criteria.

(24) “Request for Qualifications (RFQ)”: A written document soliciting information regarding the qualifications of providers of services OUS or an institution is interested in procuring. An RFQ should describe the services that are needed and the method to be used in evaluating the responses received.

(25) “Requirements Contract”: An agreement in which a single contractor agrees to supply all of OUS’s or any of its institution’s requirements for specific goods, equipment, or services that arise during a specified time period.

(26) “Responsible Bidder or Proposer”: Has the meaning given in OAR 580-040-0275.

(27) “Responsive Bid or Proposal”: Has the meaning given in OAR 580-040-0277.

(28) “Retainer Agreement”: An agreement by which, pursuant to a formal Request for Proposals or bid process, multiple contractors are authorized to provide specific supplies or equipment to or perform specific services for OUS or its institutions in response to requests for price quotations.

(29) “Single Seller”: The only vendor of a particular product or service reasonably available. If OUS or one of its institutions chooses to procure a particular product or service that is only available from one vendor, documentation must be maintained to support the determination that the product or service is available only from that one seller.

(30) “Solicitation Document”: An Invitation to Bid or Request for Proposals, which includes all documents, whether attached or incorporated by reference, utilized for soliciting bids or proposals.

(31) “Women Business Enterprise (WBE)”: The meaning given in OAR 125-030-0000.

ADMINISTRATIVE RULES

(32) "Work": The furnishing of all materials, equipment, labor, and incidentals necessary to successfully complete any individual item or the entire contract and the timely carrying out and completion of all duties and obligations imposed by a contract.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0223

Applicable Model Public Contract Rules

The following provisions of the Attorney General's Model Public Contract Rules shall be applicable to the bidding, awarding, and administration of public contracts of OUS and any of its institutions:

- (1) OAR 137-030-0010(5) — Compliance and exceptions to terms and conditions of solicitation documents;
- (2) OAR 137-030-0012 — Bids or Proposals Are Offers;
- (3) OAR 137-030-0030(2) and (3) — Identification and Receipt of bids or proposals;
- (4) OAR 137-030-0050 — Request for Change or Protest of Solicitation Specifications or Contract Provisions;
- (5) OAR 137-030-0055 — Addenda to Solicitation Documents;
- (6) OAR 137-030-0060 — Pre-Opening Modification or Withdrawal of Bids or Proposals;
- (7) OAR 137-030-0065 — Receipt, Opening, and Recording of Bids and Proposals;
- (8) OAR 137-030-0070 — Late Bids and Proposals, Late Withdrawals, and Late Modifications;
- (9) OAR 137-030-0075 — Mistakes in Bids or Proposals;
- (10) OAR 137-030-0080 — Time for Acceptance;
- (11) OAR 137-030-0085 — Extension of Time for Acceptance of Bid or Proposal;
- (12) OAR 137-030-0102 — Rejection of all Bids or Proposals;
- (13) OAR 137-030-0104 — Protest of Contractor Selection, Contract Award;
- (14) OAR 137-030-0115(1) — Cancellation of invitations to bid or requests for proposals in the public interest;
- (15) OAR 137-030-0120 — Disposition of Bids or Proposals if Solicitation Cancelled;
- (16) OAR 137-030-0130 — Foreign Contractor; and
- (17) OAR 137-030-0150 — Right to Inspect Plant.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0225

Processes for Procurement of Goods and Services

(1) OUS shall establish several basic processes for the procurement of goods and services:

- (a) Formal;
- (b) Informal;
- (c) Emergency;
- (d) Single Seller;
- (e) Intergovernmental;
- (f) Procurement Cards;
- (g) Price Agreements;
- (h) Retainer Agreements;
- (i) Requirements Contracts; and/or
- (j) Qualified Vendor Listings.

(2) For each of the processes used in the procurement of goods and services, authorized personnel shall retain documentation, either hard copy or electronic, supporting the process and the actions taken to fulfill the guidelines of that process consistent with the requirements of OAR 580-040-0295. Such documentation shall be subject to audit.

(3) The formal procurement process shall be used, unless other exemptions apply, for all purchases of supplies, equipment, and services where the estimated cost exceeds \$50,000.

(a) Multiple contracts, purchase orders, or purchasing requisitions shall not be issued separately with the intent to circumvent the formal purchasing process.

(b) The formal process may be accomplished in either of two ways the institution selects:

(A) Invitation to Bid — The formal bid process will require that the invitation to bid be advertised in a manner that is likely to reach bidders. The advertisements shall include information regarding the goods or services to be purchased and the time schedule for the receipt of such goods or services.

The contract under this process shall be awarded to the lowest responsive and responsible bidder who meets the specifications of the contract.

(B) Request for Proposal (RFP) — The formal Request for Proposal process shall follow the same guidelines as the formal bid process except that the specifications and price will not necessarily be the predominant award criteria. Award criteria shall be detailed in the Request for Proposal.

(4) The informal procurement process may be used for all purchases of supplies, equipment, and services where the estimated cost exceeds \$5,000 but does not exceed \$50,000 and where OUS or any of its institutions chooses not to follow the formal procurement process. The informal procurement process may also be used for any procurement regardless of the estimated cost if use of the informal procurement process will not interfere with competition among prospective contractors, reduce the quality of services, or increase costs.

(a) The informal process may be accomplished through the solicitation of competitive quotes from at least three vendors. Solicitation may be accomplished by advertisement and/or by OUS or any of its institutions initiating a request to vendors to make an offer. Written, oral, or electronic quotes may be solicited.

(b) When procuring goods or services through the solicitation process, information regarding vendors contacted, basis for selection, prices of various vendors and other information pertinent to the solicitation must be clearly documented. If three vendors are not reasonably available, the justification for soliciting fewer vendors shall be documented.

(5) When procuring supplies, equipment and services through an emergency process, the designation of such emergency may only be authorized by an institution president or chief financial officer. The procurement process to be used will be at the discretion of authorized personnel, but must be documented. Such documentation must justify the use of such emergency process.

(6) When purchasing supplies, equipment and services from a single seller, institutions are not required to follow competitive procedures. Institutions shall, at the time of initial procurement, specify their intent, if any, to procure future upgrades or other compatible items through that vendor. Institutions shall document findings to support the determination that the product is available from only one seller.

(7) Regardless of dollar value, OUS and its institutions may contract with, and purchase goods and services from, other State of Oregon agencies, local government units, federal government units, or any other governmental entity without the use of competitive procedures. However, contracts with other states and foreign governments must be approved by the Oregon Attorney General's office.

(8) Procurement cards, or other methods of direct purchasing, may be used for any purchase where the estimated cost does not exceed \$5,000.

(9) Following appropriate competitive procedures, OUS and its institutions may enter into price agreements with vendors to provide specific items at a set price during a specified period of time. OUS and its institutions may also purchase using State of Oregon or other governmental unit price agreements as authorized personnel deem appropriate without the use of competitive procedures.

(10) OUS and its institutions may enter into retainer agreements with vendors using appropriate competitive procedures that take into account, at a minimum, the qualifications and reputation of the vendors, price structure, ability and willingness to respond to requests from one or more colleges and universities, location, and such other factors as authorized personnel deem appropriate.

(a) A Request for Proposals (RFP) or bid process shall be used in selecting vendors for specific retainer agreements.

(b) Vendors may be selected to provide specific goods or services based on availability, responsiveness, quality, geographic location, track record, price, etc. Selection of vendors from the retainer agreement may be based on quotes or on the specific nature of the goods or services to be provided. The agent or officer should solicit prices from at least two vendors under the retainer agreement, or document the reason for not doing so.

(c) Authorized personnel shall maintain appropriate records of the competitive process used to select a vendor from the list of vendors with current retainer agreements in force at the time the selection is made.

(11) Consistent with these rules, OUS and its institutions may enter into requirements contracts to supply all of OUS's or an institution's requirements for specific goods, equipment, or services that arise during a specified time period.

(12) OUS or its institutions may contract directly with a vendor listed on a qualified vendor list if only one vendor meets OUS's or an institution's needs and if the RFI or RFQ informed potential vendors that direct contracting could occur. If more than one vendor meets OUS's or an institu-

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tion's needs, solicitations shall follow the appropriate procedures. However, solicitation may be limited to the qualified vendor listing.

(13)(a) Notwithstanding any of the procedures in this rule, OUS and its institutions are authorized to develop alternative formal procurement methods that meet the following objectives:

- (A) Respond to innovative business and market methods; or
- (B) Contribute to institution productivity improvement and process redesign; or
- (C) Result in comprehensive cost-effectiveness and productivity for the institution; and

(b) Provide open consideration to more than one vendor using evaluation criteria that may include, but are not limited to, cost, quality, service, compatibility, product reliability, operating efficiency, expansion potential, vendor experience and reliability, commitment to support regional business development and support for innovation.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0230 Exemptions

(1) Institutions need not follow, regardless of value, competitive procedures for the following:

- (a) Contracts for the provision of educational services.
- (b) Single seller goods and services. When purchasing from a single seller, institutions shall document findings to support the determination that the product is available from only one seller.
- (c) Brand-name goods and services or product prequalification.

Institutions may specify brand name in the procurement of goods and services if that particular product or service has specific documentable attributes not found in other products. In addition, when specific design or performance specifications must be met for a product to be purchased, an institution may specify a list of qualified products by reference to the prequalified product(s) of particular manufacturers or sellers.

- (d) Advertising and media services contracts.
- (e) Price-regulated goods and services. Institutions may, regardless of dollar value, contract for the direct purchase of goods or services where the rate or price for the goods or services being purchased is established by federal, state, or local regulatory authority.

(f) Purchases under federal contracts. When the price of goods and services has been established by a contract with an agency of the federal government pursuant to a federal contract award, OUS and its institutions may purchase the goods and services in accordance with the federal contract without subsequent competitive bidding. In addition, specific equipment that is expressly required under the terms of the contract and that is only available from one source is exempt from competitive procedures.

(g) Copyrighted materials. Institutions may purchase copyrighted materials without competitive bid and regardless of dollar amount. Copyrighted materials covered by this exemption may include, but are not limited to, textbooks, workbooks, curriculum kits, reference materials and audio, visual, and electronic media.

- (h) Investment contracts.
- (i) Food contracts. This exemption shall apply exclusively to the procurement of food and food-related products.
- (j) Periodicals, library books and library materials.
- (k) Maintenance services for the useful life of goods. Institutions may purchase maintenance services for the useful life of goods directly from the vendor of those goods.

- (l) Used personal property.
- (m) Goods purchased for resale.
- (n) Intercollegiate athletic programs. OUS and its respective institutions may specify a product by brand name or make or the products of particular manufacturers or sellers when procuring equipment and supplies used in intercollegiate or interscholastic athletic programs.

- (o) Media for athletic programs.
- (p) Athletic contest agreements.
- (q) Cadaveric organs.
- (r) Hotel sites for large conferences and workshops.
- (s) Dues, registrations, and membership fees.
- (t) Gasoline, diesel fuel, heating oil, lubricants, and asphalt.
- (u) Purchases of supplies, maintenance, and services for ocean-going vessels when they are in other than home port.
- (v) Equipment repair and overhaul.
- (w) Goods and services purchased in foreign countries.

(2) Exemptions from competitive procedures may be granted for a particular contract or contracts not otherwise exempted under these rules by the president or chief financial officer of the institution. Sufficient documentation must be retained regarding the need for such exemptions.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0235 Basis for Awarding of Contracts

OUS and its respective institutions shall award contracts based on various factors that shall be identified in the notice of contract. Such factors may include, but not be limited to, price; quality; life cycle costing; vendor experience and reliability; support for regional business development; support for productivity innovation; performance specifications; and timeliness.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0240 Determination of Contractual Terms and Conditions

Except to the extent OUS has established mandatory contract provisions, OUS and any of its institutions are authorized to determine the terms and conditions of solicitations and contracts, provided such terms and conditions are not contrary to statutory or regulatory requirements applicable to OUS.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0260 Acceptance of Bids and Proposals by Facsimile or Electronic Data Interchange

OUS and any of its institutions may determine if it is appropriate for bids and proposals to be accepted by facsimile or Electronic Data Interchange. Institutions shall establish the conditions for solicitations, either individually or by type of solicitation. When OUS or any of its institutions chooses to accept bids or proposals by facsimile, it shall follow the requirements outlined in OAR 137-030-0013(3). When OUS or any of its institutions chooses to accept bids or proposals by Electronic Data Interchange, it shall follow the requirements outlined in OAR 137-030-0014(4).

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0275 Responsible Bidders; Responsibility Investigation

(1) A "responsible bidder or proposer" is an individual, firm, corporation or entity who has the capability in all respects to perform fully the contract requirements, the integrity and reliability that will assure good faith performance, and who has not been disqualified by OUS or any of its institutions.

(2) OUS or any of its institutions has the right, prior to awarding any public contract, to make such investigation as is necessary to determine whether a bidder is responsible.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0277 Responsive and Nonresponsive Bids or Proposals; Acceptance and Rejection

(1) A "responsive bid or proposal" is one that complies in all material respects with an Invitation to Bid or Request for Proposals and with all prescribed bidding and proposal procedures and requirements. A "non-responsive bid or proposal" is one that does not meet all material aspects of an Invitation to Bid or a Request for Proposal or that does not comply with all prescribed bidding and proposal procedures and requirements.

(2) OUS or any of its institutions shall accept, and consider for award, only those bids or proposals that are responsive as defined in this rule. Nonresponsive bids or proposals shall be rejected.

(3) Nothing in this rule shall limit the ability of OUS or any of its institutions to monitor contractor or vendor performance during the term of a contract.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; OSSHE 7-2004, f. & cert. ef. 7-23-04

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580-040-0280

Rejection of Individual Bids or Proposals

(1) This rule applies to rejections, in whole or in part, of individual bids or proposals. OUS or any of its institutions may reject, in whole or in part, any bid or proposal not in compliance with all prescribed bidding procedures and requirements, and may reject for good cause any bid or proposal upon a written finding by OUS or the institution that it is in the public interest to do so.

(2) Reasons for rejecting a bid or proposal include but are not limited to finding that:

(a) The bidder or proposer has not prequalified as required in the Invitation to Bid or Request for Proposal, or is disqualified under ORS 200.075, 279.037, or these rules; or

(b) The bidder or proposer has been declared ineligible by the Commissioner of the Bureau of Labor and Industries under ORS 279.361; or

(c) The bid or proposal is nonresponsive, that is, it does not conform in all material respects to solicitation document requirements, including all prescribed public procurement procedures and requirements; or

(d) The supply, service or construction item offered in the bid or proposal is unacceptable by reason of its failure to meet the requirements of the solicitation documents or permissible alternates or other acceptability criteria set forth in the solicitation documents; or

(e) The bidder or proposer is nonresponsive, i.e., is not capable of satisfying the terms and conditions of the public contract in a timely manner due to financial incapacity, inability to obtain bonding, loss of license, poor performance history or other objective cause; or

(f) The bidder or proposer within the last five years has been found, in a civil, criminal, or administrative proceeding, to have committed or engaged in fraud, misrepresentation, price-rigging, unlawful anti-competitive conduct or similar behavior; or

(g) The bidder or proposer has been determined responsible (i.e., adjudicated by a court, or as determined in writing by OUS or any of its institutions in the case of a public contract) for more than one breach of a public or private contract or contracts in the last three calendar years before the scheduled date of the bid or proposal opening; or

(h) The bid or proposal security has not been submitted or properly executed as required by the solicitation documents; or

(i) The bidder or proposer has not met the emerging small business, disadvantaged business, minority business and women business enterprise requirement, if any, established by OUS or any of its institutions, and has not made a good faith effort in accordance with ORS 200.075 to comply with the requirements prior to the time bids or proposals are opened; or

(j) The bidder or proposer has failed to certify in accordance with OAR 580-040-0292(3); or

(k) Other circumstances of the particular bid or proposal, or bidder or proposer, indicate that acceptance of the bid or proposal would impair the integrity of the selection process or result in an imprudent contract by OUS or the institution.

(3) For purposes of this rule, the business registry of bidders or proposers shall be subject to scrutiny, i.e., confirmation of ownership or identification of officers and directors, in order to identify previously disqualified bidders or proposers, and thus prevent any subterfuge, change of apparent ownership or other adjustments in formal appearance, to avoid application of this rule or of the disqualification provisions of ORS 279.037 to 279.045 and these rules.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0285

Bidder or Proposer Disqualification

(1) As used in this rule:

(a) "Disqualification" means the debarment, exclusion or suspension of a person from the right to submit bids or proposals in response to OUS or institution solicitations for a reasonable, specified period of time named in the order of disqualification. A contractor or vendor so debarred, excluded or suspended is disqualified.

(b) "Person" means an individual, partnership or corporation. Disqualification attaches to and follows the individual, so that an individual who is a partner in a partnership or an officer or principal in a corporation that is disqualified may not reform the business entity as a way of avoiding the disqualification.

(2) The following are grounds for bidder or proposer disqualification:

(a) The person does not have sufficient financial ability to perform the contract. If a bond is required to ensure performance of a contract, evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;

(b) The person does not have equipment available to perform the contract;

(c) The person does not have key personnel available of sufficient experience to perform the contract; or

(d) The person has repeatedly breached contractual obligations to public and private contracting agencies.

(3) As provided in ORS 200.075, the following are grounds for suspension of a bidder's, proposer's, contractor's, or subcontractor's right to bid, propose or participate in a public contract:

(a) If the person has entered into any agreement representing that a disadvantaged, minority, women or emerging small business enterprise, certified pursuant to ORS 200.055, will be performing or supplying materials under a public improvement contract without the knowledge and consent of the certified enterprise;

(b) If a person exercises management and decision-making control over the internal operations, as defined by ORS 200.075(1)(b), of any subcontractor that is certified disadvantaged, minority, women, or emerging small business enterprise;

(c) If the person uses a disadvantaged, minority, women or emerging small business enterprise to perform contracting services or provide supplies under a public improvement contract to meet an established DBE/MBE/WBE/ESB goal, when the enterprise does not perform a commercially useful function, as defined by ORS 200.075(3), in performing its obligations under the contract.

(4) OUS or any of its institutions may make such investigation as is necessary to determine whether there are grounds for disqualifying a person. If a bidder or proposer, or prospective bidder or proposer, fails to supply such information promptly as requested by OUS or an institution, such failure is grounds for disqualification.

(5) Any information voluntarily submitted by a bidder or proposer, or prospective bidder or proposer, pursuant to an investigation under section (4) of this rule, or in a prequalification statement, or in a prequalification request submitted pursuant to these rules, shall be deemed a trade secret pursuant to ORS 192.501(2), if requested by the person submitting the information and verified to be a trade secret by OUS or one of its institutions.

(6) The bidder or proposer, or prospective bidder or proposer, will be notified in writing by personal service or certified mail of OUS's or one of its institution's decision to disqualify the person from bidding or proposing with OUS or the institution. The notice shall contain:

(a) The effective date of the disqualification and the effective period of disqualification;

(b) The grounds for disqualification from bidding or proposing; and

(c) A statement of the person's appeal rights and applicable appeal deadlines.

(7) If a person wishes to appeal OUS's or any of its institution's decision to disqualify, the person must notify OUS or the institution, as appropriate, in writing within three business days after receipt of the notification

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0290

Purchasing Policies Governing the Acquisition of Goods and Services from Qualified Rehabilitation Facilities

OUS and its institutions shall purchase goods and services from Qualified Rehabilitation Facilities in accordance with the provisions of ORS 279.835 to 279.855 and applicable Administrative Rules.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0292

Affirmative Action; General Policy

(1) The general policy of OUS and its institutions shall be to expand economic opportunities for Minority Business Enterprises, Women Business Enterprises and Emerging Small Businesses by offering the contracting and subcontracting opportunities available through OUS and institution contracts. Notice of all contract and bid request solicitations using the formal process outlined in OAR 580-040-0225 shall be provided to the Advocate for Minority, Women and Emerging Small Business and the

ADMINISTRATIVE RULES

Oregon Department of Administrative Services for the Oregon Opportunity Register and Clearinghouse when any other solicitation is sent.

(2) OUS shall not knowingly contract with or procure goods or services from any organization, business entity or individual that discriminates on the basis of age, disability, national origin, race, marital status, religion, sex or sexual orientation.

(3) Bidders and proposers shall certify, as part of the bid or proposal documents accompanying the bid or proposal on a public contract, that such bidder or proposer has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

580-040-0295

Record Keeping Requirements

(1) Documentation of all purchasing and contracting transactions will be made available for inspection by OUS Internal Audit Division upon request.

(2) Authorized personnel shall maintain documentation, whether written or electronic, regarding all purchasing and contracting transactions.

(a) For purchases not exceeding \$5,000, only a vendor invoice must be retained.

(b) For purchases where the cost exceeds \$5,000 but does not exceed \$50,000, the following must be retained:

- (A) The method of procurement;
- (B) The names of firms/individuals and cost estimates considered;
- (C) The basis for selection or awarding of contract;
- (D) Other information pertinent to the solicitation; and,
- (E) Any other documentation required by these rules.

(c) For purchases where the estimated cost exceeds \$50,000, the following must be retained:

- (A) The method of procurement;
- (B) A copy of the announcement requesting bids or proposals;
- (C) The names of firms/individuals and cost estimates considered;
- (D) The basis for selection or awarding of contract;
- (E) A copy of the resulting contract and any subsequent amendments;
- (F) Other information pertinent to the solicitation; and,
- (G) Any other documentation required by this rule.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 6-1995, f. & cert. ef. 11-2-95; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 7-2004, f. & cert. ef. 7-23-04

Oregon University System, Western Oregon University Chapter 574

Adm. Order No.: WOU 2-2004

Filed with Sec. of State: 8-4-2004

Certified to be Effective: 8-4-04

Notice Publication Date: 7-1-04

Rules Amended: 574-001-0000, 574-010-0005, 574-010-0010, 574-010-0020, 574-010-0030, 574-010-0060, 574-010-0067, 574-010-0068, 574-010-0070, 574-010-0075, 574-010-0080, 574-010-0085, 574-020-0015, 574-040-0001, 574-040-0005, 574-040-0015, 574-040-0025, 574-040-0030, 574-040-0035, 574-050-0005

Rules Repealed: 574-010-0015, 574-010-0025, 574-010-0035, 574-010-0040, 574-010-0045, 574-010-0050, 574-010-0055

Subject: Amendments will allow for increases, additions, and revisions of special course fees and general service fees; revisions to the notice rule for rulemaking; revisions to student and unclassified professional employees grievance and discrimination complaint procedures; and revision to faculty records and student records information.

Rules Coordinator: Debra L. Charlton—(503) 838-8175

574-001-0000

Notice of Proposed Rule

Prior to the adoption, amendment or repeal of any permanent rule, the agency shall give notice of its intended action:

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

(2) By mailing a copy of the notice to persons on the Western Oregon University mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(3) By mailing a copy of the notice to legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

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

- (a) Chancellor of the Board of Higher Education;
- (b) Western Oregon University's Faculty Senate President;
- (c) Western Oregon University's Student Body President;
- (d) Western Oregon Journal student publication;
- (e) The Associated Press;
- (f) Statesman Journal — Salem;
- (g) Itemizer Observer — Dallas;
- (h) WOU This Week.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183

Hist.: OCE 2, f. & ef. 8-2-77; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0005

Persons Entitled to be Heard

(1) Any student, former student, or applicant for admission to this institution wrongfully or erroneously denied registration or having such registration wrongfully or erroneously cancelled; or

(2) Any student wrongfully or erroneously required to pay a fine or penalty to the university except a parking or traffic fee or fine; or

(3) Any person wrongfully or erroneously having money withheld by this institution; or

(4) Any student or former student whose request for an amendment of his education records has been denied by the university.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 352.200

Hist.: OCE 3, f. & ef. 8-9-77; WOSC 1-1982, f. & ef. 2-11-82; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0010

Definitions

(1) "Grievant" means any person mentioned in OAR 574-010-0005 but does not mean a person whose complaint is subject to being processed by a grievance procedure established pursuant to or by a collective bargaining agreement.

(2) "Committee" means the Student Grievance and Concerns Committee. The committee is a group of faculty members, staff members and one student representative selected to review current formal and informal academic and non-academic grievance procedures, consider and act upon grievance petitions, educate the college community about the grievance process, and investigate and alert the Faculty Senate and the campus community of issues concerning students which the Committee believes are of significance to faculty.

Stat. Auth.:

Stats. Implemented: ORS 351

Hist.: OCE 3, f. & ef. 8-9-77; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0020

Procedure for Informal Hearing

Any person aggrieved as defined in OAR 574-010-0005 and 574-010-0010 shall briefly state the objection to the action taken or proposed by the university, and shall request referral to a person in a Supervisory position with sufficient authority and access to knowledge of the circumstances to resolve the grievance. Such Supervisory official shall promptly arrange an opportunity for the Grievant and the Supervisor to discuss the grievance at a time and place suitable to both. If a matter cannot be resolved by the Supervisor, or by some other university official to whom the Supervisor may refer the grievance, the Grievant then may request a hearing. The request shall be in writing, and shall be given to the Supervisor or other university official with whom the Grievant has been discussing the grievance. Such written request may be informal, shall be signed by the Grievant, and shall be submitted within ten days after completing the discussion of the grievance.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 183 & 351.070

Hist.: OCE 3, f. & ef. 8-9-77; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0030

Order When Grievant Fails to Appear

(1) When the Grievant fails to appear at the specified time and place, or at the time to which the hearing may have been continued by mutual con-

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sent or by order of the Student Grievance and Concerns Committee, the university shall issue a decision based on the information available to it.

(2) The decision supporting the action of the university shall set forth the material on which the action is based, or the material shall be attached to and made a part of the decision.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 183 & 351.070
Hist.: OCE 3, f. & ef. 8-9-77; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0060

When OAR 574-010-0005 Through 574-010-0055 Do Not Apply

OAR 574-010-0005 through 574-010-0030 do not apply to procedures for imposition of sanctions on an academic staff member.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: OCE 3, f. & ef. 8-9-77; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0067

Definitions

(1) "Grievance" means acts, omission or applications which allegedly violate University Policy, OUS Rules or Oregon Administrative Rules. Evaluation and disciplinary disputes are handled separately through the administrative organization. Grievances relating to charges of discrimination are to be filed with the University's Director of Human Resources.

(2) "Grievant" means one or more members of the Western Oregon University unclassified professional staff as listed on the official list of personnel.

(3) "Supervisor" is the employee responsible for the grievant's work assignment and evaluation.

(4) "Day" means calendar days unless expressly designated otherwise.

(5) "Vice President" is one of the following: Vice President for Student Affairs, Vice President for University Advancement, the Provost/Vice President of Academic Affairs or the Vice President for Finance and Administration.

(6) "President" is the President of the University.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351
Hist.: WOSC 3-1988, f. & cert. ef. 12-15-88; WOU 2-1997, f. & cert. ef. 5-28-97; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0068

General Provisions

(1) Except in cases of illness, absence from the country, or official leave of absence, the Grievant shall be present in person when the grievance is presented and at any subsequent hearing.

(2) Failure to take action within the time limits specified at any step, including any extensions, shall be considered acceptance by the Grievant of the decision. Failure of the administration to communicate the decision on a grievance at any step within the time limits, including any extension thereof, shall allow the Grievant to proceed to the next step.

(3) If, at any time, a Grievant seeks resolution of a grievance through any agency outside Western Oregon University, whether administration or judicial, Western Oregon University shall have no obligation to proceed further under this procedure with respect to such a grievance.

(4) A Grievant may withdraw a grievance at any time.

(5) A Grievant will not be allowed to utilize more than one grievance procedure in pursuing relief from a given grievance. Should a Grievant be entitled to utilize more than one grievance procedure, a decision must be made at the time of filing the initial grievance concerning which grievance procedure will be followed.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351
Hist.: WOSC 3-1988, f. & cert. ef. 12-15-88; WOU 2-1997, f. & cert. ef. 5-28-97; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0070

Presentation of Grievance

(1) Grievance shall be presented within 30 days from the date of the act or omission or from such date the Grievant knew or reasonably should have known of such act or omission, except in those cases where the Grievant is out of the country or on an official leave of absence.

(2) Informal Presentation of a Grievance:

(a) The Grievant shall orally present a grievance to Grievant's Supervisor. At the time of this presentation, the Grievant shall state that a grievance is being presented;

(b) The Supervisor shall discuss the grievance with the Grievant and shall endeavor to obtain whatever additional information may be necessary to take action on the grievance;

(c) If the grievance involves a person other than the Grievant and the Supervisor, the Supervisor shall, if possible, arrange a meeting which includes the other person involved. If this meeting establishes a need for more information than has already been presented or secured, the Supervisor shall gather such information;

(d) At this stage the persons involved shall make sincere and significant efforts to settle the grievance;

(e) Within 10 days of the oral presentation of the grievance, the Supervisor shall orally notify the Grievant of the outcome and record the date of notification.

(f) No grievance file shall be generated during the informal process.

(3) Formal Written Presentation of a Grievance:

(a) Step 1: Review.

(A) If the Grievant is not satisfied with the informal decision of the Supervisor and desires to proceed further, the Grievant shall, within 10 days of being certified of the Supervisor's decision, present the grievance in writing to the Supervisor.

(B) Upon receipt, the Supervisor shall immediately create a grievance file into which all written materials concerning the grievance will be placed. The grievance file shall be available at any time to the Grievant;

(C) The Supervisor shall schedule a meeting with the Grievant to attempt to resolve the matter. This meeting shall occur within 10 days of the written presentation of the grievance. Either party may bring an observer to the meeting. The Supervisor may conduct further meetings and inquiries as deemed necessary and proper;

(D) The Supervisor shall conclude the review and notify in writing the Grievant of the decision on the grievance within 10 days of the meeting.

(b) Step 2: Vice President.

(A) If the Grievant is not satisfied with the Supervisor's decision and desires to proceed further the Grievant shall, within 10 days of receipt of the Supervisor's written decision, present the grievance in writing to the appropriate Vice President. Additionally, a request for a hearing by a committee of peers appointed by the Vice President from a list submitted by Administrative Support Council may be submitted;

(B) The Vice President and Hearing Committee shall obtain the grievance file from the Supervisor and provide opportunity for the Grievant and Supervisor to submit any additional written statements in connection with the grievance;

(C) Within 10 days of appointment of the Committee, the Hearing Committee shall meet and consider the grievance;

(D) The Hearing Committee shall present its report, including recommendations, to the Vice President within 10 days after the conclusion of the hearing;

(E) Procedure for the Conduct of Peer Hearings:

(i) Hearings shall be open unless closed by request of the Grievant or requirement of law;

(ii) During the hearing an opportunity shall be provided for the Grievant and the Supervisor to present brief opening and closing statements and for both parties to present evidence and testimony and to call and cross-examine witnesses. Each party may present evidence, argument and rebuttal;

(iii) The Grievant shall appear at the hearing and may be accompanied and assisted by other persons, including counsel;

(iv) The administrator or administrators most directly involved shall appear at the hearing and may be accompanied and assisted by other persons, including counsel. The administration shall be represented at the hearing by the Vice President who may be accompanied and assisted by other persons, including counsel;

(v) The chairperson of the Hearing Committee shall preside at such hearings and over the deliberations of the committee. The chairperson shall have authority to rule upon questions of admissibility of evidence and exclude evidence which is irrelevant, untrustworthy, and unduly repetitious;

(vi) If either party to the grievance alleges that evidence or testimony may not be given on account of prohibition of law or regulation, that party shall deliver to the committee a copy of the law or regulation. If the committee requests it, the party shall also provide any relevant Attorney General's opinion or legal decision;

(vii) Based only on the evidence presented at the hearing, the Hearing Committee shall describe the issues considered, make findings of fact and recommendations based on those findings in a written report to the Vice President;

(viii) Dissenting opinions, if any, by members of the Hearing Committee shall be submitted with the report if so desired by the dissenting members;

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(ix) A recording and copies of all documents will be made accessible to all parties to the grievance.

(F) Vice President's Decision.

(i) After reviewing the grievance and/or the Hearing Committee's report and recommendations, the Vice President shall take action on the grievance;

(ii) The Vice President shall make his/her decisions solely on the basis of evidence presented and the report of the committee.

(iii) The Vice President shall provide written notice to all previous parties of the decision on the grievance within 10 days of receipt of the grievance, or if used, the report of the Hearing Committee.

(c) Step 3: Review by President.

(A) If the Grievant is not satisfied with the decision of the Vice President, the Grievant may, within 10 days of receipt of the Vice President's decision, petition the President to review;

(B) The President shall notify the Grievant in writing of the decision and of the reasons for the decision within 30 days of the presentation of the grievance for review. As part of the decision, the President may take such further action as deemed necessary and proper, including granting or denying relief, or remanding the grievance further proceedings.

(C) The President's decision is final.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351

Hist.: OCE 1-1980, f. & ef. 4-15-80; WOSC 3-1988, f. & cert. ef. 12-15-88; WOU 2-1997, f. & cert. ef. 5-28-97; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0075

Purpose and General Explanation

The following procedure is to be used in resolving complaints alleging discrimination on the basis of age, disability, marital status, national origin, race, color, religion, sex, sexual orientation or veteran status. The complaint procedure is open to all employees, applicants and students except as collective bargaining agreements with the Service Employees International Union and the American Federation of Teachers take precedence reference Administrative Rules OAR 580-015-0090 et seq. For the purpose of this procedure, the following definitions shall be used.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070 & 351.200

Hist.: WOSC 1-1982, f. & ef. 2-11-82; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0080

Definitions

(1) "University Representative:" The person who is alleged to be responsible for the policy, practice or act considered by the Complainant to be discriminatory, also referred to as the "respondent."

(2) "Discrimination:" Any act or practice, either in form or operation, whether intended or unintended, that unreasonably differentiates among persons on the basis of age, disability, marital status, national origin, race, color, religion, sex, sexual orientation or veteran status.

(3) "Complainant:" Person initiating a complaint.

(4) "Sexual Harassment:" Any repeated or unwanted sexual remarks or behavior which one finds objectionable, or which interferes with one's work. Sexual harassment is considered as discrimination on the basis of sex.

(5) "Status:" Role of Complainant at the time of the alleged discriminatory act, i.e., student, employee, applicant, etc.

(6) "Affirmative Action Officer:" The Director of Human Resources fills this role.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: WOSC 1-1982, f. & ef. 2-11-82; WOU 2-2004, f. & cert. ef. 8-4-04

574-010-0085

Procedure

A complaint alleging discrimination in employment originating with a university employee not otherwise covered by a collective bargaining agreement, or by a job applicant or student, shall be processed as described below:

(1) The Complainant is encouraged to attempt to resolve the complaint with the university representative responsible for the policy, practice or act considered discriminatory within five days of the allegedly discriminatory act. If no resolution is reached or a Complainant so chooses, a formal complaint of discrimination may be filed.

(2) To file a formal complaint, the Complainant shall complete a complaint of discrimination form within 12 months after the alleged discriminatory act. The complaint may be submitted in writing, or given orally to the affirmative action officer who will convert it to written form. The Complainant shall have access to all relevant records which are not pro-

tected under state and/or federal law. The written complaint shall contain the following:

(a) Complainant's name, address, status, and telephone number where the Complainant may be contacted;

(b) The date of the alleged act of discrimination and a detailed description;

(c) An outline of the attempts to resolve the complaint, including the name of the university representative responsible for the alleged discriminatory act and the date(s) of the attempts, if any, at resolution;

(d) All information pertinent to the complaint;

(e) Resolution proposed by the Complainant;

(f) Complainant's signature.

(3) The affirmative action officer shall forward copies of the written complaint to all concerned including the named university representative, appropriate dean or director, the appropriate Vice President, and the Chancellor's Office.

(4) The affirmative action officer shall investigate the complaint and develop a recommended course of action. The affirmative action officer shall forward a recommendation to the appropriate dean or director, and vice president for a final decision on the course of action to be taken. The President shall review all complaints and action taken.

(5) The final decision shall be given to the Complainant, in writing, by the affirmative action officer, within 30 days after receipt of the complaint by the affirmative action officer, unless additional time is granted by the Chancellor's Office. The named university representative, the affirmative action officer, the appropriate Vice President and the Chancellor's Office shall be notified of the final decision.

(6) This procedure is compatible with the grievance procedure outlined in the State Board of Higher Education Administrative Rule OAR 580-015-0090 and it is understood that any procedure provided for in a collective bargaining agreement between the university and represented employees takes precedence over the one outlined here.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: WOSC 1-1982, f. & ef. 2-11-82; WOU 2-2004, f. & cert. ef. 8-4-04

574-020-0015

Information Not Required of Faculty Members

No faculty member will be required to give, but may voluntarily provide, information as to age, disability, marital status, national origin, race, color, religion, sex, sexual orientation or veteran status, except as the giving of such information may be required by state statute, federal law, or valid federal rules, regulations, or orders.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.065, 351.070 & 580-022

Hist.: OCE 3, f. & ef. 8-9-77; WOSC 5-1991, f. & cert. ef. 5-22-91; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2004, f. & cert. ef. 8-4-04

574-040-0001

Student Records Policy

The State Board of Higher Education delegates the responsibility of enforcing the regulations required to maintain student records. The process provided by the university includes the collection of student information, its maintenance, use, and disposition. Such processes are consistent with the laws of Oregon and the Administrative Rules of the Board of Higher Education and with federal statutes and regulations.

Stat. Auth.: ORS 351.070 & ORS 351.072

Stats. Implemented: ORS 351.070 & ORS 351.072

Hist.: OCE 3, f. & ef. 8-9-77; WOSC 5-1991, f. & cert. ef. 5-22-91; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2004, f. & cert. ef. 8-4-04

574-040-0005

Definitions

(1) "Act" means the Family Educational Rights and Privacy Act of 1974, as amended, its implementing regulations, and any official guidance issued by the U.S. Department of Education.

(2) "Directory Information" means the student's full name; mailing (i.e. local, billing, current, previous, temporary) and permanent address(es); place(s) of residence; telephone number(s); electronic mail address(es); date and place of birth; home town; parent(s) – guardian(s) name, address(es) and telephone number(s); previous school(s) of attendance; whether the student is or has been enrolled; enrollment status (e.g., full-time or part-time); dates of enrollment and attendance; class level; cumulative credit hours; major and minor fields of study; participation in official recognized activities and sports; weight and height of members of athletic teams; degrees, certificates, honors and awards received; job title(s) and dates of employment for student employees who have been or are paid from university administered funds. For graduate teaching fellows, "direc-

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tory information” also means status as a graduate teaching fellow and teaching assignment.

(3) “Personal Records” means records containing information kept by the institution, division, or department concerning a student and furnished by him or by others about him at his or at the institution’s, division’s, or department’s request, including, but not limited to, record of grades attained, information concerning discipline, counseling, membership activity, employment performance, or other behavioral records of individual persons.

(4) For purposes of compliance with ORS 351.070, “Records of Academic Achievement” shall mean the record of credits earned toward a degree and/or degrees received.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: OCE 3, f. & ef. 8-9-77; WOU 2-2004, f. & cert. ef. 8-4-04

574-040-0015

Certain Information Not Required of Students — General Information

No student will be required to give, although he may voluntarily provide, information as to his age, disability, marital status, national origin, race, color, religion, sex, sexual orientation or veteran status, except as required by state statute, federal law, or valid federal rules, regulations, or orders.

Stat. Auth.: ORS 351.070 & ORS 351.072
Stats. Implemented: ORS 351.070 & ORS 351.072
Hist.: OCE 3, f. & ef. 8-9-77; WOSC 5-1991, f. & cert. ef. 5-22-91; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2004, f. & cert. ef. 8-4-04

574-040-0025

Release and Access to Student Records

(1) The University may disclose directory information in compliance with the Act.

(2) Students may restrict the disclosure of all directory information by filing a completed *Records Confidentiality Request form* with the Office of the Registrar at any time during regular business hours. The restriction becomes effective as soon as is reasonably practicable and remains in effect until revoked in writing by the student.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: OCE 3, f. & ef. 8-9-77; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2004, f. & cert. ef. 8-4-04

574-040-0030

Confidential Records — Restrictions on Release

(1) Personal records designated as confidential pursuant to ORS 351.070 or pursuant to the Federal Family Education Rights and Privacy Act may be disclosed to institutional, state or statutorily authorized federal officials or employees who need the information in order to fulfill their official, professional responsibilities as required by law, institutional rules or internal management directives. Disclosure of personally identifiable information may also be made in connection with financial aid for which a student has applied or that a student has received or to accrediting organizations when necessary to their accrediting functions. These records may not be released to any other person or agency without the student’s written consent, unless upon receipt of a subpoena or other court order or process. Institutional regulations may provide for designated institutional officials to appear in court to test the validity of a subpoena or court order or process relating to release of student records.

(2) The institutional executive, or his designated representative, may make exception to the foregoing rule when he determines that there is a clear and present danger to the safety of the student or others and/or property, and that disclosure of relevant personal information about the student is essential in order to avoid or substantially minimize the danger.

The factors to be taken into account in determining whether personally identifiable information from the educational records of a student may be disclosed under this rule shall include the following:

(a) The seriousness of the threat to the health or safety of the student or other individual;

(b) The need for the information to meet the emergency;

(c) Whether the individuals to whom the information is disclosed are in a position to deal with the emergency;

(d) The extent to which time is of the essence in dealing with the emergency.

(3) The health and safety exception to confidentiality shall be strictly construed.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: OCE 3, f. & ef. 8-9-77; WOU 2-2004, f. & cert. ef. 8-4-04

574-040-0035

Petition By Student for Change in Personal Record

The student shall have the right to review with appropriate institutional personnel any information contained in his records and to petition appropriate institutional officials as defined in institutional regulations for additions or deletions to the record where the accuracy of the information in his file is in question, except in the following instances:

(1) Records created or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in a professional or paraprofessional capacity or assisting in that capacity.

(2) Records created, maintained or used only in connection with the provision of treatment to the student and not disclosed to anyone other than individuals providing the treatment; provided that the records can be personally reviewed by a physician or other appropriate professional of the student’s choice.

(3) Records relating exclusively to an individual in that individual’s capacity as an employee.

(4) Financial records and statements of the parents of students or any information contained therein.

(5) Confidential letters and confidential statements of recommendation that were placed in the educational records of a student prior to January 1, 1975, provided that the letters and statements were solicited with the written assurance of confidentiality or sent and retained with a documented understanding of confidentiality and were used only for the purposes for which they were specifically intended.

(6) Confidential letters of recommendation and confidential statements of recommendation that were placed in the educational records of the student after January 1, 1975, respecting admission to an educational institution, respecting an application for employment or respecting the receipt of an honor or honorary recognition, provided that the student has waived rights to inspect and review letters and statements of recommendation.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: OCE 3, f. & ef. 8-9-77; WOU 2-2004, f. & cert. ef. 8-4-04

574-050-0005

Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

[Publications: Publications referred are available from the agency.]
Stat. Auth.: ORS 351.070 & 351.072
Stats. Implemented: ORS 351.070 & 351.072
Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. 4-1-87, f. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert. ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. 3-12-02, cert. ef. 3-15-02; WOU 2-2002, f. 8-2-02, cert. ef. 8-15-02; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 1-2004, f. & cert. ef. 3-24-04; WOU 2-2004, f. & cert. ef. 8-4-04

Oregon Youth Authority Chapter 416

Adm. Order No.: OYA 8-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 7-30-04

Notice Publication Date: 7-1-04

Rules Repealed: 416-440-0000, 416-400-0010

Subject: This rule is repealed and relevant language has been moved to more appropriate rules.

Rules Coordinator: Kimberly Walker—(503) 378-3864

Adm. Order No.: OYA 9-2004

Filed with Sec. of State: 7-30-2004

Certified to be Effective: 7-30-04

Notice Publication Date: 7-1-04

Rules Adopted: 416-450-0070

ADMINISTRATIVE RULES

Rules Amended: 416-450-0000, 416-450-0010, 416-450-0040, 416-450-0050, 416-450-0060

Subject: OAR 416-450-0070 is adopted to provide guidelines for mentor program agency volunteers. Other OAR Chapter 416, Division 450 rules are being amended to clarify the use of volunteers in OYA facilities and local offices and further clarify the definitions of close custody and offices for purposes of using volunteers.

Rules Coordinator: Kimberly Walker—(503) 378-3864

416-450-0000

Purpose

The OYA will utilize volunteers as a means to enhance programs and expand services in its close custody facilities, substitute care placements, and offices, as defined by this rule.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02; OYA 9-2004, f. & cert. ef. 7-30-04

416-450-0010

Definitions

Close custody facility: Any OYA secure facility, including but not limited to: youth correctional facilities, work/study camps, transition camps, and youth accountability camps. **Substitute care placement:** Any out-of-home care and treatment program authorized by the OYA to serve offenders in OYA custody, including contracted residential treatment programs and certified foster homes. **Substitute care placements exclude the OYA close custody facilities.** **Mentor program agency:** Agency responsible for the recruitment, supervision, and training of volunteer mentors. **Office:** Any Parole/Probation office or administrative office operated by the OYA. **Volunteers:** Persons, who, on a non-paid basis, provide services to the OYA, including:

- (1) **Mentors:** Persons who establish a relationship with a specific offender.
- (2) **Professionals:** Persons who educate offenders or teach particular skills/tasks without establishing a relationship with a particular offender.
- (3) **Students:** Persons enrolled in a college or university-sanctioned program who earn college credit for their activities.
- (4) **Religious:** Persons who assist with religious programming or services.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02; OYA 9-2004, f. & cert. ef. 7-30-04

416-450-0040

Application Process

(1) Within OYA close custody facilities, persons may apply to serve in any of the volunteer categories described in OAR 416-450-0010.

(2) Within OYA Parole/Probation offices, persons may apply to serve in the student and mentor categories, as described in OAR 416-450-0010.

(3) Within OYA administrative offices, persons may apply to serve in the student category, as described in OAR 416-450-0010.

(4) Volunteers will be recruited from all ethnic, cultural, and socio-economic segments of the community.

(5) All volunteers shall be screened and approved by the OYA prior to the provision of service. The OYA holds the ultimate authority to approve or deny a volunteer application or continued volunteer service.

(a) Applications received from persons working within the juvenile justice system will be reviewed by the OYA to determine whether a conflict of interest may apply.

(b) Applications received from OYA employees will be reviewed and approved by the OYA Business Services office.

(c) Persons may not serve as volunteers in a facility in which a relative or family friend is detained, unless an exception is granted.

(3) All prospective volunteers will:

(a) Be age 21 or older. Exceptions may be made for students aged 18 or older who are required to participate in such experience to gain a college certificate or diploma or professional licensing; and other applicants aged 18 or older who will not have direct contact with offenders out of sight or hearing of OYA staff. Exceptions may be granted.

(b) Complete an OYA application;

(c) Provide criminal offender information in the manner prescribed by these rules and OAR chapter 416, division 800 rules, including an annual review of the person's criminal history;

(d) Complete the appropriate OYA training, as defined by the Volunteer Coordinator; and

(e) Be reviewed annually to ensure continued compliance with approval criteria, service performance, and need for continued service.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 9-2004, f. & cert. ef. 7-30-04

416-450-0050

Criminal History

(1) The standards of OAR chapter 416, division 800 apply.

(2) The OYA shall conduct a criminal history check of all persons seeking or granted volunteer status, as follows.

(a) Fingerprint-based and computerized review at the time of application. These persons may not provide volunteer services until the results of both criminal histories are reviewed and approved, according to OAR chapter 416, division 800.

(b) All volunteers will submit to a computerized check at the time of the annual service evaluation. If the results of these criminal history checks do not meet the standards defined in OAR chapter 416, division 800, volunteer status will be terminated.

(3) Volunteer Coordinators will notify all prospective and current volunteers of these requirements. If a person refuses to consent to a criminal offender history check as described by these and OAR chapter 416, division 800 rules, the individual will be disqualified or terminated from volunteer service.

(4) Volunteers will immediately notify the OYA of all criminal arrests and unlawful use of alcohol and/or drugs.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 9-2004, f. & cert. ef. 7-30-04

416-450-0060

Training and Responsibilities

(1) The OYA may place restrictions upon volunteer service to ensure safety and security of persons and/or facilities.

(2) The Volunteer Coordinator will ensure that an orientation is provided to each volunteer, including but not limited to:

(a) Safety and security procedures;

(b) Fire safety and emergency evacuation plan;

(c) Responsibilities during any emergency;

(d) Name of staff responsible to work with the volunteer and monitor duties, as well as the line of authority in the close custody facility or office;

(e) List of primary rules, policies and procedures associated with the services provided, including, at a minimum, the agency mission, confidentiality, offender rights, and appropriate relationship boundaries;

(f) Time and place to report for duty and whom to contact when unable to report for duty; and

(g) Tour of relevant areas of the close custody facility, office or community where the volunteer will serve.

(3) All volunteers are responsible to follow OYA rules, policies and procedures.

(4) Volunteers may not perform professional services requiring certification or licensing unless active credentials and/or certificates are available and on file in the volunteer's record.

(5) Volunteers shall maintain a professional relationship with offenders.

(6) A volunteer may be terminated at any time for violation of OYA rules and procedures, or when there is no longer a need for the volunteer's services.

(7) Volunteers whose applications are denied, or volunteers who are terminated as a result of performance of duty, may not serve at another close custody facility.

(8) Exceptions to any standards must be approved using the process defined in OYA policy.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100 & 420.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02; OYA 9-2004, f. & cert. ef. 7-30-04

416-450-0070

Mentor Program

(1) Service delivery is coordinated by a mentor program agency and provided by volunteer mentors who interact regularly with an offender in a one-to-one relationship. Mentor agencies use a case management approach, with follow through on each case from initial inquiry through closure. The mentor program case manager screens applicants, makes and supervises the matches, and closes the matches when eligibility requirements are no

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longer met or either party decides they can no longer participate fully in the relationship.

(2) OYA orientation is required for all volunteer mentors.

(3) Volunteer mentor screening includes a written application, a criminal history check as described in OAR 416-450-0040, and an extensive interview.

(4) Offender assessment involves a written application, interviews with the offender, the appropriate OYA Parole/Probation Officer (PPO), and the substitute care provider.

(5) Matches are carefully considered and based on the needs of the offender, abilities of volunteer mentors, preferences of the OYA and the substitute care provider, and the capacity of program staff.

(6) Supervision is accomplished via initial contact with the substitute care provider, offender, and volunteer mentor within two weeks of the match; monthly telephone contact with the volunteer mentor, substitute care provider, and/or offender during the first year; and quarterly contact with all parties during the duration of the match.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.100, 420.105

Hist.: OYA 9-2004, f. & cert. ef. 7-30-04

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**Secretary of State,
Archives Division
Chapter 166**

Adm. Order No.: OSA 3-2004

Filed with Sec. of State: 7-29-2004

Certified to be Effective: 7-29-04

Notice Publication Date: 7-1-04

Rules Adopted: 166-115-0010

Rules Amended: 166-475-0010, 166-475-0015, 166-475-0020, 166-475-0025, 166-475-0030, 166-475-0035, 166-475-0040, 166-475-0045, 166-475-0050, 166-475-0055, 166-475-0065, 166-475-0070, 166-475-0075, 166-475-0080, 166-475-0085, 166-475-0090, 166-475-0095, 166-475-0100, 166-475-0105, 166-475-0110

Subject: OAR 166-115-0010 creates a records retention schedule for County Community Corrections programs. OAR 166-475-0010 thru 166-475-0110 update the General Records Retention Schedule for the Oregon University System records. These rules were filed as permanent rules in February 2003, after going through the administrative rule notice and hearing process, however, they were not sent to Legislative Counsel within 10 days of their February 2003 filing, so are being re-filed to fulfill that requirement.

Rules Coordinator: Julie Yamaka—(503) 373-0701, ext. 240

166-115-0010

Community Corrections Records

(1) **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 Post-Prison Supervision orders, commutations, death certificates, expungement, pre-sentence investigations, parole officer notes, police reports, sanction hearing documentation, and community risk assessments. (Department of Corrections (DOC) Information Systems Division maintains state-wide 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).

(2) **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).

(3) **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).

(4) **Case Assignment and Report Log:** Series is used to assign and track new cases, reports, and transfers. It is used as a de-facto 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).

(5) **Community Corrections:** Advisory Commission Minutes Series records the deliberations of monthly meetings of the local corrections advisory committee whose members are designated by the board of county commissioners as per ORS 423.560. Records consists of minutes documenting agendas, roll call, motions, and resolutions. Discussion topics may include financial aid application, county community correction plan design, and observations on the operation of the county community corrections program. Includes an annual report with appropriate recommendations for improvement modification to be sent to the county commissioners or community corrections manager of the county. (Minimum Retention: Permanent).

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 1-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0010

Administrative Records

(1) **Administrative Reports:** This series documents the annual activity of the institution and its subdivisions. This disposition includes reports prepared for OUS by the president of the institution. Final annual reports may be printed and bound or they may be less formal unpublished documents prepared for limited distribution. Report sections may include but are not limited to administrative activities; goals and objectives achieved; fiscal status; project work performed; personnel activity and accomplishments; facility changes; and related sections. This series may include but is not limited to periodic statistical reports; summarized statistical reports; copies of reports from other units; other working papers; final annual reports; and related documentation and correspondence. (**Retention:** (a) Permanent for final annual reports and periodic and summary statistical reports not reflected in the final annual report (b) Until superseded or obsolete for all other records, destroy).

(2) **Administrative Rules Records:** This series documents reviews of and changes to the institution's Administrative Rules, including routine three-year reviews as required by Oregon statute and the annual preparation and authorization of the institution's administrative fees. Records may include but are not limited to notices of rule making with hearing notices which are published in the Oregon Bulletin; documentation of rule change hearings which may include notes, transcriptions, summaries, and tapes; reports to initiators of changes regarding outcome; final rules; Reports of Action to the State Administrative Rule Section including Certificates and Orders for Filing Permanent Administrative Rules with the Secretary of State; Notices of Proposed Adoption including statements on statutory authority, need/principle, documents relied upon, and statement of fiscal impact; lists of proposed fee schedules; reviewers' comments; administrative review reports; meeting notes from the Secretary of State Legislative Council about OAR review meetings; check-off lists; text of old rule with strike outs and changes; indices to OAR revisions; Dept. of Justice memos; and related correspondence. The Oregon Secretary of State holds statewide record copy. (**Retention:** 10 years after repeal of the rule, destroy).

(3) **Advisory Board Records:** This series documents the activities of boards and councils that function in an advisory capacity. Boards and councils may have as their charge highly specific or broad areas of concern and include members from outside the institution. This series may include but is not limited to meeting minutes; agendas; reports; notes; working papers; audio recordings; transcriptions; and related documentation and correspondence. (**Retention:** (a) Permanent for minutes, agendas, reports, and correspondence (b) 3 years for all other records, destroy).

(4) **Agency Relations Records:** This series documents the institutional interactions with local, state, national, and international government agencies, educational institutions, businesses and groups to gain their assistance with the development and coordination of institution research and instructional programs. This series may include but is not limited to reports; copies of publications; minutes; background information; and related documentation and correspondence. (**Retention:** 6 years, destroy).

(5) **Association and Organization Advisory Records:** This series documents the relationship and participation of institution units in profes-

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sional and educational associations and other organizations. The unit's role may be one of membership on the advisory or administrative board, participation in a task force or subcommittee, or one of membership in consortia. This series may include but is not limited to: promotional information; rules and regulations; reports; proposals and planning records; workshop and conference records; surveys and questionnaires; minutes; and related documentation and correspondence. This series does not include individual faculty or staff membership information. **(Retention: 3 years, destroy).**

(6) **Attorney General Opinions:** This series documents responses of the State Attorney General's Office to legal questions posed by the institution's legal advisor and administrative officers which may have an impact on the institution's operations and policy. This series may include but is not limited to opinions and related documentation and correspondence. The State of Oregon Department of Justice (DOJ) holds statewide record copy. **(Retention: 10 years, destroy).**

(7) **Audit Records:** This series documents the unit's response to internal OUS and independent management, operations, and fiscal audits. This series may include but is not limited to audit reports; written responses showing how recommended changes will be implemented; and related documentation and correspondence. **(Retention: 20 years, destroy).**

(8) **Awards Records:** This series documents the process of selecting institutional faculty, staff, students and alumni to receive awards, fellowships, and scholarships based on merit or achievement. The series may include but is not limited to applications; nomination letters; eligibility terms and selection criteria; recommendations; transcripts; letters of award notification or denial; letters accepting or declining awards; summary lists of winners; biographies; demonstration of need documentation; newspaper clippings and press releases; award history and information on funding sources; and related documentation and correspondence. **(Retention: (a) Permanent for eligibility terms and selection criteria, award history and information on funding sources, award notifications, summary lists of winners, biographies of winners, and press releases (b) 1 year for all other records, destroy).**

(9) **Committee Records:** This series documents the activities of standing and ad hoc committees and councils made up of members from a variety of units. The committees are charged with formulating and recommending institutional policies and procedures, establishing standards and requirements, performing an advisory function, or reviewing petitions, appeals, and deviations from policy. Types of committees include administrative committees (those appointed by an administrator) and faculty senate committees (those created by the faculty senate's executive committee). They may function as steering committees, activities committees, standards committees, planning committees, academic committees, awards committees, councils, etc. Committees may be chaired by the director of a specific unit or rotate to different chairs on a regular basis. This series may include but is not limited to agendas; meeting minutes; reports; notes; working papers; and related documentation and correspondence. **(Retention: (a) Permanent for agendas, minutes, reports, and correspondence (b) 10 years for all other records of Faculty Senate Committees, destroy (c) 2 years for all other records of other committees, destroy).**

(10) **Cooperative Program Records:** This series documents the institution's participation in cooperative and shared educational or research programs. Such programs may share research facilities and resources or instructional programs such as programs permitting student matriculation at member institutions. This series may include but is not limited to information on requirements and application procedures; applications and eligibility certificates; committee minutes; meeting agendas; working papers; memos of interpretation and understanding; fiscal records; and related documentation and correspondence. **(Retention: (a) Permanent for information on requirements and application procedures, committee minutes, meeting agendas, and memos of interpretation and understanding (b) 6 years after expiration for all other records, destroy).**

(11) **Correspondence, Administrative:** Series documents communications received or sent which contain significant information about an institution's programs. Records include letters sent and received, memoranda, notes, enclosures, and attachments. **(Retention: 5 years, destroy).**

(12) **Correspondence, Executive:** This series documents significant events and the development of administrative structure, policies, and procedures of this office. It may also record the historical development of the office. Records may include letters sent and received; notes; directives; acknowledgments; and memoranda. Correspondence may be intra-office, within OUS, and with non-OUS agencies, organizations, and individuals. **(Retention: Permanent).**

(13) **Correspondence, Ephemeral:** Series documents communications received or sent which do not contain significant information about an

institution's programs (Correspondence, Administrative), fiscal status (Correspondence, Fiscal), or routine agency operations (Correspondence, General). Records include, but are not limited to, advertising circulars, drafts and worksheets, desk notes, memoranda, and other records of a preliminary or informational nature. **(Retention: Until read, destroy).**

(14) **Correspondence, General:** Series documents communications received or sent which do not contain significant information about an institution's programs. Records include letters sent and received; memoranda; notes; transmittals; acknowledgments; community affair notices; charity fund drive records; routine requests for information or publications; enclosures and attachments. **(Retention: 1 year, destroy).**

(15) **Crisis or Disaster Records:** This series documents the events and damages to institutional property due to storms, riots, fires, droughts, floods, and other events affecting citizens and facilities within the jurisdiction of the institution. This series may include but is not limited to diaries; logs; reports; photographs; notes which indicate or document what happened, when, and where; and related documentation and correspondence. **(Retention: Permanent).**

(16) **Daily Broadcast Logs:** Series documents daily broadcast activities of the institutional radio station or television channel. Records include log sheets showing time signed on and off; any delays in broadcasting; engineer's name; announcer's name; and technical difficulties. **(Retention: 2 years, destroy).**

(17) **Daily Logs:** This series documents the day-to-day activities of the office. This series may include but is not limited to staff member's daily schedules; daily work logs; appointment information; and desk calendars. **(Retention: 1 year, destroy).**

(18) **Data Input Forms:** This series contains several types of paper forms that are used to create the same record in electronic form. This series may include service requests, such as work orders and mailing orders; surveys; instructor evaluations; tests; and other forms. This series does not include accounting system input documents and listings. **(Retention: Until input and verified, destroy).**

(19) **Election Records:** This series documents elections held by various faculty and staff organizations. This series may include but is not limited to ballots; tabulations; and related documentation. **(Retention: 4 months, destroy).**

(20) **Emergency Board Request Records:** Records document requests made to the Legislative Emergency Board for additional funds or authority to spend funds between legislative sessions. Records may include but are not limited to requests, schedules and agendas, exhibits, organizational charts, testimony summaries, fiscal analysis, legislative progress reports, revenue projections, reclassification plans, presentation drafts, performance measures, and correspondence. The Emergency Board maintains the official copy of this information. **(Retention: 5 years, destroy).**

(21) **Faculty Senate Records:** This series documents the proceedings and actions of an institution's faculty senate. Discussions and actions of the faculty senate deal with such areas as curriculum, program development, promotion and tenure, and legislative relations. This series may include but is not limited to meeting notes/minutes; studies; recommendations; resolutions and enactments; reports; agendas; working papers; and related documentation and correspondence. **(Retention: Permanent).**

(22) **Gifts Records:** This series documents potential or realized private, corporate, or public agency funding to the institution, including endowments and trusts. This series may include but is not limited to award guidelines; letters and agreements of gifts; copies of bequest instruments and wills from individuals or estates; financial statements and reports, including records of fund disbursements; and related documentation and correspondence. **(Retention: (a) Permanent for letters and agreements of gift, copies of bequest instruments and wills from individuals or estates, and related documentation and correspondence (b) 5 years for all other records, destroy).**

(23) **Grievance Records:** This series documents grievances brought forward by faculty and staff against the institution and which are resolved without litigation. (Records of grievances that are litigated become part of the legal case file.) Grievances may pertain to personnel policies and procedures; articles contained in the collective bargaining agreement (classified staff only); departmental issues; affirmative action and equal opportunity issues; and promotion and tenure (faculty) issues. Records may include but are not limited to notices of grievance; informal discussion notes; grievance responses; formal hearing notes (including audio tapes); final summary statements; appeals documentation; and related documentation and correspondence. **(Retention: 3 years after resolution, destroy).**

(24) **Institutional Accreditation Records:** This series documents the accreditation process for the institution by the Northwest Association of

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Schools and Colleges (NASC). The series provides a record of materials compiled for inclusion in a packet report sent to NASC and provided to the on-site evaluators. This series may include but is not limited to self-evaluation reports; final reports sent to accreditation organization; statistical data; working papers; NASC evaluation report; and related documentation and correspondence. **(Retention: Permanent).**

(25) **Institutional Addresses and Statements Records:** This series documents speeches and statements written and delivered by institutional faculty and staff in connection with institutional business. This series may include but is not limited to final copies; audio or video recordings of the speech presentation; drafts; source materials; and working papers. **(Retention: (a) 5 years for drafts, source material, and working papers, destroy (b) Permanent for all other records)**

(26) **Institutional Cooperation and Relations Records:** This series documents the coordination and interaction between units for the cooperative administration of programs within the institution. This series is used for monitoring, planning, and coordinating research, instructional, or administrative programs of common concern to two or more institutional units. This series may include but is not limited to copies of budget reports; activity reports; proposals; planning documents; agreements and memoranda of understanding; publicity and newspaper clippings; policy statements; working papers; and related documentation and correspondence. **(Retention: (a) Permanent for proposals, planning documents, activity reports, policy statements, and publicity (b) 6 years after expiration for all other records, destroy)**

(27) **Institutional Planning Records:** This series documents the college or unit's role in the development of short-term or long-term plans for the institution. This series may include but is not limited to instructions from the president; provosts; and/or vice provosts explaining the nature and purpose of the requested strategic planning effort; internal planning committee materials; statements of objectives and goals as developed by college or unit chairs and administrators; proposals; strategic planning reports; surveys; activity reports; informational materials; working papers; and related documentation and correspondence. **(Retention: (a) Permanent for final planning reports, proposals, goal and objective statements, and instructions and explanations of process (b) 20 years for internal planning committee materials, surveys, activity reports, working papers, informational materials, and correspondence, destroy)**

(28) **Institutional Survey and Reporting Records (HEGIS and IPEDS):** This series documents compliance with U.S. Department of Education reporting requirements by verifying figures on financial, student, institutional, and faculty salary data as reported to OUS by individual OUS institutions and reporting those findings to the U.S. Department of Education. The series may also be used to provide information to the administrators and legislators, and to create other statistical reports. Records may include HEGIS (Higher Education General Information Survey) and IPEDS (Integrated Post-Secondary Education Data System) completed forms for Salary, Tenure, and Fringe-Benefit of Full Time Instructional Faculty, Financial Statistics of Institutions of Higher Education (IPEDS-F-1), Finance FY (G50-14P-F), Salaries of Full Time Instructional Faculty (G50-14P-SA), IPEDS Total Institutional Activity (G50-14P-EA), Institutional Characteristics Form (G50-14P-IC), Enrollment in Occupationally Specific Programs (G50-14P-IF), Completions for the Year reports (program ICR), AAUP (MEA-22), Degrees and Other Formal Awards Conferred (NC form 2300-2.1A), Fall Enrollment in Institutions of Higher Education (NC form 2300-2.3A), OCCD Degrees Granted in Post-Secondary Institutions in Oregon reports, Degrees Awarded by Oregon's Degree Granting Colleges and Universities reports, AAUP summary reports, and related working papers and correspondence. **(Retention: (a) Permanent, final reports including the HEGIS/IPEDS survey forms (b) 10 years, all other records, destroy)**

(29) **Lectures and Lecture Series Records:** This series documents the development and history of special lectures and continuing lectureships devoted to a variety of topics and disciplines sponsored by the institution. This series may include but is not limited to lecture committee notes; memoranda and planning materials; information on funding; financial support and honoraria records; patron information; programs and announcements; information on catering arrangements; news releases; recordings and transcripts; photographs; and related documentation and correspondence. **(Retention: (a) Permanent for lecture committee notes, memoranda and planning materials, programs and announcements, news releases, transcripts, and photographs (b) 10 years for all other records, destroy)**

(30) **Legal Case Records:** Series documents legal actions brought against the institution. Series contains case files pertaining to Affirmative Action conflicts; salary disputes; differences in interpretation of contract

language; risk management controversies; and tenure relinquishment disagreements. **(Retention: (a) Permanent for records of cases resulting in major policy modification, pleadings, final decisions, copies of records of the courts of cases considered historical, and summary statements (b) 6 years after final decision for all other records, destroy)**

(31) **Legislative Relations Records:** The series may be used to review and plan institutional positions on impacting legislative actions. This series may include but is not limited to: OUS Bill Review and Tracking forms; bill tracking reports; notes; copies of pending or approved legislation; working papers; and related documentation and correspondence. **(Retention: 2 years, destroy)**

(32) **Lobbyist Records:** This series documents the activities of OUS employees who engage in lobbying the state government. Records may include: Lobbyist Registration Statement forms; Lobbyist Termination forms; Lobbyist Expenditure Report forms; the Oregon Government Standards & Practices Commission's Guide to Lobbying in Oregon; lobbyist listings and salary information and related documentation. The OUS Chancellor's Office maintains the system-wide record copy. **(Retention: 5 years after last activity, destroy)**

(33) **Notary Public Records:** Records documenting notarial transactions completed by a notary public employed by OUS. OUS may retain log books by agreement with the notary public after their separation from OUS employment. *OUS institutions retaining notary public log books without notary agreements should consult their attorney and/or the Secretary of State, Corporation Division for retention instruction.* **(Retention: 7 years after date of commission expiration, destroy)**

(34) **OUS and OSBHE Relations Records:** This series documents the coordination and interaction between institutional administrative units and OUS and the OSBHE which have ultimate authority over both academic and fiscal programs. This series may include but is not limited to minutes; agendas; budget reports; dockets; notes; activity reports; proposals; fee booklets; newsletters; memos; and related documentation and correspondence. **(Retention: (a) Permanent for minutes and agendas; (b) 1 year for notes, memos, and correspondence, destroy (c) Until superseded or obsolete for all other records, destroy)**

(35) **Policies and Procedures Records:** This series provides a record of internal development and documents guidelines for consistency and continuity in the operation of the unit. This series may include but is not limited to: mission and policy statements; planning documents outlining responsibilities and goals; organizational charts; publications preparation guidelines; emergency procedures; job descriptions; guides for office procedures which often include completed samples of all forms; handbooks; desk manuals; and related documentation and correspondence. **(Retention: (a) Retain 1 copy of policy and/or procedure permanently (b) Retain all other records 1 year after policy and/or procedure adopted, destroy)**

(36) **Professional Accreditation Records:** This series documents the accreditation process for the colleges, units, and related programs. The series provides a record of materials compiled for inclusion in a report packet sent to the appropriate professional accreditation board for the specific program or service and usually includes statements on mission, finance, educational programs and departments/divisions make up. Most accreditation organizations produce an evaluation report based on the packet and on-site inspection which is used to determine accreditation for the units and their programs. This series may include but is not limited to self-evaluation reports; final reports sent to accreditation organization; statistical data; working papers; accreditation organization evaluation report; and related documentation and correspondence. **(Retention: (a) Permanent for self-evaluation reports, final accreditation reports, and accreditation organization evaluation reports (b) 2 accreditation cycles for statistical reports, working papers, correspondence, and all remaining records, destroy)**

(37) **Professional Membership Records:** This series documents institutional-paid individual memberships and activities in professional organizations. These records may include but are not limited to applications for membership; certification of membership; documentation of activities; and related correspondence. **(Retention: 6 years, destroy)**

(38) **Radio and Television License Records:** This series provides a record of licensing of OUS campus radio stations and television channels (including distance education) with the Federal Communications Commission. Records may include FCC applications; licenses and contracts; and related correspondence. Federal regulations state that TV and radio licenses will ordinarily be renewed for 8 years unless the public interest, convenience and necessity will be served by an initial license or a renewal for a lesser term. **(Retention: 10 years after expiration of license, destroy)**

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(39) **Signature Authorizations:** This series documents the certification of the institution's employees who are authorized to sign fiscal and contractual documents. These documents serve as an aid for management control over expenditures. This series may include but is not limited to authorization date; name; sample signature; position data; remarks; and conditions. **(Retention:** 6 years after authorization expires, destroy).

(40) **Special Activity Records:** This series documents the activities of an office which are performed in addition to its regular or main functions. Examples may include the completion of surveys and questionnaires, compilation of special studies for professional or academic associations, and special mailings. This series may include but is not limited to: arrangements documentation; working papers; questionnaires; survey forms; study designs; reports; and related documentation and correspondence. **(Retention:** (a) Permanent for final reports and study designs (b) 3 years for all other records, destroy).

(41) **Special Event Records:** This series documents the efforts of a college or unit to provide informative sessions, short-courses, workshops, training programs, excursions, and celebratory events for members of the institution and the communities it serves. This series may include but is not limited to: materials on planning and arrangements; reports; promotional and publicity materials; press releases and news clippings; photographs; presentation materials and handouts; schedules of speakers and activities; registration and attendance lists; participant evaluations; and related documentation and correspondence. **(Retention:** (a) Permanent for planning materials, reports, promotional and publicity materials, press releases, photographs, and schedules of speakers and activities (b) 2 years for all other records, destroy).

(42) **Staff Meeting Records:** This series documents the meetings of the faculty and/or staff of a college, department, or office which sets policy and procedures for the unit. Participants at meetings may be composed exclusively of a mixture of faculty, staff, administrators, and managers; specialized and task oriented sub-committees composed of unit personnel are also documented as part of this record series. These meetings may concern routine matters of procedure and topics such as program development, planning, administrative and personnel management, and assessments of future needs. This series may include but is not limited to meeting notes/minutes; reports; working papers; agendas; and related documentation and correspondence. **(Retention:** (a) Permanent for meeting notes/minutes, agendas, and reports (b) 4 years for all other records, destroy).

(43) **Vehicle Use Authorization and Request Records:** This series documents permission for employees to use their private automobiles for official use and authorization of non-employees and students to use state-owned cars. Records may include but are not limited to private vehicle safety certification forms; private vehicle certificate lists; driver authorizations for students and non-employees; and related documentation and correspondence. **(Retention:** 1 year after superseded or obsolete, destroy).

(44) **Visiting Scholar Program Records:** This series documents a program which allows one or more visiting scholars to assume residence on campus for an academic year or a shorter duration. This series may include but is not limited to advertisements; applicant data; arrangements and schedules; publicity and news clippings; presentation transcripts or published works; scholars activities documentation including audio recordings; and related documentation and correspondence. **(Retention:** (a) Permanent for applicant data, publicity, presentation transcripts, and scholars activities documentation (b) 4 years for all other records, destroy).

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

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0015

Budget Records

(1) **Annual Budget Records:** This series documents the annual institutional budget provided to OUS for inclusion in its Annual Adopted Operating Budget book. This series includes: Operating Budget Expense by Categories and Functions Report; Estimated Gifts, Grants, Contracts and Clearing Account Summary Report; Student Fee Income and Application of Funds Report; Statewide Public Service Source and Application of Funds; other reports specified in yearly instructions from the Chancellor's Office; institutional budget preparation instructions; and related documentation and correspondence. **(Retention:** (a) Permanent for Annual Operating Budget document (b) 10 years all other records, destroy).

(2) **Budget Activity Reports:** This series provides a record of departmental fiscal activity presented in summary form which may be used for budget planning. These records may be used to analyze budget cuts or

restructuring of programs. Records may include: working papers; memoranda; final summary reports and spread sheets; and related documentation and correspondence. **(Retention:** (a) 10 years for year end reports, destroy (b) 1 year for all other records, destroy).

(3) **Budget Maintenance Records:** This series documents the changes made in the initial unit budget as distributed by the institution's budget Office at the beginning of the new fiscal year. This series may include but is not limited to: Budget Change Request Forms; budget change suspense records; budget change registers; authorization for budget change forms; copies of revised unit initial budgets; fund transfer notices; spread sheets; expenditure and obligation reports; allotment reports; and related documentation and correspondence. **(Retention:** 4 years, destroy).

(4) **Budget Planning, Projection, and Preparation Records:** This series is used to develop the initial institutional budget, plan budget requests for and document annual budget allocations to individual units, and record changes in operating budgets of the various financial accounts. Records may include but are not limited to: budget requests; budget status reports; budget change requests, registers and logs; budget detail reports; working papers including spread sheets, expenditure projections, salary and budget worksheets; allotment, capital outlay and equipment need reports; unit budget preparation instructions; and related documentation and correspondence. **(Retention:** 10 years, destroy).

(5) **Cooperative Federal Program Budget Preparation, Projection and Allocation Records:** This series is used to develop, estimate, propose, and plan preliminary budget requests for cooperative federal/state programs and reflects the process by which the annual budget allotment is to be distributed to the department and its programs. This series may include but is not limited to: budget expenditure statements; General Ledger Statements of Accounts; salary work sheets; budget exhibits; project detail sheets; budget requests; OUS-Institutional Use Code budget forms (CO-119); budget change sheets; Federal Agency Annual Reports (Computerized Research Information System (CRIS) Form Ad-419); Federal Agency Status of Fund Reports; Governor's Suggestion Reports; Journal Vouchers; Position Inventory Control System (PICS) Reports to monitor FTE budgets; spread sheets; expenditure projection work papers; preliminary section budget proposals; budget development schedules; allotment reports; decision packages; spending plans; compensation plan proposals; contingency/deviation plans; various federal publications; reports; forms; and related documentation and correspondence. **(Retention:** 10 years, destroy).

(6) **Self-Sustaining Program Budget Projection and Allocation Records:** This series is used to as a tool for projecting annual budgets for units which operate on self-sustaining funds and to determine fees and fee-charging policies. This series may include but is not limited to: charts of accounts; reports of receipts and disbursements; fee schedules; financial statements; photocopies of vouchers; purchase orders; spread sheets; expenditure projection work papers; budget development schedules; decision packages; spending plans; compensation plan proposals; contingency/deviation plans; current expenditure reports; average expenditure reports; and related documentation and correspondence. **(Retention:** 10 years, destroy).

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

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0020

Contracts Records

(1) **Author's and Artist's Contracts and Agreements Records:** This series provides documentation of the duly executed and binding contractual agreements between the institution and authors and artists concerning subjects such as royalties, pricing agreements, and copyright. Information in individual contracts or agreements may include but is not limited to terms and conditions; provisions; amendments; exhibits and addenda; and authorizing signatures. **(Retention:** (a) Permanent for authors' contracts and agreements with university presses and artists agreements (b) 6 years after expiration for all other authors' contracts and agreements, destroy).

(2) **Contracts and Agreements Records:** Series documents the negotiation, execution, completion, and termination of legal agreements between an agency and other parties. Series does not include contracts or agreements made for personal services or leases. Records include a copy of the official contract or agreement, amendments, exhibits, and addenda. **Retention:** (a) Contracts or Agreements documenting building construction, alterations, or repair, 10 years after substantial completion as defined by ORS 12.135(3), destroy (b) Other Contracts and Agreements, 6 years after expiration, destroy). Caution: Agencies who enter into contracts with

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the federal government must ensure that their contracts and agreements meet federal requirements specified in the Code of Federal Regulations.

(3) **Defense Base Act (DBA) Records:** This series documents insurance coverage for institutional employees in foreign countries who are not covered by the State Accident Insurance Fund (SAIF). These records include one year contracts with a mandated insurance carrier. This series may include but is not limited to: liability claims against the institution that are both open and completed; legal files with affidavits; accident reports; estimates for repairs; police reports; suit status reports; disbursement records; settlements; and related correspondence. (**Retention:** 10 years after all claims are settled, destroy).

(4) **Hold Harmless, Liability Waiver, and Release Records:** This series documents the release of the institution or administrative unit from liability related to various activities involving students, faculty, or staff. Activities may include events such as sponsored field trips and physical education classes. Records include but are not limited to hold harmless, waiver, and release forms, related documentation, and correspondence. Information includes a statement from the participant that he/she assumes personal responsibility and holds the institution or administrative unit blameless for any accident or injury that may occur while participating, information about college insurance, description of the activity, and signatures of the participant. (**Retention:** 6 years after the end of the event or activity for which the waiver was signed, destroy).

(5) **Insurance Fund Claims:** Series documents requests for payment of insurance claims from the Oregon Department of Administrative Services Risk Management Division. Records may include: Auto/Liability/Property Claim Reports; estimates of repairs; accident reports; police reports; and correspondence. (Department of Administrative Services Risk Management Division maintains statewide record copy). (**Retention:** 5 years after claim paid or denied, destroy).

(6) **Insurance Policy Records:** This series documents insurance policies written to cover all state property, automobiles, liability, and special events. Records may include but are not limited to copies of insurance policies, riders, and endorsements; records of payment; and related documentation and correspondence. (**Retention:** (a) 10 years after policy expiration for liability, motor vehicle, special event and employee group insurance policies, destroy (b) 5 years after policy expiration for state motor vehicle insurance, non-employee medical, and bonds policies, destroy (c) 2 years after policy expiration for fire, theft, or extended coverage policies, destroy (d) 1 year after final claim payment for any policy with an outstanding claim against it when the retention period expires, destroy).

(7) **Intramural Sports Waivers:** This series documents the legally and medically informed status of students, faculty, and staff participating in intramural sports activities. This form affirms that participants have been informed that they are not covered by the institution for injury or other medical situations and have been advised to seek private insurance. (**Retention:** 3 years after the conclusion of the intramural sports season, destroy).

(8) **Leases:** Series documents agreements made by an agency for the transfer of the right to possession and use (but not sale) of goods or property for a specified term. Series includes copies of lease agreements and amendments or addenda. Leases are typically for office space, equipment, real estate, or facilities. (**Retention:** 4 years after expiration, destroy).

(9) **Personal/Professional Services Contracts Records:** This series provides a record of Personal/Professional Services Contracts between the institution and independent contractors for professional, specialized, educational, research, creative, or custodial services. The contracts may be for any length of time, for a one-time performance of services, or for services provided on a continuing basis. Contracts are not personal services contracts if they are primarily for a tangible product, even if professional services are needed to design or install the product; if the services are for trade-related activities; or if the services are of the type that can be performed by any competent worker in the field. This series may include but is not limited to Personal/Professional Services Contracts (OSBHE form CO-190) with terms and provisions; addenda and exhibits; selection and justification statements; input forms (Executive Department form number 1405m); authorized signature sheets; contractor selection statements; certificates of compliance with tax laws; statements as to availability of local services; statements as to whether minority services available; contract change orders; bids and agreements; performance bonds; instructions to bidders; advertisements for bids; working papers; expense claim records; and related documentation and correspondence. (**Retention:** 6 years after expiration of contract, destroy).

(10) **Real Property Records:** This series documents the real property acquired and sold by the institution. This series does not include leases.

This series may include but is not limited to: purchase agreements; title abstracts; easement details; public hearing notices and minutes; county recorder's plat descriptions; memoranda of understanding; earnest money receipts; sales agreements; property deeds; working papers; and related documentation and correspondence. (**Retention:** 6 years after property is sold, destroy).

(11) **Student Housing Contracts Appeals Records:** This series provides a record of the disposition of appeals made by residents who have been assessed the standard penalties for failing to follow the terms of their housing/food service contracts. These records consist of: students' appeals stating their reasons for seeking modification of contract terms; decisions from the director of housing, including instructions for further appeal if students have additional relevant information and desire to proceed; and related documentation and correspondence. (**Retention:** 2 years after resolution, destroy).

(12) **Student Housing Contracts Records:** This series provides a record of occupancy in all institution-administered housing — residence halls, family housing, and cooperative housing. This series may include but is not limited to residence hall/cooperative house/student family housing applications and contracts; proof of admission records; and related documentation and correspondence. (**Retention:** 6 years after expiration of contract, destroy).

(13) **Trademarks Licensing Records:** This series documents the legal authority for non-system agencies to use the logos and other symbols constituting the registered trademarks of the institution, such as "Benny the Beaver," "Donald Duck" and the institutional seals/logos. The records consist of folders for each vendor or individual seeking legal use of institutional trademarks for any reason. This series may include but is not limited to: names and addresses of approved licensees; their annual gross dollar sales of Institutionally trademarked items; invoices showing royalties paid to the institution for use of the trademarks; licensing agreements; samples of the requesting licensees' art work; and related documentation and correspondence. (**Retention:** 6 years after expiration of licensing agreement, destroy).

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

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0025

Curriculum and Instruction Records

(1) **Academic Program Administrative Records:** This series documents the daily and routine administration of academic programs of the department or college. This series may include but is not limited to: registration reports; add-drop analyses and reports; course enrollment summaries by class; graduation summaries; majors by class level; international activities; cooperative ventures; summer term classes and enrollment reports; placement information; convenience copies of reports prepared by admissions, registrar's, budgets and planning, and other offices; memos; working papers; and related documentation and correspondence. (**Retention:** 2 years, destroy).

(2) **Book Order Records:** This series provides a record of books ordered for courses taught in the department. This series may include but is not limited to the institution textbook request forms which includes authors, titles, publications, course numbers, and expected enrollment; other forms; and related documentation and correspondence. (**Retention:** 1 year, destroy).

(3) **Catalog/Bulletin Records:** This series provides a record of institutional policies and procedures, program requirements, and course offerings and may also be used for constructing new courses or reconstructing old courses. Information in the individual catalogs and bulletins includes academic policies and procedures, program names and descriptions, course names and descriptions, alphanumeric course designations, credits offered per course, and related program and course information. This series may include but is not limited to: published copies of catalogs and bulletins including the general, graduate, and summer session catalog/bulletin; mock-ups of catalogs and bulletins; preparation and working papers; and related documentation and correspondence. (**Retention:** (a) Permanent for 1 copy of published catalogs (b) 1 year for all other records, destroy).

(4) **Class Scheduling Records:** This series documents the formulation of class schedules by academic departments for inclusion in the published schedule of classes. This series may include but is not limited to: the final edition of the schedule of classes booklet; requests from departments for class offerings; deviation from schedule forms; copies of course schedule maintenance forms; requests for class changes; working papers; and related documentation and correspondence. (**Retention:** (a) Permanent for

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1 copy of the schedule of classes booklets (b) 1 year for all other records, destroy).

(5) **Continuing Higher Education and Summer Session Course Records:** This series documents course offerings and individual course contents as offered by Continuing Higher Education and Summer Session. These records include: syllabi; course descriptions; course outlines; course request proposals; enrollment reports; course summaries; request for undergraduate and graduate course and instructor approval forms; nominations to the undergraduate faculty; course announcements; handout materials; budget requests; budget status forms; vouchers; final and summary reports; and related documentation and correspondence. **(Retention:** (a) Permanent for final and summary reports (b) 4 years for all other records, destroy).

(6) **Course Records:** This series provides a record of departmental course offerings and individual course contents. This series may include but is not limited to: syllabi; course descriptions; course outlines; course summaries; course requests and proposals; curriculum approval lists; lists of classes by term; bibliographies; reading lists; course announcements; handout materials; and related documentation and correspondence. **(Retention:** 3 years or until superseded or obsolete, destroy).

(7) **Course Schedule Maintenance Forms:** This series documents requests for changes to be made to the institutional catalog and schedule of classes. The forms include course numbers; course titles; locations; grading modes; course descriptions; designators; fees; and credit hours. **(Retention:** 2 years, destroy).

(8) **Media Equipment and Productions Records:** This series documents the purchase, receipt, and subsequent scheduling and distribution of media productions and/or equipment. This series may include but is not limited to: film, video tape, and equipment requests; letters of permission to use copyrighted materials; distribution schedules; and related documentation and correspondence. **(Retention:** (a) 6 years after expiration for letters of permission, destroy (b) 4 years for all other records, destroy).

(9) **New Degree Program and Course Proposal Records:** This series documents the development of new departmental and interdepartmental degree programs, courses and related curricula that are currently under consideration for adoption. The series may also document requests to drop courses from the curriculum and/or to change the names of courses, the number of credits, or the prerequisite courses. This series may include but is not limited to curriculum committee meeting minutes; curriculum proposals; and related documentation and correspondence. **(Retention:** (a) Permanent for committee meeting minutes and curriculum proposals (b) 5 years for all other records, destroy).

(10) **Non-University Student Program Administration Records:** This series documents the administrative activities of special instructional and support programs directed to serve elementary through high school and non-institution students belonging to special, minority, or disadvantaged groups. Examples of programs to which this series applies are Science and Mathematics Investigative Learning Experiences (SMILE), Upward Bound, High School Equivalency, and other special non-institution student programs. This series may include but is not limited to policy and program planning and development documentation; evaluations of courses, support services, and instructors; program course outlines; tuition payment records; reports; statistical reports; working papers; and related documentation and correspondence. **(Retention:** (a) Permanent for policy, program planning, and development documentation and reports (b) 10 years for all other records, destroy).

(11) **Program Development and Review Records:** This series provides a record of planning and discussions relating to the implementation of new undergraduate and advanced degree programs and any major reorganizations or changes to established programs. This series may include but is not limited to: final reports; working papers; letters of support; review agendas; faculty status reports; reviews of individual degree programs by campus and off-campus sources; and related documentation and correspondence. **(Retention:** (a) Permanent for final reports and reviews of individual degree programs by on and off-campus sources (b) 10 years for all other records, destroy).

(12) **Room Scheduling Records:** This series documents room assignments for classes offered during regular terms or during the summer session. This series may include but is not limited to room assignment lists and related documentation. **(Retention:** 1 year, destroy).

(13) **Special Academic Programs Records:** This series documents the administrative activities of special academic programs serving and aiding institution students. Programs documented by this series range from special requirement and certification programs to programs aimed at assisting and encouraging target groups of institution students. Included are the international student program; National Student Exchange (NSE) program;

English language programs; honors programs; minority scholars programs; minority student recruitment programs; disabled student programs; non-traditional student programs; educational opportunities programs; older than average student programs; Native American science programs; study abroad programs; and other special academic programs. This series may include but is not limited to policy and program planning and development documentation; explanatory materials on the program; notes; evaluations of courses, support services, and instructors; program course outlines; tuition payment records; program participation and aid selection records; activity accounting records; working papers; reports; and related documentation and correspondence. **(Retention:** (a) Permanent for policy and program planning and development documentation and reports (b) 10 years for all other records, destroy).

(14) **Student Handbooks:** This series documents the requirements, policies, and offerings of specific instructional units for use by current or potential students. This series contains information or policies on: fields of study; faculty; academic requirements; the evaluation process; and the research proposal process. **(Retention:** Permanent for 1 copy of each edition)

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0030

Equipment and Supplies Records

(1) **Bid and Competitive Selection Records:** This series documents the procurement process for equipment and service valued in excess of \$5,000. This series may include but is not limited to: acquisition specifications; acquisition justification studies and explanations; State Information Systems Resource Request forms; requests for proposal (RFP) forms; affidavit of publication for RFP forms; requests for invitations to bid (RFIs); requests for quotes (RFQs); vendors proposals and bids; bid tabulation sheets and records for all bids received; departmental requisition forms; competitive quotes; and related documentation and correspondence. **(Retention:** (a) 10 years after substantial completion: for agency accepted improvement bids, destroy (b) 6 years after bid awarded all other accepted bids, destroy (c) 2 years for records of rejected or bids non-awarded bids or proposals, destroy).

(2) **Equipment Inventory Records:** This series documents the acquisition, location, transfer, and disposition of state-owned property and equipment. This series may include but is not limited to: Equipment Inventory Lists; OUS Physical Inventory Information cards (CO-300 Form); OUS Equipment Inventory Forms (CO-350 Form); lost/stolen property reports; Damage or Loss of State Property Claim; equipment transfer forms and memos; and related documentation and correspondence. The series may also include biennial equipment list; returned departmental equipment inventory lists with annotations concerning resolution of problems associated with the accountability, physical condition, and physical location of specified pieces of equipment; and accountability and responsibility statements. **(Retention:** (a) Biennial inventory records: 4 years, destroy (b) All other records: 4 years after disposal of equipment from unit, destroy).

(3) **Equipment Loan Agreements Records:** This series documents the institution's lending of equipment to borrowers conducting research, educational programs, and/or other activities consistent with institution goals and missions. This series may include but is not limited to signed equipment loan agreements which outline the conditions under which the loan is made and the responsibility assumed by the borrower; and related documentation and correspondence. **(Retention:** 6 years after expiration of agreement, destroy).

(4) **Equipment Maintenance Records:** Series documents the operation, maintenance, service and repair of institutional equipment. Records may include: purchase orders; lease agreements; warranties; instructions and operating manuals; vendor statements; service contracts; charge call bills; fax activity reports; service logs; invoices for equipment repair; purchase request forms; and memoranda. **(Retention:** 1 year after disposition of equipment, destroy).

(5) **Equipment Rental and Loan Records:** This series is used to monitor the rental/loan and return of university property such as recreational equipment and lockers and is also used to determine usage trends as an aid to purchase and replacement decisions. Records may include rental agreements; loan forms; usage logs; and related correspondence. **(Retention:** 2 years after return of property)

(6) **Federal Property Records:** This series provides documentation for and monitoring of "agency-owned" (usually federal) properties loaned to the institution or agency-owned property purchased with (usually feder-

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al) non-institutional state funds for research contract use at the institution. Such property is carried on the state equipment inventory records for insurance and management purposes. This series may include but is not limited to Annual Equipment Inventory Lists; federal physical equipment inventory reports; copies of federal form DD 1419; institutional acquisition, transfer, and disposition forms; memoranda of understanding or agreements; and related documentation and correspondence. **(Retention:** (a) 6 years after expiration; memoranda of understanding and agreements, destroy (b) 3 years after final disposition of equipment or property: all other records, destroy).

(7) **Food and Alcohol Inventory Records:** This series is used to provide the department with a record of the dollar value of food, alcohol, and other consumable stock at the end of each month for planning, ordering, and fiscal accounting purposes. This series may include but is not limited to in-house computer generated food inventory reports; alcohol inventory reports; summary reports; and other related documentation and correspondence. **(Retention:** 4 years, destroy).

(8) **Food Ordering and Delivery Records:** This series is used to provide the office with verification of vendor deliveries, transfers of food and supplies from the housing office warehouse, updated pricing information, and other vendor information. This series may include but is not limited to photocopies of direct delivery vendor invoices; and requisition forms. **(Retention:** 4 years, destroy).

(9) **Issue Tickets Records:** This series documents the distribution of consumable supplies such as gasoline, oil, rock, gravel, and other supplies issued for authorized use. This series may include but is not limited to issue tickets; receipts; sign-out sheets or logs; journal vouchers; purchase authorizations; and other related documentation and correspondence. **(Retention:** 4 years, destroy).

(10) **Miscellaneous Closing of Books Reports:** This series documents fiscal year ending reports sent to the OUS Controller annually. This series includes but is not limited to reconciliation statements; reports on non-expendable property received; museum collections; vendors invoices; storeroom physical inventories; and related documentation and correspondence. **(Retention:** 6 years, destroy).

(11) **Personal Property Loan Agreements Records:** This series documents the institution's acceptance of responsibility for and conditions under which it borrows equipment from other entities. The series also documents conditions under which the institution will operate equipment borrowed from others. The series may include but is not limited to personal property loan agreement forms; letters of understanding; equipment conditions forms; and related documentation and correspondence. **(Retention:** 6 years after expiration of agreement, destroy).

(12) **Property Disposition Requests Records:** This series documents custodial units' requests to change the status of state-owned property. A status change may consist of declaring an item surplus, salvage or scrap, lost or stolen, transferred, traded in, etc. This series includes State Property Disposition Requests (PDR forms) and related documentation and correspondence. **(Retention:** 4 years, destroy).

(13) **Requisitions Records:** This series documents the purchase of supplies and services by the institution. This series may include but is not limited to purchase requests; State Purchase Request Forms; field purchase orders; inter-departmental requisitions for equipment, supplies, and services; and related documentation and correspondence. **(Retention:** 4 years, destroy).

(14) **Research and Teaching Drug Inventory Records:** This series documents the daily inventory of drugs and controlled substances held by units for clinical, instructional, and research uses. These records include daily shift inventory logs listing descriptions, quantities, and initials of pharmacists conducting the inventories. Complies with 21 CFR 1304.04(a). **(Retention:** 2 years, destroy).

(15) **Sale Inventory Records:** This series is used to document saleable items in colleges or unit's inventories. This series may include but is not limited to stock printouts; inventory reports; card files of stock; and related documentation and correspondence. **(Retention:** 4 years, destroy).

(16) **Shipping Lists and Packing Slips:** This series documents the receipt of equipment, supplies, other items and services from vendors. The series includes packing slips; shipping and container lists; and bills of lading. **(Retention:** 1 year, destroy).

(17) **Supplies Inventory Records:** This series documents the quantity and value of all supply items with a value of \$4999.99 or less. Supply Inventories are required by the institution on an annual basis and mandated by OUS every five years. This series may include but is not limited to a listing of institution-wide supplies inventories consolidated from each unit's submissions to the property administration office; departmental supplies

inventory forms (OUS Form CO 340A); supply lists and ledgers; OUS Estimated Supplies Reports; and related reports, documentation, and correspondence. **(Retention:** 4 years after superseded or obsolete, destroy).

(18) **Surplus Property Records:** This series documents changes in state owned property; requests to declare items surplus, salvage, or scrap; removal and sale or disposal of excess equipment and other surplus items including proceeds from sales. Records may include but may not be limited to surplus property declaration and pick-up requests; pick-up request worksheets; State Property Disposition Requests (PDR forms); quarterly and other computer generated reports of sales to other departments, agencies, or private parties; journal vouchers; descriptive information; property sale flyers; surplus property sales inventory lists; bills of sale; cash receipts; vehicle odometer statements; and related documentation and correspondence. **(Retention:** 4 years, destroy).

(19) **Vehicle Records:** This series documents departmental administration of vehicles such as cars, vans, trucks, trailers, boats, tractors, and farm vehicles for accounting and insurance purposes. It may also document the service history, accumulated mileage, and disposition of each vehicle of institutionally owned vehicles, including routine preventative maintenance, mechanical repairs, and accident damage repairs. This series may include but is not limited to registrations; vehicle warranties; maintenance agreements; service contracts; vehicle inventories containing information regarding description, dollar value, and date of purchase; maintenance and repair logs; maintenance requests and work orders; gas slips; repair notices and authorizations and related documentation and correspondence. **(Retention:** 2 years after disposal of vehicle, destroy).

(20) **Vehicle Title Records:** This series documents institution ownership of vehicles such as cars, vans, trucks, trailers, boats, tractors, and farm vehicles. This series includes title application materials and titles. **(Retention:** (a) Until title received for title application materials, destroy (b) Retain title for the duration of ownership, destroy).

(21) **Vendor History Reports:** This series is used for quick reference of vendor data, selection, and updating pertaining to departmental and college operations. This series may include but is not limited to: reports containing vendor numbers, payee names, invoice numbers, amounts, warrant/voucher numbers, and message comments; copies of purchase orders; requisitions; packing slips; promotional and advertising materials; product specification sheets; and related documentation and correspondence. **(Retention:** (a) Until superseded or obsolete for advertising materials, destroy (b) 2 years after superseded or obsolete for all other records, destroy).

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

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0035

Facilities and Property Records

(1) **Building Space Inventory and Valuation Records:** This series documents the buildings owned and leased by the various institutions within the Oregon University System both on and off campuses. Building Space Inventory reports are used to project institutional space needs; to identify deferred maintenance; and to provide cost recovery support documentation for major research universities receiving federal money, grants, or private gifts. The inventories are kept at the individual institutions with periodic updates being provided to the Board's Offices of Facilities Services. Records include but are not limited to computer generated reports with details by building (SP440-01), type of space (SP450-01), principal use (SP455-01), department (SP460-01), and area. Records may also include various summary reports such as Institution Summary by Building (SP445-01). All computerized reports are updated at least annually. OUS Facilities Services holds system-wide record copy of Space Inventory reports. Building Valuation Reports are used for State Insurance Fund (formerly State Restoration Fund) purposes and include building name, building number, location, capitalized value, and insured value. The report is prepared annually by the Controller's Division and distributed to the institutions. All updates, additions, and deletions are prepared at the institution level and reported to the Controller's Division. **(Retention:** (a) Permanent for summary space inventory reports and building valuation reports (b) 10 years for all other records, destroy).

(2) **Buildings/Grounds Repair, Maintenance, Remodeling, and Construction Records:** This series documents the condition, upkeep, and routine maintenance of the institution's buildings and grounds. It also documents remodeling and construction projects with a total expenditure of less than \$100,000 over six years. This series may include but is not limited to floor plans; specifications; layouts; sketches; maintenance agree-

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ments; work logs; sign-in sheets; and related documentation and correspondence. **(Retention:** (a) Permanent for floor plans, layouts, sketches, and specifications (b) 6 years for all other records, destroy).

(3) **Capital Construction Project Records:** This series is used to provide a record of the planning, administration, and implementation of current and potential capital construction projects on campus (projects with a total expenditure of at least \$100,000 over six years); to project needs for projects; and as a reference to projects once they have been completed. The series also provides a record of the funding of current capital construction projects on campus and to prepare budgets and allocations for capital construction projects. This series may include but is not limited to project descriptions and requirements; plans; plan reviews; project schedules; contract change orders; bid documentation; contracts and agreements with architects, artists, engineers, consultants, vendors, and contractors; materials and soils reports; progress reports; insurance reports; payment schedules; summary reports; memos; final acceptance statements; architectural blueprints; sketches; aerial photographs; preliminary planning drawings; as built drawings; drawings reflecting changes to the original plans; soil testing maps; any other type of graphic representation produced relating to buildings, systems, and land. The series also includes project descriptions; budget projection and allocation records; budget authorization forms; budget change orders; final acceptance statements; and related documentation and correspondence. **(Retention:** Permanent).

(4) **Chemical Application Records:** This series documents the application of chemicals such as pesticides, herbicides, and fertilizers to institutional property. Information usually includes date used; weather conditions; application area; chemical applied; mix ratio; and coverage rate. **(Retention:** 30 years, destroy).

(5) **Classroom and Laboratory Utilization Reports:** This series provides information about the utilization of classroom and laboratory space. This series includes preliminary and final reports which contain class number, time of the class, and the number of students in the class. **(Retention:** (a) 5 years for final utilization reports, destroy (b) 2 years for preliminary utilization reports, destroy).

(6) **Faculty and Staff Reports:** This series documents the number of full time equivalent (FTE) positions in instruction, research, administration, public service, fellowships, and classified staff. This series consists of forms from departments showing FTE positions (including social security numbers) and office space required. The summaries include department total FTE for each of the principal activity categories listed above. **(Retention:** (a) Permanent for summaries (b) 5 years for all other records, destroy).

(7) **Land Inventory Records:** This series documents real property owned and leased by the various institutions within the Oregon University System and lists each parcel that has been acquired through ownership or under some form of lease agreement. Records include but are not limited to Land Inventory Reports, the OUS Land Inventory manual, records pertaining to permanent land and deed filings with the state, and related documentation and correspondence. Information in the Land Inventory Reports includes from who the land was acquired, date of acquisition, use of the land, source of revenue used to acquire, acreage, capitalized value, and where the transaction is recorded in the Board minutes. OUS Facilities Services holds system-wide record copy and annual reports are provided to the institutions. **(Retention:** (a) Permanent for the OUS Land Inventory Manual, records relating to deeds, correspondence, and every fifth year of Land Inventory Reports (b) Until superseded or obsolete for all other Land Inventory Reports, destroy).

(8) **Property Tax Exemption Claim Records:** This series is used to document claims for exemptions from institutions paying property taxes in Oregon and other states due to the educational use of the property. Exemptions are typically made on an annual basis. Records may include applications for exemption and related documentation and correspondence. **(Retention:** 6 years, destroy).

(9) **Room Change Requests Forms:** This series documents room assignments and room remodeling done by facilities services units. Information on the change request forms may include but is not limited to the building and room; the reason for the change; who requested the change; who approved the change; date the change was requested; source of funds; special approvals needed and date approved. **(Retention:** 5 years, destroy).

(10) **Utilities Systems Operating and Maintenance Records:** This series documents the operations and maintenance of institutional utilities. This series may include but is not limited to equipment operations logs; mechanical readings charts; equipment maintenance histories; and related documentation and correspondence. **(Retention:** (a) 4 years after equip-

ment is no longer in service for equipment maintenance histories, destroy (b) 10 years for all other records, destroy).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0040

Fiscal — Accounts Records

(1) **Annual Fiscal Reports:** This series documents annual fiscal year-end status of accounts and is used to provide the office with summary information relating to its programs which may be used for planning or review. Records include Period 14 reconciliation reports; annual operating statements; schedules of rates; and related correspondence. **(Retention:** 10 years, destroy).

(2) **Building and Equipment Reserve Schedules:** Auxiliary enterprises and service departments are required to have a reserve account for equipment and buildings for purposes of buying, replacing, or repairing. Series is used as an individual account summary and to show what the balance should be, as well as the amount of current year entries needed to bring the account up to that balance. The series also serves as backup to the general ledger entries. Information may include building or equipment value, required reserve, actual balance, deficiency, and amount to transfer in the current fiscal year. **(Retention:** 6 years, destroy).

(3) **Certificates of Participation:** Records document the administration of Certificates of Participation (COP's) primarily sold to finance institutional equipment, software, hardware, and consultants' time. The series may also be used to split COP debt service amongst the institutions and make entries charging them for COP related debt service. Records may include but are not limited to Certificates of Participation, COP budget development and cash draw down records, and related executive and administrative correspondence. **(Retention:** (a) Permanent, executive correspondence (b) 4 years after COP maturity, all other records, destroy).

(4) **Chart Element Reports:** This series documents every fiscal FOAPAL element used by the institution which include Index, Fund, Organization, Account, Program, Activity and Location Codes. Records consist of reports generated on a particular FOAPAL element which include the element; a brief descriptive title; and effective, termination, and next change dates. **(Retention:** Until superseded or obsolete, destroy).

(5) **Chart Element Justification Records:** This series documents fiscal chart of accounts elements and an office's request to establish a new index or FOAPAL element, change an existing element, or terminate an existing one. Records consist of request forms which include a description of the request, the proposed FOAPAL and index elements, effective date, and signatures of requesters and authorizing officials. **(Retention:** Permanent).

(6) **Closing of the Books Records:** Series documents the resolution and reconciliation of accounts monitored by the institution, the OUS Budget and Fiscal Policies Office, or Controller's Office at the end of the fiscal year. Records include reconciliation statements provided by each institution to OUS Budgets and Fiscal Policies or the OUS Controller's Office concerning discrepant accounts for which they are responsible and related documentation and correspondence. **(Retention:** 6 years, destroy).

(7) **Correspondence, Fiscal:** Series documents communication between the agency and other government agencies, vendors, and the public pertaining to the agency's fiscal policy, obligations and revenue. Records include correspondence sent and received by the agency's administrative and/or business office staff. **(Retention:** 4 years, destroy).

(8) **Development and Endowment Management Fee Records:** This series documents the revenue earned quarterly on gift accounts and fees charged by the institution's development office. Information includes dates; gift account amounts and identification numbers; earnings; department or account responsible for payment; and fee amount. **(Retention:** 6 years, destroy).

(9) **General Ledger Statements:** This series provides a complete monthly record of the final posting of all university financial transactions, listed by account number. It is used to prepare periodic financial statements. Records contain: the program name; account number; posting date; debit and credit amounts; new balance; and related information. This is a closed series that was discontinued when the institution adopted the Banner Financial Information System (FIS). **(Retention:** (a) 15 years for List 13, destroy (b) 5 years for Lists 1-12, destroy).

(10) **Miscellaneous Accounting Reports:** This series documents the production of various accounting reports made by individual offices or departments on a daily, monthly, quarterly, or annual basis. These reports provide summary information relating to the department and its programs,

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and may be used for planning or review. Reports include operating statements, year-end projections, reconciliations, expenditures by facilities, accumulated hours and dollars by employee, summaries of assets and liabilities, sales, cost accounting, and income. This series does not include the year-end Closing of the Books Reports. Records may include but are not limited to working papers; drafts; final reports; and related documentation and correspondence. **(Retention:)** (a) 5 years for annual reports, destroy (b) 1 year for daily, monthly, and quarterly reports and working papers, destroy).

(11) **Operating and General Ledger Reconciliation Records:** This series documents monthly reconciliations with the operating ledger or general ledger. Records consist of working papers and monthly reconciliation reports. **(Retention:)** 6 years, destroy).

Stat. Auth.: ORS 192 & ORS 357
Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895
Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0045

Fiscal — Cash Records

(1) **Bank Advice Statement Records:** This series documents discrepancies (over or short) on bank deposits made by institutional cashiers. It is also a record of discount charges and rental charges by the bank for bank card use. Records consist of bank initiated advisories received by Business Affairs for adjustments to accounts because of bank or office clerical errors. **(Retention:)** 4 years, destroy).

(2) **Cash Batches Records:** This series documents all transactions of the day made by tellers in the cashier section of Business Affairs. Records include daily cash register tapes; Batch Control Cards listing daily summary totals from all cashier transactions; invoices; and cash receipts. **(Retention:)** 6 years, destroy).

(3) **Cash/Deposit Match Records:** This series documents the equality or inequality of cash receipts versus bank deposits on a daily basis. Records consist of weekly computer printouts that list the account numbers managed by the office with daily entries for cash receipts in each account and corresponding bank deposits in each account. The computer program flags those accounts where daily cash receipts do not equal bank deposits for that date and labels them "Out of Balance." **(Retention:)** 4 years, destroy).

(4) **Cash Records:** This series provides a record of cash received or disbursed by an office. It also documents all money received and deposited to departmental accounts through the cashier's daily bank deposits. Records may include but are not limited to departmental deposit vouchers; cash receipt slips; validation receipts; cash register tapes; bank deposit slips; check stubs; petty cash balance sheets; check registers; Cash by Account Number reports; and monthly cash register reports **(Retention:)** 5 years, destroy).

(5) **Cashier's Daily Summary Records:** This series documents and summarizes tellers' daily activity. Information includes amounts processed for payments; amount of checks; activity to and from the vault; beginning and ending daily cash; deposits made by other units; volume of bank cards processed; and cash over/short amounts. **(Retention:)** 4 years, destroy).

(6) **Credit Voucher Requisition Records:** This series documents funds released to students by the cashier division of Business Affairs as authorized by other units. Records include recipient signed receipts acknowledging receipt of funds from the Cashier; check stubs; and other documents. **(Retention:)** 5 years, destroy).

(7) **Log Out Records:** This series registers checks processed by the office and given to another party. The record is generated for cashier's window reference purposes. Records include photocopies of checks logged out to other departments; returned to sender; handed back to student; and copayee GSL/SLS checks in which the total check was used to pay charges or change given to student. **(Retention:)** 4 years, destroy).

(8) **Monthly Cash Reports:** This series provides a monthly listing of cash receipt transactions entered in batches that were accepted, including transactions placed in the suspense file; a monthly listing by account number of cash receipt transactions processed since the previous report; and cash receipts transactions with receivable account numbers that were not processed against the Accounts Receivable System. These records include transactions processed during the previous month listed in register-ring number sequence by cash date; transactions processed since the previous report including those placed in the suspense file, listed in alphabetical name sequence by cash date within account number; and cash receipt transactions with action codes below 500 in alphabetical sequence by cash date within account number. This is a closed series that was discontinued when

the institution adopted the Banner Financial Information System (FIS). **(Retention:)** 5 years, destroy).

(9) **Safekeeping Records:** This series documents funds placed with Business Offices for safekeeping in trust and their disbursement to students or departments. Funds may be placed by associations, corporations, or parents on behalf of specified students or departments. Records may include disbursement instructions; copies of checks; and receipts. **(Retention:)** 4 years, destroy).

(10) **Ticket Sales and Event Cash Reconciliation Records:** This series documents the printing, selling, distribution, and accounting of tickets for university-sponsored athletic, performing arts, and other events where tickets are sold for admission. A portion of athletic event receipts is shared with visiting teams. Records may include ticket stock orders; ticket type reports; ticket purchase manifest forms; box office balance sheets; ticket printing and control records; season ticket sales lists; receipts and orders for mail, phone, or in-person purchase of tickets; ticket sales summary sheets and reports; free ticket sign-up sheets; lists and reports of free tickets distributed to patrons, contributors, and others; deposit receipts; and related documentation and correspondence. Records pertaining to athletic events are kept in compliance with NCAA and state requirements. **(Retention:)** 5 years, destroy).

(11) **Weekly Cash Receipts Summaries:** This series documents cashiers' weekly transactions. Records consist of a weekly summary of all transactions sorted either by account number or alphabetically by the name of the person for whom the transactions were accomplished. Information includes individuals' names; social security numbers; transaction dates; account numbers affected; and debit/credit amounts. This is a closed series that was discontinued when the institution adopted the Banner Financial Information System (FIS). **(Retention:)** 6 years, destroy).

Stat. Auth.: ORS 192 & ORS 357
Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895
Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0050

Fiscal — Payables/Receivables Records

(1) **Accounts Aging Records:** This series provides a cumulative listing by accounts receivable number of all receivables on the Accounts Receivable master file in the Banner Student Information System. For each receivable, the amounts that are not yet due, currently due, and overdue are indicated. All amounts are principal amounts; interests, service charges, and late charges are not included. Records consist of account listings sorted alphabetically by customer showing balances. Listings are generated at the end of the fiscal year and at other times upon request. **(Retention:)** (a) 10 years for year-end listing, destroy (b) 4 years for other listings, destroy).

(2) **Accounts Payable Records:** This series documents a department's expenditures and purchases. The series may also be used to research, evaluate, and monitor prior transactions and/or track the budget. Records may include but are not limited to departmental purchase orders; contract release orders; balance sheets; bills; invoices; invoice vouchers; journal voucher/entry forms; price quotes; State of Oregon "B" Purchase Orders; departmental requisitions; justifications of purchases; payment authorizations; reports of receipt of goods or services; and related documentation and correspondence. **(Retention:)** 6 years, destroy).

(3) **Accounts Receivable Records:** This series is used by departments and offices to provide a record of billings and collections for the office and units/programs which report to the office. It is also used to provide a record of customers owing monies and to reconcile the account. Records may include but are not limited to Account Edit sheets; classified advertisement forms; VISA/Mastercard payment forms; invoices; journal vouchers; receipts; and related documentation and correspondence. **(Retention:)** 6 years after collected or deemed uncollectable, destroy).

(4) **Accounts Receivable Subsidiary Records:** This series provides a history of charges and payments recorded for each customer on the Banner Student Information System. Records consist of customer lists sorted by account number with charges and payments recorded for each customer in chronological sequence. **(Retention:)** 6 years, destroy).

(5) **Accounts Receivable Write-off Records:** This series documents debts of Accounts Receivables written off with the approval of the Secretary of State. Records include accounts receivable invoices; write-off worksheets; and the Oregon Secretary of State's approval and Assignment of Uncollectible Debt letters. **(Retention:)** 6 years after write-off, destroy).

(6) **Canceled Checks:** This series documents redeemed checks written on university accounts. Information on each check may include check number, date, amount, endorsement, account number, validation data, and related documentation. **(Retention:)** 6 years, destroy).

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(7) **Charge Airfare Records:** This series documents airfares purchased as part of institutional business. Records include forms used to authorize the issuance of airline tickets and the charging of fares to a university account. **(Retention:** 6 years, destroy).

(8) **Check Stubs:** Series documents the issuance of checks for payment in exchange for goods and services including payroll. Records include check stubs. **(Retention:** 6 years, destroy).

(9) **Collection Records:** This series documents the office's efforts to collect unpaid accounts. Records include collection letters; notices; letters of transmittal; and bankruptcy records. **(Retention:** 6 years after account is paid in full, destroy).

(10) **Credit Card Administration Records:** Series documents administration of credit cards issued to institutional staff and units. Records may include applications; master monthly billing statements; individual card holders' statements; billing summaries; printouts including vendor analysis by code; number of charges and stores; use summaries; related correspondence. **(Retention:** (a) 6 years after card expiration for applications, destroy (b) 6 years for all other records, destroy).

(11) **Moving Expenses Records:** This series documents new employees' moving and travel expenses paid by the institution. Records may include but are not limited to requests for approval-travel and moving reimbursement of new employee forms; purchase orders; travel reimbursement requests; vendor invoices; and receipts. **(Retention:** 6 years, destroy).

(12) **Refund/Disbursements Request Records:** This series documents requests and disbursements made for overpayment and refunds. Records include accounting data for refunds from parking violation fines paid and successfully appealed; tuition and fee refunds when courses are dropped; refunds for event tickets, loan overpayments, change-of-residence, and canceled courses; a log of refunds and requests to the state treasurer for checks to be issued. **(Retention:** 6 years, destroy).

(13) **Registration Fee Records:** This series documents the payment of registration fees, which are considered travel expenses. Records may include but are not limited to completed registration forms; journal vouchers; invoices; purchase orders; and wire transfer forms. **(Retention:** 6 years, destroy).

(14) **Returned Checks Records:** This series documents attempts to collect monies for non-negotiable (usually non-sufficient funds) checks received for payment to university accounts. Records consist of master lists of checks returned to the University and contain names; addresses; telephone numbers; banks upon which checks were drawn; reasons for return; and notations of any prior activity. **(Retention:** 6 years, destroy).

(15) **Revolving Charge Agreements Records:** This series documents a student's agreement with the provisions of the accounts receivable revolving account and his/her intent to attend the institution. Records include agreement forms signed by each student. **(Retention:** 3 years after last enrollment, destroy).

(16) **Travel Records:** This series may be used: to document requests for and approval of travel by employees of the institution or the agency; to monitor travel expenditures; for planning purposes; to document changes in dates of travel, changes in the name of the traveler, changes in itinerary, or changes in funding sources within an out-of-state travel authorization; and to document approval for vehicle rental. Records may include but are not limited to out-of-state travel authorization forms, travel itineraries, travel advance forms, travel reimbursement requests (employee and non-employee), receipts, approval memos, vehicle mileage reporting records, memos in place of itemized receipt, affidavits of lost receipt memos, authorizing signatures, and related documentation and correspondence. **(Retention:** 6 years, destroy).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0055

Financial Aid Records

(1) **Athletic Scholarship and Grant-In-Aid Award Records:** This series is used to provide athletic departments with information pertaining to player eligibility and receipt of financial aid in the form of scholarships including grant-in-aid scholarships, to monitor accounts, and to assist in complying with NCAA, NAIA and conference rules and regulations. These records include squad lists which furnish summary information; conference eligibility reports; team roster update sheets; scholarship count sheets showing who is on the schedule to receive aid; applications; nominee lists; eligibility questionnaires; eligibility reports which determine years of eligibility unused; credit voucher request sheets notes; and related documenta-

tion and correspondence. **(Retention:** (a) 10 years for NCAA records, destroy (b) 5 years for all other records, destroy).

(2) **Borrowers Loan Records:** This series documents and is a monitoring tool for all Perkins and National Direct Student Loans. This series consists of files for each borrower. This series may include but is not limited to repayment schedules; statements of rights and responsibilities; records of actions taken; and related documentation and correspondence. **(Retention:** 3 years after loan repayment or assignment to U.S. Department of Education, destroy).

(3) **Borrowers Loan Records (Canceled):** This series documents Perkins and National Direct Student Loans that have been canceled because of bankruptcy, death or disability, bad debts, write-offs, and assignments. This series consists of files for each borrower. This series may include but is not limited to: repayment schedules; statements of rights and responsibilities; records of actions taken; doctors statements and other medical evidence; and related documentation and correspondence. **(Retention:** 3 years after debt cancellation or assignment to U.S. Department of Education, destroy).

(4) **Credit Bureau Reports:** This series documents holders of student loans that have been reported to credit bureaus. This series contains reports which list each borrower's name; the amount past due; and related documentation. **(Retention:** 2 years after collected or deemed uncollectable, destroy).

(5) **Federal Title IV, Program Records, Institutional Records:** Records document eligibility to participate and school's administration of Federal Title IV and programs. Records include Institutional Program Participation Agreement; Recertification; Education program eligibility; Accreditation reviews; and reports; State agency reports; Audits and program reviews; Other records, as specified in regulation, that pertain to factors of financial responsibility and standards of administrative capability; and Consortia Agreements between and amongst schools. **(Retention:** (a) Agreements: 6 years after expiration, destroy (b) Records pertaining to borrower eligibility: 3 years after the end of the award year in which the student borrower last attended the institution, destroy (c) Fiscal Operations Report, Application to Participate and supporting documentation: 3 years after the end of the award year in which the FISAP is submitted, destroy (d) Records involved in any loan, claim, or expenditure questioned by a Title IV, HEA program audit or review, investigation, or other review: Until the resolution of that questioned loan, claim, or expenditure, or the end of the retention period applicable to the record, whichever is longer, destroy).

(6) **FFELP and Direct Loan Records:** Records relate to Federal Family Education Loan Program (FFELP) and Direct Loan Programs including but not limited to Eligibility (student and/or parent); Application; Disbursement records; Promissory notes; and Student Status Confirmation Reports (SSCR). **(Retention:** (a) Records relating to a student or parent borrower's eligibility: 3 years after the end of the award year in which the student borrower last attended the institution, destroy (b) Other records relating to the participation in FFELP or Direct Loan Program: 3 years after the end of the award year in which the records are submitted, destroy (c) Records involved in any loan, claim, or expenditure questioned by a Title IV, HEA program audit or review, investigation, or other review: Until the resolution of that questioned loan, claim, or expenditure; or the end of the retention period applicable to the record, whichever is longer, destroy).

(7) **Financial Aid Annual Reports:** Records document cumulative loan activity of each fiscal year through a required year-end report made to the U. S. Department of Education. Records may include but are not limited to schedules and instructions; working papers; exhibits audit reports; findings; rebuttals; and related documentation and correspondence. **(Retention:** (a) Audit reports, exhibits, findings, rebuttals: 20 years, destroy (b) Other records: Until completion of audit, destroy).

(8) **Financial Aid Transcripts Hold Records:** This series is used to monitor students who have been delinquent in or in default of financial aid payments. Records include lists indicating: students' names and addresses; academic majors and standings; and account status. This is a closed series. **(Retention:** 5 years, destroy).

(9) **Fiscal Records and Reports:** Records document Federal Title IV Aid transactions, including receipt, management and disbursement of funds. Records of all Title IV program transactions; Bank statements for all accounts continuing Title IV payments, cash disbursements, refunds, and repayments; General ledger (must be separate from school's other financial transactions) and related ledgers that identify each Title IV program transaction; Federal work-study payroll records; Annual Federal Fiscal Operations and Applications for Funds Report (FISAP). Records support data appearing on required reports: Federal Pell Grant Statements of Account; ED Payment Management system cash requests and quarterly or

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monthly reports; Title IV program reconciliation reports; Audit reports and school responses; State Grant and Scholarship award rosters and reports; Accrediting and licensing agency reports. **(Retention:** 3 years after the end of the award year unless otherwise specified, destroy. FISAP exception: 3 years after the end of the award year in which the FISAP was submitted, destroy).

(10) **Graduate Student Tuition Remission Records:** This series documents the remission of tuition for courses taken by eligible graduate students, such as research and/or teaching assistants. This series may include but is not limited to authorizations; reconciled lists; account summaries; and related documentation. **(Retention:** 8 years, destroy).

(11) **Loan Activity Records:** This series documents payments, adjustments, draw advances, address and status changes, cancellations, deferments, and postponements on borrower's accounts. **(Retention:** 3 years after loan is paid, destroy).

(12) **Minority Scholars Program (MSP) Records:** This series documents the application, selection, and progress of students belonging to various minority groups who apply for the OUS Minority Scholar Scholarship. This series may contain but is not limited to MSP applications; candidate selection information; academic and personal information about applicants; notifications of award; notifications of denial of award; applicants letters of decline; notification of transfer to another institution; and related documentation and correspondence. This is a closed series. **(Retention:** 5 years after award notification, destroy).

(13) **Month-to-Date Transaction Reports:** This series documents student loan activity on a monthly basis by transaction type. This series consists of computer output microfiche which lists students alphabetically by transaction type. This is a closed series. **(Retention:** 2 years, destroy).

(14) **Pell Grant Reports:** This series consists of copies of summary reports submitted to the Pell Grant Scholarship program on a routine basis. Reports are submitted on OMB 1840-0540 and summarize money awarded, received and disbursed, the balance remaining, and dates. **(Retention:** 5 years after audit, destroy).

(15) **Perkins Loan Program Records:** Records relate to Perkins Student Loan, National Direct Student Loan, and Nursing Loan; and show each borrower's payment history (showing date and amount of each repayment) and amount of each repayment credited to principal, interest, collection costs, and penalty or late charges. Documentation of each contact with borrower or endorser in collection of overdue loan, including date, nature, result of the contact, and copies of all correspondence, collection agency reports, and litigation records. **(Retention:** (a) Records relating to the administration of the loan: 3 years after the end of the award year for which aid was awarded and disbursed, destroy (b) Fiscal Operations Report, Application to Participate and supporting documentation: 3 years after the end of the award year in which the FISAP is submitted, destroy (c) Records involved in any loan, claim, or expenditure questioned by a Title IV, HEA program audit or review, investigation, or other review: Until the resolution of that questioned loan, claim, or expenditure; or the end of the retention period applicable to the record, whichever is longer, destroy).

(16) **Student Loan Cash Input Transaction Lists:** This series documents the repayment of student loans on a daily basis and is used to apply the loan payments to the individual student accounts. This series includes daily listings of loan payments received. **(Retention:** 4 years, destroy).

(17) **Student Financial Aid Records:** Records document student eligibility common to all Federal Title IV Aid Programs. May include, but not limited to: Student Aid Report (SAR) or Institutional Student Information Report (ISIR) used to determine eligibility; documentation of need and eligibility for Title IV funds; Cost of attendance information; documents used to verify applicant data; required student certification statements and supporting documentation; documentation of all professional judgments decisions; financial aid history information for transfer students; documentation of student's satisfactory academic progress; documentation of amount, date, and basis of all refund and repayment calculations for a student (last dates of attendance, grade rosters); and documentation of outside resources. **(Retention:** (a) Records relating to a student or parent borrower's eligibility: 3 years after the end of the award year in which the student borrower last attended the institution, destroy (b) Other records relating to the participation in FFEL or Direct Loan Program: 3 years after the end of the award year in which the records are submitted, destroy (c) Fiscal Operations Report, Application to Participate and supporting documentation: 3 years after the end of the award year in which the FISAP is submitted, destroy (d) Records involved in any loan, claim, or expenditure questioned by a Title IV, HEA program audit or review, investigation, or other review: Until the resolution of that questioned loan, claim, or expenditure or the end

of the retention period applicable to the record, whichever is longer, destroy).

(18) **Student Loan Check Request Lists:** This series documents loan disbursements made to students. This series consists of quarterly lists of loan checks issued from either the Controllers Division or the institution Business Manager's Revolving Fund. This is a closed series. **(Retention:** 4 years, destroy).

(19) **Student Loan Payment Coupons:** This series documents payments made by holders of student loans. This series consists of payment coupons which accompany each quarterly or monthly payment made to the student loan office. **(Retention:** 4 years, destroy).

(20) **Student Promissory Notes:** This series consists of the promissory notes for student loans negotiated for the current academic year. The notes become part of the borrowers loan records at the end of the academic year. **(Retention:** 3 years after repayment, destroy).

(21) **Work Study Program Administrative Records:** Series documents the administration of the Federal Work Study program at the institution. Records include job descriptions; award letters; pay rate change notices and related correspondence. **(Retention:** 3 years, destroy).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0065

Health Services Records

(1) **Client Records:** This series documents provision of health-related services to clients on an outpatient basis by offices other than the student health center. Examples of types of services are speech therapy; hearing testing, and cholesterol screening. This series may include but is not limited to tests; goals and objectives; diagnostic reports; questionnaires; and related data. **(Retention:** 7 years after last service or until client reaches age 21, whichever is longer, destroy).

(2) **Communicable Disease Records:** This series fulfills the public health requirement of reporting the discovery of communicable disease. This series may include but is not limited to laboratory test results; name and address of student; date; and person making referral. Information is transferred to the county health department, but the log is maintained by the laboratory. **(Retention:** 5 years, destroy).

(3) **Health History Forms:** This series documents a student's medical history. The series contains student medical history forms for students who have never visited an institutional student health center and therefore do not have a medical record on file. These forms are a prerequisite for enrollment at most institutions. **(Retention:** 7 years after last service, destroy).

(4) **Immunization Reporting Records:** This series is used to comply with Oregon State Health Division reporting requirements for immunizations given to patients. Records may include immunization log sheets; annual reports; ITARS (Immunization Tracking and Recall System) documentation and related correspondence. **(Retention:** (a) 25 years from last date of service for ITARS records, destroy (b) 10 years for immunization log sheets and annual reports, destroy (c) 7 years after last service or until 21st birthday, whichever is longer, destroy).

(5) **Laboratory Inspection Records:** This series documents in-house inspection of laboratory equipment on a quarterly basis. This series may include but is not limited to a checklist of all equipment; calibrations; and conditions. **(Retention:** (a) For the life of the equipment for calibrations, destroy (b) 3 years for all other records, destroy).

(6) **Laboratory Test Requests:** This series documents physician orders for laboratory tests for students receiving services at the student health center. This series may include but is not limited to name of student; date; test(s) ordered; and physician's signature. **(Retention:** 2 years, destroy).

(7) **Licensure Records:** This series documents the professional and regulatory issuance of credentials to individuals and facilities providing services within the student health center. This series may include but is not limited to license applications; College of American Pathologists comparative test results for laboratory licensing; Oregon Pharmacy Board Retail Drug Outlet/Controlled Substance Registration (licensure) and inspection reports; individual employee professional licenses; and related correspondence. **(Retention:** Until superseded or obsolete, destroy).

(8) **Medical Records:** This series documents the medical services history provided for students treated by the student health center. This series may include but is not limited to appointment request slips; summary sheets; bacteriology test results; treatment record forms; diagnosis sheets; health history/screening sheets; initial evaluation/assessment sheets; refer-

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ral sheets; health center billing statements; personal health history sheets; dental examination sheets and X-rays; laboratory test results; physical therapy notes; X-ray release forms; X-ray requisitions with narrative of radiologist; notes; memoranda; and related correspondence. **(Retention: 7 years after last service or until client reaches age 21, whichever is longer, destroy).**

(9) **Non-Student Medical Records:** This series documents medical services provided to non-students by the institution's student health center, such as allergy shot, vaccines, and blood pressure checks. Records include medical history forms; notations of services provided and dates; payment information; and related correspondence. **(Retention: 7 years after last service or until client reaches age 21, whichever is longer, destroy).**

(10) **Patient Logs:** This series is used to log in patients who visit the student health center (both in-patients and out-patients). It may also be used to create annual census reports and 3-year census comparisons. Log information may include the date and time that the patient came in; the physician assigned; diagnosis; admission/discharge date; length of stay; and remarks. **(Retention: 3 years, destroy).**

(11) **Patient Satisfaction Surveys:** This series documents patient comments on services provided by the student health center and is used to plan for a change in services. The surveys may include but are not limited to rating of services; type of services rendered; statistics about the student; and possibly names and addresses. **(Retention: 3 years, destroy).**

(12) **Pharmacy Prescription Dispensation Records:** This series is used to provide an individual, daily summary, and annual summary record of initial drug dispensation and refills administered by the department as required by the Oregon State Pharmacy Board. This series may include but is not limited to prescription slips; in-house computer-generated Rx registers; controlled substance reports; and data base purge reports. **(Retention: 3 years, destroy).**

(13) **Practitioner Schedules:** This series documents the practitioners' work schedules which are used to clarify assigned responsibilities. This series includes dates and times of assignments; practitioner names; and responsibilities. **(Retention: 2 years, destroy).**

(14) **Radiographic Quality Assurance Records:** This series documents the setting of measurable standards and procedures for radiographic safety and professional quality by professionals on staff. This series may include but is not limited to reports by the radiographic staff; quality assurance committee notes; and staff reviews. **(Retention: 3 years, destroy).**

(15) **Student Health Insurance Records:** This series documents students' insurance coverage activity under institution insurance policies. This series may include but is not limited to benefit explanations; payment summaries; photocopies of checks; invoices; policy change sheets; ledgers; individual student correspondence relating to their coverage; and related correspondence with the insurance company. **(Retention: 2 years after expiration of policy, destroy).**

(16) **Surgical Instrument Sterilization Records:** This series documents the sterilization of surgical instruments used by the student health center. This series may include but is not limited to autoclave recording charts and log sheets indicating date; load number; items sterilized; and temperature/time settings. **(Retention: 1 year, destroy).**

(17) **X-Rays:** This series consists of student X-rays taken by student health center staff. X-rays are stored alphabetically in envelopes identified by year, name, and view. This series may also include but is not limited to a log of X-rays going out and coming in for professional reference and related documentation. **(Retention: 7 years after date of last service, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0070

Information Management Records

(1) **Computer System Maintenance Records:** This series documents the maintenance of the institution's computer systems and is used to insure compliance with any warranties or service contracts, schedule regular maintenance and diagnose system or component problems, and document system backups. Records may include computer equipment inventories; hardware performance reports; component maintenance records (invoices, warranties, maintenance logs, correspondence, maintenance reports, and related records); system backup reports; and backup tape inventories. **(Retention: (a) For life of system or component for records related to system or component repair or service, destroy (b) Until superseded or obsolete for records related to regular or vital records backups, destroy).**

(2) **Computer System Program Documentation Records:** This series documents the addition, modification, or removal of software from an agency computer system. Records usually fall into six categories — records that document operating systems; records that document the in-house creation and modification of application programs; records that document the structure and form of datasets; records that document the use of commercial software packages; records that document the structure of the system; and records that document system-to-system communication. Records may include system overviews; operations logs; job listings; operator instruction manuals; system development logs; system specifications and changes including narrative and flow chart descriptions; conversion notes; dataset logs; dataset inventories; dataset 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; and commercial software manuals. **(Retention: For the life of the system, destroy).**

(3) **Computer System Security Records:** This series documents the security of an institution, department, or office computer system. Records may include but are not limited to employee access requests, passwords, access authorizations, system access logs, encryption keys, and related documentation. This series also includes "Banner User Account Renewal Forms" which are used to track Banner user accounts to ensure appropriate access to various databases. **(Retention: (a) 3 years for system access logs, destroy (b) 3 years after superseded or obsolete for all other records, destroy).**

(4) **Forms Development Records:** This series documents the development of new or revised forms within the institution and is used to provide a history of previous forms. Records may include sample forms; drafts; revisions; form logs/listing; proposals; authorizations; and illustrations. **(Retention: Until superseded or obsolete, destroy).**

(5) **Information System Planning and Development Records:** This series documents the planning and development of university 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 an agency fulfill its missions, are cost-effective, conform to adopted information standards, and integrate with existing agency 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; studies and surveys; system specifications and revisions; component proposals; technical literature; vendor literature and proposals; and correspondence. **(Retention: (a) For life of system for implemented systems, destroy (b) 3 years for unimplemented systems, destroy).**

(6) **Microfilm Quality Control Records:** This series documents that microfilm produced by or for system institutions conforms to the specifications required by Oregon Administrative Rules 166-025-0005 to 166-025-0030. Records may include: microfilmed records lists; microfilm reel indexes; service bureau transmittals; film inspection reports; methylene blue certifications; Security Copy Depository transmittals; camera/processor/duplicator inspection reports; equipment and operator logs; and correspondence. **(Retention: For the same retention period as related microfilm, destroy).**

(7) **Software Management Records:** This series documents the use of software in agency information systems. The series is used to insure that agency software packages are compatible, that license and copyright provisions are in compliance, and that upgrades are obtained in a timely manner. Records include software purchase records; software inventories; software licenses; site licenses; and correspondence. **(Retention: Until software is disposed of or upgraded, destroy).**

(8) **Telecommunication System Management Records:** This series documents the creation, modification, and disposition of university telecommunications systems. Records include: equipment records; Federal Communications Commission records; repair order forms; system planning records; telecommunications maintenance contracts and service orders; and related correspondence. **(Retention: For life of system, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0075

Institutional Services Records

(1) **Authorization Code Ordering and Assignment Forms:** This series documents the assignment of long distance authorization codes to institution employees. This series consists of authorization code ordering

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and assignment forms which list an activity code; user/function name; account number; FRL code; and authorization code number for each employee assigned a code. **(Retention: 2 years after superseded or revoked, destroy).**

(2) **Automatic Call Distribution Vector Records:** This series documents the technical programming for each automatic call distribution (ACD) account on campus. This programming, known as vector instructions, electronically routes phone calls coming in to a given phone number account, known as a split, to available phones or message systems. This series also contains the names of staff members and extension numbers that are appropriate to each account. This series may include but is not limited to vector instructions sheets; announcement scripts; lists of supervisor extensions of each split; lists of ACD member extensions of each split; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(3) **Bicycle Licenses/Permits Records:** This series documents the registration of bicycles on campus. This series includes registration cards completed by institution students, faculty, and staff for use of bicycles on campus. Information on the cards includes owner/user names; social security numbers; addresses; telephone numbers; bicycle frame serial numbers; bicycle models; and permit numbers. **(Retention: 2 years, destroy).**

(4) **Calling Card Records:** This series documents the assignment to and use of calling cards issued to institution employees. This series may include but is not limited to credit card order forms; account change documentation; and related documentation and correspondence. **(Retention: 2 years after superseded or revoked, destroy).**

(5) **Child and Youth Program Participant Records:** This series documents the participation of children and youth in programs sponsored by the institution, including 4H programs. The series may include but is not limited to applications; enrollment records; progress reports and assessments; immunization records; parental consent forms; activity records; lists of attendees; and related correspondence. **(Retention: 3 years, destroy).**

(6) **Child Care Facility Client Records:** This series provides a record of enrollment, admission, attendance, and activities of children at child care facilities operated by OUS institutions and documents compliance with applicable state agency requirements. Records may include but are not limited to applications for admission; emergency notification forms; attendance records including sign-in sheets; authorizations to administer medications; records documenting permission to obtain emergency medical treatment; records documenting permission to participate in field trips or other activities; immunization records; learning and motor skills assessments; and release forms. The series may also include a record of suspected or reported child abuse and accident reporting including narratives, notes, record of contact with state Child and Family Services representatives and law enforcement officials; records verifying staff training in child abuse recognition; and accident reporting forms. **(Retention: 2 years after participant leaves program, destroy).**

(7) **Child Care Facility Food/Nutrition Service Program Records:** Records document the administration of child care food programs which provide meals to children at institution child care facilities operated by OUS institutions. Typically, application is made annually to the U.S. Department of Agriculture for assistance in running food service programs. Records may include but are not limited to meal production records, menus, and attendance forms; applicants income statements; enrollment rosters; operational reports; nutrition program reviews; food supply inventories; sanitation inspection reports; and related documentation and correspondence. **(Retention: 4 years, destroy).**

(8) **Child Care Facility License Records:** Records document the licensing of school child care facilities by the Oregon Child Care Division or other licensing agencies. Records may include but are not limited to sanitation inspections, fire safety reports, fire and other emergency drill records, staff development and training records, staff criminal history checks, staff qualification forms, time sheets, staff first aid cards, staff driving records, staff orientation records, official license, Child Care Division inspection reports and certification and related correspondence. **(Retention: (a) Time sheets 4 years, destroy (b) Staff first aid cards, licenses, certifications, and inspections, 2 years after superseded, expiration, or obsolete, destroy (c) All other records, 2 years, destroy).**

(9) **Department of Motor Vehicles (DMV) Lists:** This series is used to trace ticketed vehicles to owners who have not satisfied parking citations. This series contains computer reports from the Oregon Department of Motor Vehicles. Information in the reports may include but is not limited to car license plate number; name of registered owner; address of owner; and related data elements. **(Retention: Until superseded or obsolete, destroy).**

(10) **Events Administration Records:** This series documents facilities, services and other accommodations provided by the institution for

events on campus. Records may include facilities reservation agreements; room reservation lists; customer and room occupancy lists; catering services orders; purchase and supply records; financial and billing records; customer evaluations; summary reports; and related correspondence. **(Retention: (a) 6 years after expiration for agreements, destroy (b) 2 years for all other records, destroy).**

(11) **Facsimile (Fax) Records:** This series documents the sending and receiving of fax messages for institution business purposes. This series may include but is not limited to logs of messages sent and received and fax cover sheets. **(Retention: (a) 1 month for fax cover sheets, destroy (b) 1 year for logs, destroy).**

(12) **Identification Cards Records:** This series documents the issuance of identification cards to university students, staff and faculty. Records may include: signature cards; monthly detail reports; and related correspondence. **(Retention: (a) Until not valid for signature cards, destroy (b) 5 years all other records, destroy).**

(13) **Key Issuance Records:** This series documents key assignments and deposits (if applicable) for institutional faculty, staff, students, and others using the institution's facilities. The series may include but is not limited to key pinning sequence records; key issue approval forms; return forms; key inventories; hall directors' sign out forms; deposit books; bank statements; refund forms; key logs; and related documentation and correspondence. **(Retention: 1 year after key is checked in, destroy).**

(14) **Menus:** This series is used to provide a record of approved menus to be cycled on a monthly basis in each food service location. It is also used for cost planning and ordering of food and supplies. Information on the individual menus may include but is not limited to the foods to be served and the dates, times and locations of service. **(Retention: 3 years, destroy).**

(15) **Oregon Liquor Control Commission Records:** This series is used to provide a record of annual and temporary event licensing by the Oregon Liquor Control Commission for dispensing and serving alcoholic beverages. The series may also be used to document the training certification of employees. This series may include but is not limited to applications for licensing; applications for server permits; purchase orders for training costs; and related documentation and correspondence. **(Retention: 4 years after termination of license and server permit, destroy).**

(16) **Parking Citations Records:** This series documents the regulation of on-campus parking. This series may include but is not limited to citations; appeal petitions; and related documentation and correspondence. **(Retention: 2 years after resolution, destroy).**

(17) **Parking Permits Records:** This series documents the issuance of permits for on-campus parking. This series may include but is not limited to annual permit cards; temporary permits; parking permit reports; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(18) **Postal and Shipping Records:** This series provides a record of items that are mailed by the department via UPS, U.S. Postal Service, Federal Express, or another carrier. Records may be used for billing and/or tracing. These records include printing and mailing shipping forms; parcel mailing order forms; postage forms; and related correspondence. **(Retention: 3 years, destroy).**

(19) **Quality Control Inspection Records:** This series is used to monitor the quality of services provided by a unit. This series may include but is not limited to narrative reports; inspection forms; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(20) **Telephone Complaints/Fraud Records:** This series documents the investigation of complaints of telephone misuse, primarily regarding student telephones and long distance bills that are reportedly not legitimate charges. This series may include but is not limited to memos; notes; copies of long distance bills; and related documentation and correspondence. **(Retention: 5 years after resolution, destroy).**

(21) **Utility Locate Requests:** This series documents the notification of persons anticipating digging on campus property who need to know the locations of underground utility lines. Request information may include but is not limited to the date and location of the work; miscellaneous instructions; contact person; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(22) **Work Orders Records:** This series documents requests and authorizations for needed services and/or repairs to institutional property and equipment. It may also be used as a cost reference for future jobs. This series may include but is not limited to: copy center work orders; printing orders; photographic work orders; display preparation orders; microfilming orders; telephone service/installation requests and change orders; maintenance and repair authorizations; library materials preparation authoriza-

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tions; and related documentation and correspondence. **(Retention:** 4 years, destroy).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0080

Intercollegiate Athletics Records

(1) **Annual Fund Drive Records:** This series documents the plans, arrangements, and results of annual athletic fund drives. This series may include but is not limited to brochures; prize lists; pledge cards; mailing arrangements; reports; fiscal summaries; and related documentation and correspondence. **(Retention:** 10 years, destroy).

(2) **Athletic Eligibility Records:** This series is used to provide a record of verification by intercollegiate athletics of student athletes' academic progress to the NCAA or NAIA. These records include computer generated academic progress reports. **(Retention:** 10 years, destroy).

(3) **Catastrophic Injury Records:** This series documents on-going insurance activity on cases that qualified for catastrophic status by having claims of over \$50,000 for NCAA schools and \$25,000 for NAIA schools in the first two years of the claim. This series may include but is not limited to accident reports; annual insurance questionnaires; notes; claim forms; and related documentation and correspondence. **(Retention:** 75 years, destroy).

(4) **Claims Payment Records:** This series documents the verification and payment of secondary coverage insurance claims of injured student athletes. This series may include but is not limited to lists of requests for claims payment; transmittal letters (CO 163-Rev 10/91) to the Controller's Division for reimbursement of the institution; Proof of Loss (CO-164-2/92) forms; intercollegiate athletic reports from OUS Human Resources; ledgers of providers, payment amounts, and reference numbers; and related documentation and correspondence. **(Retention:** 5 years after claim is settled, destroy).

(5) **Competition Record Forms:** This series provides a summary record of individual games and competitions and is used to comply with NCAA and NAIA reporting requirements for both revenue and non-revenue producing sports. Information on the individual forms includes sport name; opponent name; date; event location; final score; player names and positions; time played per athlete; and the signature of the head coach or athletic director. **(Retention:** 10 years, destroy).

(6) **Donor Recognition Records:** This series documents athletic fund donors of various levels and the recognition given. This series may include but is not limited to lists of donors by gift level; award lists; and related documentation and correspondence. **(Retention:** 5 years after discontinuation of donations, destroy).

(7) **Game Arrangement Records:** This series is used to provide a reference record of arrangements made for and the schedules of past games. This series may include but is not limited to team practice schedules; team position assignments/depth charts; itineraries; bus lists; notes; and related documentation and correspondence. **(Retention:** 5 years, destroy).

(8) **Game Officials' Evaluation Forms:** This series is used to provide a record of the head coach's evaluation of judging officials' performance at individual football games. The series is also used to comply with NCAA, NAIA and conference rules and regulations. Information on the individual forms includes team names; site; game date; judging officials' names; evaluative scores; comments; and coach's signature. **(Retention:** 1 year, destroy).

(9) **Game Statistics:** This series documents the practice, playing, and attendance statistics about each game and the season for each sport by playing year. This series may include but is not limited to player academic statistics; attendance figures; player training charts; season and game player statistics; recruitment records; special teams statistics; rankings; awards information; NAIA and NCAA game statistics; media releases; all-conference nominations; spring and fall camp depth charts; numerical rosters; media guides; narrative reports on games and scrimmages; final team statistics for each game; NAIA and NCAA official scoring summaries; play-by-play written reports; and related documentation and correspondence. **(Retention:** Permanent).

(10) **Gift-In-Kind Donors Records:** This series documents donors who are available to provide services to athletic events as donations and the use of donated funds. Information in this series may include names of donors, names of businesses, type of donations, and level of giving; past gift records; and related documentation and correspondence. The series may also include contribution notices; invoices; purchase orders; and

receipts. **(Retention:** (a) 5 years after discontinuation of donations for donor records, destroy (b) 5 years for fiscal documentation, destroy).

(11) **Individual Athletes Records:** This series documents the athletic history of each athlete who has competed at the institution. Frequently, this series is a continuation of the recruitment file and includes recruitment records if an athlete signs a letter of intent. Records may include and may not be limited to academic major information including performance reports, admissions verification reports, academic transcripts, and financial aid information; recruitment information documents; media articles; photographs; release of information forms; personal data questionnaires; records of awards; and related documentation and correspondence. **(Retention:** (a) 5 years after separation from the institution for student records containing confidential information, destroy (b) Permanent for all other records)

(12) **Insurance Records:** This series documents medical treatment services rendered off campus for practice or playing related injuries or illnesses which are eligible for partial payment by intercollegiate athletic insurance. This series may include but is not limited to copies of policies; accident reports; annual insurance questionnaires; notes; claim forms; negotiations correspondence; payment of insurance records; and related documentation and correspondence. **(Retention:** 10 years, destroy).

(13) **Play Books:** This series documents the strategies, practice time and game plays for each game and the season. This series may include but is not limited to practice plans; game plans; and game results **(Retention:** 5 years, destroy).

(14) **Positive Drug Test Records:** This series is used to provide the athletic director with a record of the positive results of drug testing done on student athletes. These records include lab reports; interpretations; and related documentation and correspondence. **(Retention:** 5 years or end of eligibility, whichever is later, destroy).

(15) **Practice Schedule Records:** This series is used to monitor practice time for athletic teams and assist in complying with NCAA, NAIA and conference rules and regulations. This series contains team rosters indicating time spent in practices; meetings; training and conditioning; and competition. **(Retention:** 5 years, destroy).

(16) **Recruiting Records:** This series documents the recruitment of athletes into the institution's intercollegiate athletics program. The series also provides a record of the recruitment process for prospective players created by the institution to comply with NCAA, NAIA and conference rules and regulations. This series may include but is not limited to the institution's football questionnaire forms with personal, scholastic, football, general, and transcript release information; information request cover sheets; grade transcripts; Information for Certification of NCAA Freshman Athletics Eligibility Compliance (with By-Law 5-1-j forms, number 40-c); letters of intent; copies of admissions forms and materials; performance reports; telephone and conversation notes; mailing lists; and related documentation and correspondence. **(Retention:** 5 years or end of eligibility whichever is longer, destroy).

(17) **Scheduling Records:** This series documents competition schedules set up with other institutions by coaches and the athletic director. This series may include but is not limited to correspondence; phone notes; contracts; final schedules; and related documentation and correspondence. **(Retention:** 6 years after expiration of contract, destroy).

(18) **Sports Merchandising Records:** This series documents the sale of institutional and NCAA or NAIA-licensed merchandise at sporting events. Records may include sales reports; merchandise comment sheets; and related correspondence. **(Retention:** 4 years, destroy).

(19) **Student Athletes Academic Advising Records:** This series documents academic advising of prospective and current student athletes, provides records of academic progress while students are involved in athletic programs at the institution, and complies with NCAA, NAIA and conference reporting requirements. These records include letters of intent; renewals of letters of intent; transcripts; grade reports; petitions; academic evaluations; advanced standing reports; advisors' report sheets showing progress towards academic degree; program planning sheets; NCAA Progress Reports; students' requests for release from athletic programs; disciplinary memoranda; and related correspondence. **(Retention:** 5 years after degree completed or last enrollment, destroy).

(20) **Student Athletes Dining Rosters:** This series documents the meals consumed by student athletes as part of the training table. This series may include but is not limited to rosters with the names of athletes partaking of meals and absent from meals; menus; and related documentation and correspondence. **(Retention:** 2 years, destroy).

(21) **Student Athletes Medical Records:** This series documents the medical history of each athlete before and during his/her attendance at the institution. This series may include but is not limited to annual health

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appraisals; authorization to release information forms; treatment consent forms; assumption of risk forms; accident reports; X-rays and X-ray reports; prescription records; off campus treatment source records; insurance questionnaires; psychological counseling records; and related documentation and correspondence. **(Retention:** 7 years after student is last enrolled, destroy).

Stat. Auth.: ORS 192 & ORS 357
Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895
Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0085

Libraries, Archives, Museums and Other Collections Records

(1) **Appraisal Records:** This series documents monetary value appraisals of institutional artifacts, objects, and collections that have been completed by private parties. This series may include but is not limited to appraisals and valuations reports; reference materials used by appraisers; and related documentation and correspondence. **(Retention:** Permanent).

(2) **Collection and Artifact Acquisition and Exchange Records:** This series documents the acquisition, accessioning, use, preservation, storage, transfer and disposition of artifacts and collections at an institution's museum, archives or library special collection, herbarium, or other repository which is used for research purposes. This series may include but is not limited to a log that lists the date of acquisition, acquisition/accession numbers assigned, brief descriptions of artifacts or collections, and donor names; gift receipt forms or other acquisition records that list detailed descriptions of artifacts, donors' name(s), addresses, telephone numbers, acquisition numbers, and values (if known); cataloging worksheets listing acquisition numbers, identification and provenance of artifacts or collections, description of artifacts, and donor/owner names and addresses; deed of gift listing transfer of legal ownership or custody of artifacts or collections, their descriptions and conditions, declarations as lawful owners of the property, and signatures and dates of transfer; object file cards showing each acquired item arranged by nomenclature; subject file cards showing each acquired item and its arrangement; numerical file cards showing each acquired item arranged in acquisition number sequence; wildlife collecting permits which are the legal documentation for having wildlife carcasses; guns and weapons registration forms which provide the legal authority for the collection unit to possess firearms; condition/conservation records, photographs of objects, and related documentation and correspondence. The series may also include donor correspondence; descriptions of property; inventory lists; incoming loan agreements; background data about the collections and/or persons associated with the collections; receipt of collections documentation; donor agreement forms or instruments of donation; purchasing data; publicity records; foundation equity history reports; declaration of charitable gifts forms; copyright and citation information. **(Retention:** Permanent).

(3) **Circulation Records:** This series documents the borrowing of circulating library materials by qualified patrons. This series may include but is not limited to the name and identification of the borrower; the titles of materials borrowed; the due date; overdue and fine payment notations; and related documentation and correspondence. **(Retention:** Until the transaction is completed, destroy).

(4) **Collection or Artifact Loan Records:** This series documents artifact and material loans contracted between units of the institution or between the institution and either other institutions or individuals. These records include signed and legally binding agreements for incoming and outgoing loans between the collection administrators; receipts for loans and return of materials to the legal holder; and related forms, documentation and correspondence. **(Retention:** 10 years after the termination of the loan, destroy).

(5) **Collections Control Records:** This series documents the maintenance of materials which typically involve accessioning, cataloguing, preserving, and/or referencing. This series may include but is not limited to: accession sheets; archives transmittal lists; accession reports; computer cataloging records; catalogs of holdings; reference guides and finding aids; request for permission to publish or reproduce images forms; (collection inquiries; budget and purchasing data;) and related documentation and correspondence. **(Retention:** (a) Reference guides and finding aids, Until superseded or obsolete, destroy (b) All other records, Permanent).

(6) **Courtesy Borrowers Records:** Series documents guest borrowers of library materials. Records include applications forms and a database which include a guest borrower's name, address, telephone number, company or institution name, and patron status. **(Retention:** (a) 3 years for application forms, destroy (b) 6 months after last activity for individual borrower's database record, destroy).

(7) **Deaccession Records:** This series documents recommendations concerning deaccessioning of specific holdings and action upon those recommendations. This series may include but is not limited to transfer forms to transfer ownership/custody of materials held within institutional collections to other institutions; deaccessioning documentation which lists the artifacts by acquisition numbers and descriptions, names of persons making deaccession recommendations and dates, reasons for deaccessioning, documentation that legal searches of donor records have been done to establish that the institution is not precluded from deaccessioning and to establish whether the donors are still living, appraised values (including whether these are estimates or have been appraised), signatures of approval for deaccessioning and dates, and dispositions of materials and dates; deaccessioning and weeding listings; reports of deaccessioning; and related documentation and correspondence. **(Retention:** Permanent).

(8) **Exhibit Records:** This series documents the display and use of artifacts and materials held by the collection units or displays created by the units. This series may include but is not limited to research materials concerning the cultural environmental setting surrounding the artifacts; bibliographies; lists of artifacts or items considered for inclusion; drafts of exhibit descriptions or scripts; publicity or advertisements for exhibits; artifact labels; photographs of exhibits; exhibit renderings and layout diagrams; exhibit scheduling and transport information; contracts and agreements; evaluation forms; condition forms; exhibit assembly and presentation instructions; and related documentation and correspondence. **(Retention:** (a) Permanent for exhibit descriptions or scripts, exhibit renderings and layout diagrams, photographs of exhibits, lists of artifacts or items considered for inclusion, and publicity or advertisements for the exhibits (b) 10 years for all other records, destroy).

(9) **Friends Records:** This series documents the efforts of special interest support groups to establish relationships with community agencies, individuals, businesses, and groups to gain their assistance with the development and coordination of institutional programs. This series may include but is not limited to establishing documents; bylaws; reports; brochures; newsletters or publications; meeting agendas; minutes; and related documentation and correspondence. **(Retention:** Permanent).

(10) **Inter-Library Loan (ILL) Records:** This series documents requests made of the institution for materials from outside sources and also institution requests for materials from other institutions. This series may include but is not limited to materials request forms; invoices for services provided; and related documentation. **(Retention:** 3 years, destroy).

(11) **Patron and Visitor Records:** This series documents the public tours or individual visits to the collection or research facility. The series may include but is not limited to weekly visitor statistics; sign-in sheets; patron logs; and guest books. **(Retention:** 5 years, destroy).

(12) **Records Management Records:** This series documents the retention and disposition of records created by the institution's offices and the production of an institutional records retention and disposition schedule approved and authorized by the State Archivist. This series may include but is not limited to records destruction authorizations; records inventory worksheets; special records disposition schedules; records transmittal lists; guides to microfilmed records; and related documentation and correspondence. **(Retention:** (a) Permanent for records destruction authorizations, records transmittal lists, and guides to microfilmed records (b) 5 years for all other records, destroy).

(13) **Reference Request Records:** This series documents scholarly requests for information about or access to items within the institution's collections. This series may include but is not limited to collection service request forms that show requestors' names, addresses, and telephone numbers; the nature/explanation of the requests; use/purpose of the requests; dates of receipt and completion of requests; staff member handling the requests; amount of time spent on handling the requests; disposition of the requests; and related documentation and correspondence. **(Retention:** 5 years, destroy).

(14) **Serials Records:** This series documents the receipt and payment history for serials purchased by the libraries. This series may include but is not limited to periodical check-in cards; shelf list cards; payment cards; serials data input work form sheets; data base reports; item records; and related documentation. **(Retention:** (a) Until input and verified for shelf list cards, destroy (b) Until superseded by permanent cataloging record for check-in cards, destroy (c) 5 years for all other records, destroy).

Stat. Auth.: ORS 192 & ORS 357
Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895
Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

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166-475-0090

Payroll Records

(1) **Assumed Wages Reports:** Series is used for computation and payment of workers' compensation insurance premiums. Records document students' services performed in exchange for room and board, and volunteer and prerequisite assumed wages not paid by payroll. Information in the reports may include names, dates, social security numbers, requisition numbers, accounts to be charged, and total assumed pay for the month. OUS Controller's Division holds the system-wide record copy. **(Retention:** 4 years, destroy).

(2) **Deduction Authorization Records:** This series documents deductions from salary checks authorized by employees. These records include lists with notation of authorized deductions as well as actual deduction forms. This series may include but is not limited to: deduction information on medical, dental, life, and disability insurance; American Association of University Professors, GCIU, Fair Share, and Oregon Public Employees/Fair Share dues; U.S. Savings Bonds; United Way and foundation contributions; payments for library fines/lost books, parking permits, and institutional credit union accounts; Veterans Affairs; ACH Listings; personal use of state vehicles; and miscellaneous deductions. **(Retention:** 4 years after authorization expires or is superseded, destroy).

(3) **Employment Division Summary Reports:** This series documents the number of the institutional employees and payroll costs on a monthly basis and yearly basis. This series includes monthly reports by employee category and annual fiscal year reports which summarize the monthly data. **(Retention:** (a) 10 years for annual reports, destroy (b) 3 years for monthly reports, destroy).

(4) **Federal and State Tax Records:** Records document the collection, distribution, deposit, and transmittal of federal and state income taxes and social security tax. Records include the federal Miscellaneous Income Statement (1099), Request for Taxpayer Identification Number and Certificate (W-9), Request for Student(s) or Borrower(s) Social Security Number and Certificate (W-9S), Employers Quarterly Federal Tax Return (941, 941E), Annual Withholding Tax Return for U.S. Source Income of Foreign Persons (1042), Foreign Person(s) U.S. Source Income Subject to Withholding (1042S), Tax Deposit Coupon (8109), Withholding Allowance Certificates (W-4), Wage And Tax Statements (W-2), and related federal and state tax forms. **(Retention:** 5 years, destroy).

(5) **Forecast and Actual Pay Reports:** This series documents monthly gross and actual pay by month and account number, along with other database information. It is used to view gross pay/budget records for a previous fiscal year. Computer output microfiche is supplied by the OUS Controllers Division. This series includes employee name and social security number; major account; salary code; FTE; rank; leave status; position title and class number; starting date; appointment; terms of service; tenure; and forecast and actual pay broken down by months of the fiscal year. **(Retention:** 4 years, destroy).

(6) **Garnishment Records:** This series documents requests and court orders to withhold wages from employee earnings for garnishments, tax levies, support payments, or other reasons. This series usually includes original writs of garnishment; recapitulations of amounts withheld; and related records. The OUS Controllers Division maintains the system record copy. **(Retention:** 4 years after resolution, destroy).

(7) **Pay Authorization Records:** This series consists of pay documents which substantiate and, in part, authorize the issuance of payroll checks for particular amounts. This series may include but is not limited to payroll/budget request forms and time cards. **(Retention:** 5 years, destroy).

(8) **Paycheck Delivery Records:** This series documents the locations assigned for delivery of salary payments to employees. This series may include but is not limited to paycheck deposit authorization forms; payroll check delivery logs; and related correspondence. **(Retention:** (a) 3 years for payroll check delivery logs, destroy (b) Until superseded or 1 year after employee separation for all other records, destroy).

(9) **Payroll Adjustment Records:** This series documents changes in employee payroll deductions, tax withholdings, and payroll records. This series may include but is not limited to pay/budget action forms; time and attendance records; pay reduction/termination notices; and related documentation and correspondence. **(Retention:** 5 years, destroy).

(10) **Payroll Check Register:** This series provides a record of payroll checks issued. This series includes lists in check number order that show the check amount, employee name, and social security number. **(Retention:** 6 years, destroy).

(11) **Payroll Data Entry Summary Reports:** This series documents all timecard and payroll adjustment data entry for each payroll period. This series includes: employee names in alphabetical order; batch and document

numbers; and other data. **(Retention:** Until superseded by the Payroll Register, destroy).

(12) **Payroll Draws Records:** This series documents payroll draws. This series includes requests for emergency payroll draw forms; and copies of disbursement request forms. **(Retention:** 2 years after draw has been recovered, destroy).

(13) **Payroll Input Detail Reports:** This series provides a daily summary of timecard and payroll adjustment data entry. This series contains separate reports for timecard input and payroll adjustment input. The reports, arranged in batch sequence and document number order, may include but are not limited to social security numbers; account numbers; gross pay; and related data. **(Retention:** Until input and verified, destroy).

(14) **Payroll Register:** This series documents the pay of all institutional employees. The series includes monthly listings of all paid employees with their earnings and deductions. **(Retention:** 75 years, destroy).

(15) **Purge Lists:** This series documents institutional employees whose records have been deleted from the personnel data base. This series contains annual lists of former employees, in alphabetical order, and includes employees names; social security numbers; class codes; dates that pay started; termination dates; and related data elements. **(Retention:** 3 years, destroy).

(16) **Revolving Fund Checks:** This series documents each check issued from an institutional revolving fund for payroll draws, final pay, or special pay. This series contains copies of issued checks showing name; date issued; social security number; amount; check disposition; and other data elements. **(Retention:** 6 years, destroy).

(17) **Shift Summary Sheets:** This series documents the time worked by employees on various jobs on a daily basis. This series is used to provide a record of time worked by employees for payroll purposes; a record of customer charges incurred for billing purposes; and cost accounting information on a real-time basis. The series may also be used as a back-up source of information for wage related grievance cases brought forth by employees. Information on the individual computer generated sheets may include: employee name; descriptions of duties performed; wages paid for each duty; time worked at each duty; output connected with each duty; and totals. **(Retention:** 2 years, destroy).

(18) **Social Security Number Records:** This series documents international students' and scholars' acquisition of social security numbers. This series may include but is not limited to social security number applications; Statement of Information — Social Security Account Number forms (CO-204); photocopies of social security cards; Controllers Division reports; and related documentation and correspondence. **(Retention:** 3 years, destroy).

(19) **Student Loan Interest and Tuition Payment Statement Records:** Series is used to report loan interest and tuition paid by students so that deductions may be claimed on income taxes. Records may include 1098E and 1098T forms and related correspondence. This series may also include records that were attempted to be mailed or delivered but were returned or otherwise deemed undeliverable. **(Retention:** 3 years, destroy).

(20) **Student Social Security/Medicare Tax Review Reports:** This series is used to determine proper FICA coding for student employees. The reports may include but are not limited to student name and ID number; credit hours carried; budget classification code; FICA quarters earned; year-to-date FICA withheld; and last FICA contribution date. **(Retention:** 5 years, destroy).

(21) **Student Time and Attendance Forms, Restricted Funds:** This series documents hours worked by student employees including those on work-study who are paid from restricted fund accounts. This series is used for payroll purposes and to meet federal requirements for documenting time worked by work-study students. This series only includes departmental time and attendance forms. **(Retention:** (a) 5 years after issuance of final financial report to awarding agency by the research accounting unit for records of all students paid from U.S. Dept. of Education awards, destroy (b) 3 years after issuance of final financial report to awarding agency by Research Accounting for records of regular student workers paid from other restricted funds, destroy (c) 3 years after issuance of final financial report to awarding agency by research accounting or 5 years, whichever is longer for records of work-study students paid from other restricted funds, destroy).

(22) **Student Time Records:** This series documents hours worked by student employees including those on work-study. The series is used for payroll purposes and to meet federal requirements for documenting time worked by work-study students. This series may include but is not limited to Work-Study Time Certificates and referrals; photocopies of payroll time cards; automatic time card program printouts; and departmental time and attendance forms. **(Retention:** 4 years, destroy).

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(23) **Study Abroad Foreign Nationals Payroll Records:** This series documents payments to foreign nationals employed both full-time and part-time by the institution as support staff for its study abroad programs. This series may include but is not limited to agreements concerning pay rates; accounting information for payments to persons employed as secretaries and office staff, housing and transportation specialists, and food service workers; time sheets; and related correspondence. (**Retention:** 75 years, destroy).

(24) **Tax Withholding Authorization Records:** This series documents amounts withheld by Payroll from employees' checks for taxing authorities. This series may include but is not limited to the Statement for Claiming Benefits Provided by Section 911 of the Internal Revenue Code; Withholding Allowance Certificates (W-4s); Earned Income Credit Advance Payment Certificates (W-5s); Non-resident Alien Request for Exemption from Tax Withholding (IRS Form 8233); OUS Alien Information Request Form (CO-NRA); and Request for Exemption from Oregon State Income Tax Withholding. Individual forms may include employees' names, addresses, social security numbers, and tax identification numbers. (**Retention:** 5 years after superseded or employee separates, destroy).

(25) **Transaction Registers:** This series documents all employee database data entry transactions. This series includes daily and quarterly registers for deduction, employee, and budget transactions. The registers may include but are not limited to employee name; social security number; institution; FICA code; transaction code; nature and date of last transaction; last transaction; address; major account; class status; sex; Equal Employment Opportunity category; date of birth; ethnicity code; and related data. (**Retention:** (a) 4 years for quarterly registers, destroy

(b) Until superseded or obsolete for daily, daily registers, destroy).

(26) **Wage and Tax Statement Records:** This series provides a summary record of data reported on the annual wage and tax statements for institutional employees, corrections to these statements, and a record of transmittal to the federal government. Records include print-outs from the Controllers Division by year in social security number order which include names, social security numbers, tax subject earnings, other data required by law, and summary transmittal forms. Forms include IRS forms W-2, W-2C, W-3, and W-3C. This series also includes records that were attempted to be delivered but were returned or otherwise deemed undeliverable. (**Retention:** 5 years, destroy).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0095

Personnel Records

(1) **Academic and Unclassified Employees Personnel Records:** This series documents the academic employee's work history at the Institution and includes routine, non-evaluative information such as job title, rank, full-time equivalency (FTE) or appointment percentage, dates of employment, salary, employing department, education and employment background. Some of the documents comprising this series include confidential information such as social security number, birth date, and marital status. Records may include but are not limited to copies of Affirmative Action Compliance Data Forms; Applications for Admission to Graduate School; Applications and Contracts for Sabbatical Leave; Applications for Academic Employment; Athletic Contracts/Overseas Agreements; Conditions of Employment; Memoranda of Agreement; Notices of Appointment; Overload Compensation Requests; Patent Rights Waivers; Pay/Budget Action Forms; forms documenting personnel actions, including Salary Adjustments and Summer Session Appointments; Proposals for Academic Appointment; Requests for Approval for Outside Employment; resumes or curriculum vitae; Retirement Agreements; Leave Accrual Forms; Technology Transfer Agreements; Tenure Relinquishment Forms; employee Social Security number disclosure forms; and related documentation and correspondence, such as letters of resignation and memos confirming appointments. (**Retention:** 75 years, destroy).

(2) **Academic and Unclassified Employees Personnel Records (Supervisor's Copy):** This series documents the academic employee's work history maintained in the office of the dean, director, department head, or vice provost. It includes evaluative materials and non-evaluative information such as job title, rank, full-time equivalency (FTE) or appointment percentage, dates of employment, salary, employing department, education and employment background. Some of the documents comprising this series include confidential information such as social security number, birth date, and marital status. These records may be for full-time, part-time,

and/or courtesy academic employees. Records may include but are not limited to Activity Reports; copies of Affirmative Action Compliance Data Forms; Applications for Admission to Graduate School; applications, contracts, and other records for sabbatical leave; emeritus faculty status letters; Employee Emergency Medical Information Forms; Applications for Academic Employment; Athletic Contracts/Overseas Agreements; Awards; Conditions of Employment Forms; Notices of Appointment; Overload Compensation Requests; Patent Rights Waivers; Pay/Budget Action Forms; Periodic Reviews of Faculty letters and records; forms documenting personnel actions, including Salary Adjustments and Summer Session Appointments; professional development records; Proposals for Academic Appointment; recommendations; reports of conferences attended; Staff Reports of Service to the Institution; Periodic Reviews of Administrators Summaries; reprimands; Requests for Approval for Outside Employment; resumes or curriculum vitae; Retirement Agreements; Sick Leave Accrual Forms; Teaching Evaluations; Student Evaluations of Faculty Summary Reports; Technology Transfer Agreements; Tenure Relinquishment Agreements; Employment Eligibility Verifications (Form I-9); Vacation Leave Report Forms; home address/telephone disclosures; and other relevant documents and correspondence, including commendations, letters from the chair or the dean concerning the nature of the faculty member's appointment and the expectations of the faculty member, letters granting fellowship, letter of position offer, letter of resignation, memoranda of agreement, Notices of Disciplinary Action, Notices of Layoff, and unsolicited letters praising teaching or participation in a conference. (**Retention:** 5 years after employee separation, destroy).

(3) **Affirmative Action and Equal Opportunity Records:** Series documents agency, institution, college, department, or unit compliance with regulations of the U.S. Equal Employment Opportunity Commission including affirmative action. Records may include but are not limited to mission, goal, and policy statements, plans showing how compliance will be accomplished and updates, EEO-6 and Vets 100 Employment Reports, statistical, status, and audit reports, executive department printouts, Ways and Means reports, AA compliance data sheets, case histories, and related documentation and correspondence. (**Retention:** (a) Permanent for narrative reports, policy, mission and goal statements, Equal Opportunity and Affirmative Action plans, and audit reports (b) 20 years for EEO-6/Vets 100/Ways and Means reports and Executive Department printouts, destroy (c) 10 years for statistical and status reports, case histories, correspondence, and related documentation (d) 3 years for all other records, destroy).

(4) **Affirmative Action and/or Human Resources Recruitment Review Records:** Series documents review of all stages of academic hiring by the institution's affirmative action office and/or human resources office. Records may include but are not limited to position descriptions; Notifications of Academic Position Opening; Affirmative Action Compliance Data sheets; Affirmative Action compliance statements; Applicant Pool and Appointment Reports; utilization reports; payroll-budget requests or action forms; contract requests to offer appointments; certificates of eligibles or applicant lists; and related documentation and correspondence. (**Retention:** 3 years, destroy).

(5) **Appointing Authority Administrative Records:** This series describes the responsibilities of those persons given the authority to appoint personnel to positions (as required by special circumstances). Records include policy documentation and correspondence. (**Retention:** Until superseded or obsolete, destroy).

(6) **Bargaining Unit Records:** This series documents negotiations and contractual agreements between the institution and the bargaining unit; it is also used for labor relations planning. Records may include but are not limited to union contracts and amendments; tentative agreements; arbitrator's recommendations; negotiation work notes; strike contingency plans; management counter proposals; negotiation updates; newspaper clippings; press releases; research background material; employee classification printouts; Fair Share records; minutes, sound recordings, exhibits and reports of meetings; and related documentation and correspondence. (**Retention:** (a) 75 years for final contracts, amendments, and negotiation minutes, destroy (b) 6 years after contract expires for all other records, destroy).

(7) **Benefits Policies and Procedures Records:** This series documents policy and procedure decisions and important events in the operations history of the office and includes contracts and formal documents which state or form the basis for policy or set precedents. Records may include but are not limited to records concerning the Academic 12-month Pay Option for Payroll; American Football Coaches Retirement Trust; dependent care flexible spending account program records; early retirement programs; employee orientation program; Employee Assistance Program; injured worker benefits; Continuing Benefits to Injured Workers (CBIW)

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records; insurance continuation coverage known as COBRA (Consolidated Omnibus Budget Reconciliation Act); medical, dental, life/disability insurance program records; open enrollment records; the institution Staff Handbook; Life Insurance; post doctorate fellow insurance program; Public Employee Retirement System (PERS); Retirees; tax deferred investment programs; Teachers Insurance Annuity Association and College Retirement Equities Fund (TIAA/CREF); Unionflex program; (US Savings Bonds;) Volunteer Insurance; and related documentation and correspondence. **(Retention:** 6 years after expiration of program or contract, destroy).

(8) **Certificates of Eligibles:** This series documents the names of applicants currently eligible for hire for specific classified positions. The list is supplied by the personnel office to departments seeking to fill vacancies. Data elements on this list may include but are not limited to name; address; telephone number; and rank or exam results. Copies of Employment Applications and Skill Code Sheets may be included with this record series. **(Retention:** (a) 3 years after end of search if part of recruitment, destroy (b) 1 year if not part of a search, destroy).

(9) **Classified Employees Layoff Records:** This series documents layoff procedures followed for affected employees. Records may include but are not limited to employees names; position titles; classification numbers; hire dates; layoff dates; seniority status; and related documentation and correspondence. **(Retention:** 3 years after employee separation, destroy).

(10) **Classified Employees Non-Routine Evaluations:** This series documents the non-routine evaluation of the classified employee's work performance. Records may include commendations; recommendations; disciplinary actions; reprimands; explanations or opinions filed in response to critical material; and related correspondence. **(Retention:** 3 years, destroy).

(11) **Classified Employees Personnel Records:** This series documents the classified employee's work history at the institution and includes routine evaluative materials and non-evaluative information such as job title, full-time equivalency (FTE) or appointment percentage, dates of employment, salary, employing department, education and employment background. Some documents in this series contain confidential information such as social security number, birth date, and marital status. Records may include but are not limited to employment applications which may include skill code sheets; resumes; selected memos such as agreement or request for position change, merit increase requests and notices, request for re-employment (letter of hire), resignation letters from employees, and termination letters from employer; commendations; recommendations; reprimands; work plans; forms documenting personnel actions; (personnel) performance evaluations; pay/budget action forms; leave records; time and attendance records; (designation of beneficiary forms;) union dues information; resumes; layoff notices; awards; licenses and certificates; college credit information; employee Social Security number disclosure forms; home address/telephone disclosure authorizations and related correspondence. **(Retention:** (a) 75 years for employment applications, agreements or requests for position change, merit increase requests and notices, request for re-employment, resignation letters, employer termination letters, personnel action forms, layoff notices, designation of beneficiary forms, personnel evaluations, and resumes, destroy (b) 3 years for letters of reprimand, destroy (c) 3 years after employee separation for all other records, destroy).

(12) **Classified Employment Testing Records:** This series documents the testing process for classified positions administered by human resources staff. Records may include but are not limited to test forms completed by qualified applicants; summary lists with scores; testing materials; and related documentation and correspondence. **(Retention:** 3 years, destroy).

(13) **Classified Rejected Applications:** This series documents employment applications that were submitted for jobs with the institution and for reasons of incompleteness or inadequate qualifying experience/training are rejected. Records may include but are not limited to institutional employment applications and state forms PD 100 and PD 229R. **(Retention:** 3 years after position filled or recruitment canceled, destroy).

(14) **Classified Unsolicited Applications:** This series documents unsolicited requests for consideration for employment possibilities in institution units. Records may include but are not limited to curriculum vitae and resumes; transcripts; letters of application; and related materials and correspondence. **(Retention:** 3 months, destroy).

(15) **Continuation of Insurance Benefits (COBRA) Records:** This series documents the institution's compliance with the Consolidated Omnibus Reconciliation Act of 1986 (COBRA). Records may include notices given to insurance administrators when employees leave the insti-

tution; information includes employee and dependent names and Social Security numbers, insurance package currently carried, dates of termination, coverage end date, and dates of notice to the contractor. **(Retention:** 3 years, destroy).

(16) **Continuing Education Instructor's Records:** This series is used to provide a record of competency of persons applying to teach continuing education courses. Records, which are filed by course with term and instructor name, may include but are not limited to resumes; curriculum vitae; personnel actions; time sheets; course proposals; request for undergraduate and graduate course and instructor approval forms; tentative course outlines; letters of nomination; letters of appointment and/or rejection; and related documentation and correspondence. **(Retention:** (a) 75 years for appointment information, destroy (b) 5 years after separation from Continuing Education faculty for all other records, destroy).

(17) **Cooperative, Fraternity, and Sorority Housing Employees Records:** This series documents applications received by the institution from individuals who were subsequently hired as head residents, hostesses, housemothers, or cooks at fraternities, sororities, and cooperatives. Each application includes date of birth; social security number; educational background; prior work experience; interests; and hobbies. **(Retention:** 75 years, destroy).

(18) **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. **(Retention:** (a) Retain negative drug test results, 1 year, destroy (b) Retain positive drug test results, 3 years, destroy).

(19) **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, first-aid incident records, physician statements, release consent forms, and related correspondence. *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.* SEE ALSO Medical Surveillance Records in the Safety and Security section. **(Retention:** (a) Retain hazard exposure records: 30 years after employee separation (29 CFR 1910.1020), destroy (b) Retain audiometric (hearing) test records: Until employee's termination date (29 CFR 1910.95(m)) (c) Retain other employee medical records: 3 years after employee separation, destroy).

(20) **Employees Benefits Records:** This series documents academic, professional and classified employees participation in benefits programs at the institution and contains information such as hire date, employing department, choices of medical and dental coverage, dependent coverage, coverage dates, coverage amounts and premiums. Records may include but are not limited to Applications for Life Insurance; (Authorizations for Electronic Deposit); Bargaining Unit Benefits Board (BUBB) and Public Employees Benefits Board (PEBB) Health and Dental Enrollment Forms; Benefits Worksheets for Payroll Corrections; Cancellations of Payroll Deduction Authorizations; (Employee Assistance Program information;) Insurance Data Change Forms; Employee Status Sheets; Enrollment Status Sheets; Letters of Approval for Coverage from insurance companies; Notices of Declination of Coverage from insurance companies; Notices of Approval of Group Insurance Coverage; Oregon Public Employee Union (OPEU) Membership Applications; Authorization for Payroll Deductions forms; State Employees' Benefit Board (SEBB) and PEBB Enrollment (Cards) for Optional Spouse Life Insurance; SEBB/PEBB Health, Dental, and Dependent Care Account Enrollment Forms; SEBB/PEBB Employee Update Forms for Health, Dental, and Flexible Spending Account; SEBB/PEBB Life/Disability Insurance Applications; Tax Deferred Investment (TDI) information; Unionflex (BUBB/PEBB, OPEU) Enrollment Forms; designation of beneficiary forms; US Savings Bond Payroll Authorizations; and correspondence concerning related matters such as terms of coverage and explanations for changes in coverage. **(Retention:** 75 years from original date of hire, destroy).

(21) **Employees Training Records:** This series documents employee participation in training courses or programs for development purposes. Records may include but are not limited to staff fee requests to take classes; course agendas, descriptions, and syllabi; course outlines and materials;

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enrollment and attendance records; training requests and authorizations; certificates of completion; and related documentation and correspondence. **(Retention: 3 years, destroy).**

(22) **Employees Employment Verification Records:** This series documents the responses to inquiries for evidence of employment from offices within the institution, banks and credit agencies, government agents, businesses, and current and former personnel. Records may include but are not limited to copies of written requests; release of information authorization forms; telephone request forms; office control documents; statistical summaries; and related documentation and correspondence. **(Retention: 3 years, destroy).**

(23) **Employment Eligibility Verification Forms:** This series documents information used to establish the identity and to verify the employment eligibility of employees to preclude the unlawful hiring of persons not authorized to work in the United States. Records include completed I-9 forms and copies of documents that establish the identity and the employment eligibility of the employee. **(Retention: 3 years after date of hire or 1 year after separation, whichever is longer, destroy).**

(24) **Employment Policies and Procedures Records:** This series documents employment policies and procedures administered by institution personnel offices. Records may include but are not limited to information on academic year appointments; employment of disabled persons; family employment program; interviewing; job sharing; nepotism; overseas employment; student employment; temporary appointments; transfers; and related documentation and correspondence. **(Retention: Permanent).**

(25) **Executive Evaluations Administration Records:** Series documents the administration of routine performance evaluations of OUS chancellors and individual college and university presidents. Records may include appointment schedules; letters of follow-up and thank you; press releases and announcements; hotel and travel arrangements; and related correspondence. **(Retention: 3 years, destroy).**

(26) **Family and Medical Leave Case Files:** This series documents requests for leave and granted leaves by employees under provisions of the Federal Family and Medical Leave Act and the Oregon Family Medical Leave Act. Records may include but are not limited to employee leave request forms; notices to employees of leaves granted or rejected; Certification of Health Care Providers for the employee or a family member; employee backup information and leave history records; employee time records; Continuation of Health and Dental Insurance Benefits Memorandum; and related documentation and correspondence. **(Retention: 3 years after case closed, destroy).**

(27) **Graduate Assistantship Applications Records:** This series documents applications of graduate students for Graduate Teaching Assistantships and Graduate Research Assistantships in academic programs. Records include applications developed by individual units; resumes and vitae; and related documentation and correspondence. **(Retention: (a) 5 years after application or termination of employment, whichever is longer for successful applicants, destroy (b) 3 years for denied applicants, destroy).**

(28) **H-1 Visa Scholars Records:** This series documents the temporary employment of internationals by the institution and is used to monitor compliance with Immigration and Naturalization Service regulations. Records may include but are not limited to Petition for a Non-immigrant Worker (Form I-797); Labor Conditions Applications for H-1B Non-immigrant; Prevailing Wage Information Request; Application to Immigrant and Naturalization Service (INS); documentation of requests for visa extensions; details of work assignments; and related documentation and correspondence including the letter of support. **(Retention: 6 years after expiration of visa and extensions granted, destroy).**

(29) **Health Emergency Information Records:** This series documents the health identification information of students, faculty or staff. Health information may be collected for sponsored field trips, participation in physical education classes, and other activities. Information may include but is not limited to personal identification and physician's name and contact information, and emergency contact and health insurance information. Note: These records are not the same as the Emergency Notification Forms found in the Personnel File. **(Retention: 1 year after the end of the event or activity for which this information was collected, destroy).**

(30) **Immigrant Visa Scholars Records:** This series documents the application and approval of international scholars for permanent immigrant status. Records may include but are not limited to Applications for Alien Employment Certifications issued by the Department of Labor, Employment and Training Administration; advertisements for positions; curriculum vitae; transcripts; letters of recommendation; notes on all applicants for positions demonstrating that a petitioner was the best qualified for

an advertised position; forms indicating the institution's efforts to employ comparably qualified U.S. citizens (ETA750); interviewers' notes and memoranda; and related correspondence. **(Retention: 75 years, destroy).**

(31) **J-1 Visa Scholars Records:** This series documents the short-term appointment of non-immigrant international scholars as visiting faculty, specialists, researchers and trainees. Records may include but are not limited to United States Information Service Certificates of Eligibility for Exchange Visitors Forms (IAP-66); descriptions of work to be performed; methods of financial support; copies of passports; check-in forms with personal data such as addresses, telephone numbers, and information concerning dependents; related correspondence, most often concerning eligibility of spouses and children to accompany or join the scholar; log sheets noting the nature of telephone calls concerning each scholar's status; and related documentation. **(Retention: 3 years after visa expiration, destroy).**

(32) **Layoff Administration Records:** This series documents policies and procedures administered by institution personnel offices with regard to layoffs. Records may include but are not limited to position elimination information; employee assistance information; layoff lists; management service layoff policy; news publications; salary funding requests; vacancy lists; and related documentation and correspondence. **(Retention: Permanent).**

(33) **Merit Increase and Trial Service Performance Appraisal Lists:** This series documents classified employees who are expected to receive merit pay increases or successfully complete their six-month trial service period. The lists, organized by academic department or administrative office, include employee's name; class; social security number; position number; employee status and type; FTE; pay rate qualifier; current step and pay rate; new pay rate and step (merit increase only); and trial service completion date (trial service only). **(Retention: 6 months, destroy).**

(34) **National Faculty Exchange Program Records:** This series documents an exchange program which allows university faculty members to exchange teaching positions with other institutions' faculty members within the United States. Records include contracts; summaries; and related correspondence. **(Retention: (a) Permanent for summaries (b) 5 years for all other records, destroy).**

(35) **Personnel Research Data Records:** This series documents the comparative salaries, benefits, collective bargaining agreements, staffing requirements, minimum qualifications, recruitment, and training of an institution's employees. Records include but are not limited to published and unpublished data; statistical reports; and related documentation and correspondence. **(Retention: Until superseded or obsolete, destroy).**

(36) **Position Descriptions:** This series documents job descriptions for classified and faculty positions and is used for employee recruiting, Fair Labor Standards Act eligibility analysis, position review, and reclassification purposes. Information fields in the position descriptions may include position names, position numbers, qualifications, functions and responsibilities, duties, hierarchical data, job classification numbers, description of duties, and pay rates. Records may include but are not limited to Position Description forms; Reclassification Position Descriptions and documentation; Classification Listings; Positions Listings; and related documentation and correspondence. **(Retention: (a) Present and two previous descriptions for each position or descriptions covering a period of five years, whichever is greater, destroy (b) 5 years for position reclassification records, destroy).**

(37) **Position Inventory Control System (PICS) Reports:** This series documents job classification control and distribution code tracking, and is used to set budgets for dollars, to verify control numbers, and to regulate the total authorized FTE. Information included in these various computer printouts includes position numbers, distribution codes, budget authorization numbers, and classification control data. Records may include but are not limited to PIC System Report E (by Budget Institution Position Number); PIC System Report F (by Budget Institution Fund Account); and PIC System Report G (by Appointing Authority); Personnel Position Data Base (PPDB) forms; and related documentation and correspondence. This is a closed series. **(Retention: 4 years, destroy).**

(38) **Promotion, Tenure, and Salary Increase Records:** This series documents the periodic consideration of faculty who are eligible for changes in rank, tenure status, and/or pay. Records may include but are not limited to promotion and tenure dossiers compiled and presented by the faculty member as per instructions from Academic Affairs as well as other materials which are compiled and maintained for inclusion, analysis, and summarization into the dossier folders. The dossiers may include but are not limited to candidate dossier cover form or checklist; prior service agreement; Confidential Waiver for letters of evaluation; current position description; letters of evaluation; current curriculum vitae or resume; activ-

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ity summary and evaluations of teaching, curriculum development and advising from students, participants/clients, and peers; candidate acknowledgment of dossier review; student evaluations of faculty summary reports; committee signature sheets; committee findings; recommendations of administrative superiors; and related documentation and correspondence. These files should always be maintained physically separate from departmental and college personnel files, but are considered to be a part of the academic personnel record. **(Retention: 10 years, destroy).**

(39) **Recruiting Pool Records:** This series is used as a reference for prospective applicants for faculty and staff positions drawn from either previous recruitments or unsolicited applications. Records may include but are not limited to curriculum vitae or resumes; cover letters; Applications for Employment; interview materials; position announcements; evaluations of prospective employees; and related correspondence. **(Retention: 3 years, destroy).**

(40) **Residential Advisor (RA) Employees Records:** This series documents the selection process, requirements, and work history of residential advisors. RAs apply in the Winter Term for the following school year. After preliminary screening and approval applicants are required to enroll in a course designed for potential RAs taught by student housing staff. Records may include but are not limited to application forms; transcripts; recommendations; interviewers' notes; notification letters; contracts which give duties and responsibilities, enrollment hours limitations, and signatures; papers or projects completed in the required RA course; staff evaluations of applicants and term-by-term evaluations of appointees; and related documentation and correspondence. **(Retention: 5 years after employee separation, destroy).**

(41) **Retirement Incentive Program Records:** This series documents the cost of incentive programs providing benefits for university employees who choose early retirement. Records include agreements between the university and employees for lump sum, monthly, or annual payments; records of actual payments; and related correspondence. **(Retention: 6 years after final payment, destroy).**

(42) **Sabbatical Leave Records:** This series documents sabbatical leave activities of institution faculty. Records may include but are not limited to reports; applications; contracts; and related documentation and correspondence. **(Retention: Permanent).**

(43) **Search Records:** This series documents the selection process for academic, classified and student positions within the institution. Records may include but are not limited to applications; curriculum vitae or resumes; academic transcripts; samples of writing or publications; approvals of recruitment proposals; candidate lists; position announcements; position advertisements; position descriptions; Certificate of Eligibles; copies of Affirmative Action Compliance Data Forms; Requests to Fill Academic Position Forms; interview materials such as schedules, rating sheets, tallies, screening and interview notes, review committee notes and memoranda; telephone conversation notes; and related correspondence such as cover letters and reference letters. NOTE: Application materials of successful academic and classified candidates become part of the employee's personnel file. **(Retention: (a) 3 years after search completed for academic and classified search records, destroy (b) 1 year for student search records, destroy).**

(44) **Staffing Policies Records:** This series documents the adoption and implementation of personnel and staffing policies at the college and/or unit level pertaining to topics such as faculty evaluations; faculty retention; merit increases; performance evaluations; promotion and tenure, both instructions and guidelines; sabbatical leave, both policies and reports; salary adjustments, both guidelines and statistics; and support staff information. Records may include but are not limited to notations on priority staffing decisions; position descriptions; requests for approval of new staff positions; justification statements; descriptions of teaching responsibilities for positions requested; funding information; job announcements; memoranda; and related documentation and correspondence. **(Retention: 2 years after superseded or obsolete, destroy).**

(45) **Student and Classified Employees Compensation Records:** This series documents and defines pay rates for classified and student employees. Records may include but are not limited to compensation plans; conversion tables for annual, monthly, hourly, and overtime rates; records concerning extra merit increase, merit pay system, overtime pay, shift differential, student pay, variable rate pay, and working out of class; and related documentation and correspondence. **(Retention: Until superseded or obsolete, destroy).**

(46) **Student Employees Personnel Records:** This series documents the student employee's work history from the supervisor's perspective. This series may contain records for work-study and/or regular departmental bud-

geted student employees. This series may include resumes; interview questionnaires and notes; work referral forms; Student Schedule Slips; Financial Aid Employment Reference Forms; Student Employment Registration Forms; Personnel Actions Forms; Pay/Budget Action Forms; Work-Study Time Certificates; Performance Evaluations; Employee Withholding Allowance Certificate (W-4) forms; Payroll Check Delivery Authorizations; Requests for Emergency Payroll Draw Forms; commendations; recommendations; reprimands or notices of disciplinary action; notices of layoff; letters of resignation; work permits; copies of visas and related immigration status information; Student Driver Authorization Forms; Employment Eligibility Forms (I-9); home address/telephone disclosure authorizations; and related correspondence and documents. The series may also include photocopies of each employee's drivers license; birth certificate; or Certificate of Student Employment Registration. **(Retention: (a) 5 years after employee separation for work-study student records, destroy (b) 3 years after date of hire or one year after separation, whatever is longer for Employment Eligibility Forms (I-9), destroy (c) 3 years after employee separation for other student employee records, destroy).**

(47) **Student Faculty/Course Evaluation Records:** This series documents students' evaluations of teaching personnel and is used to help determine faculty tenure, promotion, merit increases and/or to review instructional courses and programs. These records provide students' opinions on faculty members' familiarity with current literature of the discipline, preparation, assignments, examinations, lecture styles, willingness to engage in dialogue, and availability. Records include bubble forms (input documents); course reaction inventory printouts; statistical tabulations; summary reports; and related documentation and correspondence. **(Retention: (a) Until tabulated and verified for bubble forms, destroy (b) 5 years for all other records, destroy).**

(48) **Time, Attendance and Leave Records:** This series documents time and attendance and leave for faculty, classified and student employees. Records include monthly time entry forms which may include hours worked, leave used, employee's name, supervisor's authorization, earnings information, and time distribution information; leave request forms; overtime authorization or certification; leave summary reports; leave without pay records; Work-Study time certificates and referrals; and related documentation. **(Retention: 4 years, destroy).**

(49) **Tuition Reduction Records:** This series documents employee and/or dependents participation in courses or programs offered by OUS institutions at reduced tuition rates. Records may include but are not limited to staff fee requests to take classes, course agendas, descriptions and syllabi, course outlines and materials, enrollment and attendance records, training requests and authorizations, certificates of completion, related documentation and correspondence. **(Retention: 4 years, destroy).**

(50) **Volunteer Program Records:** This series documents the activities and administration of an Institution's department or office's volunteer program. Records may include volunteer hour statistics; volunteer program publicity records; insurance requirement information; and inactive volunteer files containing applications and conditions of volunteer service forms. **(Retention: 5 years after separation, destroy).**

(51) **Unemployment Compensation Claim Records:** This series documents claims submitted by former institution employees for unemployment compensation. Records may include but are not limited to claim records; notices; reports; records generated by the appeal of claim determinations; and related documentation and correspondence. **(Retention: 2 years, destroy).**

(52) **Work Time Adjustment Agreements:** This series documents agreements between the employer and the employee regarding a change in the employee's work hours. Records may include but are not limited to the official signed agreement; related documentation and correspondence. **(Retention: Until superseded or obsolete, destroy).**

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

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Publications, Promotions and Alumni Records

(1) **Alumni Records:** This series documents the activities of an institution or department's alumni and may also provide alumni offices with information on alumni. Records may be used to create a network of support from alumni, primarily through organized alumni groups; to track alumni; to monitor their achievements, activities, and recognitions; to create statistics; to reply to information requests; and to provide information on the accomplishments of previous students. This series may include but is not

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limited to memberships lists with names, addresses, employer names and addresses, and positions; minutes, by-laws and directories of clubs in many Oregon communities and several major cities throughout the United States; promotional materials concerning annual gatherings; homecoming plans and programs; data cards and files for individual alumni; degree recipient lists; outstanding alumni lists; student leader lists; class officer lists; foreign student rosters; international alumni club records; and notes, memoranda, and related correspondence concerning general alumni affairs. **(Retention:** Permanent).

(2) **Alumni Association Board Records:** This series documents the activities of the alumni association board of directors. The board is responsible for promoting the interests and ideals of the institution; stimulating and encouraging school pride in students, graduates, and former students; and developing a sense of responsibility for continued progress in educational programs for the institution. This series may include but is not limited to agendas; minutes; reports; notes; working papers; and related documentation and correspondence. **(Retention:** (a) Permanent for agendas, minutes, reports, and policy/historical correspondence (b) 5 years for all other records, destroy).

(3) **Alumni Association Services Program Records:** This series documents the implementation of programs administered by the office such as those relating to marketing products, credit cards; insurance, and football tickets. This series may include but is not limited to agreements; dues information; postal information; and related documentation and correspondence. **(Retention:** 5 years, destroy).

(4) **Alumni Mailing List Records:** This series provides a record of the whereabouts of alumni for information request and mailing purposes. This series includes mailing lists and related documentation and correspondence. **(Retention:** Until superseded or obsolete, destroy).

(5) **Biographical Records:** This series contains biographical data for institutional faculty and staff. The records are used for public information releases and reference by the institutional staff to provide responses to inquiries. This series may include but is not limited to biographical sketches developed by the office of employment, the individuals concerned, or other sources; vitae; photographs; personal history data sheets; newspaper clippings; retirement notices; funeral programs; and obituaries. **(Retention:** Permanent).

(6) **Class Gift Records:** This series provides a record of gifts given to the institution by senior classes. This series may include but is not limited to gift lists; gift histories; a record of gift placement arrangements; and related documentation and correspondence. **(Retention:** Permanent).

(7) **Films, Videotapes, and Sound Recordings:** This series provides visual and/or aural documentation of institutional activities and events including intercollegiate athletics, students, faculty, and staff with significant relevance to either the institution's or individual unit's function and mission. These productions may have been created for recruitment and orientation, fund-raising, publicity, research, or teaching. This series may include but is not limited to identified and labeled videotapes; motion picture films; phonographic recordings (16, 33, 45, and 78 RPM formats); audio tapes (all formats); compact audio discs; and transcriptions when available. NOTE: Contingencies must be made for transferring information to a more stable medium. **(Retention:** Permanent).

(8) **Fund-Raising Records:** This series documents institutional efforts to raise funds to support program functions and facilities. This series may include but is not limited to requests for fund-raising; individual benefactors and prospective donors files; public relations records; event planning and arrangement records; gift history reports; background on previous donations; pledges; and related documentation and correspondence. **(Retention:** 6 years, destroy).

(9) **Hometown Information Records:** This series lists and identifies newspapers published in Oregon and is used to promote the institution. It is arranged alphabetically by town name and county and refers to the appropriate newspaper and its location. This series includes Oregon town and county names that refer to the serving newspaper; brief descriptions of scholarship awards offered on this campus; and all state high schools by town, county, and phone number. **(Retention:** Until superseded or obsolete, destroy).

(10) **News Release Records:** This series documents newsworthy events of the institution. This series may include but is not limited to news releases issued by institution news and communications units arranged by topic and/or date of issue. The news releases may contain but are not limited to the source of the information; title; byline; activity location and dates; and specified time of release. **(Retention:** (a) Permanent for releases pertaining to significant events and policy matters (b) 10 years for routine releases, destroy).

(11) **Ordering Records:** This series documents continuing requests for publications produced by an office. This series may include but is not limited to standing order cards or lists indicating the name and address of the requestor; book titles; transaction date; invoice number; and related documentation and correspondence. **(Retention:** Until request becomes inactive, destroy).

(12) **Photographs:** This series provides photographic documentation of institution activities, events, students, faculty, and staff with significant relevance to either the institution's or individual unit's function and mission. It may be used for student recruitment and orientation, fund-raising, publicity, publications, research, or teaching. This series includes fully identified photographs in print, negative, and slide formats. **(Retention:** Permanent).

(13) **Publications Inventory Records:** This series is used as a reference for publications in stock in an office. This series may include but is not limited to cards and lists. The information may include but is not limited to publication title; date of publication; and retail cost. **(Retention:** 4 years after superseded or obsolete, destroy).

(14) **Publications Records:** This series includes publications produced by individual institution offices. It may be used to document the activities of the office, for educational purposes and/or for informational purposes. Types of publications may include but are not limited to catalogs; books; magazines; newsletters; handbooks; yearbooks; directories; brochures; pamphlets; media guides; guidebooks; proceedings; programs; and flyers. Series may include but is not limited to working papers; mock-ups; drafts; and final publications. **(Retention:** (a) Permanent for final publications (b) 1 year for all other records, destroy).

(15) **Sample Publications and Job Specification Records:** This series is used to provide a record of specifications used in setting up publications for printing by the institution's publications office. This series may include but is not limited to job cards indicating description, specifications, and dollar cost of production; art work including drawings, maps, and blueprints; samples of changes made to publications; completed publications; and related documentation and correspondence. **(Retention:** 5 years, destroy).

(16) **Scholarship Reports:** This series is used as a historical reference on the recipients of scholarships in colleges or departments. These records may include information regarding the names of recipients; when they received the scholarships; names of scholarships; dollar value of scholarships; years recipients entered and graduated; and related correspondence and documentation. **(Retention:** Permanent).

(17) **Unit/Institution/Organization History Records:** This series provides a record of the historical development of the institution; units within the institution; and organizations associated with the institution, such as honor societies, fraternities and sororities, and student/faculty/ staff clubs. This series may include but is not limited to newspaper clippings; photographs; published and unpublished historical sketches; publications; statistics; ephemera; and related documentation and correspondence. **(Retention:** Permanent).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

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Safety and Security Records

(1) **Accident and Injuries Records:** This series documents claims made by institution employees to the SAIF (State Accident Insurance Fund) Corporation for occupational injuries, accidents, or illnesses; insurance coverage and related reimbursement issues; and safety analysis and compliance inspections. This record series does not include accidents or incidents which involve hazardous substance or radiation exposure. This series may include but is not limited to report of accident forms; SAIF Worker's and Employer's Report of Occupational Injury or Disease form (463.801); Occupational Safety and Health Administration (OSHA) Form 200; OSHA Form 101; incident logs; employer payroll reports; hearing transcripts; notices of claim disposition; determination orders; opinions and orders; appeal letters; claim adjustment documentation; medical reports; cost statements; and related documentation and correspondence. **(Retention:** 6 years after final disposition of claim, destroy).

(2) **Acknowledgment of Safety Rules Records:** This series documents that a new institutional employee has been provided copies of safety rules and has discussed applicable safety rules with the supervisor. This series includes but is not limited to acknowledgment forms. **(Retention:** 30 years, destroy).

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(3) **Annual Vehicle Inspection Records:** This series documents the safety of institutionally owned automobiles, vans, trucks, and other motorized vehicles. This series includes but is not limited to annual motor vehicle inspection reports and related forms; documentation; and correspondence. (**Retention:** 2 years after the vehicle is disposed of, destroy).

(4) **Asbestos Records:** This series documents a building by building survey and plan to correct asbestos material hazards. This series may include but is not limited to surveys; monitoring tests and reports; data forms; building plans; correction checklists; removal job records; and related documentation and correspondence. (**Retention:** (a) 30 years after separation for records documenting persons contacting or removing asbestos, destroy (b) 40 years: all other records, destroy).

(5) **Carcinogenic Compound Inventory Records:** This series documents inventory and stock of Class B and C carcinogenic compounds. This series contains but is not limited to project and departmental lists of chemical inventories; lists of persons involved in the research project; and related forms, documentation, and correspondence. (**Retention:** (a) 30 years after separation for records documenting persons using or contacting compounds, destroy (b) 40 years for all other records, destroy).

(6) **Carcinogenic Compounds Research Use Records:** This series documents the use of hazardous carcinogenic compounds by institutional researchers. This series may contain but is not limited to research protocols; applications for use of Class B & C chemical carcinogens; chemical carcinogen animal care requirement forms; lists of personnel involved in laboratory contact with chemical carcinogens; list of carcinogenic compounds to be used in the specific research project; and related documentation and correspondence. (**Retention:** 30 years after employee or researcher separation, destroy).

(7) **Chemical Hazardous Material Survey Forms:** This series is used to document student and employee exposure to hazardous chemicals as per federal regulation. This series includes but is not limited to Chemical Hazardous Material Survey Forms which contain dates, employee or student names, chemical name, and comments; and related documentation and information. (**Retention:** 30 years after student or employee separation, destroy).

(8) **Chemical Incident Records:** This series documents the investigation of hazardous chemical material accidents or incidents including releases. This series may include but is not limited to incident reports noting locations, names, dates, times, description of incident, personnel involved, remarks, and name of contact; and related documentation and correspondence. (**Retention:** 30 years after employee separation, destroy).

(9) **Chemical and Hazardous Waste Disposal Records:** This series documents the receipt, shipment, and disposal of chemical material or hazardous wastes on campus. This series includes but is not limited to chemical and waste inspection forms; drum packing sheets; Uniform Hazardous Waste Manifest forms (EPA 8700); Certificates of Disposal from vendors; land disposal notification forms; waste disposal records; and related documentation and correspondence. (**Retention:** 30 years, destroy).

(10) **Emergency Response Plans and Procedures:** Series documents procedures to be followed in the event of emergency. Records may include step-by-step procedures; unit and institutional disaster preparedness plans; and related correspondence. (**Retention:** Until superseded or obsolete, destroy).

(11) **Environmental Regulations Records:** This series documents institutional compliance with environmental laws and guidelines of federal, state, or local governments. These records include communications with the Regional Air Pollution Authority (RAPA) which is under the jurisdiction of the Environmental Protection Agency (EPA) of the federal government and also the state Department of Environmental Quality (DEQ). This series may include but is not limited to Title V Air Discharge Permits; Air Quality Reports; Waste Water Discharge Permit Applications; Waste Water Discharge Permits; Water Quality Reports; Waste Water Discharge Records; Notices of Violation; Notices of Non-compliance; and related documentation and correspondence. (**Retention:** 10 years, destroy).

(12) **Fire Alarm and Drill Records:** This series documents response to any alarm that is activated on campus. This series may include but is not limited to the following information, when and where the incident occurred; specific response; reset time; and rewind time, if appropriate. (**Retention:** 3 years, destroy).

(13) **Human Materials Authorizations Records:** This series documents faculty proposals to use human materials in classroom instruction. This series includes but is not limited to written proposals from classroom instructors; departmental and committee approvals or disapprovals; reports; and related documentation and correspondence. (**Retention:** 10 years, destroy).

(14) **Inspections Records:** This series documents inspections done by various agencies such as the city building department, health department, or fire department in the course of routine business and is used by the institution to correct and analyze safety problems and to document compliance with regulations. This series may include but is not limited to inspection sheets which show date of inspection, notation of violations, and suggested corrective measures; reports acknowledging compliance with regulations; authorizing signatures; and related information, documentation and correspondence. (**Retention:** 10 years, destroy).

(15) **Material Safety Data Sheets Records:** This series documents the institution's inventory of hazardous chemicals; record keeping is mandated by the Hazardous Communications Program of the Occupational Safety and Health Administration (OSHA). This series contains but is not limited to Material Safety Data Sheets which list chemical name, description, composition, intended use, flash point, transportation, hazards, safe handling, and extinguishing methods; and related documentation. (**Retention:** 30 years, destroy).

(16) **Medical Surveillance Records:** This series documents the medical history of employees working in positions with exposure to high risk hazardous conditions such as Class B and C carcinogenic compounds, asbestos, lead, or excessive noise. Medical examinations of workers are made at the beginning and termination of institution employment and periodically throughout the career course as well as immediately following an accident or potential exposure incident. This series may include but is not limited to medical examinations; laboratory test records and results; and related documentation and correspondence. (**Retention:** 30 years after employee separation, destroy).

(17) **Non-Staff Accident and Injuries Records:** This series documents the reporting and investigation of campus related accidents that result in injury to non-staff and/or their property. This record series does not include accidents or incidents which involve hazardous substance or radiation exposure. This series may include but is not limited to Report of Accident forms; complaints; investigation reports; insurance appraisals and estimates; photographs; and related documentation and correspondence. (**Retention:** (a) If incident results in a claim: transfer to appropriate claim file (b) If no claim results: retain 10 years, destroy, destroy).

(18) **Protective Wear and Device Request Records:** This series documents the authorization and acquisition of specialized safety devices and clothing for employees working in hazardous situations. This series may include but is not limited to Safety Shoe Request and Authorization Forms; Prescription Safety Glasses Request and Authorization Forms; and related forms, documentation, and correspondence. (**Retention:** 4 years, destroy).

(19) **Radiation Licensing Records:** This series is used to document the licensing of the institution by federal, state, and local agencies to receive, use, store, dispose of, and ship radioactive materials. These records include federal and state applications and certificates including State of Oregon Health Division Radiation Material License forms (P112118-333 (100g)) and amendments (p29939-333 (150)); validation certificates showing fees paid for licenses; and related correspondence. (**Retention:** Permanent).

(20) **Radiation Material Handling and Disposal Records:** This series is used to provide a record of the reception, handling, shipment and/disposal of radioactive material or radioactive hazardous wastes at the institution to comply with federal and state record keeping and reporting requirements. The series also provides the office with a record of past activity. Records may include waste material pick up requests and tags; Radioactive Waste Drum Inventory forms (RS 102); Uniform Hazardous Waste Manifest forms (EPA 8700-22); Radiation Waste Shipment and Disposal Manifest forms (vendor form); Radiation Material Inventory sheets; Radiation Material Shipment Receipt Record forms (RS-400); Waste Disposal Record cards; disposal site letters of arrival acknowledgment; Sewered Radioactive Material log sheets; and related correspondence. (**Retention:** Permanent).

(21) **Radiation Monitoring and Exposure Records:** This series provides a record of radiation testing and monitoring of employees, visitors, facilities, and the surrounding environment and is used to comply with federal and state reporting and licensing requirements and insurance carrier reporting requirements. This series includes dosimeter reports (vendor form); Exposure History forms; Statement of Occupational Radiation Dosage forms; Daily Routine Survey Record forms (in-house form FHRCHPP.24A); Neutron Generator Smear Test Survey forms; Floor Survey forms; Special Survey forms (RCHPP.24D); Radioactive Material Shipment Receipt Survey forms (RCHPP.5A); Procurement for Material forms (form 101); Hood Flow Survey forms; Rotation Rack Filter Survey forms; Solid Waste Discharge and Analysis Sheets; Liquid Discharge

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Summary Report forms; Gaseous Waste Summary Report forms; and Soil/Water/Vegetation Record Survey forms. **(Retention:** 30 years after employee separation, destroy).

(22) **Radiation Safety Committee Records:** This series documents the establishment of policy and procedure by the committee. Records include agendas; minutes; reports; notes; working papers and related correspondence. **(Retention:** Permanent).

(23) **Safety Training Records:** This series documents employee training and certification such as for equipment operation, hazardous material handling and emergency procedures, driver training, CPR and first aid training, and asbestos awareness training for removal, abatement, or transportation. This series may include but is not limited to sign off sheets indicating that employees have received training; instruction sheets; copies of hazardous material data sheets; informational materials; and related documentation and correspondence. **(Retention:** 30 years after employee separation, destroy).

(24) **Security Records:** Series documents reporting of suspicious and criminal incidents at the institution. Records may include incident reports containing names, dates, case numbers, dollar values, locations, descriptions of incident, and personnel taking report; identification cards created when reports of suspicious behavior are made to the office; warnings records; copies of reports filed by the Oregon State Police or other law enforcement agencies; notes; and related documentation. **(Retention:** (a) 2 years for copies of reports filed by law enforcement agencies, destroy (b) 5 years for all other records, destroy).

(25) **Student Incident Records:** This series documents incidents of injury to residence hall occupants, vandalism, and other infractions of housing rules. The series also documents the disposition of such incidents. This series may include but is not limited to incident report forms usually filed by resident advisors; housing director's written decisions; student appeals of decisions; and related documentation and correspondence. **(Retention:** (a) If incident results in a claim: transfer to appropriate claim file (b) If no claim results: retain 10 years, destroy).

(26) **Vehicle Accident Records:** This series documents accidents involving vehicles owned by the institution. This series may include but is not limited to vehicle accident reports; vehicle accident claims; damage or loss of state property reports and related documentation and correspondence. Information may include vehicle type and identification number; name of party using the vehicle; notation of condition before and after use; and authorizing signatures. **(Retention:** 4 years, destroy).

Stat. Auth.: ORS 192 & ORS 357
Stat. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895
Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

166-475-0110

Student Records

(1) **Academic Standing Reports:** This series documents student academic standing, including academic deficiency and the status changes of academically deficient students. Records may include reports containing student names, grade point averages (GPAs), grade point deficiencies, and numbers of previous suspensions and probations; student petitions for re-evaluation; report of student progress toward academic readmission/removal of probation status at other institutions; academic honors and awards; and related documentation and correspondence. **(Retention:** 3 years, destroy).

(2) **Admissions Reports:** This series provides summary information relating to student admission programs which may be used for control, planning or review. Records may include but are not limited to working papers; drafts; transitory reports; final reports; and related documentation and reports. Typical report subject categories include the number of new students, advanced placement, and Grade Point Averages summaries. **(Retention:** (a) Permanent for final reports (b) 5 years for all other records, destroy).

(3) **Certification Records:** This series documents the preparation of students earning degrees and/or certification for licenses or certificates to enter a profession and forms the basis of the initial certification for various professions. Records may include applications for admission to a program; registration for practicum hours and evidence of the completion of the practicum; transcripts; narrative evaluations on practicum; notice of completion of hours required for certification; recommendations and evaluations; and related correspondence. **(Retention:** 5 years after initial certification, destroy).

(4) **Class Lists:** This series provides instructional units with an official record of students enrolled in courses taught. The series is used to cross-check students who have enrolled against those who have registered

as well as in the generation of statistical reports. Information in the series includes student names; social security numbers; term; and enrollment/registration status. **(Retention:** 1 term, destroy).

(5) **Commencement Records:** This series documents commencement program planning and implementation at the institution. Records may include but are not limited to commencement attendance forms; planning records created by commencement committees or other planning groups; and related documentation and correspondence. **(Retention:** (a) Permanent for commencement programs (b) Until degrees conferred for commencement attendance forms, destroy (c) 2 years for all other records, destroy).

(6) **Counseling, Psychological, and Psychiatric Case Records:** This series documents all clients who are provided counseling, psychological, and psychiatric services by the institution's counseling center. Clinicians provide treatment concerning personal problems, academic concerns, and career concerns. The psychiatric consultant provides psychiatric care to some student clients. Records may include extensive notes made by providers concerning the assessment, diagnosis, treatment and contacts (written, telephone, or in person) with each client; referral letters; release of information agreements; letters to agencies or others concerning the clients; and related documentation. **(Retention:** 15 years after last contact, destroy).

(7) **Diploma Mailing Verification Records:** This series documents students' requests to have diplomas and other graduation records distributed to specific addresses. Records include signed cards listing permanent addresses for diplomas to be mailed to; indicating that fees have been paid; and listing students' names, college or school within the institution, degrees granted, and dates of requests. **(Retention:** 1 year, destroy).

(8) **Enrollment Reports:** This series is used to provide the Chancellor's office with a record of enrollments which may be used for planning and research. Information contained in the reports includes student names and levels, grade point averages, demographic data, and academic majors. Records may include but are not limited to working papers; final reports; and related documentation and correspondence. **(Retention:** (a) Permanent for final reports (b) 2 years for all other records, destroy).

(9) **Examinations, Tests, Term Papers, and Homework Records:** This series documents work of student subject mastery in institution courses not returned to the student. Records may include but are not limited to examinations and answers; quizzes and answers; homework assignments; course papers; term papers; and essay assignments. This series does not include graduate student qualifying or comprehensive examinations. **(Retention:** (a) 1 term after completion for uncontested grade results, destroy (b) Until resolved for contested grade results, destroy).

(10) **Family Educational Rights and Privacy Act (FERPA) Documents:** This series documents the process of student information release requests and consent authorizations or denials in accordance with the Family Educational Rights and Privacy Act. Records may include but are not limited to requests for formal hearings; requests for release of personally identifiable information; records of disclosures made to third parties; student statements regarding hearing panel decisions; written decisions of the hearing panel; written consent of the student to disclose records; waivers for rights of access; and related documentation and correspondence. **(Retention:** (a) Life of the affected record or until student terminates waiver for written consent of the student to disclose records and waivers for rights of access, destroy (b) Life of the affected record for all other records, destroy).

(11) **Fraternity and Sorority Membership Records:** This series documents personal information on each organization member. Data elements on cards or lists may include high school attended; major; hometown; date pledged; graduation date; offices held; and awards received. **(Retention:** 5 years after last enrollment, destroy).

(12) **Freedom of Information Act (FOIA) Request Records:** This series documents public requests for information under the Freedom of Information Act received by the Registrar. Records include written correspondence inquiries from the public received by the office; written and dated responses issued by the office; notes and memoranda made in drafting responses to these inquiries; and initials of officials approving release of the information. **(Retention:** Life of affected record, destroy).

(13) **Grade Reports:** The series documents grades received by students for the term. This is the record copy of reports distributed to students at the end of each term. Individual forms include course numbers and titles; grades awarded; grade point average; student name; and social security number. **(Retention:** 1 term, destroy).

(14) **Grade Rosters:** The series reflects grades awarded by instructors and serves as the basis for students' official academic records. Records include student names and social security numbers; course titles and num-

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bers; sections; grades awarded; and instructors' signatures. **(Retention:** (a) 10 years for records created after implementation of the Student Information System, destroy (b) 25 years for records created before implementation of the Student Information System, destroy).

(15) **Graduate Students Degree Completed Records:** This series documents students' admission into graduate programs at the institution and their subsequent academic progress resulting in completion of degrees. (The official institutional academic record for all graduate students is maintained by the Registrar's Office). Records may include but are not limited to applications for admission to Graduate School; notices of admission; standardized placement and evaluation exams; transcripts; requests to audit courses; major department/degree change requests; assignment of an advisor; composition of dissertation/thesis committee and any changes thereof; proposed program sheets; transmittal sheets for records; statements of goals and objectives; certification of transferred courses; grade reports; course waiver requests; removal of incomplete grades forms; seven year time-limit appeal records; oral and written exam results — preliminary, qualifying and comprehensive; report of final oral examination and thesis credit for advanced degree; thesis title card approvals; petition for change in graduate program; petitions or letters requesting exemption from institution regulations or procedures; advising checklists; transcripts from other institutions; on-leave requests and approvals, official graduation audit; program advisors' reports showing progress towards academic degrees; advancement to candidacy forms; awards; and related documentation and correspondence. **(Retention:** 20 years after degree completed, destroy).

(16) **Graduate Students Degree Uncompleted Records:** This series documents students' admission into graduate programs at the institution and their subsequent academic progress toward but not resulting in the completion of degrees. (The official institution academic record for all graduate students is maintained by the Registrar's Office.) Records may include but are not limited to applications for admission to graduate school; recommendations/ evaluations for admission; notices of admission; standardized placement and evaluation exams; transcripts; graduate school departmental action forms; requests to audit courses; major department/degree change requests; assignment of an advisor; composition of dissertation/thesis committee and any changes thereof; proposed program sheets; transmittal sheets for records; statements of goals and objectives; abstract of thesis or dissertation; certifications of transferred courses; grade reports; course waiver requests; removal of incomplete grades forms; seven year time-limit appeal records; oral and written exam results — preliminary, qualifying and comprehensive; reports of final oral examination and thesis credit for advanced degree; thesis title card approvals; petitions for change in graduate program; petitions or letters requesting exemption from institution regulations or procedures; on-leave requests and approvals; advising checklists; transcripts from other institutions; program advisors' reports showing progress towards academic degree; advancement to candidacy forms; comprehensive exam results; awards; and related documentation and correspondence. **(Retention:** (a) 25 years after last enrollment for doctoral students, destroy (b) 10 years after last enrollment for masters students, destroy).

(17) **Graduate Students Denied Admission/No Show Records:** This series documents the application and evaluation process for students applying to enter an instructional unit's academic graduate program who are denied admission or who were admitted but failed to enroll or withdraw. Records may include but are limited to applications for admission to graduate school forms, records of GRE and other test scores, departmental action forms; standardized examination reports, foreign student financial documentation, departmental or college supplemental application forms, departmental or college student application status reports, letters of recommendation, resumes, transcripts, and related documentation and correspondence. **(Retention:** (a) 3 years after denial of admission, destroy (b) 1 year after notification of admission if applicant fails to enroll, destroy (c) 1 year for test scores of students that do not apply, destroy).

(18) **Grievance Records:** This series documents grievances brought forward by students against the institution which do not result in litigation. Grievances may pertain to academic issues; housing; affirmative action and equal opportunity; student conduct; and other issues. Records include notices of grievance; informal discussion notes; grievance responses; formal hearing notes (including audio tapes); final summary statements; settlement agreements; appeals documentation; and related records. **(Retention:** (a) 3 years after last enrollment for appealed grievances, destroy (b) 3 years after resolution for grievances not appealed, destroy).

(19) **Independent Study Records:** This series documents departmental approval for students to enroll in independent study courses. Records may include but are not limited to permission sheets with students' names;

course names; number of credits; and faculty signatures. **(Retention:** 5 years, destroy).

(20) **Instructors' Grade Records:** This series documents test scores, class work scores, and final grades for students which may be used as backup to the official academic records held by the Registrar. Records may include but are not limited to instructors' grade books; grade confirmation reports; grade confirmation and change records; and final grade rosters. **(Retention:** 2 years, destroy).

(21) **International Students Records:** This series documents institution assistance to international students who have been admitted to academic programs. These records primarily concern institution admissions, immigration issues, and other non-academic matters. Records may include but are not limited to copies of visas; scholarship information; institution admissions forms; graduate school applications; transcripts of previous college work; grade reports of prior college work; grade reports from institutional courses; international student advisors' notes; degree completion certificates; explanations for student withdrawals; recommendations and evaluations of students; and related documentation and correspondence. **(Retention:** (a) 7 years after last enrollment for all student records of matriculates, destroy (b) 1 year after failure to enroll for all student records of non-matriculates, destroy).

(22) **Internship Program Records:** This series is used to provide a record of the administration of student internship, practicum and cooperative education programs. Programs may be within the institution or off campus and for class credit and/or pay. Records may include but are not limited to applications for internships inside and external to the institution; agreements with departments; postings/notices; student resumes; transcripts; copies of contracts; proposed institution listings; notes; and related documentation and correspondence. **(Retention:** 5 years, destroy).

(23) **Law Student Records:** This series documents students' admission to law school at the institution. Records may include but are not limited to applications for admission; record of degree candidate; request for transfer of graduate credit; statement of completion of requirements for law degree; requests for permission to re-register in the law school; leave of absence requests; petition to extend time past 7-year completion requirement; awards; and related documentation and correspondence. **(Retention:** (a) 75 years for completed degrees, destroy (b) 7 years after last enrollment for uncompleted degrees, destroy).

(24) **Name Changes Records:** This series documents students or applicants name changes reported to the admissions or registrar's offices by students. Records may include but are not limited to letters requesting change in name; name change forms; lists or reports of students with changed names; and related documentation and correspondence. **(Retention:** 2 years after degree completed or last enrollment, destroy).

(25) **National Testing Records:** This series provides a record of the services rendered to clients by administering tests required of students seeking admission to various programs or seeking to substitute already acquired knowledge for formal college courses. Tests administered include Scholastic Aptitude (SAT); American College (ACT); Graduate Record Examination (GRE); Medical School Admission (MCAT); Pharmacy School Admission (PCAT); Business School Admission (GMAT); National Teacher Education (NTE); Veterinary College Admission Test (VCAT); and Test of English as a Foreign Language (TOEFL). Records may include but are not limited to testing rules and regulations; rosters of test takers; seating charts; supervisors' reports; and vouchers for payment of testing. This series does not include test scores. **(Retention:** 3 years after testing date, destroy).

(26) **Non-Institution Student Records:** This series documents and tracks the application, selection, and progress in special instructional programs of elementary through high school and non-institution students belonging to special, minority, or disadvantaged groups. Examples of programs to which this series applies are Science and Mathematics Investigative Learning Experiences (SMILE), Upward Bound, High School Equivalency, and other non-institution programs. Records may include but are not limited to application and admission documentation; personal and family information; medical and health documentation; selection and decision making documentation; Educational Opportunity Program (EOP) documentation; notification of admission and non-admission; recommendations and evaluative materials; copies of academic records; counseling and advising notes and documentation; housing and conduct documentation; federal student aid reports; risk release and insurance forms; immigration and citizenship documentation; financial responsibility records; reports; and related documentation and correspondence. **(Retention:** 3 years after separation from program, destroy).

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(27) **Placement Records:** This series documents the written reference history of a student to be forwarded to potential employers or professional schools. Records may include but are not limited to credentials records showing where, when, and cost of letters sent; release of information form which includes a listing of the reference letters to be sent; reference letters; student teaching reports; professional program certificates; personal data sheets and resumes; College Interview Forms; and related documentation and correspondence. **(Retention:** (a) 5 years for established files, destroy (b) 2 years for incomplete file establishment requests, destroy).

(28) **Placement Survey Records:** This series documents the results of a placement survey conducted every two years of recent baccalaureate graduates. Records may include but are not limited to reports and questionnaires which provide the following information on individual alumni: career status or job title; continuing education; geographic location; source of finding employment; relationship of employment to major; salary; computer training needs; and number of years enrolled. **(Retention:** (a) Permanent for reports (b) 3 years for questionnaires, destroy).

(29) **Prospective International Student Records:** This series documents institution assistance to international students who are considering attendance at the institution. Records may include but are not limited to letters of inquiry from prospective students; official replies to inquiries; completed applications and admittance forms; local data sheets; advisory notes; and related documentation and correspondence. **(Retention:** (a) 2 years for non-admitted applicants records, destroy (b) Until admitted for admitted applicants records, which then become part of the International Student Records, destroy).

(30) **Recruiters Records:** This series provides a record of recruiter visits to the campus to conduct job interviews. Records may include but are not limited to scheduling calendars; Recruiter Schedules; affirmative action statements; recruiter information forms; lists of interviewees; feedback forms from recruiters; and related documentation and correspondence. **(Retention:** 2 years, destroy).

(31) **Residency Affidavits:** This series documents declarations filed by students regarding state residency status which is critical for determining tuition status. Records may include but are not limited to affidavits; correspondence regarding residency; and related documentation. **(Retention:** 5 years, destroy).

(32) **Services to Students with Disabilities (SSD) Records:** This series documents student participation in the Services to Students with Disabilities Program. Records may include but are not limited to health professional evaluation reports; recommendations for student applicants; high school transcripts and academic work-sheets; autobiographical essays; copies of applications for admission; copies of notices of admission; special admissions applications checklists; questionnaires; physicians' statements and letters of recommendation; counseling interview notes and referrals; and related documentation and correspondence. **(Retention:** 5 years after last contact, destroy).

(33) **Special Academic Programs Student Records:** This series documents and tracks the application, admission, selection, and progress of institution students participating in special academic programs serving, guiding, and aiding institution students. This series consists of the individual files for students participating in special institution programs which provide services ranging from counseling and tutoring to tuition waiver assistance. Programs may include but are not limited to the English Language Institute (ELI) and American English Institute; Educational Opportunities Program (EOP); non-traditional student programs; Older Than Average Student Program and Adult Learners; National Student Exchange Program (NSE); Native American Science Program (NASP); University Exploratory Studies Student Program (UESP); Study Abroad Program; Academic Learning Services (ALS); Peer Advising; and other special academic programs. Records may include but are not limited to application documentation; personal information; medical and health documentation; admission and non-acceptance documentation; recommendations and evaluative materials; copies of academic records; counseling and advising notes and documentation; risk release and insurance forms; immigration and citizenship documentation; financial responsibility records; reports; and related documentation and correspondence. **(Retention:** (a) 7 years for accepted and enrolled participants, destroy (b) 2 years for denied admission or did not enroll after acceptance, destroy).

(34) **Student Academic Records:** This series documents the academic progress of graduate and undergraduate matriculated students at the institution. Records may include but are not limited to institution academic transcripts; high school and non-institutional college transcripts; applications; notices of admission, readmission, denial and acceptance; grade reports; records of grade changes; reservation of credit requests; petitions

for exemption from institution regulations and procedures; applications for withdrawal from the institution forms; advanced standing reports; standardized examination reports; letters of recommendation; vault number index card file; and related documentation and correspondence. **(Retention:** (a) Permanent for transcripts, applications for admission, and grade change records (b) 5 years for all other records, destroy).

(35) **Student Activity Reports:** This series provides a record of graduate and undergraduate student statistics in a specific instructional unit and is used to provide summary information which may be used for planning or review. This report may include but is not limited to country of origin; degree(s) held and pursued; financial situation; gender and ethnicity; marital status; veterans status; academic standing and grade point averages; placement test scores; immigration status; and other data elements. **(Retention:** Until superseded or obsolete, destroy).

(36) **Students Admissions Records:** This series documents the application process for individuals seeking admission to the institution. Records may include but are not limited to admission applications; academic transcripts from other institutions; test scores; letters of admittance; and related documentation and correspondence. **(Retention:** Until matriculation, transfer to the Registrar's Office for inclusion in the Student Academic Records).

(37) **Student Advising Records:** This series is used to provide a record of an undergraduate and/or graduate student's academic progress within a specific department and or college program. Most of the components in this record series are reference copies of records maintained in the files of the Registrar's Office and/or the Graduate School and are maintained for the convenience of the student academic advisors. Records may include but are not limited to applications for program admission; notices of admission; grade reports; in-house grade record cards; degree program requirement lists; departmental course waiver forms; program advisors' reports showing progress towards academic degrees; advising checklist forms; advisors' notes; copies of transcripts; Program Planning Sheets; advanced standing examination reports; official graduation audits; curriculum posting sheets; recommendation letters; suspension notices; re-admission notices; comprehensive exam results; awards; and related documentation and correspondence. **(Retention:** 1 year after degree completed or last enrollment, destroy).

(38) **Student Conduct Records:** This series documents academic dishonesty and conduct violations among students. Records may include but are not limited to incidents reports; final reports; evidence; notification of allegation; Timely Notice Forms; Conduct-Pending, Conduct-Restitution, and Suspension Lists; Quarterly Security Reports; disciplinary reports; informal discussion notes; formal hearing notes; final summary statements; decision statements; appeals documentation; and related documentation and correspondence. **(Retention:** (a) 75 years for case files involving expulsion, degree revocation, or negative notation on the transcript, destroy (b) 10 years for case files involving suspension, destroy (c) 5 years for all other disciplinary case files, destroy).

(39) **Student Development Transcripts Records:** Series documents students participation in university clubs, organizations, honor societies and special academic programs such as the Study Abroad Program; volunteer service in community organizations; and honors and awards received. Records include transcripts listing activities, background materials used to validate the activities, and related correspondence. **(Retention:** (a) Permanent for transcripts (b) 5 years after last activity for all other records, destroy).

(40) **Student Non-Disclosure Requests Records:** This series documents the request by a student to restrict release of information normally provided as directory information as per Family Educational Rights and Privacy Act (U.S. Public Law 93-380). This series may contain but is not limited to student requests for non-disclosure of directory information and memoranda distributed to pertinent departments informing units which might have pertinent information not to disclose that information. **(Retention:** (a) 1 year for revoked requests, destroy (b) Permanent all other records).

(41) **Student Organization Administrative Records:** This series documents the history, development, and policies of campus student organizations. Records may include but are not limited to annual review forms; minutes; constitutions and bylaws; committee, subcommittee, and task-force records; Student Senate bill and resolution files; budgets; handbooks; officer and member rosters; scrapbooks; photographs; and related documentation and correspondence. **(Retention:** Permanent).

(42) **Student Recruitment Records:** This series documents efforts of the institutional units to recruit students based upon disadvantaged status, academic performance, and other criteria. Records may include but are not

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limited to prospects lists; interview and conversation notes; photographs; personal information forms and resumes; test scores; academic transcripts; and related documentation and correspondence. (**Retention:** 5 years, destroy).

(43) **Student Status Cards:** This series documents the status of students who are enrolled or have been enrolled and graduated from the academic program. Information on the individual cards may include but is not limited to name; date entered; department; change of school; graduation dates; degrees; previous schools attended; notation of activities and honors; and photographs of individuals. (**Retention:** 20 years, destroy).

(44) **Students (Undergraduate) Denied Admissions Records:** This series provides a record of undergraduate students who have been denied entry into degree or certificate programs or who have been admitted but have not enrolled. Records may include but are not limited to: admission applications; academic transcripts from other institutions; test scores; letters of admittance; and related documentation and correspondence. (**Retention:** (a) 2 years after denial of admission, destroy (b) 1 year after notification of admission if applicant fails to enroll, destroy).

(45) **Student Statistical Reports:** This series documents student status and enrollment at the institution. Records may include specialized listings and statistical reports pertaining to departmental and college registration, course changes, add/drops, geographical distribution of students, student age and gender data, mortality of classes, student transfers from other schools, student body grade point averages and GPAs of living groups, and veterans enrollment; reports documenting student and enrollment by term; and reports on other topics. (**Retention:** (a) Permanent for summary and annual reports (b) 3 years for all other records, destroy).

(46) **Student Tracking Records:** This series documents student enrollment in courses and changes in enrollment. The series also documents admission status changes, affiliation and registration in colleges or schools, and changes in grading basis. Records may include but are not limited to registration forms; registration change forms (add/drop forms); withdrawal forms; application for re-admission forms; change of schools (within the institution) forms; and grading basis (unsatisfactory/satisfactory) change forms. (**Retention:** 1 year, destroy).

(47) **Summer Session Registration Records:** This series documents the enrollment and registration of students in the institution's summer session program. Records may include but are not limited to lists of summer term students; summer term official registration cards; summer term proposed schedule of classes; summer term registration statistics; summer term program; student-faculty survey of summer session; and related documentation and correspondence. (**Retention:** (a) Permanent for summer term registration statistics (b) 10 years for student-faculty surveys of summer session, destroy (c) 3 years for all other records, destroy).

(48) **Supplemental Grade Report Records:** This series documents grade changes submitted by instructors through the academic departments to the Registrar. Records may include but are not limited to supplemental grade reports (SGRs); removal of I and E forms; and related documentation and correspondence. (**Retention:** (a) 5 years for records created after implementation of the Student Information System, destroy (b) 25 years for records created before implementation of the Student Information System, destroy).

(49) **Theses and Dissertations Records:** This series documents the completion and academic acceptance of graduate theses and dissertations presented to colleges in fulfillment of requirements for graduate degrees. This series includes final and accepted copies of theses and dissertations. (**Retention:** Permanent).

(50) **Transcript Hold or Encumbering Authorization Forms:** This series documents holds on transcripts and academic reporting information placed by the institution for a number of reasons. This series consists of forms authorizing the holding of academic records and information until a specific action is taken by the subject of the academic record. (**Retention:** Until release of the hold authorization, destroy).

(51) **Transcript Request Forms:** This series provides a record of students' requests for transcripts to be sent to other institutions. Information on the individual form includes student's present name and other name(s) under which the student attended; social security number; vault number (used in locating the transcript in the Student Record series); home address; phone number; student signature; number of copies of transcript requested; fee status; whether official or unofficial transcripts are desired; date of request; and destination(s) of transcript(s). (**Retention:** (a) 6 months for requests of official transcripts, destroy (b) 1 month for requests of unofficial transcripts, destroy).

(52) **Undergraduate Degree Audit and Application for Graduation Records:** This series documents student completion of degree

requirements. Records may include but are not limited to work sheets; transcripts; and transfer course evaluations. The series may also include official graduation audit forms that list students' names; colleges; majors; degrees; minors; the course loads taken by the applicants for previous three terms; the breakdown of institutional undergraduate degree requirements (as opposed to school, major, or certificate program graduation requirements) and how the applicants have fulfilled them; grade point averages; and deans' recommendations/ comments and signatures. (**Retention:** 5 years after last enrollment, destroy).

(53) **Veterans Records:** This series documents the entitlement status and enrollment of veterans in the institution. Records include but are not limited to Oregon State Veterans Affairs form 1006M that certifies Oregon resident veterans educational benefits entitlements; individual veteran student records that certify to the U.S. Department of Veterans Affairs that the student is eligible for educational benefits, is currently enrolled at the institution in a qualifying curriculum, and is maintaining standards required to receive entitlements; veterans attendance reports; and related forms, documentation and correspondence. (**Retention:** 3 years following termination of enrollment period, destroy).

Stat. Auth.: ORS 192 & ORS 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 3-1999, f. & cert. ef. 10-11-99; OSA 2-2003, f. & cert. ef. 2-14-03; OSA 3-2004, f. & cert. ef. 7-29-04

Travel Information Council Chapter 733

Adm. Order No.: TIC 1-2004(Temp)

Filed with Sec. of State: 7-20-2004

Certified to be Effective: 7-20-04 thru 1-15-05

Notice Publication Date:

Rules Amended: 733-030-0021, 733-030-0065

Subject: Food facilities that have two distinct brand name restaurants in one building may display the logos of both food services on one food logo plaque. Permit fees shall be 1 1/3 the rate for a regular food logo charged in that area.

Rules Coordinator: Angela Willhite—(503) 378-4508

733-030-0021

Criteria for Specific Information Permitted

(1) Each qualified motorist business identified on a sign panel shall have given written assurance to the Council of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, age, sex, or national origin, meet all applicable Federal and State ADA guidelines, and shall not be in breach of that assurance. Each qualified business will offer services to all citizens.

(2)(a) If the qualified motorist business is a gas, food, lodging, or Tourist Attraction facility, it must be located within one mile of the interchange or intersection measured by vehicle distance from the center point of the terminus of the exit ramp on an interchange and from the center of an intersection to the nearest point of the intersection of the driveway of the business and a public highway. However, any qualified motorist business set out in this section location within nine miles of an interchange or intersection, but more than one mile from the interchange or intersection may apply to the Council for a waiver under the provisions of rule 733-030-0060.

(b) Facilities requesting signing from an Interstate or Expressway interchange and located within a city with a population of 15,000 or more and where there are sufficient numbers of services within one mile of that interchange or intersection, are not eligible for a mileage waiver and shall be located within one mile of the interchange or intersection. If there is not a sufficient amount of services available at any given interchange or intersection in a city with a population of 15,000 or more, then any qualified motorist business set out in this section located within two miles of an interchange or intersection may apply to the Council for a waiver under the provisions of rule 733-030-0060. A maximum of two supplemental signs per facility shall be allowed within urban areas. A facility has the right to appeal the conditions set forth in this paragraph through a waiver to the Council. A seven-year review will be conducted for those logo signs installed following the rule adoption.

(3) If the qualified motorist business is a camping facility, it must be located within three miles of the interchange measured by vehicle distance from the center point of the terminus of the exit ramp of an interchange or the center of an intersection at an intersection to the nearest point of the intersection of the driveway of the business and a public highway.

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However, any qualified motorist business set out in this paragraph located within 15 miles of an interchange or intersection, but more than three miles from an interchange or intersection, may apply to the Council for a waiver under the provisions of rule 733-030-0060.

(4) The types of service permitted shall be limited to "GAS", "FOOD", "LODGING" "CAMPING" or "TOURIST ATTRACTION". To qualify for displaying a logo on a sign panel all services must display permanent on premise signing which is visible from the roadway and sufficient to direct motorists to the appropriate entrance from the roadway. The on premise signing shall display the Assumed Business Name as stated on logo plaques. Facilities that operate under and/or provide service using more than one brand name shall be limited to displaying not more than two brand names per plaque.

(a) "GAS" shall include:

(A) Vehicle services, which shall include fuel, oil, tire repair and water;

(B) Restroom facilities and drinking water;

(C) Continuous operation at least 16 hours per day, 7 days a week for businesses located on the interstate system and expressways and continuous operation at least 12 hours per day, 7 days a week on the primary and secondary system; and

(D) Telephone service;

(E) FOOD services located within GAS facilities, that meet all requirements under 733-030-0021(4)(b) except for (E), may display their logo on the logo plaque for the GAS facility in which they are located. Each GAS plaque shall be limited to the addition of only one FOOD service. Brand names that are reflected as part of the GAS facility's registered business name may be included on the logo plaque.

(b) "FOOD" shall include:

(A) Appropriate business & health department licensing for the providing of meals; facilities are required to maintain a valid health permit or license for the type of facility operated.

(B) Continuous operation for 10 hours a day or breakfast/lunch/dinner, not open later than 10:00 am, 7 days a week, with year-round service

(C) Telephone service;

(D) The primary business operation is the providing of meals; and

(E) Seating for at least 20 people. FOOD facilities that have two distinct brand name restaurants in one building may display the logos of both FOOD services on one FOOD logo plaque. FOOD facilities located within GAS facilities, which do not meet FOOD seating requirements, may be displayed on the GAS logo for that facility. See 733-030-0021(4)(a)(E);

(c) "LODGING" shall include:

(A) Licensing where required;

(B) Adequate sleeping accommodations;

(C) Telephone services.

(D) Bed & Breakfast facilities, provided they maintain valid food and lodging health department licenses

(d) "CAMPING" shall include:

(A) Licensing where required;

(B) Adequate parking accommodations;

(C) Modern sanitary facilities and drinking water.

(e) "TOURIST ATTRACTION" shall include:

(A) Adequate parking

(B) Restrooms provided

(C) Drinking water required

(D) Facility be reasonably close to a public telephone

(E) Open at least six hours a day; six days a week of continuous operation during its normal business season.

(F) Licensing where required

(G) Attendant/Docent/Guide on duty during all operating hours.

(H) Attractions involving manufacturing or production, such as industrial facilities or wineries must meet all conditions under (e)(A)-(G) and must provide the opportunity for visitors to observe the production or manufacturing process or facilities.

(I) Historical facilities and visitor centers must meet all conditions under (e)(A)-(G) and must provide:

(1) Documentation showing that the facility meets the definition of the authorizing state agency that develops criteria for these facilities

(2) Historical tour routes may qualify with a waiver given by the Council if such a tour route is sufficiently signed to guide the motorist safely and conveniently through the tour.

(3) Historical sites must show registration through State or Federal designators;

(4) Historical museum offerings must:

(a) Exist on a permanent basis for essentially aesthetic or educational purposes;

(b) Offerings must be the primary source of business of the requesting facility;

(c) Museum offerings must be exhibited to the public on a regular basis through buildings owned and operated by the museum.

(5) The number of sign panels permitted shall be limited to one for each type of service along an approach to an interchange or intersection. The number of logos permitted on a sign panel is specified in rule 733-030-0036 for the interstate system, rule 733-030-0041 for expressways, and rule 733-030-0045 for the primary and secondary system.

(6) A qualified motorist business, which fails to meet the requirements of section (4) of this rule, may request a waiver from the Council under the provision of 733-030-0060.

Stat. Auth.: ORS 377.700 - ORS 377.840

Stats. Implemented: ORS 183.310 - ORS 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-1984, f. & ef. 1-13-84; TIC 3-1985, f. & ef. 6-4-85; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 3-1995, f. & cert. ef. 11-8-95; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 2-2000, f. 10-13-00, cert. ef. 11-1-00; TIC 1-2004(Temp), f. & cert. ef. 7-20-04 thru 1-15-05

733-030-0065

Fees and Installation

(1) The Council may request the Department to furnish, erect and maintain sign panels, supplemental sign panels and trailblazers at locations specified by the Council.

(2) Upon the approval of an application for a logo or logos to be affixed to a sign panel, the Council shall request and authorize installation of sign panels from ODOT, the TIC sign crew or a TIC contractor as determined appropriate by TIC staff. The Council shall provide the installer with all necessary information to erect the sign panels, supplemental sign panels, trailblazers or install the logo.

(3) The Council shall notify applicant promptly when a permit application has been approved to allow the applicant sufficient time to furnish the necessary number of logos. If the Council is notified that a qualified motorist service business has failed to furnish its logos by the specified date given by the Council, or that the logo signs furnished are not in compliance with specifications provided by the Council it may cancel the permit and refund the amount paid in advance by the applicant.

(4) Fees. The annual permit fee for each logo placed on a sign panel shall be based on the traffic volume and population density of the area where the highway is located. Fees set by the Council shall be reviewed biennially and made apart of this administrative rule. The new fee schedule as of November 1, 1997 is:

(a) Schedule A I-5, Portland; I-205, Portland; Highway 217, Tigard, Beaverton; 26 Portland, Beaverton (before North Plains):

(A) Primary Sign Fee \$400 per sign;

(B) Secondary Sign Fee \$160 per sign.

(b) Schedule B I-5, Eugene through Salem; Highway 213, Oregon City:

(A) Primary Sign Fee \$310 per sign;

(B) Secondary Sign Fee \$150 per sign.

(c) Schedule C I-5 Ashland through Creswell: All of I-84:

(A) Primary Sign Fee \$260 per sign;

(B) Secondary Sign Fee \$125 per sign.

(d) Schedule D all primary and secondary routes west of the Cascade Mountains, I-82, Southern Oregon, Oregon Coast and Klamath Falls and Bend/Sisters area:

(A) Primary Sign Fee \$220 per sign;

(B) Secondary Sign Fee \$100 per sign.

(e) Schedule E Central Oregon:

(A) Primary Sign Fee \$120 per sign;

(B) Secondary Sign Fee \$70 per sign.

(f) Schedule F Northeastern and Southeastern Oregon:

(A) Primary sign fee \$75 per sign;

(B) Secondary sign fee \$50 per sign.

(5) The annual permit fee for a trailblazer shall be \$50.

(6) In accordance with OAR 733-030-0055(10), permit fees are payable with the contract and the permit shall be automatically renewed upon receipt of the entirety of the appropriate annual fee on or before the payment due date stated in the Council's invoice.

(7) Permit fees for FOOD facilities that display the logos of two distinct brand FOOD services on one FOOD logo plaque shall be 1 1/3 fee for a regular FOOD logo charged in that area. Permit fees for GAS facilities that include a FOOD facility on their logo plaque, shall be 1 1/3 the fee for

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a regular GAS logo charged in that area. Payment of fees is the responsibility of the GAS facility, which will be designated as the primary facility.

(8) Permit fees for Dual Services signing shall be 1 1/3 the fee for one service logo charged in that area.

(9) The Council may charge a fee when a facility desires to replace their logo plaques due to a redesign of the logo design, color or a change in the registered business name of \$75 per plaque per location.

(10) Nonpayment of annual fees will result in the removal of signs, and the sign location will be offered to the next qualified motorist service business desiring that sign location. Should the signs be reinstalled after removal due to nonpayment of fees, the Council shall charge a maintenance fee of \$200 per sign reinstalled, along with annual fees due.

(11) In case of removal of a sign panel or supplemental sign panel, the permit fee for any months or major portion (16 days or more) of a month remaining to the anniversary of the date of placement of the logo shall be

refunded. There shall be no refund of annual permit fees due to temporary or seasonal closure.

(12) Annual fees for qualifying TOURIST ATTRACTION facilities shall be the same fees charged for other logo signs under this section, (4)(a)-(f). If the qualifying facility can show nonprofit designation, annual fees will be charged at \$150 per advance sign, and \$50 per supplemental ramp sign.

Stat. Auth.: ORS 377.700 -377.840

Stats. Implemented: ORS 183.310 -183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 3-1984 (Temp), f. & ef. 10-29-84; TIC 2-1985, f. & ef. 6-4-85; TIC 1-1986, f. & ef. 5-28-86; TIC 2-1986, f. & ef. 9-19-86; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 3-1996, f. & cert. ef. 10-16-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-1998, f. 6-8-98, cert. ef. 7-1-98; TIC 2-1998, f. & cert. ef. 11-13-98; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 3-2000, f. 12-14-00, cert. ef. 12-15-00; TIC 1-2001, f. 5-11-01, cert. ef. 5-15-01; TIC 2-2002, f. & cert. ef. 10-30-02; TIC 1-2004(Temp), f. & cert. ef. 7-20-04 thru 1-15-05

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101-001-0000	7-2-04	Amend	8-1-04	101-020-0030	12-4-03	Amend	1-1-04
101-001-0005	7-2-04	Amend	8-1-04	101-020-0030	7-2-04	Amend	8-1-04
101-001-0010	7-2-04	Amend	8-1-04	101-020-0035	12-4-03	Amend	1-1-04
101-001-0015	7-2-04	Amend	8-1-04	101-020-0035	7-2-04	Amend	8-1-04
101-001-0020	12-4-03	Adopt	1-1-04	101-020-0040	12-4-03	Amend	1-1-04
101-001-0020	7-2-04	Amend	8-1-04	101-020-0040	7-2-04	Amend	8-1-04
101-002-0005	7-2-04	Amend	8-1-04	101-020-0045	7-2-04	Amend	8-1-04
101-002-0010	7-2-04	Amend	8-1-04	101-030-0005	12-4-03	Amend	1-1-04
101-002-0015	7-2-04	Amend	8-1-04	101-030-0005	7-2-04	Amend	8-1-04
101-002-0020	7-2-04	Amend	8-1-04	101-030-0010	7-2-04	Amend	8-1-04
101-005-0010	12-4-03	Adopt	1-1-04	101-030-0015	7-2-04	Amend	8-1-04
101-005-0010	7-2-04	Amend	8-1-04	101-030-0020	7-2-04	Amend	8-1-04
101-005-0020	12-4-03	Adopt	1-1-04	101-030-0022	12-4-03	Adopt	1-1-04
101-005-0020	7-2-04	Amend	8-1-04	101-030-0022	7-2-04	Amend	8-1-04
101-005-0030	12-4-03	Adopt	1-1-04	101-030-0025	7-2-04	Amend	8-1-04
101-005-0030	7-2-04	Amend	8-1-04	101-030-0030	7-2-04	Amend	8-1-04
101-005-0040	12-4-03	Adopt	1-1-04	101-030-0035	7-2-04	Amend	8-1-04
101-005-0040	7-2-04	Amend	8-1-04	101-030-0040	12-4-03	Amend	1-1-04
101-005-0050	12-4-03	Adopt	1-1-04	101-030-0040	7-2-04	Amend	8-1-04
101-005-0050	7-2-04	Amend	8-1-04	101-040-0005	12-4-03	Amend	1-1-04
101-005-0060	12-4-03	Adopt	1-1-04	101-040-0005	7-2-04	Amend	8-1-04
101-005-0060	7-2-04	Amend	8-1-04	101-040-0010	12-4-03	Amend	1-1-04
101-005-0070	12-4-03	Adopt	1-1-04	101-040-0010	7-2-04	Amend	8-1-04
101-005-0070	7-2-04	Amend	8-1-04	101-040-0015	7-2-04	Amend	8-1-04
101-005-0080	12-4-03	Adopt	1-1-04	101-040-0020	7-2-04	Amend	8-1-04
101-005-0080	7-2-04	Amend	8-1-04	101-040-0025	12-4-03	Amend	1-1-04
101-005-0090	12-4-03	Adopt	1-1-04	101-040-0025	7-2-04	Amend	8-1-04
101-005-0090	7-2-04	Amend	8-1-04	101-040-0030	12-4-03	Amend	1-1-04
101-005-0100	12-4-03	Adopt	1-1-04	101-040-0030	7-2-04	Amend	8-1-04
101-005-0100	7-2-04	Amend	8-1-04	101-040-0035	12-4-03	Amend	1-1-04
101-005-0110	12-4-03	Adopt	1-1-04	101-040-0035	7-2-04	Amend	8-1-04
101-005-0110	7-2-04	Amend	8-1-04	101-040-0040	12-4-03	Amend	1-1-04
101-005-0120	12-4-03	Adopt	1-1-04	101-040-0040	7-2-04	Amend	8-1-04
101-005-0120	7-2-04	Amend	8-1-04	101-040-0045	12-4-03	Amend	1-1-04
101-005-0130	12-4-03	Adopt	1-1-04	101-040-0045	7-2-04	Amend	8-1-04
101-005-0130	7-2-04	Amend	8-1-04	101-040-0050	12-4-03	Amend	1-1-04
101-005-0140	12-4-03	Adopt	1-1-04	101-040-0050	7-2-04	Amend	8-1-04
101-005-0140	7-2-04	Amend	8-1-04	101-040-0055	8-31-04	Adopt(T)	8-1-04
101-006-0010	12-4-03	Adopt	1-1-04	101-040-0060	12-4-03	Repeal	1-1-04
101-006-0010	7-2-04	Amend	8-1-04	101-040-0070	12-4-03	Repeal	1-1-04
101-006-0020	12-4-03	Adopt	1-1-04	101-040-0080	12-4-03	Adopt	1-1-04
101-006-0020	7-2-04	Amend	8-1-04	101-040-0080	7-2-04	Amend	8-1-04
101-010-0005	12-4-03	Amend	1-1-04	101-050-0005	7-2-04	Amend	8-1-04
101-010-0005	7-2-04	Amend	8-1-04	101-050-0010	12-4-03	Amend	1-1-04
101-015-0005	7-2-04	Amend	8-1-04	101-050-0010	7-2-04	Amend	8-1-04
101-015-0010	7-2-04	Adopt	8-1-04	101-050-0015	12-4-03	Amend	1-1-04
101-020-0005	7-2-04	Amend	8-1-04	101-050-0015	7-2-04	Amend	8-1-04
101-020-0010	12-4-03	Amend	1-1-04	101-050-0020	7-2-04	Amend	8-1-04
101-020-0010	7-2-04	Amend	8-1-04	101-050-0025	12-4-03	Amend	1-1-04
101-020-0015	12-4-03	Amend	1-1-04	101-050-0025	7-2-04	Amend	8-1-04
101-020-0015	7-2-04	Amend	8-1-04	101-050-0030	7-2-04	Amend	8-1-04
101-020-0018	12-4-03	Amend	1-1-04	101-060-0005	7-2-04	Amend	8-1-04
101-020-0018	7-2-04	Amend	8-1-04	101-060-0010	7-2-04	Amend	8-1-04
101-020-0020	12-4-03	Amend	1-1-04	101-060-0015	7-2-04	Amend	8-1-04
101-020-0020	7-2-04	Amend	8-1-04	105-040-0030	12-20-03	Amend(T)	2-1-04
101-020-0025	7-2-04	Amend	8-1-04	105-040-0030	3-5-04	Amend	4-1-04

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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105-040-0050	11-25-03	Amend(T)	1-1-04	123-023-0501	5-24-04	Am. & Ren.	7-1-04
105-040-0050	3-15-04	Amend	4-1-04	123-023-0551	5-24-04	Am. & Ren.	7-1-04
121-040-0010	12-24-03	Amend	2-1-04	123-023-1300	5-24-04	Adopt	7-1-04
122-040-0040	12-30-03	Adopt	2-1-04	123-023-1500	5-24-04	Adopt	7-1-04
122-040-0050	12-30-03	Adopt	2-1-04	123-023-1700	5-24-04	Adopt	7-1-04
122-040-0060	12-30-03	Adopt	2-1-04	123-023-1900	5-24-04	Adopt	7-1-04
122-070-0000	12-4-03	Amend	1-1-04	123-025-0005	2-3-04	Amend(T)	3-1-04
122-070-0010	12-4-03	Amend	1-1-04	123-025-0010	2-3-04	Amend(T)	3-1-04
122-070-0030	12-4-03	Amend	1-1-04	123-025-0010	8-2-04	Amend	9-1-04
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
123-006-0010	6-15-04	Suspend	7-1-04	123-025-0025	2-3-04	Amend(T)	3-1-04
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	123-027-0050	2-3-04	Amend(T)	3-1-04
123-006-0025	6-15-04	Amend(T)	7-1-04	123-027-0055	2-3-04	Adopt(T)	3-1-04
123-006-0025	8-5-04	Amend	9-1-04	123-027-0060	2-3-04	Amend(T)	3-1-04
123-006-0041	12-23-03	Adopt(T)	2-1-04	123-027-0070	2-3-04	Amend(T)	3-1-04
123-006-0051	12-23-03	Adopt(T)	2-1-04	123-027-0080	2-3-04	Suspend	3-1-04
123-020-0000	2-21-04	Adopt(T)	3-1-04	123-027-0105	2-3-04	Adopt(T)	3-1-04
123-020-0005	2-21-04	Amend(T)	3-1-04	123-027-0155	2-3-04	Adopt(T)	3-1-04
123-020-0005	8-2-04	Am. & Ren.	9-1-04	123-027-0160	2-3-04	Adopt(T)	3-1-04
123-020-0010	2-21-04	Amend(T)	3-1-04	123-027-0165	2-3-04	Adopt(T)	3-1-04
123-020-0010	8-2-04	Am. & Ren.	9-1-04	123-027-0170	2-3-04	Adopt(T)	3-1-04
123-020-0015	2-21-04	Amend(T)	3-1-04	123-027-0200	2-3-04	Adopt(T)	3-1-04
123-020-0015	8-2-04	Am. & Ren.	9-1-04	123-027-0210	2-3-04	Adopt(T)	3-1-04
123-020-0020	2-21-04	Amend(T)	3-1-04	123-030-0004	2-3-04	Amend(T)	3-1-04
123-020-0020	8-2-04	Am. & Ren.	9-1-04	123-030-0004	8-2-04	Amend	9-1-04
123-020-0025	2-21-04	Amend(T)	3-1-04	123-030-0010	2-3-04	Amend(T)	3-1-04
123-020-0025	8-2-04	Am. & Ren.	9-1-04	123-030-0010	8-2-04	Amend	9-1-04
123-020-0030	2-21-04	Amend(T)	3-1-04	123-030-0020	2-3-04	Amend(T)	3-1-04
123-020-0030	8-2-04	Am. & Ren.	9-1-04	123-030-0020	8-2-04	Amend	9-1-04
123-020-0035	2-21-04	Amend(T)	3-1-04	123-030-0030	2-3-04	Amend(T)	3-1-04
123-020-0035	8-2-04	Am. & Ren.	9-1-04	123-030-0030	8-2-04	Amend	9-1-04
123-020-0040	2-21-04	Amend(T)	3-1-04	123-030-0040	2-3-04	Amend(T)	3-1-04
123-020-0040	8-2-04	Am. & Ren.	9-1-04	123-030-0040	8-2-04	Amend	9-1-04
123-020-0050	2-21-04	Suspend	3-1-04	123-030-0050	2-3-04	Amend(T)	3-1-04
123-020-0050	8-2-04	Repeal	9-1-04	123-030-0050	8-2-04	Amend	9-1-04
123-020-0100	8-2-04	Adopt	9-1-04	123-035-0000	2-3-04	Adopt(T)	3-1-04
123-023-0201	5-24-04	Am. & Ren.	7-1-04	123-035-0000	8-2-04	Adopt	9-1-04
123-023-0251	5-24-04	Repeal	7-1-04	123-035-0005	2-3-04	Adopt(T)	3-1-04
123-023-0301	5-24-04	Am. & Ren.	7-1-04	123-035-0005	8-2-04	Adopt	9-1-04
123-023-0351	5-24-04	Am. & Ren.	7-1-04	123-035-0010	2-3-04	Adopt(T)	3-1-04
123-023-0401	5-24-04	Am. & Ren.	7-1-04	123-035-0010	8-2-04	Adopt	9-1-04

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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
123-042-0050	2-3-04	Suspend	3-1-04	123-055-0600	2-3-04	Amend(T)	3-1-04
123-042-0050	8-2-04	Repeal	9-1-04	123-055-0600	8-2-04	Amend	9-1-04
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
123-042-0075	2-3-04	Suspend	3-1-04	123-057-0110	2-3-04	Amend(T)	3-1-04
123-042-0075	8-2-04	Repeal	9-1-04	123-057-0110	8-2-04	Amend	9-1-04
123-042-0080	2-3-04	Amend(T)	3-1-04	123-057-0130	2-3-04	Amend(T)	3-1-04
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
123-042-0140	2-3-04	Suspend	3-1-04	123-057-0170	8-2-04	Amend	9-1-04
123-042-0140	8-2-04	Repeal	9-1-04	123-057-0190	2-3-04	Amend(T)	3-1-04
123-042-0150	2-3-04	Amend(T)	3-1-04	123-057-0190	8-2-04	Amend	9-1-04
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
123-042-0170	2-3-04	Suspend	3-1-04	123-057-0230	8-2-04	Amend	9-1-04
123-042-0170	8-2-04	Repeal	9-1-04	123-057-0310	2-3-04	Amend(T)	3-1-04
123-042-0180	2-3-04	Amend(T)	3-1-04	123-057-0310	8-2-04	Amend	9-1-04
123-042-0180	8-2-04	Amend	9-1-04	123-057-0330	2-3-04	Amend(T)	3-1-04
123-042-0190	2-3-04	Amend(T)	3-1-04	123-057-0330	8-2-04	Amend	9-1-04
123-042-0190	8-2-04	Amend	9-1-04	123-057-0350	2-3-04	Amend(T)	3-1-04
123-043-0035	3-22-04	Amend	5-1-04	123-057-0350	8-2-04	Amend	9-1-04
123-043-0045	3-22-04	Amend	5-1-04	123-057-0410	2-3-04	Amend(T)	3-1-04
123-043-0055	3-22-04	Amend	5-1-04	123-057-0410	8-2-04	Amend	9-1-04
123-043-0075	3-22-04	Amend	5-1-04	123-057-0430	2-3-04	Amend(T)	3-1-04
123-049-0005	2-3-04	Amend	3-1-04	123-057-0430	8-2-04	Amend	9-1-04
123-049-0010	2-3-04	Amend	3-1-04	123-057-0450	2-3-04	Amend(T)	3-1-04
123-049-0020	2-3-04	Amend	3-1-04	123-057-0450	8-2-04	Amend	9-1-04
123-049-0030	2-3-04	Amend	3-1-04	123-057-0470	2-3-04	Amend(T)	3-1-04
123-049-0040	2-3-04	Amend	3-1-04	123-057-0470	8-2-04	Amend	9-1-04
123-049-0050	2-3-04	Amend	3-1-04	123-057-0510	2-3-04	Amend(T)	3-1-04
123-049-0060	2-3-04	Adopt	3-1-04	123-057-0510	8-2-04	Amend	9-1-04
123-055-0100	2-3-04	Amend(T)	3-1-04	123-057-0530	2-3-04	Amend(T)	3-1-04
123-055-0100	8-2-04	Amend	9-1-04	123-057-0530	8-2-04	Amend	9-1-04
123-055-0120	2-3-04	Amend(T)	3-1-04	123-057-0710	2-3-04	Amend(T)	3-1-04
123-055-0120	8-2-04	Amend	9-1-04	123-057-0710	8-2-04	Amend	9-1-04
123-055-0200	2-3-04	Amend(T)	3-1-04	123-068-0015	12-15-03	Adopt(T)	1-1-04
123-055-0200	8-2-04	Amend	9-1-04	123-068-0105	12-15-03	Adopt(T)	1-1-04
123-055-0240	2-3-04	Amend(T)	3-1-04	123-068-0205	12-15-03	Adopt(T)	1-1-04
123-055-0240	8-2-04	Amend	9-1-04	123-068-0305	12-15-03	Adopt(T)	1-1-04
123-055-0300	2-3-04	Amend(T)	3-1-04	123-145-0010	7-27-04	Am. & Ren.	9-1-04
123-055-0300	8-2-04	Amend	9-1-04	123-145-0020	7-27-04	Am. & Ren.	9-1-04
123-055-0340	2-3-04	Amend(T)	3-1-04	123-145-0030	7-27-04	Am. & Ren.	9-1-04
123-055-0340	8-2-04	Amend	9-1-04	123-145-0040	7-27-04	Am. & Ren.	9-1-04
123-055-0400	2-3-04	Amend(T)	3-1-04	123-145-0050	7-27-04	Am. & Ren.	9-1-04
123-055-0400	8-2-04	Amend	9-1-04	123-145-0060	7-27-04	Am. & Ren.	9-1-04
123-055-0420	2-3-04	Amend(T)	3-1-04	123-145-0070	7-27-04	Am. & Ren.	9-1-04

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123-145-0080	7-27-04	Am. & Ren.	9-1-04	137-003-0650	1-1-04	Amend	1-1-04
123-145-0090	7-27-04	Am. & Ren.	9-1-04	137-003-0655	1-1-04	Amend	1-1-04
123-145-0700	7-27-04	Adopt	9-1-04	137-003-0660	1-1-04	Amend	1-1-04
123-145-1100	7-27-04	Adopt	9-1-04	137-003-0665	1-1-04	Amend	1-1-04
125-020-0610	3-26-04	Amend	5-1-04	137-003-0670	1-1-04	Amend	1-1-04
125-125-0050	3-5-04	Adopt(T)	4-1-04	137-003-0675	1-1-04	Amend	1-1-04
125-125-0050	9-1-04	Adopt	8-1-04	137-003-0690	1-1-04	Amend	1-1-04
125-125-0100	3-5-04	Adopt(T)	4-1-04	137-003-0695	1-1-04	Amend	1-1-04
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
125-125-0200	3-5-04	Adopt(T)	4-1-04	137-008-0010	12-10-03	Amend(T)	1-1-04
125-125-0200	9-1-04	Adopt	8-1-04	137-025-0020	4-1-04	Amend	4-1-04
125-125-0250	3-5-04	Adopt(T)	4-1-04	137-025-0020	5-19-04	Amend	7-1-04
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
125-125-0350	3-5-04	Adopt(T)	4-1-04	137-025-0160	4-1-04	Amend	4-1-04
125-125-0350	9-1-04	Adopt	8-1-04	137-025-0160	5-19-04	Amend	7-1-04
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
125-125-0450	3-5-04	Adopt(T)	4-1-04	137-025-0181	5-19-04	Adopt	7-1-04
125-125-0450	9-1-04	Adopt	8-1-04	137-025-0182	5-19-04	Adopt	7-1-04
137-001-0070	12-9-03	Amend	1-1-04	137-025-0183	5-19-04	Adopt	7-1-04
137-001-0085	12-9-03	Repeal	1-1-04	137-025-0184	5-19-04	Adopt	7-1-04
137-003-0000	1-1-04	Amend	1-1-04	137-025-0186	5-19-04	Adopt	7-1-04
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
137-003-0515	1-1-04	Amend	1-1-04	137-040-0017	1-2-04	Amend	2-1-04
137-003-0520	1-1-04	Amend	1-1-04	137-040-0500	1-2-04	Amend	2-1-04
137-003-0525	1-1-04	Amend	1-1-04	137-040-0510	1-2-04	Amend	2-1-04
137-003-0528	1-1-04	Amend	1-1-04	137-040-0520	1-2-04	Amend	2-1-04
137-003-0530	1-1-04	Amend	1-1-04	137-040-0550	1-2-04	Amend	2-1-04
137-003-0535	1-1-04	Amend	1-1-04	137-040-0560	1-2-04	Amend	2-1-04
137-003-0540	1-1-04	Amend	1-1-04	137-040-0565	1-2-04	Adopt	2-1-04
137-003-0545	1-1-04	Amend	1-1-04	137-045-0010	12-9-03	Amend	1-1-04
137-003-0555	1-1-04	Amend	1-1-04	137-045-0015	12-9-03	Amend	1-1-04
137-003-0560	1-1-04	Amend	1-1-04	137-045-0030	12-9-03	Amend	1-1-04
137-003-0565	1-1-04	Amend	1-1-04	137-045-0035	12-9-03	Amend	1-1-04
137-003-0570	1-1-04	Amend	1-1-04	137-045-0050	12-9-03	Amend	1-1-04
137-003-0572	1-1-04	Amend	1-1-04	137-045-0055	12-9-03	Adopt	1-1-04
137-003-0573	1-1-04	Amend	1-1-04	137-045-0060	12-9-03	Amend	1-1-04
137-003-0575	1-1-04	Amend	1-1-04	137-045-0070	12-9-03	Amend	1-1-04
137-003-0580	1-1-04	Amend	1-1-04	137-045-0080	12-9-03	Amend	1-1-04
137-003-0585	1-1-04	Amend	1-1-04	137-045-0090	12-9-03	Amend	1-1-04
137-003-0590	1-1-04	Amend	1-1-04	137-055-1020	1-5-04	Amend	2-1-04
137-003-0595	1-1-04	Amend	1-1-04	137-055-1070	7-1-04	Amend	8-1-04
137-003-0600	1-1-04	Amend	1-1-04	137-055-1140	4-1-04	Amend	5-1-04
137-003-0605	1-1-04	Amend	1-1-04	137-055-1160	1-5-04	Amend	2-1-04
137-003-0610	1-1-04	Amend	1-1-04	137-055-1180	7-1-04	Amend	8-1-04
137-003-0615	1-1-04	Amend	1-1-04	137-055-1320	4-1-04	Amend	5-1-04
137-003-0625	1-1-04	Amend	1-1-04	137-055-1340	4-1-04	Repeal	5-1-04
137-003-0630	1-1-04	Amend	1-1-04	137-055-1360	4-1-04	Amend	5-1-04
137-003-0635	1-1-04	Amend	1-1-04	137-055-1600	4-1-04	Amend	5-1-04
137-003-0640	1-1-04	Amend	1-1-04	137-055-2040	7-1-04	Amend	8-1-04
137-003-0645	1-1-04	Amend	1-1-04	137-055-2140	4-1-04	Amend	5-1-04

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137-055-3220	1-5-04	Amend	2-1-04	137-060-0020	2-11-04	Repeal	3-1-04
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
137-060-0013	2-11-04	Repeal	3-1-04	137-085-0001	2-1-04	Adopt(T)	3-1-04
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137-085-0040	2-1-04	Adopt(T)	3-1-04	141-045-0021	1-1-04	Amend	1-1-04
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
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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
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141-035-0015	1-1-04	Amend	1-1-04	141-084-0040	6-11-04	Repeal	7-1-04
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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
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141-035-0045	1-1-04	Amend	1-1-04	141-085-0006	5-21-04	Amend	7-1-04
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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
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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
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141-040-0030	1-1-04	Amend	1-1-04	141-085-0028	5-21-04	Amend	7-1-04
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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
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141-085-0079	5-21-04	Amend	7-1-04	141-085-0660	5-21-04	Amend	7-1-04
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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141-089-0310	5-21-04	Amend	7-1-04	150-180.455(T)	7-31-04	Repeal	9-1-04
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
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150-321.045	12-31-03	Amend	2-1-04	150-321.706(2)	7-31-04	Adopt	9-1-04
150-321.257(10)	7-31-04	Repeal	9-1-04	150-321.706(4)	7-31-04	Adopt	9-1-04
150-321.257(5)	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)-(I)	12-31-03	Repeal	2-1-04	150-321.815(3)(b)	7-31-04	Renumber	9-1-04
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150-321.282(4)(a)-(A)	7-31-04	Repeal	9-1-04	150-321.950	12-31-03	Repeal	2-1-04
150-321.282(4)(a)-(B)	7-31-04	Repeal	9-1-04	150-323.105	7-31-04	Amend	9-1-04
150-321.282(5)	12-31-03	Repeal	2-1-04	150-323.107	7-31-04	Adopt	9-1-04
150-321.282(6)	7-31-04	Repeal	9-1-04	150-323.110	7-31-04	Adopt	9-1-04
150-321.282(6)(a)-(A)	12-31-03	Am. & Ren.	2-1-04	150-323.130	7-31-04	Adopt	9-1-04
150-321.282(6)(a)-(D)	12-31-03	Am. & Ren.	2-1-04	150-323.140	7-31-04	Amend	9-1-04
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150-OL 2003 Ch. 454) Sec. 4(3)	12-31-03	Adopt	2-1-04	165-012-1000	12-5-03	Repeal	1-1-04
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291-117-0010	7-19-04	Repeal	9-1-04	291-180-0370	8-11-04	Amend(T)	9-1-04
291-117-0020	1-20-04	Amend(T)	3-1-04	291-180-0380	8-11-04	Amend(T)	9-1-04
291-117-0020	7-19-04	Repeal	9-1-04	291-180-0390	8-11-04	Amend(T)	9-1-04
291-117-0030	7-19-04	Repeal	9-1-04	291-180-0400	8-11-04	Amend(T)	9-1-04
291-117-0040	7-19-04	Repeal	9-1-04	291-180-0410	8-11-04	Amend(T)	9-1-04
291-117-0050	7-19-04	Repeal	9-1-04	291-180-0420	8-11-04	Amend(T)	9-1-04
291-117-0060	7-19-04	Repeal	9-1-04	291-180-0430	8-11-04	Amend(T)	9-1-04
291-117-0070	7-19-04	Adopt	9-1-04	291-180-0440	8-11-04	Amend(T)	9-1-04
291-117-0080	7-19-04	Adopt	9-1-04	291-180-0450	8-11-04	Amend(T)	9-1-04
291-117-0090	7-19-04	Adopt	9-1-04	291-180-0460	8-11-04	Amend(T)	9-1-04
291-117-0100	7-19-04	Adopt	9-1-04	291-180-0470	8-11-04	Amend(T)	9-1-04
291-117-0110	7-19-04	Adopt	9-1-04	291-180-0480	8-11-04	Amend(T)	9-1-04
291-117-0120	7-19-04	Adopt	9-1-04	291-180-0490	8-11-04	Amend(T)	9-1-04
291-117-0130	7-19-04	Adopt	9-1-04	291-180-0500	8-11-04	Amend(T)	9-1-04
291-117-0140	7-19-04	Adopt	9-1-04	291-180-0510	8-11-04	Amend(T)	9-1-04
291-153-0005	5-14-04	Amend(T)	6-1-04	291-180-0520	8-11-04	Amend(T)	9-1-04
291-153-0010	5-14-04	Suspend	6-1-04	291-180-0530	8-11-04	Amend(T)	9-1-04
291-153-0020	5-14-04	Adopt(T)	6-1-04	291-180-0540	8-11-04	Amend(T)	9-1-04
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	309-041-0375	1-1-04	Repeal	2-1-04
291-180-0240	8-11-04	Amend(T)	9-1-04	309-041-0400	1-1-04	Repeal	2-1-04
291-180-0250	8-11-04	Amend(T)	9-1-04	309-041-0405	1-1-04	Repeal	2-1-04
291-180-0260	8-11-04	Amend(T)	9-1-04	309-041-0410	1-1-04	Repeal	2-1-04
291-180-0270	8-11-04	Amend(T)	9-1-04	309-041-0415	1-1-04	Repeal	2-1-04
291-180-0280	8-11-04	Amend(T)	9-1-04	309-041-0435	1-1-04	Repeal	2-1-04
291-180-0290	8-11-04	Amend(T)	9-1-04	309-041-0445	1-1-04	Repeal	2-1-04
291-180-0300	8-11-04	Amend(T)	9-1-04	309-041-0450	1-1-04	Repeal	2-1-04

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309-049-0070	1-1-04	Repeal	2-1-04	330-070-0089	1-21-04	Amend	3-1-04
309-049-0075	1-1-04	Repeal	2-1-04	330-070-0091	1-21-04	Amend	3-1-04
309-049-0080	1-1-04	Repeal	2-1-04	330-070-0097	1-21-04	Amend	3-1-04
309-049-0085	1-1-04	Repeal	2-1-04	330-090-0105	1-21-04	Amend	3-1-04
309-049-0090	1-1-04	Repeal	2-1-04	330-090-0105	7-1-04	Amend	8-1-04
309-049-0095	1-1-04	Repeal	2-1-04	330-090-0110	1-21-04	Amend	3-1-04
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
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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
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330-070-0059	1-21-04	Adopt	3-1-04	331-110-0055	7-1-04	Amend	8-1-04
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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
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330-070-0073	1-21-04	Amend	3-1-04	331-115-0070	7-1-04	Repeal	8-1-04
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331-125-0000	7-1-04	Amend	8-1-04	331-400-0020	7-1-04	Repeal	8-1-04
331-125-0010	7-1-04	Amend	8-1-04	331-400-0030	7-1-04	Repeal	8-1-04
331-125-0020	7-1-04	Amend	8-1-04	331-400-0040	7-1-04	Repeal	8-1-04
331-130-0000	7-1-04	Repeal	8-1-04	331-405-0000	7-1-04	Repeal	8-1-04
331-130-0010	7-1-04	Repeal	8-1-04	331-405-0010	7-1-04	Repeal	8-1-04
331-130-0020	7-1-04	Repeal	8-1-04	331-405-0020	7-1-04	Amend	8-1-04
331-135-0000	7-1-04	Amend	8-1-04	331-405-0030	7-1-04	Amend	8-1-04
331-135-0010	7-1-04	Repeal	8-1-04	331-405-0040	7-1-04	Repeal	8-1-04
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331-200-0030	7-1-04	Repeal	8-1-04	331-410-0030	7-1-04	Amend	8-1-04
331-205-0000	7-1-04	Repeal	8-1-04	331-410-0040	7-1-04	Amend	8-1-04
331-205-0010	7-1-04	Repeal	8-1-04	331-410-0050	7-1-04	Amend	8-1-04
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331-520-0040	7-1-04	Amend	8-1-04	331-570-0000	7-1-04	Amend	8-1-04
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331-525-0050	7-1-04	Repeal	8-1-04	331-585-0000	7-1-04	Amend	8-1-04
331-525-0055	7-1-04	Adopt	8-1-04	331-585-0010	7-1-04	Amend	8-1-04
331-525-0060	7-1-04	Adopt	8-1-04	331-585-0020	7-1-04	Amend	8-1-04
331-525-0065	7-1-04	Adopt	8-1-04	331-590-0000	7-1-04	Amend	8-1-04
331-530-0010	7-1-04	Am. & Ren.	8-1-04	331-590-0010	7-1-04	Repeal	8-1-04
331-530-0020	7-1-04	Adopt	8-1-04	331-590-0020	7-1-04	Amend	8-1-04
331-535-0000	7-1-04	Amend	8-1-04	331-630-0010	7-1-04	Adopt	8-1-04
331-535-0010	7-1-04	Amend	8-1-04	331-650-0000	7-1-04	Adopt	8-1-04
331-535-0020	7-1-04	Amend	8-1-04	331-700-0000	7-1-04	Repeal	8-1-04
331-535-0030	7-1-04	Amend	8-1-04	331-700-0010	7-1-04	Repeal	8-1-04
331-535-0050	7-1-04	Amend	8-1-04	331-705-0000	7-1-04	Repeal	8-1-04
331-535-0060	7-1-04	Amend	8-1-04	331-705-0010	7-1-04	Repeal	8-1-04
331-535-0070	7-1-04	Amend	8-1-04	331-705-0020	7-1-04	Repeal	8-1-04
331-535-0080	7-1-04	Amend	8-1-04	331-705-0030	7-1-04	Repeal	8-1-04
331-540-0000	7-1-04	Amend	8-1-04	331-705-0040	7-1-04	Repeal	8-1-04
331-540-0010	7-1-04	Amend	8-1-04	331-705-0050	7-1-04	Amend	8-1-04
331-540-0020	7-1-04	Amend	8-1-04	331-705-0060	7-1-04	Amend	8-1-04
331-545-0000	7-1-04	Amend	8-1-04	331-710-0000	7-1-04	Amend	8-1-04
331-545-0010	7-1-04	Repeal	8-1-04	331-710-0010	7-1-04	Amend	8-1-04
331-545-0020	7-1-04	Amend	8-1-04	331-710-0020	7-1-04	Amend	8-1-04
331-550-0000	7-1-04	Amend	8-1-04	331-710-0030	7-1-04	Amend	8-1-04
331-555-0000	7-1-04	Repeal	8-1-04	331-715-0000	7-1-04	Amend	8-1-04
331-555-0010	7-1-04	Amend	8-1-04	331-715-0010	7-1-04	Amend	8-1-04
331-555-0020	7-1-04	Am. & Ren.	8-1-04	331-715-0020	7-1-04	Repeal	8-1-04
331-555-0030	7-1-04	Amend	8-1-04	331-715-0030	7-1-04	Amend	8-1-04
331-555-0040	7-1-04	Amend	8-1-04	331-715-0040	7-1-04	Repeal	8-1-04
331-555-0050	7-1-04	Repeal	8-1-04	331-715-0050	7-1-04	Repeal	8-1-04
331-560-0000	7-1-04	Amend	8-1-04	331-720-0000	7-1-04	Amend	8-1-04
331-560-0010	7-1-04	Amend	8-1-04	331-720-0010	7-1-04	Amend	8-1-04
331-560-0020	7-1-04	Amend	8-1-04	331-720-0020	7-1-04	Amend	8-1-04
331-560-0030	7-1-04	Amend	8-1-04	331-725-0000	7-1-04	Repeal	8-1-04
331-560-0040	7-1-04	Amend	8-1-04	331-725-0010	7-1-04	Repeal	8-1-04
331-560-0050	7-1-04	Amend	8-1-04	331-725-0020	7-1-04	Amend	8-1-04
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331-565-0010	7-1-04	Repeal	8-1-04	331-730-0020	7-1-04	Repeal	8-1-04
331-565-0020	7-1-04	Amend	8-1-04	331-730-0030	7-1-04	Repeal	8-1-04
331-565-0025	7-1-04	Adopt	8-1-04	331-730-0040	7-1-04	Repeal	8-1-04
331-565-0030	7-1-04	Amend	8-1-04	332-001-0000	7-1-04	Repeal	8-1-04
331-565-0040	7-1-04	Amend	8-1-04	332-001-0005	7-1-04	Repeal	8-1-04
331-565-0050	7-1-04	Repeal	8-1-04	332-001-0010	7-1-04	Repeal	8-1-04
331-565-0060	7-1-04	Amend	8-1-04	332-001-0020	7-1-04	Repeal	8-1-04
331-565-0070	7-1-04	Repeal	8-1-04	332-001-0030	7-1-04	Repeal	8-1-04

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332-015-0000	7-1-04	Amend	8-1-04	333-012-0065	4-9-04	Amend	5-1-04
332-015-0010	7-1-04	Amend	8-1-04	333-012-0067	4-9-04	Adopt	5-1-04
332-015-0030	7-1-04	Amend	8-1-04	333-012-0070	4-9-04	Amend	5-1-04
332-015-0040	7-1-04	Amend	8-1-04	333-013-0006	1-2-04	Repeal	2-1-04
332-015-0050	7-1-04	Amend	8-1-04	333-013-0026	1-2-04	Repeal	2-1-04
332-015-0060	7-1-04	Amend	8-1-04	333-015-0025	5-7-04	Amend(T)	6-1-04
332-015-0065	7-1-04	Amend	8-1-04	333-015-0030	5-7-04	Amend(T)	6-1-04
332-015-0070	7-1-04	Amend	8-1-04	333-015-0034	5-7-04	Amend(T)	6-1-04
332-020-0000	7-1-04	Amend	8-1-04	333-015-0035	5-7-04	Amend(T)	6-1-04
332-020-0010	7-1-04	Amend	8-1-04	333-015-0040	5-7-04	Amend(T)	6-1-04
332-020-0015	7-1-04	Amend	8-1-04	333-015-0045	5-7-04	Amend(T)	6-1-04
332-020-0020	7-1-04	Amend	8-1-04	333-015-0050	5-7-04	Amend(T)	6-1-04
332-025-0000	7-1-04	Repeal	8-1-04	333-015-0055	5-7-04	Suspend	6-1-04
332-025-0010	7-1-04	Repeal	8-1-04	333-015-0060	5-7-04	Amend(T)	6-1-04
332-025-0020	7-1-04	Amend	8-1-04	333-015-0065	5-7-04	Adopt(T)	6-1-04
332-025-0021	7-1-04	Amend	8-1-04	333-015-0070	5-7-04	Adopt(T)	6-1-04
332-025-0022	7-1-04	Amend	8-1-04	333-015-0075	5-7-04	Adopt(T)	6-1-04
332-025-0030	7-1-04	Amend	8-1-04	333-015-0080	5-7-04	Adopt(T)	6-1-04
332-025-0040	7-1-04	Amend	8-1-04	333-015-0085	5-7-04	Adopt(T)	6-1-04
332-025-0050	7-1-04	Amend	8-1-04	333-015-0090	5-7-04	Adopt(T)	6-1-04
332-030-0000	7-1-04	Amend	8-1-04	333-020-0125	12-16-03	Amend	2-1-04
332-030-0010	7-1-04	Repeal	8-1-04	333-020-0127	12-16-03	Adopt	2-1-04
332-030-0020	7-1-04	Repeal	8-1-04	333-020-0130	12-16-03	Amend	2-1-04
332-030-0030	7-1-04	Repeal	8-1-04	333-020-0135	12-16-03	Amend	2-1-04
333-003-0010	7-16-04	Adopt	9-1-04	333-020-0140	12-16-03	Amend	2-1-04
333-003-0020	7-16-04	Adopt	9-1-04	333-020-0145	12-16-03	Amend	2-1-04
333-003-0030	7-16-04	Adopt	9-1-04	333-020-0147	12-16-03	Adopt	2-1-04
333-003-0040	7-16-04	Adopt	9-1-04	333-020-0149	12-16-03	Adopt	2-1-04
333-003-0050	7-16-04	Adopt	9-1-04	333-020-0150	12-16-03	Amend	2-1-04
333-003-0060	7-16-04	Adopt	9-1-04	333-020-0151	12-16-03	Adopt	2-1-04
333-003-0070	7-16-04	Adopt	9-1-04	333-020-0153	12-16-03	Adopt	2-1-04
333-003-0080	7-16-04	Adopt	9-1-04	333-020-0155	12-16-03	Amend	2-1-04
333-003-0100	7-30-04	Adopt	9-1-04	333-020-0160	12-16-03	Amend	2-1-04
333-003-0105	7-30-04	Adopt	9-1-04	333-020-0165	12-16-03	Amend	2-1-04
333-003-0110	7-30-04	Adopt	9-1-04	333-024-0500	3-23-04	Am. & Ren.	5-1-04
333-003-0115	7-30-04	Adopt	9-1-04	333-024-0510	3-23-04	Am. & Ren.	5-1-04
333-003-0120	7-30-04	Adopt	9-1-04	333-024-0520	3-23-04	Renumber	5-1-04
333-003-0125	7-30-04	Adopt	9-1-04	333-024-0530	3-23-04	Renumber	5-1-04
333-003-0130	7-30-04	Adopt	9-1-04	333-024-0540	3-23-04	Am. & Ren.	5-1-04
333-003-0135	7-30-04	Adopt	9-1-04	333-024-0550	3-23-04	Am. & Ren.	5-1-04
333-003-0140	7-30-04	Adopt	9-1-04	333-024-0560	3-23-04	Repeal	5-1-04
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333-005-0040	3-29-04	Adopt	5-1-04	333-025-0004(11)-(13)	7-1-04	Am. & Ren.	8-1-04
333-005-0050	3-29-04	Adopt	5-1-04	333-025-0005	7-1-04	Am. & Ren.	8-1-04
333-005-0060	3-29-04	Adopt	5-1-04	333-025-0006	7-1-04	Am. & Ren.	8-1-04
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333-012-0050	4-9-04	Amend	5-1-04	333-025-0007(5)-(10)	7-1-04	Am. & Ren.	8-1-04
333-012-0053	4-9-04	Adopt	5-1-04	333-025-0008	7-1-04	Am. & Ren.	8-1-04
333-012-0055	4-9-04	Amend	5-1-04	333-025-0009	7-1-04	Am. & Ren.	8-1-04
333-012-0057	4-9-04	Amend	5-1-04	333-025-0012	7-1-04	Am. & Ren.	8-1-04
333-012-0060	4-9-04	Amend	5-1-04	333-025-0014	7-1-04	Am. & Ren.	8-1-04
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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
333-029-0105	4-9-04	Amend	5-1-04	333-061-0065	4-9-04	Amend(T)	5-1-04
333-029-0105(T)	4-9-04	Repeal	5-1-04	333-061-0065	5-1-04	Amend	8-1-04
333-029-0110	2-13-04	Amend(T)	3-1-04	333-061-0065(T)	5-1-04	Repeal	8-1-04
333-029-0110	4-9-04	Amend	5-1-04	333-061-0085	4-9-04	Amend(T)	5-1-04
333-029-0110(T)	4-9-04	Repeal	5-1-04	333-061-0085	5-1-04	Amend	8-1-04
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333-030-0095(T)	4-9-04	Repeal	5-1-04	333-061-0087	5-1-04	Amend	8-1-04
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333-040-0135(T)	4-9-04	Repeal	5-1-04	333-061-0090	4-9-04	Amend(T)	5-1-04
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333-054-0010(T)	1-5-04	Repeal	2-1-04	333-061-0205	5-1-04	Amend	8-1-04
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333-054-0020(T)	1-5-04	Repeal	2-1-04	333-061-0210	4-9-04	Amend(T)	5-1-04
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333-061-0225	5-1-04	Amend	8-1-04	333-063-0110	7-1-04	Repeal	6-1-04
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333-061-0228	4-9-04	Adopt(T)	5-1-04	333-063-0120	7-1-04	Repeal	6-1-04
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333-061-0230	4-9-04	Amend(T)	5-1-04	333-063-0135	7-1-04	Repeal	6-1-04
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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
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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
333-061-0272	5-1-04	Adopt	8-1-04	333-150-0000(T)	4-9-04	Repeal	5-1-04
333-061-0272(T)	5-1-04	Repeal	8-1-04	333-157-0045	2-13-04	Amend(T)	3-1-04
333-061-0290	4-9-04	Amend(T)	5-1-04	333-157-0045	4-9-04	Amend	5-1-04
333-061-0290	5-1-04	Amend	8-1-04	333-157-0045(T)	4-9-04	Repeal	5-1-04
333-061-0290(T)	5-1-04	Repeal	8-1-04	333-157-0050	2-13-04	Suspend	3-1-04
333-063-0005	7-1-04	Repeal	6-1-04	333-157-0050	4-9-04	Repeal	5-1-04
333-063-0010	7-1-04	Repeal	6-1-04	333-157-0060	2-13-04	Suspend	3-1-04
333-063-0015	7-1-04	Repeal	6-1-04	333-157-0060	4-9-04	Repeal	5-1-04
333-063-0020	7-1-04	Repeal	6-1-04	333-157-0090	2-13-04	Suspend	3-1-04
333-063-0025	7-1-04	Repeal	6-1-04	333-157-0090	4-9-04	Repeal	5-1-04
333-063-0030	7-1-04	Repeal	6-1-04	333-162-0300	2-13-04	Amend(T)	3-1-04
333-063-0035	7-1-04	Repeal	6-1-04	333-162-0300	4-9-04	Amend	5-1-04
333-063-0040	7-1-04	Repeal	6-1-04	333-162-0300(T)	4-9-04	Repeal	5-1-04
333-063-0045	7-1-04	Repeal	6-1-04	333-162-0930	2-13-04	Amend(T)	3-1-04
333-063-0050	7-1-04	Repeal	6-1-04	333-162-0930	4-9-04	Amend	5-1-04
333-063-0055	7-1-04	Repeal	6-1-04	333-162-0930(T)	4-9-04	Repeal	5-1-04
333-063-0060	7-1-04	Repeal	6-1-04	333-162-1005	2-13-04	Adopt(T)	3-1-04
333-063-0065	7-1-04	Repeal	6-1-04	333-162-1005	4-9-04	Adopt	5-1-04
333-063-0070	7-1-04	Repeal	6-1-04	333-162-1005(T)	4-9-04	Repeal	5-1-04
333-063-0075	7-1-04	Repeal	6-1-04	333-170-0010	2-13-04	Amend(T)	3-1-04
333-063-0085	7-1-04	Repeal	6-1-04	333-170-0010	4-9-04	Amend	5-1-04
333-063-0090	7-1-04	Repeal	6-1-04	333-170-0010(T)	4-9-04	Repeal	5-1-04
333-063-0095	7-1-04	Repeal	6-1-04	333-170-0020	2-13-04	Amend(T)	3-1-04
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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
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333-175-0011	6-18-04	Adopt	8-1-04	333-536-0055(T)	6-25-04	Repeal	8-1-04
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333-175-0051	6-18-04	Adopt	8-1-04	333-536-0065(T)	6-25-04	Repeal	8-1-04
333-175-0061	6-18-04	Adopt	8-1-04	333-536-0070	2-6-04	Adopt(T)	3-1-04
333-175-0071	6-18-04	Adopt	8-1-04	333-536-0070	6-25-04	Adopt	8-1-04
333-175-0081	6-18-04	Adopt	8-1-04	333-536-0070(T)	6-25-04	Repeal	8-1-04
333-175-0091	6-18-04	Adopt	8-1-04	333-536-0075	2-6-04	Adopt(T)	3-1-04
333-175-0101	6-18-04	Adopt	8-1-04	333-536-0075	6-25-04	Adopt	8-1-04
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333-535-0040	3-17-04	Suspend	5-1-04	333-536-0080	6-25-04	Adopt	8-1-04
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333-535-0041	3-17-04	Adopt(T)	5-1-04	333-536-0085	2-6-04	Adopt(T)	3-1-04
333-535-0041	5-26-04	Adopt	7-1-04	333-536-0085	6-25-04	Adopt	8-1-04
333-535-0041(T)	5-26-04	Repeal	7-1-04	333-536-0085(T)	6-25-04	Repeal	8-1-04
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333-536-0095	6-25-04	Adopt	8-1-04	338-010-0035	3-1-04	Amend(T)	4-1-04
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333-536-0100	2-6-04	Adopt(T)	3-1-04	338-010-0038	7-1-04	Amend	8-1-04
333-536-0100	6-25-04	Adopt	8-1-04	338-010-0050	3-1-04	Amend(T)	4-1-04
333-536-0100(T)	6-25-04	Repeal	8-1-04	338-010-0050	7-1-04	Amend	8-1-04
333-560-0010	1-16-04	Amend	3-1-04	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
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334-010-0017	2-23-04	Amend	4-1-04	339-020-0030	6-3-04	Amend	7-1-04
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335-005-0025	5-26-04	Amend	7-1-04	340-011-0103	12-12-03	Am. & Ren.	1-1-04
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335-095-0020	5-26-04	Amend	7-1-04	340-011-0545	12-12-03	Adopt	1-1-04
335-095-0030	2-6-04	Amend	3-1-04	340-011-0550	12-12-03	Adopt	1-1-04
335-095-0030	5-26-04	Amend	7-1-04	340-011-0555	12-12-03	Adopt	1-1-04
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338-005-0000	7-1-04	Repeal	8-1-04	340-041-0002	5-28-04	Amend	7-1-04
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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
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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
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340-041-0135	12-9-03	Adopt	1-1-04	340-041-0315	12-9-03	Adopt	1-1-04
340-041-0140	12-9-03	Adopt	1-1-04	340-041-0320	12-9-03	Adopt	1-1-04
340-041-0143	12-9-03	Adopt	1-1-04	340-041-0322	12-9-03	Repeal	1-1-04
340-041-0145	12-9-03	Adopt	1-1-04	340-041-0324	12-9-03	Adopt	1-1-04
340-041-0150	12-9-03	Am. & Ren.	1-1-04	340-041-0325	12-9-03	Repeal	1-1-04
340-041-0151	12-9-03	Adopt	1-1-04	340-041-0326	12-9-03	Adopt	1-1-04
340-041-0154	12-9-03	Adopt	1-1-04	340-041-0330	12-9-03	Adopt	1-1-04
340-041-0156	12-9-03	Adopt	1-1-04	340-041-0334	12-9-03	Adopt	1-1-04
340-041-0160	12-9-03	Adopt	1-1-04	340-041-0335	12-9-03	Repeal	1-1-04
340-041-0164	12-9-03	Adopt	1-1-04	340-041-0336	12-9-03	Adopt	1-1-04
340-041-0165	12-9-03	Adopt	1-1-04	340-041-0340	12-9-03	Adopt	1-1-04
340-041-0170	12-9-03	Adopt	1-1-04	340-041-0344	12-9-03	Adopt	1-1-04
340-041-0174	12-9-03	Adopt	1-1-04	340-041-0345	12-9-03	Adopt	1-1-04
340-041-0175	12-9-03	Adopt	1-1-04	340-041-0350	12-9-03	Adopt	1-1-04
340-041-0180	12-9-03	Adopt	1-1-04	340-041-0362	12-9-03	Repeal	1-1-04
340-041-0184	12-9-03	Adopt	1-1-04	340-041-0365	12-9-03	Repeal	1-1-04
340-041-0185	12-9-03	Adopt	1-1-04	340-041-0375	12-9-03	Repeal	1-1-04
340-041-0190	12-9-03	Adopt	1-1-04	340-041-0385	12-9-03	Repeal	1-1-04
340-041-0194	12-9-03	Adopt	1-1-04	340-041-0442	12-9-03	Repeal	1-1-04
340-041-0195	12-9-03	Adopt	1-1-04	340-041-0445	12-9-03	Repeal	1-1-04
340-041-0201	12-9-03	Adopt	1-1-04	340-041-0455	12-9-03	Repeal	1-1-04
340-041-0202	12-9-03	Repeal	1-1-04	340-041-0470	12-9-03	Repeal	1-1-04
340-041-0204	12-9-03	Adopt	1-1-04	340-041-0482	12-9-03	Repeal	1-1-04
340-041-0205	12-9-03	Repeal	1-1-04	340-041-0485	12-9-03	Repeal	1-1-04
340-041-0207	12-9-03	Adopt	1-1-04	340-041-0495	12-9-03	Repeal	1-1-04
340-041-0215	12-9-03	Repeal	1-1-04	340-041-0522	12-9-03	Repeal	1-1-04
340-041-0220	12-9-03	Adopt	1-1-04	340-041-0525	12-9-03	Repeal	1-1-04
340-041-0224	12-9-03	Adopt	1-1-04	340-041-0535	12-9-03	Repeal	1-1-04
340-041-0225	12-9-03	Adopt	1-1-04	340-041-0562	12-9-03	Repeal	1-1-04
340-041-0230	12-9-03	Adopt	1-1-04	340-041-0565	12-9-03	Repeal	1-1-04
340-041-0234	12-9-03	Adopt	1-1-04	340-041-0575	12-9-03	Repeal	1-1-04
340-041-0235	12-9-03	Adopt	1-1-04	340-041-0580	12-9-03	Repeal	1-1-04
340-041-0242	12-9-03	Repeal	1-1-04	340-041-0602	12-9-03	Repeal	1-1-04
340-041-0245	12-9-03	Repeal	1-1-04	340-041-0605	12-9-03	Repeal	1-1-04
340-041-0250	12-9-03	Adopt	1-1-04	340-041-0615	12-9-03	Repeal	1-1-04
340-041-0254	12-9-03	Adopt	1-1-04	340-041-0642	12-9-03	Repeal	1-1-04
340-041-0255	12-9-03	Repeal	1-1-04	340-041-0645	12-9-03	Repeal	1-1-04

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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	340-228-0490	12-12-03	Adopt	1-1-04
340-041-0845	12-9-03	Repeal	1-1-04	340-228-0500	12-12-03	Adopt	1-1-04
340-041-0855	12-9-03	Repeal	1-1-04	340-228-0510	12-12-03	Adopt	1-1-04
340-041-0882	12-9-03	Repeal	1-1-04	340-228-0520	12-12-03	Adopt	1-1-04
340-041-0885	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
340-041-0895	12-9-03	Repeal	1-1-04	350-012-0006	6-1-04	Amend	6-1-04
340-041-0922	12-9-03	Repeal	1-1-04	350-120-0010	4-1-04	Amend	4-1-04
340-041-0925	12-9-03	Repeal	1-1-04	350-120-0015	4-1-04	Adopt	4-1-04
340-041-0935	12-9-03	Repeal	1-1-04	350-120-0020	4-1-04	Amend	4-1-04
340-041-0962	12-9-03	Repeal	1-1-04	350-120-0025	4-1-04	Adopt	4-1-04
340-041-0965	12-9-03	Repeal	1-1-04	350-120-0030	4-1-04	Amend	4-1-04
340-041-0975	12-9-03	Repeal	1-1-04	350-120-0040	4-1-04	Amend	4-1-04
340-045-0010	8-3-04	Amend	9-1-04	350-120-0050	4-1-04	Adopt	4-1-04
340-045-0015	8-3-04	Amend	9-1-04	410-007-0000	3-1-04	Repeal	4-1-04
340-045-0070	8-3-04	Amend	9-1-04	410-007-0010	3-1-04	Repeal	4-1-04
340-045-0075	8-3-04	Amend	9-1-04	410-007-0020	3-1-04	Repeal	4-1-04
340-048-0005	4-15-04	Amend	5-1-04	410-007-0030	3-1-04	Repeal	4-1-04
340-048-0010	4-15-04	Amend	5-1-04	410-007-0040	3-1-04	Repeal	4-1-04
340-048-0015	4-15-04	Amend	5-1-04	410-007-0050	3-1-04	Repeal	4-1-04
340-048-0020	4-15-04	Amend	5-1-04	410-007-0060	3-1-04	Repeal	4-1-04
340-048-0024	4-15-04	Am. & Ren.	5-1-04	410-007-0070	3-1-04	Repeal	4-1-04
340-048-0025	4-15-04	Am. & Ren.	5-1-04	410-007-0080	3-1-04	Repeal	4-1-04
340-048-0025	4-15-04	Am. & Ren.	5-1-04	410-007-0200	3-1-04	Adopt	4-1-04
340-048-0027	4-15-04	Adopt	5-1-04	410-007-0210	3-1-04	Adopt	4-1-04
340-048-0030	4-15-04	Am. & Ren.	5-1-04	410-007-0220	3-1-04	Adopt	4-1-04
340-048-0035	4-15-04	Repeal	5-1-04	410-007-0230	3-1-04	Adopt	4-1-04
340-048-0037	4-15-04	Adopt	5-1-04	410-007-0240	3-1-04	Adopt	4-1-04
340-048-0040	4-15-04	Am. & Ren.	5-1-04	410-007-0250	3-1-04	Adopt	4-1-04
340-048-0200	4-15-04	Am. & Ren.	5-1-04	410-007-0260	3-1-04	Adopt	4-1-04
340-200-0040	12-12-03	Amend	1-1-04	410-007-0270	3-1-04	Adopt	4-1-04
340-200-0040	4-14-04	Amend	5-1-04	410-007-0280	3-1-04	Adopt	4-1-04
340-214-0400	12-12-03	Adopt	1-1-04	410-007-0290	3-1-04	Adopt	4-1-04
340-214-0410	12-12-03	Adopt	1-1-04	410-007-0300	3-1-04	Adopt	4-1-04
340-214-0420	12-12-03	Adopt	1-1-04	410-007-0310	3-1-04	Adopt	4-1-04
340-214-0430	12-12-03	Adopt	1-1-04	410-007-0320	3-1-04	Adopt	4-1-04
340-220-0030	7-29-04	Amend	9-1-04	410-007-0330	3-1-04	Adopt	4-1-04
340-220-0040	7-29-04	Amend	9-1-04	410-007-0340	3-1-04	Adopt	4-1-04
340-220-0050	7-29-04	Amend	9-1-04	410-007-0350	3-1-04	Adopt	4-1-04
340-224-0010	4-14-04	Amend	5-1-04	410-007-0360	3-1-04	Adopt	4-1-04
340-224-0030	4-14-04	Amend	5-1-04	410-007-0370	3-1-04	Adopt	4-1-04
340-224-0050	4-14-04	Amend	5-1-04	410-007-0380	3-1-04	Adopt	4-1-04
340-224-0070	4-14-04	Amend	5-1-04	410-009-0000	5-26-04	Repeal	7-1-04
340-224-0080	4-14-04	Amend	5-1-04	410-009-0005	5-26-04	Repeal	7-1-04
340-225-0020	4-14-04	Amend	5-1-04	410-009-0010	5-26-04	Repeal	7-1-04
340-225-0050	4-14-04	Amend	5-1-04	410-009-0015	5-26-04	Repeal	7-1-04
340-225-0090	4-14-04	Amend	5-1-04	410-009-0020	5-26-04	Repeal	7-1-04
340-228-0400	12-12-03	Adopt	1-1-04	410-009-0025	5-26-04	Repeal	7-1-04
340-228-0410	12-12-03	Adopt	1-1-04	410-009-0030	5-26-04	Repeal	7-1-04
340-228-0420	12-12-03	Adopt	1-1-04	410-009-0035	5-26-04	Repeal	7-1-04

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410-009-0040	5-26-04	Repeal	7-1-04	410-121-0030	3-1-04	Amend	4-1-04
410-050-0100	5-1-04	Adopt(T)	6-1-04	410-121-0030	5-1-04	Amend	6-1-04
410-050-0110	5-1-04	Adopt(T)	6-1-04	410-121-0030	6-1-04	Amend	7-1-04
410-050-0120	5-1-04	Adopt(T)	6-1-04	410-121-0030	8-1-04	Amend	9-1-04
410-050-0130	5-1-04	Adopt(T)	6-1-04	410-121-0033	2-1-04	Adopt	3-1-04
410-050-0140	5-1-04	Adopt(T)	6-1-04	410-121-0040	12-1-03	Amend	1-1-04
410-050-0150	5-1-04	Adopt(T)	6-1-04	410-121-0040	12-15-03	Amend(T)	1-1-04
410-050-0160	5-1-04	Adopt(T)	6-1-04	410-121-0040	3-1-04	Amend	4-1-04
410-050-0170	5-1-04	Adopt(T)	6-1-04	410-121-0040(T)	3-1-04	Repeal	4-1-04
410-050-0180	5-1-04	Adopt(T)	6-1-04	410-121-0060	4-1-04	Amend	4-1-04
410-050-0180	5-1-04	Adopt(T)	6-1-04	410-121-0061	4-1-04	Amend	4-1-04
410-050-0190	5-1-04	Adopt(T)	6-1-04	410-121-0100	4-1-04	Amend	4-1-04
410-050-0200	5-1-04	Adopt(T)	6-1-04	410-121-0135	4-1-04	Amend	4-1-04
410-050-0210	5-1-04	Adopt(T)	6-1-04	410-121-0140	12-1-03	Amend	1-1-04
410-050-0220	5-1-04	Adopt(T)	6-1-04	410-121-0140	4-1-04	Amend	4-1-04
410-050-0230	5-1-04	Adopt(T)	6-1-04	410-121-0143	4-1-04	Amend	4-1-04
410-050-0240	5-1-04	Adopt(T)	6-1-04	410-121-0144	4-1-04	Amend	4-1-04
410-050-0250	5-1-04	Adopt(T)	6-1-04	410-121-0145	4-1-04	Amend	4-1-04
410-050-0400	6-15-04	Adopt(T)	7-1-04	410-121-0146	3-15-04	Amend	3-1-04
410-050-0410	6-15-04	Adopt(T)	7-1-04	410-121-0146	3-15-04	Amend(T)	4-1-04
410-050-0420	6-15-04	Adopt(T)	7-1-04	410-121-0147	4-1-04	Amend	4-1-04
410-050-0430	6-15-04	Adopt(T)	7-1-04	410-121-0148	4-1-04	Amend	4-1-04
410-050-0440	6-15-04	Adopt(T)	7-1-04	410-121-0150	4-1-04	Amend	4-1-04
410-050-0450	6-15-04	Adopt(T)	7-1-04	410-121-0154	4-1-04	Repeal	4-1-04
410-050-0460	6-15-04	Adopt(T)	7-1-04	410-121-0155	4-1-04	Amend	4-1-04
410-050-0470	6-15-04	Adopt(T)	7-1-04	410-121-0157	3-30-04	Amend	5-1-04
410-050-0480	6-15-04	Adopt(T)	7-1-04	410-121-0157	4-4-04	Amend(T)	3-1-04
410-050-0490	6-15-04	Adopt(T)	7-1-04	410-121-0157	5-14-04	Amend(T)	6-1-04
410-050-0500	6-15-04	Adopt(T)	7-1-04	410-121-0157	7-1-04	Amend	8-1-04
410-050-0510	6-15-04	Adopt(T)	7-1-04	410-121-0157(T)	7-1-04	Repeal	8-1-04
410-050-0520	6-15-04	Adopt(T)	7-1-04	410-121-0160	3-15-04	Amend	3-1-04
410-050-0530	6-15-04	Adopt(T)	7-1-04	410-121-0160	3-15-04	Amend(T)	4-1-04
410-050-0540	6-15-04	Adopt(T)	7-1-04	410-121-0160	4-15-04	Amend	4-1-04
410-050-0550	6-15-04	Adopt(T)	7-1-04	410-121-0180	4-1-04	Repeal	4-1-04
410-050-0560	6-15-04	Adopt(T)	7-1-04	410-121-0185	4-1-04	Amend	4-1-04
410-050-0570	6-15-04	Adopt(T)	7-1-04	410-121-0190	4-1-04	Amend	4-1-04
410-050-0580	6-15-04	Adopt(T)	7-1-04	410-121-0200	4-1-04	Amend	4-1-04
410-050-0590	6-15-04	Adopt(T)	7-1-04	410-121-0300	12-1-03	Amend(T)	1-1-04
410-120-1160	4-1-04	Amend	4-1-04	410-121-0300	2-1-04	Amend	3-1-04
410-120-1195	1-1-04	Amend	2-1-04	410-121-0300	5-14-04	Amend(T)	6-1-04
410-120-1200	4-1-04	Amend	4-1-04	410-121-0300	7-1-04	Amend	8-1-04
410-120-1210	8-1-04	Amend	9-1-04	410-121-0300(T)	7-1-04	Repeal	8-1-04
410-120-1230	6-19-04	Amend(T)	7-1-04	410-121-0320	2-1-04	Amend	3-1-04
410-120-1230	8-1-04	Amend	9-1-04	410-121-0420	4-1-04	Amend	4-1-04
410-120-1280	4-1-04	Amend	4-1-04	410-121-0580	4-1-04	Amend	4-1-04
410-120-1295	3-22-04	Amend	5-1-04	410-121-0625	4-1-04	Amend	4-1-04
410-120-1295	3-23-04	Amend(T)	5-1-04	410-122-0000	7-1-04	Amend	8-1-04
410-120-1295	6-1-04	Amend	7-1-04	410-122-0010	7-1-04	Adopt	8-1-04
410-120-1340	4-1-04	Amend	4-1-04	410-122-0020	7-1-04	Amend	8-1-04
410-120-1360	4-1-04	Amend	4-1-04	410-122-0030	4-1-04	Amend	5-1-04
410-120-1390	6-1-04	Adopt(T)	7-1-04	410-122-0030	7-1-04	Repeal	8-1-04
410-120-1520	4-1-04	Amend	4-1-04	410-122-0040	3-15-04	Amend	3-1-04
410-120-1540	4-1-04	Amend	4-1-04	410-122-0040	3-15-04	Amend(T)	4-1-04
410-120-1570	4-1-04	Amend	4-1-04	410-122-0040	4-1-04	Amend	5-1-04
410-121-0000	4-1-04	Amend	4-1-04	410-122-0040	5-1-04	Amend	5-1-04
410-121-0021	12-1-03	Adopt	1-1-04	410-122-0040	7-1-04	Amend	8-1-04
410-121-0021	7-1-04	Amend	8-1-04				

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410-122-0055	8-1-04	Adopt	9-1-04	410-122-0475	7-1-04	Amend	8-1-04
410-122-0060	4-1-04	Amend	5-1-04	410-122-0480	7-1-04	Amend	8-1-04
410-122-0060	7-1-04	Repeal	8-1-04	410-122-0500	7-1-04	Amend	8-1-04
410-122-0080	4-1-04	Amend	5-1-04	410-122-0510	7-1-04	Amend	8-1-04
410-122-0080	7-1-04	Amend	8-1-04	410-122-0520	7-1-04	Amend	8-1-04
410-122-0080	8-1-04	Amend	9-1-04	410-122-0525	4-1-04	Amend	5-1-04
410-122-0085	8-1-04	Adopt	9-1-04	410-122-0525	7-1-04	Amend	8-1-04
410-122-0105	4-1-04	Repeal	5-1-04	410-122-0530	7-1-04	Amend	8-1-04
410-122-0120	4-1-04	Repeal	5-1-04	410-122-0530	8-1-04	Amend	9-1-04
410-122-0140	4-1-04	Repeal	5-1-04	410-122-0540	4-1-04	Amend	5-1-04
410-122-0180	4-1-04	Amend	5-1-04	410-122-0540	7-1-04	Amend	8-1-04
410-122-0180	7-1-04	Amend	8-1-04	410-122-0560	4-1-04	Amend	5-1-04
410-122-0182	7-1-04	Adopt	8-1-04	410-122-0560	7-1-04	Amend	8-1-04
410-122-0184	7-1-04	Adopt	8-1-04	410-122-0580	4-1-04	Amend	5-1-04
410-122-0186	7-1-04	Adopt	8-1-04	410-122-0580	7-1-04	Amend	8-1-04
410-122-0190	4-1-04	Amend	5-1-04	410-122-0590	7-1-04	Amend	8-1-04
410-122-0190	7-1-04	Amend	8-1-04	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
410-122-0202	8-1-04	Amend	9-1-04	410-122-0630	7-1-04	Amend	8-1-04
410-122-0203	4-1-04	Amend	5-1-04	410-122-0640	7-1-04	Amend	8-1-04
410-122-0203	7-1-04	Amend	8-1-04	410-122-0660	4-1-04	Amend	5-1-04
410-122-0204	7-1-04	Amend	8-1-04	410-122-0660	7-1-04	Amend	8-1-04
410-122-0205	4-1-04	Amend	5-1-04	410-122-0678	7-1-04	Amend	8-1-04
410-122-0205	7-1-04	Amend	8-1-04	410-122-0680	7-1-04	Amend	8-1-04
410-122-0206	7-1-04	Amend	8-1-04	410-122-0700	4-1-04	Amend	5-1-04
410-122-0207	7-1-04	Amend	8-1-04	410-122-0700	7-1-04	Amend	8-1-04
410-122-0208	7-1-04	Amend	8-1-04	410-122-0720	7-1-04	Amend	8-1-04
410-122-0209	4-1-04	Amend	5-1-04	410-123-1060	8-1-04	Amend	9-1-04
410-122-0209	7-1-04	Amend	8-1-04	410-123-1085	8-1-04	Amend	9-1-04
410-122-0210	4-1-04	Amend	5-1-04	410-123-1670	8-1-04	Adopt	9-1-04
410-122-0210	7-1-04	Amend	8-1-04	410-125-0047	8-1-04	Adopt	9-1-04
410-122-0220	7-1-04	Amend	8-1-04	410-125-0055	8-1-04	Repeal	9-1-04
410-122-0240	7-1-04	Amend	8-1-04	410-125-0080	4-1-04	Amend	4-1-04
410-122-0250	7-1-04	Amend	8-1-04	410-125-0080	8-1-04	Amend	9-1-04
410-122-0255	7-1-04	Amend	8-1-04	410-125-0115	3-15-04	Amend(T)	4-1-04
410-122-0260	7-1-04	Amend	8-1-04	410-125-0115	5-1-04	Amend	6-1-04
410-122-0280	7-1-04	Amend	8-1-04	410-125-0115(T)	5-1-04	Repeal	6-1-04
410-122-0300	7-1-04	Amend	8-1-04	410-125-0121	3-15-04	Amend(T)	4-1-04
410-122-0320	7-1-04	Amend	8-1-04	410-125-0121	5-1-04	Amend	6-1-04
410-122-0325	7-1-04	Amend	8-1-04	410-125-0121(T)	5-1-04	Repeal	6-1-04
410-122-0330	7-1-04	Amend	8-1-04	410-125-0141	1-1-04	Amend	2-1-04
410-122-0340	4-1-04	Amend	5-1-04	410-125-0181	1-1-04	Amend	2-1-04
410-122-0340	7-1-04	Amend	8-1-04	410-125-0181	3-15-04	Amend(T)	4-1-04
410-122-0360	7-1-04	Amend	8-1-04	410-125-0181	5-1-04	Amend	6-1-04
410-122-0365	4-1-04	Amend	5-1-04	410-125-0181(T)	5-1-04	Repeal	6-1-04
410-122-0365	7-1-04	Amend	8-1-04	410-125-0195	1-1-04	Amend	2-1-04
410-122-0375	4-1-04	Amend	5-1-04	410-125-0225	4-1-04	Repeal	4-1-04
410-122-0375	7-1-04	Amend	8-1-04	410-125-0410	4-1-04	Amend	4-1-04
410-122-0380	4-1-04	Amend	5-1-04	410-125-2000	4-1-04	Amend	4-1-04
410-122-0380	7-1-04	Amend	8-1-04	410-127-0055	8-1-04	Amend	9-1-04
410-122-0400	7-1-04	Amend	8-1-04	410-127-0080	1-1-04	Amend	2-1-04
410-122-0420	7-1-04	Amend	8-1-04	410-129-0080	12-1-03	Amend	1-1-04
410-122-0470	7-1-04	Amend	8-1-04	410-129-0100	4-1-04	Amend	4-1-04

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410-129-0200	4-1-04	Amend	4-1-04	410-148-0020	4-1-04	Amend	4-1-04
410-129-0260	4-1-04	Amend	4-1-04	410-148-0080	4-1-04	Amend	4-1-04
410-130-0000	4-1-04	Amend	4-1-04	410-148-0090	8-1-04	Amend	9-1-04
410-130-0163	8-1-04	Adopt	9-1-04	410-148-0120	4-1-04	Amend	4-1-04
410-130-0180	4-1-04	Amend	4-1-04	410-148-0260	4-1-04	Amend	4-1-04
410-130-0200	4-1-04	Amend	4-1-04	410-148-0280	4-1-04	Amend	4-1-04
410-130-0220	4-1-04	Amend	4-1-04	410-148-0300	4-1-04	Amend	4-1-04
410-130-0240	4-1-04	Amend	4-1-04	411-009-0000	3-1-04	Repeal	4-1-04
410-130-0255	4-1-04	Amend	4-1-04	411-009-0005	3-1-04	Repeal	4-1-04
410-130-0585	4-1-04	Amend	4-1-04	411-009-0015	3-1-04	Repeal	4-1-04
410-130-0587	4-1-04	Amend	4-1-04	411-009-0021	3-1-04	Repeal	4-1-04
410-130-0680	4-1-04	Amend	4-1-04	411-009-0040	3-1-04	Repeal	4-1-04
410-130-0700	4-1-04	Amend	4-1-04	411-009-0050	3-1-04	Repeal	4-1-04
410-131-0160	1-1-04	Amend	2-1-04	411-009-0060	3-1-04	Repeal	4-1-04
410-131-0275	8-1-04	Amend	9-1-04	411-009-0070	3-1-04	Repeal	4-1-04
410-131-0280	4-1-04	Amend	4-1-04	411-009-0080	3-1-04	Repeal	4-1-04
410-132-0055	8-1-04	Amend	9-1-04	411-009-0090	3-1-04	Repeal	4-1-04
410-132-0100	1-1-04	Amend	2-1-04	411-009-0100	3-1-04	Repeal	4-1-04
410-133-0090	12-15-03	Amend(T)	1-1-04	411-009-0110	3-1-04	Repeal	4-1-04
410-133-0090	2-1-04	Amend	3-1-04	411-015-0005	4-27-04	Amend	6-1-04
410-140-0115	8-1-04	Amend	9-1-04	411-015-0010	4-27-04	Amend	6-1-04
410-141-0000	6-1-04	Amend(T)	7-1-04	411-015-0015	3-23-04	Amend(T)	5-1-04
410-141-0000	8-1-04	Amend	9-1-04	411-015-0015	4-27-04	Amend	6-1-04
410-141-0080	6-1-04	Amend(T)	7-1-04	411-015-0015	7-7-04	Amend(T)	8-1-04
410-141-0080	8-1-04	Amend	9-1-04	411-015-0015	8-6-04	Amend(T)	9-1-04
410-141-0140	6-1-04	Amend(T)	7-1-04	411-015-0015(T)	4-27-04	Repeal	6-1-04
410-141-0140	8-1-04	Amend	9-1-04	411-015-0100	4-27-04	Amend	6-1-04
410-141-0260	6-1-04	Amend	7-1-04	411-015-0100	8-6-04	Amend(T)	9-1-04
410-141-0261	6-1-04	Amend	7-1-04	411-027-0000	8-1-04	Amend(T)	9-1-04
410-141-0262	6-1-04	Amend	7-1-04	411-030-0002	6-7-04	Amend	7-1-04
410-141-0263	6-1-04	Amend	7-1-04	411-030-0020	12-11-03	Amend(T)	1-1-04
410-141-0264	6-1-04	Amend	7-1-04	411-030-0020	6-7-04	Amend	7-1-04
410-141-0265	6-1-04	Amend	7-1-04	411-030-0033	12-11-03	Amend(T)	1-1-04
410-141-0266	6-1-04	Amend	7-1-04	411-030-0033	6-7-04	Amend	7-1-04
410-141-0280	6-1-04	Amend(T)	7-1-04	411-030-0040	12-11-03	Amend(T)	1-1-04
410-141-0280	8-1-04	Amend	9-1-04	411-030-0040	6-7-04	Amend	7-1-04
410-141-0300	6-1-04	Amend(T)	7-1-04	411-030-0050	6-7-04	Amend	7-1-04
410-141-0300	8-1-04	Amend	9-1-04	411-030-0060	12-11-03	Amend(T)	1-1-04
410-141-0420	3-23-04	Amend(T)	5-1-04	411-030-0060	6-7-04	Repeal	7-1-04
410-141-0420	6-1-04	Amend	7-1-04	411-030-0065	12-11-03	Amend(T)	1-1-04
410-141-0420	6-1-04	Amend(T)	7-1-04	411-030-0065	6-7-04	Repeal	7-1-04
410-141-0420	8-1-04	Amend	9-1-04	411-030-0070	6-7-04	Amend	7-1-04
410-141-0480	1-1-04	Amend	2-1-04	411-030-0080	6-7-04	Amend	7-1-04
410-141-0480	6-1-04	Amend	7-1-04	411-031-0020	6-1-04	Adopt	7-1-04
410-141-0500	1-1-04	Amend	2-1-04	411-031-0030	6-1-04	Adopt	7-1-04
410-141-0520	1-1-04	Amend	2-1-04	411-031-0040	6-1-04	Adopt	7-1-04
410-141-0520	4-1-04	Amend(T)	4-1-04	411-031-0050	6-1-04	Adopt	7-1-04
410-141-0520	5-1-04	Amend	6-1-04	411-032-0000	5-28-04	Amend	7-1-04
410-141-0520	8-1-04	Amend	9-1-04	411-032-0001	5-28-04	Amend	7-1-04
410-142-0300	12-1-03	Amend	1-1-04	411-032-0005	5-28-04	Amend	7-1-04
410-146-0080	8-1-04	Amend	9-1-04	411-032-0010	5-28-04	Amend	7-1-04
410-146-0380	8-1-04	Adopt	9-1-04	411-032-0015	5-28-04	Amend	7-1-04
410-147-0085	8-1-04	Amend	9-1-04	411-032-0020	5-28-04	Amend	7-1-04
410-147-0120	8-1-04	Amend	9-1-04	411-032-0044	5-28-04	Amend	7-1-04
410-147-0125	8-1-04	Adopt	9-1-04	411-040-0000	6-1-04	Amend	7-1-04

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411-055-0000	4-1-04	Amend	5-1-04	411-085-0010	8-1-04	Amend	9-1-04
411-055-0003	2-4-04	Amend	3-1-04	411-085-0013	8-1-04	Amend	9-1-04
411-055-0003	4-1-04	Amend	5-1-04	411-085-0015	8-1-04	Amend	9-1-04
411-055-0005	4-1-04	Amend	5-1-04	411-085-0020	8-1-04	Amend	9-1-04
411-055-0010	4-1-04	Amend	5-1-04	411-085-0025	8-1-04	Amend	9-1-04
411-055-0015	4-1-04	Amend	5-1-04	411-085-0030	8-1-04	Amend	9-1-04
411-055-0019	4-1-04	Amend	5-1-04	411-085-0040	8-1-04	Amend	9-1-04
411-055-0024	4-1-04	Amend	5-1-04	411-085-0050	8-1-04	Amend	9-1-04
411-055-0029	4-1-04	Amend	5-1-04	411-085-0060	8-1-04	Amend	9-1-04
411-055-0034	4-1-04	Amend	5-1-04	411-085-0200	8-1-04	Amend	9-1-04
411-055-0039	4-1-04	Amend	5-1-04	411-085-0210	8-1-04	Amend	9-1-04
411-055-0039	8-1-04	Amend	9-1-04	411-085-0220	8-1-04	Amend	9-1-04
411-055-0045	4-1-04	Amend	5-1-04	411-085-0300	8-1-04	Amend	9-1-04
411-055-0051	4-1-04	Amend	5-1-04	411-085-0310	8-1-04	Amend	9-1-04
411-055-0061	4-1-04	Amend	5-1-04	411-085-0320	8-1-04	Amend	9-1-04
411-055-0081	4-1-04	Amend	5-1-04	411-085-0330	8-1-04	Amend	9-1-04
411-055-0085	4-1-04	Amend	5-1-04	411-085-0340	8-1-04	Amend	9-1-04
411-055-0091	4-1-04	Amend	5-1-04	411-085-0350	8-1-04	Amend	9-1-04
411-055-0101	4-1-04	Amend	5-1-04	411-085-0360	8-1-04	Amend	9-1-04
411-055-0111	4-1-04	Amend	5-1-04	411-085-0370	8-1-04	Amend	9-1-04
411-055-0115	4-1-04	Amend	5-1-04	411-086-0100	8-1-04	Amend	9-1-04
411-055-0121	4-1-04	Amend	5-1-04	411-086-0250	8-1-04	Amend	9-1-04
411-055-0131	4-1-04	Amend	5-1-04	411-200-0010	3-24-04	Amend	5-1-04
411-055-0141	4-1-04	Amend	5-1-04	411-200-0010	6-23-04	Amend	8-1-04
411-055-0151	4-1-04	Amend	5-1-04	411-300-0100	6-1-04	Amend	7-1-04
411-055-0151	8-1-04	Amend	9-1-04	411-300-0110	12-11-03	Amend(T)	1-1-04
411-055-0161	4-1-04	Amend	5-1-04	411-300-0110	6-1-04	Amend	7-1-04
411-055-0170	4-1-04	Amend	5-1-04	411-300-0170	6-1-04	Amend	7-1-04
411-055-0180	4-1-04	Amend	5-1-04	411-300-0210	6-1-04	Amend	7-1-04
411-055-0190	4-1-04	Amend	5-1-04	411-300-0220	6-1-04	Amend	7-1-04
411-055-0200	4-1-04	Amend	5-1-04	411-320-0010	1-1-04	Adopt	2-1-04
411-055-0210	4-1-04	Amend	5-1-04	411-320-0010	8-3-04	Amend	9-1-04
411-055-0220	4-1-04	Amend	5-1-04	411-320-0020	1-1-04	Adopt	2-1-04
411-055-0230	4-1-04	Amend	5-1-04	411-320-0020	8-3-04	Amend	9-1-04
411-055-0240	4-1-04	Amend	5-1-04	411-320-0030	1-1-04	Adopt	2-1-04
411-055-0250	4-1-04	Amend	5-1-04	411-320-0030	8-3-04	Amend	9-1-04
411-055-0260	4-1-04	Amend	5-1-04	411-320-0040	1-1-04	Adopt	2-1-04
411-055-0270	4-1-04	Amend	5-1-04	411-320-0040	8-3-04	Amend	9-1-04
411-055-0280	4-1-04	Amend	5-1-04	411-320-0050	1-1-04	Adopt	2-1-04
411-056-0005	2-4-04	Amend	3-1-04	411-320-0050	8-3-04	Amend	9-1-04
411-056-0007	2-4-04	Amend	3-1-04	411-320-0060	1-1-04	Adopt	2-1-04
411-056-0010	3-23-04	Amend(T)	5-1-04	411-320-0060	8-3-04	Amend	9-1-04
411-056-0010	8-1-04	Amend	9-1-04	411-320-0070	1-1-04	Adopt	2-1-04
411-056-0018	3-23-04	Amend(T)	5-1-04	411-320-0070	8-3-04	Amend	9-1-04
411-056-0018	8-1-04	Amend	9-1-04	411-320-0080	1-1-04	Adopt	2-1-04
411-056-0030	3-23-04	Amend(T)	5-1-04	411-320-0080	8-3-04	Amend	9-1-04
411-056-0030	8-1-04	Amend	9-1-04	411-320-0090	1-1-04	Adopt	2-1-04
411-070-0032	8-1-04	Adopt(T)	9-1-04	411-320-0090	8-3-04	Amend	9-1-04
411-070-0359	5-28-04	Amend(T)	7-1-04	411-320-0100	1-1-04	Adopt	2-1-04
411-070-0428	5-28-04	Amend(T)	7-1-04	411-320-0100	8-3-04	Amend	9-1-04
411-070-0440	5-28-04	Suspend	7-1-04	411-320-0110	1-1-04	Adopt	2-1-04
411-070-0441	5-28-04	Adopt(T)	7-1-04	411-320-0110	8-3-04	Amend	9-1-04
411-070-0446	5-28-04	Suspend	7-1-04	411-320-0120	1-1-04	Adopt	2-1-04
411-070-0465	5-28-04	Amend(T)	7-1-04	411-320-0120	8-3-04	Amend	9-1-04
411-085-0000	8-1-04	Amend	9-1-04	411-320-0130	1-1-04	Adopt	2-1-04

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411-320-0140	1-1-04	Adopt	2-1-04	411-325-0270	8-1-04	Amend	9-1-04
411-320-0140	8-3-04	Amend	9-1-04	411-325-0280	1-1-04	Adopt	2-1-04
411-320-0150	1-1-04	Adopt	2-1-04	411-325-0290	1-1-04	Adopt	2-1-04
411-320-0150	8-3-04	Amend	9-1-04	411-325-0290	8-1-04	Amend	9-1-04
411-320-0160	1-1-04	Adopt	2-1-04	411-325-0300	1-1-04	Adopt	2-1-04
411-320-0160	8-3-04	Amend	9-1-04	411-325-0300	8-1-04	Amend	9-1-04
411-320-0170	1-1-04	Adopt	2-1-04	411-325-0310	1-1-04	Adopt	2-1-04
411-320-0170	8-3-04	Amend	9-1-04	411-325-0310	8-1-04	Amend	9-1-04
411-320-0180	1-1-04	Adopt	2-1-04	411-325-0320	1-1-04	Adopt	2-1-04
411-320-0190	1-1-04	Adopt	2-1-04	411-325-0320	8-1-04	Amend	9-1-04
411-320-0190	8-3-04	Amend	9-1-04	411-325-0330	1-1-04	Adopt	2-1-04
411-320-0200	1-1-04	Adopt	2-1-04	411-325-0340	1-1-04	Adopt	2-1-04
411-320-0200	8-3-04	Amend	9-1-04	411-325-0340	8-1-04	Amend	9-1-04
411-325-0010	1-1-04	Adopt	2-1-04	411-325-0350	1-1-04	Adopt	2-1-04
411-325-0010	8-1-04	Amend	9-1-04	411-325-0350	8-1-04	Amend	9-1-04
411-325-0020	1-1-04	Adopt	2-1-04	411-325-0360	1-1-04	Adopt	2-1-04
411-325-0020	8-1-04	Amend	9-1-04	411-325-0360	8-1-04	Amend	9-1-04
411-325-0030	1-1-04	Adopt	2-1-04	411-325-0370	1-1-04	Adopt	2-1-04
411-325-0030	8-1-04	Amend	9-1-04	411-325-0380	1-1-04	Adopt	2-1-04
411-325-0040	1-1-04	Adopt	2-1-04	411-325-0390	1-1-04	Adopt	2-1-04
411-325-0050	1-1-04	Adopt	2-1-04	411-325-0390	8-1-04	Amend	9-1-04
411-325-0060	1-1-04	Adopt	2-1-04	411-325-0400	1-1-04	Adopt	2-1-04
411-325-0060	8-1-04	Amend	9-1-04	411-325-0400	8-1-04	Amend	9-1-04
411-325-0070	1-1-04	Adopt	2-1-04	411-325-0410	1-1-04	Adopt	2-1-04
411-325-0080	1-1-04	Adopt	2-1-04	411-325-0410	8-1-04	Amend	9-1-04
411-325-0080	8-1-04	Amend	9-1-04	411-325-0420	1-1-04	Adopt	2-1-04
411-325-0090	1-1-04	Adopt	2-1-04	411-325-0420	8-1-04	Amend	9-1-04
411-325-0100	1-1-04	Adopt	2-1-04	411-325-0430	1-1-04	Adopt	2-1-04
411-325-0100	8-1-04	Amend	9-1-04	411-325-0430	8-1-04	Amend	9-1-04
411-325-0110	1-1-04	Adopt	2-1-04	411-325-0440	1-1-04	Adopt	2-1-04
411-325-0120	1-1-04	Adopt	2-1-04	411-325-0440	8-1-04	Amend	9-1-04
411-325-0120	8-1-04	Amend	9-1-04	411-325-0450	1-1-04	Adopt	2-1-04
411-325-0130	1-1-04	Adopt	2-1-04	411-325-0450	8-1-04	Amend	9-1-04
411-325-0130	8-1-04	Amend	9-1-04	411-325-0460	1-1-04	Adopt	2-1-04
411-325-0140	1-1-04	Adopt	2-1-04	411-325-0460	8-1-04	Amend	9-1-04
411-325-0150	1-1-04	Adopt	2-1-04	411-325-0470	1-1-04	Adopt	2-1-04
411-325-0150	8-1-04	Amend	9-1-04	411-325-0470	8-1-04	Amend	9-1-04
411-325-0160	1-1-04	Adopt	2-1-04	411-325-0480	1-1-04	Adopt	2-1-04
411-325-0160	8-1-04	Amend	9-1-04	411-330-0010	12-28-03	Adopt	2-1-04
411-325-0170	1-1-04	Adopt	2-1-04	411-330-0020	12-28-03	Adopt	2-1-04
411-325-0170	8-1-04	Amend	9-1-04	411-330-0030	12-28-03	Adopt	2-1-04
411-325-0180	1-1-04	Adopt	2-1-04	411-330-0040	12-28-03	Adopt	2-1-04
411-325-0180	8-1-04	Amend	9-1-04	411-330-0050	12-28-03	Adopt	2-1-04
411-325-0190	1-1-04	Adopt	2-1-04	411-330-0060	12-28-03	Adopt	2-1-04
411-325-0190	8-1-04	Amend	9-1-04	411-330-0070	12-28-03	Adopt	2-1-04
411-325-0200	1-1-04	Adopt	2-1-04	411-330-0080	12-28-03	Adopt	2-1-04
411-325-0200	8-1-04	Amend	9-1-04	411-330-0090	12-28-03	Adopt	2-1-04
411-325-0210	1-1-04	Adopt	2-1-04	411-330-0100	12-28-03	Adopt	2-1-04
411-325-0220	1-1-04	Adopt	2-1-04	411-330-0110	12-28-03	Adopt	2-1-04
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

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411-999-0030	6-1-04	Adopt(T)	6-1-04	413-050-0230	12-12-03	Amend	1-1-04
413-010-0700	1-1-04	Amend	2-1-04	413-050-0240	12-12-03	Amend	1-1-04
413-010-0705	1-1-04	Amend	2-1-04	413-050-0250	12-12-03	Amend	1-1-04
413-010-0712	1-1-04	Amend	2-1-04	413-050-0260	12-12-03	Amend	1-1-04
413-010-0714	1-1-04	Amend	2-1-04	413-050-0270	12-12-03	Amend	1-1-04
413-010-0715	1-1-04	Amend	2-1-04	413-050-0280	12-12-03	Amend	1-1-04
413-010-0716	1-1-04	Amend	2-1-04	413-050-0290	12-12-03	Amend	1-1-04
413-010-0717	1-1-04	Amend	2-1-04	413-050-0300	12-12-03	Amend	1-1-04
413-010-0718	1-1-04	Amend	2-1-04	413-050-0510	7-1-04	Amend	8-1-04
413-010-0719	1-1-04	Repeal	2-1-04	413-070-0500	1-1-04	Amend	2-1-04
413-010-0720	1-1-04	Amend	2-1-04	413-070-0505	1-1-04	Amend	2-1-04
413-010-0721	1-1-04	Amend	2-1-04	413-070-0510	1-1-04	Amend	2-1-04
413-010-0722	1-1-04	Amend	2-1-04	413-070-0515	1-1-04	Amend	2-1-04
413-010-0723	1-1-04	Amend	2-1-04	413-070-0517	1-1-04	Amend	2-1-04
413-010-0732	1-1-04	Amend	2-1-04	413-070-0900	4-1-04	Amend	5-1-04
413-010-0735	1-1-04	Amend	2-1-04	413-070-0905	4-1-04	Amend	5-1-04
413-010-0738	1-1-04	Amend	2-1-04	413-070-0915	1-1-04	Amend(T)	2-1-04
413-010-0740	1-1-04	Amend	2-1-04	413-070-0915	4-1-04	Amend	5-1-04
413-010-0743	1-1-04	Amend	2-1-04	413-070-0915(T)	4-1-04	Repeal	5-1-04
413-010-0745	1-1-04	Amend	2-1-04	413-070-0917	4-1-04	Amend	5-1-04
413-010-0746	1-1-04	Amend	2-1-04	413-070-0920	4-1-04	Amend	5-1-04
413-010-0748	1-1-04	Adopt	2-1-04	413-070-0925	4-1-04	Amend	5-1-04
413-010-0750	1-1-04	Amend	2-1-04	413-070-0930	4-1-04	Amend	5-1-04
413-015-0115	8-1-04	Amend	9-1-04	413-070-0935	1-1-04	Amend(T)	2-1-04
413-015-0200	8-1-04	Amend	9-1-04	413-070-0935	4-1-04	Amend	5-1-04
413-015-0205	8-1-04	Amend	9-1-04	413-070-0935(T)	4-1-04	Repeal	5-1-04
413-015-0210	8-1-04	Amend	9-1-04	413-070-0937	1-1-04	Amend(T)	2-1-04
413-015-0220	8-1-04	Amend	9-1-04	413-070-0937	4-1-04	Amend	5-1-04
413-015-0305	8-1-04	Amend	9-1-04	413-070-0937(T)	4-1-04	Repeal	5-1-04
413-015-0400	8-1-04	Amend	9-1-04	413-070-0940	4-1-04	Amend	5-1-04
413-015-0405	8-1-04	Amend	9-1-04	413-070-0945	4-1-04	Amend	5-1-04
413-015-0505	8-1-04	Amend	9-1-04	413-070-0950	4-1-04	Amend	5-1-04
413-015-0510	8-1-04	Amend	9-1-04	413-070-0955	4-1-04	Amend	5-1-04
413-015-0700	8-1-04	Amend	9-1-04	413-070-0960	4-1-04	Amend	5-1-04
413-015-0710	8-1-04	Amend	9-1-04	413-070-0965	4-1-04	Amend	5-1-04
413-015-0725	8-1-04	Amend	9-1-04	413-070-0970	4-1-04	Amend	5-1-04
413-040-0200	1-1-04	Amend	2-1-04	413-070-0980	1-1-04	Amend(T)	2-1-04
413-040-0205	1-1-04	Adopt	2-1-04	413-070-0980	4-1-04	Amend	5-1-04
413-040-0210	1-1-04	Amend	2-1-04	413-070-0980(T)	4-1-04	Repeal	5-1-04
413-040-0215	1-1-04	Adopt	2-1-04	413-070-0981	1-1-04	Amend(T)	2-1-04
413-040-0220	1-1-04	Repeal	2-1-04	413-070-0981	4-1-04	Amend	5-1-04
413-040-0230	1-1-04	Amend	2-1-04	413-070-0981(T)	1-1-04	Suspend	2-1-04
413-040-0240	1-1-04	Amend	2-1-04	413-070-0981(T)	4-1-04	Repeal	5-1-04
413-040-0250	1-1-04	Am. & Ren.	2-1-04	413-070-0982	1-1-04	Adopt(T)	2-1-04
413-040-0260	1-1-04	Amend	2-1-04	413-070-0982	4-1-04	Adopt	5-1-04
413-040-0265	1-1-04	Adopt	2-1-04	413-070-0982(T)	4-1-04	Repeal	5-1-04
413-040-0270	1-1-04	Amend	2-1-04	413-080-0040	3-1-04	Adopt(T)	4-1-04
413-040-0280	1-1-04	Amend	2-1-04	413-080-0045	3-1-04	Adopt(T)	4-1-04
413-040-0290	1-1-04	Amend	2-1-04	413-080-0050	3-1-04	Adopt(T)	4-1-04
413-040-0300	1-1-04	Amend	2-1-04	413-080-0055	3-1-04	Adopt(T)	4-1-04
413-040-0310	1-1-04	Amend	2-1-04	413-080-0060	3-1-04	Adopt(T)	4-1-04
413-040-0320	1-1-04	Amend	2-1-04	413-090-0010	4-1-04	Amend	5-1-04
413-040-0330	1-1-04	Amend	2-1-04	413-090-0010(T)	4-1-04	Repeal	5-1-04
413-050-0200	12-12-03	Amend	1-1-04	413-090-0160	4-1-04	Amend	5-1-04
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413-100-0030	2-10-04	Amend	3-1-04	413-110-0300	1-1-04	Amend	2-1-04
413-100-0030(T)	2-10-04	Repeal	3-1-04	413-110-0310	1-1-04	Amend	2-1-04
413-100-0040	2-10-04	Amend	3-1-04	413-110-0320	1-1-04	Amend	2-1-04
413-100-0040(T)	2-10-04	Repeal	3-1-04	413-110-0330	1-1-04	Amend	2-1-04
413-100-0050	2-10-04	Amend	3-1-04	413-110-0340	1-1-04	Amend	2-1-04
413-100-0050(T)	2-10-04	Repeal	3-1-04	413-110-0350	1-1-04	Amend	2-1-04
413-100-0070	2-10-04	Amend	3-1-04	413-110-0360	1-1-04	Amend	2-1-04
413-100-0070(T)	2-10-04	Repeal	3-1-04	413-120-0100	4-1-04	Amend	5-1-04
413-100-0080	2-10-04	Amend	3-1-04	413-120-0105	4-1-04	Amend	5-1-04
413-100-0080(T)	2-10-04	Repeal	3-1-04	413-120-0115	11-25-03	Amend(T)	1-1-04
413-100-0110	2-10-04	Amend	3-1-04	413-120-0115	4-1-04	Amend	5-1-04
413-100-0110(T)	2-10-04	Repeal	3-1-04	413-120-0115(T)	4-1-04	Repeal	5-1-04
413-100-0130	2-10-04	Amend	3-1-04	413-120-0150	4-1-04	Amend	5-1-04
413-100-0130(T)	2-10-04	Repeal	3-1-04	413-120-0155	4-1-04	Amend	5-1-04
413-100-0135	2-10-04	Amend	3-1-04	413-120-0165	4-1-04	Amend	5-1-04
413-100-0135(T)	2-10-04	Repeal	3-1-04	413-120-0175	11-25-03	Amend(T)	1-1-04
413-100-0150	2-10-04	Amend	3-1-04	413-120-0175	4-1-04	Amend	5-1-04
413-100-0150(T)	2-10-04	Repeal	3-1-04	413-120-0175(T)	4-1-04	Repeal	5-1-04
413-100-0160	2-10-04	Amend	3-1-04	413-120-0500	1-1-04	Amend	2-1-04
413-100-0160(T)	2-10-04	Repeal	3-1-04	413-120-0510	1-1-04	Amend	2-1-04
413-100-0240	2-10-04	Amend	3-1-04	413-120-0520	1-1-04	Amend	2-1-04
413-100-0240(T)	2-10-04	Repeal	3-1-04	413-120-0530	1-1-04	Amend	2-1-04
413-100-0276	2-10-04	Amend	3-1-04	413-120-0540	1-1-04	Amend	2-1-04
413-100-0276(T)	2-10-04	Repeal	3-1-04	413-120-0550	1-1-04	Adopt	2-1-04
413-100-0290	2-10-04	Amend	3-1-04	413-130-0125	11-19-03	Amend(T)	1-1-04
413-100-0290(T)	2-10-04	Repeal	3-1-04	413-130-0125	4-1-04	Amend	5-1-04
413-100-0400	7-1-04	Amend	8-1-04	413-130-0125(T)	4-1-04	Repeal	5-1-04
413-100-0410	7-1-04	Amend	8-1-04	413-130-0127	4-1-04	Adopt	5-1-04
413-100-0420	7-1-04	Amend	8-1-04	413-130-0127(T)	4-1-04	Repeal	5-1-04
413-100-0430	7-1-04	Amend	8-1-04	413-210-0800	1-9-04	Amend	2-1-04
413-100-0440	7-1-04	Amend	8-1-04	413-210-0806	1-9-04	Amend	2-1-04
413-100-0450	7-1-04	Amend	8-1-04	413-210-0821	1-9-04	Amend	2-1-04
413-100-0460	7-1-04	Amend	8-1-04	413-330-0085	12-17-03	Amend(T)	2-1-04
413-100-0480	7-1-04	Amend	8-1-04	413-330-0085	6-1-04	Amend	7-1-04
413-100-0490	7-1-04	Amend	8-1-04	413-330-0085(T)	6-1-04	Repeal	7-1-04
413-100-0500	7-1-04	Amend	8-1-04	413-330-0087	12-17-03	Amend(T)	2-1-04
413-100-0510	7-1-04	Amend	8-1-04	413-330-0087	6-1-04	Amend	7-1-04
413-100-0520	7-1-04	Amend	8-1-04	413-330-0087(T)	6-1-04	Repeal	7-1-04
413-100-0530	7-1-04	Amend	8-1-04	413-330-0090	12-17-03	Amend(T)	2-1-04
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
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413-330-0920	1-1-04	Amend(T)	2-1-04	414-205-0055	8-1-04	Amend	9-1-04
413-330-0920	6-1-04	Amend	7-1-04	414-300-0000	12-28-03	Amend	2-1-04
413-330-0920(T)	6-1-04	Repeal	7-1-04	414-300-0005	12-28-03	Amend	2-1-04
413-330-0930	1-1-04	Amend(T)	2-1-04	414-300-0010	12-28-03	Amend	2-1-04
413-330-0930	6-1-04	Amend	7-1-04	414-300-0180	12-28-03	Amend	2-1-04
413-330-0930(T)	6-1-04	Repeal	7-1-04	414-300-0190	12-28-03	Amend	2-1-04
413-330-0940	1-1-04	Amend(T)	2-1-04	414-300-0200	12-28-03	Amend	2-1-04
413-330-0940	6-1-04	Amend	7-1-04	414-300-0210	12-28-03	Amend	2-1-04
413-330-0940(T)	6-1-04	Repeal	7-1-04	414-300-0280	12-28-03	Amend	2-1-04
413-330-0950	1-1-04	Amend(T)	2-1-04	414-300-0360	12-28-03	Amend	2-1-04
413-330-0950	6-1-04	Amend	7-1-04	414-350-0010	12-28-03	Amend	2-1-04
413-330-0950(T)	6-1-04	Repeal	7-1-04	414-350-0010	12-28-03	Amend	2-1-04
413-330-0960	1-1-04	Suspend	2-1-04	414-350-0010	8-1-04	Amend	9-1-04
413-330-0960	6-1-04	Amend	7-1-04	414-350-0020	12-28-03	Amend	2-1-04
413-330-0960(T)	6-1-04	Repeal	7-1-04	414-350-0210	12-28-03	Amend	2-1-04
413-330-0970	1-1-04	Amend(T)	2-1-04	414-350-0235	12-28-03	Amend	2-1-04
413-330-0970	6-1-04	Amend	7-1-04	414-400-0050	8-1-04	Amend	9-1-04
413-330-0970(T)	6-1-04	Repeal	7-1-04	414-500-0010	8-1-04	Amend	9-1-04
413-330-0980	1-1-04	Amend(T)	2-1-04	414-500-0020	8-1-04	Amend	9-1-04
413-330-0980	6-1-04	Amend	7-1-04	414-500-0030	12-28-03	Amend	2-1-04
413-330-0980(T)	6-1-04	Repeal	7-1-04	414-500-0030	8-1-04	Amend	9-1-04
413-330-0990	1-1-04	Amend(T)	2-1-04	414-500-0050	8-1-04	Amend	9-1-04
413-330-0990	6-1-04	Amend	7-1-04	414-500-0060	8-1-04	Amend	9-1-04
413-330-0990(T)	6-1-04	Repeal	7-1-04	414-500-0080	8-1-04	Amend	9-1-04
413-330-1000	1-1-04	Amend(T)	2-1-04	414-600-0000	12-7-03	Suspend	1-1-04
413-330-1000	6-1-04	Amend	7-1-04	414-600-0000	3-28-04	Repeal	5-1-04
413-330-1000(T)	6-1-04	Repeal	7-1-04	414-600-0010	12-7-03	Suspend	1-1-04
413-330-1010	1-1-04	Amend(T)	2-1-04	414-600-0010	3-28-04	Repeal	5-1-04
413-330-1010	6-1-04	Amend	7-1-04	414-600-0020	12-7-03	Suspend	1-1-04
413-330-1010(T)	6-1-04	Repeal	7-1-04	414-600-0020	3-28-04	Repeal	5-1-04
414-005-0000	8-1-04	Repeal	9-1-04	414-600-0030	12-7-03	Suspend	1-1-04
414-005-0010	8-1-04	Repeal	9-1-04	414-600-0030	3-28-04	Repeal	5-1-04
414-005-0020	8-1-04	Repeal	9-1-04	414-600-0040	12-7-03	Suspend	1-1-04
414-050-0000	8-1-04	Amend	9-1-04	414-600-0040	3-28-04	Repeal	5-1-04
414-050-0005	8-1-04	Amend	9-1-04	414-600-0050	12-7-03	Suspend	1-1-04
414-050-0010	12-28-03	Adopt(T)	2-1-04	414-600-0050	3-28-04	Repeal	5-1-04
414-050-0010	3-28-04	Adopt	5-1-04	414-600-0060	12-7-03	Suspend	1-1-04
414-050-0010(T)	3-28-04	Repeal	5-1-04	414-600-0060	3-28-04	Repeal	5-1-04
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

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414-700-0090	12-7-03	Adopt	1-1-04	436-001-0030	4-1-04	Amend	4-1-04
416-001-0000	7-8-04	Amend	8-1-04	436-001-0045	4-1-04	Repeal	4-1-04
416-001-0005	7-8-04	Amend	8-1-04	436-001-0055	4-1-04	Repeal	4-1-04
416-001-0015	7-8-04	Adopt	8-1-04	436-001-0065	4-1-04	Repeal	4-1-04
416-001-0020	7-8-04	Adopt	8-1-04	436-001-0090	4-1-04	Repeal	4-1-04
416-030-0000	5-14-04	Repeal	6-1-04	436-001-0105	4-1-04	Repeal	4-1-04
416-030-0010	5-14-04	Repeal	6-1-04	436-001-0110	4-1-04	Amend	4-1-04
416-030-0020	5-14-04	Repeal	6-1-04	436-001-0120	4-1-04	Repeal	4-1-04
416-030-0030	5-14-04	Repeal	6-1-04	436-001-0135	4-1-04	Repeal	4-1-04
416-030-0040	5-14-04	Repeal	6-1-04	436-001-0140	4-1-04	Repeal	4-1-04
416-030-0050	5-14-04	Repeal	6-1-04	436-001-0150	4-1-04	Amend	4-1-04
416-030-0060	5-14-04	Repeal	6-1-04	436-001-0155	4-1-04	Amend	4-1-04
416-030-0070	5-14-04	Repeal	6-1-04	436-001-0160	4-1-04	Amend	4-1-04
416-030-0080	5-14-04	Repeal	6-1-04	436-001-0170	4-1-04	Amend	4-1-04
416-030-0090	5-14-04	Repeal	6-1-04	436-001-0171	4-1-04	Repeal	4-1-04
416-030-0100	5-14-04	Repeal	6-1-04	436-001-0175	4-1-04	Repeal	4-1-04
416-030-0110	5-14-04	Repeal	6-1-04	436-001-0185	4-1-04	Amend	4-1-04
416-105-0000	5-14-04	Adopt	6-1-04	436-001-0191	4-1-04	Repeal	4-1-04
416-105-0010	5-14-04	Adopt	6-1-04	436-001-0195	4-1-04	Repeal	4-1-04
416-105-0020	5-14-04	Adopt	6-1-04	436-001-0201	4-1-04	Amend	4-1-04
416-105-0030	5-14-04	Adopt	6-1-04	436-001-0205	4-1-04	Repeal	4-1-04
416-105-0040	5-14-04	Adopt	6-1-04	436-001-0210	4-1-04	Amend	4-1-04
416-110-0000	5-14-04	Repeal	6-1-04	436-001-0225	4-1-04	Amend	4-1-04
416-110-0010	5-14-04	Repeal	6-1-04	436-001-0226	4-1-04	Amend	4-1-04
416-110-0020	5-14-04	Repeal	6-1-04	436-001-0231	4-1-04	Repeal	4-1-04
416-110-0030	5-14-04	Repeal	6-1-04	436-001-0240	4-1-04	Amend	4-1-04
416-150-0000	5-14-04	Amend	6-1-04	436-001-0255	4-1-04	Repeal	4-1-04
416-150-0010	5-14-04	Amend	6-1-04	436-001-0260	4-1-04	Amend	4-1-04
416-150-0020	5-14-04	Amend	6-1-04	436-001-0265	1-1-04	Amend(T)	1-1-04
416-150-0030	5-14-04	Amend	6-1-04	436-001-0265	4-1-04	Amend	4-1-04
416-150-0040	5-14-04	Adopt	6-1-04	436-001-0275	4-1-04	Amend	4-1-04
416-150-0050	5-14-04	Adopt	6-1-04	436-001-0285	4-1-04	Repeal	4-1-04
416-180-0000	5-14-04	Amend	6-1-04	436-001-0295	4-1-04	Repeal	4-1-04
416-180-0010	5-14-04	Amend	6-1-04	436-001-0300	4-1-04	Adopt	4-1-04
416-180-0020	5-14-04	Amend	6-1-04	436-009-0003	4-1-04	Amend	4-1-04
416-180-0030	5-14-04	Amend	6-1-04	436-009-0004	4-1-04	Amend	4-1-04
416-180-0040	5-14-04	Amend	6-1-04	436-009-0005	4-1-04	Amend	4-1-04
416-180-0050	5-14-04	Amend	6-1-04	436-009-0008	1-1-04	Amend(T)	1-1-04
416-400-0010	7-30-04	Repeal	9-1-04	436-009-0008	4-1-04	Amend	4-1-04
416-440-0000	7-30-04	Repeal	9-1-04	436-009-0010	4-1-04	Amend	4-1-04
416-440-0010	5-14-04	Repeal	6-1-04	436-009-0015	1-1-04	Amend(T)	1-1-04
416-440-0030	5-14-04	Repeal	6-1-04	436-009-0015	4-1-04	Amend	4-1-04
416-450-0000	7-30-04	Amend	9-1-04	436-009-0020	4-1-04	Amend	4-1-04
416-450-0010	7-30-04	Amend	9-1-04	436-009-0022	4-1-04	Amend	4-1-04
416-450-0040	7-30-04	Amend	9-1-04	436-009-0025	4-1-04	Amend	4-1-04
416-450-0050	7-30-04	Amend	9-1-04	436-009-0030	4-1-04	Amend	4-1-04
416-450-0060	7-30-04	Amend	9-1-04	436-009-0040	4-1-04	Amend	4-1-04
416-450-0070	7-30-04	Adopt	9-1-04	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
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436-010-0005	4-1-04	Amend	4-1-04	436-030-0020	2-29-04	Amend	4-1-04
436-010-0008	1-1-04	Amend(T)	1-1-04	436-030-0023	2-29-04	Adopt	4-1-04
436-010-0008	4-1-04	Amend	4-1-04	436-030-0034	1-1-04	Amend(T)	1-1-04
436-010-0210	1-1-04	Amend(T)	1-1-04	436-030-0034	2-29-04	Amend	4-1-04
436-010-0210	4-1-04	Amend	4-1-04	436-030-0034(T)	2-29-04	Repeal	4-1-04
436-010-0220	1-1-04	Amend(T)	1-1-04	436-030-0035	1-1-04	Amend(T)	1-1-04
436-010-0220	4-1-04	Amend	4-1-04	436-030-0035	2-29-04	Amend	4-1-04
436-010-0230	1-1-04	Amend(T)	1-1-04	436-030-0035(T)	2-29-04	Repeal	4-1-04
436-010-0230	4-1-04	Amend	4-1-04	436-030-0036	2-29-04	Amend	4-1-04
436-010-0240	1-1-04	Amend(T)	1-1-04	436-030-0038	2-29-04	Amend	4-1-04
436-010-0240	4-1-04	Amend	4-1-04	436-030-0045	2-29-04	Am. & Ren.	4-1-04
436-010-0250	1-1-04	Amend(T)	1-1-04	436-030-0055	2-29-04	Amend	4-1-04
436-010-0250	4-1-04	Amend	4-1-04	436-030-0065	2-29-04	Amend	4-1-04
436-010-0265	1-1-04	Amend(T)	1-1-04	436-030-0066	2-29-04	Amend	4-1-04
436-010-0265	4-1-04	Amend	4-1-04	436-030-0115	1-1-04	Amend(T)	1-1-04
436-010-0270	1-1-04	Amend(T)	1-1-04	436-030-0115	2-29-04	Amend	4-1-04
436-010-0270	4-1-04	Amend	4-1-04	436-030-0115(T)	2-29-04	Repeal	4-1-04
436-010-0275	1-1-04	Amend(T)	1-1-04	436-030-0125	1-1-04	Amend(T)	1-1-04
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
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436-050-0150(T)	1-1-04	Repeal	1-1-04	436-060-0190	2-29-04	Amend	4-1-04
436-050-0160	1-1-04	Amend	1-1-04	436-060-0195	2-29-04	Amend	4-1-04
436-050-0160(T)	1-1-04	Repeal	1-1-04	436-060-0200	2-29-04	Amend	4-1-04
436-050-0165	1-1-04	Adopt	1-1-04	436-060-0210	2-29-04	Repeal	4-1-04
436-050-0165(T)	1-1-04	Repeal	1-1-04	436-060-0500	2-29-04	Amend	4-1-04
436-050-0170	1-1-04	Amend	1-1-04	436-070-0008	1-1-04	Amend	1-1-04
436-050-0175	1-1-04	Amend	1-1-04	436-075-0008	1-1-04	Amend	1-1-04
436-050-0180	1-1-04	Amend	1-1-04	436-080-0001	1-1-04	Amend	1-1-04
436-050-0185	1-1-04	Amend	1-1-04	436-080-0002	1-1-04	Amend	1-1-04
436-050-0190	1-1-04	Amend	1-1-04	436-080-0003	1-1-04	Amend	1-1-04
436-050-0195	1-1-04	Amend	1-1-04	436-080-0005	1-1-04	Amend	1-1-04
436-050-0200	1-1-04	Amend	1-1-04	436-080-0006	1-1-04	Amend	1-1-04
436-050-0210	1-1-04	Amend	1-1-04	436-080-0010	1-1-04	Amend	1-1-04
436-050-0220	1-1-04	Amend	1-1-04	436-080-0020	1-1-04	Amend	1-1-04
436-050-0260	1-1-04	Amend	1-1-04	436-080-0030	1-1-04	Amend	1-1-04
436-050-0270	1-1-04	Amend	1-1-04	436-080-0040	1-1-04	Amend	1-1-04
436-050-0280	1-1-04	Amend	1-1-04	436-080-0050	1-1-04	Repeal	1-1-04
436-050-0290	1-1-04	Amend	1-1-04	436-080-0060	1-1-04	Amend	1-1-04
436-050-0400	1-1-04	Amend	1-1-04	436-080-0065	1-1-04	Amend	1-1-04
436-050-0440	1-1-04	Amend	1-1-04	436-080-0070	1-1-04	Amend	1-1-04
436-050-0480	1-1-04	Adopt	1-1-04	436-080-0080	1-1-04	Amend	1-1-04
436-055-0008	1-1-04	Amend	1-1-04	436-085-0008	1-1-04	Amend	1-1-04
436-060-0005	1-1-04	Amend(T)	1-1-04	436-105-0003	4-1-04	Amend(T)	5-1-04
436-060-0005	2-29-04	Amend	4-1-04	436-105-0003	8-1-04	Amend	8-1-04
436-060-0008	1-1-04	Amend	1-1-04	436-105-0003(T)	8-1-04	Repeal	8-1-04
436-060-0008	2-29-04	Amend	4-1-04	436-105-0500	4-1-04	Amend(T)	5-1-04
436-060-0009	2-29-04	Amend	4-1-04	436-105-0500	8-1-04	Amend	8-1-04
436-060-0010	1-1-04	Amend(T)	1-1-04	436-105-0500(T)	8-1-04	Repeal	8-1-04
436-060-0010	2-29-04	Amend	4-1-04	436-105-0540	4-1-04	Amend(T)	5-1-04
436-060-0010(T)	1-1-04	Suspend	1-1-04	436-105-0540	8-1-04	Amend	8-1-04
436-060-0015	2-29-04	Amend	4-1-04	436-105-0540(T)	8-1-04	Repeal	8-1-04
436-060-0017	2-29-04	Amend	4-1-04	436-105-0570	8-1-04	Repeal	8-1-04
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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
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436-060-0025	2-29-04	Amend	4-1-04	436-120-0340	4-1-04	Amend	4-1-04
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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

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437-001-0171	11-26-03	Amend	1-1-04	441-001-0020	1-1-04	Adopt	2-1-04
437-001-0203	11-26-03	Amend	1-1-04	441-001-0030	1-1-04	Adopt	2-1-04
437-001-0265	11-26-03	Amend	1-1-04	441-001-0040	1-1-04	Adopt	2-1-04
437-001-0270	11-26-03	Amend	1-1-04	441-001-0050	1-1-04	Adopt	2-1-04
437-001-0430	11-26-03	Amend	1-1-04	441-002-0005	1-1-04	Adopt	2-1-04
437-001-0700	11-26-03	Amend	1-1-04	441-002-0010	1-1-04	Adopt	2-1-04
437-001-0765	11-26-03	Amend	1-1-04	441-002-0020	1-1-04	Adopt	2-1-04
437-002-0120	7-1-04	Amend	5-1-04	441-002-0030	1-1-04	Adopt	2-1-04
437-002-0133	7-1-04	Repeal	5-1-04	441-002-0040	1-1-04	Adopt	2-1-04
437-002-0220	12-5-03	Amend	1-1-04	441-035-0045	11-26-03	Amend(T)	1-1-04
437-002-0340	5-20-04	Amend	7-1-04	441-035-0045	5-19-04	Amend	7-1-04
437-003-0001	12-5-03	Amend	1-1-04	441-049-1001	11-26-03	Adopt(T)	1-1-04
437-003-0001	1-1-04	Amend	2-1-04	441-049-1001	5-19-04	Adopt	7-1-04
437-003-0754	1-1-04	Repeal	2-1-04	441-049-1021	11-26-03	Amend(T)	1-1-04
437-003-1754	1-1-04	Adopt	2-1-04	441-049-1021	5-19-04	Amend	7-1-04
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
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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
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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
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441-175-0130	1-1-04	Amend	2-1-04	445-050-0020	2-15-04	Amend	2-1-04
441-175-0130	5-19-04	Amend	7-1-04	445-050-0030	2-15-04	Amend	2-1-04
441-175-0160	11-26-03	Amend(T)	1-1-04	445-050-0040	2-15-04	Amend	2-1-04
441-175-0160	5-19-04	Amend	7-1-04	445-050-0050	2-15-04	Amend	2-1-04
441-175-0165	11-26-03	Amend(T)	1-1-04	445-050-0060	2-15-04	Amend	2-1-04
441-175-0165	5-19-04	Amend	7-1-04	445-050-0080	2-15-04	Amend	2-1-04
441-175-0171	11-26-03	Amend(T)	1-1-04	445-050-0090	2-15-04	Amend	2-1-04
441-175-0171	5-19-04	Amend	7-1-04	445-050-0155	2-15-04	Amend	2-1-04
441-195-0010	5-19-04	Amend	7-1-04	459-001-0000	6-15-04	Amend	7-1-04
441-195-0020	5-19-04	Amend	7-1-04	459-005-0001	11-20-03	Amend	1-1-04
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441-195-0035	1-1-04	Repeal	2-1-04	459-005-0001	5-21-04	Amend(T)	5-1-04
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441-505-3060	8-5-04	Amend	9-1-04	459-005-0001(T)	11-20-03	Repeal	1-1-04
441-710-0038	8-5-04	Amend	9-1-04	459-005-0055	2-18-04	Amend	4-1-04
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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
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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
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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
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459-070-0100	1-1-04	Adopt	2-1-04	461-125-0660	4-1-04	Repeal	5-1-04
459-070-0110	1-1-04	Adopt	2-1-04	461-125-0690	4-1-04	Repeal	5-1-04
459-070-0900	2-18-04	Adopt(T)	4-1-04	461-125-0890	4-1-04	Repeal	5-1-04
459-070-0900	5-19-04	Adopt	7-1-04	461-125-0910	4-1-04	Repeal	5-1-04
459-075-0010	2-18-04	Adopt	4-1-04	461-125-0930	4-1-04	Repeal	5-1-04
459-075-0030	1-1-04	Adopt	2-1-04	461-130-0327	7-1-04	Amend	8-1-04
459-075-0100	1-22-04	Adopt	3-1-04	461-130-0328	7-1-04	Amend	8-1-04
459-075-0150	2-18-04	Adopt	4-1-04	461-130-0330	7-1-04	Amend	8-1-04
459-080-0010	1-1-04	Adopt	1-1-04	461-135-0010	1-1-04	Amend	2-1-04
459-080-0100	1-22-04	Adopt	3-1-04	461-135-0085	7-1-04	Amend	8-1-04
459-080-0150	6-21-04	Adopt(T)	7-1-04	461-135-0170	7-1-04	Amend	8-1-04
459-080-0200	1-1-04	Adopt(T)	1-1-04	461-135-0180	1-1-04	Repeal	2-1-04
459-080-0200	5-19-04	Adopt	7-1-04	461-135-0200	7-1-04	Amend	8-1-04
459-080-0500	1-1-04	Adopt	1-1-04	461-135-0300	7-1-04	Amend	8-1-04
461-025-0311	1-1-04	Amend	2-1-04	461-135-0301	12-1-03	Amend(T)	1-1-04
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461-101-0010	7-1-04	Amend	8-1-04	461-135-0301	5-1-04	Amend(T)	6-1-04
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461-110-0330	7-1-04	Amend	8-1-04	461-135-0320	7-1-04	Amend	8-1-04
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461-110-0350	4-1-04	Amend	5-1-04	461-135-0350	7-1-04	Amend	8-1-04
461-110-0390	4-1-04	Amend	5-1-04	461-135-0400	1-1-04	Amend	2-1-04
461-110-0630	4-1-04	Amend	5-1-04	461-135-0400	4-1-04	Amend	5-1-04
461-110-0630	7-1-04	Amend	8-1-04	461-135-0401	1-1-04	Amend	2-1-04
461-110-0750	4-1-04	Amend	5-1-04	461-135-0401	4-1-04	Amend	5-1-04
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461-115-0030	7-1-04	Amend	8-1-04	461-135-0700	4-15-04	Amend(T)	5-1-04
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461-115-0705	1-1-04	Amend	2-1-04	461-135-0705	4-1-04	Amend	5-1-04
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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
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461-120-0510	7-1-04	Amend	8-1-04	461-135-1120	2-19-04	Amend(T)	4-1-04
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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

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461-135-1130	4-1-04	Amend	5-1-04	461-155-0270	1-1-04	Amend	2-1-04
461-135-1130	4-1-04	Amend(T)	5-1-04	461-155-0290	4-1-04	Amend	5-1-04
461-135-1130	7-1-04	Amend	8-1-04	461-155-0291	4-1-04	Amend	5-1-04
461-135-1130(T)	12-1-03	Suspend	1-1-04	461-155-0295	4-1-04	Amend	5-1-04
461-135-1130(T)	4-1-04	Repeal	5-1-04	461-155-0300	1-1-04	Amend	2-1-04
461-135-1220	4-1-04	Amend	5-1-04	461-155-0500	7-1-04	Amend	8-1-04
461-135-1230	4-1-04	Amend	5-1-04	461-155-0526	1-1-04	Amend	2-1-04
461-135-1235	4-1-04	Amend	5-1-04	461-155-0526	1-1-04	Amend	2-1-04
461-140-0040	7-1-04	Amend	8-1-04	461-155-0526	4-1-04	Amend	5-1-04
461-140-0110	7-1-04	Amend	8-1-04	461-155-0551	4-1-04	Amend	5-1-04
461-140-0120	4-1-04	Amend	5-1-04	461-155-0670	7-1-04	Amend	8-1-04
461-140-0120	7-1-04	Amend	8-1-04	461-155-0680	1-1-04	Amend	2-1-04
461-140-0130	4-1-04	Amend	5-1-04	461-160-0010	7-1-04	Amend	8-1-04
461-140-0242	7-1-04	Amend	8-1-04	461-160-0015	4-1-04	Amend	5-1-04
461-145-0001	7-1-04	Amend(T)	8-1-04	461-160-0015	7-1-04	Amend	8-1-04
461-145-0040	4-1-04	Amend	5-1-04	461-160-0060	4-1-04	Amend	5-1-04
461-145-0050	4-1-04	Amend	5-1-04	461-160-0140	7-1-04	Amend	8-1-04
461-145-0105	7-1-04	Adopt	8-1-04	461-160-0160	7-1-04	Amend	8-1-04
461-145-0120	7-1-04	Amend	8-1-04	461-160-0430	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
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461-145-0910	7-1-04	Amend	8-1-04	461-165-0400	3-1-04	Repeal	4-1-04
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461-150-0042	7-1-04	Amend	8-1-04	461-175-0200	7-1-04	Amend	8-1-04
461-155-0010	4-1-04	Amend	5-1-04	461-175-0300	7-1-04	Amend	8-1-04
461-155-0010	7-1-04	Amend	8-1-04	461-180-0010	7-1-04	Amend	8-1-04
461-155-0020	1-1-04	Amend	2-1-04	461-180-0050	7-1-04	Amend	8-1-04
461-155-0030	1-1-04	Amend	2-1-04	461-180-0050	7-12-04	Amend	8-1-04
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461-155-0070	7-1-04	Amend	8-1-04	461-180-0090	7-1-04	Amend	8-1-04
461-155-0150	1-1-04	Amend	2-1-04	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	4-1-04	Amend	5-1-04	461-180-0120	7-1-04	Amend	8-1-04
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461-155-0225	2-13-04	Amend(T)	3-1-04	461-190-0110	1-1-04	Amend	2-1-04
461-155-0225	4-1-04	Amend	5-1-04	461-190-0161	1-1-04	Amend	2-1-04
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461-195-0561	1-1-04	Amend	2-1-04	471-031-0017	8-1-04	Amend	9-1-04
461-195-0601	4-1-04	Amend	5-1-04	471-031-0067	8-1-04	Amend	9-1-04
461-195-0621	4-1-04	Amend	5-1-04	471-031-0076	12-14-03	Amend	1-1-04
461-195-0621	7-1-04	Amend	8-1-04	471-031-0077	12-14-03	Adopt	1-1-04
462-110-0030	4-8-04	Amend	5-1-04	471-031-0080	8-1-04	Amend	9-1-04
462-120-0020	3-3-04	Amend	4-1-04	471-031-0085	8-1-04	Amend	9-1-04
462-120-0040	4-8-04	Amend	5-1-04	471-031-0110	8-1-04	Amend	9-1-04
462-140-0070	4-8-04	Amend	5-1-04	471-031-0140	12-14-03	Amend	1-1-04
462-140-0410	4-8-04	Amend	5-1-04	471-031-0141	12-14-03	Amend	1-1-04
462-140-0420	4-8-04	Amend	5-1-04	471-031-0142	12-14-03	Adopt	1-1-04
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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
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462-180-0010	4-8-04	Amend	5-1-04	471-040-0023	8-1-04	Amend	9-1-04
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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
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573-020-0052	4-5-04	Repeal	5-1-04	573-075-0250	4-5-04	Adopt	5-1-04
573-020-0060	4-5-04	Repeal	5-1-04	573-075-0260	4-5-04	Adopt	5-1-04
573-020-0065	4-5-04	Repeal	5-1-04	573-075-0270	4-5-04	Adopt	5-1-04
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580-040-0210	7-23-04	Amend	9-1-04	580-050-0250	6-9-04	Adopt(T)	7-1-04
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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
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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
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580-040-0285	7-23-04	Amend	9-1-04	581-015-0062	7-9-04	Amend	8-1-04
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580-040-0295	7-23-04	Amend	9-1-04	581-015-0126	8-4-04	Amend	9-1-04
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580-040-0310	6-9-04	Adopt	7-1-04	581-015-0990	1-15-04	Amend	2-1-04
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581-051-0530	8-10-04	Amend	9-1-04	582-030-0040	3-12-04	Amend	4-1-04
581-051-0550	8-10-04	Amend	9-1-04	582-030-0040	8-5-04	Amend	9-1-04
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583-030-0046	2-11-04	Amend(T)	3-1-04	603-027-0405	3-26-04	Repeal	5-1-04
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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
603-095-3860	3-22-04	Adopt	5-1-04	624-030-0040	1-16-04	Adopt	2-1-04
603-095-3900	6-17-04	Adopt	8-1-04	628-010-0020	7-1-04	Adopt	8-1-04
603-095-3920	6-17-04	Adopt	8-1-04	629-001-0005	6-10-04	Amend	7-1-04
603-095-3940	6-17-04	Adopt	8-1-04	629-001-0015	2-10-04	Amend	3-1-04
603-095-3960	6-17-04	Adopt	8-1-04	629-001-0025	2-10-04	Amend	3-1-04
604-030-0010	1-1-04	Adopt	1-1-04	629-001-0040	2-10-04	Amend	3-1-04
604-030-0020	1-1-04	Adopt	1-1-04	629-001-0045	2-10-04	Amend	3-1-04
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605-030-0020	1-15-04	Adopt	2-1-04	629-023-0120	5-6-04	Repeal	6-1-04
605-030-0030	1-15-04	Adopt	2-1-04	629-023-0130	5-6-04	Repeal	6-1-04
605-030-0040	1-15-04	Adopt	2-1-04	629-023-0140	5-6-04	Repeal	6-1-04
606-010-0025	1-15-04	Amend	2-1-04	629-023-0145	5-6-04	Repeal	6-1-04
606-030-0010	1-15-04	Adopt	2-1-04	629-023-0150	5-6-04	Repeal	6-1-04
606-030-0020	1-15-04	Adopt	2-1-04	629-023-0160	5-6-04	Repeal	6-1-04
606-030-0040	1-15-04	Adopt	2-1-04	629-023-0165	5-6-04	Repeal	6-1-04
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629-043-0041	1-30-04	Amend	3-1-04	635-006-0215	5-1-04	Amend	6-1-04
629-065-0005	5-4-04	Amend	6-1-04	635-006-0232	2-1-04	Amend	2-1-04
629-065-0100	5-4-04	Repeal	6-1-04	635-006-0850	1-1-04	Amend	1-1-04
629-065-0200	5-4-04	Amend	6-1-04	635-006-0850	3-23-04	Amend	5-1-04
629-065-0210	5-4-04	Adopt	6-1-04	635-006-0910	1-31-04	Amend(T)	3-1-04
629-065-0220	5-4-04	Adopt	6-1-04	635-006-0910	3-23-04	Amend	5-1-04
629-065-0400	5-4-04	Amend	6-1-04	635-006-0910(T)	3-23-04	Repeal	5-1-04
629-065-0410	5-4-04	Adopt	6-1-04	635-006-1085	7-12-04	Amend(T)	8-1-04
629-065-0500	5-4-04	Repeal	6-1-04	635-007-0605	5-1-04	Amend	6-1-04
629-670-0300	2-10-04	Amend	3-1-04	635-007-0655	5-1-04	Amend	6-1-04
629-670-0310	2-10-04	Amend	3-1-04	635-007-0910	5-1-04	Amend	6-1-04
629-670-0315	2-10-04	Amend	3-1-04	635-010-0015	5-1-04	Amend	6-1-04
629-672-0210	2-10-04	Amend	3-1-04	635-011-0100	1-1-04	Amend	1-1-04
629-672-0220	2-10-04	Amend	3-1-04	635-011-0101	1-1-04	Amend	1-1-04
629-672-0310	2-10-04	Amend	3-1-04	635-013-0003	1-1-04	Amend	1-1-04
635-001-0005	6-2-04	Amend	7-1-04	635-013-0003	5-1-04	Amend	6-1-04
635-001-0105	1-1-04	Amend	1-1-04	635-013-0004	1-1-04	Amend	1-1-04
635-001-0301	5-1-04	Amend	6-1-04	635-013-0004	7-23-04	Amend(T)	9-1-04
635-003-0003	5-1-04	Amend	6-1-04	635-013-0004	8-13-04	Amend(T)	9-1-04
635-003-0003	5-1-04	Amend	6-1-04	635-013-0004(T)	8-13-04	Suspend	9-1-04
635-003-0076	5-1-04	Amend	6-1-04	635-014-0080	1-1-04	Amend	1-1-04
635-003-0076	5-5-04	Amend(T)	6-1-04	635-014-0090	12-11-03	Amend(T)	1-1-04
635-003-0076	5-15-04	Amend(T)	6-1-04	635-014-0090	1-1-04	Amend	1-1-04
635-003-0076	5-24-04	Amend(T)	7-1-04	635-014-0090	1-1-04	Amend(T)	1-1-04
635-003-0076	6-19-04	Amend(T)	8-1-04	635-014-0090	7-1-04	Amend(T)	8-1-04
635-003-0076	7-1-04	Amend(T)	8-1-04	635-014-0090(T)	12-11-03	Suspend	1-1-04
635-003-0076	7-8-04	Amend(T)	8-1-04	635-014-0090(T)	1-1-04	Repeal	1-1-04
635-003-0076	7-16-04	Amend(T)	8-1-04	635-016-0080	1-1-04	Amend	1-1-04
635-003-0076	7-19-04	Amend(T)	9-1-04	635-016-0090	1-1-04	Amend	1-1-04
635-003-0076	8-4-04	Amend(T)	9-1-04	635-017-0080	1-1-04	Amend	1-1-04
635-003-0076(T)	6-19-04	Suspend	8-1-04	635-017-0090	1-1-04	Amend	1-1-04
635-003-0076(T)	7-1-04	Suspend	8-1-04	635-017-0090	5-1-04	Amend	6-1-04
635-003-0076(T)	7-8-04	Suspend	8-1-04	635-017-0090	5-28-04	Amend(T)	7-1-04
635-003-0076(T)	7-16-04	Suspend	8-1-04	635-017-0090	7-12-04	Amend(T)	8-1-04
635-003-0076(T)	7-19-04	Suspend	9-1-04	635-017-0090(T)	7-12-04	Suspend	8-1-04
635-003-0076(T)	8-4-04	Suspend	9-1-04	635-018-0080	1-1-04	Amend	1-1-04
635-004-0005	1-1-04	Amend	1-1-04	635-018-0090	1-1-04	Amend	1-1-04
635-004-0018	1-1-04	Amend	1-1-04	635-018-0090	4-1-04	Amend(T)	5-1-04
635-004-0027	1-1-04	Amend(T)	1-1-04	635-018-0090	8-1-04	Amend(T)	9-1-04
635-004-0033	7-28-04	Amend(T)	9-1-04	635-018-0090(T)	8-1-04	Suspend	9-1-04
635-004-0036	1-1-04	Amend	1-1-04	635-019-0080	1-1-04	Amend	1-1-04
635-005-0045	12-1-03	Amend(T)	1-1-04	635-019-0090	1-1-04	Amend	1-1-04
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635-005-0048(T)	2-13-04	Repeal	3-1-04	635-019-0090	6-19-04	Amend(T)	8-1-04
635-005-0205	11-21-03	Amend(T)	1-1-04	635-021-0080	1-1-04	Amend	1-1-04
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635-006-0133	5-1-04	Amend	6-1-04	635-021-0095	5-28-04	Adopt(T)	7-1-04
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635-006-0150	1-1-04	Amend	1-1-04	635-023-0090	1-1-04	Amend	1-1-04
635-006-0200	5-1-04	Amend	6-1-04	635-023-0090	2-1-04	Amend(T)	3-1-04
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635-023-0090(T)	7-3-04	Suspend	8-1-04	635-042-0145	3-12-04	Amend(T)	4-1-04
635-023-0090(T)	7-11-04	Suspend	8-1-04	635-042-0145	3-18-04	Amend(T)	5-1-04
635-023-0100	2-13-04	Repeal	3-1-04	635-042-0145	4-12-04	Amend(T)	5-1-04
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635-023-0125	3-10-04	Amend(T)	4-1-04	635-042-0145	5-20-04	Amend(T)	7-1-04
635-023-0125	4-22-04	Amend(T)	5-1-04	635-042-0145	8-3-04	Amend(T)	9-1-04
635-023-0125	4-22-04	Amend(T)	6-1-04	635-042-0145(T)	8-3-04	Suspend	9-1-04
635-023-0125	5-1-04	Amend(T)	6-1-04	635-042-0160	2-13-04	Amend	3-1-04
635-023-0125	5-6-04	Amend(T)	6-1-04	635-042-0160	3-12-04	Amend(T)	4-1-04
635-023-0125	5-20-04	Amend(T)	7-1-04	635-042-0160	3-18-04	Amend(T)	5-1-04
635-023-0125	6-16-04	Amend(T)	7-1-04	635-042-0160	4-12-04	Amend(T)	5-1-04
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635-023-0130	5-1-04	Adopt	6-1-04	635-042-0160	5-20-04	Amend(T)	7-1-04
635-023-0135	4-24-04	Adopt(T)	6-1-04	635-042-0160	8-3-04	Amend(T)	9-1-04
635-039-0080	1-1-04	Amend	1-1-04	635-042-0160(T)	8-3-04	Suspend	9-1-04
635-039-0090	11-21-03	Amend(T)	1-1-04	635-042-0170	8-3-04	Amend(T)	9-1-04
635-039-0090	1-1-04	Amend	1-1-04	635-042-0170(T)	8-3-04	Suspend	9-1-04
635-039-0090	1-1-04	Amend	1-1-04	635-042-0180	2-13-04	Amend	3-1-04
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635-041-0065	2-2-04	Amend(T)	3-1-04	635-042-0180(T)	8-3-04	Suspend	9-1-04
635-041-0065	3-10-04	Amend(T)	4-1-04	635-042-0190	8-3-04	Amend(T)	9-1-04
635-041-0090	5-4-04	Adopt(T)	6-1-04	635-042-0190(T)	8-3-04	Suspend	9-1-04
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635-041-0095	7-21-04	Amend(T)	9-1-04	635-046-0030	5-1-04	Amend	6-1-04
635-041-0095(T)	6-23-04	Suspend	8-1-04	635-048-0030	5-1-04	Amend	6-1-04
635-041-0095(T)	6-30-04	Suspend	8-1-04	635-050-0045	2-11-04	Amend	3-1-04
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635-060-0000	1-1-04	Amend	1-1-04	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
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635-065-0015	1-1-04	Amend	1-1-04	635-100-0136	5-1-04	Amend	6-1-04
635-065-0401	1-1-04	Amend	1-1-04	635-120-0001	3-5-04	Amend	4-1-04
635-065-0501	1-1-04	Amend	1-1-04	635-120-0005	3-5-04	Amend	4-1-04
635-065-0625	1-1-04	Amend	1-1-04	635-120-0010	3-5-04	Amend	4-1-04
635-065-0705	1-1-04	Amend	1-1-04	635-120-0015	3-5-04	Amend	4-1-04
635-065-0720	1-1-04	Amend	1-1-04	635-120-0020	3-5-04	Amend	4-1-04
635-065-0740	1-1-04	Amend	1-1-04	635-200-0050	5-1-04	Amend	6-1-04
635-065-0760	11-25-03	Amend(T)	1-1-04	635-300-0001	5-1-04	Amend	6-1-04
635-065-0760	6-16-04	Amend	1-1-04	635-425-0020	5-1-04	Amend	6-1-04
635-065-0765	1-1-04	Amend	1-1-04	635-500-1820	12-15-03	Amend	1-1-04
635-066-0000	1-1-04	Amend	1-1-04	635-500-1830	12-15-03	Amend	1-1-04
635-066-0010	1-1-04	Amend	1-1-04	635-500-1850	12-15-03	Amend	1-1-04
635-067-0000	1-1-04	Amend	1-1-04	635-500-1920	12-15-03	Amend	1-1-04
635-067-0000	6-16-04	Amend	8-1-04	635-500-1930	12-15-03	Amend	1-1-04
635-067-0015	1-1-04	Amend	1-1-04	635-500-3120	12-15-03	Amend	1-1-04
635-067-0024	1-1-04	Amend	1-1-04	635-500-6000	12-15-03	Adopt	1-1-04
635-067-0028	1-1-04	Adopt	1-1-04	635-500-6010	12-15-03	Adopt	1-1-04
635-067-0029	1-1-04	Adopt	1-1-04	635-500-6020	12-15-03	Adopt	1-1-04
635-067-0032	1-1-04	Amend	1-1-04	635-500-6030	12-15-03	Adopt	1-1-04
635-067-0034	1-1-04	Amend	1-1-04	635-500-6040	12-15-03	Adopt	1-1-04
635-067-0041	1-1-04	Adopt	1-1-04	635-500-6050	12-15-03	Adopt	1-1-04
635-068-0000	1-19-04	Amend	1-1-04	635-500-6060	12-15-03	Adopt	1-1-04
635-068-0000	6-16-04	Amend	8-1-04	641-030-0010	1-15-04	Adopt	1-1-04
635-069-0000	2-2-04	Amend	1-1-04	641-030-0020	1-15-04	Adopt	1-1-04
635-069-0000	6-16-04	Amend	8-1-04	641-030-0030	1-15-04	Adopt	1-1-04
635-070-0000	12-24-03	Amend(T)	2-1-04	642-010-0020	1-15-04	Amend	1-1-04
635-070-0000	2-2-04	Amend(T)	3-1-04	642-030-0010	1-15-04	Adopt	1-1-04
635-070-0000	4-1-04	Amend	1-1-04	642-030-0020	1-15-04	Adopt	1-1-04
635-070-0000	6-16-04	Amend	8-1-04	642-030-0030	1-15-04	Adopt	1-1-04
635-070-0005	2-2-04	Amend(T)	3-1-04	643-010-0030	1-16-04	Adopt	3-1-04
635-070-0010	12-24-03	Amend(T)	2-1-04	643-030-0010	1-16-04	Adopt	3-1-04
635-071-0000	1-1-04	Amend	1-1-04	643-030-0020	1-16-04	Adopt	3-1-04
635-071-0000	1-13-04	Amend(T)	2-1-04	643-030-0030	1-16-04	Adopt	3-1-04
635-071-0000	6-16-04	Amend	8-1-04	643-030-0040	1-16-04	Adopt	3-1-04
635-071-0005	1-13-04	Amend(T)	2-1-04	644-010-0005	1-8-04	Amend	2-1-04
635-072-0000	1-1-04	Amend	1-1-04	644-010-0010	1-8-04	Amend	2-1-04
635-073-0000	12-24-03	Amend(T)	2-1-04	644-010-0015	1-8-04	Amend	2-1-04
635-073-0000	2-2-04	Amend	1-1-04	644-010-0020	1-8-04	Amend	2-1-04
635-073-0000	6-16-04	Amend	8-1-04	644-010-0025	1-8-04	Amend	2-1-04
635-073-0060	12-24-03	Amend(T)	2-1-04	644-030-0010	1-8-04	Adopt	2-1-04
635-073-0065	6-16-04	Adopt	8-1-04	644-030-0020	1-8-04	Adopt	2-1-04
635-073-0070	1-1-04	Amend	1-1-04	644-030-0030	1-8-04	Adopt	2-1-04
635-073-0070	6-16-04	Amend	8-1-04	644-030-0040	1-8-04	Adopt	2-1-04
635-073-0090	1-1-04	Amend	1-1-04	645-010-0020	1-16-04	Amend	2-1-04
635-075-0005	1-1-04	Amend	1-1-04	645-030-0010	1-16-04	Adopt	2-1-04
635-075-0015	1-1-04	Amend	1-1-04	645-030-0020	1-16-04	Adopt	2-1-04
635-075-0020	1-1-04	Amend	1-1-04	645-030-0030	1-16-04	Adopt	2-1-04

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646-010-0030	1-16-04	Adopt	2-1-04	660-016-0010	5-7-04	Amend	6-1-04
646-030-0010	1-16-04	Adopt	2-1-04	660-017-0000	5-7-04	Amend	6-1-04
646-030-0020	1-16-04	Adopt	2-1-04	660-018-0005	5-7-04	Amend	6-1-04
646-030-0020	4-8-04	Amend	5-1-04	660-018-0150	5-7-04	Adopt	6-1-04
646-030-0030	1-16-04	Adopt	2-1-04	660-020-0060	5-7-04	Amend	6-1-04
646-030-0040	1-16-04	Adopt	2-1-04	660-020-0065	5-7-04	Amend	6-1-04
647-010-0010	6-1-04	Amend	6-1-04	660-023-0090	5-7-04	Amend	6-1-04
647-010-0020	1-16-04	Amend	2-1-04	660-023-0140	5-7-04	Amend	6-1-04
647-015-0010	1-16-04	Adopt	2-1-04	660-023-0180	6-25-04	Amend	8-1-04
647-015-0020	1-16-04	Adopt	2-1-04	660-023-0190	5-7-04	Amend	6-1-04
647-015-0030	1-16-04	Adopt	2-1-04	660-025-0010	5-7-04	Amend	6-1-04
655-015-0010	1-16-04	Adopt	2-1-04	660-025-0040	5-7-04	Amend	6-1-04
655-015-0020	1-16-04	Adopt	2-1-04	660-025-0120	5-7-04	Amend	6-1-04
655-015-0030	1-16-04	Adopt	2-1-04	660-025-0130	5-7-04	Amend	6-1-04
656-030-0010	1-1-04	Adopt	1-1-04	660-025-0140	5-7-04	Amend	6-1-04
656-030-0020	1-1-04	Adopt	1-1-04	660-025-0150	5-7-04	Amend	6-1-04
656-030-0030	1-1-04	Adopt	1-1-04	660-025-0160	5-7-04	Amend	6-1-04
656-030-0040	1-1-04	Adopt	1-1-04	660-025-0175	5-7-04	Amend	6-1-04
657-030-0010	1-15-04	Adopt	1-1-04	660-030-0005	5-7-04	Amend	6-1-04
657-030-0020	1-15-04	Adopt	1-1-04	660-033-0020	4-30-04	Amend	6-1-04
657-030-0030	1-15-04	Adopt	1-1-04	660-033-0090	4-30-04	Amend	6-1-04
658-010-0005	12-4-03	Amend	1-1-04	660-033-0120	4-30-04	Amend	6-1-04
658-010-0006	12-4-03	Amend	1-1-04	660-033-0130	4-30-04	Amend	6-1-04
658-010-0007	12-4-03	Adopt	1-1-04	660-033-0135	4-30-04	Amend	6-1-04
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658-030-0030	12-4-03	Adopt	1-1-04	660-037-0030	5-7-04	Amend	6-1-04
660-001-0000	5-7-04	Amend	6-1-04	664-010-0020	1-15-04	Amend	1-1-04
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660-001-0315	5-17-04	Am. & Ren.	7-1-04	664-015-0020	1-15-04	Adopt	1-1-04
660-002-0010	5-7-04	Amend	6-1-04	664-015-0030	1-15-04	Adopt	1-1-04
660-003-0025	5-7-04	Amend	6-1-04	668-010-0010	1-15-04	Amend	2-1-04
660-004-0005	5-7-04	Amend	6-1-04	668-030-0010	1-15-04	Adopt	2-1-04
660-004-0010	5-7-04	Amend	6-1-04	668-030-0020	1-15-04	Adopt	2-1-04
660-004-0018	5-7-04	Amend	6-1-04	668-030-0030	1-15-04	Adopt	2-1-04
660-004-0020	5-7-04	Amend	6-1-04	668-030-0040	1-15-04	Adopt	2-1-04
660-004-0022	5-7-04	Amend	6-1-04	669-010-0015	1-13-04	Amend	2-1-04
660-004-0035	5-7-04	Amend	6-1-04	669-010-0020	1-13-04	Amend	2-1-04
660-004-0040	5-7-04	Amend	6-1-04	669-010-0025	1-13-04	Amend	2-1-04
660-006-0015	5-7-04	Amend	6-1-04	669-010-0030	1-13-04	Amend	2-1-04
660-006-0025	5-7-04	Amend	6-1-04	669-010-0040	1-13-04	Amend	2-1-04
660-008-0000	5-7-04	Amend	6-1-04	669-010-0050	1-13-04	Adopt	2-1-04
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660-013-0030	5-7-04	Amend	6-1-04	670-010-0020	1-15-04	Amend	2-1-04
660-013-0070	5-7-04	Amend	6-1-04	670-030-0010	1-15-04	Adopt	2-1-04
660-013-0080	5-7-04	Amend	6-1-04	670-030-0020	1-15-04	Adopt	2-1-04
660-013-0160	5-7-04	Amend	6-1-04	670-030-0030	1-15-04	Adopt	2-1-04
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679-030-0030	1-20-04	Adopt	3-1-04	690-502-0160	12-4-03	Am. & Ren.	1-1-04
679-030-0040	1-20-04	Adopt	3-1-04	690-502-0160	12-4-03	Am. & Ren.	1-1-04
690-003-0000	6-15-04	Repeal	7-1-04	690-502-0160	12-4-03	Amend	1-1-04
690-003-0010	6-15-04	Repeal	7-1-04	690-502-0210	12-4-03	Adopt	1-1-04
690-003-0020	6-15-04	Repeal	7-1-04	690-502-0215	6-15-04	Adopt	7-1-04
690-011-0220	6-15-04	Repeal	7-1-04	695-020-0020	1-26-04	Amend	3-1-04
690-014-0005	7-1-04	Amend	7-1-04	695-020-0020	4-12-04	Amend	5-1-04
690-014-0020	7-1-04	Amend	7-1-04	695-020-0056	4-12-04	Repeal	5-1-04
690-014-0030	7-1-04	Amend	7-1-04	695-020-0057	4-12-04	Repeal	5-1-04
690-014-0050	7-1-04	Amend	7-1-04	695-020-0058	4-12-04	Repeal	5-1-04
690-014-0080	7-1-04	Amend	7-1-04	695-020-0092	1-26-04	Amend	3-1-04
690-014-0090	7-1-04	Adopt	7-1-04	695-020-0093	1-26-04	Amend	3-1-04
690-014-0100	7-1-04	Amend	7-1-04	695-020-0094	1-26-04	Amend	3-1-04
690-014-0110	7-1-04	Adopt	7-1-04	695-020-0095	1-26-04	Amend	3-1-04
690-014-0150	7-1-04	Repeal	7-1-04	695-020-0096	1-26-04	Amend	3-1-04
690-014-0170	7-1-04	Amend	7-1-04	695-020-0097	1-26-04	Amend	3-1-04
690-014-0190	7-1-04	Amend	7-1-04	695-020-0098	1-26-04	Adopt	3-1-04
690-014-0200	7-1-04	Repeal	7-1-04	695-040-0020	4-12-04	Adopt	5-1-04
690-014-0220	7-1-04	Amend	7-1-04	695-040-0030	4-12-04	Adopt	5-1-04
690-026-0005	6-15-04	Repeal	7-1-04	695-040-0040	4-12-04	Adopt	5-1-04
690-026-0010	6-15-04	Repeal	7-1-04	695-040-0050	4-12-04	Adopt	5-1-04
690-026-0015	6-15-04	Repeal	7-1-04	695-040-0060	4-12-04	Adopt	5-1-04
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690-026-0030	6-15-04	Repeal	7-1-04	731-001-0005	2-23-04	Amend	4-1-04
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734-051-0150	3-1-04	Repeal	4-1-04	735-024-0010	5-24-04	Amend	7-1-04
734-051-0160	3-1-04	Repeal	4-1-04	735-024-0010	6-24-04	Amend	8-1-04
734-051-0170	3-1-04	Repeal	4-1-04	735-024-0010(T)	5-24-04	Repeal	7-1-04
734-051-0180	3-1-04	Repeal	4-1-04	735-024-0020	1-1-04	Amend(T)	1-1-04
734-051-0190	3-1-04	Am. & Ren.	4-1-04	735-024-0020	6-24-04	Amend	8-1-04
734-051-0200	3-1-04	Am. & Ren.	4-1-04	735-024-0020(T)	6-24-04	Repeal	8-1-04
734-051-0210	3-1-04	Am. & Ren.	4-1-04	735-024-0045	1-1-04	Adopt(T)	1-1-04
734-051-0220	3-1-04	Repeal	4-1-04	735-024-0045	6-24-04	Adopt	8-1-04
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734-051-0250	3-1-04	Am. & Ren.	4-1-04	735-032-0010(T)	5-24-04	Repeal	7-1-04
734-051-0260	3-1-04	Am. & Ren.	4-1-04	735-034-0010	1-1-04	Amend(T)	1-1-04
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734-051-0280	3-1-04	Am. & Ren.	4-1-04	735-034-0010(T)	5-24-04	Repeal	7-1-04
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734-051-0300	3-1-04	Am. & Ren.	4-1-04	735-040-0050	6-24-04	Amend	8-1-04
734-051-0310	3-1-04	Am. & Ren.	4-1-04	735-040-0050(T)	6-24-04	Repeal	8-1-04
734-051-0320	3-1-04	Am. & Ren.	4-1-04	735-040-0055	1-1-04	Amend(T)	1-1-04
734-051-0330	3-1-04	Repeal	4-1-04	735-040-0055	6-24-04	Amend	8-1-04
734-051-0340	3-1-04	Repeal	4-1-04	735-040-0055(T)	6-24-04	Repeal	8-1-04
734-051-0350	3-1-04	Repeal	4-1-04	735-040-0061	1-1-04	Amend(T)	1-1-04
734-051-0360	3-1-04	Am. & Ren.	4-1-04	735-040-0061	6-24-04	Amend	8-1-04
734-051-0370	3-1-04	Am. & Ren.	4-1-04	735-040-0061(T)	6-24-04	Repeal	8-1-04
734-051-0380	3-1-04	Am. & Ren.	4-1-04	735-040-0080	1-1-04	Amend(T)	1-1-04
734-051-0390	3-1-04	Am. & Ren.	4-1-04	735-040-0080	6-24-04	Amend	8-1-04
734-051-0400	3-1-04	Am. & Ren.	4-1-04	735-040-0080(T)	6-24-04	Repeal	8-1-04
734-051-0410	3-1-04	Repeal	4-1-04	735-040-0095	1-1-04	Amend(T)	1-1-04
734-051-0420	3-1-04	Repeal	4-1-04	735-040-0095	6-24-04	Amend	8-1-04
734-051-0430	3-1-04	Am. & Ren.	4-1-04	735-040-0095(T)	6-24-04	Repeal	8-1-04
734-051-0440	3-1-04	Am. & Ren.	4-1-04	735-040-0097	1-1-04	Amend(T)	1-1-04
734-051-0450	3-1-04	Am. & Ren.	4-1-04	735-040-0097	6-24-04	Amend	8-1-04
734-051-0460	3-1-04	Am. & Ren.	4-1-04	735-040-0097(T)	6-24-04	Repeal	8-1-04
734-051-0470	3-1-04	Am. & Ren.	4-1-04	735-040-0100	1-1-04	Amend(T)	1-1-04
734-051-0480	3-1-04	Repeal	4-1-04	735-040-0100	6-24-04	Amend	8-1-04
734-060-0025	1-1-04	Amend	1-1-04	735-040-0100(T)	6-24-04	Repeal	8-1-04
734-071-0010	5-20-04	Amend	7-1-04	735-048-0000	7-15-04	Amend	8-1-04
734-071-0050	5-20-04	Amend	7-1-04	735-048-0020	7-15-04	Amend	8-1-04
734-082-0080	2-25-04	Adopt	4-1-04	735-050-0060	1-1-04	Amend	1-1-04
735-010-0070	1-1-04	Amend	1-1-04	735-050-0062	1-1-04	Amend	1-1-04
735-018-0020	12-15-03	Amend	1-1-04	735-050-0064	1-1-04	Amend	1-1-04
735-018-0070	12-15-03	Amend	1-1-04	735-050-0070	1-1-04	Amend	1-1-04
735-018-0080	12-15-03	Amend	1-1-04	735-050-0080	1-1-04	Amend	1-1-04
735-018-0110	12-15-03	Amend	1-1-04	735-050-0120	1-1-04	Amend	1-1-04
735-018-0120	1-1-04	Adopt(T)	1-1-04	735-060-0000	11-18-03	Amend	1-1-04
735-018-0120	6-24-04	Adopt	8-1-04	735-060-0015	11-18-03	Am. & Ren.	1-1-04
735-018-0120(T)	6-24-04	Repeal	8-1-04	735-060-0017	11-18-03	Am. & Ren.	1-1-04
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735-020-0020	5-24-04	Amend	7-1-04	735-060-0040	11-18-03	Amend	1-1-04
735-020-0070	1-1-04	Adopt(T)	1-1-04	735-060-0050	11-18-03	Amend	1-1-04
735-020-0070	5-24-04	Adopt	7-1-04	735-060-0050(10),(11)&(12)	11-18-03	Am. & Ren.	1-1-04
735-020-0070(T)	5-24-04	Repeal	7-1-04	735-060-0050(9)&(13)	11-18-03	Am. & Ren.	1-1-04
735-020-0080	1-1-04	Adopt(T)	1-1-04	735-060-0060	11-18-03	Amend	1-1-04
735-020-0080	6-24-04	Adopt	8-1-04	735-060-0065	11-18-03	Adopt	1-1-04
735-020-0080(T)	6-24-04	Repeal	8-1-04	735-060-0070	11-18-03	Repeal	1-1-04

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735-060-0090	11-18-03	Amend	1-1-04	735-064-0220(T)	2-23-04	Repeal	4-1-04
735-060-0095	11-18-03	Amend	1-1-04	735-070-0130	1-1-04	Amend	1-1-04
735-060-0100	11-18-03	Amend	1-1-04	735-080-0010	11-18-03	Amend	1-1-04
735-060-0100(8),(9)&(10)	11-18-03	Am. & Ren.	1-1-04	735-080-0030	11-18-03	Amend	1-1-04
735-060-0110	11-18-03	Amend	1-1-04	735-090-0130	5-24-04	Adopt(T)	7-1-04
735-060-0115	11-18-03	Adopt	1-1-04	735-116-0000	1-15-04	Amend	2-1-04
735-060-0120	11-18-03	Amend	1-1-04	735-150-0040	1-1-04	Amend(T)	1-1-04
735-060-0130	11-18-03	Amend	1-1-04	735-150-0040	5-24-04	Amend	7-1-04
735-060-0140	11-18-03	Am. & Ren.	1-1-04	735-150-0040(T)	5-24-04	Repeal	7-1-04
735-060-0150	11-18-03	Am. & Ren.	1-1-04	735-150-0070	1-1-04	Amend(T)	1-1-04
735-060-0160	11-18-03	Am. & Ren.	1-1-04	735-150-0070	5-24-04	Amend	7-1-04
735-060-0170	11-18-03	Am. & Ren.	1-1-04	735-150-0070(T)	5-24-04	Repeal	7-1-04
735-061-0010	1-15-04	Repeal	2-1-04	735-150-0250	12-15-03	Adopt(T)	1-1-04
735-061-0020	1-15-04	Repeal	2-1-04	735-150-0250	6-1-04	Adopt	7-1-04
735-061-0030	1-15-04	Repeal	2-1-04	735-150-0250(T)	6-1-04	Repeal	7-1-04
735-061-0040	1-15-04	Repeal	2-1-04	735-150-0260	12-15-03	Adopt(T)	1-1-04
735-061-0050	1-15-04	Repeal	2-1-04	735-150-0260	6-1-04	Adopt	7-1-04
735-061-0060	1-15-04	Repeal	2-1-04	735-150-0260(T)	6-1-04	Repeal	7-1-04
735-061-0070	1-15-04	Repeal	2-1-04	735-154-0005	1-1-04	Adopt(T)	1-1-04
735-061-0080	1-15-04	Repeal	2-1-04	735-154-0005	5-24-04	Adopt	7-1-04
735-061-0090	1-15-04	Repeal	2-1-04	735-154-0005(T)	5-24-04	Repeal	7-1-04
735-061-0100	1-15-04	Repeal	2-1-04	735-168-0020	7-15-04	Repeal	8-1-04
735-061-0110	1-15-04	Repeal	2-1-04	735-168-0030	7-15-04	Repeal	8-1-04
735-061-0120	1-15-04	Repeal	2-1-04	735-168-0040	7-15-04	Repeal	8-1-04
735-061-0130	1-15-04	Repeal	2-1-04	735-168-0070	7-15-04	Amend	8-1-04
735-061-0140	1-15-04	Repeal	2-1-04	735-170-0000	1-1-04	Amend	1-1-04
735-061-0150	1-15-04	Repeal	2-1-04	735-170-0010	1-1-04	Amend	1-1-04
735-061-0160	1-15-04	Repeal	2-1-04	735-170-0020	1-1-04	Amend	1-1-04
735-061-0170	1-15-04	Repeal	2-1-04	735-170-0030	1-1-04	Amend	1-1-04
735-061-0180	1-15-04	Repeal	2-1-04	735-170-0050	1-1-04	Amend	1-1-04
735-061-0190	1-15-04	Repeal	2-1-04	735-170-0060	1-1-04	Amend	1-1-04
735-061-0200	1-15-04	Repeal	2-1-04	735-170-0070	1-1-04	Amend	1-1-04
735-062-0005	1-1-04	Amend	1-1-04	735-170-0090	1-1-04	Amend	1-1-04
735-062-0020	1-1-04	Amend	1-1-04	735-170-0100	1-1-04	Amend	1-1-04
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735-062-0030	1-1-04	Amend(T)	1-1-04	735-170-0140	1-1-04	Adopt	1-1-04
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735-062-0030(T)	3-25-04	Repeal	5-1-04	735-174-0010	1-1-04	Amend	1-1-04
735-062-0050	7-1-04	Amend	8-1-04	735-174-0020	1-1-04	Amend	1-1-04
735-062-0075	1-1-04	Amend	1-1-04	735-174-0030	1-1-04	Amend	1-1-04
735-062-0095	1-1-04	Amend	1-1-04	735-174-0040	1-1-04	Adopt(T)	1-1-04
735-062-0110	1-1-04	Amend	1-1-04	735-176-0000	1-15-04	Amend	2-1-04
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735-062-0330	7-1-04	Adopt	8-1-04	735-176-0020	1-15-04	Amend	2-1-04
735-062-0340	7-1-04	Adopt	8-1-04	735-176-0030	1-15-04	Amend	2-1-04
735-062-0350	7-1-04	Adopt	8-1-04	735-176-0040	1-15-04	Amend	2-1-04
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735-062-0370	7-1-04	Adopt	8-1-04	736-002-0020	1-15-04	Adopt	2-1-04
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736-006-0105	5-5-04	Amend	6-1-04	740-060-0055	1-1-04	Adopt(T)	1-1-04
736-006-0110	5-5-04	Amend	6-1-04	740-060-0055	6-29-04	Adopt	8-1-04
736-006-0115	5-5-04	Amend	6-1-04	740-060-0055(T)	6-29-04	Repeal	8-1-04
736-006-0120	5-5-04	Repeal	6-1-04	740-100-0010	1-1-04	Amend	1-1-04
736-006-0125	5-5-04	Amend	6-1-04	740-100-0015	1-15-04	Adopt	2-1-04
736-006-0130	5-5-04	Am. & Ren.	6-1-04	740-100-0060	1-1-04	Amend	1-1-04
736-006-0135	5-5-04	Am. & Ren.	6-1-04	740-100-0070	1-1-04	Amend	1-1-04
736-006-0140	5-5-04	Adopt	6-1-04	740-100-0080	1-1-04	Amend	1-1-04
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736-010-0099	6-3-04	Amend	7-1-04	740-110-0090	3-26-04	Amend	5-1-04
736-010-0100	6-3-04	Amend	7-1-04	740-115-0010	1-1-04	Repeal	1-1-04
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736-010-0120	6-3-04	Amend	7-1-04	740-115-0030	1-1-04	Repeal	1-1-04
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736-018-0045	5-14-04	Amend	6-1-04	740-115-0050	1-1-04	Repeal	1-1-04
736-018-0045	6-14-04	Amend	7-1-04	740-115-0060	1-1-04	Repeal	1-1-04
736-040-0070	4-30-04	Amend	6-1-04	740-115-0070	1-1-04	Repeal	1-1-04
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740-150-0040	1-1-04	Repeal	1-1-04	741-050-0140	3-24-04	Repeal	5-1-04
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740-200-0020	1-1-04	Amend	1-1-04	801-001-0010	1-1-04	Amend	2-1-04
740-200-0040	1-1-04	Amend	1-1-04	801-001-0015	1-1-04	Amend	2-1-04
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740-300-0035	6-29-04	Adopt	8-1-04	801-001-0035	1-1-04	Adopt	2-1-04
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741-020-0010	5-20-04	Adopt	7-1-04	801-005-0010	1-1-04	Amend	2-1-04
741-020-0020	5-20-04	Adopt	7-1-04	801-010-0010	1-1-04	Amend	2-1-04
741-020-0025	5-20-04	Adopt	7-1-04	801-010-0045	1-1-04	Amend	2-1-04
741-020-0030	5-20-04	Adopt	7-1-04	801-010-0050	1-1-04	Amend	2-1-04
741-020-0040	5-20-04	Adopt	7-1-04	801-010-0050	3-15-04	Amend(T)	4-1-04
741-020-0050	5-20-04	Adopt	7-1-04	801-010-0050	7-2-04	Amend(T)	8-1-04
741-020-0060	5-20-04	Adopt	7-1-04	801-010-0060	1-1-04	Amend	2-1-04
741-020-0070	5-20-04	Adopt	7-1-04	801-010-0075	1-1-04	Amend	2-1-04
741-020-0080	5-20-04	Adopt	7-1-04	801-010-0080	1-1-04	Amend	2-1-04
741-025-0010	5-20-04	Adopt	7-1-04	801-010-0085	1-1-04	Amend	2-1-04
741-025-0020	5-20-04	Adopt	7-1-04	801-010-0110	1-1-04	Amend	2-1-04
741-025-0025	5-20-04	Adopt	7-1-04	801-010-0115	1-1-04	Amend	2-1-04
741-025-0030	5-20-04	Adopt	7-1-04	801-010-0125	1-1-04	Amend	2-1-04
741-025-0040	5-20-04	Adopt	7-1-04	801-010-0345	1-1-04	Amend	2-1-04
741-025-0050	5-20-04	Adopt	7-1-04	801-020-0700	1-1-04	Amend	2-1-04
741-025-0060	5-20-04	Adopt	7-1-04	801-030-0005	1-1-04	Amend	2-1-04
741-025-0070	5-20-04	Adopt	7-1-04	801-030-0015	1-1-04	Amend	2-1-04
741-025-0080	5-20-04	Adopt	7-1-04	801-030-0020	1-1-04	Amend	2-1-04
741-050-0010	3-24-04	Repeal	5-1-04	801-040-0070	1-1-04	Amend	2-1-04
741-050-0020	3-24-04	Repeal	5-1-04	801-040-0090	1-1-04	Amend	2-1-04
741-050-0030	3-24-04	Repeal	5-1-04	801-040-0100	1-1-04	Amend	2-1-04
741-050-0040	3-24-04	Repeal	5-1-04	801-040-0160	1-1-04	Amend	2-1-04
741-050-0050	3-24-04	Repeal	5-1-04	801-050-0080	1-1-04	Amend	2-1-04
741-050-0060	3-24-04	Repeal	5-1-04	806-001-0004	5-5-04	Amend	6-1-04
741-050-0070	3-24-04	Repeal	5-1-04	806-001-0005	5-5-04	Amend	6-1-04
741-050-0080	3-24-04	Repeal	5-1-04	806-010-0035	3-2-04	Amend	4-1-04
741-050-0090	3-24-04	Repeal	5-1-04	806-010-0037	3-2-04	Adopt	4-1-04
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806-010-0145	5-5-04	Amend	6-1-04	808-008-0510	1-1-04	Adopt(T)	2-1-04
806-020-0080	1-28-04	Amend	3-1-04	808-008-0520	1-1-04	Adopt(T)	2-1-04
808-001-0020	6-11-04	Amend(T)	7-1-04	808-009-0020	2-1-04	Amend	3-1-04
808-002-0100	2-1-04	Amend	3-1-04	809-001-0000	6-23-04	Amend	8-1-04
808-002-0200	2-1-04	Amend	3-1-04	809-001-0005	4-6-04	Amend	5-1-04
808-002-0210	2-1-04	Adopt	3-1-04	809-001-0005	6-23-04	Amend	8-1-04
808-002-0220	2-1-04	Amend	3-1-04	809-001-0035	4-6-04	Adopt(T)	5-1-04
808-002-0298	2-1-04	Adopt	3-1-04	809-001-0035	6-23-04	Adopt	8-1-04
808-002-0448	2-1-04	Repeal	3-1-04	809-010-0001	8-5-04	Amend	9-1-04
808-002-0500	2-1-04	Amend	3-1-04	809-030-0015	8-5-04	Amend	9-1-04
808-002-0540	1-1-04	Amend(T)	2-1-04	809-050-0000	8-5-04	Amend	9-1-04
808-002-0620	2-1-04	Amend	3-1-04	811-001-0005	6-7-04	Amend	7-1-04
808-002-0665	2-1-04	Amend	3-1-04	811-010-0085	12-11-03	Amend	1-1-04
808-002-0880	2-1-04	Amend	3-1-04	811-010-0085	6-7-04	Amend	7-1-04
808-002-0890	2-1-04	Adopt	3-1-04	811-010-0086	6-7-04	Amend	7-1-04
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808-003-0010	2-1-04	Amend	3-1-04	811-015-0010	12-11-03	Amend	1-1-04
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808-003-0018	2-1-04	Amend	3-1-04	811-035-0015	12-11-03	Amend	1-1-04
808-003-0030	2-1-04	Amend	3-1-04	812-001-0000	3-1-04	Amend	4-1-04
808-003-0035	2-1-04	Amend	3-1-04	812-001-0015	3-1-04	Amend	4-1-04
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808-003-0050	2-1-04	Amend	3-1-04	812-001-0020	6-1-04	Amend	7-1-04
808-003-0055	2-1-04	Amend	3-1-04	812-001-0020	6-1-04	Amend(T)	7-1-04
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808-003-0070	2-1-04	Amend	3-1-04	812-001-0022	3-1-04	Adopt	4-1-04
808-003-0080	2-1-04	Amend	3-1-04	812-001-0022	6-1-04	Amend	7-1-04
808-003-0081	2-1-04	Amend	3-1-04	812-001-0022(T)	3-1-04	Repeal	4-1-04
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808-008-0140	1-1-04	Amend(T)	2-1-04	812-003-0000	9-1-04	Amend	8-1-04
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812-004-0110	12-5-03	Adopt	1-1-04	813-003-0030	5-20-04	Adopt(T)	7-1-04
812-004-0110	1-1-04	Amend(T)	2-1-04	813-003-0040	5-20-04	Adopt(T)	7-1-04
812-004-0110	3-1-04	Amend	4-1-04	813-003-0050	5-20-04	Adopt(T)	7-1-04
812-004-0110	6-1-04	Amend	7-1-04	813-003-0060	5-20-04	Adopt(T)	7-1-04
812-004-0110(T)	3-1-04	Repeal	4-1-04	813-003-0070	5-20-04	Adopt(T)	7-1-04
812-004-0210	12-5-03	Adopt	1-1-04	813-300-0010	12-19-03	Amend	2-1-04
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812-004-0340	12-5-03	Amend	1-1-04	813-310-0020	6-28-04	Adopt	8-1-04
812-004-0400	12-5-03	Amend	1-1-04	813-310-0025	6-28-04	Adopt	8-1-04
812-004-0440	1-1-04	Amend(T)	2-1-04	813-310-0030	6-28-04	Adopt	8-1-04
812-004-0440	3-1-04	Amend	4-1-04	813-310-0035	6-28-04	Adopt	8-1-04
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812-004-0535	3-1-04	Amend	4-1-04	813-310-0050	6-28-04	Adopt	8-1-04
812-004-0540	3-1-04	Amend	4-1-04	813-310-0055	6-28-04	Adopt	8-1-04
812-004-0550	3-1-04	Amend	4-1-04	813-310-0060	6-28-04	Adopt	8-1-04
812-004-0600	9-1-04	Amend	8-1-04	813-310-0065	6-28-04	Adopt	8-1-04
812-005-0005	12-5-03	Amend	1-1-04	813-310-0070	6-28-04	Adopt	8-1-04
812-005-0005	9-1-04	Amend	8-1-04	813-310-0075	6-28-04	Adopt	8-1-04
812-006-0020	12-5-03	Amend	1-1-04	813-310-0080	6-28-04	Adopt	8-1-04
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812-009-0120	3-1-04	Amend	4-1-04	813-310-0095	6-28-04	Adopt	8-1-04
812-010-0020	12-5-03	Amend	1-1-04	813-310-0100	6-28-04	Adopt	8-1-04
812-010-0020	6-1-04	Amend	7-1-04	813-310-0105	6-28-04	Adopt	8-1-04
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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
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817-090-0050	7-1-04	Amend	8-1-04	836-071-0180	12-19-03	Amend	1-1-04
817-090-0055	7-1-04	Amend	8-1-04	837-012-0645	1-14-04	Amend	2-1-04
817-090-0065	7-1-04	Amend	8-1-04	837-012-0720	1-14-04	Amend	2-1-04
817-090-0070	7-1-04	Amend	8-1-04	837-012-0830	1-14-04	Amend	2-1-04
817-090-0075	7-1-04	Amend	8-1-04	837-012-0850	1-14-04	Amend	2-1-04
817-090-0080	7-1-04	Amend	8-1-04	837-012-1210	1-14-04	Amend	2-1-04
817-090-0085	7-1-04	Amend	8-1-04	837-012-1220	1-14-04	Amend	2-1-04
817-090-0090	7-1-04	Amend	8-1-04	837-012-1260	1-14-04	Amend	2-1-04
817-090-0095	7-1-04	Amend	8-1-04	837-012-1290	1-14-04	Amend	2-1-04
817-090-0100	7-1-04	Amend	8-1-04	837-012-1300	1-14-04	Amend	2-1-04
817-090-0105	7-1-04	Amend	8-1-04	837-012-1320	1-14-04	Amend	2-1-04
817-090-0110	7-1-04	Amend	8-1-04	837-012-1340	1-14-04	Amend	2-1-04
817-090-0115	7-1-04	Amend	8-1-04	837-030-0130	1-14-04	Amend	2-1-04
817-100-0005	7-1-04	Amend	8-1-04	837-030-0220	1-14-04	Amend	2-1-04
817-110-0005	7-1-04	Repeal	8-1-04	837-030-0230	1-14-04	Amend	2-1-04
817-120-0005	7-1-04	Amend	8-1-04	837-030-0240	1-14-04	Amend	2-1-04
818-012-0040	6-1-04	Amend	7-1-04	837-030-0250	1-14-04	Amend	2-1-04
818-012-0075	6-1-04	Amend	7-1-04	837-030-0280	1-14-04	Amend	2-1-04
818-012-0110	6-1-04	Adopt	7-1-04	837-040-0001	10-1-04	Amend	5-1-04
818-021-0010	6-1-04	Amend	7-1-04	837-040-0010	10-1-04	Amend	5-1-04
818-021-0011	6-1-04	Amend	7-1-04	837-040-0140	10-1-04	Amend	5-1-04
818-021-0020	6-1-04	Amend	7-1-04	839-001-0000	7-27-04	Amend	9-1-04
818-021-0025	6-1-04	Amend	7-1-04	839-001-0200	1-1-04	Adopt	2-1-04
818-021-0070	7-15-04	Amend	8-1-04	839-001-0420	1-1-04	Amend	2-1-04

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839-001-0490	1-1-04	Adopt	2-1-04	847-010-0063	4-22-04	Amend	6-1-04
839-002-0002	7-27-04	Amend	9-1-04	847-010-0073	4-22-04	Adopt	6-1-04
839-014-0020	7-27-04	Amend	9-1-04	847-012-0000	1-27-04	Amend	3-1-04
839-015-0000	7-27-04	Amend	9-1-04	847-015-0030	3-1-04	Amend	6-1-04
839-016-0000	7-27-04	Amend	9-1-04	847-020-0130	4-22-04	Amend(T)	6-1-04
839-016-0700	1-5-04	Amend	2-1-04	847-020-0130	7-13-04	Amend	8-1-04
839-016-0700	4-15-04	Amend	5-1-04	847-020-0170	1-27-04	Amend	3-1-04
839-016-0700	7-1-04	Amend	8-1-04	847-020-0170	4-22-04	Amend	6-1-04
839-016-0750	5-1-04	Amend	6-1-04	847-020-0170	7-13-04	Amend	8-1-04
839-016-0750	5-19-04	Amend	7-1-04	847-020-0180	1-27-04	Amend	3-1-04
839-016-0750	5-24-04	Amend	7-1-04	847-035-0030	1-27-04	Amend	3-1-04
839-016-0750	6-24-04	Amend	8-1-04	847-035-0030	4-22-04	Amend(T)	6-1-04
839-016-0750	7-15-04	Amend	8-1-04	847-035-0030	6-11-04	Amend(T)	7-1-04
839-017-0004	1-1-04	Amend	2-1-04	847-035-0030(T)	6-11-04	Suspend	7-1-04
839-017-0500	1-1-04	Adopt	2-1-04	847-050-0041	4-22-04	Amend	6-1-04
839-017-0505	1-1-04	Adopt	2-1-04	847-070-0033	4-22-04	Adopt	6-1-04
839-017-0510	1-1-04	Adopt	2-1-04	847-080-0010	7-13-04	Amend	8-1-04
839-017-0515	1-1-04	Adopt	2-1-04	847-080-0019	7-13-04	Amend	8-1-04
839-017-0520	1-1-04	Adopt	2-1-04	850-001-0000	6-10-04	Amend	7-1-04
839-019-0000	7-27-04	Amend	9-1-04	850-010-0130	2-11-04	Amend	3-1-04
839-020-0027	1-1-04	Adopt	2-1-04	850-010-0210	6-10-04	Amend	7-1-04
839-020-0030	1-1-04	Amend	2-1-04	850-010-0212	6-10-04	Adopt	7-1-04
839-020-0115	1-1-04	Amend	2-1-04	850-010-0215	4-14-04	Amend	5-1-04
839-020-0125	1-1-04	Amend	2-1-04	850-010-0225	12-5-03	Amend	1-1-04
839-020-0150	2-1-04	Amend	2-1-04	850-010-0225	6-10-04	Amend	7-1-04
839-021-0355	7-29-04	Amend(T)	9-1-04	850-010-0226	12-5-03	Amend	1-1-04
845-003-0590	2-10-04	Amend	1-1-04	850-010-0226	6-10-04	Amend	7-1-04
845-003-0670	12-1-03	Amend	1-1-04	851-001-0005	5-4-04	Amend	6-1-04
845-005-0304	1-1-04	Amend	2-1-04	851-001-0006	5-4-04	Amend	6-1-04
845-005-0445	1-1-04	Amend(T)	2-1-04	851-001-0007	5-4-04	Amend	6-1-04
845-005-0445	6-29-04	Amend	7-1-04	851-001-0015	5-4-04	Amend	6-1-04
845-006-0335	4-9-04	Amend	5-1-04	851-001-0020	5-4-04	Amend	6-1-04
845-006-0347	5-19-04	Amend	7-1-04	851-001-0030	5-4-04	Adopt	6-1-04
845-006-0430	4-1-04	Amend	5-1-04	851-002-0040	2-26-04	Amend	4-1-04
845-006-0441	12-1-03	Amend	1-1-04	851-021-0010	12-9-03	Amend	1-1-04
845-007-0015	6-1-04	Amend	4-1-04	851-031-0010	12-9-03	Amend	1-1-04
845-008-0045	7-1-04	Amend	8-1-04	851-047-0000	2-26-04	Amend	4-1-04
845-009-0015	12-1-03	Amend	1-1-04	851-047-0010	2-26-04	Amend	4-1-04
845-015-0140	3-21-04	Amend	3-1-04	851-047-0020	2-26-04	Amend	4-1-04
845-015-0155	7-1-04	Amend	8-1-04	851-047-0030	2-26-04	Amend	4-1-04
845-015-0199	5-1-04	Adopt(T)	6-1-04	851-047-0040	2-26-04	Amend	4-1-04
847-001-0000	7-13-04	Amend	8-1-04	851-050-0000	5-12-04	Amend	6-1-04
847-001-0005	7-13-04	Amend	8-1-04	851-050-0004	5-12-04	Amend	6-1-04
847-001-0015	7-13-04	Amend	8-1-04	851-050-0006	5-12-04	Amend	6-1-04
847-001-0020	7-13-04	Adopt	8-1-04	851-050-0131	12-9-03	Amend	1-1-04
847-001-0025	7-13-04	Adopt	8-1-04	851-050-0131	2-26-04	Amend	4-1-04
847-008-0005	7-13-04	Amend	8-1-04	851-050-0131	5-4-04	Amend	6-1-04
847-008-0015	1-27-04	Amend	3-1-04	851-050-0131	7-13-04	Amend	8-1-04
847-008-0015	7-13-04	Amend	8-1-04	851-050-0133	12-23-03	Amend(T)	2-1-04
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847-008-0040	7-13-04	Amend	8-1-04	851-050-0134	12-23-03	Amend(T)	2-1-04
847-008-0045	7-13-04	Amend	8-1-04	851-050-0134	5-12-04	Repeal	6-1-04
847-008-0050	12-8-03	Amend	1-1-04	851-050-0138	5-12-04	Amend	6-1-04
847-008-0055	1-27-04	Amend	3-1-04	851-050-0140	5-12-04	Amend	6-1-04
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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
851-061-0030	2-12-04	Amend	3-1-04	855-021-0015	6-1-04	Repeal	7-1-04
851-061-0040	2-12-04	Amend	3-1-04	855-021-0025	6-1-04	Amend	7-1-04
851-061-0050	2-12-04	Amend	3-1-04	855-021-0030	6-1-04	Amend	7-1-04
851-061-0070	2-12-04	Amend	3-1-04	855-021-0035	6-1-04	Repeal	7-1-04
851-061-0080	2-12-04	Amend	3-1-04	855-021-0050	6-1-04	Amend	7-1-04
851-061-0080	7-13-04	Amend	8-1-04	855-031-0015	3-12-04	Amend	4-1-04
851-061-0090	2-12-04	Amend	3-1-04	855-031-0045	3-12-04	Amend	4-1-04
851-061-0090	7-13-04	Amend	8-1-04	855-043-0200	5-24-04	Repeal	7-1-04
851-061-0100	2-12-04	Amend	3-1-04	855-043-0205	5-24-04	Repeal	7-1-04
851-061-0110	2-12-04	Amend	3-1-04	855-043-0210	12-31-03	Adopt(T)	2-1-04
851-061-0110	7-13-04	Amend	8-1-04	855-043-0210	6-1-04	Adopt	7-1-04
851-061-0130	2-12-04	Adopt	3-1-04	858-010-0030	3-2-04	Amend(T)	4-1-04
851-062-0005	2-12-04	Adopt	3-1-04	858-050-0125	3-2-04	Amend(T)	4-1-04
851-062-0010	2-12-04	Amend	3-1-04	860-011-0001	4-29-04	Amend	6-1-04
851-062-0010	2-20-04	Amend	4-1-04	860-012-0100	1-8-04	Adopt	2-1-04
851-062-0015	2-12-04	Adopt	3-1-04	860-012-0190	1-8-04	Adopt	2-1-04
851-062-0016	2-12-04	Adopt	3-1-04	860-021-0200	1-9-04	Amend(T)	2-1-04
851-062-0020	2-12-04	Amend	3-1-04	860-021-0200	6-2-04	Amend	7-1-04
851-062-0040	2-12-04	Repeal	3-1-04	860-024-0020	11-28-03	Amend	1-1-04
851-062-0050	2-12-04	Amend	3-1-04	860-024-0021	11-28-03	Amend	1-1-04
851-062-0055	2-12-04	Adopt	3-1-04	860-027-0048	12-11-03	Adopt	1-1-04
851-062-0060	2-12-04	Repeal	3-1-04	860-027-0300	3-24-04	Amend(T)	5-1-04
851-062-0070	2-12-04	Amend	3-1-04	860-028-0195	4-21-04	Adopt	6-1-04
851-062-0070	2-20-04	Amend	4-1-04	860-028-0895	11-28-03	Adopt(T)	1-1-04
851-062-0075	2-12-04	Adopt	3-1-04	860-032-0510	1-15-04	Adopt	2-1-04
851-062-0080	2-12-04	Amend	3-1-04	860-032-0520	1-15-04	Adopt	2-1-04
851-062-0090	2-12-04	Amend	3-1-04	860-034-0010	1-9-04	Amend(T)	2-1-04
851-062-0100	2-12-04	Amend	3-1-04	860-034-0010	6-2-04	Amend	7-1-04
851-062-0110	2-12-04	Amend	3-1-04	860-034-0140	1-9-04	Amend(T)	2-1-04
851-062-0120	2-12-04	Amend	3-1-04	860-034-0140	6-2-04	Amend	7-1-04
851-062-0130	2-12-04	Amend	3-1-04	860-035-0010	1-15-04	Repeal	2-1-04
851-063-0010	2-12-04	Amend	3-1-04	860-035-0020	1-15-04	Repeal	2-1-04
851-063-0020	2-12-04	Amend	3-1-04	860-035-0030	1-15-04	Repeal	2-1-04
851-063-0030	2-12-04	Amend	3-1-04	860-035-0040	1-15-04	Repeal	2-1-04
851-063-0040	2-12-04	Amend	3-1-04	860-035-0050	1-15-04	Repeal	2-1-04
851-063-0050	2-12-04	Amend	3-1-04	860-035-0060	1-15-04	Repeal	2-1-04
851-063-0060	2-12-04	Amend	3-1-04	860-035-0070	1-15-04	Repeal	2-1-04
851-063-0070	2-12-04	Amend	3-1-04	860-035-0080	1-15-04	Repeal	2-1-04
851-063-0080	2-12-04	Amend	3-1-04	860-035-0090	1-15-04	Repeal	2-1-04
851-063-0100	2-12-04	Amend	3-1-04	860-035-0100	1-15-04	Repeal	2-1-04
852-001-0001	3-8-04	Amend	4-1-04	860-035-0110	1-15-04	Repeal	2-1-04
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860-036-0010	4-9-04	Amend	5-1-04	860-037-0215	1-29-04	Amend	3-1-04
860-036-0030	4-9-04	Amend	5-1-04	860-037-0220	1-29-04	Amend	3-1-04
860-036-0040	1-9-04	Amend(T)	2-1-04	860-037-0225	1-29-04	Amend	3-1-04
860-036-0040	6-2-04	Amend	7-1-04	860-037-0230	1-29-04	Amend	3-1-04
860-036-0080	4-9-04	Amend	5-1-04	860-037-0235	1-29-04	Amend	3-1-04
860-036-0120	4-9-04	Amend	5-1-04	860-037-0240	1-29-04	Amend	3-1-04
860-036-0330	12-10-03	Suspend	1-1-04	860-037-0245	1-29-04	Amend	3-1-04
860-036-0330	4-9-04	Repeal	5-1-04	860-037-0305	1-29-04	Repeal	3-1-04
860-036-0370	12-10-03	Adopt(T)	1-1-04	860-037-0307	1-29-04	Adopt	3-1-04
860-036-0370	4-9-04	Adopt	5-1-04	860-037-0308	12-10-03	Adopt(T)	1-1-04
860-036-0380	12-10-03	Adopt(T)	1-1-04	860-037-0308	4-9-04	Adopt	5-1-04
860-036-0380	4-9-04	Adopt	5-1-04	860-037-0309	12-10-03	Adopt(T)	1-1-04
860-036-0410	4-9-04	Amend	5-1-04	860-037-0309	4-9-04	Adopt	5-1-04
860-036-0412	12-10-03	Adopt(T)	1-1-04	860-037-0310	1-29-04	Amend	3-1-04
860-036-0412	4-9-04	Adopt	5-1-04	860-037-0315	1-29-04	Repeal	3-1-04
860-036-0420	12-10-03	Adopt(T)	1-1-04	860-037-0405	1-29-04	Amend	3-1-04
860-036-0420	4-9-04	Adopt	5-1-04	860-037-0407	12-10-03	Adopt(T)	1-1-04
860-036-0505	4-9-04	Amend	5-1-04	860-037-0407	4-9-04	Adopt	5-1-04
860-036-0739	4-9-04	Adopt	5-1-04	860-037-0410	1-29-04	Amend	3-1-04
860-036-0757	12-10-03	Adopt(T)	1-1-04	860-037-0415	1-29-04	Amend	3-1-04
860-036-0757	4-9-04	Adopt	5-1-04	860-037-0425	1-29-04	Amend	3-1-04
860-036-0900	12-10-03	Amend(T)	1-1-04	860-037-0430	1-29-04	Amend	3-1-04
860-036-0900	4-9-04	Amend	5-1-04	860-037-0435	1-29-04	Amend	3-1-04
860-036-0905	12-10-03	Amend(T)	1-1-04	860-037-0440	1-29-04	Amend	3-1-04
860-036-0905	4-9-04	Amend	5-1-04	860-037-0445	1-29-04	Amend	3-1-04
860-036-0910	12-10-03	Amend(T)	1-1-04	860-037-0450	1-29-04	Amend	3-1-04
860-036-0910	4-9-04	Amend	5-1-04	860-037-0505	1-29-04	Amend	3-1-04
860-036-0915	12-10-03	Amend(T)	1-1-04	860-037-0510	1-29-04	Amend	3-1-04
860-036-0915	4-9-04	Amend	5-1-04	860-037-0515	1-29-04	Amend	3-1-04
860-037-0001	1-29-04	Amend	3-1-04	860-037-0517	1-29-04	Adopt	3-1-04
860-037-0010	1-29-04	Amend	3-1-04	860-037-0520	1-29-04	Amend	3-1-04
860-037-0015	1-29-04	Amend	3-1-04	860-037-0525	1-29-04	Amend	3-1-04
860-037-0020	1-29-04	Amend	3-1-04	860-037-0530	1-29-04	Amend	3-1-04
860-037-0025	1-29-04	Amend	3-1-04	860-037-0535	1-29-04	Amend	3-1-04
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860-037-0035	1-9-04	Amend(T)	2-1-04	860-037-0545	1-29-04	Amend	3-1-04
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860-037-0045	1-29-04	Amend	3-1-04	860-037-0555	1-29-04	Amend	3-1-04
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860-037-0055	1-29-04	Amend	3-1-04	860-037-0565	1-29-04	Amend	3-1-04
860-037-0060	1-29-04	Amend	3-1-04	860-037-0567	1-29-04	Adopt	3-1-04
860-037-0065	1-29-04	Amend	3-1-04	860-037-0570	12-10-03	Adopt(T)	1-1-04
860-037-0067	1-29-04	Adopt	3-1-04	860-037-0570	4-9-04	Adopt	5-1-04
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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
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