

# OREGON BULLETIN

Supplements the 2006 *Oregon Administrative Rules Compilation*

**Volume 45, No. 6**  
**June 1, 2006**

For April 17, 2006–May 15, 2006



Published by  
**BILL BRADBURY**  
Secretary of State  
Copyright 2006 Oregon Secretary of State

# INFORMATION AND PUBLICATION SCHEDULE

## General Information

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

## Background on Oregon Administrative Rules

ORS 183.310(9) defines “rule” as “any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.” Agencies may adopt, amend, repeal or renumber rules, permanently or temporarily (up to 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 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” 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 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

## 2005–2006 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 97301. To expedite the rulemaking process agencies are encouraged file a Notice of Proposed Rulemaking Hearing specifying hearing date, time and location, and submit their filings early in the submission period to meet the following publication deadlines.

## Submission Deadline — Publishing Date

December 15, 2005	January 1, 2006
January 13, 2006	February 1, 2006
February 15, 2006	March 1, 2006
March 15, 2006	April 1, 2006
April 14, 2006	May 1, 2006
May 15, 2006	June 1, 2006
June 15, 2006	July 1, 2006
July 14, 2006	August 1, 2006
August 15, 2006	September 1, 2006
September 15, 2006	October 1, 2006
October 13, 2006	November 1, 2006
November 15, 2006	December 1, 2006

## 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 910-2003, 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 915-2005. 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 910-2003 and ARC 915-2005 are available from the Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97301, or are downloadable from the Oregon State Archives Website.

## Publication Authority

The *Oregon Bulletin* is published pursuant to ORS 183.360(3). Copies of the original Administrative Orders may be obtained from the Secretary of State, Archives Division, 800 Summer Street, Salem, Oregon, 97301; (503) 373-0701. The Archives Division charges for such copies.

© January 1, 2006 Oregon Secretary of State. All rights reserved. Reproduction in whole or in part without written permission is prohibited.

# TABLE OF CONTENTS

	Page
<b>Information and Publication Schedule</b> .....	2
<b>Table of Contents</b> .....	3
<b>Executive Orders</b> .....	4, 5
<b>Other Notices</b> .....	6-9
<b>Notices of Proposed Rulemaking Hearings/Notices</b>	
The citations and statements required by ORS 183.335(2)(b)(A) - (D) have been filed with and are available from the Secretary of State.	
Appraiser Certification and Licensure Board, Chapter 161 .....	10
Board of Examiners of Nursing Home Administrators, Chapter 853 .....	10
Board of Medical Examiners, Chapter 847 .....	10, 11
Board of Tax Practitioners, Chapter 800 .....	11
Construction Contractors Board, Chapter 812 .....	11
Department of Administrative Services, Budget and Management Division, Chapter 122 .....	11
Department of Consumer and Business Services, Building Codes Division, Chapter 918 .....	11, 12
Insurance Division, Chapter 836 .....	12
Oregon Occupational Safety and Health Division, Chapter 437 .....	12, 13
Department of Environmental Quality, Chapter 340 .....	13
Department of Fish and Wildlife, Chapter 635 .....	14
Department of Human Services, Child Welfare Programs, Chapter 413 .....	14-16
Departmental Administration and Medical Assistance Programs, Chapter 410 .....	16
Mental Health and Developmental Disability Services, Chapter 309 .....	16
Public Health, Chapter 333 .....	16, 17
Seniors and People with Disabilities, Chapter 411 .....	17, 18
Department of Public Safety Standards and Training, Chapter 259 .....	18
Department of Revenue, Chapter 150 .....	18, 19
Department of Veterans' Affairs, Chapter 274 .....	19
Employment Department, Chapter 471 .....	19
Employment Department, Child Care Division, Chapter 414 .....	19
Land Conservation and Development Department, Chapter 660 .....	20
Landscape Architect Board, Chapter 804 .....	20
Oregon Criminal Justice Commission, Chapter 213 .....	20
Oregon Film and Video Office, Chapter 951 .....	20, 21
Oregon Liquor Control Commission, Chapter 845 .....	21
Oregon State Marine Board, Chapter 250 .....	21
Oregon University System, Chapter 580 .....	21, 22
Oregon University System, Portland State University, Chapter 577 .....	22
University of Oregon, Chapter 571 .....	22
Parks and Recreation Department, Chapter 736 .....	22
Secretary of State, Corporation Division, Chapter 160 .....	22
Elections Division, Chapter 165 .....	22, 23
Teacher Standards and Practices Commission, Chapter 584 .....	23
<b>Administrative Rules</b>	
The citations and statements required by ORS 183.335(2)(b)(A) - (D) have been filed with and are available from the Secretary of State.	
Board of Examiners for Speech-Language Pathology and Audiology, Chapter 335 .....	24-26
Board of Investigators, Chapter 220 .....	26
Board of Medical Examiners, Chapter 847 .....	26-30
Board of Nursing, Chapter 851 .....	30-36
Bureau of Labor and Industries, Chapter 839 .....	36-41
Department of Administrative Services, Chapter 125 .....	41-46
Department of Agriculture, Oregon Processed Vegetable Commission, Chapter 647 .....	46
Department of Community Colleges and Workforce Development, Chapter 589 .....	46, 47
Department of Consumer and Business Services, Director's Office, Chapter 440 .....	47, 48
Division of Finance and Corporate Securities, Chapter 441 .....	48
Insurance Division, Chapter 836 .....	48
Oregon Occupational Safety and Health Division, Chapter 437 .....	48-53
Workers' Compensation Division, Chapter 436 .....	53-55
Department of Environmental Quality, Chapter 340 .....	55, 56
Department of Fish and Wildlife, Chapter 635 .....	56-59
Department of Forestry, Chapter 629 .....	59-62
Department of Human Services, Addiction Services, Chapter 415 .....	62
Child Welfare Programs, Chapter 413 .....	62-65
Departmental Administration and Medical Assistance Programs, Chapter 410 .....	65-68
Director's Office, Chapter 407 .....	68, 69
Mental Health and Developmental Disability Services, Chapter 309 .....	69
Public Health, Chapter 333 .....	69-75
Seniors and People with Disabilities, Chapter 411 .....	75-98
Vocational Rehabilitation Services, Chapter 582 .....	98
Department of Justice, Chapter 137 .....	98, 99
Department of Oregon State Police, Office of State Fire Marshal, Chapter 837 .....	99
Department of Public Safety Standards and Training, Chapter 259 .....	99-118
Department of Transportation, Highway Division, Chapter 734 .....	118
Motor Carrier Transportation Division, Chapter 740 .....	118, 119
Department of Veterans' Affairs, Chapter 274 .....	119, 120
Employment Department, Chapter 471 .....	120, 121
Employment Department, Child Care Division, Chapter 414 .....	121, 122
Land Conservation and Development Department, Chapter 660 .....	122-129
Oregon Liquor Control Commission, Chapter 845 .....	129, 130
Oregon State Lottery, Chapter 177 .....	130
Parks and Recreation Department, Chapter 736 .....	130-135
Public Utility Commission, Chapter 860 .....	135-138
Secretary of State, Archives Division, Chapter 166 .....	138-153
Elections Division, Chapter 165 .....	153-159
Teacher Standards and Practices Commission, Chapter 584 .....	159-164
Veterinary Medical Examining Board, Chapter 875 .....	164-169
 <b>OAR Revision Cumulative Index</b> .....	 170-201

# EXECUTIVE ORDERS

## EXECUTIVE ORDER NO. 06-06

### DETERMINATION OF A STATE OF EMERGENCY IN TILLAMOOK, LINCOLN, COOS AND CURRY COUNTIES AND COASTAL PORTIONS OF LANE AND DOUGLAS COUNTIES DUE TO KLAMATH RIVER BASIN CONDITIONS AND LIMITATIONS ON OCEAN COMMERCIAL AND SPORT SALMON FISHING

Pursuant to ORS 401.055, I find that unexpected changing ocean conditions, prior drought years and poor water quality and parasites within the Klamath River Basin have caused a dramatic decline in Klamath River Basin Chinook Salmon available for harvest by the ocean fishing industry, resulting in the virtual elimination of a viable commercial salmon fishing season, and severe restrictions on the sport salmon fishing season, along the Oregon coast south of Cape Falcon. These conditions have resulted in an imminent emergency.

The commercial salmon fishery has been closed for six weeks and is not expected to reopen this year in Oregon coastal waters south of Florence. North of Florence to Cape Falcon, the season is expected to reopen in June, but will be of an extremely limited scope. On Oregon's southern coast, the recreational fishery is expected to be open only from mid-May until July 4, whereas a typical season would last into early September. These fishing limits will have profound consequences on many communities, including significant increases in unemployment, human suffering, financial losses and other stark economic impacts along the Oregon coast.

The affected areas are Tillamook, Lincoln, Coos and Curry Counties and the coastal portions of Douglas and Lane Counties that are west of Range 8 West, Willamette Meridian. I therefore declare a **State of Emergency** in the abovementioned counties and portions of counties.

### NOW THEREFORE, IT IS HEREBY ORDERED AND DIRECTED:

1. All state agencies shall work in a cooperative and coordinated manner in order to mitigate the impacts of this emergency, provide expedited service and resources to persons and business adversely affected by the emergency, and focus state efforts in a manner most likely to relieve the unemployment, human suffering, financial loss and other economic impacts of this emergency. In addition to the specific measures discussed in this Executive Order, all state agencies are encouraged to think broadly and creatively about actions that agencies can take to address this emergency and shall communicate such ideas to the Office of the Governor. Response to the emergency shall be directed and coordinated by the Office of the Governor.
2. The Oregon Department of Fish and Wildlife, which operates under the direction of the State Fish and Wildlife Commission, is strongly encouraged to develop recreational and commercial fishing seasons, consistent with the federal framework, that help mitigate the effects of this emergency on coastal economies, and to consider establishment of additional commercial salmon fishing opportunities in state waters, as appropriate.
3. The Department of Community Colleges and Workforce Development shall pursue all available retraining opportunities for ocean fishing industry workers wishing to pursue alternative employment and shall coordinate the timely delivery of state workforce services and other human and community services to affected workers and families.
4. The Employment Department shall offer re-employment assistance programs to affected ocean fishing industry workers and shall work with the appropriate state and federal agencies to help

affected individuals obtain unemployment insurance to the fullest extent available.

5. The Department of Housing and Community Services shall work with the Oregon Food Bank to provide additional food and nutritional support for affected Oregonians. Where possible, the Department is directed to work with housing partners to provide additional assistance for emergency shelter, rental housing, and permanent housing for affected households in need. The Department is further directed to work with local community based organizations to provide additional energy assistance and weatherization services to affected Oregonians as appropriate.

6. The Oregon Economic and Community Development Department shall investigate retraining opportunities for workers in the ocean fishing industry wishing to pursue alternative employment and provide technical assistance to public ports and businesses that experience adverse effects on their operations or revenues due to this emergency.

7. The Oregon Department of Agriculture shall work with Oregon Sea Grant, a marine research and education program based at Oregon State University, and their Extension programs, to encourage dialogue between Klamath Basin farmers and the coastal fishing industry regarding management of resources within the Klamath River Basin.

8. The Oregon Department of Revenue shall investigate and pursue options for affected Oregonians to obtain income tax credits and refunds and other financial assistance.

9. The Oregon Tourism Commission is directed to actively inform the public of continued recreational fishing opportunities and other tourism activities along the Oregon Coast and to highlight travel to Oregon's coast, as appropriate within their overall marketing strategies.

10. The Department of Human Services shall continue to provide mental health and treatment services, alcohol and drug treatment services, nutrition programs, domestic violence assistance, and medical assistance to Oregonians in coastal communities with particular attention to the increased needs in coastal communities caused by this emergency.

11. The Oregon Watershed Enhancement board shall provide financial resources to support fish habitat enhancement along critical salmon streams in Oregon, for the purpose of accelerating the rebuilding of fish populations and creating new and meaningful work opportunities for displaced workers.

12. The Office of Emergency Management shall pursue any and all available federal funding or resources to additionally assist in the mitigation of the effects of this emergency.

13. All other state agencies are directed to provide appropriate state resources and to seek any available private and federal dollars to provide emergency assistance to affected individuals, families, businesses and communities and to deliver such assistance in the most expeditious manner.

14. All state agencies specifically referenced in this Executive Order shall report to me within 60 days of the date of this Executive Order about progress made under this Executive Order and every 60 days thereafter until conclusion of the emergency.

Done at Salem, Oregon this 24th day of April, 2006.

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

## EXECUTIVE ORDERS

---

ATTEST

/s/ Bill Bradbury  
Bill Bradbury  
SECRETARY OF STATE

### EXECUTIVE ORDER NO. 06-07

#### AMENDMENT TO EXECUTIVE ORDER 06-06

On April 24, 2006, I issued Executive Order No. 06-06, determining that a state of emergency exists in Tillamook, Lincoln, Coos and Curry Counties and the coastal portions of Douglas and Lane Counties due to the virtual elimination of a viable commercial salmon fishing season, and severe restrictions on the sport salmon fishing season, along the Oregon coast south of Cape Falcon. That Executive Order was intended to coordinate the state response to this crisis and to facilitate the provision of state services to all persons adversely affected by the closure.

Just as the ocean is not divided by county lines, neither is fishing in those marine waters. Many of the people who live in Clatsop County, who live or dock north of Cape Falcon, nonetheless fish in waters south of Cape Falcon or will be otherwise adversely affected by the anticipated closure and limitations on ocean salmon fishing. Therefore, citizens of Clatsop County are likely be affected by restrictions

on fishing south of Cape Falcon in a similar manner as the coastal communities further south.

In order to clarify that the provisions of Executive Order No. 06-06 are intended to apply equally to similarly affected individuals and businesses in Clatsop County, I wish to amend that order as follows.

#### **NOW THEREFORE, IT IS HEREBY ORDERED AND DIRECTED:**

Executive Order No. 06-06 is amended to include Clatsop County in the list of counties in which a **State of Emergency** is declared to exist.

Done at Salem, Oregon this 26 day of April, 2006.

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

ATTEST

/s/ Bill Bradbury  
Bill Bradbury  
SECRETARY OF STATE



## OTHER NOTICES

### A CHANCE TO COMMENT ON PROPOSED CONSENT JUDGMENT FOR A PROSPECTIVE PURCHASER AGREEMENT FOR THE PROPERTY AT 5131 NE 148TH IN PORTLAND, OREGON

**COMMENTS DUE:** June 30, 2006

**PROJECT LOCATION:** 5131 NE 148th, Portland, Oregon

**PROPOSAL:** The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with River City Environmental, Inc. for the property located at 5131 NE 148th, Portland, Oregon (Property).

**HIGHLIGHTS:** The Property was formerly used by a number of owners and operators, beginning some time before 1964, for a variety of activities, including logging and road building machinery repair, tabulating card manufacture, tube bending and fabrication, metal fabrication and as a machine shop. During one or more of these operations, hazardous substances were released into the ground and groundwater at the Property; such releases may extend onto and beneath adjacent properties. Investigations have been conducted at the Property; removal or remedial actions are necessary to protect human health and the environment.

The proposed Consent Judgment will require River City Environmental, Inc. to investigate potential soil contamination in an area of the Property that has not been investigated, to provide access to the Property for any additional investigation and removal or remedial actions required, and to implement any institutional or engineering controls that may be necessary. River City Environmental, Inc. intends to rehabilitate the existing building to provide productive reuse of the vacant industrial facility.

DEQ's Prospective Purchaser Program was created in 1995 through amendments to the state's Environmental Cleanup Law. The Prospective Purchaser Agreement is a tool that facilitates the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a property with existing contamination. DEQ has approved 82 Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide River City Environmental, Inc. as the new owner with a release from liability for claims by the State of Oregon under ORS 465.255 relating to historical releases of hazardous substances at or from the Property. The proposed Consent Judgment will also provide River City Environmental, Inc. with protection from potential contribution actions by third parties for recovery of remedial action costs associated with historical releases at or from the Property. DEQ retains all existing rights it may have as to all other parties potentially liable for the releases.

**HOW TO COMMENT:** Written comments concerning the proposed Consent Judgment 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 June 30, 2006. Questions may be directed to Mr. Landman at that address or by calling (503) 229-6461. The proposed Consent Judgment and DEQ file on the Property may be reviewed at DEQ's Northwest Region office in Portland by contacting Bob Williams at (503) 229-6802.

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 on the proposed Consent Judgment.

**THE NEXT STEP:** DEQ will consider all public comments. A final decision concerning the proposed Consent Judgment will be made after consideration of public comments.

### A CHANCE TO COMMENT ON PROPOSED CONSENT JUDGMENT FOR A PROSPECTIVE PURCHASER AGREEMENT AT THE FORMER SPADA FARMS FACILITY IN PORTLAND, OREGON

**COMMENTS DUE:** June 30, 2006

**PROJECT LOCATION:** 18225 NE Riverside Parkway, Portland, Oregon (aka, a portion of Spada North), DEQ ECSI Number 1058. **PROPOSAL:** The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with Weststate Portland I, LLC, Weststate Portland II, LLC, Atrium Portland I, LLC, Atrium Portland II, Weststate Land-2 LLC, ATRIUM, Ltd (Woodman Limited)(collectively, Purchasers) for the property located at 18225 NE Riverside Parkway, Portland, Oregon (Property).

**HIGHLIGHTS:** The Property was formerly owned by the Spada family and was historically used for agricultural purposes. During the operation of the historic farm, hazardous substances were released into the environment, including into the ground and into historic ditches at and near the Property, from which contamination may have entered Columbia Slough. The Property is a small portion of the historic farm, has been redeveloped, and is currently in use as a distribution facility.

The Consent Judgment will require Purchasers to abide by the requirements of an Easement and Equitable Servitude in favor of the DEQ and to observe the requirements of a Cap Management, Inspection and Maintenance Plan and a Soil Management Plan. Additionally, the Consent Judgment will require Purchasers to pay compensation into a fund held, managed, and reserved by the DEQ to address historic contamination in Columbia Slough. When sufficient funds are available, DEQ intends to undertake additional investigative and remedial measures to address the hazardous substance contamination.

DEQ's Prospective Purchaser Program was created in 1995 through amendments to the state's Environmental Cleanup Law. The Prospective Purchaser Agreement is a tool that facilitates the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a property with existing contamination. DEQ has approved 82 Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide Purchaser, as the new owner, with a release from liability for claims by the State of Oregon under ORS 465.255 relating to historical releases of hazardous substances at or from the site. The proposed Consent Judgment will also provide Purchaser with protection from potential contribution actions by third parties relating to the releases at or from the Property. DEQ retains all existing rights it may have as to all other parties potentially liable for the releases.

**HOW TO COMMENT:** Written comments concerning the proposed Consent Judgment 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 June 30, 2006. Questions may be directed to Mr. Landman at that address or by calling (503) 229-6461. The proposed Consent Judgment and DEQ file on the Property may be reviewed at DEQ's Northwest Region office in Portland by contacting Anna Coates at (503) 229-5213.

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 on the proposed Consent Judgment.

**THE NEXT STEP:** DEQ will consider all public comments. A final decision concerning the proposed Consent Judgment will be made after consideration of public comments.

### A CHANCE TO COMMENT ON PROPOSED CONSENT JUDGMENT FOR A PROSPECTIVE PURCHASER AGREEMENT AT THE FORMER FARMCRAFT FACILITY IN PORTLAND, OREGON

**COMMENTS DUE:** June 30, 2006

**PROJECT LOCATION:** 8900 SW Commercial, Tigard, Oregon. **PROPOSAL:** The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective

## OTHER NOTICES

Purchaser Agreement (PPA) with Ballroom, LLC for the property located at 8900 SW Commercial, Tigard, Oregon Farmcraft Property or Property).

**HIGHLIGHTS:** The Farmcraft Property was formerly owned by Farmcraft, Inc, which used the facility to formulate, repackage, and distribute pesticides in both dust and liquid forms. During operations, hazardous substances were released into the ground and groundwater at the Property; such releases may extend onto and beneath adjacent properties. Investigations and removal actions have been conducted at the Property; however, additional actions are necessary to protect human health and the environment.

The Consent Judgment will require Ballroom, LLC to implement certain agreed-upon removal measures to address contamination at the Property. Those measures will include retaining the existing building and providing and maintaining asphalt parking areas, to provide a cap over contaminated soil. Ballroom, LLC will agree to provide access to the Property for any additional investigation and removal or remedial actions required, and to implement any institutional or engineering controls that may be necessary. Ballroom, LLC intends to completely rehabilitate and renovate the existing building to provide a full-service ballroom dance instruction, competition, recreational facility.

DEQ's Prospective Purchaser Program was created in 1995 through amendments to the state's Environmental Cleanup Law. The Prospective Purchaser Agreement is a tool that facilitates the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a property with existing contamination. DEQ has approved 82 Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide Ballroom, LLC as the new owner with a release from liability for claims by the State of Oregon under ORS 465.255 relating to historical releases of hazardous substances at or from the site. The proposed Consent Judgment will also provide Ballroom, LLC with protection from potential contribution actions by third parties for recovery of remedial action costs associated with historical releases at or from the Property. DEQ retains all existing rights it may have as to all other parties potentially liable for the releases.

**HOW TO COMMENT:** Written comments concerning the proposed Consent Judgment 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 June 30, 2006. Questions may be directed to Mr. Landman at that address or by calling (503) 229-6461. The proposed Consent Judgment and DEQ file on the Property may be reviewed at DEQ's Northwest Region office in Portland by contacting Henning Larsen Coates at (503) 229-5527.

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 on the proposed Consent Judgment.

**THE NEXT STEP:** DEQ will consider all public comments. A final decision concerning the proposed Consent Judgment will be made after consideration of public comments.

### A CHANCE TO COMMENT ON PROPOSED RECOMMENDATION FOR NO FURTHER ACTION FOR THE FORMER MARION COUNTY PAVING MATERIAL PLANT SITE IN SALEM

Oregon Department of Environmental Quality (DEQ) invites public comment on a proposed No Further Action finding for a cleanup of petroleum hydrocarbon contamination in soil and documentation of solvent contamination in groundwater at the Former Marion County Paving Material Plant Site, located at 1300 Front Street NE in Salem.

DEQ has completed an environmental review of the investigation and cleanup of petroleum hydrocarbon contamination at the Former

Marion County Paving Material Plant Site. The paving material plant had been previously operating at this location since about 1920. Diesel and oil contamination found at the site is thought to be the result of the spillage along a former railroad spur line, and/or leaks from former above-ground storage tanks that occurred between 1920 and the late 1940s. Food processing operations have been on-going at the site from the 1920s until the present.

All contamination exceeding the site-specific risk-based cleanup concentrations for petroleum hydrocarbons, and related compounds had been removed from the excavation, with the exception of a small remnant of tar and soil left under the asphalt-paved truck lane at the northwest corner of the property. All areas of soil containing the high concentrations of diesel and oil were successfully removed from the site.

The final excavation measured about 110 feet long by 50 feet wide, and was up to 9 feet deep. 920 tons, or about 657 cubic yards of contaminated soil have been removed from the excavation and accepted by Riverbend Landfill.

During the course of the site investigation, low levels of the solvent tetrachloroethylene (PCE) were found in the groundwater under the site. No source for the substance has been found. The potential for ingestion, dermal contact, and inhalation exposures for a hypothetical off-site resident and on-site industrial workers to PCE is unlikely. The low levels of the solvent contamination leaving the site to the northwest are in an area of steep Willamette River bank where it is unlikely that there will be residents or workers to be potentially exposed to contamination off-site or in the aquifer underlying the site.

The PCE concentration in groundwater has been measured to be 6.4 micrograms per liter near the downgradient property boundary approximately 120 yards from the Willamette River. It is probable that any PCE from the attenuated plume reaching the river would be diluted to levels that are below safe drinking water levels.

The Locality of the Facility for which the No Further Action recommendation applies for this property can be found on Figure 4 of the DEQ Staff Report, dated May 14, 2006.

Project documents for this site are available for public review at DEQ's Eugene office, 1102 Lincoln St., Suite 210, Eugene 97401. Contact the file specialist at (541) 686-7838 or 1-800-844-8467 (toll-free in Oregon) for an appointment. Please send written comments to Norman Read, at the listed above address or via email at read.norm@deq.state.or.us. DEQ must receive written comments by 5 p.m., June 30, 2006.

### EXTENSION OF OPPORTUNITY FOR PUBLIC COMMENT, PROPOSED PARTIAL NO FURTHER ACTION DETERMINATION FORMER WEYERHAEUSER CONTAINERBOARD MILL, NORTH BEND, OREGON

**COMMENTS DUE:** July 3, 2006

**PROJECT LOCATION:** Trans Pacific Lane, North Bend, Oregon, 97459

**PROPOSAL:** The Department of Environmental Quality (DEQ) is extending an opportunity for the public to comment on DEQ's recommendation that no further investigation or cleanup action is required for contaminated soil and groundwater for selected areas at the former Weyerhaeuser Containerboard Mill in North Bend. The reason for the extension is to accommodate a request made by a number of interested parties who would like to obtain more information about how DEQ arrived at its recommendation.

In addition, the extension will allow the public to obtain more information on the environmental condition and regulatory status of two areas that are excluded from DEQ's determination: the on-site industrial landfill area, and the former wastewater treatment system (consisting of two settling basins located on the main mill site and the large former lagoon located on the North Spit). Additional closure

## OTHER NOTICES

work will be needed at these locations before the site's DEQ Water Quality and Solid Waste permits can be terminated.

**HIGHLIGHTS:** The mill site was originally developed as a sulfite process pulp and paper mill by the Menasha Wooden Ware Corporation (Menasha) in 1961, and Weyerhaeuser acquired the mill from Menasha in 1981. In 1995, Weyerhaeuser ceased pulp mill operations, and the facility was operated as a 100 percent recycle paper mill until it was closed in 2003. Since 2003, Weyerhaeuser has been decommissioning the facility and preparing the property for future alternative uses and possible sale.

Over the years, Weyerhaeuser has conducted numerous investigations and cleanups associated with leaks and spills of hazardous substances that occurred as a part of their ongoing mill operations. To evaluate whether any these areas still contained residual contamination that exceeded DEQ's cleanup standards, Weyerhaeuser conducted an extensive evaluation of environmental conditions within the main mill complex, the southern portion of Jordan Point, and the "Ingram Yard" property (located west of the main mill complex). During the summer of 2005, and after obtaining DEQ approval for their investigation scope of work, Weyerhaeuser sampled known and/or potentially contaminated areas of the site. Following the investigation, Weyerhaeuser excavated and removed 700 tons (about 50 dump-truck loads) of contaminated soil from the site and disposed it at an approved off-site landfill.

The site's post-remediation residual contamination levels were compared to DEQ's standards set to protect human health and the environment for industrial sites. After reviewing these post-cleanup results, DEQ has concluded that there are no significant remaining human health or ecological risks associated with the historical releases of hazardous substances in soil and groundwater at the site. Therefore, DEQ has recommended that no further investigation or remediation is needed for environmental impacts from the facility's operations, but excludes the currently permitted landfill and wastewater operations from their recommendation.

**HOW TO COMMENT:** The project files may be reviewed by appointment at DEQ's Coos Bay office, 381 N. Second St, Coos Bay, Phone: (541) 269-2721; and at DEQ's Eugene office, 1102 Lincoln Street, Suite 210, Eugene, Phone: (541)-686-7838. The TTY number for the hearing impaired in Eugene is 541-687-5603.

Key project documents also are available at DEQ's web page for this project: <http://www.deq.state.or.us/wr/LocalProjects/WeycoNB.htm>

Please direct any questions or comments about this pending decision to: Bill Mason, DEQ project manager; 1102 Lincoln St, Ste 210, Eugene, OR 97401-3299; (541) 687-7427 (direct) or (800) 847-8467 (toll free in Oregon); email: [mason.bill@deq.state.or.us](mailto:mason.bill@deq.state.or.us)

A public meeting will be held to provide the public with the opportunity to ask DEQ questions about the project, and for DEQ to receive written or oral comments regarding DEQ's recommendation. The location and date for the public meeting will be announced in the local newspaper.

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

### PROPOSED APPROVAL OF CLEANUP AT GRANT WAREHOUSE

**COMMENTS DUE:** June 30, 2006

**PROJECT LOCATION:** Grant Warehouse, 3368 NE Martin Luther King, Jr. Boulevard, Portland, Oregon

**PROPOSAL:** Pursuant to ORS 465.320 the Department of Environmental Quality (DEQ) invites public comment on the no further action recommendation for the Grant Warehouse site.

**HIGHLIGHTS:** In the past the Grant Warehouse property was host to a number of different businesses, including an automobile repair shop and tire store, a smokehouse/sausage factory, and a service station. From 1980 to 1998 Erwin Grant used the location to recover

precious metals from ore, liquids and process wastes from other facilities. In October 1998, numerous chemical and waste containers, as well as debris, were discovered on the property. Portland Fire Bureau and DEQ inspectors found thousands of chemicals, including corrosives, oxidizers, flammable/explosives, and dusts containing very high levels of lead. The U.S. EPA took lead in removing the wastes and conducted a time-critical removal action and site investigation between November, 1998 and February, 1999. The EPA removed and disposed of 54,490 pounds of chemicals, 6,445 pounds of non-specified materials, 702 cubic yards of hazardous waste debris and 610 cubic yards of non-hazardous debris. In January, 2004, Portland Development Commission (PDC) acquired the property from Erwin Grant through a prospective purchaser agreement (PPA) with EPA. PDC proceeded with additional investigation and cleanup of the site under DEQ oversight. PDC performed additional investigative activities and removed an additional 70-gallons of hazardous materials, 20 cubic yards and 33,300 pounds of hazardous waste debris, 32 tons of non-hazardous debris, and 60 tons and eleven cubic yards of contaminated soil from the site. Confirmation soil sampling and a site-specific risk evaluation has demonstrated that residual contamination is below cleanup levels developed for residential use. DEQ is therefore proposing a no further action (NFA) determination for the site with no restrictions on future site use.

**HOW TO COMMENT:** The project file is available for public review. To schedule an appointment, contact Dawn Weinberger at 503-229-6729. The DEQ contact for this project is Mike Greenburg, 503-229-5153. Written comments should be sent to the DEQ contact at the Department of Environmental Quality, Northwest Region, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by June 30, 2006. 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. Please notify DEQ if you need copies of written materials in an alternative format (e.g., Braille, large print, etc.). To make these arrangements, contact DEQ Office of Communication and Outreach at 503-229-5317. Additional information is also available at: <http://www.deq.state.or.us/news/publicnotices/>

### NO FURTHER ACTION DETERMINATION FOR BLOCK 34 AT PACIFIC RICHLAND SITE, PORTLAND, OREGON

**PROJECT LOCATION:** 3510 SW Bond Avenue  
Pursuant to Oregon Revised Statute (ORS) 465.320, the Oregon Department of Environmental Quality (DEQ) is issuing this notice regarding the final determination that no further action (NFA) is required on Block 34 of the Pacific Richland site (within the South Waterfront Development District) Portland, Oregon. The property re-development plan is for mixed urban residential/commercial use.

The larger Pacific Richland site, currently being developed for urban residential and commercial use, had past uses including gravel crushing and concrete production operations from the 1930s through the 1980s. Ancillary facilities included a paint operation and vehicle maintenance operation. Currently, the site is clear of any structures and is awaiting re-development.

Other Blocks within the Pacific Richland site will be issued no further action (NFA) determinations as the excavations are completed in accordance with DEQ-approved *Soil Management Plan, South Waterfront Central District, Portland, Oregon*, dated February 3, 2004 and addendums to the soil management plan.

Excavation at Block 34 for development was conducted between November 2005 and March 2006 to prepare the site for development. Site investigations identified limited areas of petroleum hydrocarbon contaminated soil near Block 34. These areas were removed during both isolated removal actions and excavation activities for property development. The excavation activities were conducted in accordance with the DEQ-approved soil management plan. Groundwater



## OTHER NOTICES

---

monitoring did not show impacts to groundwater that pose a risk to human health or the environment.

Based on this information, DEQ has concluded that Block 34 of the Pacific Richland site does not pose an unacceptable risk to public health or the environment. No further action is required at Block 34 of the Pacific Richland site by current or future owners under Oregon Environmental Cleanup Law, ORS 465.200 et seq., unless new or previously undisclosed information becomes available.

**INFORMATION:** The Staff Report, ICP Agreement, and the administrative record for the site are available for public review by appointment at DEQ's Northwest Region Office. For scheduling an appointment please call (503) 229-6729. For additional information, contact DEQ Project Manager, Chris Kaufman at (503) 229-5614 or by email at [kaufman.chris@deq.state.or.us](mailto:kaufman.chris@deq.state.or.us)

# 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 indicated.

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

Agencies providing notice request 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.

In Notices of Proposed Rulemaking where no hearing has been set, a 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 within 21 days following notice publication in the *Oregon Bulletin* or 28 days from the date notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received by an agency, notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

*\*Auxiliary aids for persons with disabilities are available upon advance request.* Contact the agency Rules Coordinator listed in the notice information.

\*\*\*\*\*

### Appraiser Certification and Licensure Board Chapter 161

**Rule Caption:** General housekeeping, update USPAP requirement and adoption of qualifications for supervising appraisers and endorsement thereof.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-13-06	9 a.m.	Parks & Rec. Dept. 725 Summer St. NE Rm. 124A Salem, OR

**Hearing Officer:** Craig Zell

**Stat. Auth.:** ORS 183.355(1)(a), ORS 674.305(7) & ORS 674.310(2)

**Other Auth.:** Title XI of the Federal Financial Reform, Recovery and Enforcement Act of 1989 (12 USC 3310 et seq.)

**Stats. Implemented:** ORS 674.305(7) & 674.310(2)

**Proposed Adoptions:** 161-010-0085

**Proposed Amendments:** 161-001-0005, 161-002-0000, 161-010-0010, 161-010-0080, 161-015-0090, 161-020-0055, 161-020-0110, 161-020-0150, 161-025-0025, 161-025-0060, 161-030-0000, 161-050-0030

**Last Date for Comment:** 7-13-06, close of hearing

**Summary:** Proposed addition to Oregon Administrative Rules Chapter 161, Division 10 regarding prerequisite experience and education requirements for supervising appraiser endorsement; and proposed changes to Division 1 regarding model rules of procedure, Division 2 regarding definitions; Division 10 regarding renewal procedures and appraiser assistant registration requirements, Division 15 regarding examination process; Division 20 regarding educational courses, requirements and providers, Division 25 regarding scope of practice for supervising appraisers and appraisal standards and USPAP, Division 30 regarding criminal background, and Division 50 regarding display of a certificate or license.

**Rules Coordinator:** Karen Turnbow

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

**Telephone:** (503) 485-2555

## Board of Examiners of Nursing Home Administrators Chapter 853

**Rule Caption:** Clarifies guidelines and provides greater flexibility in the AIT program; incorporates needed housekeeping changes.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-12-06	9 a.m.	800 NE Oregon St., Ste. 445 Portland, OR 97232

**Hearing Officer:** Rob Hays, Board Chair

**Stat. Auth.:** ORS 678.820

**Stats. Implemented:** ORS 678.730, 678.740, 678.760, 678.770, 678.775 & 678.780

**Proposed Amendments:** 853-010-0010, 853-010-0015, 853-010-0060

**Last Date for Comment:** 6-23-06

**Summary:** Revisions to OAR 853-010-0010 and 853-010-0015 are primarily housekeeping changes needed to update the examination fee, remove outdated language, and to reorganize information by relocating some areas to 853-010-0060. Revisions to OAR 853-010-0060 are to clarify the Administrator-in-Training (AIT) program requirements and expectations while incorporating greater flexibility into the program, to remove outdated language, and to reorganize subsections in order to provide a logical flow of information.

**Rules Coordinator:** Janet Bartel

**Address:** Board of Examiners of Nursing Home Administrators, 800 NE Oregon St., Suite 407, Portland, OR 97232

**Telephone:** (971) 673-0196

\*\*\*\*\*

### Board of Medical Examiners Chapter 847

**Rule Caption:** Amend procedural rules.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 183.335, 183.341 & 677.275

**Proposed Amendments:** 847-001-0000, 847-001-0005, 847-001-0015, 847-001-0020, 847-001-0025

**Last Date for Comment:** 6-21-06

**Summary:** The proposed rules clarify that prior to adoption, amendment or repeal of any permanent rule adopted on or after January 1, 2006, the Board shall provide notice to persons specified in ORS 183.335(15) at least 49 days before the effective date of the rule, establish that the Board adopts the Model Rules for Contested Cases of the Attorney General in effect on January 1, 2006, and add that the requestor of a late request for hearing has a right to a hearing to dispute facts contained in the explanation as to why the request for hearing was late or the accuracy of the reason that the request for hearing was late.

**Rules Coordinator:** Diana M. Dolstra

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

**Telephone:** (971) 673-2713

\*\*\*\*\*

**Rule Caption:** Eliminate six licensing fees.

**Stat. Auth.:** ORS 667.265

**Stats. Implemented:** ORS 667.265

**Proposed Amendments:** 847-005-0005

**Last Date for Comment:** 6-21-06

**Summary:** The proposed rule amendment eliminates the following six licensing fees: name change, name change limited license, reissue certificate of registration, duplicate wallet license, duplicate wall license, and certificate of grades.

**Rules Coordinator:** Diana M. Dolstra

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

**Telephone:** (971) 673-2713

\*\*\*\*\*

**Rule Caption:** Create rules for office-based surgery or procedures.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.085, 677.097 & 677.265

# NOTICES OF PROPOSED RULEMAKING

**Proposed Adoptions:** 847-017-0000, 847-017-0005, 847-017-0010, 847-017-0015, 847-017-0020, 847-017-0025, 847-017-0030, 847-017-0035, 847-017-0040

**Last Date for Comment:** 6-21-06

**Summary:** The proposed rules establish definitions related to and requirements for office-based surgery or procedures in the areas of patient safety, selection of procedures and patients, patient medical records, discharge evaluation, emergency care and transfer protocols, quality assessment, and facility administration and equipment.

**Rules Coordinator:** Diana M. Dolstra

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

**Telephone:** (971) 673-2713

.....

**Rule Caption:** Amend scope of practice for EMTs.

**Stat. Auth.:** ORS 682.245

**Stats. Implemented:** ORS 682.245

**Proposed Amendments:** 847-035-0030

**Last Date for Comment:** 6-21-06

**Summary:** The proposed rule change defines a cuffed pharyngeal device under the EMT-B scope of practice, removes the specification of 1:10,000 from epinephrine under the EMT-I scope of practice, and moves EKG monitoring and interpretation from the EMT-P to the EMT-I scope of practice.

**Rules Coordinator:** Diana M. Dolstra

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

**Telephone:** (971) 673-2713

.....

**Rule Caption:** Establish one member of Diversion Program Supervisory Council is a public member.

**Stat. Auth.:** ORS 677.677

**Stats. Implemented:** ORS 292.495 & 677.615

**Proposed Adoptions:** 847-065-0000

**Last Date for Comment:** 6-21-06

**Summary:** The proposed rule clarifies that one of the members of the Diversion Program Supervisory Council is a public member and that the public member represents health consumers.

**Rules Coordinator:** Diana M. Dolstra

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

**Telephone:** (971) 673-2713

.....

**Rule Caption:** Specify requirement to pass open-book exam and documents to be submitted for acupuncture licensure.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.265 & 677.759

**Proposed Adoptions:** 847-070-0022

**Proposed Amendments:** OAR 847-070-0016, 847-070-0019

**Last Date for Comment:** 6-21-06

**Summary:** The proposed rules renumber the sections of OAR 847-070-0016 to be consistent with the administrative rule numbering system, make minor language changes to establish parallelism in the rule language, add the requirement that an applicant for acupuncture license pass an open-book examination, and specify the documents to be submitted for licensure as an acupuncturist.

**Rules Coordinator:** Diana M. Dolstra

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

**Telephone:** (971) 673-2713

.....

## **Board of Tax Practitioners Chapter 800**

**Rule Caption:** OAR 800-025-0040 — Designated Consultants.

**Date:**  
6-29-06

**Time:**  
9 a.m.

**Location:**  
3218 Pringle Rd. SE, #120  
Salem, OR 97302

**Hearing Officer:** Monica J. Leisten

**Stat. Auth.:** ORS 673.605, 673.740 & 673.990

**Stats. Implemented:** ORS 673.605, 673.740 & 673.990

**Proposed Amendments:** 800-025-0040

**Last Date for Comment:** 6-29-06, 5 p.m.

**Summary:** The proposed amendments to OAR 800-025-0040 were recommended by the Board's Rules Advisory Committee and are for general "housekeeping" and "maintenance" as well as to change language to better reflect the "norm" in industry standards and the practices of other state agencies.

**Rules Coordinator:** Monica J. Leisten

**Address:** Board of Tax Practitioners, 3218 Pringle Rd. SE, # 120, Salem, OR 97302

**Telephone:** (503) 378-4034

.....

## **Construction Contractors Board Chapter 812**

**Rule Caption:** Update/correct cite references.

**Stat. Auth.:** ORS 183.310 - 183.500, 670.310, 701.085, 701.235, 701.350, 701.355 & 701.992

**Other Auth.:** Ch. 432 OL 2005

**Stats. Implemented:** ORS 87.093, 279C.590, 701.005, 701.055, 701.072, 701.075, 701.077, 701.078, 701.100, 701.135, 701.175, 701.227, 701.350, 701.355 & 701.992

**Proposed Amendments:** 812-002-0537, 812-005-0210, 812-005-0800, 812-006-0012, 812-006-0015, 812-006-0030, 812-008-0020

**Last Date for Comment:** 6-20-06

**Summary:** OAR 812-002-0537, 812-005-0210, 812-005-0800, 812-006-0012, 812-006-0015, 812-006-0030 and 812-008-0020 are amended to update/correct the cite references.

**Rules Coordinator:** Catherine Dixon

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

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

.....

## **Department of Administrative Services, Budget and Management Division Chapter 122**

**Rule Caption:** Modify rule defining a financing agreement and adjusting charges.

**Stat. Auth.:** ORS 283.085 - 283.092

**Stats. Implemented:**

**Proposed Amendments:** 122-070-0010, 122-070-0030, 122-070-0080

**Last Date for Comment:** 7-14-06, 5 p.m.

**Summary:** Amends rule defining a financing agreement under ORS 283.085 - 283.092 and adjusts the fees that the Capital Investment Section may charge for initiating certain agreements.

**Rules Coordinator:** Kristin Keith

**Address:** Department of Administrative Services, Budget and Management Division, 155 Cottage St. NE U90, Salem, OR 97301

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

.....

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

**Rule Caption:** Implements HB 2181 by standardizing license application process, continuing education course and instructor approval process.

**Date:**  
6-20-06

**Time:**  
9:30 a.m.

**Location:**  
1535 NW Edgewater St.  
Salem, OR

**Hearing Officer:** Chris Huntington

**Stat. Auth.:** ORS 455.117

**Stats. Implemented:** ORS 455.117

**Proposed Adoptions:** Rules in 918-030, 918-035

# NOTICES OF PROPOSED RULEMAKING

**Proposed Amendments:** Rules in 918-030, 918-225, 918-282, 918-283, 918-400, 918-695

**Proposed Repeals:** 918-225-0680, 918-225-0685, 918-225-0900 – 918-225-0970, 918-282-0335, 918-283-0000 – 918-283-0070, 918-695-0010, 918-695-0200 – 918-695-0390

**Proposed Ren. & Amends:** 918-030-0030 to 918-030-0410, 918-030-0100 to 918-030-0910, 918-030-0200 to 918-030-0920

**Last Date for Comment:** 6-20-06, 5 p.m.

**Summary:** These rules implement HB 2181. The rules standardize the license application processes, including license renewal cycles, provide a grace period for persons who fail to renew their licenses by the renewal date and establish criteria for retaking of failed examinations, approving continuing education courses and instructors, and establishing continuing education requirements for licensees.

**Rules Coordinator:** Dodie Wagner

**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97310

**Telephone:** (503) 373-7438

\*\*\*\*\*

**Rule Caption:** Implementation of Phase One of HB 2180 to prioritize elevator inspection frequency based on life/safety criteria.

Date:	Time:	Location:
6-20-06	10:30 a.m.	1553 NW Edgewater St. Salem, OR

**Hearing Officer:** Mirjanna Trifunovic

**Stat. Auth.:** ORS 455.117

**Stats. Implemented:** ORS 455.117

**Proposed Adoptions:** 918-400-0665

**Proposed Amendments:** Rules in 918-400

**Last Date for Comment:** 6-20-06, 5 p.m.

**Summary:** In this phase of implementing HB 2180, elevator inspection frequency will shift to a one- and two-year elevator inspection cycle. Elevators are currently inspected annually. Under the proposed rules, they will be inspected either annually or biennially, as established by the division in Table 1-A of the rules. These rules also establish criteria for setting elevator inspection intervals and clarify accessibility for inspectors.

**Rules Coordinator:** Dodie Wagner

**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97310

**Telephone:** (503) 373-7438

\*\*\*\*\*

## Department of Consumer and Business Services, Insurance Division Chapter 836

**Rule Caption:** Rulemaking relating to regulation of insider trading and proxy voting for domestic insurers.

Date:	Time:	Location:
6-27-06	2 p.m.	Conference Rm. E (basement) 350 Winter St. NE Salem, OR

**Hearing Officer:** Lewis Littlehales

**Stat. Auth.:** ORS 731.244, 732.415, 732.420, 732.430, 732.435, 732.445, 732.450 & 732.455

**Stats. Implemented:** ORS 732.415, 732.420 - 732.455

**Proposed Adoptions:** 836-024-0004, 836-024-0008, 836-024-0033, 836-024-0038, 836-024-0039, 836-024-0100 – 836-024-0220

**Proposed Amendments:** 836-024-0003 – 836-024-0055

**Proposed Repeals:** 836-024-0011, 836-024-0013, 836-024-0016 – 836-024-0052

**Last Date for Comment:** 7-6-06

**Summary:** This rulemaking proposes to adopt rules that implement Oregon statutes governing insider trading of equity securities of domestic stock insurers (ORS 732.420 to 732.455). Regulation of insider trading protects share-issuing insurers and their shareholders by enabling an insurer to recover profits obtained by an insider because of unfair use of information gained by reason of being an

insider. This rulemaking also proposes to amend Insurance Division rules governing proxies, consents and authorization relating to domestic insurers.

**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

\*\*\*\*\*

**Rule Caption:** Rulemaking, Mandated Benefit for Mental or Nervous Conditions and Chemical Dependency, Group Health Insurance.

Date:	Time:	Location:
6-26-06	1 p.m.	Conference Rm. 260 350 Winter St. NE Salem, OR

**Hearing Officer:** Lewis Littlehales

**Stat. Auth.:** ORS 731.244, 743.556 & 743.858

**Stats. Implemented:** ORS 743.556 & 743.858

**Proposed Adoptions:** 836-053-1404, 836-053-1405

**Proposed Amendments:** 836-053-1325, 836-053-1330

**Proposed Repeals:** 836-052-0220 – 836-052-0245

**Last Date for Comment:** 7-6-06

**Summary:** This rulemaking implements the statute (ORS 743.556) that requires group health insurance policies to cover expenses arising from treatment for chemical dependency and mental or nervous conditions. That statute was amended in 2005 to require that the coverage be provided “at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising from treatment for other medical conditions.”

**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, Oregon Occupational Safety and Health Division Chapter 437

**Rule Caption:** Propose to adopt Federal OSHA corrections and technical amendments to General Industry, Construction, and Maritime.

**Stat. Auth.:** ORS 654.025(2) & 656.726(4)

**Stats. Implemented:** 654.001 - 654.295

**Proposed Amendments:** 437-002-0080, 437-002-0100, 437-002-0120, 437-002-0220, 437-002-0300, 437-002-0340, 437-002-0360, 437-003-0001, 437-005-0001

**Last Date for Comment:** 6-26-06

**Summary:** Oregon OSHA proposes to adopt Federal OSHA changes as they appear in the April 3, 2006 Federal Register. These revisions include updating references and removing obsolete effective dates and startup dates from existing rules in General Industry, Construction, and Maritime Activities.

Please visit our web site [www.orosha.org](http://www.orosha.org)

Click “Rules & Laws” in the left vertical column and view our proposed, adopted, and final rules.

**Rules Coordinator:** Sue C. Joye

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

**Telephone:** (503) 947-7449

\*\*\*\*\*

**Rule Caption:** Propose to adopt Federal OSHA’s changes to Roll-Over Protective Structures (ROPS) in Construction.

**Stat. Auth.:** 654.025(2) & 656.726(4)

**Stats. Implemented:** ORS 654.001 - 654.295

**Proposed Amendments:** 437-003-0001

**Last Date for Comment:** 6-26-06

**Summary:** Oregon OSHA proposes to adopt Federal OSHA amendments to Roll-Over Protective Structures (ROPS) in Construction as



# NOTICES OF PROPOSED RULEMAKING

they appear in the Federal Registers dated December 29, 2005 and February 28, 2006. This rulemaking reinstates the original construction standards that had been replaced in 1996 with references to national consensus standards for testing ROPS.

The rule restores impact testing for protective frames on wheel-type tractors and an additional cold-temperature testing option under the construction standard. This rule also contains minor plain language revisions that will improve comprehension and compliance with the standards.

Note: Federal OSHA also included the amendments in agriculture. OR-OSHA already proposed changes to Division 4, Agriculture last month.

Please visit our web site [www.orosha.org](http://www.orosha.org)

Click "Rules & Laws" in the left vertical column and view our proposed, adopted, and final rules.

**Rules Coordinator:** Sue C. Joye

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

**Telephone:** (503) 947-7449

\*\*\*\*\*

## Department of Environmental Quality Chapter 340

**Rule Caption:** Portland-Vancouver and Salem Ozone Maintenance Plan and Supporting Rule Revisions.

Date:	Time:	Location:
7-11-06	1:30	DEQ Salem Office 750 Front St., Suite 120 Salem, OR
7-11-06	6:30	DEQ Rm. 3A 811 SW Sixth Ave. Portland, OR

**Hearing Officer:** Rachel Sakata, DEQ

**Stat. Auth.:** ORS 468, 468A, 468.020 & 468A.025

**Other Auth.:** Federal Clean Air Act

**Stats. Implemented:** ORS 468A.025, 468A.035 & 468A.363

**Proposed Amendments:** 340-018-0030, 340-200-0040, 340-202-0090, 340-204-0010, 340-204-0030, 340-204-0040, 340-224-0050, 340-224-0060, 340-225-0090, 340-232-0010, 340-232-0020, 340-242-0010, 340-242-0020, 340-242-0030, 340-242-0040, 340-242-0050, 340-242-0070, 340-242-0080, 340-242-0090, 340-242-0110, 340-242-0120, 340-242-0180, 340-242-0190, 340-242-0200, 340-242-0210, 340-242-0220, 340-242-0240, 340-242-0260, 340-242-0270, 340-242-0280, 340-242-0400, 340-242-0410, 340-242-0420, 340-242-0430, 340-242-0440

**Proposed Repeals:** 340-242-0100, 340-242-0130

**Last Date for Comment:** 7-14-06, 5 p.m.

**Summary:** The Oregon Department of Environmental Quality (DEQ) is updating the clean air plan for maintaining compliance with the federal 8-hour ozone ambient air quality standard in the Portland area, and developing a maintenance plan for the Salem area, as required by the federal Clean Air Act. This rulemaking also proposes to update DEQ's rules to reflect the federal ozone ambient air quality standard, designate Salem as an ozone "maintenance" area under state rules, modify Salem's new source review requirements for new and expanding major industry, modify Portland-area rules regarding Employee Commute Options, update rules for the Industrial Emission Management program in Portland, and make housekeeping changes to clarify the spelling of the Salem-Keizer Area Transportation Study air quality area.

To submit comments or request additional information, please contact Marianne Fitzgerald at the Department of Environmental Quality (DEQ), 811 SW Sixth Avenue, Portland, Oregon 97204, toll free in Oregon at 800-452-4011 or (503) 229-5946, or at [fitzgerald.marianne@deq.state.or.us](mailto:fitzgerald.marianne@deq.state.or.us), or by fax (503) 229-5675, or visit DEQ's website <http://www.deq.state.or.us/news/publicnotices/>

**Rules Coordinator:** Larry McAllister

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

**Telephone:** (503) 229-6412

\*\*\*\*\*

**Rule Caption:** Adoption of Utility Mercury Rule and Other Federal Air Quality Regulations.

Date:	Time:	Location:
6-19-06	3 p.m.	811 SW Sixth Ave. Rm. 3A Portland, OR 97204
6-20-06	7 p.m.	Columbia Gorge Community College 400 E. Scenic Dr. Bldg. 3, Third Flr. The Dalles, OR
6-21-06	7 p.m.	The Riverfront Center Port of Morrow 2 Marine Dr. Boardman, OR

**Hearing Officer:** Gregg Lande, Larry Calkins, Mark Fisher

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

**Stats. Implemented:** ORS 468A.025

**Proposed Adoptions:** 340-228-0600, 340-228-0602, 340-228-0604, 340-228-0606, 340-228-0608, 340-228-0610, 340-228-0612, 340-228-0614, 340-228-0616, 340-228-0618, 340-228-0620, 340-228-0622, 340-228-0624, 340-228-0626, 340-228-0628, 340-228-0630, 340-228-0632, 340-228-0634, 340-228-0636, 340-228-0638, 340-228-0640, 340-228-0644, 340-228-0646, 340-228-0650, 340-228-0652, 340-228-0654, 340-228-0658, 340-228-0660, 340-228-0662, 340-228-0664, 340-228-0666, 340-228-0668, 340-228-0670, 340-228-0672, 340-228-0674, 340-228-0676, 340-230-0359, 340-230-0500, 340-230-0502, 340-230-0504, 340-230-0506, 340-230-0508, 340-230-0510, 340-230-0512, 340-230-0514, 340-230-0516, 340-230-0518, 340-230-0520, 340-230-0522, 340-230-0524, 340-230-0526, 340-230-0528, 340-230-0530, 340-230-0532, 340-230-0534, 340-230-0536, 340-230-0538, 340-230-0540, 340-230-0542, 340-230-0544, 340-230-0546, 340-230-0548, 340-230-0550, 340-230-0552, 340-230-0554, 340-230-0556, 340-230-0558, 340-230-0560, 340-230-0562, 340-230-0564, 340-230-0566, 340-230-0568, 340-230-0570, 340-230-0572, 340-230-0574, 340-230-0576, 340-230-0578, 340-230-0580, 340-230-0582, 340-230-0584, 340-230-0586, 340-230-0588, 340-230-0590, 340-230-0592, 340-230-0594, 340-230-0596, 340-230-0598, 340-230-0599

**Proposed Amendments:** 340-228-0300, 340-230-0010, 340-230-0020, 340-230-0300, 340-230-0310, 340-238-0040, 340-238-0060, 340-244-0030, 340-244-0040

**Last Date for Comment:** 6-26-06

**Summary:** The Oregon Department of Environmental Quality (DEQ) is proposing that the Environmental Quality Commission (EQC) adopt recent revisions to the National Emission Standards for Hazardous Air Pollutants (NESHAP), New Source Performance Standards (NSPS), and the list of hazardous air pollutants (HAP). DEQ also proposes that the EQC adopt standards that implement the new federal Clean Air Mercury Rule (CAMR), the new federal emission guidelines for solid waste incineration units, and the amended federal emission guidelines for municipal waste combustors. 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 Ave, Portland, OR 97124, toll free in Oregon at 800-452-4011 or 503-229-6974, or at [EBERSOLE.Gerald@deq.state.or.us](mailto:EBERSOLE.Gerald@deq.state.or.us), or by fax 503-229-5675, or visit DEQ's website <http://www.deq.state.or.us/news/publicnotices/>

**Rules Coordinator:** Larry McAllister

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

**Telephone:** (503) 229-6412

# NOTICES OF PROPOSED RULEMAKING

## Department of Fish and Wildlife Chapter 635

**Rule Caption:** Commercial and Recreational Gear and Harvest Regulations for the Razor Clam Fishery.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-7-06	8 a.m.	600 N Evans St. McMinnville, OR 97128

**Hearing Officer:** ODFW Commission

**Stat. Auth.:** ORS 506.036, 506.109, 506.119, 506.129, 496.012, 496.138 & 496.162

**Stats. Implemented:** ORS 506.036, 506.109, 506.119, 506.129, 496.012, 496.138 & 496.162

**Proposed Adoptions:** Rules in 635-005, 635-039

**Proposed Amendments:** Rules in 635-005, 635-039

**Proposed Repeals:** Rules in 635-005, 635-039

**Last Date for Comment:** 7-7-06

**Summary:** Establish requirements that would standardize harvest methods for the commercial and recreational razor clam fishery by prohibiting the use of the clam gun/tube for commercial harvest methods and define the minimum diameter of a recreational clam gun/tube. Define the proper method for the release of sub-legal clams in the commercial fishery by establishing language for the immediate return and placement back to the sand. Housekeeping and technical correction to the regulations may occur to ensure rule consistency.

**Rules Coordinator:** Casaria Tuttle

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

**Telephone:** (503) 947-6033

.....

**Rule Caption:** Adopt salmon seasons for commercial and sport in the Pacific Ocean, Columbia River & tributaries.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-7-06	8 a.m.	600 N Evans St. McMinnville, OR 97128

**Hearing Officer:** ODFW Commission

**Stat. Auth.:** ORS 496.138, 496.146 & 506.119

**Stats. Implemented:** ORS 496.162 & 506.129

**Proposed Adoptions:** Rules in 635-003, 635-013, 635-014, 635-016, 635-017, 635-018, 635-023

**Proposed Amendments:** Rules in 635-003, 635-013, 635-014, 635-016, 635-017, 635-018, 635-023

**Proposed Repeals:** Rules in 635-003, 635-013, 635-014, 635-016, 635-017, 635-018, 635-023

**Last Date for Comment:** 7-7-06

**Summary:** Amend rules relating to commercial and sport salmon fishing in the Pacific Ocean; sport salmon fishing in specific near-shore ocean waters, bays and coastal streams; and sport salmon fishing in the Columbia River and tributaries. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

**Rules Coordinator:** Casaria Tuttle

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

**Telephone:** (503) 947-6033

.....

**Rule Caption:** Rules regarding furbearer harvest and pursuit seasons and bag limits for the 2006–2007 seasons.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-7-06	8 a.m.	600 N. Evans St. McMinnville, OR 97128

**Hearing Officer:** 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 635-043, 045, 048, 050 & 200

**Last Date for Comment:** 7-7-06

**Summary:** Amend rules regarding seasons and bag limits for the 2006–2007 and 2007–2008 furbearer harvest and pursuit seasons.

**Rules Coordinator:** Casaria Tuttle

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

**Telephone:** (503) 947-6035

.....

## Department of Human Services, Child Welfare Programs Chapter 413

**Rule Caption:** Changing OARs affecting Child Welfare programs.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-21-06	10:30 a.m.	Rm. 255 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 409.050 & 418.005

**Stats. Implemented:** ORS 409.225, 418.005, 419A.225 & 419B.035

**Proposed Adoptions:** 413-010-0081, 413-010-0082, 413-010-0083, 413-010-0084, 413-010-0085, 413-010-0086

**Last Date for Comment:** 6-21-06

**Summary:** OAR 413-010-0081, 413-010-0082, 413-010-0083, 413-010-0084, 413-010-0085 and 413-010-0086, currently in place as temporary rules, are being adopted as permanent rules to allow the release of adoptive home studies to a child's attorney and the Court Appointed Special Advocate appointed by the court to represent the child's best interests. These rules establish the Department procedures for the release of adoption home studies. Prospective adoptive families provide sensitive, personal information to the Department while it prepares adoption home study reports. The procedures in these rules balance the needs of families for privacy with the need for CASAs, children's attorneys, and children's tribes to represent children. OAR 413-010-0081 sets out general principles regarding the release of these reports. OAR 413-010-0082 defines terms used in these rules. OAR 413-010-0083 identifies to whom an adoption home study report may be released. OAR 413-010-0084 describes the redaction of information prior to release. OAR 413-010-0085 describes the circumstances under which the Department may provide a summary instead of providing the full report. OAR 413-010-0086 sets out the procedures to be followed before the report is released.

**Rules Coordinator:** Annette Tesch

**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-48, Salem, OR 97301

**Telephone:** (503) 945-6067

.....

**Rule Caption:** Changing OARs affecting Child Welfare programs.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-21-06	11 a.m.	Rm. 255 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 147.425, 418.005, 419B.005

**Proposed Amendments:** 413-015-0115, 413-015-1000

**Last Date for Comment:** 6-21-06

**Summary:** OAR 413-015-0115 is being amended to provide a definition of "personal representative" according to Senate Bill 198 from the 2005 legislative session (ORS 147.425). This definition is necessary to understand the right of a victim to the presence of a personal representative during interviewing and medical examination in a child protective services (CPS) investigation. This OAR is also being amended to provide a definition for "substance" according to Senate Bill 907 from the 2005 legislative session (ORS 419B.005). This definition clarifies the meaning of "substance" in the additions to the Physical Neglect and threat of harm CPS dispositions. OAR 413-015-1000 is being amended to add language to the physical neglect and threat of harm dispositions providing clarification to CPS workers when making assessment dispositions related to unlawful exposure to substances. These amendments were adopted as

## NOTICES OF PROPOSED RULEMAKING

temporary rules on January 1 and are now being adopted as permanent rule changes.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.

**Rules Coordinator:** Annette Tesch

**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-48, Salem, OR 97301

**Telephone:** (503) 945-6067

\*\*\*\*\*

**Rule Caption:** Changing OARs affecting Child Welfare programs.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-21-06	11 a.m.	R. 255 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 418.005 & 419B.017

**Stats. Implemented:** ORS 418.005, 419B.015 & 419B.017

**Proposed Adoptions:** 413-015-0302

**Proposed Amendments:** 413-015-0300, 413-015-0305, 413-015-0310

**Last Date for Comment:** 6-21-06

**Summary:** OAR 413-015-0302 is being adopted and OAR 413-015-0300, 413-015-0305, and 413-015-0310 are being amended to eliminate the requirement that Child Welfare and the law enforcement agency cross report "immediately" to one another. As adopted and amended, these rules identify which child abuse reports require cross reporting within 24 hours and which reports will be cross reported within 10 days. These rules were originally adopted and amended as temporary rules on January 1, and are now being proposed for permanent adoption and amendment.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.

**Rules Coordinator:** Annette Tesch

**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-48, Salem, OR 97301

**Telephone:** (503) 945-6067

\*\*\*\*\*

**Rule Caption:** Changing OARs affecting Child Welfare programs.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-21-06	11 a.m.	Rm. 255 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 409.185, 418.005 & 418.800

**Proposed Amendments:** 413-015-0405

**Last Date for Comment:** 6-21-06

**Summary:** OAR 413-015-0405 is being amended to add the expectation that child protective services (CPS) workers provide a pamphlet to families at the beginning of each assessment. This pamphlet will describe the assessment and court process and the rights of parents during that process. This rule is also being amended to include the expectation that a CPS worker notify the District Attorney's office (MDT chair) within 3 business days whenever, during a sex abuse assessment/investigation, a parent or guardian who is identified as an alleged perpetrator is asked and agrees to leave the home voluntarily. This rule amendment makes permanent a temporary amendment adopted in January and February of 2006.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.

**Rules Coordinator:** Annette Tesch

**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-48, Salem, OR 97301

**Telephone:** (503) 945-6067

**Rule Caption:** Changing OARs affecting Child Welfare programs.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-21-06	11 a.m.	Rm. 255 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 147.425 & 418.005

**Proposed Amendments:** 413-015-0720, 413-015-0900

**Last Date for Comment:** 6-21-06

**Summary:** OAR 413-015-0720 about interviewing and OAR 413-015-0900 about medical examinations are being amended to provide direction for consideration of the request by victim of a physical or sex abuse who is at least 15 years of age to have a "personal representative" present during these activities if the presence will not compromise the child protective services (CPS) assessment. These amendments make permanent the temporary rule changes adopted on January 1, 2006.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.

**Rules Coordinator:** Annette Tesch

**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-48, Salem, OR 97301

**Telephone:** (503) 945-6067

\*\*\*\*\*

**Rule Caption:** Changing OARs affecting Child Welfare programs.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-21-06	9:30 a.m.	Rm. 255 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 418.005

**Other Auth.:** PL 105-89, Adoption & Safe Families Act

**Stats. Implemented:** ORS 418.005

**Proposed Adoptions:** 413-070-0520, 413-070-0524, 413-070-0528, 413-070-0532, 413-070-0536, 413-070-0540, 413-070-0544, 413-070-0548, 413-070-0552, 413-070-0556, 413-070-0560

**Last Date for Comment:** 6-21-06

**Summary:** OARs 413-070-0520, 413-070-0524, 413-070-0528, 413-070-0532, 413-070-0536, 413-070-0540, 413-070-0544, 413-070-0548, 413-070-0552, 413-070-0556, 413-070-0560 are being adopted to: 1) indicate that Another Planned Permanent Living Arrangement (APPLA) is one of the five types of permanency plans for children placed in the Department's legal custody for substitute-care placement. APPLA is the least permanent of all permanency plans and must be used only when all other permanency plans have been ruled out; 2) describe the categories in APPLA; 3) describe what an APPLA permanency plan and the APPLA service plan must include; 4) describe the review process the Department must follow if APPLA is the permanency plan; and 5) describe what the case-worker must document in the family's case record if APPLA is a permanency plan for a child.

**Rules Coordinator:** Annette Tesch

**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-48, Salem, OR 97301

**Telephone:** (503) 945-6067

\*\*\*\*\*

**Rule Caption:** Changing OARs affecting Child Welfare programs.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-21-06	10 a.m.	Rm. 255 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 409.050 & 418.005

**Stats. Implemented:** ORS 7.211, 109.119, 109.234, 109.304 - 109.410, 109.425, 109.435 - 109.507, 109.701 to 109.784, 409.010 & 417.200

**Proposed Adoptions:** 413-140-0026, 413-140-0055



# NOTICES OF PROPOSED RULEMAKING

**Proposed Amendments:** 413-140-0000, 413-140-0010, 413-140-0030, 413-140-0040, 413-140-0080, 413-140-0110, 413-140-0120

**Proposed Repeals:** 413-140-0070

**Proposed Ren. & Amends:** 413-140-0020 to 413-140-0035, 413-140-0025 to 413-140-0065, 413-140-0100 to 413-140-0045

**Last Date for Comment:** 6-21-06

**Summary:** OAR 413-140-0000, 413-140-0010, 413-140-0030, 413-140-0040, 413-140-0080, 413-140-0110, and 413-140-0120 are being amended; OAR 413-140-0026 and 413-140-0055 are being adopted; OAR 413-140-0020, 413-140-0025, and 413-140-0100 are being renumbered to 413-140-0035, 413-140-0065, and 413-140-0045, respectively, and amended; and OAR 413-140-0070 is being repealed to: clarify the role of DHS in private or independent adoptions; correct erroneous statutory and regulatory citations; improve the form and organization of these rules; update contents for clarity and completeness; increase the home study fee permitted for independent adoption home studies, from "not exceeding \$794" to "may not exceed \$1,500"; and to include the existing fee for a placement report for an independent adoption in the administrative rules. OAR 413-140-0030 is also being amended to make permanent temporary rule changes adopted on January 1, 2006.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.

**Rules Coordinator:** Annette Tesch

**Address:** Department of Human Services, Child Welfare Programs, 550 Summer St. NE, E-48, Salem, OR 97301

**Telephone:** (503) 945-6067

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

**Rule Caption:** Medicaid Prescription Drug Assistance for Fully Dual Eligible Medicare Part D Clients.

Date:	Time:	Location:
6-16-06	10:30 a.m.–12 p.m.	HR 137C 500 Summer St. NE Salem, OR

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 409.010, 409.050, 414.743 & OL Ch. 754 (SB 1088)

**Stats. Implemented:** ORS 414.743

**Proposed Adoptions:** 410-121-0149

**Last Date for Comment:** 6-16-06, 12 p.m.

**Summary:** The Pharmacy Program administrative rules govern Office of Medical Assistance Programs' (OMAP) payment for services provided to certain clients. OMAP temporarily adopted 410-121-0149 to authorize the State to pay for medications for dual eligible clients with Medicare Part D coverage. OMAP intended to allow this coverage on a temporary basis, and discontinue coverage at the appropriate time, by suspending the temporary rule. However, due to recommendations from the Governor, DHS delayed suspension of the temporary rule to continue coverage. OMAP is not able to continue the coverage in temporary rule status, therefore, must file this Notice to permanently adopt the rule pending a decision regarding the appropriate time to discontinue coverage.

**Rules Coordinator:** Darlene Nelson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301

**Telephone:** (503) 945-6927

.....  
**Rule Caption:** Reflecting visual services changes in the Oregon Health Plan Plus benefit package.

Date:	Time:	Location:
6-21-06	10:30 a.m.–12 p.m.	DHS Bldg. Rm. 137C Salem, OR

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 409.010, 409.110 & 409.050

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-130-0240

**Last Date for Comment:** 6-21-06, 5 p.m.

**Summary:** The Medical-Surgical Services program rules govern payment for the Office of Medical Assistance Programs' (OMAP) payments for services provided to certain clients. OMAP will amend 410-130-0240 to reference the Visual Services program administrative rules related to coverage and limitations on eye exams and eyewear.

These revisions are contingent upon Centers for Medicare and Medicaid services (CMS) approval. While OMAP expects these revisions to be effective on August 1, 2006, the effective date for implementation is not confirmed as it is based upon receipt of CMS approval. Following CMS approval, OMAP will implement the rule revisions and file the rules permanently. On or before the effective date, the permanent rule revisions will be available on OMAP's website at: <http://www.dhs.state.or.us/policy/healthplan/guides/main.html>

**Rules Coordinator:** Darlene Nelson

**Address:** Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301

**Telephone:** (503) 945-6927

.....  
**Department of Human Services,  
Mental Health and Developmental Disability Services  
Chapter 309**

**Rule Caption:** Amend rule to reflect policy changes on non-crisis comprehensive services

Date:	Time:	Location:
6-20-06	9:30 a.m.	500 Summer St NE Rm. 137D Salem, OR 97301

**Hearing Officer:** Lisa Richards

**Stat. Auth.:** ORS 409.050 & 410.070

**Stats. Implemented:** ORS 427.007 & 430.640

**Proposed Amendments:** 309-041-1220

**Last Date for Comment:** 6-21-06, 5 p.m.

**Summary:** Amends Service Waitlist Rule to reflect terms of modified settlement of Staley v Kitzhaber (USDC CV00-0078-ST) and subsequent policy changes to implement non-crisis comprehensive services.

**Rules Coordinator:** Lisa Richards

**Address:** 500 Summer St. NE, E10, Salem, OR 97301-1076

**Telephone:** (503) 945-6398

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

**Rule Caption:** Department of Human Services revisions to Oregon Administrative Rules implementing HB 2800 (2005 Legislative Session).

Date:	Time:	Location:
6-28-06	1:30 p.m.	Portland State Office Bldg. 800 NE Oregon St. Rm. 120A Portland, OR

**Hearing Officer:** Jana Fussell

**Stat. Auth.:** ORS 441 & 442

**Stats. Implemented:** ORS 441 & 442

**Proposed Adoptions:** 333-510-0046, 333-510-0047, 333-510-0048

**Proposed Amendments:** 333-500-0057, 333-510-0045

**Proposed Repeals:** 333-510-0045(T)

**Last Date for Comment:** 6-28-06, 5 p.m.

**Summary:** The Department of Human Services (DHS) is proposing to adopt, amend and repeal rules implementing HB 2800 (2005 Legislative Session).



# NOTICES OF PROPOSED RULEMAKING

DHS is proposing to adopt 333-510-0046, 333-510-0047 and 333-510-0048 to clarify the procedures used when DHS, Health Care Licensure and Certification (HCLC) performs and audit of facility implementation of the nurse staffing requirements, the procedures used when HCLC performs a complaint investigation that includes evaluation of the nurse staffing requirements, and the decision-making process used following an investigation regarding compliance with the nurse staffing requirements.

DHS is proposing to amend 333-500-0057 including Table 1 to more closely represent the verbiage in the statute.

DHS temporarily amended 333-510-0045 on January 1, 2006 to implement HB 2800 (2005 Legislative Session). DHS is now proposing to permanently amend this rule and to also clarify the meaning of "safe patient care" for the purposes of the nurse staffing rules, include identification of nationally recognized evidence-based standards, and clarify that mandatory overtime be documented as such by both a management representative and the staff member.

**Rules Coordinator:** Christina Hartman

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

**Telephone:** (971) 673-1291

\*\*\*\*\*

**Rule Caption:** Department of Human Services Oregon Administrative Rules for Health Care Interpreters.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-22-06	9 a.m.	Portland State Office Bldg. 800 NE Oregon St. Rm. 120 Portland, OR

**Hearing Officer:** Shannon O'Fallon

**Stat. Auth.:** ORS 409.615 - 409.623

**Stats. Implemented:** ORS 409.615 - 409.623

**Proposed Adoptions:** Rules in 333-002

**Last Date for Comment:** 6-22-06, 5 p.m.

**Summary:** The Department of Human Services (DHS) is proposing to establish procedures for the registration, qualification and certification of health care interpreters for persons with limited English proficiency. DHS will issue credentials to those applicants who meet the requirements for Registered, Qualified or Certified Health Care Interpreter status. Program implementation including application processing, examination sites, examination proctoring, orientation sessions and the development of a central registry will be funded by established fees which are estimated to cover the program operating costs.

A "Health Care Interpreter" is any person who provides interpreting services in a health care setting whether as an employee, contractor, volunteer, student or intern. A health care setting includes a medical, surgical clinic, hospital, home health, mental health, public health presentation or any other remedial care recognized by state law.

Once registered, qualified or certified; interpreters must renew their credentials bi-annually. Recognizing the wide range of experience and background of interpreters who would be eligible to apply for registration, qualification or certification; these rules provide flexibility in the types of academic preparation that may be used to satisfy the credential requirements. Registration, qualification or certification as a health care interpreter through these rules is voluntary.

**Rules Coordinator:** Christina Hartman

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

**Telephone:** (971) 673-1291

\*\*\*\*\*

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

**Rule Caption:** Allows discharge of residents with a sexual conviction and who are a risk of harm.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-19-06	9 a.m.	500 Summer St. NE Rm. 137D Salem, OR 97301

**Hearing Officer:** Lisa Richards

**Stat. Auth.:** ORS 443.410

**Other Auth.:** SB 106

**Stats. Implemented:** ORS 181.586

**Proposed Amendments:** 411-055-0190

**Proposed Repeals:** 411-055-0190(T)

**Last Date for Comment:** 6-21-06, 12 p.m.

**Summary:** OAR 411-055-0190 is being adopted as a permanent rule. Failure to adopt this rule prevents Residential Care Facilities from immediately discharging a resident with a sexual conviction who poses a current risk of harm to others.

Senate Bill 106 was imposed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate at the request of Governor Kulongoski.

**Rules Coordinator:** Lisa Richards

**Address:** 500 Summer St NE, E10, Salem, OR 97301

**Telephone:** (503) 945-6398

\*\*\*\*\*

**Rule Caption:** Allows discharge of residents with a sexual conviction and who are a risk of harm.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-19-06	9 a.m.	500 Summer St NE Rm. 137D Salem, OR 97301

**Hearing Officer:** Lisa Richards

**Stat. Auth.:** ORS 443.410

**Other Auth.:** SB 106

**Stats. Implemented:** ORS 181.586

**Proposed Amendments:** 411-088-0020

**Proposed Repeals:** 411-088-0020(T)

**Last Date for Comment:** 6-21-06, 12 p.m.

**Summary:** OAR 411-088-0020 is being adopted as a permanent rule. Failure to adopt this rule prevents Nursing Facilities from immediately discharging a resident with a sexual conviction who poses a current risk of harm to others.

Senate Bill 106 was imposed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate at the request of Governor Kulongoski.

**Rules Coordinator:** Lisa Richards

**Address:** 500 Summer St NE, E10, Salem, OR 97301

**Telephone:** (503) 945-6398

\*\*\*\*\*

**Rule Caption:** Allows discharge of residents with a sexual conviction and who are a risk of harm.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-19-06	9 a.m.	500 Summer St NE Rm. 137D Salem, OR 97301

**Hearing Officer:** Lisa Richards

**Stat. Auth.:** ORS 443.410

**Stats. Implemented:** ORS 181.586

**Proposed Amendments:** 411-056-0020

**Proposed Repeals:** 411-056-0020(T)

**Last Date for Comment:** 6-21-06 12 p.m.

**Summary:** OAR 411-056-0020 is being adopted as a permanent rule. Failure to adopt this rule prevents Assisted Living Facilities from immediately discharging a resident with a sexual conviction who poses a current risk of harm to others.

Senate Bill 106 was imposed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate at the request of Governor Kulongoski.

**Rules Coordinator:** Lisa Richards

**Address:** 500 Summer St. NE, E10, Salem, OR 97301-1076

**Telephone:** (503) 945-6398

# NOTICES OF PROPOSED RULEMAKING

**Rule Caption:** Amending rules related to the confidentiality policies that apply to Seniors and People with Disabilities.

**Date:** 6-20-06  
**Time:** 8 a.m.  
**Location:** 500 Summer St. NE  
Rm. 137D  
Salem, OR 97301

**Hearing Officer:** Lisa Richards

**Stat. Auth.:** ORS 410.140 & 409.050

**Stats. Implemented:** ORS 410.140 & 410.150

**Proposed Adoptions:** 411-005-0100

**Proposed Amendments:** 411-005-0010, 411-005-0015, 411-005-0035, 411-005-0045

**Proposed Repeals:** 411-005-0000, 411-005-0005, 411-005-0025, 411-005-0030, 411-005-0040, 411-005-0050, 411-005-0055, 411-005-0060, 411-005-0065

**Last Date for Comment:** 6-23-06, 12 p.m.

**Summary:** OARs 411-005-0000 through 411-005-0065 are being amended or repealed to align the SPD confidentiality policy with the Department-wide policy on confidentiality and privacy. Procedures are being removed from the rules. This information will now be available to staff in the SPD policy manuals. SPD will depend on the Department-wide rules in OAR Chapter 410, Division 014. Rule 411-005-0100 is being adopted to outline when fees are assessed for access to records.

**Rules Coordinator:** Lisa Richards

**Address:** Department of Human Services, Seniors and People with Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301

**Telephone:** (503) 945-6398

.....  
**Department of Public Safety Standards and Training**  
**Chapter 259**

**Rule Caption:** Update Standards and Qualifications for NFPA Drivers.

**Date:** 6-26-06  
**Time:** 1 p.m.  
**Location:** 4190 Aumsville Hwy.  
Salem, OR 97301

**Hearing Officer:** Bonnie Salle

**Stat. Auth.:** ORS 181.640

**Stats. Implemented:** ORS 181.640

**Proposed Amendments:** 259-009-0062

**Last Date for Comment:** 6-26-06, 4 p.m.

**Summary:** Revises provisions of the NFPA Standard 1002 from 1998 Edition to 2003 Edition relating to "Fire Department Vehicle Driver/Operator Professional Qualifications."

**Rules Coordinator:** Bonnie Salle

**Address:** 550 N. Monmouth Ave., Monmouth OR 97361

**Telephone:** (503) 378-2431

.....  
**Rule Caption:** Revise current list of mandatory and discretionary disqualifying crimes.

**Stat. Auth.:** ORS 181.640, 181.661, 181.662, 181.664 & 183.341  
**Stats. Implemented:** ORS 181.640, 181.661, 181.662, 181.664 & 183.341

**Proposed Amendments:** 259-008-0070

**Last Date for Comment:** 6-26-06, 5 p.m.

**Summary:** In January 2001, a list of mandatory disqualifying crimes was proposed and adopted by rule. All other crimes were considered "discretionary" disqualifying crimes. Since the inception of the rule, numerous law changes have occurred which require updating the current list of disqualifying crimes. Housekeeping amendments to the rules were also made to improve formatting, readability and consistency.

**Rules Coordinator:** Bonnie Salle

**Address:** 550 N. Monmouth Ave., Monmouth OR 97361

**Telephone:** (503) 378-2431

.....  
**Rule Caption:** Update Standards and Qualifications for Fire Fighters and Fire Officers; Define Airport Fire Fighters.

**Stat. Auth.:** ORS 181.640

**Stats. Implemented:** ORS 181.640

**Proposed Amendments:** 259-009-0005, 259-009-0062

**Last Date for Comment:** 6-26-06, 5 p.m.

**Summary:** Defines "NFPA Airport Fire Fighter"

Revises provisions of the NFPA Standard 1001 from 1992 Edition to 2002 Edition for Fire Fighter Professional Qualifications;

Revises provisions of the NFPA Standard 1021 from 1997 Edition to 2003 Edition for Fire Officer Professional Qualifications.

**Rules Coordinator:** Bonnie Salle

**Address:** 550 N. Monmouth Ave., Monmouth OR 97361

**Telephone:** (503) 378-2431

.....  
**Department of Revenue**  
**Chapter 150**

**Rule Caption:** Amendments related to: financial corporation apportionment; "investment company" definition; research tax credit limit.

**Date:** 6-22-06  
**Time:** 10 a.m.–12 p.m.\*  
**Location:** Fishbowl Conference Rm.  
Dept. of Revenue  
Salem OR  
\*Sign-up to testify  
at 9:45 a.m.

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 305.100, 314.280 & 317.710

**Stats. Implemented:** ORS 314.280, 314.610, 317.710 & 317.154

**Proposed Amendments:** 150-314.280-(N), 150-317.154, 150-317.710(5)(b)

**Proposed Ren. & Amends:** 150-314.610(4)-(B) to 150-314.610(4)

**Last Date for Comment:** 6-22-06, 5 pm

**Summary:** 150-314.280-(N) is amended to replace the term "receipts factor" with "sales factor" in coordination with amendments OAR 150-317.710(5)(b). As a result, financial organizations are not considered to be using "different apportionment factors" and may be included in the same Oregon consolidated return with non-financial corporations. Also delete section (7) requiring the filing of two returns when Oregon taxpayers in a unitary group include both financial organizations and nonfinancial corporations.

150-314.610(4)-(B) is amended to include mortgage banking companies in the definition of "investment company" and require all investment companies to be investing on behalf of a third party. Also remove "-(B)" from rule number due to repeal of OAR 150-314.610(4)-(A) in 2002.

150-317.154 is amended to reflect 2005 legislation that increased the maximum qualified research tax credit amount to \$2,000,000 for tax years beginning on or after January 1, 2006.

150-317.710(5)(b) is amended to clearly provide that only insurers, utilities and telecommunications companies for specified tax years, and forest products industry taxpayers for specified tax years, are "required or permitted by statute or rule to use different apportionment factors" than those provided in ORS 314.650. This allows corporations other than those specified, that file a consolidated federal return and are unitary, to file one consolidated Oregon return. Also, to clearly provide that the factors for each corporation in a consolidated Oregon return are computed as provided for that type of taxpayer in the statutes and rules for ORS chapter 314. The amendments to this rule are in coordination with proposed amendments to OAR 150-314.280-(N).

**Rules Coordinator:** Debra L. Buchanan

**Address:** 955 Center St NE Salem OR 97301-2555

**Telephone:** (503) 945-8653

.....  
**Rule Caption:** Servicemember property tax exemptions; property tax classification codes; forestland and notice of potential tax liability.

# NOTICES OF PROPOSED RULEMAKING

**Date:** 6-22-06  
**Time:** 10 a.m.–12 p.m.\*  
**Location:** Fishbowl Conference Rm.  
Dept of Revenue  
Salem OR  
\*Sign-up to testify  
at 9:45 a.m.

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 305.100 & 308.215

**Stats. Implemented:** ORS 307.286, 307.289, 321.839, 307.475 & 308.215

**Proposed Adoptions:** 150-307.286, 150-307.289, 150-321.839

**Proposed Amendments:** 150-307.475, 150-308.215(1)-(A)

**Last Date for Comment:** 6-22-06, 5 p.m.

**Summary:** 150-307.286: Clarify new partial property tax exemption created by legislature as the “Oregon Active Military Service Member’s Exemption.” Clarifies eligible property and periods of active duty service.

150-307.289: Clarify who may file claim for new partial exemption created by legislature as the “Oregon Active Military Service Member’s Exemption” when qualified service member dies before filing a claim for exemption.

150-308.215(1)-(A): This rule instructs the county regarding property classification codes for parcels of real property. These codes are part of the tax or assessment roll and are used to identify different types of properties for appraisal, tax calculation and reporting purposes. The information is used by the counties to report value and tax information on the Summary of Assessments & Levies (SAL) to the Department of Revenue. The rule is being amended to add a property classification code for those parcels assessed as Small Tract Forestland, which is needed for the Tax Expenditure Report and distribution of severance tax receipts.

150-321.839: To instruct the county assessor to note on the assessment and tax roll “Forestland — Potential Additional Tax Liability” on all designated forestland parcels in eastern Oregon.

150-307.475: To clarify that the requirement to stop the running of any statute of limitations during a service member’s military service by the Servicemembers’ Civil Relief Act applies to the filing deadline for petitions to the Department of Revenue under the hardship statute. Clarify special assessments to which the rule may apply.

**Rules Coordinator:** Debra L. Buchanan

**Address:** 955 Center St NE Salem OR 97301-2555

**Telephone:** (503) 945-8653

.....

**Rule Caption:** Extensions; film production fund credit; other state taxes credit; Oregon Investment Advantage exemption; model rules.

**Date:** 6-22-06  
**Time:** 10 a.m.–12 p.m.\*  
**Location:** Fishbowl Conference Rm.  
Dept. of Revenue  
Salem, OR  
\*Sign-up to testify  
at 9:45 a.m.

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 305.100 & 183.341

**Stats. Implemented:** ORS 183.341, 314.400, 315.514, 316.082, 316.687 & 316.778

**Proposed Adoptions:** 150-315.514, 150-316.778

**Proposed Amendments:** 150-183.341(2), 150-314.400(1), 150-314.400(4), 150-316.082(2), 150-316.587(1), 150-316.587(8)-(A)

**Last Date for Comment:** 6-22-06, 5 P.M.

**Summary:** 150-183.341(2) is amended to update the reference to the Attorney General Model Rules to those in effect January 1, 2006.

150-315.514 is adopted to clarify the definition of which “tax-payers” are eligible for a tax credit based on contributions to the Oregon Production Investment Fund.

150-316.778 is adopted to provide guidance as to the calculation of income that qualifies for exemption from tax under the provisions of the Oregon Investment Advantage program (also known as the “small city/community business development exemption”).

150- 314.400(1); 150-314.400(4); 150-316.587(1); and 150-316.587(8)-(A) are amended to reflect the increase from four months to six months for automatic extensions for filing income tax returns. In addition, 150-314.400(1) is amended to reflect changes from 2005 legislation (SB 33) relating to the imposition of a five percent penalty for failure to pay tax when due.

150-316.082(2) is amended to clarify the calculation of mutually taxed income for purposes of determining the credit for taxes paid to another state.

**Rules Coordinator:** Debra L. Buchanan

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

**Telephone:** (503) 945-8653

.....

## Department of Veterans’ Affairs Chapter 274

**Rule Caption:** Updating Effective Date of the Attorney General’s Model Rules of Procedure Manual.

**Stat. Auth.:** ORS 183.341 & 406

**Stats. Implemented:** ORS 406, 407 & 408

**Proposed Amendments:** 274-001-0005

**Last Date for Comment:** 6-21-06

**Summary:** The proposed changes are to reflect the current Attorney General’s Administrative Law Manual and Uniform and Model Rules of Procedure under the Administrative Procedures Act (Manual) which is dated January 1, 2006, and more specifically the rules contained in Appendix G of the Manual.

**Rules Coordinator:** Herbert D. Riley

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

**Telephone:** (503) 373-2055

.....

## Employment Department Chapter 471

**Rule Caption:** OAR 471-030-0076 Benefits for Athletes.

**Stat. Auth.:** ORS 657

**Stats. Implemented:** ORS 657 & 657.186

**Proposed Amendments:** 471-060-0076

**Last Date for Comment:** 6-25-06

**Summary:** Inserting the word “or” and deleting “multi-year” to 471-030-0076(4)(a) and inserting “and” to 471-030-0076(4)(b) for appropriate application of law.

**Rules Coordinator:** Lynn M. Nelson

**Address:** Employment Department, 875 Union St. NE, Salem, OR 97311

**Telephone:** (503) 947-1724

.....

## Employment Department, Child Care Division Chapter 414

**Rule Caption:** OAR 414-061-0070 Procedures for Conducting State Police Criminal Records Checks.

**Date:** 7-10-06

**Time:** 2 p.m.

**Location:** Employment Dept. Auditorium  
Salem, OR

**Hearing Officer:** Lynn Nelson

**Stat. Auth.:** ORS 657A.030(7)

**Stats. Implemented:** ORS 657(A).030

**Proposed Amendments:** 414-061-0070

**Last Date for Comment:** 7-10-06, 5 p.m.

**Summary:** Amending language to remove (5)(a). The Criminal History fee will no longer be included in the application fee for family child care registration.

**Rules Coordinator:** Lynn M. Nelson

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

**Telephone:** (503) 947-1724



# NOTICES OF PROPOSED RULEMAKING

## Land Conservation and Development Department Chapter 660

**Rule Caption:** Proposed new rules interpreting Goal 14 regarding adoption and amendment of UGBs.

**Date:** 6-29-06  
**Time:** 9 a.m.  
**Location:** City Hall  
Community Conference Rm.  
500 SW Dorion  
Pendleton, OR

**Hearing Officer:** LCDC

**Stat. Auth.:** ORS 197.040

**Other Auth.:** Statewide Planning Goals (OAR 660, division 15)

**Stats. Implemented:** ORS 195.015, 195.036, 197.295 - 197.314, 197.610 - 197.650 & 197.764

**Proposed Adoptions:** Rules in 660-024, 660-024-0000, 660-024-0010, 660-024-0020, 660-024-0030, 660-024-0040, 660-024-0050, 660-024-0060, 660-024-0070

**Last Date for Comment:** 6-26-06 written; 6-29-06 hearing

**Summary:** These rules will clarify the meaning and intent of Goal 14 in the adoption and amendment of urban growth boundaries (UGBs). The new rules will clarify requirements for urban growth boundaries in a manner that is generally consistent with past practice and case law. The new rules will provide "safe harbors" intended to reduce local governments' time and costs in amending a UGB. The proposed rules address several UGB amendment procedures, including population forecasts, land need and location analysis, buildable land inventories, and the exchange land inside UGBs for land outside.

The Commission may consider additional rule clarifications or amendments to the UGB process that may be proposed during the public comment period.

**Rules Coordinator:** Shelia Preston

**Address:** Land Conservation and Development Department, 635 Capitol St. NE, Salem, OR 97301

**Telephone:** (503) 373-0050, ext. 222

.....

**Rule Caption:** Housekeeping amendments regarding application of goals to newly incorporated cities and city annexations.

**Date:** 6-29-06  
**Time:** 9 a.m.  
**Location:** City Hall  
Community Conference Rm.  
500 SW Dorion  
Pendleton, OR

**Hearing Officer:** LCDC

**Stat. Auth.:** ORS 197.040

**Stats. Implemented:** ORS 197.251 & 197.757

**Proposed Amendments:** 660-014-0000, 660-014-0010

**Proposed Repeals:** 660-001-0300

**Last Date for Comment:** 6-26-06 written; 6-29-06 hearing

**Summary:** The department proposes to amend administrative rules regarding the process for acknowledgment of comprehensive plans for newly incorporated cities (OAR 660-014-0010) in order to conform to state law at ORS 197.757, which requires newly incorporated cities to use the acknowledgment process in ORS 197.251 rather than post-acknowledgment procedures provided in ORS 197.610 to 197.650. The department also proposes to repeal OAR 660-001-0300 regarding the "purpose" of rule regarding annexation; these annexation rules were renumbered in 2004 to OAR 660-014-0060 and OAR 660-014-0070, and are currently described in a purpose statement under OAR 660-014-0000, which will also be revised under this proposal.

The Commission may consider other clarifications to these rules that may be proposed during the public comment period.

**Rules Coordinator:** Shelia Preston

**Address:** Land Conservation and Development Department, 635 Capitol St. NE, Salem, OR 97301

**Telephone:** (503) 373-0050, ext. 222

## Landscape Architect Board Chapter 804

**Rule Caption:** Adopt updated Model Rules; expand definitions for business registration; revise board member appointment criteria.

**Stat. Auth.:** ORS 183.671, 671.318 & 671.415

**Stats. Implemented:** ORS 671

**Proposed Amendments:** 804-001-0005, 804-001-0014, 804-003-0000

**Last Date for Comment:** 6-22-06, 5 p.m.

**Summary:** OAR 804-001-0005 updates the Model Rules of Procedure adopted by the Board to the January 1, 2006, version.

OAR 804-001-0014 clarifies that an applicant for Board membership must have been registered as a Landscape Architect for a minimum of five years. The rule reduces the residency requirement for living in Oregon prior to appointment from five years to three years.

OAR 804-003-0000 will be enlarged by three definitions including the definition of business; delinquent renewal fee; and late fee.

**Rules Coordinator:** Susanna R. Knight

**Address:** 1193 Royvonne Avenue SE #19, Salem, Oregon 97302

**Telephone:** (503) 589-0093

.....

## Oregon Criminal Justice Commission Chapter 213

**Rule Caption:** Clarifies that Assault 1 where victim is under six years old is always crime category 10.

**Date:** 6-16-06  
**Time:** 2-2:30 p.m.  
**Location:** Archives Conference Rm.  
800 Summer St. NE  
Salem, OR 97301

**Hearing Officer:** Craig Prins

**Stat. Auth.:** ORS 137.667 & 137.669

**Stats. Implemented:** ORS 163.185(1)(b)

**Proposed Amendments:** 213-018-0020

**Last Date for Comment:** 6-16-06, 2:30 p.m.

**Summary:** This amended rule clarifies that when a person commits an Assault in the First Degree against a child under six years old, the offense is always a crime category 10. The defendant may not argue that the crime should be a crime category 9 because the child precipitated the crime. This rule amendment is in response to the amendment of ORS 163.185 by HB 2322 by the 2005 legislature.

**Rules Coordinator:** Craig Prins

**Address:** 885 Summer Street NE, Salem, OR 97301

**Telephone:** (503) 378-4858

.....

## Oregon Film and Video Office Chapter 951

**Rule Caption:** Establish payment procedures; establish availability date of tax credits.

**Stat. Auth.:** ORS 284.300 - 284.315  
**Stats. Implemented:** ORS 736.75 & 736.82  
**Proposed Amendments:** 951-003-0005

**Last Date for Comment:** 6-28-06

**Summary:** Establish payment procedures; establish availability date of tax credits.

**Rules Coordinator:** Susan Haley

**Address:** Oregon Film and Video Office, 121 SW Salmon St., Ste. 1205, Portland, OR 97204

**Telephone:** (503) 229-5832

.....

**Rule Caption:** Greenlight Oregon Labor Rebate application, certification and withholding.

**Stat. Auth.:** ORS 284.300 - 284.315  
**Stats. Implemented:** ORS 736.75 - 736.82

**Proposed Adoptions:** 951-004-0000, 951-004-0001, 951-004-0002, 951-004-0003, 951-004-0004

**Last Date for Comment:** 6-28-06



# NOTICES OF PROPOSED RULEMAKING

**Summary:** Establishes procedures for administrating Greenlight Oregon Labor Rebate application, certification and withholding.

**Rules Coordinator:** Susan Haley

**Address:** Oregon Film and Video Office, 121 SW Salmon St., Ste. 1205, Portland, OR 97204

**Telephone:** (503) 229-5832

\*\*\*\*\*

**Rule Caption:** Procedures for Greenlight Oregon Labor Rebate payment of rebates.

**Stat. Auth.:** ORS 284.300 - 284.315

**Stats. Implemented:** ORS 736.75 - 736.82

**Proposed Adoptions:** 951-005-0000, 951-005-0001, 951-005-0002

**Last Date for Comment:** 6-28-06

**Summary:** Establishes procedures for Greenlight Oregon Labor Rebate payment of rebate.

**Rules Coordinator:** Susan Haley

**Address:** Oregon Film and Video Office, 121 SW Salmon St., Ste. 1205, Portland, OR 97204

**Telephone:** (503) 229-5832

\*\*\*\*\*

## Oregon Liquor Control Commission Chapter 845

**Rule Caption:** Amend rule which lists approved grape variety names to add Gruner Veltiner.

Date:	Time:	Location:
6-22-06	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, 730(1) & (5)

**Stats. Implemented:** ORS 471.340, 471.345 & 471.445

**Proposed Amendments:** 845-010-0915

**Last Date for Comment:** 7-6-06

**Summary:** This rule describes the grape variety names the Commission has approved for type designation on wine labels, and sets out standards for labeling of blended wines. The Commission has accepted a petition for rulemaking from a southern Oregon winery requesting amendment of the rule to add Gruner Veltiner to the list of approved variety names.

**Rules Coordinator:** Katie Hilton

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

**Telephone:** (503) 872-5004

\*\*\*\*\*

## Oregon State Marine Board Chapter 250

**Rule Caption:** Housekeeping amendments to reflect current policies and procedures for improved customer service.

**Stat. Auth.:** ORS 830.110

**Stats. Implemented:** ORS 830.110

**Proposed Amendments:** 250-010-0055

**Last Date for Comment:** 6-23-06

**Summary:** A physical inspection of a boat is required when the boat is brought into Oregon and has an out of state title or registration, or the boat is more than 20 years old or is homemade. If the paperwork submitted with an application for boat title shows an evident typographical error or misinterpretation of a number or letter on the HIN, the boat is to be inspected to verify the correct HIN prior to the Marine Board issuing an Oregon title and registration. This rule amendment provides remedies should the boat be unavailable for physical inspection. The rule makes it clear that a pencil tracing (rubbing) or digital photo of the manufacturer installed HIN will be accepted.

**Rules Coordinator:** Jill E. Andrick

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

**Telephone:** (503) 378-2617

**Rule Caption:** Implementing 2005 law providing reciprocity for Washington and Oregon outfitters/guides operating on the Columbia River.

**Stat. Auth.:** ORS 704.025, 830.110 & 830.435

**Stats. Implemented:** ORS 704.025, 830.110 & 830.435

**Proposed Adoptions:** 250-015-0006

**Proposed Amendments:** 250-016-0012

**Last Date for Comment:** 6-23-06

**Summary:** The 2005 Oregon Legislature passed a law providing the State Marine Board with authority to write rules to provide reciprocity for outfitters and guides and charterboats operating on the Columbia River between the Washington and Oregon. The purpose of these rules is to avoid the conflict, confusion and difficulty of an attempt to find the exact locations of the state boundary in or on the waters of the Columbia River while operating charterboats and providing outfitting and guiding services.

**Rules Coordinator:** Jill E. Andrick

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

**Telephone:** (503) 378-2617

\*\*\*\*\*

## Oregon University System Chapter 580

**Rule Caption:** To meet the legislative goal of maximizing contributions to technology development.

Date:	Time:	Location:
6-23-06	10 a.m.	1431 Johnson Ln. SCH 3rd Flr. Conf. Rm. Eugene, OR

**Hearing Officer:** Ginger Shaw

**Stat. Auth.:**

**Other Auth.:** OR Laws 2005, Ch. 592

**Stats. Implemented:**

**Proposed Adoptions:** 580-043-0060, 580-043-0065, 580-043-0070, 580-043-0075, 580-043-0080, 580-043-0085, 580-043-0090, 580-043-0095

**Last Date for Comment:** 6-30-06

**Summary:** Chapter 580, Division 043, authorizes each OUS institution to establish one Venture Development Fund for the purpose of facilitating the commercialization of research and development. The purpose of an institution's Fund shall be to provide qualified grant applicants with moneys to facilitate the commercialization of the institution's research and development. These rules are needed for OUS to meet the legislative goal of maximizing contributions to technology development.

**Rules Coordinator:** Marcia M. Stuart

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

**Telephone:** (541) 346-5749

\*\*\*\*\*

**Rule Caption:** Housekeeping adjustments update of provisions to the staff fee privilege rules 580-022-0030 and 0031.

**Stat. Auth.:** ORS 351.070

**Stats. Implemented:**

**Proposed Amendments:** 580-022-0030, 580-022-0031

**Last Date for Comment:** 6-21-06

**Summary:** Amendments to OAR 580-022-0030 and OAR 580-022-0031 update provisions of the staff fee rules. Updates to OAR 580-022-0030 include specifying that staff fee privileges apply only to employees of the Oregon University System; change the term "Centralized Activities" to "Chancellor's Office;" remove elapsed effective and review dates; and correct a typographical error. OAR 580-022-0031 is amended to remove reference to an affidavit used by the Public Employee's Benefit Board; clarifies that the benefit may not be parceled out to multiple family members during a single academic term; clarifies that the benefit may be transferred to dependents of domestic partners; eliminates reference to employees of Oregon Health & Science University which has not participated in OUS staff

# NOTICES OF PROPOSED RULEMAKING

fee privileges since 2001; and removes elapsed effective and review dates.

**Rules Coordinator:** Marcia M. Stuart  
**Address:** Oregon University System, PO Box 3175, Eugene, OR 97403-0175  
**Telephone:** (541) 346-5749

.....  
**Oregon University System,  
Portland State University  
Chapter 577**

**Rule Caption:** The Schedule of Fines and Fees for General Services and other charges.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-16-06	3 p.m.	Cramer Hall (CH 307) Portland, OR

**Hearing Officer:** Jeremy Dalton  
**Stat. Auth.:** ORS 351.070  
**Stats. Implemented:** ORS 352.360  
**Proposed Amendments:** 577-060-0020  
**Last Date for Comment:** 6-23-06

**Summary:** The proposed amendment establishes additional fees, charges, fines, and deposits for General Services for the 2006–2007 fiscal year.

**Rules Coordinator:** Jeremy Randall Dalton  
**Address:** Oregon University System, Portland State University, Portland State University, PO Box 751, Portland, OR 97207  
**Telephone:** (503) 725-3701

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

**Rule Caption:** Revises and establishes procedures for contracting and purchasing.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-5-06	3 p.m.	EMU, Alsea & Coquille Rms. University of Oregon Eugene, OR

**Hearing Officer:** Kathryn Daniel  
**Stat. Auth.:** ORS 371.070  
**Other Auth.:** ORS 351.086 & 351.087  
**Stats. Implemented:** ORS 351.070, 351.086, 351.087  
**Proposed Adoptions:** 571-040-0010, 571-040-0015, 571-040-0100, 571-040-0400  
**Proposed Amendments:** 571-040-0380, 571-040-0382, 571-040-0390  
**Proposed Repeals:** 571-040-0220, 571-040-0240, 571-040-0253, 571-040-0280  
**Proposed Ren. & Amends:** 571-040-0200 to 571-040-0201, 571-040-0210 to 571-040-0020, 571-040-0230 to 571-040-0040, 571-040-0243 to 571-040-0030, 571-040-0250 to 571-040-0251, 571-040-0260 to 571-040-0261, 571-040-0263 to 571-040-0460, 571-040-0270 to 571-040-0050, 571-040-0271 to 571-040-0450, 571-040-0290 to 571-040-0060, 571-040-0310 to 571-040-0070, 571-040-0320 to 571-040-0080, 571-040-0350 to 571-040-0410, 571-040-0352 to 571-040-0420, 571-040-0360 to 571-040-0430, 571-040-0361 to 571-040-0450, 571-040-0370 to 571-040-0440, 571-040-0371 to 571-040-0450  
**Last Date for Comment:** 7-6-06, 12 p.m.

**Summary:** In 1996, the University of Oregon adopted rules governing the procurement of goods and services. The proposed rule adoptions and amendments will: clarify which transactions are subject to the rules; set forth signature authority for various types of contracts and instruments; update a code of ethics applicable to university personnel; update applicable definitions; clarify the basis for awarding contracts; permit procurement by electronic means; add provisions governing the screening and selection for professional services contracts; streamline and update the processes governing the procurement of goods and non-professional services; set forth a com-

prehensive process for making determinations regarding responsiveness and disqualifications; and set forth a comprehensive process for protests.

**Rules Coordinator:** Connie Tapp  
**Address:** Oregon University System, University of Oregon, 1226 University of Oregon, Eugene, OR 97403  
**Telephone:** (541) 346-3082

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

**Rule Caption:** Amendment to OAR 736-018-0045 for adoption of the Thompson's Mills State Heritage Site Master Plan.

**Stat. Auth.:** ORS 390.180 & 390.124  
**Stats. Implemented:** ORS 390.180(1)  
**Proposed Amendments:** 736-018-0045  
**Last Date for Comment:** 7-5-06

**Summary:** ORS 390.180(1)(c) authorizes the Director of the Oregon Parks and Recreation Department (OPRD) to adopt administrative rules that establish a master plan for each state park. Accordingly, OPRD is adopting a master plan for Thompson's Mills State Heritage Site. Master plans for state parks are adopted as state rules under OAR 736-018-0045. The purpose of amending OAR 736-018-0045 is to adopt the new master plan as a state rule.

The master plan responds to the most current information on park resource conditions and public recreation needs as they pertain to this park. The plan was formulated through OPRD's mandated master planning process involving meetings with the general public, an advisory committee, affected interest groups, and affected state and federal agencies and local government.

**Rules Coordinator:** Pamela Berger  
**Address:** Parks and Recreation Department, 725 Summer St. NE, Ste. C, Salem, OR 97301  
**Telephone:** (503) 986-0719

.....  
**Secretary of State,  
Corporation Division  
Chapter 160**

**Rule Caption:** Updates current rules governing distinguishability to clarify and simplify name availability criteria.

**Stat. Auth.:** ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648  
**Stats. Implemented:** ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580; 554.005 & 648.051  
**Proposed Adoptions:** 160-010-0011, 160-010-0012, 160-010-0013, 160-010-0014

**Proposed Amendments:** 160-010-0010  
**Last Date for Comment:** 6-23-06, 5 pm

**Summary:** These rules detail the criteria used to determine if business names, including corporations, partnerships and assumed business names, may be registered with the Corporation Division. The statutory standard is that names may only be registered if they are "distinguishable on record." These rules define what does and does not make a name "distinguishable."

No changes have been made to the substance of the current rule.  
**Rules Coordinator:** Kristine Hume Bustos  
**Address:** 255 Capitol St. NE Ste. 151, Salem, OR 97310  
**Telephone:** 503-986-2356

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

**Rule Caption:** Schedule and fees for providing statewide and less than statewide voter lists.

**Stat. Auth.:** ORS 192.440 & 246.150  
**Stats. Implemented:** ORS 192.440  
**Proposed Adoptions:** 165-002-0020  
**Last Date for Comment:** 6-23-06

## NOTICES OF PROPOSED RULEMAKING

**Summary:** This rule sets forth the schedule and fees for providing statewide and less than statewide voter lists.

**Rules Coordinator:** Brenda Bayes

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

**Telephone:** (503) 986-1518

\*\*\*\*\*  
**Teacher Standards and Practices Commission**  
**Chapter 584**

**Rule Caption:** Need for editorial corrections and adoption of 584-042-0002 to give effect to other rules before the Commission.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-27-06	1–2:30 p.m.	TSPC Office 465 Commercial St. NE Salem, OR 97301

**Hearing Officer:** Victoria Chamberlain

**Stat. Auth.:** ORS 342

**Stats. Implemented:** ORS 342.120 - 342.430 & 342.455 - 342.495

**Proposed Adoptions:** 584-042-0002

**Proposed Amendments:** 584-005-0005, 584-050-0004, 584-050-0030

**Last Date for Comment:** 6-27-06, 5 p.m.

**Summary:** 584-005-0005 *Definitions* (for all Divisions) — Removes definitions related to professional technical licenses and moves them to Division 42 under a new administrative rule. Also removes a definition for Small Schools which is not used in any administrative rule. Renumbers remaining rules.

584-042-0002 *Definitions* (for Division 42 only) — Creates a new rule for the definitions that were formerly in Division 005. Amends the definition of Instructor Appraisal Committee.

584-050-0004 *Procedure for Incomplete Application* — Changes rule to reflect current practice.

584-050-0030 *Serving Without Proper Licensure* — Deletes obsolete references in the rule.

**Rules Coordinator:** Victoria Chamberlain

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

**Telephone:** (503) 378-6813

# ADMINISTRATIVE RULES

## Board of Examiners for Speech-Language Pathology and Audiology Chapter 335

**Rule Caption:** Adds rule to define requirements for sales of hearing aids; revises record-keeping requirement for audiologists.

**Adm. Order No.:** SPA 1-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 4-1-06

**Rules Adopted:** 335-005-0030, 335-005-0035

**Rules Amended:** 335-005-0025

**Subject:** Rule 335-005-0025 is amended to reflect that audiologists who are the sole provider of hearing aids at a business location are not required to keep a record of the hours spent at their business location(s).

Adoption of rules 335-005-0030 and 335-005-0035 provide consumer protection for consumers who purchase hearing aids from audiologists.

**Rules Coordinator:** Brenda Felber—(971) 673-0220

### 335-005-0025

#### Accurate Representation

(1) Individuals shall not misrepresent their credentials, competence, education, training, or experience.

(2) Individuals shall not misrepresent the credentials of assistants and shall inform those they serve professionally of the name and professional credentials of persons providing services.

(3) Individuals shall not transfer to a noncertified individual any responsibility which requires the unique skills, knowledge, and judgement that is within the scope of practice of that professional.

(4) Individuals shall not misrepresent diagnostic information, services rendered, or products dispensed or engage in any scheme or artifice to defraud in connection with obtaining payment or reimbursement for such services or products.

(5) Individuals' statements to the public shall provide accurate information about the nature and management of communication disorders, about the professions, and about professional services.

(6) Individuals' statements to the public advertising, announcing, and marketing their professional services, reporting research results, and promoting products shall adhere to prevailing professional standards and shall not contain misrepresentations.

(7) Individuals shall not engage in any scheme or enter into any arrangement whereby clients are referred to or from any person or business entity in return for any remuneration of any kind, including referrals back to the person or business entity.

(8) Individuals shall not engage in dishonesty, fraud, misrepresentation, or any form of conduct that adversely reflects on the individual's fitness to serve persons professionally.

(9) Individuals' statements to colleagues about professional services, research results, and products shall contain no misrepresentations.

(10) At any time the licensee is disciplined or convicted of a crime, the licensee shall immediately report the incident to the Board.

(11) Audiology licensees may not consult with, contract with, or be employed by a business that dispenses hearing aids if the business holds itself out as having an audiologist on staff or providing audiology services unless audiology licensees provide audiological services as follows:

(a) The licensee, in combination with other audiology licensees or alone, performs audiology evaluations or hearing fitting services or both at each of the business locations that is advertised as having an audiologist on staff or providing audiology services;

(b) The licensee, or the licensee and other licensees, are physically present for at least 30 hours per month at each of the business locations that is advertised as having an audiologist on staff or providing audiology services; and

(c) The licensee keeps a record of the hours he or she spends at each of the business locations that is advertised as having an audiologist on staff or providing audiology services.

(11) (a,b,c) above does not apply if audiologist licensees are the sole providers of hearing aids at a business location.

(12) Except as described in section 13 of this rule, a licensee shall not sign, or authorize anyone else to sign on the licensee's behalf, letters or reports purporting to describe the function or condition of any person unless the licensee has personally performed testing of the person.

(13) If support personnel or a student in supervised practicum provide services, the name of the assistant or the student and a description of duties performed must be clearly referenced in any formal documents (e.g. letters, treatment plans, reports) signed by the licensee.

Stat. Auth.: ORS 681

Stats. Implemented: ORS 681.330

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2004, f. & cert. ef. 2-6-04; SPA 2-2004, f. & cert. ef. 5-26-04; SPA 1-2005, f. & cert. ef. 9-13-05; SPA 1-2006, f. & cert. ef. 5-8-06

### 335-005-0030

#### Statement to Prospective Hearing Aid Consumer; Contents; Copy Retained

(1) Prior to consummation of the sale of a hearing aid, the audiologist shall provide to the consumer a written statement. The statement shall be in a format prescribed by the Board of Examiners for Speech-Language Pathology and Audiology and shall include but not be limited to all of the following:

(a) The name and address of the prospective hearing aid user.

(b) The date of the sale.

(c) The make, model, and serial number of the hearing aid or aids sold.

(d) A statement on the condition of the hearing aid: new, reconditioned, or used. A used hearing aid is a hearing aid that has been worn for any period of time, excepting hearing aids worn as part of hearing aid evaluations. A reconditioned hearing aid is a used hearing aid that has been rebuilt or is a hearing aid that consists of both old and new parts.

(e) The terms of any guarantee or expressed warranty with respect to the hearing aid or hearing aids.

(f) Statement of right to rescind the sale, length of trial period (minimum 30 days), procedure for extending trial period, procedure for rescinding sale, and the date by which the hearing aid(s) need to be returned to rescind the sale.

(g) The business address of the audiologist.

(h) The name, license number and signature of the audiologist selling the hearing aids.

(i) The address of the Board and the procedure for filing a complaint under ORS 681.

(j) In no smaller type than the largest used in the body copy portion, the following bordered statement: "*It is desirable that a person seeking help with a hearing problem (especially for the first time) consult an ear doctor and obtain a medical ear evaluation. Although hearing aids are often recommended for hearing problems, another form of treatment may be necessary.*"

(k) A statement acknowledging that the consumer has read and understands the information contained in the sales agreement, signed by the consumer and dated.

(2) A duplicate copy of the statement required under subsection (1) of this section is a clinical record and as such must be kept for seven years by the audiologist selling the hearing aid.

Stat. Auth.: ORS 681.420(5), 681.460

Stat. Implemented: ORS 681.420

Hist.: SPA 1-2006, f. & cert. ef. 5-8-06

### 335-005-0035

#### Right to Rescind Hearing Aid Purchase and Time Limit; Refund; Post Delivery Session

(1) Any monies paid by or on behalf on the consumer toward the purchase of a hearing aid shall be refunded to the payer if the delivery of the hearing aid to the consumer is cancelled.

(2) After delivery of the hearing aid to the consumer, the consumer shall have the right to rescind the hearing aid purchase for any reason within 30-days from the date of initial fitting by returning the hearing aid to the place of business either in person or by certified mail. Any hearing aid returned must be in good condition less normal wear and tear. If any hearing aid has been out of the consumer's possession for a period of 72 hours or more for any alteration or adjustment during the 30 day rescission period, the 30 day rescission period is restarted. The length of the rescission period may exceed 30 days by written agreement between the consumer and the audiologist.

(3) After delivery of the hearing aid(s) to the consumer, the audiologist may retain 10% of the purchase price or a maximum of \$250 per hearing aid when the consumer rescinds the sale during the rescission period. The purchaser shall incur no additional liability for the cancellation.

(4) The audiologist will conduct and document a minimum of one post-delivery follow-up session with the consumer before the expiration of the 30-day trial period. The audiologist must document in the clinical



# ADMINISTRATIVE RULES

record if the consumer can not be located or fails to attend the follow-up session.

Stat. Auth.: ORS 681.420(5), 681.460  
Stat. Implemented: ORS 681.420  
Hist.: SPA 1-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Clarifies professional development requirements and revises conditional licensee supervisory requirements to conform to law.

**Adm. Order No.:** SPA 2-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 335-070-0040, 335-070-0060, 335-070-0065, 335-080-0005

**Subject:** Rules in Division 70 relate to professional development requirements:

-Allows undergraduate coursework as a pre-approved activity for speech-language pathology assistants.

-Clarifies definition of allowable inservice topics.

-Allows consideration of late requests for approval of professional development activities at most times during the licensing period if the delinquent fee is paid.

-Removes obsolete language regarding professional development requirements for dual licensees.

Rule in Division 80 is revised to conform to the law change that no longer allows a non-Board licensed speech-language pathologist with a Certificate of Clinical Competence from the American Speech and Hearing Association to provide supervision of the Board conditional licensee in the professional setting.

**Rules Coordinator:** Brenda Felber—(971) 673-0220

## 335-070-0040

### Procedures for Approval of Professional Development Offerings

Approval of professional development activities not specified above may be requested from the Board by an institution, organization, agency or individual licensee. Such requests may be submitted before or after the professional development activity takes place. If prior approval is required, requests must be received by the Board office no later than 60 days prior to the commencement of the activity. Requests for approval following an activity must be received by the Board office no later than 30 days after the professional development offering takes place. If the request is made later than 30 days after the professional development offering takes place but prior to November 1st of each odd-numbered year, the requestor will pay the delinquent fee to have the request considered for approval. No special requests for the current licensing period will be considered between November 1st of odd-numbered years and January 30 of even-numbered years. All requests must be submitted on a form provided by the board, stating the type of learning activity, the subject matter, the names and qualifications of the instructors and the number of professional development hours offered. An activity shall qualify for approval if the board determines that the activity:

(1) Is an organized program of learning; and

(2) Pertains to subject matter which integrally relates to the practice of speech-language pathology and/or audiology; and

(3) Contributes to the professional competency of the licensee; and

(4) Is conducted by individuals who have education, training or experience acceptable to the Board.

(5) Credit for the hours of a single presentation will be acceptable if the presenter submits the request for approval within the required time-frame and meets criteria (1) through (4) above.

(6) Credit will not be given for attending or participating in a particular activity more than once in a licensing period.

Stat. Auth.: ORS 681.420(5) & 681.460

Stat. Implemented: ORS 681.320(1)(a)

Hist.: SPA 2-1996, f. & cert. ef. 7-22-96; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2005, f. & cert. ef. 9-13-05; SPA 2-2006, f. & cert. ef. 5-8-06

## 335-070-0060

### New Licensees

Professional development for new licensees will be required on the following scale:

(1) Licensed prior to July of even-numbered years — report the full number of required hours.

(2) Licensed from August 1st of even-numbered years through July of odd-numbered years — report half of required number of hours.

(3) Licensed after July 31st of odd-numbered years — no report is required.

Stat. Auth.: ORS 681.420(5) & 681.460

Stat. Implemented: ORS 681.320(1)(a)

Hist.: SPA 2-1996, f. & cert. ef. 7-22-96; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2003, f. & cert. ef. 5-7-03; SPA 1-2004, f. & cert. ef. 2-6-04; SPA 2-2004, f. & cert. ef. 5-26-04; SPA 1-2005, f. & cert. ef. 9-13-05; SPA 2-2006, f. & cert. ef. 5-8-06

## 335-070-0065

### Dual Licensees

(1) Effective January 31, 2004, each applicant for renewal of a dual license shall complete forty (40) clock hours of documented and approved professional development in audiology and forty (40) clock hours of documented and approved professional development in speech-language pathology to be reported at renewal on January 30, 2006 and at each renewal thereafter. A maximum of twenty (20) hours may be applied to both license categories if the topic is applicable to both types of licenses. A class in CPR may be counted only once.

(2) Approved professional development hours completed in excess of the requirement shall not be carried over to the subsequent renewal period.

Stat. Auth.: ORS 681.420(5) & 681.460

Stat. Implemented: ORS 681.250(1) & 681.320(1)(a)

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2003, f. & cert. ef. 5-7-03; SPA 2-2006, f. & cert. ef. 5-8-06

## 335-080-0005

### Definitions

(1) Agent means a licensee of the Board designated by a supervisor under section 335-080-0202.

(2) Business Entity includes an individual practitioner, partnership, corporation, or association.

(3) A Conditional License is a license certificate issued by the Board to applicants meeting the requirements as stated in ORS 681.260(2). The license provides for the licensee to work under supervision while completing the required nine months of supervised post-educational professional experience and/or until the licensee successfully passes the required examination.

(4) Supervisor means a licensed speech-language pathologist or audiologist who undertakes responsibility for managing and directing a conditional licensee in nine months of full-time post-educational professional employment. A supervisor must be a fully licensed speech-language pathologist or audiologist.

Stat. Auth.: ORS 681

Stat. Implemented: ORS 681.325, 681.260(4) & (5)

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 2-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Defines means for assistant applicants to obtain clock hours in work settings and the supervisory permission qualifications.

**Adm. Order No.:** SPA 3-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 335-095-0010, 335-095-0030, 335-095-0055

**Subject:** Rules 095-0010 and 095-0030 add an alternative way for an applicant to obtain the required number of supervised clinical clock contact hours.

Rule 095-0055 better defines the licensing requirement for applicants requesting a permit to supervise speech assistants in the schools.

**Rules Coordinator:** Brenda Felber—(971) 673-0220

## 335-095-0010

### Definitions

(1) Approved Training Program: A post secondary training program that has approval by the Oregon Board of Examiners for Speech-Language Pathology & Audiology to offer specific coursework and practica leading to licensure as a speech-language pathology assistant.

(2) Assessment: A qualitative and quantitative process, conducted by a licensed SLP, that measures the degree of communication impairment conducted by a licensed SLP including, but not limited to, screening, norm and criterion referenced testing, behavioral observations, and clinical interview.

(3) Clinical Interaction: Supervised practicum or work setting in speech-language pathology.

# ADMINISTRATIVE RULES

(4) Direct Supervision: On-site, in-view observation and guidance by a speech-language pathologist while an assigned clinical activity is performed by a speech-language pathology assistant.

(5) Indirect Supervision: Those activities other than direct observation and guidance conducted by a speech-language pathologist that may include consultation, record review, review and evaluation of audio-or videotaped sessions.

(6) Speech-Language Pathology Assistant: A person who provides speech-language pathology services under the direction and supervision of a speech-language pathologist licensed under ORS 681.250.

Stat. Auth.: ORS 681.205, 681.360, 681.370, 681.375, 681.420 & 681.460

Stats. Implemented: ORS 681.360, 681.370 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 3-2006, f. & cert. ef. 5-8-06

## 335-095-0030

### Certification of Speech-Language Pathology Assistants

Applicants not qualifying by grandparenting under rule 335-095-0020 must submit all of the following to be eligible for certification.

(1) Transcripts showing 45 quarter hours or 30 semester hours of speech-language pathology technical course work; and

(2) Transcripts showing 45 quarter hours or 30 semester hours of general education credit; and

(3) Written evidence of 100 clock contact hours of clinical interaction.

(a) Clinical interaction must be face to face interaction with clients and supervised 100% of the time. Activities may include speech and hearing screenings and individual or small group and classroom sessions over a recommended 8-12-week period.

(b) Clinical interaction documentation must show the date, clinical activity, amount of time and the supervisor's initials and signature. A supervisor must be licensed or have a permit to supervise assistants from this Board.

(c) The supervising speech-language pathologist and the applicant will complete the Board's Competency Checklist upon completion of 100 hours. If there is more than one supervisor, all supervisors must be listed and one must sign the checklist.

(d) Applicants presenting transcripts showing practicum course(s) with the required number of clock contact hours of clinical interaction are not required to submit the completed Board Competency Checklist.

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

Stat. Implemented: ORS 681.360 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 1-2004, f. & cert. ef. 2-6-04; SPA 2-2004, f. & cert. ef. 5-26-04; SPA 3-2006, f. & cert. ef. 5-8-06

## 335-095-0055

### Permission for Supervisors of Speech-language Pathology Assistants in Schools

A speech-language pathologist holding either a basic license in speech impaired or a standard teaching license in speech impaired or an initial or continuing teaching license in communication disorders issued by the Teacher Standards and Practices Commission, may supervise a speech-language pathology assistant working in a school if the following conditions are met:

(1) The speech-language pathologist meets the requirements of OAR 335-095-0040.

(2) The speech-language pathologist agrees to supervise according to OAR 335-095-0050(2).

(3) The speech-language pathologist completes an application prescribed by the Board and pays the required application fee on an annual basis.

Stat. Auth.: ORS 681.230, 681.360, 681.375, 681.420 & 681.460

Stats. Implemented: ORS 681.360 & 681.375

Hist.: SPA 1-2005, f. & cert. ef. 9-13-05; SPA 3-2006, f. & cert. ef. 5-8-06

## Board of Investigators Chapter 220

**Rule Caption:** Repeals rules relating to Oregon Board of Investigators.

**Adm. Order No.:** BI 1-2006

**Filed with Sec. of State:** 5-15-2006

**Certified to be Effective:** 5-15-06

**Notice Publication Date:** 2-1-06

**Rules Repealed:** 220-001-0010, 220-001-0020, 220-001-0030, 220-001-0040, 220-001-0050, 220-005-0005, 220-005-0010, 220-005-0015, 220-005-0110, 220-005-0115, 220-005-0120, 220-005-0130, 220-005-0135, 220-005-0140, 220-005-0150, 220-005-0160, 220-005-0170, 220-005-0180, 220-005-0210, 220-005-0220, 220-005-

0225, 220-005-0230, 220-005-0240, 220-005-0245, 220-005-0250, 220-010-0020, 220-010-0030, 220-010-0050, 220-010-0060, 220-010-0200, 220-010-0300, 220-030-0035, 220-040-0015, 220-040-0025, 220-040-0035, 220-040-0045, 220-040-0050, 220-050-0105, 220-050-0110, 220-050-0140, 220-050-0150, 220-050-0300

**Subject:** Repeals rules relating to the regulation of private investigators by the Oregon Board of Investigators and effectively transfers regulation to Department of Public Safety Standards and Training.

**Rules Coordinator:** Bonnie Salle—(503) 378-2431

\*\*\*\*\*

## Board of Medical Examiners Chapter 847

**Rule Caption:** Specify that licensees in Oregon border towns may register under active status.

**Adm. Order No.:** BME 7-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 847-008-0015

**Subject:** The adopted rule specifies that licensees whose practice address is within 100 miles of the Oregon border and who intend to practice in Oregon may register under active status.

**Rules Coordinator:** Diana M. Dolstra—(971) 673-2713

## 847-008-0015

### Active Registration

Each licensee of the Board who practices within the State of Oregon shall register and pay a biennial active registration fee prior to the last day of the registration period, except where:

(1) The licensee is in a qualified training program and elects to register on an annual basis.

(2) The licensee practices on an intermittent, locum-tenens basis, as defined in OAR 847-008-0020.

(3) The licensee is in the Military or Public Health Service where the licensee's official state of residence is Oregon as documented by a defense Finance and Accounting Service Military Leave and Earnings Statement, an Oregon voter registration card, or an Oregon driver license, then licensee may maintain an active status by request and by paying the active fee. Practice must be limited to the military or public health service. Licensee must file an affidavit before beginning active practice in Oregon.

(4) The licensee practices teleradiology, as defined in OAR 847-008-0022.

(5) Each licensee of the Board whose practice address of record with the Board is within 100 miles of the border of the State of Oregon and who intends to practice within Oregon shall qualify for active registration status. Such licensee shall submit a statement to the Board attesting to practice in Oregon.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.228

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 5-1991, f. & cert. ef. 7-24-91; BME 2-2004, f. & cert. ef. 1-27-04; BME 14-2004, f. & cert. ef. 7-13-04; BME 7-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Create new license status of Active - Telemonitoring for physicians who practice outside of Oregon.

**Adm. Order No.:** BME 8-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Adopted:** 847-008-0023

**Subject:** The adopted rule creates new license status of Active - Telemonitoring to allow a physician who practices in a location outside of Oregon to provide intraoperative monitoring of data collected during surgery in Oregon and electronically transmitted to the out-of-state physician for the purpose of allowing the monitoring physician to notify the Oregon operating team of changes that may have a serious effect on the outcome and/or survival of the patient.

**Rules Coordinator:** Diana M. Dolstra—(971) 673-2713

## 847-008-0023

### Telemonitoring Registration

(1) Telemonitoring is the intraoperative monitoring of data collected during surgery and electronically transmitted to a physician who practices

# ADMINISTRATIVE RULES

in a location outside of Oregon via a telemedicine link for the purpose of allowing the monitoring physician to notify the operating team of changes that may have a serious effect on the outcome and/or survival of the patient. The monitoring physician is in communication with the operation team through a technician in the operating room.

(2) The facility where the surgery is to be performed must be a licensed hospital or ambulatory surgical center licensed by the Department of Human Services, must grant medical staff membership and/or clinical privileges to the monitoring physician, and must request the Board of Medical Examiners grant Active — Telemonitoring status to the monitoring physician to perform intraoperative telemonitoring on patients during surgery.

(3) Physicians granted Active — Telemonitoring status shall register and pay a biennial active registration fee. The licensee must file an Affidavit of Reactivation before beginning active practice in Oregon.

Stat. Auth.: ORS 677.265  
Stats. Implemented: ORS 677.172  
Hist.: BME 1-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 8-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Set forth what shall be included in report to the Board by licensee or healthcare facility.

**Adm. Order No.:** BME 9-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 11-1-04

**Rules Amended:** 847-010-0073

**Subject:** The adopted rule sets forth what shall be included in a report from a healthcare facility, organization or individual required to report to the Board any official action, incident or event taken against or involving a Board licensee, based on a finding of medical incompetence, unprofessional conduct, or licensee impairment, within ten working days of their occurrence.

**Rules Coordinator:** Diana M. Dolstra—(971) 673-2713

## 847-010-0073

### Reporting Incompetent or Impaired Physicians to the Board

(1) ORS 677.415 requires health care facilities and Board licensees to report to the Board of Medical Examiners any official action, incident or event taken against or involving a Board licensee, based on a finding of medical incompetence, unprofessional conduct, or licensee impairment, within ten working days of their occurrence. For the purposes of the statute, the terms medical incompetence, unprofessional conduct, and impaired licensee have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

(B) Mental or emotional illness.

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

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

(3) A report made by a healthcare facility, organization or individual to the Board of Medical Examiners under ORS 677.415 shall include the following information:

(a) The name and title of the person making the report;

(b) Where an "official action, incident or event," including a voluntary resignation, or voluntary limitation of staff privileges at an institution while under investigation has been taken against a licensee, a statement describing the action and the name, job title and location of the licensee being reported;

(c) A description of the basis for the action, including voluntary resignation or voluntary limitation of staff privileges at an institution while under investigation, not to include information pursuant to ORS 41.675; and

(d) To facilitate the Board investigation, a complete list of patients and the medical record numbers which were reviewed and are relevant to the action.

(4) In addition to the subject matter of a report required under section (3) of this rule, a licensee shall include in his/her written report a summary of the licensee's understanding of the complaint giving rise to the reporting requirement.

(5) All required reports shall be made in writing.

(6) Any person who reports or provides information to the board under ORS 677.205 and 677.410 to 677.425 and who provides information in good faith shall not be subject to an action for civil damages as a result thereof.

Stat. Auth.: ORS 677.265  
Stats. Implemented: ORS 677.415  
Hist.: BME 5-2004, f. & cert. ef. 4-22-04; BME 9-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Allows waivers of licensure and examination requirements for applicants for unlimited licensure.

**Adm. Order No.:** BME 10-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 847-020-0130, 847-020-0170

**Subject:** The adopted rules allow licensure for foreign medical graduate applicants who have obtained four years of practice in another state similar to the Board's Limited License Medical Faculty; allow waiver of the three attempt limit for USMLE Step 3 if the applicant is American Board (ABMS) certified; allow waiver of the 7-year requirements for USMLE Steps 1, 2 and 3 for applicants who are American Board (ABMS) certified or have completed continuous post-graduate training equivalent to an MD/DO/PhD program.

**Rules Coordinator:** Diana M. Dolstra—(971) 673-2713

## 847-020-0130

### Basic Requirements for Licensure of a Foreign Medical School Graduate

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

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

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

(b) Must have graduated from a foreign school of medicine that is chartered in the country in which the school is located, after attendance of at least four full terms of instruction of eight months each, with all courses



# ADMINISTRATIVE RULES

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

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

(d) Must have satisfactorily completed an approved internship and/or residency (or clinical fellowship) in the United States or Canada of not less than three years of progressive training in not more than two specialties in not more than two training programs accredited for internship, residency or fellowship training by the Accreditation Council for Graduate Medical Education or the College of Family Physicians of Canada or the Royal College of Physicians and Surgeons of Canada or the American Osteopathic Association. The following may be used in lieu of the three years of post graduate training:

(A) A valid certificate issued by a specialty board recognized by the American Board of Medical Specialties; or

(B) Successful completion of four years of practice in Oregon under a Limited License, Medical Faculty, in accordance with OAR 847-020-0140(1)(b)-(c); or

(C) Successful completion of four years of practice in another state or the District of Columbia under a license substantially similar to the Board's Limited License, Medical Faculty.

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

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 8-2002, f. & cert. ef. 7-17-02; BME 10-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 15-2004, f. & cert. ef. 7-13-04; BME 8-2005, f. & cert. ef. 7-20-05; BME 4-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 10-2006, f. & cert. ef. 5-8-06

## 847-020-0170

### Written Examination, SPEX Examination and Personal Interview

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

(a) Federation Licensing Examination (FLEX) Component I and FLEX Component 2.

(b) National Board of Medical Examiners (NBME) Part I and Part II and Part III.

(c) National Board of Medical Examiners (NBME) Part I or United States Medical Licensing Examination (USMLE) Step 1, and NBME Part II or USMLE Step 2 and NBME Part III or USMLE Step 3.

(d) NBME Part I or USMLE Step 1, and NBME Part II or USMLE Step 2, and FLEX Component 2.

(e) FLEX Component 1 and USMLE Step 3. A score of 75 or above must be achieved on FLEX Component 1 and the score achieved on USMLE Step 3 must be equal to or exceed the figure established by the Federation as a recommended passing score.

(f) The score achieved on each Step, Part or Component must equal or exceed the figure established by the USMLE Program, the National Board of Medical Examiners or the Federation of State Medical Boards as a passing score. All Steps, Parts or Components listed in OAR 847-020-0170(1)(a)-(f) must be administered prior to January 2000, except for applicants who participated in and completed a combined MD/DO/PhD program; or

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

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

(A) An applicant who has not passed all three Steps or Levels within the seven-year period may request an exception to the seven-year requirement if he/she:

(I) Has current certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists; or

(II) Suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's medical or osteopathic study; or

(III) Participated in a combined MD/DO/PhD program; or

(IV) Completed continuous post-graduate training with the equivalent number of years to an MD/DO/PhD program.

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

(C) An applicant who has passed USMLE Step 3 or COMLEX Level 3, but not within the four attempts required by OAR 847-020-0170(1)(h)(B), may request a waiver of this requirement if he/she has current certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists.

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

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

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

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



# ADMINISTRATIVE RULES

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

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

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

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

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

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

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

(A) Completed an accredited one year residency; or

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

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

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

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

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

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

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

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

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

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

(8) An applicant shall be required to pass an open-book examination on the Medical Practice Act (ORS chapter 677) and an open-book examination on the Drug Enforcement Administration Pharmacist Manual. If an applicant fails one or both examinations three times, the applicant's application will be reviewed by the Administrative Affairs Committee of the Board of Medical Examiners. An applicant who has failed one or both open-book examinations three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the examination(s), before being given a fourth and final attempt to pass the examination(s). If the applicant does not pass the examination(s) on the fourth attempt, the applicant may be denied licensure.

(9) After the applicant has met all requirements for licensure, the applicant may be required to appear before the Board for a personal inter-

view regarding information received during the processing of the (application). The interview shall be conducted during a regular meeting of the Board. An applicant who fails to cancel a scheduled interview at least one week prior to such interview, or who confirms and does not appear, shall be rescheduled only after paying a rescheduling fee prior to the filing deadline date.

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110, 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 5-2003, f. & cert. ef. 1-27-03; BME 10-2003, f. & cert. ef. 5-2-03; BME 14-2003(Temp), f. & cert. ef. 9-9-03 thru 3-1-04; BME 3-2004, f. & cert. ef. 1-27-04; BME 7-2004, f. & cert. ef. 4-22-04; BME 15-2004, f. & cert. ef. 7-13-04; BME 8-2005, f. & cert. ef. 7-20-05; BME 3-2006, f. & cert. ef. 2-8-06; BME 4-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 10-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Identify circumstances under which to accept and/or report requests to withdraw a licence application.

**Adm. Order No.:** BME 11-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Adopted:** 847-020-0185

**Subject:** The adopted rule identifies the circumstances under which a request by an applicant to withdraw his/her application for licensure will be considered and under what circumstances the withdrawal will be reported to the Federation of State Medical Boards. The rule specifies that the Board will consider a request to withdraw the application if the applicant is eligible for licensure and the file contains no evidence of violation of any provision of ORS 677, the Medical Practice Act. The rule further specifies that an applicant may request to withdraw his/her application and the withdrawal will be reported to the Federation of State Medical Boards under the following circumstances: the applicant is eligible for licensure and the file contains evidence that the applicant may have violated any provision of ORS 677, the Medical Practice Act, but there appears to be insufficient basis to proceed to formal discipline or another licensing body has imposed discipline for the same conduct and that action has been reported to the National Practitioner, Data Bank and Healthcare Integrity and Protection Data Bank.

**Rules Coordinator:** Diana M. Dolstra—(971) 673-2713

## 847-020-0185

### License Application Withdrawals

(1) The Board will consider a request by an applicant to withdraw his/her application for licensure in the State of Oregon under the following circumstances:

(a) The applicant is eligible for licensure; and

(b) The file contains no evidence of violation of any provision of ORS 677.010 – 677.855.

(2) An applicant may request to withdraw his/her application for licensure in the State of Oregon and the withdrawal will be reported to the Federation of State Medical Boards under the following circumstances:

(a) The applicant is eligible for licensure; and

(b) The file contains evidence that the applicant may have violated any provision of ORS 677.010 – 677.855, but the Board has decided that there is an insufficient basis to proceed to formal discipline, or a licensing body in another state has imposed formal discipline or entered into a consent agreement for the same conduct, and that action has been reported to the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.190, 677.265

Hist.: BME 11-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Define agent in supervision of physician assistants.

**Adm. Order No.:** BME 12-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 847-050-0010

**Subject:** The adopted rule defines "agent" as a physician designated by the supervising physician who provides supervision of the

# ADMINISTRATIVE RULES

medical services of a physician assistant for a predetermined period of time.

**Rules Coordinator:** Diana M. Dolstra—(971) 673-2713

## 847-050-0010

### Definitions

As used in OAR 847-050-0005 to 847-050-0065:

(1) "Agent" means a physician designated by the supervising physician who provides supervision of the medical services of a physician assistant for a predetermined period of time.

(2) "Board" means the Board of Medical Examiners for the State of Oregon.

(3) "Committee" means Physician Assistant Committee.

(4) "Grandfathered physician assistant" means the physician assistant registered prior to July 12, 1984 who does not possess the qualifications of OAR 847-050-0020. Grandfathered physician assistants may retain all practice privileges which have been granted prior to July 12, 1984. All changes in practice descriptions after July 12, 1984 by grandfathered physician assistants must be pre-approved by the Board.

(5) "Physician assistant" means a person who is licensed as such in accordance with ORS 677.265, 677.495, 677.0505, 677.510, 677.515, 677.520, and 677.525.

(6) "Practice description" means a written description submitted by the supervising physician and the physician assistant to the Board of the duties and functions of the physician assistant in relation to the physician's practice.

(7) "Supervising physician" means a physician licensed under ORS Chapter 677, actively registered and in good standing with the Board as a Medical Doctor or Doctor of Osteopathic Medicine, who provides direction and regular review of the medical services provided by the physician assistant as determined to be appropriate by the Board.

(8) "Supervision" means the routine review by the supervising physician or designated agent, as described in the practice description and as determined to be appropriate by the Board, of the medical services provided by the physician assistant. The supervising physician or designated agent and the physician assistant shall maintain direct communication, either in person or by telephone, radio, radiotelephone, television or similar means. There are three categories of supervision based on the practice situation of the supervising physician or designated agent and the physician assistant:

(a) "Direct Supervision" means the supervising physician or designated agent must be in the facility when the physician assistant is practicing.

(b) "General Supervision" means the supervising physician or designated agent is not on-site with the physician assistant, but is available for direct communication, either in person or by telephone, radio, radiotelephone, television or similar means.

(c) "Personal Supervision" means the supervising physician or designated agent must be at the side of the physician assistant at all times, personally directing the action of the physician assistant.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.495

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; BME 4-2002, f. & cert. ef. 4-23-02; BME 13-2003, f. & cert. ef. 7-15-03; BME 12-2006, f. & cert. ef. 5-8-06

.....

**Rule Caption:** Establish procedures resulting from multiple failures of open-book examinations.

**Adm. Order No.:** BME 13-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 847-050-0025

**Subject:** The adopted rule establishes that applicants for physician assistant licensure and the applicant's supervising physician who has not been previously Board-approved as a supervising physician shall be required to pass an open-book examination on the Medical Practice Act and Oregon Administrative Rules Chapter 847, Division 050. The proposed rule further establishes the consequences and procedures the Board shall follow in the event that the physician assistant applicant or supervising physician applicant fails the open-book examination three times.

**Rules Coordinator:** Diana M. Dolstra—(971) 673-2713

## 847-050-0025

### Interview and Examination

(1) In addition to all other requirements, the Board may require prior to original licensure the applicant and the applicant's supervising physician to appear for a personal interview if there are questions concerning the application or the practice description. In addition to the interview, if there is reasonable cause to question the qualifications of the applicant, or if the applicant has not worked as a physician assistant for a period of 12 or more consecutive months, the Board may require the applicant to do one or more of the following:

(a) Pass the examination given by the National Commission on the Certification of Physician Assistants (N.C.C.P.A.);

(b) Provide documentation of current N.C.C.P.A. certification;

(c) Document 25 hours of Category I continuing medical education acceptable to the Board for every year the applicant has ceased practice prior to application for Oregon licensure. Category I continuing education that meets N.C.C.P.A.'s recertification requirements would qualify as Board approved continuing education.

(2) The applicant and the applicant's supervising physician who has not been previously Board-approved as a supervising physician shall be required to pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and Oregon Administrative Rules (OAR) chapter 847, division 050.

(a) If an applicant fails the open-book examination three times, the applicant's application will be reviewed by the Physician Assistant Committee of the Board of Medical Examiners. An applicant who has failed the open-book examination three times must also attend, with the applicant's supervising physician, an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the examination, before being given a fourth and final attempt to pass the examination. If the applicant does not pass the examination on the fourth attempt, the applicant may be denied licensure.

(b) If the applicant's supervising physician fails the open-book examination three times, the physician's request to supervise the applicant's practice as documented in the practice description will be reviewed by the Physician Assistant Committee of the Board of Medical Examiners. An applicant's supervising physician who has failed the open-book examination three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the supervising physician's failure of the examination, before being given a fourth and final attempt to pass the examination. If the applicant's supervising physician does not pass the examination on the fourth attempt, the physician's request to supervise the applicant's practice as documented in the practice description may be denied.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 23(Temp), f. & ef. 1-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 8-1985, f. & ef. 8-5-85; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 9-1995, f. & cert. ef. 7-28-95; BME 11-1998, f. & cert. ef. 7-22-98; BME 13-2003, f. & cert. ef. 7-15-03; BME 13-2006, f. & cert. ef. 5-8-06

.....

## Board of Nursing

### Chapter 851

**Rule Caption:** Updating Effective Date of Attorney General's Model Rules of Procedure Under the Administrative Procedures Act.

**Adm. Order No.:** BN 4-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 851-001-0000, 851-001-0005

**Subject:** ORS 183.341 requires the Attorney General to prepare Uniform and Model Rules of Procedure. Adoption of the Uniform and Model Rules satisfies the Oregon Administrative Procedures Act requirement that agencies adopt rules regulating rulemaking and contested case proceedings. This amendment adopts the effective date of the Attorney General's model Rules of Procedure under the Administrative Procedures Act to the latest publication's effective date of January 1, 2006.

**Rules Coordinator:** KC Cotton—(971) 673-0638

# ADMINISTRATIVE RULES

## 851-001-0000

### Notice of Proposed Rulemaking

Prior to adoption, amendment or repeal of any rule, the Board of Nursing shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the intended action.

(2) By mailing a copy of the notice to persons on the Board of Nursing mailing list(s) established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule; and

(3) In regard to rules adopted on or after January 1, 2006, at least 49 days before the effective date of the rule, the Board shall provide notice to the persons specified in ORS 183.335(15); and

(4) By mailing or furnishing a copy of the notice to:

(a) The Associated Press;

(b) Associations, individuals and entities who have indicated an interest in the agency's rulemaking and have asked to be placed on the agency's mailing list(s); and

(c) The Capitol Press Room.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.335 & 678.150

Hist.: NER 27, f. & ef. 12-16-75; NER 3-1985, f. & ef. 5-2-85; NB 3-1988, f. & cert. ef. 7-5-88; NB 1-1990, f. & cert. ef. 11-6-90; BN 4, f. & cert. ef. 4-24-00; BN 4-2006, f. & cert. ef. 5-8-06

## 851-001-0005

### Model Rules of Procedure

(1) The Model Rules for Contested Cases of the Attorney General under the Administrative Procedures Act in effect on January 1, 2006, and all amendments thereto are hereby adopted by reference as the rules of the State Board of Nursing. These rules shall be controlling except as otherwise required by statute or rule.

(2) Nothing in these rules shall be deemed to deny a person, an applicant, licensee or certified nursing assistant an opportunity to request an appearance before the Board or its Executive Director or designated Board staff for an informal conference to discuss any matter administered by the Board. The Board shall notify the person, applicant, licensee or certified nursing assistant of the time and place of the informal conference. The Board or its Executive Director or designated Board staff may also schedule an informal conference and notify the person.

(3) A request for an appearance before the Board to discuss an issue with the Board or a request to have an item placed on the Board's meeting agenda shall be made at least six weeks prior to the Board meeting. The request shall include all supporting documents the requestor wishes the Board to review. Items shall be placed on the Board's agenda as time is available, at the discretion of the Board President.

(4) Designated Board staff may require that an investigative interview be tape-recorded. To make this decision, the following factors will be considered:

(a) The seriousness of the complaint;

(b) The licensee or applicant's previous cooperation with the Board;

(c) The risk of harm to the public;

(d) Whether licensee or applicant is represented by an attorney;

(e) The availability of a second staff member to record the interview in writing;

(f) The likelihood that the case will result in a contested case hearing.

(5) An order requiring discovery between a respondent and the Board will be limited to a list of witnesses to be called by the parties in their case in chief and the documents that the parties intend to introduce as exhibits at the contested case hearing during the presentation of their case in chief.

(6) Contested case hearings are closed to members of the public who are not parties or representatives of the parties in the proceedings.

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

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 183.341 & 678.150

Hist.: Renumbered from 851-040-0005, 4-1-76; NER 17, f. & ef. 7-1-72; NER 18, f. & ef. 3-18-74, ef. 4-11-74; NER 31, f. & ef. 3-30-76; NER 20-1980, f. & ef. 6-24-80; NER 1-1982, f. & ef. 1-29-82; NER 2-1983, f. & ef. 10-4-83; NER 3-1986, f. & ef. 6-6-86; NB 3-1988, f. & cert. ef. 7-5-88; NB 11-1990, f. & cert. ef. 11-6-90; BN 4, f. & cert. ef. 4-24-00; BN 10-2002, f. & cert. ef. 4-25-02; BN 9-2004, f. & cert. ef. 5-4-04; BN 13-2004, f. & cert. ef. 10-26-04; BN 4-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Revised Fees and Guidelines for Access to Public Documents.

**Adm. Order No.:** BN 5-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

## Rules Amended: 851-002-0060

**Subject:** This rule amendment revises the guidelines and fee structure for access to public documents. It also implements portions of House Bill 3238 enacted in the 2005 Legislature.

**Rules Coordinator:** KC Cotton—(971) 673-0638

## 851-002-0060

### Access to Public Documents

(1) Fees for lists of nurses and Board meeting packets shall be established by Board office policy and shall not exceed production and mailing costs. These fees shall be published yearly in the Board newsletter.

(2) All information shall be disclosed or protected from disclosure in accordance with Chapter 192 of the Oregon Revised Statutes.

(3) Requests for records may be verbal, however, the Board of Nursing may require the request to:

(a) Be in writing (either U.S. Mail, FAX or e-mail).

(b) Be dated.

(c) Be signed.

(d) Adequately describe the records being requested.

(e) Indicate the date the records are needed.

(4) A reasonable period of time, as determined by the Board, shall be allowed for the records custodian or other staff to locate and assemble the requested records.

(5) Fees shall be calculated as follows:

(a) Photocopies: Up to 10 pages at no cost, \$0.05 per page for more than 10 pages.

(b) Actual cost for use of material and equipment for producing copies of non-standard records. Non-standard records include records other than paper records.

(c) Labor (includes locating, compiling, editing or otherwise processing information and records): There shall be no charge for the first 30 minutes of staff time. The labor rate assessed thereafter shall be \$20/per hour.

(d) If the nature of a request requires the Board to seek legal counsel prior to fulfilling a record request, any fees incurred for review of records, redacting material from the records or segregating the records into exempt or non-exempt records, are the responsibility of the requestor.

(e) Actual cost for delivery of records, such as postage, FAX costs and courier fees.

(6) If a records request fee is estimated to be more than \$25, the requestor shall be provided written notice of the estimated amount before the requested records are compiled. The Board will not compile the records until the requestor informs the Board to proceed with responding to the request.

(7) Public records not exempt from disclosure may be inspected during office hours at the Board office upon reasonable notice, but fees as outlined in (5)(a) above still apply.

Stat. Auth.: ORS 678.150 & 678.410

Stats. Implemented: ORS 678.410

Hist.: NER 26(Temp), f. & ef. 12-11-75; NER 32, f. & ef. 5-4-76; NER 5-1981, f. & ef. 11-24-81; NER 2-1982, f. & ef. 8-25-82; NER 5-1983, f. 12-9-83, ef. 1-1-84; NER 5-1985, f. 7-30-85, ef. 10-1-85; NER 6-1986, f. & ef. 12-3-86; NB 5-1987, f. & ef. 7-1-87; NB 7-1987, f. & ef. 10-5-87; NB 1-1988, f. & cert. ef. 4-18-88; NB 2-1989, f. 6-22-89, cert. ef. 7-1-89; NB 2-1991, f. 6-14-91, cert. ef. 7-1-91; NB 3-1991, f. & cert. ef. 9-25-91; NB 5-1993, f. 6-15-93, cert. ef. 7-1-93; NB 7-1993, f. & cert. ef. 7-1-93; NB 13-1993, f. & cert. ef. 12-20-93; NB 5-1994, f. & cert. ef. 9-15-94; Renumbered from 851-020-0295; NB 8-1994, f. & cert. ef. 12-7-94; NB 7-1995(Temp), f. & cert. ef. 6-23-95; NB 2-1996, f. & cert. ef. 3-12-96; NB 9-1997, f. 7-22-97, cert. ef. 9-1-97; BN 6-1998(Temp), f. & cert. ef. 7-15-98 thru 12-31-98; Administrative correction 8-5-98; BN 10-1998, f. & cert. ef. 8-7-98; BN 11-1998, f. & cert. ef. 9-22-98; BN 4-1999, f. 5-21-99, cert. ef. 7-1-99, Renumbered from 851-031-0200; BN 5-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Date Extended for Clinical Hours of Clinical Nurse Specialists to Meet National Requirements.

**Adm. Order No.:** BN 6-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 851-054-0040

**Subject:** This rule amendment would change the date of requirement for completion of 500 clinical hours within a Clinical Nurse Specialist Program for initial applicants to 2007 to reflect national standards.

**Rules Coordinator:** KC Cotton—(971) 673-0638



# ADMINISTRATIVE RULES

## 851-054-0040

### Eligibility for Initial Certification

(1) An applicant for certification as a Clinical Nurse Specialist (CNS) shall:

(a) Hold or obtain a current unencumbered registered nurse license in Oregon;

(b) Hold a graduate degree in nursing, or a post-masters certificate in nursing demonstrating evidence of CNS theory and clinical concentration. The program shall meet the following educational standards:

(A) The program shall be at least one academic year in length;

(B) There shall be faculty and/or clinical instructors who are academically and experientially qualified in nursing, and who maintain expertise within the CNS scope of practice;

(C) NLNAC or CCNE accreditation.

(D) Applicants who graduate or obtain a post-masters certificate on or after January 1, 2007 shall have completed 500 hours of clinical practice within the program; or prior to state certification:

(i) Complete a formal academic program offering any remaining hours of clinical practice; or

(ii) Complete a Board approved clinical continuing education course offering supervised clinical practice for any remaining hours.

(c) Meet the practice requirement through verification of:

(A) Graduation from a CNS educational program within the past five years; or

(B) Practice within the CNS scope of practice for at least 960 hours within the five years preceding the application. Verification of practice hours is subject to random audit.

(2) If an applicant does not meet the practice requirement in 851-054-0040(1)(c), the applicant shall:

(a) Submit for Board approval, a detailed plan for precepted practice that includes: competencies that support the CNS scope of practice; names and qualifications of CNS preceptor(s); and a description of the nature of the proposed unpaid, voluntary, precepted clinical experience.

(A) If the applicant has practiced at least 960 hours within the six years prior to the date of application, the practice plan shall provide for 250 hours of preceptorship. Documented practice hours within the CNS scope for the past two years may be recognized and may reduce the required hours, except that, in no case shall the precepted practice be less than 120 hours.

(B) If the applicant has practiced at least 960 hours within the CNS scope for the ten years prior to the date of application, the practice plan shall provide for 400 hours.

(C) If the applicant has not practiced at least 960 hours within the CNS scope for the ten years prior to the date of application, the practice plan shall provide for 500 hours.

(b) Obtain a limited certification for precepted practice. The limited certification shall be issued only upon receipt of a completed CNS application, application for limited certification, Board approval of the plan for supervised practice, and payment of all applicable fees. The limited certification is valid only for precepted practice that has been approved in advance by the Board, and will be valid for one year from the date of issue. One extension of the limited certificate may be granted upon approval and payment of fee, provided there is a current valid application for certification on file and no disciplinary action has been taken against the applicant. This extension will be valid for one year from date of approval.

(c) Successfully complete the precepted hours of practice supervised by the CNS preceptor. Successful completion shall be verified by a final evaluation submitted by the supervising CNS to the Board to verify that the applicant is competent to practice in the CNS scope at a safe and acceptable level, and that the number of required hours of precepted practice were completed.

(d) Submit evidence of continuing education to total 20 contact hours for each year out of practice. Continuing education taken concurrent with the reentry plan may be applied towards the total continuing education requirement, provided all hours are complete by the end of the preceptorship.

(3) The applicant shall submit all fees required by the Board with the application. The fees are not refundable. An application that remains incomplete after one year shall be considered void.

(4) Prior to October 1, 2005, an applicant for Clinical Nurse Specialist (CNS) certification who meets all requirements for initial certification, except the masters in nursing or post-masters certificate in nursing (as specified in 851-054-0040(1)(b)), may be eligible for certification. In addition to other initial certification requirements, the applicant shall:

(a) Document practice in the CNS scope, as defined in 851-054-0020, a minimum of 400 hours within the two years prior to the effective date of these rules; and

(b) Prior to October 1, 2001, hold a baccalaureate degree in nursing and hold a masters degree in a related field from an institution accredited by the nationally recognized, regional accrediting agency, with a clinical specialty focus supporting the CNS scope of practice; and

(c) Meet the general practice requirement of 960 hours within the past five years.

Stat. Auth.: ORS 678.050, 678.370, 678.372

Stats. Implemented: ORS 678.050, 678.370, 678.372

Hist.: BN 4-2001, f. & cert. ef. 2-21-01; BN 10-2001, f. & cert. ef. 7-9-01; BN 6-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Clinical Settings Added for Nursing Training Programs.

**Adm. Order No.:** BN 7-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 851-061-0030, 851-061-0080, 851-061-0090, 851-061-0100

**Subject:** These rules cover standards and authorized duties for Certified Nursing Assistants and Certified Medication Aides. This rule amendment adds assisted living facilities, hospitals, and residential care facilities as possible clinical settings for nursing assistant training programs. These changes include support for the Program Director to assure that the training experiences and sites used are appropriate. Language changes refer to types of facilities that can be used for the clinical experience and establishes criteria for the clinical facility. Also, one amendment reflects the current name for the Department of Human Services.

**Rules Coordinator:** KC Cotton—(971) 673-0638

## 851-061-0030

### Process for Program Approval

(1) Nursing assistant or medication aide training programs shall be Board-approved prior to being offered. Retroactive approval shall not be granted.

(2) Application for Initial Approval of level 1, level 2, and medication aide training programs. A facility, agency or individual wishing to establish a new nursing assistant or medication aide training program shall make application to the Board at least 45 days in advance of expected start date. The application for initial approval of a training program shall include:

(a) A completed form provided by the Board;

(b) Appropriate fees;

(c) Faculty names and qualifications;

(d) Names of classroom and clinical facilities;

(e) Name of person authorized to accept service of notices issued by the Board;

(f) Program rationale, philosophy and purpose;

(g) Program outline:

(A) Objectives;

(B) Curriculum content divided into number and sequence of didactic and clinical hours; and

(C) Teaching methodology.

(h) Evaluation method:

(A) Laboratory and clinical skills checklist approved by the Board;

(B) Final exam; and

(C) In addition, for level 2 training programs, a Board approved competency evaluation.

(i) Certificate of completion; and

(j) Tentative time schedule for initiating the program.

(3) A site visit may be conducted by a representative(s) of the Board;

(4) The program director will be notified of approval or non-approval.

Following receipt of notification from the Board of approval or non-approval:

(a) A program that is approved may begin classes according to the schedule submitted;

(b) A program that is not approved will be notified of the deficiencies and will be re-evaluated after appropriate modifications are made;

(c) A program denied approval may petition the Board for reconsideration.



## ADMINISTRATIVE RULES

(5) An approved nursing assistant level 1 or medication aide training program:

(a) Shall be required to demonstrate ongoing compliance with the standards of approval at least every two years for continued approval.

(b) Shall be surveyed for consideration of continued approval and may have a survey visit or interim self-evaluation report required by the Board at any time.

(c) May be subject to scheduled or non-scheduled site visits for continued approval or any other purpose at any time.

(d) Shall submit an interim self evaluation during the intervening year or as requested by the Board on forms provided by the Board.

(e) Shall have records available for review.

(f) Shall have adequate financial support for the stability and continuation of the program.

(6) Following initial approval, level 2 training programs remain approved unless specifically withdrawn by the Board.

(7) Program changes requiring Board approval:

(a) Change of program ownership:

(A) If the change only causes minor changes, there is no need to seek new approval of the program.

(B) If the change causes a substantial difference as determined by the Board through the impact on the students, faculty, or program resources, an application and approval for the program shall be required.

(b) Changes in course content, lab/clinical skill checklist, final exam, certificate of completion, program director, primary instructor, clinical instructor, clinical preceptor, or classroom or clinical training sites shall be submitted to the Board for approval.

Stat. Auth.: ORS 678.440 & 678.444

Stats. Implemented: ORS 678.444

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 5-2002, f. & cert. ef. 3-5-02; BN 1-2004, f. 1-29-04, cert. ef. 2-12-04; BN 7-2006, f. & cert. ef. 5-8-06

### 851-061-0080

#### Standards for Program Approval: Faculty Qualifications and Responsibilities

(1) The training of nursing assistant level 1 shall be by or under the supervision of a program director or primary instructor who has at least one year of nursing experience in a licensed nursing facility.

(2) The program director shall hold a current, unencumbered license to practice as a registered nurse in Oregon; and

(a) For a nursing assistant level 1 and level 2 training program, have at least three years of nursing experience, including at least one year of working in direct patient care; and one of the following:

(A) One year of experience on a nursing faculty;

(B) One year of experience in staff development;

(C) Evidence of academic preparation for teaching adults; or

(D) Evidence of equivalent experience.

(b) For a medication aide training program, have at least three years of experience as a Registered Nurse in the last five years, including at least one year as a nurse educator or nurse administrator.

(3) The program director shall:

(a) Act as liaison with the Board related to the program's continuing compliance with the required elements of these rules;

(b) Implement and maintain a program that complies with all Board standards;

(c) Assume the ultimate responsibility for the implementation of the Board-approved curriculum;

(d) Have sufficient time provided for carrying out administrative responsibilities. Number of faculty, students, classes in progress, and locations utilized for classroom and clinical training are to be considered in determining appropriate time allocated;

(e) Recruit, supervise, and evaluate qualified primary instructors and clinical instructors or preceptors;

(f) Develop and implement written policies necessary for the operation of the program, including those maintained under OAR 851-061-0110(1)(c)(G);

(g) Ensure that all students have initiated a criminal history check prior to entering the program and that all students are eligible pursuant to laws governing the clinical site facility to participate in the program's clinical experiences.

(h) Coordinate classroom and clinical sites and activities;

(i) Ensure that the classroom, lab, and clinical environment is conducive to teaching and learning;

(j) Assure that the clinical setting provides an opportunity for the students to perform the skills taught in the curriculum;

(k) Ensure that a Board-approved primary instructor, clinical instructor, or clinical preceptor is on the premises at all times during scheduled clinical hours;

(l) Supervise or coordinate supervision of students in the clinical setting or assign this responsibility to the primary instructor.

(m) Provide or arrange for the orientation of the primary and clinical instructor(s) or clinical preceptor(s) to their role and responsibilities.

(n) Assess students' reactions to course content, instructional effectiveness, and other aspects of the learning experience;

(o) Submit program data upon request of the Board on forms provided by the Board;

(p) Submit required reports;

(q) Verify that the training facility in which the training program is offered or utilized for the clinical experience is licensed under the appropriate licensing agency and is in substantial compliance with all standards for licensure;

(r) Verify that a facility utilized for out-of-state clinical experience:

(A) Has not been found within the preceding two years, by the state survey and certification agency, using the currently applicable Center for Medicare and Medicaid Services regulations, to be categorized as providing substandard quality of care;

(B) Is no more than 50 miles from an Oregon border; and

(C) Has given permission for site visit(s) by Board staff.

(s) For medication aide training programs, determine student eligibility by verifying that the applicant:

(A) Holds a current certificate to practice as a CNA 1 on the CNA Registry;

(B) Has graduated from an approved basic nurse aide training program at least six months prior to enrollment in the medication aide training program; and

(C) Meets the employment requirement of at least six months of full time experience as a nursing assistant or the equivalent in part time experience since graduation from a basic nursing assistant training program unless the applicant is exempt under OAR 851-062-0090.

(4) The primary instructor shall hold a current, unencumbered license to practice as a registered nurse in Oregon; and

(a) For a nursing assistant level 1 and level 2 training program, have two years experience as a registered nurse and teaching experience or educational preparation for teaching adults.

(b) For a medication aide training program, have at least three years of nursing experience in the last five years, to include:

(A) One year as a nurse educator, a primary instructor in a nursing assistant training program or as a nurse administrator, and

(B) One year working with the particular type of clientele or providing clinical instruction in a setting with the particular type of clientele with whom students will have their clinical experience.

(c) May be the director of nursing service in a long term care facility only if there is evidence of formal arrangements for the director of nursing position to be filled by another qualified nurse during the period of instruction.

(5) The primary instructor shall:

(a) Implement the required Board-approved curriculum;

(b) Provide effective teaching strategies in an environment that encourages student and instructor interaction;

(c) Supervise and be present in the classroom at least 75% of the time that classes are being taught;

(d) Evaluate competency of students; and

(e) In addition, for medication aide training programs, the primary instructor shall:

(A) Obtain approval from a facility prior to using a facility employee as a clinical preceptor. The facility has the right to refuse such approval;

(B) Ensure that each student's clinical experience includes administration of medications by all approved routes of administration and includes administration of a variety of medications; and

(C) Supervise the clinical experience for all medication aide students. Clinical preceptors may be used as appropriate.

(6) Other personnel from the healthcare professions may supplement the instructor in their area of expertise:

(a) For a nursing assistant level 1 and level 2 training program, the program director or primary instructor may:

(A) Involve as trainers for a specific portion of the nursing assistant training, other licensed nursing personnel or other licensed health care professionals who have at least one year of experience in their field.

(B) Use an approved clinical instructor who shall:

# ADMINISTRATIVE RULES

- (i) Hold a current, unencumbered license to practice as a registered nurse in Oregon; and
- (ii) Have the equivalent of one year full time experience as a registered nurse.
- (C) Use an approved clinical preceptor who shall:
  - (i) Hold a current, unencumbered license to practice nursing in Oregon; and
  - (ii) Have the equivalent of at least one year of experience as a licensed nurse.
- (b) For a medication aide training program, the clinical preceptor shall:
  - (A) Hold a current, unencumbered license to practice nursing in Oregon;
  - (B) Have the equivalent of one year full time experience as a licensed nurse and shall have three months' nursing experience in the setting in which the medication aide student will be passing medications;
  - (C) Provide direct supervision; and
  - (D) Have only the responsibility for clinical precepting during the scheduled clinical experience.
- (c) Certified medication aides, resident care managers, and directors of nursing are prohibited from acting as clinical preceptors for medication aide students.

Stat. Auth.: ORS 678.440 & 678.444

Stats. Implemented: ORS 678.440 & 678.444

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 18-2002, f. & cert. ef. 10-18-02; BN 1-2004, f. 1-29-04, cert. ef. 2-12-04; BN 11-2004, f. & cert. ef. 7-13-04; BN 7-2006, f. & cert. ef. 5-8-06

## 851-061-0090

### Standards for Program Approval: Curriculum

- (1) Board-approved curriculum shall be used in approved nursing assistant level 1 and medication aide training programs.
- (2) A nursing assistant level 1 training program shall consist of:
  - (a) At least 150 hours of instruction divided into 75 hours of classroom instruction and 75 hours of supervised clinical experience;
  - (b) At least 24 hours of supervised classroom/laboratory instruction with return student demonstrations of learned skills to determine comprehension and competency, in addition to facility orientation, preceding the students' care of clients; and
  - (c) At least 75 hours of supervised clinical experience in a hospital, licensed nursing, residential, or assisted living facility that has a registered nurse on duty during all scheduled student clinical hours and is in substantial compliance with all standards of licensure.
- (3) A nursing assistant level 2 training program will have Board approved:
  - (a) Standardized category curriculum that may vary in training hours from other Board approved standardized category curricula; and
  - (b) Competency evaluation.
- (4) Medication aide training program classroom and clinical instruction hours:
  - (a) A medication aide training program shall consist of at least 80 hours of instruction divided into at least 24 hours of classroom instruction and at least 24 hours of 1:1 supervised clinical experience.
  - (b) All clinical hours shall be completed at one site (licensed nursing facility, hospital, assisted living facility, or residential care facility).
  - (c) All required clinical hours shall be in medication administration related activities.
- (5) Admission requirements for medication aide training programs shall be:
  - (a) Current, unencumbered CNA 1 status on the Oregon CNA Registry maintained by the Board;
  - (b) Documentation of graduation from an approved basic nursing assistant level 1 training program at least six months prior to enrollment in the medication aide training program; and
  - (c) Documentation of at least six months full time experience as a nursing assistant level 1 or the equivalent in part time experience since graduation from a basic nursing assistant training program.
- (6) Classroom and clinical faculty/student ratios for nursing assistant level 1 and medication aide training programs:
  - (a) Classroom: The ratio of students per instructor shall be such that each trainee is provided with registered nurse assistance and supervision and be no more than 20 students per instructor for classroom.
  - (b) Clinical:
    - (A) The ratio of students per instructor in a nursing assistant level 1 training program shall be no more than 10 students per instructor at all times during the clinical experience.

- (B) The ratio of students per instructor in a medication aide training program shall begin with a ratio of one clinical preceptor to one medication aide student during the first 24 hours of the clinical experience. Less intensive supervision (either more students per preceptor or less direct supervision by preceptor) may occur with satisfactory evaluation and approval of the clinical preceptor and primary instructor.

- (7) Clinical experience and demonstration of competency for nursing assistant level 1 and medication aide training programs:

- (a) A clinical schedule shall be prepared for all students prior to the beginning of the clinical experience, and provided to the clinical facility director of nursing, the clinical instructor/preceptor, and the student.

- (b) Student practice and demonstration of competency for nursing assistant level 1 and medication aide training programs:

- (A) Students may provide direct client care within their authorized duties under the supervision of an approved instructor.

- (B) Students shall be identified as students at all times while in the clinical area.

- (C) Students must not be counted as staff or utilized as staff during the hours that are scheduled for clinical experience.

- (D) Students may be on a unit, floor or wing of a facility only under direct supervision of a qualified instructor.

- (E) Students shall not be on a unit, floor, or wing without a CNA or licensed nurse.

- (F) Students shall provide care only to the level they have been taught and determined competent by the approved clinical instructor.

- (c) In addition, for medication aide training programs, the clinical experience shall consist of a minimum of 10 medication passes to a minimum of five residents/patients during the first 20 hours of supervised clinical experience;

- (8) Program completion:

- (a) Completion of a nursing assistant level 1 or medication aide training means that:

- (A) The student has successfully completed 100% of the required classroom and clinical hours and content in the curriculum;

- (B) The student has successfully demonstrated the required skills on the laboratory and clinical skills checklist;

- (C) The student has achieved a score of 75% or higher on the program's final examination;

- (D) The student has successfully completed the clinical portion of the program no later than four months following the last date of classroom instruction; and

- (E) In addition, for nursing assistant level 1 training programs, the student has successfully completed current, adult CPR certification in accordance with Board-approved curriculum.

- (b) Completion of a nursing assistant level 2 training means that:

- (A) The student has successfully completed 100% of the required classroom and clinical hours and content in the curriculum; and

- (B) The student has successfully completed the competency evaluation.

Stat. Auth.: ORS 678.440 & 678.444

Stats. Implemented: ORS 678.444

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 15-2002, f. & cert. ef. 7-17-02; BN 1-2004, f. 1-29-04, cert. ef. 2-12-04; BN 11-2004, f. & cert. ef. 7-13-04; BN 12-2005, f. & cert. ef. 12-21-05; BN 7-2006, f. & cert. ef. 5-8-06

## 851-061-0100

### Standards for Program Approval: Responsibility to Students

- The nursing assistant level 1 and medication aide training programs will be accountable to students by:

- (1) Providing reasonable assurance that expectations of becoming a certified nursing assistant or medication aide will be met, as evidenced by an 85% pass rate for first-time candidates taking the Board-approved competency examination.

- (2) Informing students of the following information:

- (a) That for facility-based nursing assistant level 1 programs, no student who is employed by, or who has received an offer of employment from a facility on the date on which the student begins training will be charged for any portion of the program, including any fees for textbooks or other required course materials in accordance with 42 CFR § 483.152(c)(1).

- (b) The Department of Human Services and Board of Nursing's criminal history requirements and policies. This information shall be provided to students prior to admission to the program.

- (3) Issuing a certificate of completion or making an appropriate notation on a transcript for a graduate who has successfully completed the training. The certificate is to be printed on one side of a standard letter-sized piece of paper and is to include:

- (a) Name of individual;

# ADMINISTRATIVE RULES

- (b) Social Security number if provided by the student;
- (c) Date of birth;
- (d) Name of training program;
- (e) Number of classroom hours;
- (f) Number of clinical hours;
- (g) Date the training program was most recently approved by the

Board;

- (h) Signature of the program director or primary instructor; and
- (i) Date of completion.

Stat. Auth.: ORS 678.440 & 678.444

Stats. Implemented: ORS 678.444

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 1-2004, f. 1-29-04, cert. ef. 2-12-04; BN 7-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

**Rule Caption:** Nurse Practitioner Formulary Updated.

**Adm. Order No.:** BN 8-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 851-050-0131

**Subject:** The Board is authorized by ORS 678.385 to determine by rule and revise periodically the drugs and medicines to be included in the formulary that may be prescribed by a nurse practitioner acting under ORS 678.375, including controlled substances listed in Schedules II, III, III N, IV and V. The amendments add the March and April 2006 updates to Drug Facts and Comparisons to the formulary.

**Rules Coordinator:** KC Cotton—(971) 673-0638

## 851-050-0131

### Formulary for Nurse Practitioners with Prescriptive Authority

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

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

(b) "Formulary" means a specific list of drugs determined by the Board. The formulary for nurse practitioners with prescriptive authority shall be all the drugs in the Drug Facts and Comparisons dated April 2006 with the exception of certain drugs and drug groups, which are listed below.

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

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

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

(a) Nurse practitioners may provide care for specialized client populations within each nurse practitioner category/scope of practice;

(b) Nurse practitioner prescribing is limited by the nurse practitioner's scope of practice and knowledge base within that scope of practice;

(c) Nurse practitioners may prescribe the drugs appropriate for patients within their scope of practice as defined by OAR 851-050-0005;

(d) Nurse practitioners may prescribe drugs for conditions the nurse practitioner does not routinely treat within the scope of their practice provided there is ongoing consultation/ collaboration with another health care provider who has the authority and experience to prescribe the drug(s);

(e) Nurse practitioners shall be held strictly accountable for their prescribing decisions;

(f) All drugs on the formulary shall have Food and Drug Administration (FDA) approval.

(4) Nurse practitioners with prescriptive authority are authorized to prescribe:

(a) All over the counter drugs;

(b) Appliances and devices.

(5) Nurse practitioners are authorized to prescribe the following drugs as listed in Drug Facts and Comparisons dated April 2006:

(a) Nutrients and Nutritional Agents — all drugs except Flavocoxid (Limbrel).

(b) Hematological Agents — all drugs except Drotrecogin Alfa (Xigris); and Treprostinil Sodium (Romodulin).

(c) Endocrine and Metabolic Agents — all drugs except:

(A) I 131;

(B) Gallium Nitrate; and

(C) Mifepristone (Mifeprex); and

(D) Abarelix (Plenaxis).

(d) Cardiovasculars — all drugs except:

(A) Cardioplegic Solution;

(B) Fenoldopam Mesylate (Corlopam);

(C) Dofetilide (Tikosyn); and

(D) Bosentan (Tracleer).

(e) Renal and Genitourinary Agents — all drugs;

(f) Respiratory Agents — all drugs;

(g) Central Nervous System Agents:

(A) Class II Controlled Substances — Only the following drugs:

(i) Tincture of opium;

(ii) Codeine;

(iii) Hydromorphone;

(iv) Morphine;

(v) Oxycodone, Oxymorphone;

(vi) Topical Cocaine Extracts and Compounds;

(vii) Fentanyl;

(viii) Meperidine;

(ix) Amphetamines;

(x) Methylphenidates;

(xi) Pentobarbital;

(xii) Secobarbital;

(xiii) Methadone Hydrochloride (in accordance with OAR 851-045-0015(2)(n) and 851-050-0170); and

(xiv) Levorphanol.

(B) General Anesthetic Agents — no drugs which are general anesthetic barbiturates, volatile liquids or gases, with the exception of nitrous oxide; and

(C) Chymopapain is excluded.

(D) Ziconotide (Prialt) is excluded.

(E) Sodium Oxybate (Xyrem) is excluded.

(h) Gastrointestinal Agents — all drugs except: Monoctanoin;

(i) Anti-infectives, Systemic — all drugs;

(j) Biological and Immunologic Agents — all drugs except Basiliximab (Simulect);

(k) Dermatological Agents — all drugs except Psoralens;

(l) Ophthalmic and Otic Agents — all drugs except:

(A) Punctal plugs;

(B) Collagen Implants;

(C) Indocyanine Green;

(D) Hydroxypropyl (Methyl) Cellulose;

(E) Polydimethylsiloxane;

(F) Fomivirsen Sodium (Vitavene);

(G) Verteporfin;

(H) Levobetaxolol HCL (Betaxon);

(I) Travoprost (Travatan);

(J) Bimatoprost (Lumigan); and

(K) Unoprostone Isopropyl (Rescula);

(L) Pegaptanib Sodium (Macugen);

(M) Triptan Blue (VisionBlue); and

(N) Retisert.

(m) Antineoplastic Agents — all drugs except:

(A) NCI Investigational Agents;

(B) Samarium Sm53;

(C) Denileukin Diftitox (Ontak);

(D) BCG, Intravesical (Pacis);

(E) Arsenic Trioxide (Trisenox);

(F) Ibritumomab Tiuxetan (Zevalin);

(G) Tositumomab and Iodine 131 I-Tositumomab (Bexxar);

(H) Sclerosol; and

(I) Clofarabine (Clolar).

(n) Diagnostic Aids:

(A) All drugs except Arbutamine (GenESA);

(B) Thyrotropin Alfa (Thyrogen);

(C) Miscellaneous Radiopaque agents — no drugs from this category except:

(i) Iopamidol;

(ii) Iohexol; and

(iii) Ioxilan (Oxilan).

Stat. Auth.: ORS 678.375 & 678.385

Stats. Implemented: ORS 678.385

Hist.: NB 11-1993(Temp), f. 10-26-93, cert. ef. 11-4-93; NB 2-1994, f. & cert. ef. 4-15-94; NB 7-1994, f. & cert. ef. 9-28-94; NB 3-1995, f. & cert. ef. 4-12-95; NB 6-1995(Temp), f. & cert. ef. 6-15-95; NB 8-1995, f. & cert. ef. 6-29-95; NB 11-1995, f. & cert. ef. 10-9-95; NB 1-1996, f. & cert. ef. 2-29-96; NB 3-1996, f. & cert. ef. 6-11-96; NB 8-1996, f. & cert. ef. 10-



# ADMINISTRATIVE RULES

30-96; NB 10-1996, f. & cert. ef. 12-2-96; NB 5-1997, f. & cert. ef. 3-6-97; NB 7-1997, f. & cert. ef. 5-13-97; NB 8-1997, f. & cert. ef. 7-1-97; NB 13-1997, f. & cert. ef. 9-29-97; NB 14-1997, f. & cert. ef. 12-11-97; BN 4-1998, f. & cert. ef. 3-13-98; BN 5-1998, f. & cert. ef. 5-11-98; BN 8-1998, f. & cert. ef. 7-16-98; BN 12-1998, f. & cert. ef. 9-22-98; BN 13-1998, f. & cert. ef. 12-1-98; BN 1-1999, f. & cert. ef. 3-4-99; BN 3-1999, f. & cert. ef. 5-4-99; BN 5-1999, f. & cert. ef. 7-1-99; BN 9-1999, f. & cert. ef. 10-20-99; BN 13-1999, f. & cert. ef. 12-1-99; BN 3-2000, f. & cert. ef. 2-25-00; BN 5-2000, f. & cert. ef. 4-24-00; BN 8-2000, f. & cert. ef. 7-3-00; BN 9-2000, f. & cert. ef. 9-18-00; BN 10-2000, f. & cert. ef. 12-15-00; BN 2-2001, f. & cert. ef. 2-21-01; BN 6-2001, f. & cert. ef. 4-24-01; BN 9-2001, f. & cert. ef. 7-9-01; BN 13-2001, f. & cert. ef. 10-16-01; BN 4-2002, f. & cert. ef. 3-5-02; BN 11-2002, f. & cert. ef. 4-25-02; BN 14-2002, f. & cert. ef. 7-17-02; BN 19-2002, f. & cert. ef. 10-18-02; BN 21-2002, f. & cert. ef. 12-17-02; BN 2-2003, f. & cert. ef. 3-6-03; BN 4-2003, f. & cert. ef. 4-23-03; BN 8-2003, f. & cert. ef. 7-7-03; BN 10-2003, f. & cert. ef. 10-2-03; BN 13-2003, f. & cert. ef. 12-9-03; BN 6-2004, f. & cert. ef. 2-26-04; BN 10-2004, f. & cert. ef. 5-4-04; BN 12-2004, f. & cert. ef. 7-13-04; BN 15-2004, f. & cert. ef. 10-26-04; BN 16-2004, f. & cert. ef. 11-30-04; BN 2-2005, f. & cert. ef. 2-17-05; BN 3-2005, f. & cert. ef. 4-26-05; BN 4-2005, f. & cert. ef. 6-30-05; BN 8-2005, f. & cert. ef. 10-13-05; BN 11-2005, f. & cert. ef. 12-21-05; BN 2-2006, f. & cert. ef. 2-22-06; BN 8-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*

## Bureau of Labor and Industries Chapter 839

**Rule Caption:** Approval of New Committees and Standards.

**Adm. Order No.:** BLI 16-2006

**Filed with Sec. of State:** 4-17-2006

**Certified to be Effective:** 4-18-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 839-011-0084

**Subject:** Amends requirements for approval of new local joint committees and clearly states prerequisites for approval of new standards and committees by the Oregon State Apprenticeship and Training Council. Establishes timelines for objections to applications for new committees. Formally establishes a probation period of three years after approval for new committees.

**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

### 839-011-0084

#### Approval of New Committees and Standards

(1) Any additional committees or standards in an area already served by a committee in the same trade, craft or occupation shall be established in the same manner as any other joint committee.

(2) All employers and their qualified employees shall be afforded the opportunity to participate, on a non-discriminatory basis, in existing programs.

(3) The Council will approve the creation of a new local joint committee or new standards for an existing committee only if the applicant for the new program or new standards can first demonstrate to the Oregon State Apprenticeship and Training Council, by a preponderance of evidence, that the application is in conformity with the following requirements:

(a) The applicant shall submit documentation showing committee composition pursuant to ORS 660.135, .145.

(b) The applicant shall submit standards in a format approved by the Council that meet or exceed any existing statewide guideline standards (ORS 660.137(1), .226, .155) for the occupation. Where no state guideline standards exist, proposed standards shall meet or exceed national guideline standards approved by the United States Department of Labor. Where no state or national guideline standards exist, standards will be approved at the discretion of the Council when the proposed occupation is clearly identified and commonly recognized throughout an industry.

(c) The applicant shall submit an administration plan that includes:

(A) Written designation of the program administrator;

(B) Documented assurances that the committee will be adequately funded to support its administration and the presentation of related instruction;

(C) Detailed statements of direct costs to apprentices/trainees (including instruction, books, tuition); and

(D) Assurances that training agents and prospective training agents will be provided with a written statement of costs for program participation.

(d) The applicant must demonstrate the ability to track required training, educational and affirmative action information (i.e., work progress reports, apprentice/trainee rotation system, employer's apprentice/trainee evaluation forms, grading sheets, applicant logs) and provide the Council with copies of the forms and documents that will be used to track such information.

(e) The applicant shall submit a plan detailing how the committee will ensure that participating employers will provide work in all areas covered by the program standards (ORS 660.137(5)), including:

(A) Training in all counties listed in proposed geographical area;

(B) Training in all work processes set forth in the standards;

(C) Committee expectations of supervising journey workers and a plan for the supervision of apprentices/trainees in the ratio set forth in the standards (ORS 660.126(1)(c), (f));

(D) Training agent qualifications and duties (ORS 660.137 (5)); and

(E) A plan for training participating employers on their duties and responsibilities.

(f) The applicant shall submit a complete related training curriculum, including instructor qualifications, class outlines and expected competencies, grading procedures and completion criteria. This submission shall include:

(A) An explanation of the curriculum delivery method and a description of the related training facilities;

(B) Certification of the curriculum and instructional delivery plan by either a state education certifying authority or nationally recognized industry association (ORS 660.137(2)(c), .126(1)(j), .157); and

(C) Assurances that classroom and related instruction can be delivered throughout the geographic area. The applicant must submit a contract or other documentation demonstrating that actual instructional resources are in place. The committee's geographic area must be one that can be reasonably served by the committee with respect to employers and the location of the related training services (ORS 660.126(1)(a)).

(g) The applicant must submit operating policies and procedures and assurances that the program will be operated in accordance with the same;

(h) The applicant shall submit a plan to recruit, evaluate and select apprentice/trainee applicants, including an application form that meets Council requirements.

(4) All objections to the approval of a new committee or new standards shall be submitted to the Council in writing at the meeting where the application is being considered for approval, specifically detailing any objections to the application. Council may rule on the application and objections thereto at that time or grant the applicant 30 days after the Council meeting to submit a written rebuttal to the objections to the Director. Council shall direct the Director to investigate and evaluate the objections and rebuttal and provide a report to Council within 45 days of receipt of the rebuttal statement. At the next Council meeting after the initial submission, Council shall either approve or deny the application and provide a specific written explanation for its actions.

(5) All new programs shall serve a probationary period of three years after approval by Council. Failure to clearly demonstrate the ability to operate a satisfactory program during the probationary period, based upon periodic program reviews conducted by the Division, shall result in cancellation of the program by Council.

Stat. Auth.: ORS 660

Implemented: ORS 660.135(1)

Hist.: BL 6-1985, f. & ef. 10-15-85; BL 1-1991, f. & cert. ef. 1-23-91; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 16-2005(Temp), f. & cert. ef. 8-23-05 thru 2-19-06; Administrative correction 3-20-06; BLI 16-2006, f. 4-17-06, cert. ef. 4-18-06

\*\*\*\*\*

**Rule Caption:** Conforms state child labor rules with federal regulations.

**Adm. Order No.:** BLI 17-2006

**Filed with Sec. of State:** 5-12-2006

**Certified to be Effective:** 5-15-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 839-021-0102, 839-021-0104, 839-021-0220

**Subject:** OAR 839-021-0102 is amended to conform definitions of work declared hazardous for minors with latest amendments in United States Department of Labor Child Labor regulations;

839-021-0104 is amended to reflect the updated amendment date in the referenced Code of Federal Regulations;

839-021-0220 is amended to indicate current contact information for the agency.

**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

### 839-021-0102

#### Occupations and Types of Work Declared Hazardous for Minors Under 16 Years of Age

(1) Pursuant to OAR 839-021-0097(1)(a), the commission hereby declares the following occupations and types of work to be hazardous and any employment by minors under 16 years of age is hereby prohibited:

(a) Baking;

(b) Blast furnaces;

(c) Breweries;

(d) Bridge operations;



# ADMINISTRATIVE RULES

- (e) Briquet plants;
  - (f) Building cleaning (exterior);
  - (g) Cattle handling;
  - (h) Coal plants or bunkers;
  - (j) Cold storage plants;
  - (k) Commercial docks;
  - (l) Construction (alteration, repair, painting, or demolition of buildings, bridges, and structures);
  - (m) Cooking (except: cooking with a gas or electric grill that does not have an open flame; using a microwave to warm food; or using a deep fryer that is equipped with a device that automatically raises and lowers the basket);
  - (n) Creosoting works;
  - (o) Distilleries;
  - (p) Electric power plants, lines;
  - (q) Electric light plants, lines;
  - (r) Engineering works (construction, improvement, alteration, or repair of steam plants, water power plants, telephone, telegraph, or electric plants or lines or railroads, streets, highways, sewers, harbors, docks, or canals);
  - (s) Firefighting;
  - (t) Foundries;
  - (u) Garbage works;
  - (v) Gas works;
  - (w) Grain elevators;
  - (x) Gravel or sand plant or bunker;
  - (y) Ice plants;
  - (z) Kitchen cleaning of equipment when the surface is hotter than 100 degrees Fahrenheit, or filtering or disposing of cooking oil or grease that is hotter than 100 degrees Fahrenheit;
  - (aa) Railroads;
  - (bb) Land clearing (with blasting or presence of heavy equipment);
  - (cc) Logging operations;
  - (dd) Longshoring;
  - (ee) Lumber loading;
  - (ff) Mechanical amusements;
  - (gg) Milk condenseries;
  - (hh) Mines;
  - (ii) Moving buildings, bridges, and structures;
  - (jj) Peace officer work;
  - (kk) Powder works;
  - (ll) Quarries;
  - (mm) Reduction works;
  - (nn) Rock crusher;
  - (oo) Smelters;
  - (pp) Stockyards;
  - (qq) Surveying;
  - (rr) Tanneries;
  - (ss) Tree surgery;
  - (tt) Well digging and drilling;
  - (uu) Window cleaning (outside above ground);
  - (vv) Wineries;
  - (ww) Wood cutting, sawing.
- (2) The following occupations and types of work are declared to be hazardous for any minor under 16 years of age when the work is performed in rooms or areas having power-driven machinery:
- (a) Boat repair shops;
  - (b) Canneries;
  - (c) Chop mills;
  - (d) Creameries;
  - (e) Cycle repair shops;
  - (f) Electrotyping plants;
  - (g) Engraving plants;
  - (h) Factories (manufacturing, repair, alteration);
  - (i) Feed mills;
  - (j) Flour mills;
  - (k) Garages;
  - (l) Grain warehouses;
  - (m) Irrigation works;
  - (n) Laundries;
  - (o) Lithographing plants;
  - (p) Mills;
  - (q) Motor repair shops;
  - (r) Photoengraving plants;
  - (s) Printing plants;

- (t) Shipbuilding operations;
  - (u) Stereotyping plants;
  - (v) All kinds of work in workshops or any premise, room, or place where power-driven machinery is used in or incidental to adapting articles or goods for sale.
- (3) The following occupations or types of work are declared to be hazardous for any minor under 16 years of age and these minors are permitted to perform office work only in the following operations:
- (a) Auto wrecking yards;
  - (b) Junk dealers;
  - (c) Motor vehicle (transportation);
  - (d) Lumbering;
  - (e) Water works.
- Stat. Auth.: ORS 653.525  
Stats. Implemented: ORS 653.305  
Hist.: BL 116, f. 10-20-71, ef. 11-1-71, Renumbered from 839-021-0045; BL 6-1988, f. & cert. ef. 4-12-88; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02; BLI 17-2006, f. 5-12-06, cert. ef. 5-15-06

## 839-021-0104 Occupations Particularly Hazardous or Detrimental to the Health or Well-Being of Minors 16 and 17 Years of Age

(1) Except as provided in OAR 839-021-0285, an employer may not employ a minor 16 or 17 years of age in any occupation declared particularly hazardous or detrimental to their health or well-being, except under terms and conditions specifically set forth by rules of the Wage and Hour Commission.

(2) Those occupations set out in **Title 29 CFR, Part 570.51** to and including **Part 570.68** as amended December 17, 2004 are hereby adopted as occupations particularly hazardous or detrimental to the health and well-being of minors 16 and 17 years of age and the regulations pertaining to these occupations set out in **Title 29 CFR, Part 570.51** to and including **Part 570.68** as amended December 17, 2004 are hereby adopted and incorporated by reference herein and are attached as **Appendix 1**.

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

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

Stat. Auth.: ORS 653.252

Stats. Implemented: ORS 653.305

Hist.: BL 182, f. & ef. 11-14-75; BL 6-1988, f. & cert. ef. 4-12-88; BLI 3-1999, f. & cert. ef. 6-16-99; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02; BLI 17-2006, f. 5-12-06, cert. ef. 5-15-06

## 839-021-0220 Employment Certificates for the Employment of Minors 14 through 17 Years of Age

(1) Unless otherwise provided by rule of the commission, no minor 14 through 17 years of age may be employed or permitted to work unless the employer:

- (a) Verifies the minor's age by requiring the minor to produce acceptable proof of age as prescribed by these rules; and
- (b) Complies with the provisions of this rule.

(2) An employer may not employ a minor without having first obtained a validated employment certificate from the Bureau of Labor and Industries. Application forms for an employment certificate may be obtained from any office of the Bureau of Labor and Industries or by contacting the Child Labor Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street Suite 1045, Portland, OR 97232, (971) 673-0836.

(a) The Bureau of Labor and Industries will issue a validated employment certificate upon review and approval of the application. The validated employment certificate will be effective for one year from the date it was issued, unless it is suspended or revoked.

(b) If, after the issuance of a validated employment certificate, the duties of the minors are changed from those originally authorized under the employment certificate or the employer wishes to employ minors at an additional establishment, the employer must submit a "Notice of Change (to Annual Employment Certificate)" form to the Child Labor Unit, Wage and Hour Division of the Bureau of Labor and Industries. The "Notice of Change (to Annual Employment Certificate)" form must be submitted within 15 days of the change on a form provided by the bureau. The bureau will approve or deny any change(s) in duties and notify the employer. If the bureau denies the changes, the employer must immediately reassign any affected minor to approved duties or terminate the minor's employment.

(3) The employer must post the validated employment certificate in a conspicuous place where all employees can readily see it. When the employer employs minors in more than one establishment, a copy of the validated employment certificate must be posted at each establishment. As used in this rule, "establishment" means a distinct physical place of business. If a minor is employed by one employer to perform work in more than

# ADMINISTRATIVE RULES

one location, the minor will be considered employed in the establishment where the minor receives management direction and control.

(4) If the employer employs minors at more than one establishment, a copy of the Summary of Child Labor Laws provided to the employer by the bureau pursuant to OAR 839-021-0221(4) must be provided by the employer to the manager of each establishment where minors will be employed.

(5) The employer must apply for a validated employment certificate once each year by filing a renewal application on a form provided by the Bureau of Labor and Industries. The renewal application must be received by any office of the bureau no later than the expiration date of the validated employment certificate.

(6) If the bureau's review of any application indicates a failure to comply with any law or rule pertaining to the employment of minors or any order of the commission, the bureau may deny the application and inform the employer of the reason(s) for the denial.

Stat. Auth.: ORS 653.307(1)

Stats. Implemented: ORS 653.307(1)

Hist.: BL 117, f. 10-20-71, ef. 11-1-71, Renumbered from 839-021-0115; BL 6-1988, f. & cert. ef. 4-12-88; BL 3-1995, f. 9-8-95, cert. ef. 9-9-95; BLI 4-1998, f. & cert. ef. 3-5-98; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02; BLI 17-2006, f. 5-12-06, cert. ef. 5-15-06

\*\*\*\*\*

**Rule Caption:** Includes loans derived from conduit/pass through revenue bonds as public funds under PWR law.

**Adm. Order No.:** BLI 18-2006

**Filed with Sec. of State:** 5-12-2006

**Certified to be Effective:** 5-15-06

**Notice Publication Date:** 12-1-04

**Rules Amended:** 839-025-0100

**Subject:** The amended rule revises the definition of "Funds of a public agency" in the PWR rules to include loans by a public agency, including the loan of proceeds from conduit or pass-through revenue bonds.

**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

## 839-025-0100

### Exemptions

(1) All public works are regulated under ORS 279C.800 to 279C.870 except as follows:

(a) Projects for which the total price does not exceed \$50,000. As used in this section, the price of a project includes, but is not limited to, the value of work performed by every person paid by a contractor or subcontractor in any manner for the person's work on the project, but does not include the value of donated materials or work performed on the project by individuals volunteering to the public agency without pay.

(b) Contracts of a People's Utility District which are regulated under ORS 261.345.

(c) Projects for which no funds of a public agency are directly or indirectly used.

(A) As used in this section, "Funds of a public agency" does not include:

(i) Funds provided in the form of a government grant to a nonprofit organization, unless the government grant is issued for the purpose of construction;

(ii) Building and development permit fees paid or waived by the public agency;

(iii) Staff resources of the public agency used to manage a project or to provide a principal source of supervision, coordination or oversight of a project;

(iv) Staff resources of the public agency used to design or inspect one or more components of a project; or

(v) A public agency's election not to collect land rent.

(B) "Directly used public funds" means any revenue, money or that which can be valued in money derived from a public agency's immediate custody and control or any money loaned by a public agency, including the loan of proceeds from the sale of conduit or pass-through revenue bonds, for the specific purpose of financing a project. Payment for all or part of a project with public property or other assets constitutes payment with public funds.

(C) "Indirectly used public funds" means that a public agency ultimately bears the cost of all or part of the project, even if a public agency is not paying for the project directly or completing payment at the time it occurs or shortly thereafter. A public agency will "ultimately bear the cost" of all or part of a project in situations including, but not limited to:

(i) Amortizing the costs of construction over the life of a lease and

paying these costs with public funds during the course of the lease;

(ii) A public agency subsidizing the costs of construction that would normally be borne by the contractor.

(iii) Using insurance proceeds that belong to a public agency to pay for construction. Insurance proceeds represent "money collected for the custody and control of a public agency" and therefore are public funds, whether the contractor obtains payment directly from the insurance company or the public agency; or

(iv) Using or creating a private entity as a conduit for funding a project when the private entity is in fact an alter ego of the public agency.

(2) The provisions of ORS 279C.840 and these rules that regulate payment of the prevailing rate of wage do not apply to:

(a) Inmates of the Oregon Department of Corrections assigned to:

(A) A work release program or otherwise working in gainful private employment pursuant to ORS 144.480, relating to prison inmate labor; or

(B) State Parks and Recreation Department projects to improve, maintain and repair buildings and property at state parks and recreation areas pursuant to ORS 390.195(1).

(b) Oregon Youth Conservation Corps members.

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

Stat. Auth.: ORS 279 & 651.060

Stats. Implemented: ORS 279.357, 390.195(1) & OL Ch. 628 (2001)

Hist.: BL 4-1984, f. & ef. 3-13-84; BL 3-1996, f. & cert. ef. 1-26-96; BL 1-1998, f. & cert. ef. 1-5-98; BLI 15-2001, f. & cert. ef. 11-14-01; Renumbered from 839-016-0100, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 18-2006, f. 5-12-06, cert. ef. 5-15-06

\*\*\*\*\*

**Rule Caption:** Clarifies application of PWR law to residential projects; Allows reference to applicable rates in specifications.

**Adm. Order No.:** BLI 19-2006(Temp)

**Filed with Sec. of State:** 5-12-2006

**Certified to be Effective:** 5-15-06 thru 11-10-06

**Notice Publication Date:**

**Rules Adopted:** 839-025-0037

**Rules Amended:** 839-025-0004, 839-025-0020

**Subject:** SB 477, which became effective January 1, 2006, requires that the higher of either the state PWR or federal Davis-Bacon rates to be paid on projects subject to both laws. The purpose of these temporary rules is to clarify that the state's higher "commercial" wage rates do not apply to residential projects if there are applicable federal residential rates available and eliminate the need for contracting agencies to apply for special wage determinations when federal rates are available. The temporary rules define residential construction project; clarify that the federal Davis-Bacon residential rates may be paid on residential construction projects subject to state PWR law; require special wage rates to be requested and approved on residential projects subject to state law ONLY if there are no applicable federal residential rates; and require payment of regular PWR wage rates on residential projects subject to the PWR law ONLY if there are no applicable federal residential rates and the contracting agency does not obtain a special rate determination from BOLI.

In addition, the temporary rules delete the requirement that the applicable prevailing wage rates be physically included in all bid specifications for projects subject to the PWR law, and allow a reference to the applicable wage rates to be made in the specifications.

**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

## 839-025-0004

### Definitions

As used in these rules, unless the context requires otherwise:

(1) "Apprentice" means:

(a) A person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training (BAT) or with any state apprenticeship agency recognized by BAT; or

(b) A person in probationary employment as an apprentice in such an apprenticeship program, but who is not individually registered in the program, but who has been certified by the BAT or a state apprenticeship agency to be eligible for probationary employment as an apprentice.

(2) "The Basic Hourly Rate of Pay" or "Hourly Rate" means the rate of hourly wage, excluding fringe benefits, paid to the worker.

(3) "Bureau" means the Bureau of Labor and Industries.

(4) "Commissioner" means the Commissioner of the Bureau of Labor and Industries, or designee.

## ADMINISTRATIVE RULES

(5) "Construction" means the initial construction of buildings and other structures, or additions thereto, and of highways and roads. "Construction" does not include the transportation of material or supplies to or from the public works project by employees of a construction contractor or construction subcontractor.

(6) "Division" means the Wage and Hour Division of the Bureau of Labor and Industries.

(7) "Employ" includes to suffer or permit to work.

(8) "Fringe benefits" means the amount of:

(a) The rate of contribution irrevocably made on a regular basis and not less often than quarterly by a contractor or subcontractor to a trustee or to a third person pursuant to a plan, fund or program; and

(b) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program which is committed in writing to the workers affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state or local law to provide any of such benefits. Other bona fide fringe benefits do not include reimbursement to workers for meals, lodging or other travel expenses, nor contributions to industry advancement funds (CIAF for example).

(9) "Major renovation" means the remodeling or alteration of buildings and other structures within the framework of an existing building or structure and the alteration of existing highways and roads, the contract price of which exceeds \$50,000.

(10) "Nonprofit organization," as used in subsection OAR 839-025-0100(1)(c)(A)(i), means an organization or group of organizations described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(11) "Normal business hours" means the hours during which the office of the contractor or subcontractor is normally open for business. In the absence of evidence to the contrary, the Division will consider the hours between 8:00 a.m. and 5:00 p.m., excluding the hours between 12:00 noon and 1:00 p.m., on weekdays as normal business hours.

(12) "Overtime" means all hours worked:

(a) On Saturdays;

(b) On the following legal holidays:

(A) Each Sunday;

(B) New Year's Day on January 1;

(C) Memorial Day on the last Monday in May;

(D) Independence Day on July 4;

(E) Labor Day on the first Monday in September;

(F) Thanksgiving Day on the fourth Thursday in November;

(G) Christmas Day on December 25.

(c) Over 40 hours in a week; and either

(d) Over eight (8) hours in a day; or

(e) Over 10 hours in a day provided:

(A) The employer has established a work schedule of four consecutive days (Monday through Thursday or Tuesday through Friday) pursuant to OAR 839-025-0034; and

(B) The employer operates in accordance with this established work schedule.

(13) "Overtime rate" means the basic hourly rate of pay multiplied by one and one-half.

(14) "Overtime wages" means the overtime hours worked multiplied by the overtime rate.

(15) "Person" includes a public or private corporation, a partnership, a sole proprietorship, a limited liability company, a government or governmental instrumentality.

(16) "Prevailing wage rate claim" means a claim for wages filed by a worker with the Division.

(17) "Public agency" means the State of Oregon or any political subdivision thereof or any county, city, district, authority, public corporation or entity and any of their instrumentalities organized and existing under law or charter.

(18) "Public funds" means any revenue, money or that which can be valued in money collected for, or in the custody and control of a public agency.

(19) "Public work," "public works" or "public works project" includes but is not limited to roads, highways, buildings, structures and

improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency the primary purpose of which is to serve the public interest regardless of whether title thereof is in a public agency but does not include the reconstruction or renovation of privately owned property which is leased by a public agency.

(20) "Public works contract" or "contract" means any contract, agreement or understanding, written or oral, into which a public agency enters for any public work.

(21) "Reconstruction" means highway and road resurfacing and rebuilding, the restoration of existing highways and roads, and the restoration of buildings and other structures.

(22) "Reconstruction or renovation of privately owned property which is leased by a public agency" includes improvements of all types within the framework or footprint of an existing building or structure. "Reconstruction and renovation of privately owned property which is leased by a public agency" does not include:

(a) New construction that is initiated with the intent to lease to an identified public agency, either exclusively or as a primary tenant. A primary tenant is one who leases 51% or more of the space.

(b) Tenant improvements that meet the following criteria:

(A) Are paid for with public funds, either directly or indirectly as defined in OAR 839-025-0100(1)(c)(A), (B) and (C); and

(B) Are performed according to plans, specifications, or criteria furnished by one or more identified public agencies; and

(C) Comprise 51% or more of the value of the building or structure. When the cost of the tenant improvements are borne by more than one public agency, prevailing wage coverage will not be found unless the public agencies act as a joint enterprise for the purposes of the construction project.

(i) For buildings or structures constructed within the past three years, the value will be determined by the total construction cost.

(ii) For buildings constructed more than three years before the tenant improvements, the value will be the real market value determined for property tax purposes.

(23) "Residential construction project" means:

(a) A project for the construction, reconstruction, major renovation or painting of a single family house or apartment building of no more than four (4) stories in height and all incidental items such as site work, parking areas, utilities, streets and sidewalks pursuant to the U.S. Department of Labor's "All Agency Memorandum No. 130—"Application Of The Standard of Comparison 'Projects Of A Character Similar' Under the Davis-Bacon and Related Acts" dated March 17, 1978. (See Appendix 6.)

(b) Notwithstanding the provisions of subsection (a) of this rule, where it is determined that a different definition of "residential construction" has been adopted by local ordinance or code, or that the prevailing practice of a particular trade or occupation regarding what is considered "residential construction" differs from the U.S. Department of Labor definition of residential construction, the commissioner may consider such information in determining a project to be a "residential construction project."

(24) "Site of work" is defined as follows:

(a) The site of work is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed, and other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the site.

(b) Except as provided in paragraph (c) of this section, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards and similar facilities, are part of the site of work provided they are dedicated exclusively, or nearly so, to the performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them. Such facilities which are established by a supplier of materials for the project after the opening of bids are deemed to be dedicated exclusively to the performance of the contract or project.

(c) Not included in the site of work are permanent home offices, branch plant establishments, fabrication plants, and tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, and similar facilities of a commercial supplier or materialman which are established by a supplier of materials for the project before opening of bids and not on the project site, are not included in the site of work. Such permanent, previously established facilities are not part of the site of the work, even where the operations for a period of time may be dedicated



# ADMINISTRATIVE RULES

exclusively, or nearly so, to the performance of a contract or project.

(25) "Special wage determination" means a wage determination made at the request of a public contracting agency and which is applicable only to specific job classes. A special wage determination is issued in those cases where there is no current wage determination applicable to specific job classes and the use of such job classes is contemplated on a public works project.

(26) "Trade" or "occupation" is defined in accordance with the prevailing practices of the construction industry in Oregon.

(27) "Trainee" means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Bureau of Apprenticeship and Training as meeting its standards for on-the-job training programs and which has been so certified by that bureau.

(28) "Wage determination" includes the original decision and any subsequent amendments made by the commissioner in accordance with ORS 279C.815.

(29) "Wages" or "Prevailing Wages" means the basic hourly rate of pay and fringe benefits as defined in sections (2) and (8) of this rule.

(30) "Worker" means a person employed on a public works project and whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental, professional or managerial. The term "worker" includes apprentices, trainees and any person employed or working on a public works project in a trade or occupation for which the commissioner has determined a prevailing rate of wage. (See OAR 839-025-0035.)

Stat. Auth.: ORS 279 & 651.060

Stats. Implemented: ORS 279.334

Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 4-1984, f. & ef. 3-13-84; BL 7-1989(Temp), f. 10-2-89, cert. ef. 10-3-89; BL 5-1990, f. 3-30-90, cert. ef. 4-1-90; BL 3-1996, f. & cert. ef. 1-26-96; BL 8-1996, f. 8-26-96, cert. ef. 9-1-96; BL 3-1997(Temp), f. 7-31-97, cert. ef. 8-1-97; BL 1-1998, f. & cert. ef. 1-5-98; BLI 15-2001, f. & cert. ef. 11-14-01; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0004, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 19-2006(Temp), f. 5-12-06, cert. ef. 5-15-06 thru 11-10-06

## 839-025-0020

### Public Works Contracts and Contract Specifications; Required Conditions

(1) Every public works contract must contain the following:

(a) A condition or clause that, if the contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person, or the assignee of the person, in connection with the public works contract as such claim becomes due, the proper officer or officers of the public contracting agency may pay such claim and charge the amount of the payment against funds due or to become due the contractor by reason of the contract (Reference: ORS 279C.515);

(b) A condition that no person will be employed for more than 10 hours in any one day, or 40 hours in any one week except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases the person so employed must be paid at least time and one-half the regular rate of pay for all time worked;

(A) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or

(B) For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and

(C) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.

(c) A condition that an employer must give notice to employees who work on a public works contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work (Reference: ORS 279C.520);

(d) A condition that the contractor must promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such contractor, of all sums which the contractor agrees to pay for such services and all moneys and sums which the contractor collected or deducted from the wages of the contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service (Reference: ORS 279C.530);

(e) A provision that the contractor must pay to the commissioner a fee equal to one tenth of one percent (.001) of the contract price but no less than \$100 nor more than \$5,000 regardless of the contract price; that the fee

must be paid no later than 10 days after receipt of the first progress payment or 60 days after work on the contract has begun, whichever comes first; that final adjustments to the fee must be made within 30 days of the final progress payment after completion of the contract.

(2) Every public works contract and subcontract must contain a provision that each worker in each trade or occupation employed in the performance of the contract either by the contractor, subcontractor or other person doing or contracting to do or contracting for the whole or any part of the work on the contract, must be paid not less than the applicable state prevailing rate of wage, or the applicable federal prevailing rate of wage, whichever is higher.

(3)(a) The specifications for every public works contract must contain a provision stating the existing state prevailing rate of wage and, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act (40 U.S.C. 276a). The existing rate of wage is the rate in effect at the time the initial specifications were first advertised for bid solicitations.

(b) If a public agency is required under paragraph (a) of this subsection to include the state and federal prevailing rates of wage in the specifications, the public agency also shall include in the specifications information showing which prevailing rate of wage is higher for workers in each trade or occupation in each locality, as determined by the Commissioner of the Bureau of Labor and Industries under ORS 279C.815(2)(b).

(4) The provision described in subsections (2) and (3) must be included in all specifications for each contract awarded on the project, regardless of the price of any individual contract, so long as the combined price of all contracts awarded on the project is \$50,000 or more (Reference: ORS 279C.830). A statement incorporating the existing prevailing wage rate into the specifications by reference will satisfy these requirements.

(5) All specifications for each contract awarded on the project must contain a provision stating that the contractor must pay to the commissioner a fee equal to one tenth of one percent (.001) of the contract price but no less than \$100 nor more than \$5,000 regardless of the contract price pursuant to ORS 279C.825. The fee must be paid no later than 10 days after receipt of the first progress payment or 60 days after work on the contract has begun, whichever comes first; that final adjustments to the fee must be made within 30 days of the final progress payment after completion of the contract (Reference: ORS 279C.830).

(6) Public contracting agencies may obtain, without cost, a copy of the existing prevailing rate of wages for use in preparing the contract specifications by contacting the Prevailing Wage Rate Unit or any office of the bureau.

Stat. Auth.: ORS 279 & 651.060

Stats. Implemented: ORS 279.316

Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 7-1989(Temp), f. 10-2-89, cert. ef. 10-3-89; BL 5-1990, f. 3-30-90, cert. ef. 4-1-90; BL 3-1996, f. & cert. ef. 1-26-96; BL 3-1997(Temp), f. 7-31-97, cert. ef. 8-1-97; BL 1-1998, f. & cert. ef. 1-5-98; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0020, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 19-2006(Temp), f. 5-12-06, cert. ef. 5-15-06 thru 11-10-06

## 839-025-0037

### Residential Construction Projects

(1)(a) For residential construction projects subject to ORS 279C.800 to 279C.870, public agencies shall use federal Davis-Bacon wage rates for residential construction projects unless there is no applicable federal rate for a particular trade or classification on the residential project.

(b) If the applicable federal Davis-Bacon wage rate determination does not include a rate for a particular trade or classification needed on a specific residential construction project, and the project is subject to ORS 279C.800 to 279C.870 but not the federal Davis-Bacon Act, the public agency is required to request a special wage rate, identifying the specific trade or classification, pursuant to OAR 839-025-0007.

(c) Requests for special wage rate determinations for projects subject to both ORS 279C.800 to 279C.870 and the federal Davis-Bacon Act shall be submitted pursuant to Title 29 CFR, Part 5.5(a)(1)(ii) as amended November 20, 2000.

(d) Copies of any special federal wage rate determinations requested and subsequent determination(s) issued pursuant to subsection (c) must be provided to the commissioner by the contracting agency.

(2) Notwithstanding subsection (1) of this rule, the commissioner, consistent with statutory authority, may survey and issue residential rates.

(3) Requests for special wage rates for residential construction projects pursuant to subsection (1)(b) of this rule must be submitted to the Bureau of Labor and Industries by the contracting agency no fewer than fifteen (15) business days prior to the date the specifications for the project are first advertised.

(4) If a contracting agency fails to request special wage rates for a

# ADMINISTRATIVE RULES

residential construction project pursuant to subsection (1)(b) at least fifteen (15) business days before the date the specifications for the project are first advertised for the project, the Prevailing Wage Rates for Public Contracts published by the Commissioner of the Bureau of Labor and Industries in effect when the specifications are first advertised shall apply to those trades or classifications for which there is no applicable federal residential rate.

(5) The federal Davis-Bacon wage rates apply to residential construction projects subject to ORS 279C.800 to 279C.870 regardless of whether federal law requires Davis-Bacon rates on the project.

(6) Notwithstanding the provisions of this rule, unless otherwise exempt, under no circumstances may a rate less than the minimum wage rate required by ORS 653.025 be paid to any worker on a residential construction project subject to ORS 279C.800 to 279C.870.

Stat. Auth.: ORS 279C & 651.060

Stats. Implemented: ORS 279C.800 - 279C.870

Hist.: BLI 19-2006(Temp), f. 5-12-06, cert. ef. 5-15-06 thru 11-10-06

\*\*\*\*\*

## Department of Administrative Services

### Chapter 125

**Rule Caption:** Rules for the acquisition or the terminal disposition of real property.

**Adm. Order No.:** DAS 4-2006

**Filed with Sec. of State:** 5-12-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 1-1-06

**Rules Adopted:** 125-045-0200, 125-045-0205, 125-045-0210, 125-045-0215, 125-045-0220, 125-045-0225, 125-045-0230, 125-045-0235, 125-045-0240, 125-045-0245, 125-045-0250, 125-045-0255, 125-045-0260, 125-045-0265, 125-045-0270

**Rules Repealed:** 125-045-0100, 125-045-0105, 125-045-0110, 125-045-0120, 125-045-0125, 125-045-0130, 125-045-0140, 125-045-0150, 125-045-0160, 125-045-0170, 125-045-0180, 125-045-0190, 125-045-0195

**Subject:** These rules establish the procedures that State Agencies will follow to acquire, sell, transfer, exchange or otherwise dispose of real property. In addition, these rules establish procedures for the Public Lands Advisory Committee (PLAC); the management of the Statewide Lands Inventory Program; and the method by which the associated costs of these programs will be apportioned and funds collected.

**Rules Coordinator:** Kristin Keith—(503) 378-2349, ext. 325

#### 125-045-0200

##### Purpose

These rules are adopted under the authority of ORS 184.340, 270.015 and 270.100 and establish the procedures that must be followed by Agencies to acquire and to sell, transfer, exchange or otherwise dispose of interests in real property. These rules also establish procedures for the operation of the Public Lands Advisory Committee (PLAC); collection of funds for the support of the Statewide Lands Inventory Program and PLAC; and the management and operation of the Statewide Lands Inventory Program.

Stat. Auth.: ORS 184.340, 270.015 & 270.100

Stats. Implemented: ORS 244.010 & 270.010

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

#### 125-045-0205

##### Definitions

The following definitions apply to the rules in this Division 045:

(1) "Acquiring Agency" means an Agency that proposes to acquire a Real Property Interest and is not an Exempt Acquiring Agency.

(2) "Acquisition" means obtaining rights of ownership in a Real Property Interest by an Agency through a purchase, exchange, conveyance or other transfer of that Real Property Interest.

(3) "Administrator" means the Administrator of the Department's Facilities Division.

(4) "Agency" means any board, commission, department or agency of the State of Oregon, whose costs are paid from funds held in the State Treasury and that are authorized to acquire or dispose of Real Property Interests.

(5) "Appraisal" means a written report by a licensed and experienced real estate appraiser estimating the fair market value of a Real Property Interest prepared in accordance with OAR 125-045-0215.

(6) "Appraised Fair Market Value" means the fair market value of a Real Property Interest as determined by an Appraisal.

(7) "Department" means the Oregon Department of Administrative Services.

(8) "Directed Appraisal" means a written report by a licensed and experienced real estate appraiser estimating the fair market value of a Real Property Interest with restrictions or for a particular use, zone or conditional use in accordance with OAR 125-045-0215.

(9) "Director" means the Director of the Department.

(10) "Disposing Agency" means an Agency that proposes to dispose of a Real Property Interest.

(11) "Division" means the Facilities Division of the Department.

(12) "Exempt Acquiring Agency" means an Agency that is not required by law to report to the Department its intentions to acquire a Real Property Interest. At the time of the adoption of these rules the Exempt Acquiring Agencies are:

(a) The Department of Transportation, if acquiring a highway right of way;

(b) The Oregon University System, if acquiring real property within the approved projected campus boundaries of institutions subject to its authority; and

(c) The Parks and Recreation Department, if acquiring park properties.

(13) "Exempt Disposing Agency" means an Agency that is exempt by law from the requirement that it obtain Department approval prior to the Terminal Disposition of a Real Property Interest, unless the Terminal Disposition will be for less than the Appraised Fair Market Value. At the time of the adoption of these rules, the Exempt Disposing Agencies are:

(a) The Department of Fish and Wildlife;

(b) The Department of Forestry, if disposing of State forestlands;

(c) The Department of State Lands;

(d) The Department of Transportation;

(e) The Oregon University System;

(g) The Parks and Recreation Department, and

(f) Any legislative or judicial branch of the State.

(14) "Governing Body" means a board or commission with constitutional or statutory governing authority to approve the Acquisition or Terminal Disposition of a Real Property Interest. The term "Governing Body" includes but is not limited to the following bodies:

(a) The Oregon Board of Forestry;

(b) The Oregon Board of Higher Education;

(c) The Oregon Fish and Wildlife Commission;

(d) The Oregon Parks and Recreation Commission;

(e) The Oregon Transportation Commission; and

(f) The State Land Board.

(15) "Improvements" means any and all structures on or attachments to Real Property Interests but excluding public improvements as defined in ORS 279A.010.

(16) "In Reserve" as used in the Statewide Lands Inventory means an Agency-owned Real Property Interest that is not currently being used by the Agency, but that the Agency intends to use to fulfill an anticipated future requirement, need or benefit related to the mission of the Agency.

(17) "In Use" as used in the Statewide Lands Inventory means a State Real Property Interest that is actively being used to serve the mission of the Agency.

(18) "Long Term Lease" means any lease, which the State does not have the right of termination for convenience, to another Agency, Political Subdivision, private or public party, having a term, including options of twenty years or more.

(19) "Office Quarters" means office space, office buildings and associated services, storage and parking facilities for Agencies. Office space may include factory-built modular or portable units but excludes stand alone storages and parking facilities.

(20) "Political Subdivision" means a local governmental unit, including a county, city, town, port, dock, commission or district, that exists under the laws of Oregon and that has the power to levy taxes.

(21) "Property Restrictions" means any restrictions placed on a Real Property Interest or on the sale proceeds from the Terminal Disposition of the Real Property Interest including deed reversion clauses or constitutional or statutory requirements to deposit all or a portion of the sale proceeds into specified funds other than the general fund.

(22) "Proposal" means a written offer to purchase a State Real Property Interest submitted in response to a Request for Proposals.

(23) "Proposer" means an individual or entity that submits a Proposal in response to a Request for Proposals.

(24) "Public Lands Advisory Committee" (PLAC) means the advisory committee established under ORS 270.120.

# ADMINISTRATIVE RULES

(25) "Real Property Interest" means any legal or equitable interest in land, or an option to acquire, or a leasehold interest with a term, including options to renew or extension provisions that contemplate a total period of occupancy of more than 20 years, together with all Improvements. For the purposes of these rules, a Real Property Interest does not include:

- (a) An Office Quarters lease, regardless of the term;
- (b) An easement, unless the easement has an Appraised Fair Market Value of \$100,000 or greater; or

(c) Mineral or geothermal resources, as defined in ORS 273.755, the sale or other disposition of which is governed by ORS 273.775 to 273.790 or other provisions of law governing these resources.

(26) "Request for Proposals" means a solicitation of offers to acquire a State Real Property Interest made pursuant to OAR 125-045-0235.

(27) "Right of First Refusal" means a conditional privilege that the Disposing Agency, in the exercise of its discretion, may grant to a qualified Proposer by OAR 125-045-0230 to match the best Proposal for the purchase of a State Real Property Interest.

(28) "State" means the State of Oregon.

(29) "State Real Property Interest" means any Real Property Interest that is owned in the name of the State of Oregon.

(30) "Statewide Lands Inventory" means the inventory of State Real Property Interests maintained by the Department on a computer database.

(31) "Surplus" as used in the Statewide Lands Inventory means a State Real Property Interest that is not currently used or is not needed or desirable to support a future need, use or function of the Agency.

(32) "Terminal Disposition" means the alienation of a State Real Property Interest through a sale, exchange, conveyance, donation, lease or other transfer of that interest.

Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)

Stats. Implemented: ORS 244.010, 270.010, 270.100, 270.105, 270.110, 270.120, 270.130 & 270.135

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0210

### Alternative Rules for Acquisitions and Terminal Dispositions by State Agencies

(1) These rules apply to all Agencies seeking the Acquisition or Terminal Disposition of a Real Property Interest, with the exception of:

(a) The Department of Veterans' Affairs in any transaction for the acquisition or sale, or both, by the Director of Veterans' Affairs of a home or farm under ORS 88.720, 273.388, 406.050, 407.135, 407.145, 407.375 and 407.377; and

(b) any other Agency subject to constitutional or statutory authority that supersede all or some of these rules.

(2) Any Agency subject to a Governing Body may adopt rules for the Acquisition and Terminal Disposition of Real Property Interests. Rules adopted by an Agency will not supersede these rules, however, unless the Agency's rules have been certified by the Division pursuant to this rule.

(3) If an Agency believes that it is exempt from all or a part of these rules due to superseding constitutional or statutory authority, the Agency shall, at least 30 days prior to the Acquisition or Terminal Disposition, provide notice to the Division. The notice shall include the following information:

(a) The specific requirements of these rules from which the Agency claims to be exempt;

(b) The constitutional or statutory authority that the Agency believes supersedes these rule(s); and

(c) Identification of the Agency's rules and the date they were filed with the Secretary of State.

(3) The Division shall determine whether the Agency's rules are consistent with ORS 270.005 to 270.140. If the Agency's rules are determined to be consistent, the Division shall certify the Agency's rules and shall notify the Agency that it may use Agency rules in lieu of these rules.

(4) Upon obtaining certification by the Division and after obtaining approval by the Agency's Governing Body, the Agency may acquire and dispose of Real Property Interests in accordance with its certified rules.

(5) The Division will maintain a master file of all Agencies whose rules are certified exempt from all or a part of these rules. This master file will include the Agency's request for exempt certification, identification of the filed rules that the Agency will be using and a copy of the Division's written determination.

(6) Once certified exempt, an Agency may not use amended rules filed for the Acquisition and Terminal Disposition of Real Property Interests in lieu of these rules until the Agency's restructured rules have again been certified exempt by the Division.

(7) Notwithstanding OAR 125-045-0210, the Division may, upon 30 days prior notice to the Agency, withdraw its certification of an Agency's rules as a result of a reexamination Department rules, policies and certifications or an Agency's compliance with its certified rules. In such event, the Agency shall thereafter comply with OAR 125-045-0210 through 125-045-0245 until new or revised rules have been certified by the Division.

Stat. Auth.: ORS 270.100(1)(d)

Stats. Implemented: ORS 270.015, 270.100, 270.105, 270.110

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0215

### Appraisal and Determination of Value of Real Property Interests

(1) Prior to Acquisition from or Terminal Disposition to a party other than an Agency of a Real Property Interest, the Acquiring or Disposing Agency shall obtain an Appraisal of the Real Property Interest.

(2) For acquisitions with an estimated fair market value of less than \$100,000, a letter of opinion from a licensed real estate professional constitutes an Appraisal.

(3) If the estimated fair market value of the Real Property Interest is \$500,000 or greater, the Administrator:

(a) shall either select or approve the selection of an appraiser by the Disposing Agency;

(b) Must approve of the form and substance of the written Appraisal and the final determination of Appraised Fair Market Value by the appraiser; and

(c) May require that more than one Appraisal be obtained to establish the Appraised Fair Market Value.

(4) Upon written request by an Agency, the Administrator may preapprove the Agency's appraisal process provided the process is consistent with this rule.

(5) Upon written request by an Agency, the Administrator may preapprove the Agency's use of a directed appraisal for a particular use.

(6) Except for transfers from one Agency to another, an Agency shall not sell or dispose of any State Real Property Interest for less than its Appraised Fair Market Value without complying with OAR 125-045-0245.

(7) Prior to Terminal Disposition of a State Real Property Interest to other than an Agency, and regardless of the Appraised Fair Market Value of the State Real Property Interest, the Disposing Agency shall consider all the values of the State Real Property Interest to the people of the State, including values for fish and wildlife habitat and public access to other real property. If the Appraised Fair Market Price of the State Real Property Interest is greater than \$100,000, the public will be invited to comment on the value of the State Real Property Interest. The Agency will solicit public comment in the manner defined in OAR 125-045-0235 or in a method the Division approves.

Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)

Stats. Implemented: ORS 270.100 & 270.105

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0220

### Acquisition of Real Property Interests

(1) Except for Exempt Acquiring Agencies, before an Agency offers to acquire a Real Property Interest, it shall first declare to the Division in writing its intent to acquire the Interest. The written declaration must include the following information:

(a) A detailed description of the Real Property Interest sought to be acquired, including its approximate size in square feet or acreage;

(b) Any particular requirements of the Agency that the Interest must satisfy;

(c) A description of the general or specific location where the Agency desires to acquire the Real Property Interest, including a map if possible;

(d) The reason for the Acquisition;

(e) A completed notice using a form provided by the Division; and

(f) Any other information the Division may request.

(2) After receiving the declaration described in this rule and before an Acquiring Agency other than an Exempt Acquiring Agency may unconditionally offer to acquire any Real Property Interest, the Division shall provide written notice of the intended Acquisition to all other Agencies authorized by statute to own State Real Property Interests. In addition to any other information the Administrator or Agency determines is desirable, written notice must include the following:

(a) The information provided by the Acquiring Agency defined in OAR 125-045-0220(1);

(b) A request that the Agency give the Division written notice if the Agency controls a State Real Property Interest that the Agency no longer needs and the State Real Property Interest may match the needs of the Acquiring Agency;



# ADMINISTRATIVE RULES

(c) The deadline for the Agency to respond to the Division, which may not be less than 30 days from the date of the Division's notice, unless the Administrator determines that a shorter period is in the State's interest; and

(d) Any other information the Acquiring Agency and the Division elect to include in the notice.

(3) The Division may dispense with notice to Agencies if the Administrator adopts written findings that in the reasoned judgment of the Division, it is unlikely that a State Real Property Interest could satisfy the Acquiring Agency's needs and that as a result, notice would be a futile act.

(4) If an Agency responds timely to the written notice described in this rule, the Agency shall thereafter negotiate with the Acquiring Agency for a sale or transfer of the Agency's State Real Property Interest. The Acquiring Agency may not reject, without Division approval, a bona fide offer by another Agency to transfer to the Acquiring Agency a State Real Property Interest that satisfies the Acquiring Agency's acquisition criteria.

(5) The Acquiring Agency may proceed with an Acquisition of a Real Property Interest from a source other than an Agency after satisfying the requirements of OAR 125-045-0215 and this rule, provided the Acquisition is consistent with other applicable provisions of law.

Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)  
Stats. Implemented:  
Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0225

### Terminal Disposition of State Real Property Interests (Notices to Department, State Agencies and Political Subdivisions)

(1) Prior to the Terminal Disposition by an Agency of a State Real Property Interest, the Agency shall first declare in writing to the Division its intent to dispose of the Interest. The written declaration must include the following:

(a) A detailed description of the State Real Property Interest to be transferred, including its approximate size in square feet or acreage and its legal description;

- (b) A map showing the location of the State Real Property Interest;
- (c) An explanation of the reason for disposal;
- (d) A completed notice using a form provided by the Division; and
- (e) Any other information the Division may request.

(2) To ensure that the Terminal Disposition best serves the interests of the State and the Disposing Agency, the Disposing Agency is encouraged to create a disposition strategy for the property. The Disposing Agency's disposition strategy should consider:

(a) The highest and best use of the Real Property Interest, consistent with the local planning goals;

(b) How the Real Property Interest might be marketed most effectively, given the nature of the Interest and likely potential purchasers; and

(c) How the economic return to the State might be maximized.

(3) After receipt of a declaration to dispose of a State Real Property Interest, and before a Disposing Agency may unconditionally offer to dispose of the State Real Property Interest, the Division shall provide notice of the intended Terminal Disposition to all Agencies authorized by law to acquire Real Property Interests. Written notice must include the following:

(a) A request that any Agency with an interest in acquiring the State Real Property Interest notify the Division in writing of its interest;

(b) The information required to be provided under OAR 125-045-0225(1);

(c) The deadline for the Agency to provide written notice to the Division of its interest in acquiring the State Real Property Interest, which may not be less than 30 days from the date the Division issues the notice, unless the Administrator determines that a shorter period is in the State's interest; and

(d) Any other information the Division or the Disposing Agency elect to include in the notice.

(4) The Division may dispense with notice to Agencies if the Administrator adopts written findings that in the reasoned judgment of the Division it is unlikely that transfer of the State Real Property Interest to another Agency could satisfy the Disposing Agency's needs and that as a result, notice would be a futile act.

(5) If one or more Agencies responds timely to the written notice described in this rule, the responding Agency or Agencies shall negotiate with the Disposing Agency to determine if a sale, assignment, lease or other transfer can be completed. The Disposing Agency may not reject another Agency's bona fide offer to acquire the State Real Property Interest without Division approval.

(6) If two or more Agencies make bona fide offers to acquire the State Real Property Interest, the Disposing Agency shall determine, in its rea-

sonable discretion, which, if any, offer is most advantageous to the State and the Disposing Agency. Prior to making this determination, the Division may solicit the advice of the PLAC. A Disposing Agency need not use a competitive bidding process in connection with the Terminal Disposition of a State Real Property Interest to another Agency.

(7) Before a Disposing Agency may dispose of a State Real Property Interest to other than another Agency, the Division shall provide notice of the intended Terminal Disposition to Political Subdivisions. Written notice will be given by mail to each city, county, and school district within whose boundaries the State Real Property Interest is located. Notification shall be given to all other Political Subdivisions by at least one of the following methods:

(a) Mailed notice;

(a) Posting notice of the intended Terminal Disposition on the Division's web site; or

(b) Publication meeting the requirements defined in OAR 125-045-0235(3).

(8) The Division may provide notice to Political Subdivisions at the same time as it provides notice to Agencies. The Division may dispense with notice to Political Subdivisions if the Administrator adopts written findings that in its reasoned judgment it is unlikely that transfer of the State Real Property Interest to a Political Subdivisions could satisfy the Disposing Agency's needs and that as a result, notice would be a futile act.

(9) All notices to Political Subdivisions must include the following:

(a) A request that any Political Subdivision with an interest in acquiring the State Real Property Interest notify the Division in writing of its interest;

(b) The information required to be provided under OAR 125-045-0225(1);

(c) The deadline for the Political Subdivision to provide written notice to the Division of its interest in acquiring the State Real Property Interest, which may not be less than 30 days from the date of the Division's notice unless the Administrator determines that a shorter period is in the State's interest;

(d) A reservation of the right of the Disposing Agency to reject any offers;

(e) Notice that a Political Subdivision's right to acquire the State Real Property Interest is subject and subordinate to the right of Agencies to acquire the State Real Property Interest (required only if notice to Political Subdivisions is made concurrently with notice to Agencies); and

(f) Any other information the Division or the Disposing Agency elect to include in the notice.

(10) If no Agency indicates an interest in acquiring the State Real Property Interest, or if a sale or other transfer to another Agency cannot be finalized, any Political Subdivision that has made a timely response to the notice may negotiate with the Disposing Agency to determine if a sale or other transfer can be completed.

(11) The Disposing Agency shall consider any bona fide offer submitted by a Political Subdivision but shall not be obliged to sell or otherwise transfer the State Real Property Interest to the Political Subdivision;

(12) No Terminal Disposition of a State Real Property Interest to a Political Subdivision for less than the Appraised Fair Market Value may occur without the written approval of the Administrator or Director in accordance with OAR 125-045-0245;

(13) If two or more Political Subdivisions make bona fide offers to acquire the State Real Property Interest, the Disposing Agency shall determine, in its reasonable discretion, which, if any, offer is acceptable to the State;

(14) The Disposing Agency may place any conditions on the transfer of a State Real Property Interest to a Political Subdivision it deems advisable, including but not limited to requirements that:

(a) Any State Real Property Interest sold or transferred to a Political Subdivision be subject to a deed restriction that the property be used solely for a public purpose or benefit; and

(b) That such State Real Property Interest not be resold to a private purchaser without the consent of the State;

(15) The Disposing Agency need not use a competitive bidding process in connection with the Terminal Disposition of a State Real Property Interest to a Political Subdivision.

Stat. Auth.: ORS 270.015(2), 270.100(1)  
Stat. Implemented: ORS 270.100, 270.120  
Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

# ADMINISTRATIVE RULES

## 125-045-0230

### Right of First Refusal Determination

(1) The State of Oregon may offer a Right of First Refusal to the parties described in ORS 270.010(2) in the unlikely event the grant of such a right is consistent with applicable trust responsibilities.

(2) Prior to proceeding with the public notice and solicitation procedures described in this rule, the Disposing Agency shall determine, with the advice of the Division, whether any party is entitled to a Right of First Refusal. The Disposing Agency's determination is final and conclusive.

(3) If a Right of First Refusal is granted, the Disposing Agency shall attempt to locate and notify each party or parties granted the Right.

(4) The Disposing Agency may place any conditions on the Right of First Refusal that it elects, provided that any conditions are reviewed and approved by the Attorney General's Office. In addition, unless waived by the Agency in its notice, no Right of First Refusal may be exercised unless the holder of the Right submits a timely and responsive offer to acquire the State Real Property Interest for an amount not less than the minimum asking price.

(5) If more than one Right of First Refusal is granted, the holder of the Right that submits the highest offer shall be given the first opportunity to acquire the Real Property Interest. If there is a tie between high bidders, the first to file its offer shall be given the first opportunity. Once a party exercises a Right of First Refusal, all other Rights of First Refusal are extinguished.

(6) A grant of a Right of First Refusal may be withdrawn if the Disposing Agency discovers facts and circumstances that lead it to conclude that offering the right is not in the best interest of the state.

Stat. Auth.: ORS 270.015(2), 270.100(1)(d)

Stats. Implemented: ORS 270.010, 270.110, 270.135, 270.140

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0235

### Terminal Dispositions of State Real Property Interests (Offers to Other Individuals or Entities)

(1) This rule applies to sales and leases of State Real Property Interests only.

(2) If a Disposing Agency does not sell or transfer a State Real Property Interest to either an Agency or a Political Subdivision or to a party that has been granted a Right of First Refusal, then the Disposing Agency may dispose of the State Real Property Interest to any other party subject to the rules and procedures described in this rule.

(3) The Disposing Agency shall publish notice of the proposed Terminal Disposition of the State Real Property Interest. The notice must be published not less than once a week for three successive weeks in one or more newspapers of general circulation in the county or counties in which the State Real Property Interest is located. In addition, the Disposing Agency may provide notice on its web site. The published notice must include the following:

(a) A general description of the State Real Property Interest, including a legal description, if any;

(b) The minimum asking price;

(c) The name and address of the person to contact to obtain any additional information concerning the State Real Property Interest;

(d) A Request for Proposals, including the address to which the Proposal must be delivered and the date and time the Proposal is due, which may not be less than 30 days from the date of the first notice;

(e) A requirement that a security deposit in the amount and form described in this rule must be submitted with the Proposal;

(f) If applicable, a notice that the Terminal Disposition of the State Real Property Interest may be subject to a Right of First Refusal;

(g) If not previously published, an invitation for public comment on the State Real Property Interest values defined in OAR 125 045-0215(7) if the Appraised Fair Market Value is more than \$100,000;

(h) A reservation of the right of the Disposing Agency or the Division to accept or reject any Proposal; and

(i) Any other information the Disposing Agency elect to include.

(4) The Disposing Agency may use a multi-stage process, which may include, but need not be limited to, a Solicitation of Interest (SOI), a Request for Qualifications (RFQ), a Request for Proposals (RFP), a straight offer to purchase, or a combination of these. These documents must describe the process by which the Disposing Agency shall market the property, and may direct interested parties to the Disposing Agency's website for information.

(5) The Division may post the current status of Surplus State Real Property Interests available for Terminal Disposition on its website.

(6) All Proposals submitted in response to the published notice described in this rule must be accompanied by a deposit, in the form of a certified check or sufficient bond furnished by a surety company authorized to do business in this State, in favor of the State of Oregon in a sum not less than ten percent of the total amount of the proposed purchase price. Deposits will be refunded to all unsuccessful Proposers after the closing of the sale to a successful Proposer or rejection of all Proposals.

(7) Each Proposal must clearly identify the amount offered for the purchase of the State Real Property Interest, and must include the following additional information:

(a) Any conditions upon the Proposer's offer to acquire the State Real Property Interest;

(b) A detailed statement explaining the Proposer's proposed use for the State Real Property Interest; and

(c) Any other information the Proposer believes is relevant to its Proposal.

(8) After the date and time for submitting Proposals has passed, the Disposing Agency shall open all Proposals that have been timely delivered and that have the required deposit. The Disposing Agency shall evaluate all responsive Proposals to determine the Proposal most advantageous to the State. The determination of the most advantageous Proposal will be final and conclusive and is not subject to review by any court.

(9) The Disposing Agency shall notify the apparent successful Proposer and shall negotiate to determine if the transfer can be consummated and a final agreement reached. If negotiations are unsuccessful, the Disposing Agency may:

(a) Notify the next highest ranking acceptable Proposal and shall similarly attempt to negotiate the Terminal Disposition of the State Real Property Interest; and

(b) Continue the negotiation process until the Disposing Agency has exhausted the field of all Proposers; or

(c) Reject remaining Proposals.

(10) If the Disposing Agency and a Proposer reach a final agreement on the Terminal Disposition of the State Real Property Interest and this agreement, where required, is approved by the Attorney General pursuant to ORS 291.047, the Disposing Agency shall transfer the State Real Property Interest to the successful Proposer in accordance with the terms of the agreement.

(11) The Disposing Agency, in its sole discretion, may reject any or all Proposals.

(12) If all Proposals are rejected, the Disposing Agency may market and sell the Real Property Interest in any manner the Disposing Agency deems appropriate including but not limited to auction, direct negotiation with potential buyers, announcing a new RFQ or RFP process, and acting through a real estate licensee, provided that:

(a) If required by ORS 291.047, any resulting agreement of sale must be approved by the Attorney General;

(b) If no agreement of sale is executed within 18 months of the publication of the first public notice of sale described in this rule, no agreement of sale may be accepted without again first publishing a public notice of sale and complying with the provisions of this rule; and

(c) The Disposing Agency shall publish the process selected in this subsection on its website.

Stat. Auth.: ORS 270.015(2), 270.100(1)(d)

Stats. Implemented: ORS 270.010, 270.110, 270.130, 270.135, 270.140

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0240

### Transfer of Property with Deed Restrictions

If the State's title to a State Real Property Interest is limited, qualified or restricted, whether by dedication or otherwise, to use as a burial ground, cemetery, or for the purpose of interring the remains of deceased persons, the Disposing Agency shall follow the procedures defined in ORS 270.110(2) prior to transfer of the State Real Property Interest.

Stat. Auth.: ORS 270.015(2)

Stats. Implemented: ORS 270.110

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0245

### Department Approval

(1) Prior to any Terminal Disposition of a State Real Property Interest at or above the Appraised Fair Market Value, all Disposing Agencies, other than Exempt Disposing Agencies, shall obtain the written consent of:

(a) The Administrator if the Appraised Fair Market Value is less than \$1,000,000; or

(b) The Director if the Appraised Fair Market Value is \$1,000,000 or more.

# ADMINISTRATIVE RULES

(2) Prior to any Terminal Disposition of a State Real Property Interest for less than the Appraised Fair Market Value, all Disposing Agencies, including Exempt Disposing Agencies, shall obtain the written consent of:

(a) The Administrator if the Appraised Fair Market Value is less than \$1,000,000; or

(b) The Director if:

(A) The Appraised Fair Market Value is \$500,000 or greater and the Real Property Interest is proposed to be transferred for 80% or less of the Appraised Fair Market Value; or

(B) The Appraised Fair Market Value is \$1,000,000 or more.

(3) Notwithstanding OAR 125-045-0245(2), a Disposing Agency need not obtain the consent of the Administrator or Director, as the case may be, prior to the Terminal Disposition of a State Real Property Interest for less than the Appraised Fair Market Value if the Governing Body of the Disposing Agency has expressly approved the Terminal Disposition for less than the Appraised Fair Market Value.

(4) An Agency disposing of a State Real Property Interest pursuant to OAR 125-045-0245(3) shall provide the following information to the Administrator within 30 days following Terminal Disposition:

(a) The identify of the State Real Property Interest disposed of;

(b) The Appraised Fair Market Value of the Interest;

(c) The value received for the Interest; and

(d) Any other information requested by the Administrator.

Stat. Auth.: ORS 270.100(1)(d)

Stats. Implemented: ORS 270.100

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0250

### Public Lands Advisory Committee

(1) In exercising its real property management and transaction functions under ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to 273.436 and 273.551, the Department shall receive advice from the Public Lands Advisory Committee (PLAC).

(2) The PLAC shall consist of two members of the Legislative Assembly, two persons who serve in the executive branch of state government, one real estate agent licensed under ORS 696.020, one qualified land use planner, and one person qualified as a real estate management expert. Members of the PLAC shall appoint the Chair of the Committee.

(3) The PLAC shall meet quarterly or as often as the majority of its members determine. The Department may request that the PLAC meet for the purpose of considering real property transactions, evaluate reports to the legislature, or to review Agency reports on the status of the Statewide Lands Inventory.

(4) The PLAC may request that the Department and other Agencies controlling State Real Property Interests update the PLAC on their individual land inventories and processes for evaluating whether property is needed to support an Agency's mission.

(5) PLAC meetings shall be held in Salem. The Division, unless otherwise arranged by PLAC, will determine the meeting location. The Division shall:

(a) Schedule and announce meeting dates and times;

(b) Prepare and distribute meeting agendas;

(c) Arrange times for Agency presentations; review and edit Agency material prior to meetings;

(d) Coordinate with Agencies in response to information requests from PLAC; and

(e) Prepare and distribute meeting minutes.

(6) The PLAC is advisory to the Department and is not a governing body as defined by ORS 192.610. Meetings of the PLAC shall be treated as public meetings and shall follow the notification and other procedures described in the Attorneys General Public Records and Meetings Manual.

(7) The PLAC shall not make a recommendation on a transaction or other documents reviewed without a majority of its members present. If a duly scheduled and noticed meeting does not have a majority of the members present, those present will be considered to be a subcommittee of the PLAC. The subcommittee shall report its findings and recommendations to the next scheduled PLAC meeting when a majority is present and formal action may be taken at that time.

(8) Members of the PLAC who are not members of the Legislative Assembly are entitled to compensation under ORS 292.495. Members of the PLAC who are members of the Legislative Assembly shall be paid compensation and shall be reimbursed for expenses as provided in ORS 171.072, payable from funds appropriated to the Legislative Assembly. Expenses of the PLAC shall be paid from Department funds that shall be recovered from Agencies pursuant to OAR 125-045-0270.

(9) The PLAC may hold meetings or portions of meetings in non-public Executive Session to discuss specific, confidential deal points and negotiation strategies for particular property transactions.

Stat. Auth.: ORS 270.015(2), 270.100(1)(d)

Stats. Implemented:

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0255

### Procedure for Submitting Property Transactions and Inventory Information for PLAC Review

(1) The PLAC shall advise the Department on all Acquisitions and Terminal Dispositions valued at \$100,000 or more. The Division and the Agency shall consider, but are not required to follow, the advice of the PLAC.

(2) Prior to each PLAC meeting, the Division shall provide reports to each member of the PLAC containing key information on each Acquisition and Terminal Disposition to be reviewed by the PLAC, including:

(a) A brief summary of the proposed transaction;

(b) The reason for the PLAC review;

(c) Background summary information and a list of topics for consideration; and

(d) Any supporting documents, maps or photos.

(3) The PLAC may request information from Agencies controlling State Real Property Interests related to Agency land inventories and the Agency's processes for identifying, acquiring and disposing of excess real property.

(a) If a request for Agency information is made, prior to submission, the Division will schedule a meeting with the Agency to collect and review the documentation.

(b) At the conclusion of its evaluation, the Division will copy and distribute the documentation to the PLAC members at least two weeks in advance of the PLAC scheduled meeting.

(4) The Division shall prepare draft meeting minutes after every PLAC meeting and distribute them to PLAC members for review and comment. The Division shall revise the minutes following receipt of comments from the PLAC and shall distribute revised minutes to the PLAC for approval at the beginning of the next scheduled PLAC meeting.

(5) By November 1st of each even numbered year, the Division shall prepare a summary report of the Statewide Lands Inventory Program, available Surplus State Real Property Interests, and State Real Property Interests sold during the current biennium for the PLAC to review. By January 1st of every odd numbered year, the Division, with PLAC oversight, shall also prepare a summary report for Legislative review.

Stat. Auth.: ORS 270.015(2), 270.100(1)(d)

Stats. Implemented:

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0260

### Procedure for PLAC Review

(1) The PLAC shall receive written material for its review at least two weeks in advance of a scheduled PLAC meeting. In addition, the Department or the Agency will make a brief presentation during the meeting on specific agenda items.

(2) Following each presentation, the PLAC may ask questions and discuss issues with other PLAC members as needed.

(3) At the end of the discussion, the PLAC Chair shall ask members for advice or recommendations. The PLAC may pose further questions to the Department or Agency, may comment on the proposed transaction or agenda item, or may determine additional information is required and postpone comment.

Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)

Stats. Implemented:

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0265

### Statewide Inventory and Property Management

(1) The Division shall maintain a computer Statewide Lands Inventory database. This database will catalog the size, location, current use and value of all State Real Property Interests, as well as, identify Surplus State Real Property Interests. The Division will use this data to respond to questions from the public, Agencies, the Legislature and executive branch concerning Statewide Lands.

(2) The Division shall work with Agencies to establish appropriate categories of real property for cataloguing State Real Property Interests. Agencies shall cooperate with the Division by providing State Real Property Interests' data, which is accurate, up-to-date and complete. The Statewide Lands Inventory categories shall include information on location, size, current use, value, and whether the Real Property Interest is in



# ADMINISTRATIVE RULES

operational use, reserve, or surplus. Value may be shown as a range within a list of categories: Forest \$80-\$180/acre; Range Land \$50-\$150/acre; Commercial Office Land (Urban) \$2-\$5/per square foot. Agencies shall identify whether the State Real Property Interest is within an urban growth boundary and, if the Real Property Interest is declared Surplus and sold, whether there are restrictions on the use of proceeds.

(3) To the extent reasonably possible, the Division shall identify Real Property Interests in the Statewide Lands Inventory by:

(a) The property identification numbers or characters used by the controlling Agency, and

(b) The property identifiers assigned by the county assessor, including applicable tax map lot numbers, street addresses, GIS coordinates, latitude and longitude, section, township and range information.

(4) The Division shall post a quarterly report on the Department's website listing, by Agency, all State Real Property Interests currently for sale. The Division shall forward questions that it receives relating to specific State Real Property Interests to the appropriate Agency for response.

(5) In order to process Acquisitions and Terminal Dispositions of State Real Property Interests, as defined in OAR 125-045-0220 and 125-045-0225, Agencies controlling State Real Property Interests shall provide the Department property status information.

(6) On or before October 1st of each even numbered year, all Agencies controlling State Real Property Interests shall submit a revised and updated inventory of any Surplus State Real Property Interests that it controls to the Division. The inventory shall list separately any Surplus State Real Property Interest located within an urban growth boundary. Each Agency that controls a State Real Property Interest shall also provide to the Division an interactive link to the Agency's lands database to allow real time updates.

Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)  
Stats. Implemented:  
Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

## 125-045-0270

### Statewide Lands Inventory Program Costs

(1) The Division shall project the biennial cost of the Statewide Lands Inventory. After deducting reserves for long-term program upgrades and improvements, any fund balance remaining from the previous biennium will be subtracted from the projected biennial cost. The final projected biennial cost will then be apportioned to Agencies as described in this rule.

(2) To contribute to the cost of maintaining the Inventory, the Division shall charge each Agency that controls a State Real Property Interest an annual maintenance fee equal to the Agency's proportionate share of the total annual cost incurred by the Division. Each Agency's proportionate share of the maintenance fee will be calculated by dividing:

(a) The number of State Real Property Interests in the Inventory that are controlled by the Agency; by

(b) The total number of all State Real Property Interests listed in the Inventory as of June 30 each year.

(3) Maintenance fees will be billed annually in advance, on or before June 30 of each year. Maintenance fees are payable within 30 calendar days of the date of billing. Late payments will incur a late fee charge of 8% per annum of the amount due, with interest accruing from June 30.

(4) The Division may, at its discretion, waive an Agency's maintenance fee for any one year when the Division determines that the cost of collection may exceed the amount of the annual fee, or otherwise represents a cost inefficiency to the Division. Any fee so waived may be apportioned among the remaining Agencies for that year.

(5) Payments received by the Division under this rule are continuously appropriated to the Division to reimburse it for the costs incurred by the Division in maintaining the Statewide Lands Inventory Program.

Stat. Auth.: ORS 270.100, 270.180(3) & 270.180(4), 270.180(5)  
Stats. Implemented:  
Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

.....  
**Department of Agriculture,  
Oregon Processed Vegetable Commission  
Chapter 647**

**Rule Caption:** Amend Commission assessment rates.

**Adm. Order No.:** OPVC 1-2006

**Filed with Sec. of State:** 5-9-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 647-010-0010

**Subject:** These rules establish the assessment rates necessary to fund Commission research projects.

**Rules Coordinator:** John McCulley—(503) 370-7019

## 647-010-0010

### Assessments

(1) Any first purchaser shall deduct and withhold an assessment of the following amounts from each of the above named vegetable crops:

(a) Beans — \$.920 per ton based on the net weight of the beans delivered.

(b) Sweet Corn — \$.449 per ton based on the gross weight of the sweet corn delivered.

(c) Table Beets — \$.057 per ton based on the net weight of the table beets delivered.

(d) Carrots — \$.404 per ton based on the net weight of the carrots delivered.

(e) Broccoli — \$1.395 per ton based on the net weight of the broccoli delivered.

(f) Cauliflower — \$.173 per ton based on the net weight of the cauliflower delivered.

(2) From the price paid to the producer thereof, after June 1, 2006 for all of the above named vegetables for processing and grown in Oregon.

Stat. Auth.: ORS 576.051 - 576.595

Stats. Implemented: ORS 576.051 - 576.595

Hist.: PVC 2-1985, f. 7-17-85, ef. 7-22-85; PVC 1-1986, f. 5-30-86, ef. 6-1-86; PVC 2-1987, f. & ef. 6-16-87; PVC 1-1988, f. 4-22-88, cert. ef. 6-1-88; PVC 1-1989, f. 5-4-89, cert. ef. 6-1-89; PVC 1-1990, f. 4-24-90, cert. ef. 6-1-90; PVC 1-1991, f. 5-7-91, cert. ef. 6-1-91; PVC 1-1992, f. 4-15-92, cert. ef. 6-1-92; PVC 1-1993, f. 4-28-93, cert. ef. 6-21-93; PVC 1-1994, f. 4-22-94, cert. ef. 6-21-94; PVC 2-1995, f. 5-24-95, cert. ef. 6-1-95; PVC 1-1996, f. 5-14-96, cert. ef. 1-1-96; PVC 1-1997, f. 5-6-97, cert. ef. 6-1-97; OPVC 1-1998, f. 5-28-98, cert. ef. 6-1-98; OPVC 2-1999 f. 4-26-99, cert. ef. 6-1-99; OPVC 1-2000, f. 5-2-00, cert. ef. 6-1-00; OPVC 2-2001, f. 5-15-01, cert. ef. 6-1-01; OPVC 1-2002, f. 4-26-02, cert. ef. 6-1-02; OPVC 1-2003, f. 5-8-03, cert. ef. 6-1-03; OPVC 2-2004, f. 5-11-04, cert. ef. 6-1-04; OPVC 1-2005, f. 5-13-05, cert. ef. 6-1-05; OPVC 1-2006, f. 5-9-06, cert. ef. 6-1-06

.....  
**Department of Community Colleges  
and Workforce Development  
Chapter 589**

**Rule Caption:** Amend OAR 589-007-0400 to update outdated references and dates referring to General Education Development (GED) Program and Certificates of High School Equivalency.

**Adm. Order No.:** DCCWD 1-2006

**Filed with Sec. of State:** 4-17-2006

**Certified to be Effective:** 4-18-06

**Notice Publication Date:** 5-1-04

**Rules Amended:** 589-007-0400

**Subject:** Proposed amendments to OAR 589-007-0400 updated outdated references and dates referring to the General Education Development (GED) Program and Certificates of High School Equivalency. The changes provide clarification about the process of testing requirements and other general housekeeping matters.

**Rules Coordinator:** Linda Hutchins—(503) 378-8648, ext. 474

## 589-007-0400

### General Educational Development Program and Certificates of High School Equivalency

(1) The General Educational Development (GED) tests are a measure of high school equivalency and include the following areas:

- (a) Writing skills;
- (b) Social studies;
- (c) Science;
- (d) Reading skills; and
- (e) Mathematics.

(2) All GED tests applicants except those confined to Oregon correctional or health institutions must take the GED test at an approved military testing center or an official GED testing center.

(3) Oregon residency is not required to take the GED tests in Oregon. The applicant must have valid state or government issued photo identification. The State of Oregon will issue a certificate after completion of minimum score requirements.

(4) Official GED testing centers and local GED examiners shall be approved by the State Administrator, GED Program, Department of Community Colleges and Workforce Development, when the following have been documented (GEDTS Forms 75 and L-10):

- (a) Need for a new testing site in a specific region or location;
- (b) Need for new or replacement examiner at a testing center;

# ADMINISTRATIVE RULES

(c) Willingness of center personnel to meet all testing center requirements described in the GED Examiner's Manual published by GED Testing Service of the American Council on Education.

(5) Before testing center is approved, testing centers in Oregon shall also submit to the State GED office for approval:

(a) Appropriate fee structure that shall not exceed the cost of administering the GED tests;

(b) Appropriate testing schedules to meet year-round needs of geographic area being served.

(6) The annual contract between local testing centers, the Department of Community Colleges and Workforce Development and the GED Testing Service shall provide assurances that all state and national requirements shall be met. Failure to meet requirements may result in center closure.

(7) Requirements for a Certificate of Equivalency include:

(a) That, except as provided below, the applicant must be 18 years of age to take the GED tests:

(A) An applicant who is at least 16 years of age, but not yet 18 years of age, may take the GED tests under the following circumstances:

(i) The local school district must certify to authorized Oregon GED Chief Examiners that the applicant is exempt from compulsory school attendance for reasons cited in ORS 339.030(5), 339.250(6) and OAR 581-021-0070, 581-021-0071, and 581-021-0076, and has secured the permission of his or her parent or legal guardian; or

(ii) The Education Service District must certify to authorized Oregon GED Chief Examiners that the applicant is exempt from compulsory school attendance for reasons cited in ORS 339.030(3); or

(iii) The parent or legal guardian must certify to authorized Oregon GED Chief Examiners that the applicant is exempt from compulsory school attendance for reasons cited in ORS 339.030(1). The parent or legal guardian shall specifically indicate that the applicant has permission to take the GED tests; or

(iv) The applicant is enrolled in an approved Option Program for In School Youth as cited in OAR 581-022-1350.

(B) Because ORS 109.510 and 109.520 state that persons are deemed to reach majority upon marriage and because GED Testing Service policy states that persons must be 16 years of age to take the GED Tests (Examiner's Manual), an applicant that is married is eligible to take the GED Tests at the age of 16 without an exemption from compulsory attendance.

(c) The Commissioner may, under special and extraordinary circumstances, waive certification requirements in subparagraph (7)(b)(A)(i), (ii) or (iii) of this rule.

(8) The GED Chief Examiner shall ensure that the applicant is advised of:

(a) Locally available practice testing and preparation opportunities;

(b) Policies, including limitations on retesting procedures;

(c) A three-year limit to complete the GED Tests before retesting and repayment of fees are enacted.

(d) The special GED scores that are required by apprenticeship and some postsecondary educational programs.

(9) To obtain the Certificate of Equivalency, an applicant must achieve a minimum standard score set by the Oregon State Board of Education.

(10) Previous high school enrollment is not required for an applicant to be eligible to receive a Certificate of Equivalency.

(11) Certificate application:

(a) The individual who passes the tests may make application for the Certificate of Equivalency to the State Administrator, GED Program, Department of Community Colleges and Workforce Development, Salem, Oregon. Application forms, available at all official testing centers, may be completed at the time the test is taken.

(b) Test scores are accepted as official only when reported directly by official GED agencies, the United States Armed Forces Institute, directors of Veterans Administration hospitals, and in special cases by the GED Testing Service;

(c) Service personnel are responsible for having their test scores sent to the State GED Administrator. Upon receipt of these scores, a certificate application form will be mailed.

(12) Testing centers shall comply with the requirements of the Testing Program by refusing to administer tests to those who have not reached the age of 18 unless permitted by this rule.

(13) By authorization of the Commission on Educational Credit and Credentials, the Department of Community Colleges and Workforce Development administers the GED tests to individuals confined to state correctional and health institutions.

(14) Upon the recommendation of the Commission of Accreditation of Service Experience of the American Council on Education, the following provisions apply to GED testing of members of the Job Corps stationed in Oregon:

(a) Civilian-restricted forms of the GED test can be administered to Job Corps trainees who have been determined to be eligible by the educational director of the Job Corps Training Center;

(b) Testing will be done at official GED agencies, and the usual testing fee will be charged;

(c) Persons taking the test must be at least 18 years of age unless the applicant meets requirements in subparagraph (7)(b)(A)(i), (ii), (iii), or (iv) of this rule.

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

Stat. Auth.: ORS 326.051 & 326.550

Stats. Implemented: ORS 326.550 & 341.425

Hist.: 1EB 49, f. 4-19-60, ef. 5-10-60; 1EB 130, f. 5-5-72, ef. 10-15-72; 1EB 137, f. 8-18-72, ef. 10-1-72; 1EB 194, f. 4-18-75, ef. 7-1-75; 1EB 240, f. & ef. 8-27-76; 1EB 5-1984, f. & ef. 3-7-84; EB 6-1988, f. & cert. ef. 1-14-88; EB 14-1991, f. & cert. ef. 7-19-91; Renumbered from 581-046-0010; EB 15-1992, f. & cert. ef. 5-13-92; EB 4-1993, f. & cert. ef. 1-13-93; EB 30-1993(Temp), f. & cert. ef. 9-30-93; EB 36-1993, f. & cert. ef. 12-14-93; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0600; DCCWD 1-2006, f. 4-17-06, cert. ef. 4-18-06

\*\*\*\*\*

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

**Rule Caption:** Notification of Rulemaking by Mail, Electronic Mail or Delivery.

**Adm. Order No.:** DO 2-2006

**Filed with Sec. of State:** 5-9-2006

**Certified to be Effective:** 5-9-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 440-001-0000

**Subject:** The amendment to OAR 440-001-0000 allows notice of an intended action to be either delivered, sent by regular mail, or sent by electronic mail. Notice of intended rulemaking was published in the March 2006 Oregon Bulletin. There were no requests for a hearing received nor any comment received.

**Rules Coordinator:** Myrna Curzon—(503) 947-7866

### 440-001-0000

#### Notice of Rulemaking

(1) Prior to rulemaking to which this rule applies, the Director shall give notice as provided in this rule. This rule applies to rulemaking that carries out any of the following rulemaking authority of the Director:

(a) Rulemaking authority under ORS 705.135;

(b) Rulemaking authority of the Director other than as provided under ORS 705.135, with respect to the Department as a whole;

(c) Rulemaking authority with respect to duties and functions assigned to the Director or the Department by law when the duties and functions are not carried out through an administrative division or staff office created under ORS 705.115.

(2) The rulemaking authority to which this rule applies includes, by way of example only, authority under ORS 646.859 which provides for approval by the Department of signs to be posted by auto rental companies, and authority under ORS 293.445, which governs the refund of moneys by agencies.

(3) The Director shall give notice of an intended action of rulemaking to which this rule applies:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 prior to the effective date of the intended action as required by ORS 183.335;

(b) By mailing, electronic mailing, or delivering copies of the notice to persons on the mailing list established by the Director under ORS 183.335;

(c) By mailing, electronic mailing, or delivering copies of the notice to the Associated Press and other members of the media who have requested notification or who the Director determines may have an interest in the subject matter of the proposal;

(d) By mailing, electronic mailing, or delivering copies of the notice to persons who the Director determines may have an interest in the subject matter of the proposal.

(e) By mailing, electronic mailing, or delivering copies of the notice to the appropriate state legislators as required by ORS 183.335.

Stat. Auth.: ORS 183.341 & 705.135

Stats. Implemented: ORS 183.335

# ADMINISTRATIVE RULES

Hist.: IF 7-1989(Temp), f. & cert. ef. 9-1-89; IF 1-1990, f. & cert. ef. 4-19-90; DO 4-1999, f. & cert. ef. 12-10-99; DO 4-2002, f. 10-17-02 cert. ef. 1-1-03; DO 2-2003, f. 8-15-03, cert. ef. 1-1-04; DO 2-2006, f. & cert. ef. 5-9-06

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

**Rule Caption:** Securities fees biennial adjustment based on national midpoint for similar fees in all other states.

**Adm. Order No.:** FCS 3-2006

**Filed with Sec. of State:** 5-4-2006

**Certified to be Effective:** 5-4-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 441-049-1001

**Subject:** Based on an analysis of securities fees in other states, this amendment changes the fees for filings of notices for three types of federal covered securities. For unit investment trusts, the initial notice fee increases from \$270 to \$350 per portfolio, and renewal fee from \$225 to \$350 per portfolio. For a Rule 506 filing, the one-time fee increases from \$225 to \$250. For other federal covered securities under section 18(b)(3) and (4) of the Securities Act of 1933, the fee changes from an annual variable fee based on the amount offered to a one-time fee of \$200.

**Rules Coordinator:** Berri Leslie—(503) 947-7478

**441-049-1001**

**Fees for Federal Covered Securities Notice Filings**

Pursuant to ORS 59.049, for new filings received on or after June 1, 2006 or renewal filings effective on or after June 1, 2006, the Director sets the following fees for notice filings for federal covered securities:

(1) For an investment company, other than a unit investment trust, an initial and renewal notice filing fee of \$500 per portfolio. Issuers may submit filings containing multiple portfolios, provided the portfolios are identified in the Form NF and correct fees are paid.

(2) For a unit investment trust notice filing, an initial fee of \$350 per portfolio and a renewal fee of \$350 per portfolio. Issuers may submit filings containing multiple portfolios, provided the portfolios are identified in the Form NF and correct fees are paid.

(3) For a notice filing for offerings to qualified purchasers, or of federally exempt securities or federally exempt transactions pursuant to section 18(b)(3) or (4), other than section 18(b)(4)(D), of the Securities Act of 1933, as amended, a fee of \$200. No renewal notice filing or fee is required.

(4) For a Regulation D Rule 506 offering notice filing, a fee of \$250. No renewal notice filing or fee is required.

Stat. Auth.: ORS 59.049

Stats. Implemented: ORS 59.049

Hist.: FCS 2-2003(Temp), f. & cert. ef. 11-26-03 thru 5-21-04; FCS 1-2004, f. & cert. ef. 5-19-04; FCS 3-2006, f. & cert. ef. 5-4-06

.....  
**Department of Consumer and Business Services,  
Insurance Division  
Chapter 836**

**Rule Caption:** Adoption of Attorney General's 2006 Model Rules of Procedure for Insurance Division.

**Adm. Order No.:** ID 8-2006

**Filed with Sec. of State:** 4-27-2006

**Certified to be Effective:** 4-27-06

**Notice Publication Date:**

**Rules Amended:** 836-005-0107

**Subject:** This rulemaking adopts the Oregon Attorney General's Model Rules of Procedure under the Administrative Procedures Act dated January 1, 2006.

**Rules Coordinator:** Sue Munson—(503) 947-7272

**836-005-0107**

**Model Rules of Procedure Governing Rulemaking**

The Model Rules of Procedure, OAR 137-001-0005 to 137-005-0070, in effect on January 1, 2006, as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act, are adopted as the rules of procedure for the Insurance Division.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedures is available from the Office of the Attorney General or the Insurance Division.]

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.025, 183.090 & 183.310 - 183.550

Hist.: IC 2-1981, f. & ef. 11-20-81; IC 7-1983, f. & ef. 9-28-83; IC 3-1986, f. & ef. 3-5-86; IC 16-1988, f. & cert. ef. 10-12-88; ID 19-1990, f. & cert. ef. 12-13-90; ID 3-1992, f. & cert. ef. 2-13-92; ID 2-1994, f. & cert. ef. 3-23-94; ID 8-1995, f. & cert. ef. 12-8-95; ID 7-1998, f. & cert. ef. 4-15-98; ID 10-2000, f. & cert. ef. 11-3-00; ID 3-2002, f. & cert. ef. 1-24-02; ID 3-2004, f. & cert. ef. 5-7-04; ID 8-2006, f. & cert. ef. 4-27-06

.....  
**Rule Caption:** Mandated health insurance coverage; use of policy exclusions, waivers and preexisting conditions.

**Adm. Order No.:** ID 9-2006

**Filed with Sec. of State:** 4-27-2006

**Certified to be Effective:** 5-1-06

**Notice Publication Date:** 12-1-05

**Rules Adopted:** 836-053-0003

**Rules Amended:** 836-053-0460

**Subject:** This rulemaking affirms the statutory prohibition against the use of a policy exclusion or waiver in a health insurance policy with respect to pregnancy and childbirth expenses, for which coverage is required by ORS 743.693.

**Rules Coordinator:** Sue Munson—(503) 947-7272

**836-053-0003**

**Prohibition of Exclusion Period for Pregnancy**

A carrier may not impose an exclusion period or a waiver in a health benefit plan for pregnancy and childbirth expenses, for which coverage is required by ORS 743.693.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 743.693, 743.737, 743.754 & 743.766

Hist.: ID 9-2006, f. 4-27-06, cert. ef. 5-1-06

**836-053-0460**

**Benefit Design**

(1) When a carrier applies an exclusion period for a specified covered service to all individuals upon enrollment in an individual health benefit plan, if the excluded service was covered under prior creditable coverage under another policy, the carrier may determine the excluded service and the duration of the exclusion period and must apply credit for the prior creditable coverage without regard to the level or use of coverage in the prior plan if:

(a) Creditable coverage remains in effect on the effective date of coverage; or

(b) Creditable coverage terminated no more than 63 days prior to the effective date of coverage.

(2) Prior coverage credit toward an exclusion period must be applied on the basis of elapsed time in the prior coverage. For example, if the exclusion period is 24 months and the enrollee had creditable coverage for 12 months, the applicable exclusion period would be 12 months.

(3) A carrier must incorporate coverages newly required by law not later than the anniversary date if a rolling schedule is used, or the fixed schedule date established by the carrier pursuant to OAR 836-053-0465 for implementing premium rate increases.

Stat. Auth.: ORS 743.769

Stats. Implemented: ORS 743.766 - 743.769

Hist.: ID 12-1996, f. & cert. ef. 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 5-2000, f. & cert. ef. 5-11-00; ID 9-2006, f. 4-27-06, cert. ef. 5-1-06

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

**Rule Caption:** Adoption of Federal OSHA Revocation of Slip Resistance of Skeletal Structure Steel in Construction.

**Adm. Order No.:** OSHA 2-2006

**Filed with Sec. of State:** 4-28-2006

**Certified to be Effective:** 4-28-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 437-003-0001

**Subject:** Oregon OSHA adopted the revocation of a provision in the Structural Steel Assembly rule in Division 3/R, Construction/Steel Erection. Federal OSHA published in the January 18, 2006 Federal Register the revocation of this paragraph and appendix. The specific provision is 1926.754(c)(3), Slip resistance of skeletal structural steel, and Appendix B that accompanies this rule. According to Federal OSHA documents, there has been no significant progress regarding the suitability of the test methods referenced in the provision for



# ADMINISTRATIVE RULES

testing slip resistance or the availability of coatings that would meet the slip resistant requirements of the provision. Most significantly, there is a high probability that the test methods would not be validated by the effective date (July 18, 2006). As a result, employers would be unable to comply with the provision.

Please visit OR-OSHA's web site at [www.orosha.org](http://www.orosha.org)

**Rules Coordinator:** Sue C. Joye—(503) 947-7449

## 437-003-0001

### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1926, revised as of 7/1/05, and any subsequent amendments published in the Federal Register as listed below:

#### (1) Subdivision A — General.

(a) 29 CFR 1926.1 Purpose and Scope, published 2/9/79, Federal Register (FR), vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.2 Variances from safety and health standards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.3 Inspections — right of entry, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

#### (2) Subdivision B — General Interpretations.

(a) 29 CFR 1926.10 Scope of subpart, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.13 Interpretation of statutory terms, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.16 Rules of construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

#### (3) Subdivision C — General Safety And Health Provisions.

(a) 29 CFR 1926.20 General safety and health provisions, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.21 Safety training and education, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved).

(d) 29 CFR 1926.23 First aid and medical attention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.24 Fire protection and prevention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.25 Housekeeping, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.26 Illumination, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.27 Sanitation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.28 Personal protective equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.29 Acceptable certifications, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9249.

(l) 29 CFR 1926.31 Incorporation by reference, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9249; 6/18/98, FR vol. 63, no. 117, p. 33468.

(m) 29 CFR 1926.32 Definitions, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35078.

(n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.

(o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.

(4) Subdivision D — Occupational Health And Environmental Controls.

(a) 29 CFR 1926.50 Medical services and first aid, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469.

(b) 29 CFR 1926.51 Sanitation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35084.

(c) 29 CFR 1926.52 Occupational noise exposure, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.53 Ionizing radiation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.54 Nonionizing radiation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/17/86, FR vol. 51, p. 37007; 12/4/87, FR vol. 52, p. 46312; 11/4/96, FR vol. 61, no. 214, p. 56856; 1/10/97, FR vol. 62, no. 7, p. 1619.

(g) 29 CFR 1926.56 Illumination, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.57 Ventilation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35099; 3/7/96, FR vol. 61, no. 46, p. 9250; 1/8/98, FR vol. 63, no. 5, p. 1295.

(i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).

(j) 29 CFR 1926.59 Hazard Communication, published 8/24/87, FR vol. 52, p. 31852; amended 12/4/87, FR vol. 52, 46075; 4/27/88, FR vol. 53, no. 81, pp. 15033-15035; stay lifted on 2/17/89, FR vol. 54, p. 6886; 2/9/94, FR vol. 59, no. 27, pp. 6126-6184; 4/13/94, FR vol. 59, no. 71, pp. 17478-17479; 12/22/94, FR vol. 59, no. 245, p. 65947; 6/20/96, FR vol. 61, p. 31427.

(k) 29 CFR 1926.60 Methylenedianiline (MDA), published 8/10/92, FR vol. 57, no. 154, pp. 35681-35695; 6/20/96, FR vol. 61, p. 31427; 1/8/98, FR vol. 63, no. 5, p. 1296; 12/6/04, FR vol. 69, p. 70373; 1/5/05, FR vol. 69, p. 1111.

(l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 7/19/94, FR vol. 59, no. 137, pp. 36700; 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1926.62 Lead, published 5/4/93, FR vol. 58, no. 84, pp. 26626-26649; 1/8/98, FR vol. 63, no. 5, p. 1296; 1/5/05, FR vol. 69, p. 1111.

**NOTE:** Cadmium has been redesignated as §1926.1127.

(n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response.

**NOTE:** Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.

(5) Subdivision E — Personal Protective And Life Saving Equipment.

(a) 29 CFR 1926.95 Criteria for personal protective equipment, published 6/30/93, Federal Register, vol. 58, p. 35152.

(b) 29 CFR 1926.100 Head protection, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.101 Hearing protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.102 Eye and face protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35160.

(e) 29 CFR 1926.103 Respiratory protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 1/8/98, FR vol. 63, no. 5, p. 1297.

**NOTE:** 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.

(f) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.

(g) 29 CFR 1926.106 Working over or near water, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.107 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40729.

(6) Subdivision F — Fire Protection And Prevention.

(a) 29 CFR 1926.150 Fire protection, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.151 Fire prevention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.

## ADMINISTRATIVE RULES

- (c) 29 CFR 1926.152 Flammable and combustible liquids, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469; 6/30/93, FR vol. 58, no. 124, p. 35162.
- (d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35170.
- (e) 29 CFR 1926.154 Temporary heating devices, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.155 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (7) Subdivision G — Signs, Signals, And Barricades.
- (a) 29 CFR 1926.200 Accident prevention signs and tags, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35173; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (b) 29 CFR 1926.201 Signaling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (c) 29 CFR 1926.202 Barricades, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (d) 29 CFR 1926.203 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (8) Subdivision H — Materials Handling, Storage, Use And Disposal.
- (a) 29 CFR 1926.250 General requirements for storage, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40729; 6/30/93, FR vol. 58, no. 124, p. 35173.
- (b) 29 CFR 1926.251 Rigging equipment for material handling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35173.
- (c) 29 CFR 1926.252 Disposal of waste materials, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (9) Subdivision I — Tools — Hand And Power.
- (a) 29 CFR 1926.300 General requirements, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35076; 3/7/96, FR vol. 61, no. 46, p. 9250.
- (b) 29 CFR 1926.301 Hand tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.302 Power operated hand tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35175.
- (d) 29 CFR 1926.303 Abrasive wheels and tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35175.
- (e) 29 CFR 1926.304 Woodworking tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.
- (f) 29 CFR 1926.305 Jacks — lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.
- (10) Subdivision J — Welding And Cutting.
- (a) 29 CFR 1926.350 Gas welding and cutting, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35179.
- (b) 29 CFR 1926.351 Arc welding and cutting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.
- (c) 29 CFR 1926.352 Fire prevention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35179.
- (e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.
- (11) Subdivision K — Electrical.
- (a) 29 CFR 1926.400 Introduction, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (b) 29 CFR 1926.401 (Reserved).
- (c) 29 CFR 1926.402 Applicability, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (d) 29 CFR 1926.403 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (e) 29 CFR 1926.404 Wiring design and protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.
- (f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (g) 29 CFR 1926.406 Specific purpose equipment and installations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (h) 29 CFR 1926.407 Hazardous (classified) locations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (i) 29 CFR 1926.408 Special systems, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (j) 29 CFR 1926.409 (Reserved).
- (k) 29 CFR 1926.415 (Reserved).
- (l) 29 CFR 1926.416 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335; 6/30/93, FR vol. 58, no. 124, p. 35179; 3/7/96, FR vol. 61, no. 46, p. 9251; 8/12/96, FR vol. 61, no. 156, p. 41738.
- (m) 29 CFR 1926.417 Lockout and tagging of circuits, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335; 6/30/93, FR vol. 58, no. 124, p. 35181; 3/7/96, FR vol. 61, no. 46, p. 9251; 8/12/96, FR vol. 61, no. 156, p. 41739.
- (n) 29 CFR 1926.418 (Reserved).
- (o) 29 CFR 1926.430 (Reserved).
- (p) 29 CFR 1926.431 Maintenance of equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (q) 29 CFR 1926.432 Environmental deterioration of equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (r) 29 CFR 1926.433–29 CFR 1926.440 (Reserved).
- (s) 29 CFR 1926.441 Battery locations and battery charging, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (t) 29 CFR 1926.442–29 CFR 1926.448 (Reserved).
- (u) 29 CFR 1926.449 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.
- (12) Subdivision L — Scaffolding.
- (a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/30/96, FR vol. 61, no. 170, p. 46104.
- (b) 29 CFR 1926.451 General requirements, published 8/30/96, FR vol. 61, no. 170, p. 46107; 11/25/96, FR vol. 61, no. 228, p. 59831.
- (c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.
- (d) 29 CFR 1926.453 Aerial lifts, published 8/30/96, FR vol. 61, no. 170, p. 46116; 11/25/96, FR vol. 61, no. 228, p. 59832.
- (e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (f) Appendix A to Subpart L Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (g) Appendix B to Subpart L Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (h) Appendix C to Subpart L List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (i) Appendix D to Subpart L List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (j) Appendix E to Subpart L Drawing and illustrations, published 8/30/96, FR vol. 61, no. 170, p. 46122; 11/25/96, FR vol. 61, no. 228, p. 59832.
- (13) Subdivision M — Fall Protection.
- (a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart. Amended 8/9/94, FR vol. 59, no. 152, p. 40730–40731; 1/18/01, FR vol. 66, no. 12, p. 5265; 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.

## ADMINISTRATIVE RULES

(b) 29 CFR 1926.501 Duty to have fall protection. Amended 8/9/94, FR vol. 59, no. 152, p. 40732–40733; amended 2/5/01 (Oregon Exceptions); amended with AO 6-2002, f. and ef. 7/19/02.

(c) 29 CFR 1926.502 Fall protection systems criteria and practices. Amended 8/9/94, FR vol. 59, no. 152, p. 40733–40738; amended with AO 6-2002, f. and ef. 7/19/02.

(d) 29 CFR 1926.503 Training requirements. Amended 8/9/94, FR vol. 59, no. 152, p. 40738; REPEALED with AO 6-2002, f. and ef. 7/19/02, replaced with OI.

(e) Appendix A to Subpart M Determining Roof Widths, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; amended 8/9/94, FR vol. 59, no. 152, p. 40738–40742.

(f) Appendix B to Subpart M Guardrail Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743.

(g) Appendix C to Subpart M Personal Fall Arrest Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743–40746.

(h) Appendix D to Subpart M Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.

(14) Subdivision N — Cranes, Derricks, Hoists, Elevators, And Conveyors.

(a) 29 CFR 1926.550 Cranes and derricks, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 4/6/82, FR vol. 47, p. 14706; 8/2/88, FR vol. 53, p. 29139; 4/18/89, FR vol. 54, no. 73, p. 15405; 8/9/94, FR vol. 59, no. 152, p. 40730; 6/30/93, FR vol. 58, no. 124, p. 35183.

(b) 29 CFR 1926.551 Helicopters, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.553 Base-mounted drum hoist, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.554 Overhead hoists, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.555 Conveyors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(15) Subdivision O — Motor Vehicles, Mechanized Equipment, And Marine Operations.

(a) 29 CFR 1926.600 Equipment, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35183.

(b) 29 CFR 1926.601 Motor vehicles, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.602 Material handling equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35183; 12/1/98, FR vol. 63, no. 230, p. 66274; amended by AO 7-2003, f. 12/5/03, ef. 12/5/03.

(d) 29 CFR 1926.603 Pile driving equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.604 Site clearing, published 6/24/74, FR vol. 39, p. 22801; amended 7/22/77, FR vol. 42, p. 37674.

(f) 29 CFR 1926.605 Marine operations and equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.606 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(16) Subdivision P — Excavations.

(a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45959–45961.

(b) 29 CFR 1926.651 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45960–45961; 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.652 Requirements for protective systems, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45961–45962.

(d) Appendices A–F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962–45991.

(17) Subdivision Q — Concrete And Masonry Construction

(a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612; 10/18/90, FR vol. 55, no. 202, p. 42326.

(b) 29 CFR 1926.701 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612; 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.702 Requirements for equipment and tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612.

(d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.

(e) 29 CFR 1926.704 Requirements for precast concrete, published 6/16/88, FR vol. 53, p. 22612; amended 10/5/89, FR vol. 54, no. 192, p. 41088.

(f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 6/16/88, FR vol. 53, p. 22612; amended 10/18/90, FR vol. 55, no. 202, p. 42326.

(g) Appendix A to 1926.705 Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.

(18) Subdivision R — Steel Erection.

(a) 29 CFR 1926.750 Scope, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(b) 29 CFR 1926.751 Definitions, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, 1/1/04.

(c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(d) 29 CFR 1926.753 Hoisting and rigging, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(e) 29 CFR 1926.754 Structural steel assembly, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04; amended 1/18/06, FR vol. 71, no. 11, p. 2879.

(f) 29 CFR 1926.755 Column anchorage, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(g) 29 CFR 1926.756 Beams and columns, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(h) 29 CFR 1926.757 Open web steel joists, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(i) 29 CFR 1926.758 Systems-engineered metal buildings, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(j) 29 CFR 1926.759 Falling object protection, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(k) 29 CFR 1926.760 Fall protection, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(l) 29 CFR 1926.761 Training, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(m) Appendix A to Subpart R Guidelines for establishing the components of a site-specific erection plan: Non-Mandatory Guidelines for Complying with §1926.752(e), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(n) Appendix B to Subpart R Acceptable test methods for testing slip-resistance of walking/working surfaces: Non-Mandatory Guidelines for Complying with §1926.754(c)(3), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(o) Appendix C to Subpart R Illustrations of bridging terminus points: Non-Mandatory Guidelines for Complying with §1926.757(a)(10) and §1926.757(c)(5), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(p) Appendix D to Subpart R Illustration of the use of control lines to demarcate controlled decking zones (CDZs): Non-Mandatory Guidelines for Complying with §1926.760(c)(3), published 1/18/01, Federal Register,



# ADMINISTRATIVE RULES

vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(q) Appendix E to Subpart R Training: Non-Mandatory Guidelines for Complying with §1926.761, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(r) Appendix F to Subpart R Perimeter columns: Non-Mandatory Guidelines for Complying with §1926.756(e) to Protect the Unprotected Side or Edge of a Walking/Working Surface, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(s) Appendix G to Subpart R Fall protection systems criteria and practices from §1926.502: Non-Mandatory Guidelines for Complying with Complying with §1926.760(d), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(t) Appendix H to Subpart R Double connections: Illustration of a clipped end connection and a staggered connection: Non-Mandatory Guidelines for Complying with Complying with §1926.756(c)(1), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(19) Subdivision S — Underground Construction, Caissons, Cofferdams, And Compressed Air.

(a) 29 CFR 1926.800 Tunnels and shafts, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940. Underground Construction, published 6/2/89, FR vol. 54, no. 105, p. 23824; 1/8/98, FR vol. 63, no. 5, p. 1297.

(b) 29 CFR 1926.801 Caissons, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.802 Cofferdams, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.803 Compressed air, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.

(e) 29 CFR 1926.804 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) Appendix A to Subpart S Decompression Tables, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(20) Subdivision T — Demolition.

(a) 29 CFR 1926.850 Preparatory operations, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.852 Chutes, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.853 Removal of materials through floor openings, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.855 Manual removal of floors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.857 Storage, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.858 Removal of steel construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.859 Mechanical demolition, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.860 Selective demolition by explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(21) Subdivision U — Blasting And Use Of Explosives.

(a) 29 CFR 1926.900 General provisions, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.901 Blaster qualifications, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.902 Surface transportation of explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35311.

(d) 29 CFR 1926.903 Underground transportation of explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35311.

(f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35184.

(g) 29 CFR 1926.906 Initiation of explosive charges — electric blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469.

(h) 29 CFR 1926.907 Use of safety fuse, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.908 Use of detonating cord, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.909 Firing the blast, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.910 Inspection after blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(l) 29 CFR 1926.911 Misfires, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(m) 29 CFR 1926.912 Underwater blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(o) 29 CFR 1926.914 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.

(22) Subdivision V — Power Transmission And Distribution.

(a) 29 CFR 1926.950 General requirements, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.951 Tools and protective equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.952 Mechanical equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.953 Material handling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.954 Grounding for protection of employees, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.955 Overhead lines, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.956 Underground lines, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.957 Construction in energized substations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.958 External load helicopters, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.959 Lineman's body belts, safety straps, and lanyards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.960 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(23) Subdivision W — Rollover Protective Structures: Overhead Protection.

(a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.

(d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.

(24) Subdivision X — Stairways And Ladders.

(a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 11/14/90, Federal Register, vol. 55, no. 220, p. 47687; amended 1/23/91, FR vol. 56, no. 15, p. 2585; 6/30/93, FR vol. 58, no. 124, p. 35184.

(b) 29 CFR 1926.1051 General requirements, published 11/14/90, FR vol. 55, no. 220, p. 47688.

# ADMINISTRATIVE RULES

(c) 29 CFR 1926.1052 Stairways, published 11/14/90, FR vol. 55, no. 220, p. 47688; amended 1/23/91, FR vol. 56, no. 15, p. 2585; 2/7/91, FR vol. 56, no. 26, p. 5061; 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.

(d) 29 CFR 1926.1053 Ladders, published 11/14/90, FR vol. 55, no. 220, p. 47689; amended 1/23/91, FR vol. 56, no. 15, p. 2585; 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.

(e) 29 CFR 1926.1054 (Reserved).

(f) 29 CFR 1926.1055 (Reserved).

(g) 29 CFR 1926.1056 (Reserved).

(h) 29 CFR 1926.1057 (Reserved).

(i) 29 CFR 1926.1058 (Reserved).

(j) 29 CFR 1926.1059 (Reserved).

(k) 29 CFR 1926.1060 Training requirements, published 11/14/90, FR vol. 55, no. 220, p. 47691.

(25) Subdivision Z — Toxic And Hazardous Substances.

(a) 29 CFR 1926.1101 Asbestos, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/20/86, FR vol. 51, p. 22612; 10/17/86, FR vol. 52, p. 17756; 7/20/88, FR vol. 53, no. 138, p. 27346; 9/14/88, FR vol. 53, p. 35627; 9/23/88, FR vol. 53, no. 185, p. 37080; 7/21/89, FR vol. 54, no. 139, p. 30705, 12/20/89, FR vol. 54, no. 243, pp. 52027-52028; 2/5/90, FR vol. 55, no. 24, p. 3792; 12/10/90, FR vol. 55, no. 237, pp. 50685-50687; 9/4/91, FR vol. 56, no. 171, pp. 43699-43700; 3/5/92, FR vol. 57, no. 44, p. 7878; 6/8/92, FR vol. 57, no. 110, pp. 24330-1; 6/30/92, FR vol. 57, no. 126, p. 29119; 8/10/94, FR vol. 59, no. 153, pp. 41131-62; 6/29/95, FR vol. 60, no. 125, pp. 33983-34002; 7/13/95, FR vol. 60, p. 36043; 9/29/95, FR vol. 60, p. 50411; 8/23/96, FR vol. 61, no. 165, p. 43454; 1/8/98, FR vol. 63, no. 5, p. 1298; 4/23/98, FR vol. 63, no. 78, p. 20099; 6/29/98, FR vol. 63, no. 124, p. 35137; 1/5/05, FR vol. 69, p. 1111.

(b) 29 CFR 1926.1127 Cadmium, published 9/14/92, FR vol. 57, no. 178, pp. 42453-42463; amended 4/23/93, FR vol. 58, no. 77, p. 21778; 1/3/94, FR vol. 59, no. 1, p. 215; 6/20/96, FR vol. 61, p. 31427; 1/8/98, FR vol. 63, no. 5, p. 1298; 1/5/05, FR vol. 69, p. 1111.

(c) 29 CFR 1926.1152 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619; 10/20/97, FR vol. 62, p. 54382; 12/18/97, FR vol. 62, no. 243, p. 66275.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 11-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03; OSHA 2-2003, f. & cert. ef. 1-30-03; OSHA 7-2003, f. & cert. ef. 12-5-03; OSHA 8-2003, f. 12-30-03 cert. ef. 1-1-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 2-2006, f. & cert. ef. 4-28-06

\*\*\*\*\*

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

**Rule Caption:** Revised requirements affecting managed care organizations' treatment guidelines, standards, and protocols.

**Adm. Order No.:** WCD 4-2006(Temp)

**Filed with Sec. of State:** 5-11-2006

**Certified to be Effective:** 6-1-06 thru 11-27-06

**Notice Publication Date:**

**Rules Amended:** 436-015-0005, 436-015-0030, 436-015-0040

**Subject:** Temporary amendments to OAR chapter 436, division 015, "Managed Care Organizations" include:

- Definitions of treatment guidelines, treatment standards, and treatment protocols;

- Clarification that protocols and guidelines may be made available to the director online under specified conditions; and

- Requirements that the MCO plan include a summary of the process used by the MCO to develop and review treatment guidelines, standards, and protocols.

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns2state.or.us

Rules are available on the internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

**Rules Coordinator:** Fred Bruyns—(503) 947-7717

### 436-015-0005

#### Definitions

Unless a term is specifically defined elsewhere in these rules or the context otherwise requires, the definitions of ORS chapter 656 and OAR 436-010-0005 are hereby incorporated by reference and made a part of these rules.

(1) "GSA" means a geographic service area.

(2) "Health Care Provider" means an entity or group of entities, organized to provide health care services or organized to provide administrative support services to those entities providing health care services. An entity solely organized to become an MCO under these rules is not, in and of itself, a health care provider.

(3) "Managed Care Organization" or "MCO" means an organization formed to provide medical services and certified in accordance with these rules.

(4) "Primary Care Physician" means a physician qualified to be an attending physician according to ORS 656.005(12)(b)(A) and who is a general practitioner, family practitioner, or internal medicine practitioner.

(5) "Treatment Guidelines" means general treatment recommendations or a range of treatment options, thought to be acceptable by most physicians and providers, that are available to assist medical providers in determining appropriate medical treatment for a medical condition.

(6) "Treatment Protocols" means a precise and detailed treatment guide, developed through consensus of physicians and providers, about what is acceptable medical treatment for a medical condition.

(7) "Treatment Standards" means the MCO's certified plan, expectations and clinical requirements, generally agreed to be acceptable by physicians and providers, to which medical providers agree to comply. This includes, but is not limited to, the MCO's internal process, terms and conditions, treatment guidelines and treatment protocols.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 4-1991, f. & cert. ef. 6-14-91; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 4-2006(Temp), f. 5-11-06, cert. ef. 6-1-06 thru 11-27-06

### 436-015-0030

#### Applying for Certification

(1) A health care provider or group of medical service providers applying for certification as an MCO must submit to the director, within 120 days of the filing of the Notice of Intent to Form, the following:

(a) Four copies of an application which includes specific information indicating the manner in which the MCO will be able to meet the provisions of these rules;

(b) The MCO certification of incorporation and a copy of the MCO by-laws;

(c) A non-refundable fee of \$1,500 which will be deposited in the Department of Consumer and Business Services Fund; and

(d) The approved MCO plan.

(2) The MCO shall provide a description of the initial GSA. The GSA shall be designated by a listing of the postal zip codes in the service area.

(3) The MCO plan shall provide a description of the times, places, and manner of providing services under the plan adequate to ensure that workers governed by the MCO shall be able to:

(a) Access an MCO provider panel with a minimum of one attending physician within the MCO for every 1,000 workers covered by the plan;

(b) Receive initial treatment by the worker's choice of an attending physician or authorized nurse practitioner within 24 hours of the MCO's knowledge of the need or a request for treatment;

(c) Receive initial treatment by the worker's choice of an attending physician or authorized nurse practitioner in the MCO within 5 working days, subsequent to treatment by a physician outside the MCO;

## ADMINISTRATIVE RULES

(d) Receive treatment by an MCO physician in cases requiring emergency in-patient hospitalization;

(e) Receive information on a 24-hour basis regarding medical services available within the MCO which shall include the worker's right to receive emergency or urgent care, and the hours of regular MCO operation if assistance is needed to select an attending physician or answer other questions;

(f) Seek treatment from any category of medical service provider as defined in subsection (6)(a) of this rule and have a choice of at least 3 medical service providers within each category. The worker shall also have at least 3 choices, as needed, of ancillary service providers including, but not limited to, physical therapists and psychologists. Treatment by all medical service providers including attending physicians will be governed by the MCO treatment standards and protocols;

(g) Access medical providers, including attending physicians, within a reasonable distance from the worker's place of employment, considering the normal patterns of travel. For purposes of this rule, 30 miles (one way) in urban areas and 60 miles (one way) in rural areas will be considered a reasonable distance;

(h) Receive treatment by a non-MCO medical service provider when the enrolled worker resides outside the MCO's geographical service area. Such workers may only select non-MCO providers if they practice closer to the worker's residence than an MCO provider of the same category and if they agree to the terms and conditions of the MCO;

(i) Receive services that meet quality, continuity, and other treatment standards which will provide all medical and health care services in a manner that is timely, effective, and convenient for the worker; and

(j) Receive specialized medical services the MCO is not otherwise able to provide. The application must include a description of the times, places, and manner of providing such specialized medical services.

(4) The MCO plan must provide a procedure which allows for workers to receive compensable medical treatment from a primary care physician or authorized nurse practitioner who is not a member of the MCO. The procedure must identify the criteria the MCO will use for approval or disapproval of such treatment, and provide written notice of the MCO physician qualification procedures to the worker.

(5) The MCO shall provide:

(a) Copies of contract agreement(s) or other documents signed by the MCO and each participating medical service provider/health care provider representative which verify membership; and

(b) A list of the names, addresses, and specialties of the individuals who will provide services under the managed care plan together with appropriate evidence of any licensing, registration or certification requirements for that individual to practice. This list shall indicate which medical service providers will act as attending physicians in each GSA within the MCO; and

(c) Copies of all treatment standards, protocols and guidelines developed or used by the MCO, including protocols and guidelines from any companies from whom the MCO may have purchased them, for the director review and approval under ORS 656.260(4)(a). The MCO must provide these copies at no cost to the director. The MCO may meet the requirements of this subsection if the protocols and guidelines purchased or adopted by the MCO are available online through a company from whom the MCO has purchased them. If the MCO chooses this option, the MCO must ensure the director has access to them at no cost, and the online protocols and guidelines must be complete and not in an abbreviated version. Standards, protocols and any guidelines approved by the director are for certification purposes only and may not apply to an individual case dispute regarding medical services brought before the director.

(6) The MCO plan shall provide:

(a) An adequate number of medical service providers from each provider category. For purposes of these rules, the categories include acupuncturist, chiropractor, dentist, naturopath, optometrist, osteopath, physician, and podiatrist, as listed in ORS 676.110. The requirements of this section must be met unless the MCO shows evidence that the minimum number is not available within a GSA.

(b) A process that allows workers to select a nurse practitioner authorized to provide compensable medical services under ORS 656.245 and OAR 436-010. If the MCO has fewer than three authorized nurse practitioners from which workers can choose within a GSA, the MCO must allow workers to seek treatment outside the MCO from authorized nurse practitioners, consistent with the MCO's treatment and utilization standards. Treatment must also be consistent with ORS 656.245(2)(b)(C), which limits the authorization of treatment of the worker by a nurse practitioner to 90 days and authorization of payment of temporary disability benefits for a

period not to exceed 60 days from the date of the first visit on the initial claim. Such authorized nurse practitioners are not themselves bound by the MCO's treatment and utilization standards; however, workers are subject to those standards.

(c) A program which specifies the criteria for selection and de-selection of physicians and the process for peer review. The processes for terminating a physician and peer review shall provide for adequate notice and hearing rights for any physician.

(7) The MCO plan must provide adequate methods for monitoring and reviewing contract matters between its providers and the MCO to ensure appropriate treatment or to prevent inappropriate or excessive treatment including but not limited to:

(a) A program of peer review and utilization review to prevent inappropriate or excessive treatment including, but not limited to, the following:

(A) A pre-admission review program of elective admissions to the hospital and of elective surgeries.

(B) Individual case management programs, which identify ways to provide appropriate care for less money for cases which are likely to prove very costly, such as physical rehabilitation or psychiatric care.

(C) Physician profile analysis which may include such information as each physician's total charges, number and costs of related services provided, time loss of claimant, and total number of visits in relation to care provided by other physicians to patients with the same diagnosis. A physician's profile shall not be released to anyone outside the MCO without the physician's specific written consent except that the physician's profile shall be released to the director without the necessity of obtaining such consent.

(D) Concurrent review programs, which periodically review the worker's care after treatment has begun, to determine if continued care is medically necessary.

(E) Retrospective review programs, which examine the worker's care after treatment has ended, to determine if the treatment rendered was excessive or inappropriate.

(F) Second surgical opinion programs which allow workers to obtain the opinion of a second physician when elective surgery is recommended. Second surgical opinions must be required prior to repeat surgeries.

(b) A quality assurance program which includes, but is not limited to:

(A) A system for resolution and monitoring of problems and complaints which includes, but is not limited to, the problems and complaints of workers and medical service providers;

(B) Physician peer review which shall be conducted by a group designated by the MCO or the director and which must include, but is not limited to, members of the same healing art in which the physician practices;

(C) A standardized claimant medical record keeping system designed to facilitate entry of information into computerized databases for purposes of quality assurance.

(c) A program for monitoring and reviewing other contract matters that meets the requirements of ORS 656.260(4) and which are not covered under peer review, service utilization review, dispute resolution, and quality assurance.

(8) The MCO plan must include a procedure for internal dispute resolution to resolve complaints by enrolled injured workers, medical providers, and insurers in accordance with OAR 436-015-0110. The internal dispute resolution procedure shall include a provision allowing the waiver of the time period to appeal a decision to the MCO upon a showing of good cause.

(9) The MCO plan must include a summary of the process used by the MCO to develop and review treatment standards, protocols and guidelines. This summary shall include, but is not limited to:

(a) A description of the medical expertise or specialties of the clinicians involved;

(b) A description regarding what the standards, protocols and guidelines are based on;

(c) The criteria used by the MCO in selecting the conditions for which the MCO implements treatment standards, protocols and guidelines;

(d) A description of the criteria used by the MCO to determine when it needs to review or revise its treatment standards, protocols and guidelines;

(e) How the MCO makes the standards, protocols and guidelines available to its panel providers and how it notifies them of any changes;

(f) Sufficient flexibility that would allow treatment outside the standards, protocols and guidelines if supported by persuasive professional medical judgment and reasoning;

(g) An appeals process; and



# ADMINISTRATIVE RULES

(h) A description of how the MCO will ensure the worker continues to receive appropriate care in a timely, effective and convenient manner throughout this process.

(10) The MCO plan shall provide other programs that meet the requirements of ORS 656.260(4) including:

(a) A program involving cooperative efforts by the workers, the employer, the insurer, and the MCO to promote early return to work for enrolled injured workers; and

(b) A program involving cooperative efforts by the workers, the employer, and the MCO to promote workplace safety and health consultative and other services. The program shall include:

(A) Identification of how the MCO will promote such services.

(B) A method by which the MCO will report to the insurer within 30 days of knowledge of occupational injuries and illnesses involving serious physical harm as defined by OAR 437-001, occupational injury and illness trends as observed by the MCO, and any observations that indicate an injury or illness was caused by a lack of diligence of the employer.

(C) A method by which an MCO's knowledge of needed loss control services will be communicated to the insurer for determining the need for services as detailed in OAR 437-001.

(D) A provision that all notifications to the insurer from the MCO shall be considered as a request to the insurer for services as detailed in OAR 437-001.

(E) A provision that the MCO shall maintain complete files of all notifications for a period of 3 years following the date that notification was given by the MCO.

(11) The MCO shall establish one place of business in this state where the organization administers the plan, keeps membership records and other records as required by OAR 436-015-0050.

(12) The MCO plan must include a procedure for timely and accurate reporting to the director necessary information regarding medical and health care service costs and utilization in accordance with OAR 436-015-0040 and 436-009.

(13) The MCO shall designate an in-state communication liaison for the department and the insurers at the MCO's established in-state location. The responsibilities of the liaison shall include, but not be limited to:

(a) Coordinating and channeling all outgoing correspondence and medical bills;

(b) Unless otherwise provided by the MCO contract, providing centralized receipt and distribution of all reimbursements back to the MCO members and primary care physicians; and

(c) Serving as a member on the quality assurance committee.

(14) The MCO must provide satisfactory evidence of ability to meet the financial requirements necessary to ensure delivery of service in accordance with the plan.

(15) The MCO plan shall describe the reimbursement procedures for all services provided in accordance with the MCO plan. The members must comply with the following billing and report processing procedures:

(a) Submit all bills in accordance with the MCO contract with the insurer.

(b) Submit all reports and related correspondence to the insurer's authorized claims processing location with copies to the MCO in-state communication liaison or as otherwise provided by the contract.

(16) The MCO plan shall provide a procedure within the MCO plan to provide financial incentives to reduce service costs and utilization without sacrificing the quality of service.

(17) The MCO plan must describe how the MCO will provide insurers with information that will inform workers of all choices of medical service providers within the plan and how workers can access those providers.

(18) Within 45 days of receipt of all information required for certification, the director shall notify the applicant of the effective date of the certification and the initial geographical service area of the MCO. If the certification is denied, the applicant will be provided with the reason therefore.

(19) The application for certification for an MCO shall not be approved if the MCO fails to meet the requirements of these rules.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 6-2004, f. 6-14-04, cert. ef. 6-29-04; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 4-2006(Temp), f. 5-11-06, cert. ef. 6-1-06 thru 11-27-06

## 436-015-0040

### Reporting Requirements for an MCO

(1) In order to ensure the MCO complies with the requirements of these rules, each MCO shall provide the director with a copy of the entire text of any MCO/insurer contract agreement, signed by the insurer and the MCO, within 30 days of execution of such contracts. Amendments, addendums, and cancellations, together with the entire text of the underlying contracts, shall be submitted to the director within 30 days of execution.

(2) Notwithstanding section (1), when an MCO/insurer contract agreement contains a specific expiration or termination date, the MCO must provide the director with a copy of a contract extension, signed by the insurer and MCO, no later than the contract's date of expiration or termination, or workers will no longer be subject to the contract after it expires or terminates without renewal pursuant to ORS 656.245(4)(a).

(3) Any amendment to the approved MCO plan must be submitted to the director for approval. The MCO shall not take any action based on the amendment until the amended plan is approved. However, within 30 days of implementation, the MCO must provide copies of any new or revised treatment protocols and guidelines used by the MCO from any companies from whom the MCO may have purchased them. The MCO must provide these copies at no cost to the director. The MCO may meet the requirements of this section if the protocols and guidelines purchased or adopted by the MCO are available online through a company from whom the MCO has purchased them. If the MCO chooses this option, the MCO must notify the director and ensure the director has access to them at no cost, and the online protocols and guidelines must be complete and not in an abbreviated version. MCO treatment standard plan amendments and any treatment protocols or guidelines developed by the MCO must still be submitted in advance, prior to implementation, in accordance with OAR 436-015-0040(3).

(4) Within 45 days of the end of each calendar quarter, each MCO shall provide the following information, current on the last day of the quarter, in a form and format as prescribed by the director: specify quarter being reported, MCO certification number, membership listings by category of medical service provider (in coded form), including provider names, specialty (in coded form), Tax ID number, Oregon license number, business address and phone number. (All fields are required unless specifically exempted by bulletin.) When a medical provider has multiple offices, only one office location in each geographical service area needs to be reported. In addition, the updated membership listing shall include the names and addresses of all health care providers participating in the MCO.

(5) By April 30 of each year, each MCO shall provide the director with the following information for the previous calendar year:

(a) A summary of any sanctions or punitive actions taken by the MCO against its members;

(b) A summary of actions taken by the MCO's peer review committee; and

(c) An affidavit that the approved MCO plan is consistent with the MCO's business practices, and that any amendments to the plan have been approved by the director.

(6) An MCO must report any new board members or shareholders to the director within 14 days of such changes. These parties must submit affidavits certifying they have no interest in an insurer or other non-qualifying employer as described under OAR 436-015-0009.

(7) Nothing in this rule limits the director's ability to require information from the MCO as necessary to monitor the MCO's compliance with the requirements of these rules.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 13-1992, f. & cert. ef. 9-21-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2004, f. 6-14-04, cert. ef. 6-29-04; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 4-2006(Temp), f. 5-11-06, cert. ef. 6-1-06 thru 11-27-06

\*\*\*\*\*

## Department of Environmental Quality Chapter 340

**Rule Caption:** Authorizes review of Measure 37 (ORS 197.352) claims by the Director of the Department of Environmental Quality.

**Adm. Order No.:** DEQ 5-2006

**Filed with Sec. of State:** 5-12-2006

**Certified to be Effective:** 5-12-06

**Notice Publication Date:** 10-1-05

**Rules Adopted:** 340-011-0605

# ADMINISTRATIVE RULES

**Subject:** 2005 Oregon Laws chapter 1 (2004 Oregon ballot Measure 37) provides that if a present owner of real property makes written demand for compensation to a public entity for a reduction in the fair market value of the property resulting from enactment or enforcement of a land use regulation, and the land use regulation continues to be enforced 180 days after the date the written demand is made, then the owner will be due just compensation. The effective date of Measure 37 was December 2, 2004.

The proposed rules provide the Director of the Department of Environmental Quality with the authority to review, approve and deny written demands for relief under Measure 37. The rules also provide that the Director may approve a Measure 37 claim only by not applying the statute or rule that is the basis for the claim unless the Legislative Assembly has appropriated funds for payment of claims made under Chapter 1, Oregon Laws 2005.

**Rules Coordinator:** Larry McAllister—(503) 229-6412

## 340-011-0605

### Miscellaneous Provisions

Delegation of Authority to the Director of Department of Environmental Quality — Responding to Claims Under ORS 197.352. The director shall have the authority to carry out the responsibilities and exercise the authorities of the Commission and the Department in responding to claims under ORS 197.352 (2004 Ballot Measure 37), including:

- (1) Review of claims under OAR 125-145-0100;
- (2) Denial of claims under OAR 125-145-0100; and
- (3) Approval of claims under OAR 125-145-0100, except that the

Director may only approve a claim by not applying the statute or rule that is the basis of the claim unless the Legislative Assembly has apportioned funds for payment of claims under Chapter 1, Oregon Laws 2005.

Stat. Auth.: ORS 468.020, 197.352  
Stats. Implemented: ORS 468.020 & 197.352  
Hist.: DEQ 5-2006, f. & cert. ef. 5-12-06

\*\*\*\*\*

## Department of Fish and Wildlife

### Chapter 635

**Rule Caption:** Requirements to Renew Commercial Sardine Limited Entry Permits.

**Adm. Order No.:** DFW 23-2006

**Filed with Sec. of State:** 4-21-2006

**Certified to be Effective:** 4-21-06

**Notice Publication Date:** 2-1-06

**Rules Amended:** 635-006-1075

**Subject:** Establishes requirements for renewal of commercial sardine limited entry permits as requested by the Oregon Fish and Wildlife Commission. Housekeeping and technical correction to the regulations to ensure rule consistency.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-006-1075

### Renewal of Permit

(1) An individual who obtained a limited entry permit may renew the permit as follows:

- (a) Gillnet salmon — see ORS 508.781;
- (b) Troll salmon — see ORS 508.807;
- (c) Shrimp — see ORS 508.892;
- (d) Scallop — see ORS 508.849;
- (e) Roe-herring permit — Permits may be renewed by submission to the Department of a \$75 fee and a complete application;

(f) Sea Urchin permit:

(A) Permits may be renewed by submission to the Department of a \$75 fee and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have annually lawfully landed 5,000 pounds of sea urchins in Oregon. If a permittee obtained a permit later than January of the prior year (because the permit was obtained through the lottery, or as a result of Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the 5,000 pound landing by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the 5,000 pound landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.

(g) Ocean Dungeness crab permit — see ORS 508.941. A permit which is not renewed by December 31 lapses, and may not be renewed for subsequent years.

(h) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.947.

(i) Brine Shrimp permit:

(A) Permits may be renewed by submission to the Department of a \$75 fee and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have lawfully landed 5,000 pounds of brine shrimp in Oregon in the prior year.

(j) Bay clam dive fishery:

(A) Permits may be renewed by submitting to the Department a \$75 fee and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought and;

(B) The permittee shall have lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in the prior calendar year;

(C) Logbooks required under OAR 635-006-1110 must be turned into an ODFW office by the application deadline for renewal of a permit.

(D) If a permit is transferred under OAR 635-006-1095(10)(d), annual renewal requirements are waived in the year the transfer occurred.

(k) Sardine fishery.

(l) To renew a sardine permit:

(A) A complete application date-stamped or postmarked by December 31 of the year preceding the year for which the new permit is sought must be submitted to the Department;

(B) Logbooks required under OAR 635-006-1110 must be turned into an ODFW office by the application deadline for renewal of a permit; and

(C) The permittee shall have lawfully landed at least 10 landings of at least 5 mt each or landings totaling at least \$40,000, based on ex-vessel price of sardines into Oregon.

(D) The Commission may waive the landing requirements of section (C) of this rule if it finds that failure to meet those requirements was due to illness, injury, or circumstances beyond the control of the permit holder. Final Orders shall be issued by the Commission and may be appealed as provided in ORS 183.480 to 183.550.

(E) The Commission may waive the landing requirements of section (C) of this rule due to unusual market conditions.

(2) An application for renewal in any limited entry fishery shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by January 31, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109, 506.129 & 508.921 - 508.941

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 23-2006, f. & cert. ef. 4-21-06

\*\*\*\*\*

**Rule Caption:** Additional Trout Harvest Opportunity During the Shortened 2006 Recreational Fishing Season on Diamond Lake.

**Adm. Order No.:** DFW 24-2006(Temp)

**Filed with Sec. of State:** 4-25-2006

**Certified to be Effective:** 5-13-06 thru 10-31-06

**Notice Publication Date:**

**Rules Amended:** 635-016-0090

**Subject:** This rule will implement modifications to daily limits and harvest length restrictions for trout in Diamond Lake taken after May 12, 2006. This rule also implements an earlier closure to fishing in the lake than was previously published in the 2006 Oregon Sport Fishing Regulations.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-016-0090

### Inclusions and Modifications

(1) The **2006 Oregon Sport Fishing Regulations** provide requirements for the Southwest Zone. However, additional regulations may be

# ADMINISTRATIVE RULES

adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2006 Oregon Sport Fishing Regulations**.

(2) Diamond Lake is open April 22–May 12, 5 trout per day, 2 daily limits in possession, 8-inch minimum length, only 1 trout over 20-inches in length may be taken per day, per zone regulations.

(3) Diamond Lake is open May 13–Sept. 4, 20 trout per day, 2 daily limits in possession. No harvest restrictions on trout length.

(4) Diamond Lake is closed after Sept. 4.

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

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 506.119

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 32-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; 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 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06

.....

**Rule Caption:** Adopt inseason actions implemented by the federal government for commercial fisheries.

**Adm. Order No.:** DFW 25-2006(Temp)

**Filed with Sec. of State:** 4-28-2006

**Certified to be Effective:** 5-1-06 thru 10-27-06

**Notice Publication Date:**

**Rules Amended:** 635-004-0019

**Rules Suspended:** 635-004-0019(T)

**Subject:** The rule is needed to adopt inseason actions implemented by the federal government for commercial fisheries including: adjustment to chilipepper rockfish limited entry trawl; sablefish open access cumulative trip limits; and gear restrictions in the limited entry fixed gear and open access fisheries for “other flatfish.”

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-004-0019

### Inclusions and Modifications

(1) OAR chapter 635, division 004, modifies or is in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart G, West Coast Groundfish Fisheries**.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G**, provides requirements for commercial groundfish fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the **Code of Federal Regulations**.

(3) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Marine Fisheries Service (NMFS) by means of NMFS-SEA-06-01, announced inseason management measures, effective March 1, 2006, including but not limited to adjusted Rockfish Conservation Area (RCA) boundaries, commercial trip limit tables and darkblotched rockfish optimal yield (OY).

(4) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Marine Fisheries Service (NMFS) by means of NMFS-SEA-06-03, announced inseason management measures, effective May 1, 2006, including but not limited to adjustments to chilipepper rockfish limited entry trawl; sablefish open access trip limits; and gear restrictions in the limited entry fixed gear and open access fisheries for “other flatfish.”

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

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 76-1999(Temp), f. 9-30-99, cert. ef. 10-1-99 thru 12-31-99; DFW 81-1999(Temp), f. & cert. ef. 10-12-99 thru 12-31-99; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 23-2005(Temp), f. & cert. ef. 4-8-05 thru 10-4-05; DFW 30-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 43-2005(Temp), f. & cert. ef. 5-13-05 thru 10-17-05; DFW 68-2005(Temp), 6-30-05, cert. ef. 7-1-05 thru 12-27-05; DFW 114-2005(Temp), f. 9-30-05, cert. ef. 10-1-05 thru 12-31-05; DFW 125-2005(Temp), f. & cert. ef. 10-19-05 thru 12-31-05; DFW 134-2005(Temp), f. & cert. ef. 11-30-05 thru 12-31-05; DFW 147-2005(Temp), f. 12-28-05, cert. ef. 1-1-06 thru 6-28-06; DFW 8-2006(Temp), f. 2-28-06, cert. ef. 3-1-06 thru 8-25-06; DFW 25-2006(Temp), f. 4-28-06, cert. ef. 5-1-06 thru 10-27-06

.....

**Rule Caption:** Adopt salmon seasons for commercial and sport in the Pacific Ocean, Columbia River & tributaries.

**Adm. Order No.:** DFW 26-2006(Temp)

**Filed with Sec. of State:** 4-20-2006

**Certified to be Effective:** 5-1-06 thru 10-27-06

**Notice Publication Date:**

**Rules Amended:** 635-003-0003, 635-003-0004, 635-003-0085, 635-013-0003, 635-023-0128, 635-023-0130

**Subject:** Amend rules relating to commercial and sport salmon fishing in the Pacific Ocean; sport salmon fishing in specific near-shore ocean waters, bays and coastal streams; and sport salmon fishing in the Columbia River and tributaries. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-003-0003

### Purpose and Scope

(1) The purpose of division 003 is to provide for management of commercial salmon fisheries off the Oregon Coast over which the state has jurisdiction.

(2) Division 003 incorporates into Oregon Administrative Rules, by reference, the annual ocean troll salmon specifications and management measures for 2006, included in the **Pacific Fishery Management Council — Adopted 2006, Ocean Salmon Management Measures and Impacts, dated April 2006**, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H (61FR34572, July 2, 1996, as amended to incorporate the standards in the Pacific Fishery Management Council referenced document)**. Therefore, persons must consult the **Pacific Fishery Management Council referenced document and Federal Regulations** in addition to division 003 to determine all applicable troll salmon fishing requirements. A copy of the **Pacific Fishery Management Council referenced document and the Federal Regulations** may be obtained by contacting Pacific Council News at [www.pcouncil.org](http://www.pcouncil.org) or at 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1383.

(3) To the extent not preempted by Federal law, these regulations apply within the State of Oregon’s Fisheries Conservation Zone (out to fifty miles from shore).

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 20-1996, f. & cert. ef. 4-29-96; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06

## 635-003-0004

### Inclusions and Modifications

(1) OAR 635-003-0005 through 635-003-0076 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart H**.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H**, provides requirements for commercial salmon fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the **Code of Federal Regulations**.

(3) This rule contains requirements which modify commercial salmon fishing regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean commercial salmon fishery in general and within management zones established by the Pacific Fishery Management Council and enacted by **Federal Regulations (CFR, Title 50, Part 660, Subpart H)**.

(4) General Requirements, Definitions, Restrictions or Exceptions: Vessels prevented by unsafe weather conditions or mechanical problems



# ADMINISTRATIVE RULES

from meeting management area landing restrictions, must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area. Notification shall include the vessel name, port where delivery will be made, approximate number of salmon (by species) on board, and estimated time of arrival.

(5) South of Cape Falcon to Humbug Mountain:

(a) Closed for all salmon March 15–April 30;

(b) A triangular area offshore is open to the retention of all chinook salmon consistent with seasons adopted by the Pacific Fishery Management Council in adjacent waters, except that prior to August 1 only fin-clipped chinook salmon may be retained in this area. This triangular area extends from the green buoy approximately one-half mile offshore from the mouth of Tillamook Bay northeasterly to Twin Rocks (45°35'49" N. lat.) and southeasterly to Pyramid Rock (45°29'49" N. lat.).

(6) Humbug Mountain, Oregon, to Humboldt South Jetty: When the fishery is closed north of the Oregon/California border and open to the south, vessels with fish on board taken in the open area may request authorization to temporarily moor in Brookings, Oregon, prior to landing in California. Such vessels shall first notify the Chetco River Coast Guard Station via VHF Channel 22A between the hours of 0500 and 2200. Proper notification shall include the vessel name, number of fish on board, and estimated time of arrival.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 40-1995(Temp), f. & cert. ef. 5-18-95; FWC 62-1995(Temp), f. 7-27-95, cert. ef. 7-28-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 26-1996(Temp), f. 5-16-96, cert. ef. 5-17-96; FWC 31-1996(Temp), f. & cert. ef. 6-4-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 33-1997(Temp), f. & cert. ef. 5-28-97; FWC 44-1997(Temp), f. & cert. ef. 8-13-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 36-1998(Temp), f. 5-12-98, cert. ef. 5-13-98 thru 5-15-98; DFW 38-1998(Temp), f. & cert. ef. 5-15-98 thru 6-15-98; DFW 39-1998(Temp), f. 5-19-98, cert. ef. 5-20-98 thru 5-23-98; DFW 44-1998(Temp), f. 6-1-98, cert. ef. 6-2-98 thru 6-4-98; DFW 64-1998(Temp), f. 8-14-98, cert. ef. 8-15-98 thru 8-21-98; DFW 65-1998(Temp), f. & cert. ef. 8-21-98 thru 8-31-98; 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 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 45-2000(Temp), f. 8-10-00, cert. ef. 8-11-00 thru 8-31-00; DFW 46-2000(Temp), f. 8-10-00, cert. ef. 8-10-00 thru 9-30-00; DFW 49-2000(Temp), f. 8-17-00, cert. ef. 8-18-00 thru 9-30-00; DFW 56-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 9-30-00; DFW 59-2000(Temp), f. & cert. ef. 9-6-00 thru 9-30-00; DFW 73-2000(Temp), f. 10-26-00, cert. ef. 10-28-00 thru 11-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 48-2001(Temp), f. 6-14-01, cert. ef. 6-15-01 thru 6-30-01; DFW 58-2001(Temp), f. 7-18-01, cert. ef. 7-20-01 thru 9-30-01; DFW 67-2001(Temp), f. 8-2-01, cert. ef. 8-3-01 thru 9-30-01; DFW 69-2001(Temp), f. & cert. ef. 8-8-01 thru 9-30-01; DFW 74-2001(Temp), f. & cert. ef. 8-17-01 thru 9-30-01; DFW 83-2001(Temp), f. 8-30-01, cert. ef. 8-31-01 thru 9-30-01; DFW 22-2002(Temp), f. 3-19-02, cert. ef. 3-20-02 thru 4-30-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 58-2002(Temp), f. 6-6-02, cert. ef. 6-7-02 thru 6-30-02; DFW 65-2002(Temp), 6-27-02, cert. ef. 7-1-02 thru 12-27-02; DFW 72-2002(Temp), f. 7-11-02 cert. ef. 7-12-02 thru 12-31-02; DFW 76-2002(Temp), f. 7-25-02, cert. ef. 7-26-02 thru 12-31-02; DFW 77-2002(Temp), f. & cert. ef. 7-26-02 thru 12-31-02; DFW 84-2002(Temp), f. 8-8-02, cert. ef. 8-9-02 thru 12-31-02; DFW 86-2002(Temp), f. & cert. ef. 8-9-02 thru 12-31-02; DFW 92-2002(Temp), f. & cert. ef. 8-22-02 thru 12-31-02; DFW 101-2002(Temp), f. & cert. ef. 9-9-02 thru 12-31-02; DFW 111-2002(Temp), f. 10-8-02, cert. ef. 10-14-02 thru 12-31-02; 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 47-2003(Temp), f. 6-5-03, cert. ef. 6-6-03 thru 6-30-03; Administrative correction, 2-18-05; DFW 10-2005(Temp), f. 3-2-05, cert. ef. 3-15-05 thru 4-30-05; DFW 17-2005(Temp), f. & cert. ef. 3-15-05 thru 4-15-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 13-2006(Temp), f. 3-14-06, cert. ef. 3-15-06 thru 4-30-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06

## 635-003-0085

### Extended Commercial Seasons

In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for chinook salmon as follows:

(1) Chetco River Ocean Terminal Area — from October 13 through the earlier of a 1,000 chinook quota or November 3 in the area described in section (1)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of the north shore of Twin Rocks (N. Lat. 42°05'36") to the Oregon/California border (N. Lat. 41°59'47") and seaward three nautical miles offshore;

(b) During the season described in this section (1) it is *unlawful* to take chinook salmon less than 26 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line; it is *unlawful* to make more than one landing of chinook per day; and it is *unlawful* to have in possession or to land more than 25 chinook per day taken in this fishery. Landings are restricted to Brookings.

(2) Elk River Ocean Terminal Area — from October 1 through December 15 in the area described in section (2)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Cape Blanco (42°50'20" N. Lat.) and north of Humbug Mountain (42°40'30" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (2), it is *unlawful* to take chinook salmon less than 26 inches in total length; it is *unlawful* to use

barbed hooks or to fish more than four spreads per line; and landings are restricted to Port Orford.

(3) Tillamook Bay Ocean Terminal Area — from November 1 through November 15 in the area described in section (3)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area between Pyramid Rock (44°29'45" N. Lat.) and Twin Rocks (45°35'49" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (3), it is *unlawful* to take chinook salmon less than 26 inches in total length and it is *unlawful* to use barbed hooks or fish more than four spreads per line.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 48-1984(Temp), f. & cert. ef. 8-31-84; 57-1984(Temp), f. & cert. ef. 9-15-84; FWC 59-1986(Temp), f. & cert. ef. 9-19-86; FWC 106-1992(Temp), f. 10-8-92, cert. ef. 10-24-92; FWC 111-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 162-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 80-1994(Temp), f. 10-25-94, cert. ef. 10-26-94; FWC 82-1994(Temp), f. 10-28-94, cert. ef. 10-30-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 85-1995(Temp), f. & cert. ef. 10-20-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 66-1997(Temp), f. 10-24-97, cert. ef. 10-26-97; FWC 67-1997(Temp), f. 10-28-97, cert. ef. 10-29-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06

## 635-013-0003

### Purpose and Scope

(1) The purpose of division 013 is to provide for management of sport salmon fisheries off the Oregon Coast over which the State has jurisdiction.

(2) This rule incorporates by reference, the annual ocean sport salmon specifications and management measures for 2006, included in the **Pacific Fishery Management Council — Adopted 2006 Ocean Salmon Management Measures and Impacts, dated April 2006**, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**.

(3) This rule also incorporates by reference the **2006 Oregon Sport Fishing Regulations**.

(4) A copy of the **Pacific Fishery Management Council** referenced document and the **Federal Regulations** may be obtained by contacting Pacific Council News at [www.pcouncil.org](http://www.pcouncil.org) or at 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1383.

(5) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 44-1984(Temp), f. & cert. ef. 8-23-84; FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 52-1989(Temp), f. & cert. ef. 7-28-89; FWC 37-1990, f. & cert. ef. 5-1-90; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06

## 635-023-0128

### Summer Sport Fishery

(1) Notwithstanding, all other specifications and restrictions as outlined in the current 2006 Oregon Sport Fishing Regulations, the following conditions apply:

(2) Effective June 16 through July 31, 2006, the mainstem Columbia River from a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank upstream to the Oregon/Washington border above McNary Dam is open to the retention of adult and jack Chinook salmon.

(3) The daily bag limit for adult salmon and steelhead is two fish.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 52-2005(Temp), f. 6-3-05, cert. ef. 6-16-05 thru 7-31-05; DFW 64-2005(Temp), f. 6-30-05, cert. ef. 7-1-05 thru 7-31-05; Administrative correction 8-17-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06

## 635-023-0130

### Fall Sport Fishery

The **2006 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time,

# ADMINISTRATIVE RULES

and, to the extent of any inconsistency, they supersede the **2006 Oregon Sport Fishing Regulations**.

(1) Notwithstanding, all other specifications and restrictions as outlined in the current 2006 Oregon Sport Fishing Regulations, the following conditions apply:

(2) Effective August 1 through December 31, 2006, in the mainstem Columbia River from a north-south line through Buoy 10 upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank the bag limit is two salmon per day of which only one may be a chinook.

(3) Effective August 1 through December 31, 2006, in the mainstem Columbia River from a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank upstream to Bonneville Dam the bag limit for adult salmon and steelhead is two fish of which only one may be a chinook.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06

\*\*\*\*\*

**Rule Caption:** Retention of fin-clipped salmon and steelhead, and shad allowed from Tower Island power lines to McNary Dam.

**Adm. Order No.:** DFW 27-2006(Temp)

**Filed with Sec. of State:** 5-12-2006

**Certified to be Effective:** 5-13-06 thru 6-15-06

**Notice Publication Date:**

**Rules Amended:** 635-023-0125

**Subject:** The rule opens the Columbia River Spring sport fishery for adipose fin-clipped salmon, adipose fin-clipped steelhead, and shad from the Tower island power lines upstream to McNary Dam and on the Oregon Bank between Bonneville Dam and the Tower Island power lines from May 13, 2006 through June 15, 2006.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-023-0125

### Spring Sport Fishery

(1) The **2006 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2006 Oregon Sport Fishing Regulations**.

(2) The Columbia River is closed to angling for salmon, steelhead and shad effective 12:01 AM April 14, 2006 through May 15, 2006 from the mouth at Buoy 10 upstream to the I-5 Bridge. The Columbia River opens effective 12:01 AM May 13, through 11:59 PM Thursday June 15, 2006 from the Tower Island power lines upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines with the following restrictions:

(a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead and shad may be retained.

(b) All non-adipose fin-clipped chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits of two adult salmon or steelhead and five jacks per day are in effect as per permanent regulations.

(3) Effective February 15, 2006 through May 15, 2006, in the mainstem Columbia River upstream of the Rocky Point/Tongue Point line it is unlawful when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board Registration, to totally remove from the water any salmon or steelhead required to be released.

(4) It is unlawful to continue to angle for jack salmon after retaining a limit of adult salmon or steelhead.

(5) All other specifications and restrictions as outlined in the current **2006 Oregon Sport Fishing Regulations** apply.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-

9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06

\*\*\*\*\*

**Rule Caption:** Partial closure of the Umatilla River to angling for spring Chinook salmon.

**Adm. Order No.:** DFW 28-2006(Temp)

**Filed with Sec. of State:** 5-15-2006

**Certified to be Effective:** 5-15-06 thru 6-30-06

**Notice Publication Date:**

**Rules Amended:** 635-019-0090

**Subject:** Amends rule to implement partial closure of the Umatilla River to angling for spring chinook salmon effective 11:59 PM May 15, 2006 through June 30, 2006.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-019-0090

### Inclusions and Modifications

(1) The **2006 Oregon Sport Fishing Regulations** provide requirements for the Northeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2006 Oregon Sport Fishing Regulations**.

(2) The Umatilla River from Highway 730 Bridge upstream to the reservation boundary located upstream from Highway 11 Bridge at Pendleton is closed to angling for spring chinook salmon effective 11:59 p.m., May 15, 2006 through June 30, 2006.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; 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 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp), f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06

\*\*\*\*\*

## Department of Forestry Chapter 629

**Rule Caption:** Lowers interest rate for repaying Forest Resource Trust funds by landowner.

**Adm. Order No.:** DOF 4-2006(Temp)

**Filed with Sec. of State:** 5-2-2006

**Certified to be Effective:** 5-2-06 thru 10-28-06

**Notice Publication Date:**

**Rules Amended:** 629-022-0320

**Subject:** The proposed rule lowers the interest rate for repayment of Forest Resource Trust Funds from 6.8 percent to 4.6 percent, based on the projected interest rate paid on 30-year U.S. government bonds, as of midday, January 3, 2006.

**Rules Coordinator:** Gayle Birch—(503) 945-7210

# ADMINISTRATIVE RULES

## 629-022-0320

### Interest Rate

(1) With the advice of the Resource Trust Advisory Committee and the State Forester, the Board of Forestry shall set the interest rate periodically, based on projected interest rates paid on 30 year U.S. government bonds.

(2) The Board of Forestry may adjust the interest rate for:

(a) Measurable public benefits that result from projects funded by the trust, such as job creation, tax revenue, increased timber supply and environmental restoration; or

(b) Demand for trust funds.

(3) The interest rate is 4.6%.

(4) The interest rate shall be fixed when the contract is executed and shall not change during the life of the contract.

Stat. Auth.: ORS 526.700 - 526.730, 526.745 & 527.745

Stats. Implemented: ORS 526.700 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 4-2006(Temp), f. & cert. ef. 5-2-06 thru 10-28-06

\*\*\*\*\*

**Rule Caption:** Requires a preliminary certificate application fee used to administer the Underproductive Forestland Tax Credit program.

**Adm. Order No.:** DOF 5-2006

**Filed with Sec. of State:** 5-2-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 629-023-0410, 629-023-0420, 629-023-0430, 629-023-0440, 629-023-0450, 629-023-0460, 629-023-0490

**Rules Repealed:** 629-023-0410(T), 629-023-0420(T), 629-023-0430(T), 629-023-0440(T), 629-023-0450(T), 629-023-0460(T), 629-023-0490(T)

**Subject:** Amends the rules for the Underproductive Forestland Conversion Tax Credit consistent with the 2005 Legislative Assembly HB 2122 amending the governing statute 315.106. HB 2122 requires an application fee for filing a written request for a preliminary certificate. Fees collected will fund the Oregon Department of Forestry's administration of the reforestation tax credit program. Repeals temporary rules filed January 3, 2006. Amended rules were sent to legislators, stakeholders and those on agency's mailing list. The last day for comment was March 22, 2006. No comments were received. No hearing was conducted or requested.

**Rules Coordinator:** Gayle Birch—(503) 945-7210

## 629-023-0410

### Purpose of the Rules

(1) Under ORS 315.104 certain taxpayers may claim a tax credit for 50 percent of the reasonable costs of forestation of underproductive commercial forestland.

(2) Under ORS 315.106 the State Forester will establish and collect a tax credit application fee for the administration of the reforestation tax credit program.

(3) The purposes of administrative rules 629-023-0410 to 629-023-0490 are to establish fees for the administration of the program, to clarify administration of the tax credit by the State Forester and to define an applicant's appeal rights under this credit.

(4) The State Forester may periodically change the tax credit application fee so that revenue generated by the fee will be adequate to recover the costs to administer the tax credit program.

(5) The State Forester will make available a copy of the fee schedule upon request by a taxpayer.

Stat. Auth.: ORS 315 & 526

Stats. Implemented: ORS 315.104 & 315.106

Hist.: FB 5-1980, f. & ef. 3-5-80; FB 8-1982, f. & ef. 9-10-82; FB 2-1986, f. & ef. 1-10-86;

FB 9-1990, f. & cert. ef. 10-25-90; FB 6-1996, f. 7-9-96, cert. ef. 7-15-96; DOF 4-2002 f. & cert. ef. 6-18-02; DOF 1-2006(Temp), f. & cert. ef. 1-3-06 thru 6-29-06; DOF 5-2006, f. 5-2-06, cert. ef. 6-1-06

## 629-023-0420

### Definitions

(1) "Appropriate sites" means those sites capable of producing a commercial hardwood or softwood stand which meet the definition of commercial forestland and are planted with suitable forest tree species.

(2) "Commercial forestland" means land for which a primary use is the growing and harvesting of forest tree species.

(3) "Forest tree species" means those species that are ecologically suited to the planting site, capable of producing commercial forest products, and marketable in the future as determined by the State Forester.

(4) "Hardwood harvests conducted for the purpose of converting underproductive forestland" means the harvest of an area occupied by a low volume and low value stand in which significant commercial harvest of forest tree species is not possible as defined in OAR 629-023-0440(2), or the landowner can demonstrate that the stand is or was unmerchantable by showing a negative economic return.

(5) "Negative economic return" means the costs that result from the harvest, such as logging, taxation and reforestation costs, exceed the market value received or to be received.

(6) "Project Costs" mean costs paid by the taxpayer to afforest underproductive forestland. The tax credit application fee is not a project cost.

(7) "Reasonable costs" mean:

(a) Costs that a prudent person in the field of forestry would be willing to pay for a product or service; and

(A) Are competitive; and

(B) Associated with generally accepted practices listed in OAR 629-023-0440(3)-(9); or

(b) Costs that are otherwise approved by the State Forester.

(8) "Reasons beyond the control of the taxpayer" means:

(a) Natural disaster including fire, flood, landslides, unusual weather conditions, and other natural incidents as determined by the State Forester; or

(b) The forest is not established even though the project was completed in accordance with the specifications of OAR 629-023-0440 as determined by the State Forester.

(9) "Reasons under the control of the taxpayer" means the reforestation project was not completed in accordance with the specifications of OAR 629-023-0440 as determined by the State Forester.

(10) "Tax credit application fee" means a nonrefundable fee which must be paid by the taxpayer at the time the written request for preliminary certificate is filed with the State Forester.

Stat. Auth.: ORS 526

Stats. Implemented: ORS 315.104 & 315.106

Hist.: FB 9-1990, f. & cert. ef. 10-25-90; FB 6-1996, f. 7-9-96, cert. ef. 7-15-96; DOF 4-2002

f. & cert. ef. 6-18-02; DOF 1-2006(Temp), f. & cert. ef. 1-3-06 thru 6-29-06; DOF 5-2006, f. 5-2-06, cert. ef. 6-1-06

## 629-023-0430

### Eligible Project Costs

Forestation project and plantation establishment costs incurred by the taxpayer to forest underproductive forestland may include labor (does not include labor performed by the taxpayer), supervision, material, and equipment operating costs for the following:

(1) Site preparation;

(2) Planting, or with State Forester approval, seeding;

(3) Release;

(4) Moisture conservation;

(5) Erosion control;

(6) Animal damage control.

Stat. Auth.: ORS 526

Stats. Implemented: ORS 315.104 & 315.106

Hist.: FB 9-1990, f. & cert. ef. 10-25-90; FB 6-1996, f. 7-9-96, cert. ef. 7-15-96; DOF 4-2002

f. & cert. ef. 6-18-02; DOF 1-2006(Temp), f. & cert. ef. 1-3-06 thru 6-29-06; DOF 5-2006, f. 5-2-06, cert. ef. 6-1-06

## 629-023-0440

### Standards and Specifications

To qualify for a credit, the State Forester must determine that the forestland, prior harvest, and project comply with the following standards and specifications:

(1) Forestland must be capable of producing at least 20 cubic feet of wood fiber per acre at culmination of mean annual increment. Site productivity can be determined directly by tree growth and stocking measurements within the operation area, or determined indirectly using applicable USDA Natural Resources Conservation Service soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue western Oregon site class maps, or other sources.

(2) Prior to harvest the area contains no more than an allowable average of 80 square feet of basal area per acre. Measurable trees are those softwood species, 6 inches dbh and larger, and hardwood species, 11 inches and larger. Conifers may amount to no more than 50 percent of the allowable basal area.

(3) Site Preparation. The planting spot for each tree must be free from competing vegetation and slash. This may be accomplished by:

(a) Bulldozing, plowing, discing, mulching, or scalping;



# ADMINISTRATIVE RULES

- (b) Hand slashing;
- (c) Aerial or ground application of various chemicals;
- (d) Controlled burning;
- (e) Any combination of above.

(4) **Planting Stock.** Seedlings must be from a seed source and elevation compatible with the planting area. The seedling size, stem caliper, and root to top ratio must be suited to the project site.

(5) **Planting Operations.** Planting operations must be conducted as follows:

(a) Seedlings must be planted at the same depth as they were in the nursery seed bed with roots straight in the soil;

(b) The planting may be with any forest tree species as defined in OAR 629-023-0420(3), or as approved in a plan for an alternate practice with the State Forester;

(c) The planting may occur any time the trees are dormant and the ground is not frozen, snow covered, or extremely dry.

(6) **Release.** The taxpayer must use all measures necessary to control competing vegetation to insure survival of the seedlings.

(7) **Moisture Conservation.** The taxpayer must use all measures necessary to control loss of moisture and increase the chance of survival of the seedlings. This may include a combination of cultivation, mulching, or the use of chemicals.

(8) **Erosion Control.** When necessary the taxpayer must use water barring, contour cultivation practices, or other methods to prevent erosion.

(9) **Animal Damage Control.** When necessary the taxpayer must use treated planting stock, grass control, repellents, protective casings or other approved methods to control animal damage.

(10) The taxpayer has paid the tax credit application fee to the State Forester.

(11) Project costs are reasonable and must be \$500 or more after deducting all financial assistance received from any federal, state or other incentive program. The tax credit application fee is not a project cost and is not included in the calculation of the tax credit.

Stat. Auth.: ORS 526

Stats. Implemented: ORS 315.104 & 315.106

Hist.: FB 9-1990, f. & cert. ef. 10-25-90; FB 6-1996, f. 7-9-96, cert. ef. 7-15-96; DOF 1-2006(Temp), f. & cert. ef. 1-3-06 thru 6-29-06; DOF 5-2006, f. 5-2-06, cert. ef. 6-1-06

## 629-023-0450

### Preliminary Certificate Issuance

(1) The project is completed when the minimum number of well-distributed seedlings has been satisfactorily planted. The minimum number required under this section is the same as required under the reforestation rules of the Oregon Forest Practices Act.

(2) The preliminary credit application submitted to the State Forester by the taxpayer must include:

(a) Payment of the tax credit application fee;

(b) A project map;

(c) The tax year (the year the trees were planted) for which the credit is claimed;

(d) Whether claimant status is as an individual, partnership, or corporation;

(e) The applicant's name, address, social security number or employer identification number;

(f) The legal description of the property; county;

(g) The number of acres eligible for tax credit;

(h) The approximate date the project was completed;

(i) The amount of federal or state cost share or other incentive program funds received; and

(j) The taxpayer's reasonable eligible project costs.

(3) The tax credit claimed on the preliminary certificate may be retained by the taxpayer in the event that a new forest is not established when all of the following conditions exist:

(a) The taxpayer made a reasonable effort to meet the project specifications of OAR 629-023-0440;

(b) The reasons the new forest is not established are beyond the control of the taxpayer;

(c) The measures performed by the taxpayer would normally have resulted in establishing the minimum number of trees per acre.

Stat. Auth.: ORS 526

Stats. Implemented: ORS 315.104 & 315.106

Hist.: FB 9-1990, f. & cert. ef. 10-25-90; FB 6-1996, f. 7-9-96, cert. ef. 7-15-96; DOF 4-2002, f. & cert. ef. 6-18-02; DOF 1-2006(Temp), f. & cert. ef. 1-3-06 thru 6-29-06; DOF 5-2006, f. 5-2-06, cert. ef. 6-1-06

## 629-023-0460

### Final Certificate Issuance

The State Forester will issue a final certificate when the new forest is established.

(1) The forest is established when at least the minimum number of seedlings as required in OAR 629-023-0450 have survived two or more growing seasons and are free to grow without severe competition from other vegetation.

(2) The final credit application submitted to the State Forester by the taxpayer will include:

(a) The tax year for which the credit is claimed;

(b) The number of acres where additional treatment was needed to establish the new forest;

(c) The date the additional treatment was completed;

(d) The amount of federal or state cost share or other incentive program funds received; and

(e) The taxpayer's reasonable eligible project costs.

(3) A final certificate will not be issued when the new forest is not established due to reasons beyond the control of the taxpayer. In such a situation, the taxpayer may requalify for a tax credit in the same manner as a new applicant.

Stat. Auth.: ORS 526

Stats. Implemented: ORS 315.104 & 315.106

Hist.: FB 9-1990, f. & cert. ef. 10-25-90; FB 6-1996, f. 7-9-96, cert. ef. 7-15-96; DOF 4-2002, f. & cert. ef. 6-18-02; DOF 1-2006(Temp), f. & cert. ef. 1-3-06 thru 6-29-06; DOF 5-2006, f. 5-2-06, cert. ef. 6-1-06

## 629-023-0490

### Appeal Rights

A person who wishes to appeal a decision made by the State Forester regarding this credit will use the following procedure:

(1) Person must notify the Department of Forestry field representative in writing that they disagree with the decision and explain why they disagree.

(2) If an impasse exists with the field representative, the person may write the department's Forest Tax Programs Manager in Salem, within 90 days of the field representative's determination, requesting an appeal to the Board of Forestry stating the basis for the appeal. The appeal is filed when it is received in the Forest Tax Programs Manager's office. Nothing in this rule precludes the manager from disposing of a controversy by informal conference. Appeals are made to the Board of Forestry using the Model Rules of Procedure under the Administrative Procedure Act. Under these rules the person will be provided a contested case hearing by a hearings officer, whose findings are forwarded to the Board of Forestry for review and action.

(3) If the person wishes to appeal the decision of the Board of Forestry, an appeal must be taken to the Oregon Tax Court within 60 days of the Board's action.

Stat. Auth.: ORS 526

Stats. Implemented: ORS 315.104 & 315.106

Hist.: FB 9-1990, f. & cert. ef. 10-25-90; FB 6-1996, f. 7-9-96, cert. ef. 7-15-96; DOF 1-2006(Temp), f. & cert. ef. 1-3-06 thru 6-29-06; DOF 5-2006, f. 5-2-06, cert. ef. 6-1-06

\*\*\*\*\*

**Rule Caption:** Liability of forestland owner or operator further defined.

**Adm. Order No.:** DOF 6-2006

**Filed with Sec. of State:** 5-9-2006

**Certified to be Effective:** 5-9-06

**Notice Publication Date:** 2-1-06

**Rules Adopted:** 629-042-0100

**Subject:** The rule provides guidance to the application of ORS 477.120 with regard to the liability of owners and operators when a fire occurs as the result of an operation or burning of forestland. The rule states conditions when the forester may presume a fire resulted from an operation and provides additional definition to the term "operation area." The rule also guides the forester in determining what are "reasonably available personnel and equipment" in the context of the requirement that owners and operators make "every reasonable effort" to fight a fire when that responsibility applies.

**Rules Coordinator:** Gayle Birch—(503) 945-7210

## 629-042-0100

### Liability of Forestland Owner or Operator; Further Defined

(1) Under ORS 477.120(6), "if a fire originates while an operation is in progress, there is a presumption, under ORS 40.120, that the fire originated as a result of the operation." "Operation in progress" as defined by

# ADMINISTRATIVE RULES

ORS 477.001(19) means “that time when workers are on an operation area for the purpose of an operation, including the period of time when fire watches are required to be on the operation area pursuant to ORS 477.665.” “Operation area” is defined by ORS 477.001(18) to mean “the area on which an operation is being conducted and the area on which operation activity may have resulted in the ignition of a fire.”

(2) When determining whether the presumption in ORS 477.120(6) applies, the forester must determine whether the fire origin was on an operation area. In doing so, the forester may:

(a) Include any area where an ignition source of any type connected with the operation activity could reasonably be determined to reach flammable material, such as:

(A) On or adjacent to the area specifically described in the notice of operation required in ORS 527.670 or the permit to operate power driven machinery required in ORS 477.625, regardless of ownership; or

(B) On an area, regardless of whether a notice of operation or application for a permit to operate power driven machinery was properly submitted, that is:

(i) Within or adjacent to the timber cutting boundary of a harvest unit or road construction project or within or adjacent to the area of other planned operation activity;

(ii) Within or adjacent to where power driven machinery has been operated;

(iii) Within or adjacent to where workers have worked, traversed to access their work, traversed to return to their transports or taken breaks;

(iv) Within or adjacent to where logging lines, rigging, carriages or blocks have been operated; or

(v) Where vehicles connected with the operation activity have been operated over or adjacent to flammable materials, such as a turnaround, trail or road that is within the area of planned operation activity.

(b) Not include any area outside the area described in subsection (a) of this section where the only operation activity consists of hauling logs or workers traveling to and from the operation on improved roads in properly maintained vehicles authorized for use on such roads by the motor vehicle laws of this state.

(c) For the purposes of this section, “improved road” means a road maintained for the use of passenger vehicles and that is clear of flammable vegetation or debris.

(3) Notwithstanding section (2) of this rule, any direct evidence of the fire cause that links the origin of a fire to operation activity allows the forester to hold the owner or operator responsible under the provisions of ORS 477.120(2)(b).

(4) Under ORS 477.120(5) an owner or operator is not eligible for the limits on liability provided in ORS 477.120(3) or (4) “if the owner or operator fails to make every reasonable effort.”

(5) ORS 477.001(6) defines “every reasonable effort” to mean “the use of the reasonably available personnel and equipment under the supervision and control of an owner or operator, which are needed and effective to fight the fire in the judgment of the forester and which can be brought to bear on the fire in a timely fashion.”

(6) “Every reasonable effort” is by design a standard that will differ by each owner’s or operator’s individual circumstance. If the forester determines it is practicable to do so, the forester, in cooperation with the owner or operator in the early stages of a fire, will make an initial assessment of the “reasonably available personnel and equipment” that can be provided by the owner or operator. If the forester determines that such a cooperative assessment is not practicable, the forester must make the assessment using the best information available at the time. The determination of resources required to suppress the fire may change as necessary throughout the duration of the fire and shall be communicated to the owner or operator as such changes occur.

(7) As used in ORS 477.001(6) pursuant to ORS 477.120(5), “reasonably available personnel and equipment under the supervision and control of an owner or operator”:

(a) May include resources such as:

(A) The owner or any operators involved in the subject operation, if natural persons;

(B) Any person employed by the owner or any operators whose operations are involved in the fire, or any person contracted or subcontracted by the owner or any operators to work on any operation involved in the fire;

(C) Equipment of any type, other than aircraft, owned by the owner or operator, or rented, leased, or otherwise under the control of the owner or operator that is not barred from use in fire suppression by the nature of the contractual arrangement and that, in the judgment of the forester, is needed and can be effective in the effort to suppress the fire; or

(D) Notwithstanding paragraph (C) of this subsection, aircraft that are already in use as part of the operation or burning activity that resulted in the fire, for the remaining daylight hours of the day the fire was first attacked and for one subsequent daylight burning period.

(b) May not include:

(A) Aircraft that are not in use as part of the operation or burning activity that resulted in the fire;

(B) Personnel or equipment that are already actively engaged in a fire management or suppression effort at a different location;

(C) Personnel or equipment that are actively completing fire watch requirements on another operation;

(D) Any personnel or equipment that are currently located more than 100 miles from the fire unless the personnel or equipment would normally be returning to a location within 100 miles of the fire within the time that they are needed to suppress the fire;

(E) Any personnel or equipment that are currently located less than 100 miles from the fire, but that would have to cross jurisdictional boundaries such as state lines, if doing so would necessitate licensing, permitting, or other such requirements that could not reasonably be met within the time the resource is needed to suppress the fire;

(F) Employees who, for reasons of physical capability or unfamiliarity with forestland conditions, cannot reasonably be expected to meet requirements for persons employed in firefighting in accordance with Oregon Occupational Safety and Health Standards, OAR chapter 437, division 7 within the time they are needed to suppress the fire; or

(G) Employees who, for reasons of court ordered restrictions or military obligation cannot reasonably be expected to be available for firefighting within the time they are needed to suppress the fire.

(c) For the purposes of this section, “equipment” may include, but is not limited to maps, lists or geographic information databases that contain information such as location of roads, terrain, fuel concentrations, water sources, or location of firefighting resources that the forester determines may be helpful in suppressing the fire.

(8) Nothing in this rule is intended to discourage or restrict the owner or operator from voluntarily providing resources in addition to those specified in section (7) of this rule.

Stat. Auth.: ORS 526.041(1)

Stats. Implemented: ORS 477.120

Hist.: DOF 6-2006, f. & cert. ef. 5-9-06

.....  
**Department of Human Services,  
Addiction Services  
Chapter 415**

**Rule Caption:** DHS Office of Mental Health and Addiction Services Rulemaking Procedures for Chapter 415.

**Adm. Order No.:** ADS 1-2006

**Filed with Sec. of State:** 5-10-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 4-1-06

**Rules Repealed:** 415-001-0005, 415-001-0010

**Subject:** The Department of Human Services, Office of Mental Health and Addiction Services is permanently repealing Oregon Administrative Rules 415-001-0005 concerning administrative practice and procedure and 415-001-0010 concerning Notices of Proposed Rulemaking. The Office of Mental Health and Addiction Services will be following the Department rules on these topics being adopted in Chapter 407.

**Rules Coordinator:** Diana Nerby—(503) 947-1186

.....  
**Department of Human Services,  
Child Welfare Programs  
Chapter 413**

**Rule Caption:** Changing OARs affecting Child Welfare programs.

**Adm. Order No.:** CWP 8-2006

**Filed with Sec. of State:** 5-1-2006

**Certified to be Effective:** 5-1-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 413-110-0100, 413-110-0110, 413-110-0120, 413-110-0130

**Subject:** OARs 413-110-0100 to 413-110-0130 are being amended to clarify that the case worker is required to staff sibling planning decisions at a Permanency/Adoption Council Committee to consid-

# ADMINISTRATIVE RULES

er sibling separation for the purpose of adoption for children for whom adoption is the plan and there is no adoption selection decision for any sibling members being considered for sibling separation. These amendments clarify the policy to maintain the intended practice that the Department has been training staff to follow. The amendments also emphasize the importance of considering initiation of sibling contact if there has not been previous contact when it is in the best interests of the children (such as in the case of the birth of a new sibling). The amendments are in accord with the current practice of holding sibling planning committees or councils for the purpose of considering only those siblings for whom adoption is the plan and for whom there is no formal adoptive family selection decision. The amendments clarify that staff are not required to go to sibling planning committees for children for whom adoption together is the plan and the remaining sibling or siblings have a plan other than adoption, but have the option of consulting with sibling planning committees for sibling cases.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 413-110-0100

### Purpose

These administrative rules, OAR 413-110-0100 to 413-110-0140, provide the Department's guidelines on initiating and maintaining sibling relationships between children for whom adoption is the plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 8-2006, f. & cert. ef. 5-1-06

## 413-110-0110

### Definitions

The following definitions apply to OAR 413-110-0100 to 413-110-0140:

(1) A "Permanency/Adoption Council" (Council) is a council consisting of field-management staff, permanency and adoption staff, and community partners from several Service Delivery Areas (SDA), except that the Council in SDA 2 consists only of representatives from Multnomah County. A Council makes decisions for children — whose county of jurisdiction is within the geographic area of the Council — about appropriateness of adoption as a permanency plan, sibling planning, recruitment, adoption disruptions, and adoption selections referred by the local office. The Council also may provide permanency staffings to decide whether to place a child with an out-of-state relative resource prior to receipt by the Department of an approved adoption home study.

(2) Permanency/Adoption Council Committee.

(a) A "Permanency/Adoption Council Committee" (Committee) is a committee established by the Permanency/Adoption Council that is responsible for decisions regarding adoptive placement selections that are not the responsibility of the local office or the Department's Adoption Services Unit. The SDA manager or designee responsible for the local office may delegate a decision to the Committee. Each Committee must include at least three members not involved in the case to be heard by the Committee.

(b) There are two types of Permanency/Adoption Council Committees:

(A) An ad hoc committee selected by the child's worker. This committee consists of three people drawn from a pool of qualified permanency and adoption staff designated by the Council.

(B) The Standing Permanency/Adoption Committee. This committee is a standing committee of three persons appointed by the Council or the Council chair. Responsibilities of this committee include making decisions, such as those relating to sibling placement planning or current caretaker placement decisions, delegated by the Local Office Permanency/Adoption Committee to the Council.

(3) "Siblings" are children with at least one biological parent in common.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 19-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 8-2006, f. & cert. ef. 5-1-06

## 413-110-0120

### Values

(1) The Department values the preservation of the relationships of *siblings* (defined in OAR 413-110-0110) when in the best interests of the children, recognizing these relationships as the family relationships that can be the longest lasting.

(2) The Department values the placement of *siblings* with the same substitute care provider or adoptive family whenever possible and when it is in the best interests of the children to do so.

(3) If separation of *siblings* occurs in foster care, the Department views the separation as temporary and will work to reunite separated *siblings* when it is in the best interests of the children to do so.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 8-2006, f. & cert. ef. 5-1-06

## 413-110-0130

### Procedure for Placing Siblings Who are in the Custody of the Department for Whom the Department has Identified Adoption as the Primary or Concurrent Permanency Plan

(1) For purposes of this rule, an adoptive placement decision includes a preliminary current caretaker decision.

(2) The Department will attempt to place *siblings* (defined in OAR 413-110-0110) for whom adoption is the plan in the same adoptive family when it is in the children's best interests. Early separation of *siblings* in substitute care can decrease the probability of the *siblings* being adopted by the same family. When *siblings* have been separated in substitute care, the Department takes appropriate action to remove barriers to reunification of the *siblings* to reunite them in foster or adoptive placement as soon as possible when in the best interests of the *siblings* to do so, including the following steps at a minimum:

(a) The child's worker must review all attempts to reunite *siblings* and document in the case file the reasons why the attempts were not successful.

(b) If *siblings* are placed separately in substitute care, the Department will make efforts to ensure that the children have the opportunity for initiating and continuing contact when it is in their best interests to do so. The worker must document the visitation plan for *siblings* in the case file.

(3) When *siblings* do not move toward adoption simultaneously, the Department will attempt to give them an opportunity to maintain sibling relationships when it is in their best interests to do so by, for example:

(a) Providing counseling or other services to *siblings* to assist them in developing more healthy relationships with each other;

(b) Developing safety plans to increase safety between *siblings* when they are together, if there is a concern about the safety of *siblings* when they are together;

(c) Providing training or other resources to care providers or adoptive parents to facilitate safety and more healthy relationships with *siblings* if there is a reasonable concern about safety or the ability of *siblings* to relate to each other;

(d) Allowing a sibling to join another in an adoptive home; or

(e) Arranging contact between *siblings* when they are placed in separate adoptive homes.

(4) When the Department has identified adoption as the primary or alternative permanency plan for a child, the child's worker must attempt to determine the whereabouts of the child's *siblings*, including those who may have already been placed for adoption.

(5) If the Department learns that the child has a sibling placed in an adoptive home (finalized or designated), the child's worker must attempt to determine whether the sibling's adoptive family is interested in being considered as an adoptive resource for the child. If the adoptive family of the child's sibling is interested in adopting the child, the Department will instruct the family regarding the process to obtain an adoption study, and if such a study approves the family for adoption, the Department will consider them as a potential adoptive resource for the child along with other potential relative resources. The child's worker must provide the adoptive family of the child's sibling with written information regarding the child's history and special needs, the adoption study process, the time lines required for completion, and must document this in the case file record, as required in OAR 413-070-0093.

(6) When the Department begins recruitment for potential general adoption applicant families for a child for whom adoption is being planned and the child has one or more *siblings* who may need an adoptive placement in the future (for instance, the child's birth mother is pregnant or a sibling of the child has been placed in substitute care but adoption is not yet the primary or permanency plan for the sibling), the child's worker must recruit for potential adoptive families who may be able to adopt any or all of these *siblings*.

(7) A sibling planning staffing (sections (8) and (9) of this rule) is not required in each of the following situations:



# ADMINISTRATIVE RULES

(a) If an adoptive placement decision has already been made for one or more *siblings*, and the remaining *siblings* are being planned for adoptive placement together.

(b) If one or more *siblings* have a plan for adoption together and the remaining one or more *siblings* have a plan other than adoption.

(8) When the Department considers separate adoptive homes as placements for *siblings* for whom adoption is being planned and for whom no adoptive placement selection has yet been made, the child's worker must:

(a) Consider the following factors for each child in determining whether it is in the child's best interests to be separated from his or her *siblings* who will also be adopted:

- (A) Significant family data;
- (B) Attachments;
- (C) Medical condition;
- (D) Psychological evaluations;
- (E) Treatment needs;
- (F) Behavior;
- (G) Age;
- (H) Relationships of the sibling with each other;
- (I) Information from any person with significant information about the child, for instance the following:

- (i) The child's therapist;
- (ii) The child's attorney;
- (iii) The child's CASA;
- (iv) The child's tribe, if ICWA applies;
- (v) The child's caregiver.

(J) The results of three months' of intensive efforts to recruit general applicant families interested in adopting *siblings* together;

(K) Any other relevant information.

(b) Discuss a possible sibling separation with his or her supervisor or the SDA manager or designee.

(9) If section (8) of this rule applies and if after consideration of the factors in subsection (8)(a) of this rule, the child's worker and supervisor concur that separation of the *siblings* for whom adoption is being planned is in the best interests of one of more of the *siblings*, the child's worker must staff the case with a standing committee of the Permanency/Adoption Council and invite the child's attorney, the child's CASA, the child's caregivers, and the child's tribe (if ICWA applies) to the child-presentation portion of the staffing.

(10) When a standing committee has made a decision to place *siblings* in separate adoptive homes, the Department's efforts to recruit adoptive families must include searches for families who can maintain some contact between the *siblings*, if the contact is in their best interests.

(11) Even if not required by this rule, a worker may request a staffing for consultation regarding sibling issues beyond planning for *siblings* for adoptive placement.

Stat. Auth.: ORS 418.005  
Stats. Implemented: ORS 418.005  
Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 19-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 8-2006, f. & cert. ef. 5-1-06

\*\*\*\*\*

**Rule Caption:** Changing OARs affecting Child Welfare programs.

**Adm. Order No.:** CWP 9-2006(Temp)

**Filed with Sec. of State:** 5-15-2006

**Certified to be Effective:** 5-15-06 thru 11-9-06

**Notice Publication Date:**

**Rules Amended:** 413-200-0210, 413-200-0220

**Subject:** OAR 413-200-0210 and 413-200-0220 about Family Group Home Standards are being amended to incorporate language that is currently part of DHS Child Welfare Policy I-E.4.2.1, "Family Foster Group Homes" which will be deleted. OAR 413-200-0210 is being amended to update its terminology and to indicate the importance of safety concerns as a purpose for the rule. OAR 413-200-0220 is being amended to define its terms and to state a complete list of requirements for family group home providers, including cross-references to other rules and policies.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 413-200-0210

### Family Group Home — Statement of Purpose

(1) The family group home program was developed to meet the needs of children in Department custody who, because of emotional or behavioral characteristics, require a group living situation more structured than a fos-

ter home, but less structured than a group residential program. The purpose of family group home placement is to:

(a) Provide safety for the child in the least restrictive environment appropriate to meet the needs of the child;

(b) Improve the child's functioning at home and in the community;

(c) Improve the child's relationship with supportive adults; and

(d) Improve the child's ability to successfully solve the problems of daily living.

(2) OAR 413-200-0210 and 413-200-0220 must be used in conjunction with DHS Child Welfare Policy II-B.1, "Safety Standards for Foster Care, Relative Care and Adoptive Families", OAR 413-200-0300 to 413-200-0401.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.625

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 28-2000(Temp) f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 6-2001, f. & cert. ef. 3-23-01; CWP 9-2006(Temp), f. & cert. ef. 5-15-06 thru 11-9-06

## 413-200-0220

### Family Group Home Requirements

(1) The following definitions apply to this rule:

(a) "Caseworker" means a department employee assigned primary responsibility for a child served by the Department.

(b) "Certifier" means a department employee with training required to provide certification services.

(c) "Child" means a person under 18 years of age.

(d) "Family group home provider" means the persons listed on the contract to provide Family Group Home services.

(e) "Liaison" means a department employee, assigned by the local branch office, with primary responsibility for monitoring placement of children in the home.

(2) A family group home provider must:

(a) Meet all the safety standards defined in DHS Child Welfare Policy II-B.1, "Safety Standards for Foster Care, Relative Care and Adoptive Families", OAR 413-200-0300 to 413-200-0401;

(b) Receive a "Certificate of Approval to Operate a Family Foster Home"; and

(c) Have the capacity to provide a safe and caring environment for a child whose emotional and behavioral characteristics are appropriate for family group home care.

(3) The family group home provider may contract for a minimum of four and a maximum of eight children. The total number of children living in the home, including the provider's children, may not exceed eight children.

(4) The family group home provider may not provide emergency or shelter care for children.

(5) The family group home provider and the family group home liaison must jointly establish intake procedures for children being placed in the home. The intake procedure must include:

(a) Consultation between the caseworker, the family group home liaison, and the family group home provider to discuss the child being referred; and

(b) A pre-placement visit in the family group home by the child being referred.

(6) Service plans:

(a) Within 30 days of placement, an individualized service plan must be developed for each child. The child, the foster family home liaison, the caseworker, and the family group home provider must be included in the development of the service plan. Other service providers may also be included.

(b) Individual service plans must be goal-oriented and time-limited. Each plan must consider the child's strengths and needs, identify desired behavior changes, and estimate when the behavior changes will be achieved. The service plan must prioritize the behavior change goals, identify services and supports that will address each goal, and must include an after-care plan.

(c) For any child 16 years or older, the individual service plan must incorporate the Comprehensive Transition Plan (referred to as a youth's service plan in DHS Child Welfare Policy I-B.2.3.5, "Independent Living Programs", OAR 413-030-0400 to 413-030-0455).

(7) The family group home provider must establish procedures for review of the child's individual service plan and after-care plan. The after-care plan identifies the placement for the child after the child leaves the family group home.

(a) Each element of the child's individual service plan is reviewed by the child, the family group home provider, the family group home liaison, and the caseworker every three months after the development of the plan.

# ADMINISTRATIVE RULES

The individual service plan is revised or modified as necessary based on the child's progress in meeting the behavior change goals.

(b) The after-care plan is reviewed by the child, the family group home provider, the family group home liaison, and the caseworker at the time of each individual service plan review, and the after-care plan is revised or modified as necessary based on the child's progress in meeting the behavior change goals.

(8) Transitions:

(a) When a child has completed his or her individual service plan, the child is transitioned to the after-care resource in accordance with the individual service plan;

(b) If the child needs to be moved before the child has completed the individual service plan, the child, the family group home provider, the family group home liaison, and the child's caseworker develop the transition plan for the child's move. Whenever possible, the family group home provider provides 10 working days notice to the caseworker and the family group home liaison, requesting a child be moved from the home. Whenever possible, the caseworker provides 10 working days notice to the family group home provider and the family group home liaison when a child will be moved from the home.

(9) Staffing:

(a) A family group home must be staffed by the family group home provider.

(b) There must be a minimum of one adult to every five children who are present in the home.

(c) Any other adult providing care and supervision of a child in the home must meet the alternative caregiver requirements of DHS Child Welfare Policy II-B.1, "Safety Standards for Foster Care, Relative Care and Adoptive Families", OAR 413-200-0300 to 413-200-0401.

(10) The family group home provider must plan for a minimum of 48 hours per month away from child care responsibilities. The family group home provider must prepare a written plan for respite care with the family group home liaison.

(11) Each family group home provider must participate in 30 hours of professional training each year. The certifier and the family group home provider jointly agree upon a written training plan.

Stat. Auth.: ORS 418.005, 418.640

Stats. Implemented: ORS 418.005, 418.635

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 28-2000(Temp) f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 6-2001, f. & cert. ef. 3-23-01; CWP 9-2006(Temp), f. & cert. ef. 5-15-06 thru 11-9-06

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

**Rule Caption:** DHS Office of Medical Assistance Programs, (OMAP) Rulemaking procedures for Chapter 410.

**Adm. Order No.:** OMAP 9-2006

**Filed with Sec. of State:** 5-3-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 410-001-0000, 410-001-0005, 410-001-0020

**Subject:** The Department of Human Services (DHS) Office of Medical Assistance Programs (OMAP) amended OAR 410-001-0000, 410-001-0005 and 410-001-0020, concerning Notices of Proposed Rulemaking, Notice of Rulemaking and Adoption of Temporary Rules and Delegation of Authority, to indicate DHS OMAP services in Chapter 410 will be following the department-wide rules being adopted in OAR 407-001-0000, 407-001-0005 and 407-001-0010, concerning these topics.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

**410-001-0000**

**Model Rules of Procedure**

Department of Human Services (Department), Office of Medical Assistance Programs, chapter 410, will adhere to Department rules in chapter 407 regarding Model Rules of Procedure.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Department of Human Resources.]

Stat. Auth.: ORS 183.335, 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Hist.: HR 3(Temp), f. & ef. 12-29-76; HR 5, f. & ef. 3-10-77; HR 2-1978, f. & ef. 3-3-78; HR 5-1980, f. & ef. 9-17-80; HR 6-1982, f. & ef. 7-1-82; HR 1-1986, f. & ef. 4-2-86; HR 1-1988, f. & cert. ef. 1-4-88; HR 7-1991, f. & cert. ef. 1-25-91; OMAP 9-2006, f. 5-3-06, cert. ef. 6-1-06

**410-001-0005**

**Notice of Proposed Rulemaking and Adoption of Temporary Rules**

Department of Human Services (Department), Office of Medical Assistance Programs, chapter 410, will comply with Department rules in chapter 407 for Notices of Rulemaking and adoption of Temporary Rules.

Stat. Auth.: ORS 183.335, 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Hist.: HR 3(Temp), f. & ef. 12-29-76; HR 5, f. & ef. 3-10-77; HR 2-1978, f. & ef. 3-3-78; HR 5-1980, f. & ef. 9-17-80; OMAP 9-2006, f. 5-3-06, cert. ef. 6-1-06

**410-001-0020**

**Delegation of Rulemaking Authority**

Department of Human Services (Department), Office of Medical Assistance Programs, chapter 410, will comply with Department rules in chapter 407 for Delegation of Rulemaking Authority.

Stat. Auth.: ORS 183.335, 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Hist.: HR 6(Temp), f. & ef. 7-1-77; HR 7, f. & ef. 9-1-77; OMAP 9-2006, f. 5-3-06, cert. ef. 6-1-06

.....

**Rule Caption:** Mental Health enrollment procedure for Children.

**Adm. Order No.:** OMAP 10-2006(Temp)

**Filed with Sec. of State:** 5-4-2006

**Certified to be Effective:** 5-4-06 thru 10-27-06

**Notice Publication Date:**

**Rules Amended:** 410-141-0060

**Subject:** The Oregon Health Plan (OHP-Division 141) Administrative rules govern Office of Medical Assistance Programs' payment for services provided to clients. OMAP temporarily amended 410-141-0060 to reflect necessary modifications to resume enrollment in OHP Mental Health for children who are eligible. This rule must be temporarily amended for the modified enrollment procedure to take effect by May 4, 2006.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

**410-141-0060**

**Oregon Health Plan Managed Care Enrollment Requirements**

(1) Enrollment of an Oregon Health Plan (OHP) Client, excluding the New/Noncategorical Client (HPN) and Children's Health Insurance Program (CHIP) clients in Prepaid Health Plans (PHPs) shall be mandatory unless exempted from Enrollment by the Department of Human Services (DHS or Department), or unless the OHP Client resides in a Service Area where there is inadequate capacity to provide access to Capitated Services for all OHP Clients through PHPs or Primary Care Managers (PCMs). PHPs include Fully Capitated Health Plans (FCHPs), Dental Care Organizations (DCOs) and Mental Health Organizations (MHOs), Physician Care Organizations (PCOs), and Chemical Dependency Organizations (CDOs).

(2) Enrollment of the New/Noncategorical Client (HPN) and Children's Health Insurance Program (CHIP) Client in PHPs shall be mandatory unless exempted from Enrollment by DHS under the term in 410-141-0060(4). Selection of PHPs in accordance with this rule is a condition of eligibility for HPN and CHIP Clients. If, upon reapplication, an HPN and CHIP Clients do not select PHPs in accordance with this rule, PHPs will be selected for the HPN and CHIP Client by DHS. This selection will be made based on the PHPs in which the HPN and CHIP Clients were previously enrolled.

(3) OHP Clients, except the HPN and CHIP Clients shall be enrolled with PHPs or PCMs according to the following criteria:

(a) Areas with sufficient physical health service capacity through a combination of FCHPs, PCOs, and PCMs shall be called mandatory FCHP/PCO/PCM Service Areas. An OHP Client shall select a FCHP or PCO unless exempted from Enrollment in a FCHP and PCO, in which case they shall choose a PCM in a mandatory FCHP/PCO/PCM Service Area;

(b) Service areas with sufficient physical health service capacity through PCMs alone shall be called mandatory PCM Service Areas. An OHP Client shall select a PCM in a mandatory PCM Service Area;

(c) Service Areas without sufficient physical health service capacity through FCHPs, PCOs and PCMs shall be called voluntary FCHP/PCO/PCM Service Areas. An OHP Client may choose to select a FCHP, PCO or PCM in voluntary FCHP/PCO/PCM Service Areas if the FCHP, PCO or PCM is open for Enrollment, or may choose to remain in the Medicaid Fee-for-Service (FFS) physical health care delivery system;

(d) Service Areas with sufficient dental care service capacity through DCOs shall be called mandatory DCO Service Areas. An OHP Client shall select a DCO in a mandatory DCO Service Area;

# ADMINISTRATIVE RULES

(e) Service Areas without sufficient dental care service capacity through DCOs shall be called voluntary DCO Service Areas. An OHP Client may choose to select a DCO in a voluntary DCO Service Area if the DCO is open for Enrollment, or may choose to remain in the Medicaid FFS dental care delivery system;

(f) Service Areas with sufficient mental health service capacity through MHOs shall be called mandatory MHO Service Areas. An OHP Client shall select an MHO in a mandatory MHO Service Area;

(g) Service Areas without sufficient mental health service capacity through MHOs shall be called voluntary MHO Service Areas. An OHP Client may choose to select an MHO in voluntary MHO Service Areas if the MHO is open for Enrollment, or may choose to remain in the Medicaid FFS mental health care delivery system;

(h) When a Service Area changes from mandatory to voluntary, the OMAP Member will remain with their PHP for the remainder of their eligibility period, unless the OMAP Member meets the criteria stated in OAR 410-141-0060(4), or as provided by OAR 410-141-0080.

(4) The following are exemptions to mandatory Enrollment in PHPs which allow OHP Clients, including HPN and CHIP Clients, to enroll with a PCM or remain in the Medicaid FFS delivery systems for physical, dental and/or mental health care:

(a) The OHP Client is covered under a major medical insurance policy, such as a Medicare supplemental policy, Medicare employer group policy or other third party resource (TPR) which covers the cost of services to be provided by a PHP, (excluding dental insurance. An OHP Client shall be enrolled with a DCO even if they have a dental TPR). The OHP Client shall enroll with a PCM if the insurance policy is not a private HMO;

(b) The OHP Client has an established relationship with an OMAP enrolled Practitioner who is not a member of the PHP's Participating Provider panel the OHP Client would be enrolled in, and the PHP cannot negotiate a treatment plan or reimbursement arrangement with the Practitioner that is consistent with the PHP's contracting practices to provide for continuity of care, and it would be detrimental to the health of the OHP Client as determined by DHS to change Practitioners:

(A) When the Practitioner is a Primary Care Practitioner (PCP) enrolled with OMAP as a PCM, the OHP Client shall enroll with this Practitioner as a PCM Member;

(B) Exemptions from mandatory Enrollment in PHPs for this reason may be granted for a period of four months. Extensions may be granted by DHS upon request, subject to review of unique circumstances. A 12-month exemption may be granted if the reason for the exemption is not likely to change or is due to a chronic or permanent condition or disability;

(C) OHP clients shall be exempted from mandatory Enrollment with an FCHP or PCO, if the OHP Client became eligible through a hospital hold process and are placed in the Adults/Couples category. The OHP Client shall remain FFS for the first six (6) months of eligibility unless a change occurs with their eligibility or the category. At which time, the exemption shall be removed and the OHP Client shall be enrolled into an open FCHP or PCO. The exemption shall not effect the mandatory Enrollment requirement into a DCO or MHO.

(c) The OHP Client is a Native American or Alaska Native with Proof of Indian Heritage and chooses to receive services from an Indian Health Service facility or tribal health clinic;

(d) The OHP Client is a child in the legal custody of either the Oregon Youth Authority (OYA) or Children, Adults and Families (CAF) services (SOSCF services), and the child is expected to be in a substitute care placement for less than 30 calendar days, unless one of the following conditions exist:

(A) There is no fee-for-service access; or

(B) There is continuity of care issues.

(e) The OHP Client is in the third trimester of her pregnancy when first determined eligible for OHP, or at redetermination, and she wishes to continue obtaining maternity services from a Practitioner who is not a Participating Provider with an FCHP or PCO in the Service Area:

(A) In order to qualify for such exemption at the time of redetermination, the OHP Client must not have been enrolled with an FCHP or PCO during the three months preceding redetermination;

(B) If the OMAP Member moves out of the PHP's Service Area during the third trimester, the OMAP Member may be exempted from Enrollment in the new Service Area for continuity of care if the OMAP Member wants to continue Obstetric-care with her previous physician, and that physician is within the travel time or distance indicated in 410-141-0220(1)(a) Oregon Health Plan PHP Accessibility;

(C) If the Practitioner is a PCM, the OMAP Member shall enroll with that Practitioner as a PCM Member;

(D) If the Practitioner is not enrolled with OMAP as a PCM, then the OMAP Member may remain in the Medicaid FFS delivery system until 60 days after the birth of her child. After the 60-day period, the OHP Client must enroll in a FCHP or PCO.

(f) The OHP Client has End Stage Renal Disease (ESRD). The OHP Client shall not enroll in an FCHP or PCO but shall enroll with a PCM unless exempt for some other reason listed in section (4) of this rule;

(g) The OHP Client has been accepted by the Medically Fragile Children's Unit of the Office of Developmental Disability Services;

(h) The OHP Client is a Medicare beneficiary and is in a hospice program shall not enroll in an FCHP or PCO that is also a Medicare Cost HMO. The OHP Client may enroll in either an FCHP or PCO that does not have a Medicare Cost HMO or with a PCM unless exempt for some other reason listed in section (4) of this rule;

(i) The OHP Client is enrolled in Medicare and the only FCHP or PCO in the Service Area is a Medicare HMO. The OHP Client may be exempted from Enrollment in the FCHP or PCO if the OHP Client chooses not to enroll;

(j) If an OMAP Member is enrolled in a program participating in the Intensive Treatment Service Pilot Project, the OMAP Member shall remain enrolled in the MHO he/she was enrolled in prior to the placement;

(k) Other just causes as determined by DHS, at its sole discretion which include the following factors:

(A) The cause is beyond the control of the OHP Client;

(B) The cause is in existence at the time that the OHP Client first becomes eligible for OHP;

(C) Enrollment would pose a serious health risk; and

(D) The lack of reasonable alternatives.

(l) A woman eligible for the Breast and Cervical Cancer Medical (BCCM) Program, (refer to BCCM rules established by Children, Adult and Families Services), shall not enroll in an FCHP, PCO, DCO or MHO. A woman in the BCCM Program shall remain in the Medicaid fee-for-service delivery system.

(5) The primary person in the household group and benefit group as defined in OAR 461-110-0110, 461-110-0210, and 461-110-0720, respectively, shall select PHPs or PCMs on behalf of all OHP Clients in the benefit group. PHP or PCM selection shall occur at the time of application for the OHP in accordance with section (1) of this rule:

(a) All OHP Clients in the benefit group shall enroll in the same PHP for each benefit type (physical, dental or mental health care) unless exempted under the conditions stated above in section (4). If PCM selection is an option, OHP Clients in the benefit group may select different PCMs;

(b) If the OHP Client is not able to choose PHPs or PCMs on his or her own, the Representative of the OHP Client shall make the selection. The hierarchy used for making Enrollment decisions shall be in descending order as defined under Representative:

(A) If the OHP form 7208M, Medicare Advantage election form is signed by someone other than the OHP Client, the OHP Client's Representative must complete and sign an Addendum. The Addendum is incorporated as part of the 7208M and is located on page four (4) of the form:

(i) If the FCHP or PCO does not receive the 7208M within 10 calendar days after the date of Enrollment, the FCHP or PCO shall send a letter to the OMAP Member with a copy sent to the Seniors and People with Disabilities (SPD) branch manager. The letter shall:

(I) Explain the need for the completion of the 7208M;

(II) Notify the OMAP Member, if the 7208M is not received within 30 days, the FCHP or PCO shall request Disenrollment; and

(III) Instruct the OMAP Member to contact their caseworker for other coverage alternatives.

(ii) If the FCHP or PCO has not received the 7208M at the end of 30 days, the FCHP or PCO shall notify OMAP's Health Management Unit (HMU). HMU shall disenroll the OMAP Member effective the end of the month following the notification and notify the OMAP Member of the Disenrollment. HMU shall provide SPD with the OHP Client Disenrollment list.

(B) If the OHP Client is a Medicare beneficiary who is capable of making Enrollment decisions, the Representative shall not have authority to select FCHPs or PCOs which have corresponding Medicare HMO components.

(c) CAF or OYA shall select PHPs or a PCM for a child receiving CAF (SOSCF services) or OYA Services, with the exception of children in subsidized adoptions;

(A) The Department has determined that, to the maximum extent possible, all children receiving CAF services should be enrolled in MHOs



## ADMINISTRATIVE RULES

immediately upon application, at the time of redetermination, or upon review by the Department, unless Disenrollment from a MHO is authorized by the Department in accordance with this section and OAR 410-141-0080:

(i) Notwithstanding section (4)(a) of this rule or OAR 410-141-0080(2)(b)(E), children receiving CAF services are not exempt from mandatory Enrollment in an MHO on the basis of TPR mental health services coverage;

(ii) A decision to use FFS open card for a child receiving CAF services should be reviewed by the Department if the child's circumstances change and at the time of redetermination to consider whether the child should be enrolled in a MHO.

(B) When a child receiving CAF services is being transferred from one MHO to another, or for children transferring from FFS to a MHO, the MHO must facilitate coordination of care consistent with OAR 410-141-0160:

(i) MHOs are required to work closely with the Department to ensure continuous MHO Enrollment for children receiving CAF services;

(ii) If the Department determines that Disenrollment should occur, the MHO will continue to be responsible for providing Covered Services until the Disenrollment date established by the Department, which shall provide for an adequate transition to the next responsible MHO.

(C) It is not unusual for a child receiving CAF services to experience a change of placement that may be permanent or temporary in nature. Consistent with OAR 410-141-0080(2)(b)(F), DHS will verify the address change information to determine whether a child receiving CAF services no longer resides in the MHO's Service Area:

(i) A temporary absence as a result of a temporary placement out of the MHO's Service Area does not represent a change of residence if DHS determines that the child is reasonably likely to return to a placement in the MHO's Service Area at the end of the temporary placement;

(ii) Unless a corresponding change in MHO capitation rates is implemented, a child receiving CAF services placed in Behavioral Rehabilitation Services (BRS) settings will be enrolled in the MHO that serves the region in which the BRS setting is located, unless an out of area exception is requested by the MHO and agreed to by DHS for purposes related to continuity of care.

(D) If the child receiving CAF services is enrolled in a MHO on the same day the child is admitted to psychiatric residential treatment services (PRTS), the MHO shall be responsible for Covered Services during that placement even if the location of the facility is outside of the MHO's Service Area:

(i) The child receiving CAF services is presumed to continue to be enrolled in the MHO with which the child was most recently enrolled. An admission to a PRTS facility shall be deemed a temporary placement for purposes of MHO Enrollment. Any address change or DHS system identifier (e.g., C5 status) change associated with the placement in the PRTS facility does not constitute a change of residence for purposes of MHO Enrollment and shall not constitute a basis for Disenrollment from the MHO, notwithstanding OAR 410-141-0080(2)(b)(F). If DHS determines that a child was disenrolled for reasons not consistent with these rules, DHS shall re-enroll the child with the appropriate MHO and assign an Enrollment date that provides for continuous MHO coverage with the appropriate MHO. If the child had been enrolled in a different MHO in error, the Department will disenroll the child from that MHO and recoup the Capitation Payments;

(ii) Immediately upon discharge from Long Term Psychiatric Care and prior to admission to a PRTS, a child receiving CAF services should be enrolled in an MHO. At least two weeks prior to discharge of a child receiving CAF services from Long Term Psychiatric Care (SAIP, SCIP or STS) facility to a PRTS facility, the long term care facility shall consult with the Department about which MHO will be assigned in order to provide for Enrollment in the MHO and shall make every reasonable effort within the laws governing confidentiality to consult with the MHO that will be assigned in order to provide for continuity of care upon discharge from Long Term Psychiatric Care.

(E) Notwithstanding subsections (6)(d) and (7) of this rule and OAR 410-141-0080(2)(b)(H), if a child receiving CAF services is enrolled in a MHO after the first day of an admission to PRTS, the date of Enrollment shall be effective the next available Enrollment date following discharge from PRTS to the MHO assigned by the Department:

(i) For purposes of these rules and to assure continuity of care for the child upon discharge, the next available Enrollment date shall mean immediately upon discharge;

(ii) At least two weeks prior to discharge, the PRTS facility shall consult with the Department about which MHO will be assigned and shall

make every reasonable effort within the laws governing confidentiality to consult with the MHO that will be assigned in order to provide for continuity of care upon discharge.

(d) Enrollment in a FCHP or PCO of an OHP Client who is receiving Medicare and who resides in a Service Area served by PHPs or PCMs shall be as follows:

(A) If the OHP Client selects a FCHP or PCO that has a corresponding Medicare HMO, the OHP Client shall also enroll in the Medicare HMO;

(B) If the OHP Client is enrolled as a private member of a Medicare HMO, the OHP Client may choose to remain enrolled as a private member or to enroll in the FCHP or PCO that corresponds to the Medicare HMO:

(i) If the OHP Client chooses to remain as a private member in the Medicare HMO, the OHP Client shall remain in the Medicaid FFS delivery system for physical health care services but shall select a DCO and MHO where available;

(ii) If the OHP Client chooses to discontinue the Medicare HMO enrollment and then, within 60 calendar days of disenrollment from the Medicare HMO, chooses the FCHP or PCO that corresponds to the Medicare HMO that was discontinued, the OHP Client shall be allowed to enroll in the FCHP or PCO even if the FCHP or PCO is not open for Enrollment to other OHP Clients;

(iii) A Fully Dual Eligible (FDE) OHP Client who has been exempted from Enrollment in an MHO shall not be enrolled in a FCHP or PCO that has a corresponding Medicare HMO unless the exemption was done for a provider who is on the FCHP's or PCO's panel.

(e) MHO Enrollment options shall be based on the OHP Client's county of residence, the FCHP or PCO selected by the OHP Client, and whether the FCHP or PCO selected serves as a MHO:

(A) If the OHP Client selects a FCHP or PCO that is not a MHO, then the OHP Client shall enroll in the MHO designated as the freestanding MHO for that county;

(B) If the OHP Client selects a FCHP or PCO that is a MHO, then the OHP Client shall receive the OHP mental health benefit through that FCHP or PCO.

(6) If the OHP Client resides in a mandatory Service Area and fails to select a DCO, MHO, PCO and/or FCHP or a PCM at the time of application for the OHP, OMAP may enroll the OHP Client with a DCO, MHO, PCO and/or FCHP or a PCM:

(a) The OHP Client shall be assigned to and enrolled with a DCO, MHO, and FCHP, PCO or PCM which meet the following requirements:

(A) Is open for Enrollment;

(B) Serves the county in which the OHP Client resides;

(C) Has Practitioners located within the Community Standard distance for average travel time for the OHP Client.

(b) Assignment shall be made first to a FCHP or PCO and second to a PCM;

(c) DHS shall send a notice to the OHP Client informing the OHP Client of the assignments and the right to change assignments within 30 calendar days of Enrollment. A change in assignment shall be honored if there is another DCO, MHO, and FCHP, PCO or PCM open for Enrollment in the county in which the OHP Client resides;

(d) Enrollments resulting from assignments shall be effective the first of the month or week after DHS enrolls the OHP Client and notifies the OHP Client of Enrollment and the name of the PHP or PCM: If Enrollment is initiated by a DHS worker on or before Wednesday, the date of Enrollment shall be the following Monday. If Enrollment is initiated by a DHS worker after Wednesday, the date of Enrollment shall be one week from the following Monday. Monthly Enrollment in a mandatory Service Area where there is only one FCHP, PCO, MHO or DCO shall be initiated by an auto-Enrollment program of DHS with effective dates the first of the month following the month-end cutoff. Monthly Enrollment in Service Areas where there is a choice of PHPs, shall be auto-Enrolled by computer algorithm.

(7) The provision of Capitated Services to an OMAP Member enrolled with a PHP or a PCM shall begin on the first day of Enrollment with the PHP or a PCM except for:

(a) A newborn whose mother was enrolled at the time of birth. The date of Enrollment shall be the newborn's date of birth;

(b) Persons, other than newborns, who are hospitalized on the date enrolled. The date of Enrollment with a FCHP, PCO or MHO shall be the first possible Enrollment date after the date the OHP Client is discharged from inpatient hospital services and the date of Enrollment with a PCM shall be the first of the month for which Capitation Payment is made;

# ADMINISTRATIVE RULES

(c) For OMAP Members who are re-enrolled within 30 calendar days of Disenrollment. The date of Enrollment shall be the date specified by DHS that may be retroactive to the date of Disenrollment;

(d) Adopted children or children placed in an adoptive placement. The date of Enrollment shall be the date specified by DHS.

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 8-1994(Temp), f. & cert. ef. 2-1-94; DEQ 24-1994, f. 5-31-94, cert. ef. 6-1-94; 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 29-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; 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 12-2002, f. & cert. ef. 4-1-02; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 10-2006(Temp), f. & cert. ef. 5-4-06 thru 10-27-06

\*\*\*\*\*

**Rule Caption:** DHS Repeal of Fee and Alternative Format Rules.

**Adm. Order No.:** OMAP 11-2006

**Filed with Sec. of State:** 5-11-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 4-1-06

**Rules Repealed:** 410-001-0010, 410-001-0030, 410-002-0000

**Subject:** Department of Human Services (DHS) will repeal 410-001-0010, concerning fees, because the rule does not conform to current practices. DHS will repeal 410-001-0030, concerning documents in alternate format, as this information is outdated based upon the adoption of rules on the topic in OAR 407-005-0000 through 407-005-0030. Rule 410-002-0000 was adopted when the Department of Human Resources (now the Department of Human Services), was involved in deducting support enforcement services fees from support money received on behalf of the obligee. Currently, the Department does not deal with these support enforcement matters, therefore, there is no longer a need for this rule.

**Rules Coordinator:** Jennifer Bittel—(503) 947-5250

\*\*\*\*\*

## Department of Human Services,

### Director's Office

#### Chapter 407

**Rule Caption:** Rulemaking Procedures for the Department of Human Services for Chapter 407.

**Adm. Order No.:** DHSD 3-2006

**Filed with Sec. of State:** 5-11-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 4-1-06

**Rules Adopted:** 407-001-0000, 407-001-0005, 407-001-0010

**Subject:** The Department developed Chapter 407 in the Oregon Administrative Rules for certain rules specific to agency-wide functions and support services. The Department will adopt rules to bring the agency into compliance concerning Model Rules, Notice of Rulemaking, and Delegation of Authority, including language applicable to the Department agency-wide, in Chapter 407. The Department will adopt: OAR 407-001-0000 to adopt the current Attorney General Model Rules (with one exception) concerning rulemaking; OAR 407-001-0005 to provide clearer and updated guidelines about who will receive notice of rulemaking, interested parties lists, and the use of e-mail; and 407-001-0010 to conform Delegation of Authority requirements to ORS 183.325.

**Rules Coordinator:** Jennifer Bittel—(503) 947-5250

#### 407-001-0000

##### Model Rules of Procedure

Department of Human Services (Department) adopts the Attorney General Model Rules applicable to rulemaking, effective on January 1, 2006, with the exception of 137-001-0080.

Stat. Auth.: ORS 183.341, 409.050

Stat. Implemented: ORS 183.341, 409.050

Hist.: DHSD 3-2006, f. 5-11-06, cert. ef. 6-1-06

#### 407-001-0005

##### Notice of Proposed Rulemaking and Adoption of Temporary Rules

(1) Except as provided in ORS 183.335(7) or (12) or 183.341, before permanently adopting, amending, or repealing an administrative rule, the Department of Human Services (Department) will give notice of the intended action:

(a) To legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule;

(b) To persons on the Interested Parties lists described in section (2) of this rule for the pertinent OAR chapter or pertinent subtopics or programs within an OAR chapter at least 28 days before the effective date of the rule;

(c) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(d) To other persons, agencies, or organizations that the Department is required to provide an opportunity to comment pursuant to state statute or federal law or as a requirement of receiving federal funding, at least 28 days before the effective date of the rule;

(e) To the Associated Press and the Capitol Press Room at least 28 days before the effective date of the rule; and

(f) In addition to the above, the Department may send notice of intended action to other persons, agencies or organizations that the Department, in its discretion, believes to have an interest in the subject matter of the proposed rule(s) at least 28 days before the effective date of the rule.

(2) Pursuant to ORS 183.335(8), the Department will maintain an Interested Parties list for each OAR chapter of rules for which the Department has administrative responsibility, and the Interested Parties lists for subtopics or programs within those OAR chapters. A person, group or entity that desires to be placed on such a list to receive notices regarding proposed permanent adoption, amendment or repeal of a rule must make such a request in writing (including electronic mail) to the Rules Coordinator for the chapter. The request must include either a mailing address or an electronic mail (email) address to which notices may be sent.

(3) Notices under this rule may be sent by use of hand delivery, state shuttle, postal mail, electronic mail, or facsimile. The Department recognizes state shuttle as "mail" and will use this means to notify other state agencies.

(a) An email notification under section (1) of this rule may consist of any of the following:

(A) An email that attaches the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(B) An email that includes a link within the body of the email, allowing direct access online to the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(C) An email with specific instructions within the body of the email, usually including an electronic Universal Resource Locator (URL) address, to find the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(b) The Department may use facsimile, as an added means of notification, if necessary. Notification by facsimile under section (1) of this rule may include the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact, or specific instructions to locate these documents online.

(c) The Department will honor all written requests that notification be sent by mail instead of electronically if a mailing address is provided.

(4) If the Department adopts a temporary rule, the Department will notify:

(a) Legislators specified in ORS 183.335(15);

(b) Persons on the Interested Parties lists described in section (2) of this rule for the pertinent OAR Chapter or pertinent subtopics or programs within an OAR Chapter;

(c) Other persons, agencies, or organizations that the Department is required to notify pursuant to state statute or federal law or as a requirement of receiving federal funding; and

(d) The Associated Press and the Capitol Press Room; and

(e) In addition to the above, the Department may send notice to other person, agencies or organizations that the Department, in its discretion, believes to have an interest in the subject matter of the temporary rulemaking.

(5) In lieu of providing a copy of the rule or rules as proposed with the notice of intended action or notice concerning the adoption of a temporary rule, the Department may state how and where a copy may be obtained on paper, via email, or from a specified web site.

Stat. Auth.: ORS 183.341, 409.050

Stats. Implemented: ORS 183.330, 183.335, 183.341, 409.050

Hist.: DHSD 3-2006, f. 5-11-06, cert. ef. 6-1-06

# ADMINISTRATIVE RULES

## 407-001-0010

### Delegation of Rulemaking Authority

Any officer or employee of the Department of Human Services who is identified on a completed Delegation of Authority form signed by the Director or Deputy Director of the Department and filed with the Secretary of State, Administrative Rules Unit, is vested with the authority to adopt, amend, or repeal administrative rules as provided on that form until such delegation is revoked by the Director or Deputy Director of the Department, or the person leaves employment with the Department.

Stat. Auth.: ORS 409.050, 409.130

Stats. Implemented: ORS 183.325, 409.050, 409.120

Hist.: DHSD 3-2006, f. 5-11-06, cert. ef. 6-1-06

\*\*\*\*\*

### Department of Human Services, Mental Health and Developmental Disability Services Chapter 309

**Rule Caption:** DHS Office of Mental Health and Addiction Services Rulemaking Procedures for Chapter 309.

**Adm. Order No.:** MHD 1-2006

**Filed with Sec. of State:** 5-10-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 4-1-06

**Rules Repealed:** 309-012-0000, 309-012-0005

**Subject:** The Department of Human Services, Office of Mental Health and Addiction Services is permanently repealing Oregon Administrative Rules 309-012-0000 concerning administrative practice and procedure and 309-012-0005 concerning Notices of Proposed Rulemaking. The Office of Mental Health and Addiction Services will be following the Department rules on these topics being adopted in Chapter 407.

**Rules Coordinator:** Diana Nerby—(503) 947-1186

\*\*\*\*\*

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

**Rule Caption:** Amendment of rules to implement HB 2706 (2005 Legislative Session).

**Adm. Order No.:** PH 6-2006

**Filed with Sec. of State:** 4-17-2006

**Certified to be Effective:** 4-17-06

**Notice Publication Date:** 2-1-06

**Rules Amended:** 333-012-0260, 333-012-0265, 333-018-0030

**Rules Repealed:** 333-012-0265(T), 333-018-0030(T)

**Subject:** The Department of Human Services is permanently amending Oregon Administrative Rules (OAR): 333-012-0260 and 333-012-0265 relating to informed consent; and 333-018-0030 relating to the reporting of HIV test results in order to implement 2005 Oregon Laws, Chapter 516 (HB 2706) and 333-019-0036 which requires physicians and others attending pregnant women in Oregon to include HIV testing among other previously required prenatal tests for infectious diseases.

**Rules Coordinator:** Christina Hartman—(971) 673-1291

## 333-012-0260

### Definitions

For purposes of OAR 333-012-0260 through 333-012-0270, the following definitions shall apply:

(1) "AIDS" refers to the acquired immunodeficiency syndrome, which is caused by infection with the human immunodeficiency virus (HIV). An individual is considered to have AIDS only when the consequences of the HIV infection has reached the stage that meets strict clinical criteria published by the United States Public Health Service's Centers for Disease Control and Prevention in the "Morbidity and Mortality Weekly Report", December 18, 1992, Volume 41, Number RR-17, pages 1 - 4, and revised by the Council of State and Territorial Epidemiologists Position Statement 05-ID-04 (available at <http://www.cste.org/PS/2005pdf/final2005/05-ID-04final.pdf>), which publications are hereby adopted by reference.

(2) "Division" means the Oregon Department of Human Services.

(3) "Employer Representative" means a person, representing the employer of the exposed worker, who is responsible for compliance with OR-OSHA regulations (as defined in OAR 333-012-0280(5)).

(4) "Exposed Patient" means a person receiving health care who receives an exposure that may, on evaluation, be determined to have been a substantial exposure from the health care worker administering health care to the patient.

(5) "Exposed Worker" means a worker who experiences a substantial occupational exposure.

(6) "Health Care Representative" means a person with authority to make health care decisions for another person who is incapable of consent to health care.

(7) "HIV Test" means a Food and Drug Administration (FDA) approved test of an individual for the presence of the human immunodeficiency virus (HIV), or for antibodies or antigens that result from HIV infection, or for any other substance specifically associated with HIV infection and not with other diseases or conditions.

(8) A "HIV-Positive Test" means a positive result on the most definitive HIV test procedure used to test a particular individual. In the absence of the recommended confirming tests, this means the result of the initial test done.

(9) "Licensed Health Care Facility" means a health care facility as defined in ORS 442.015 and a mental health facility, alcohol treatment facility or drug treatment facility licensed or operated under ORS chapters 426 or 430.

(10) "Licensed Health Care Provider" means a person licensed or certified to provide health care under ORS chapters 677, 678, 689, 680, 684 or 685 or ORS 682.216, or under comparable statutes of any other state.

(11) "Licensed Physician" means any physician who is licensed by the Board of Medical Examiners for the State of Oregon, State Board of Podiatry Examiners, State Board of Chiropractic Examiners, or Naturopathic Board of Examiners.

(12) "Local Health Department" means the local health department administrator or his/her designated representative.

(13) "Occupational Exposure" means a substantial exposure of a worker during the performance of the worker's occupation.

(14) "Person(s)" includes, but is not limited to, any licensed physician; other licensed health care provider; licensed health care facility; mental health facility, alcohol treatment facility, or drug treatment facility not licensed as a licensed health care facility under ORS chapter 441; clinical laboratory; blood or sperm bank; plasma center; insurer; insurance agent; insurance-support organization as defined in ORS 746.600; government agency; employer; research organization; or agent of any of the foregoing.

(15) "Source Person" means a person whose body fluids were the source of a substantial exposure.

(16) "Substantial Exposure" means contact with blood or blood components, semen, or vaginal/cervical secretions through percutaneous inoculation or contact with an open wound, non-intact skin, or mucous membrane of the exposed person. Substantial exposure includes contact with other body fluids only if they are visibly contaminated with blood. In situations at accident sites and in other uncontrolled environments with poor lighting where it is not possible to evaluate if the fluids were visibly contaminated with blood, contact with fluids that reasonably may have been so contaminated constitutes substantial exposure.

(17) "Worker" means a person who is licensed or certified to provide health care under ORS chapters 677, 678, 679, 680, 682, 684 or 685, an employee of a health care facility, of a licensed health care provider or of a clinical laboratory, as defined in ORS 438.010(1), a firefighter, a law enforcement officer, as defined in ORS 414.805, a corrections officer or a probation officer.

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

Stat. Auth.: ORS 433.045 - 433.080

Stats. Implemented: ORS 433.006 & 433.065

Hist.: HD 5-1988, f. 3-15-88, cert. ef. 3-18-88; HD 25-1990, f. & cert. ef. 12-17-90; HD 29-1994, f. & cert. ef. 12-2-94; HD 7-1997, f. & cert. ef. 6-26-97; PH 6-2006, f. & cert. ef. 4-17-06

## 333-012-0265

### Informed Consent

(1) General scope. Pursuant to ORS 433.045, no person shall submit the blood of an individual to an HIV test without first obtaining informed consent or ascertaining that informed consent is obtained. This requirement does not apply to the HIV testing of women during pregnancy or delivery (ORS 433.045, 433.017 and OAR 333-018-0030), or HIV testing of deceased persons in the anatomical gift setting or the official medical examiner setting or where a clinical laboratory performs an HIV test on a specimen obtained outside of Oregon.



# ADMINISTRATIVE RULES

(2) Who may give consent:

(a) Anyone permitted by the laws of Oregon to give consent to medical procedures for a particular individual may give consent for HIV testing of that individual;

(b) A minor under 15 years of age may also give consent.

(3) Statutory exceptions to the requirement of informed consent prior to HIV testing:

(a) Pursuant to ORS 433.055(3), informed consent for an HIV test need not be obtained from an individual if the test is for the purpose of research as authorized by the Division and if the testing is performed in a manner by which the identity of the individual is not known, and may not be retrieved by the researcher;

(b) Pursuant to Section 20(4), Chapter 600, Oregon Laws 1987, informed consent for an HIV test need not be obtained from an individual convicted of sex crimes or drug-related crimes who is tested for HIV infection by the Oregon Department of Corrections after being screened for and found to have evidence for possible exposure to HIV;

(c) Nothing herein is intended to exclude any other exceptions that may arise under Oregon law.

(4) Informed consent for HIV tests ordered by licensed physicians. In obtaining informed consent for an HIV test, a licensed physician shall follow the procedure in ORS 677.097.

(5) Informed consent for HIV tests ordered by other licensed health care providers or persons acting on behalf of licensed health care facilities. In obtaining informed consent for an HIV test, an other licensed health care provider or persons acting on behalf of a licensed health care facility shall use a procedure that is substantially similar to that specified in ORS 677.097.

(6) Informed consent for HIV tests ordered or arranged for by insurers, insurance agents, or insurance support organizations. In obtaining informed consent for an HIV test, an insurer, insurance agent, or insurance support organization as defined in ORS 746.600, or persons acting in behalf thereof, shall comply with the rules of the Insurance Division, OAR 836-050-0200 through 836-050-0255, which contain substantially the same procedures as specified in subsection (7)(a) of this rule.

(7) Informed consent for HIV tests ordered or arranged for by any persons other than those covered in sections (4), (5), and (6) of this rule. Informed consent for HIV tests ordered or arranged for by any persons other than: licensed physicians; other licensed health care providers; persons acting on behalf of licensed health care facilities; or insurers, insurance agents, and insurance-support organizations, as defined in ORS 746.600, shall be obtained as specified in this section:

(a) Procedure for informed consent. Except as provided in subsection (7)(b) of this rule, in order to obtain informed consent for an HIV test of an individual, any person subject to section (7) of this rule shall carry out the following procedure:

(A) Provide the individual for his/her retention a copy of the form as specified in Appendix 1;

(B) Orally summarize for the individual the substance of the statement in Appendix 1 and specify alternatives to the HIV test in the particular instance, and if the test information will be disclosed to others, who those others will be;

(C) Explain the risks from having the HIV test. This shall include a description of Oregon law pertaining to the confidentiality of information about an individual having the test and that individual's test results; a statement that there may be circumstances under which disclosure might be permitted or required without consent; and a statement of the potential consequences in regards to insurability, employment, and social discrimination if the HIV test results become known to others;

(D) Inform the individual that he or she has the right to request additional information from a knowledgeable person before giving consent;

(E) Ask the individual to be tested whether he/she has any further questions, and if so, provide the individual a full and complete opportunity to ask those questions and receive answers from a person who is sufficiently knowledgeable to give accurate and complete answers about AIDS, HIV tests and the consequences of being tested or not tested;

(F) Have the individual sign a consent form as specified in Appendix 1, after having had an opportunity to read it;

(G) Maintain the signed form as specified in Appendix 1 for at least seven years.

(b) Exemptions from use of the form as specified in Appendix 1:

(A) Blood banks, plasma centers, and sperm banks may apply to the State Public Health Director for exemption from mandatory use of a form as specified in Appendix 1. In order to be eligible for such exemption, the blood bank, plasma center, or sperm bank must use a form or forms having

a content substantially similar to that specified in Appendix 1. Approval of exemption by the State Public Health Director shall be in writing and shall be effective as to the form or forms approved for use under the application. The application must be in writing, dated and signed by the executive officer of the blood bank, plasma center, or sperm bank, and include a copy of the form or forms for which exemption is requested;

(B) If exemption is granted, all procedures specified in paragraphs (7)(a)(B)-(G) of this rule shall be applied in using the approved form adopted by the blood bank, plasma center, or sperm bank.

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

Stat. Auth.: ORS 433

Stats. Implemented: ORS 433.045

Hist.: HD 5-1988, f. 3-15-88, cert. ef. 3-18-88; HD 29-1994, f. & cert. ef. 12-2-94; PH 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-29-06; PH 6-2006, f. & cert. ef. 4-17-06

## 333-018-0030

### Reporting of HIV Test Results

(1) Routine reporting of individuals who have been HIV tested. With the exception of specimens submitted for HIV testing of women during pregnancy or at delivery, pursuant to ORS 433.045, 433.017, and OAR 333-012-0265, or for the purposes of donation or sale of blood, plasma or other blood products, sperm, or anatomical gifts, HIV test results on specimens obtained in Oregon shall be reported routinely in accordance with the following procedures:

(a) A Licensed Laboratory shall process a specimen obtained in Oregon for HIV testing only when it is accompanied by a DHS-prescribed form that is signed and dated by the Health Care Provider ordering the test or their designee (DHS 340344-03). This requirement does not apply to specimens taken for the purpose of monitoring the progression of disease in a patient previously found to be infected with HIV. For such follow-up monitoring, a Health Care Provider may arrange to forego the use of the DHS-prescribed form with the licensed laboratory in question by providing written confirmation to the laboratory that the patient has already tested positive and has given consent for this follow-up testing. This letter must include the patient's name or patient identification number (when one exists), provider name and provider address. Once such a letter is received by the laboratory, it may possess specimens from that patient without the DHS-prescribed form;

(b) The identity of the individual being tested shall not be recorded on the copy of the DHS-prescribed form which is to be submitted to the DHS;

(c) The Licensed Laboratory that is responsible for reporting the test results directly to the Health Care Provider, shall record the test results on the DHS-prescribed form, and forward all completed forms to the DHS within one week of completion of HIV testing. The forms must be submitted for specimens with both HIV-positive test results and negative results;

(d) If the specimen is tested other than by a Licensed Laboratory or is submitted to a clinical laboratory outside the State of Oregon, the Health Care Provider must, upon receipt of test results, complete the DHS-prescribed form and submit it to the Division within one week;

(e) The Health Care Provider and the Licensed Laboratory may use any other forms necessary for routine communication of test results and billing information, subject to the confidentiality requirements of OAR 333-012-0270.

(2) Reporting of HIV results of pregnant women. The Licensed Laboratory is responsible for reporting the test results directly to the Health Care Provider. The Health Care Provider and Laboratory may use any forms necessary for routine inter-communication of test results and billing information, subject to the confidentiality requirements of OAR 333-012-0270.

(3) Reporting of HIV test results of donors in blood banks, plasma centers, sperm banks, and anatomical gift services. Special requirements apply to reporting results of HIV tests performed in these settings:

(a) Blood banks, plasma centers, sperm banks, and anatomical gift services, and insurance companies and their agents are not required to complete the DHS-prescribed form (DHS 340344-03) for each person tested;

(b) These facilities shall instead report to the DHS, on a quarterly basis beginning July 1, 1988, a summary of the number of individuals HIV tested during the three previous months, the number with HIV-positive test results, and the number with negative results. For insurance companies, this requirement applies to all tests performed at the request of the company for insurance eligibility purposes. This report shall also identify the test system used to identify positives and negatives. Such reporting shall be on a statistical basis only and shall not identify individuals.

NOTE: Specific rules regarding informed consent for HIV testing and confidentiality of HIV test results may be found in OAR 333-012-0265 and 333-012-2700.

Stat. Auth.: ORS 431, 432 & 433

Stats. Implemented: ORS 431, 432 & 433

# ADMINISTRATIVE RULES

Hist.: HD 15-1988, f. 7-11-88, cert. ef. 9-1-88; HD 6-1990(Temp), f. 2-22-90, cert. ef. 3-1-90; HD 16-1991, f. & cert. ef. 10-10-91; HD 10-1994(Temp), f. & cert. ef. 4-8-94; HD 29-1994, f. & cert. ef. 12-2-94; OHD 22-2001, f. & cert. ef. 10-19-01; OHD 3-2002, f. & cert. ef. 3-4-02; PH 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-29-06; PH 6-2006, f. & cert. ef. 4-17-06

\*\*\*\*\*

**Rule Caption:** Amends rules related to HIV reporting.

**Adm. Order No.:** PH 7-2006

**Filed with Sec. of State:** 4-17-2006

**Certified to be Effective:** 4-17-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 333-018-0015, 333-019-0031

**Subject:** The Department of Human Services (DHS) is permanently amending Oregon Administrative Rule (OAR) 333-019-0031 that will allow state public health to retain the names of persons reported with HIV. This amendment will make HIV reporting consistent with all other reportable communicable diseases. In addition, OAR 333-018-0015 is being amended to require laboratories to report results of all CD4+ lymphocyte tests and viral load tests.

**Rules Coordinator:** Christina Hartman—(971) 673-1291

## 333-018-0015

### What Is to Be Reported and When

(1) Health Care Providers shall report all cases or suspected cases of the diseases, infections, microorganisms, and conditions specified below. The timing of Health Care Provider reports is specified to reflect the severity of the illness or condition and the potential value of rapid intervention by public health agencies.

(2) When Local Public Health Authorities cannot be reached within the specified time limits, reports shall be made directly to DHS, which shall maintain an around-the-clock public health consultation service.

(3) Licensed Laboratories shall report all test results indicative of and specific for the diseases, infections, microorganisms, and conditions specified below. Such tests include but are not limited to: microbiological culture, isolation, or identification; assays for specific antibodies; and identification of specific antigens, toxins, or nucleic acid sequences.

(4) Reportable diseases, infections, microorganisms, and conditions, and the time frames within which they must be reported are as follows:

(a) Immediately, day or night: *Bacillus anthracis* (anthrax); *Clostridium botulinum* (botulism); *Corynebacterium diphtheriae* (diphtheria); *Severe Acute Respiratory Syndrome* (SARS) and infection by SARS-coronavirus; *Yersinia pestis* (plague); intoxication caused by marine microorganisms or their byproducts (for example, paralytic shellfish poisoning, domoic acid intoxication, ciguatera, scombroid); any known or suspected common-source outbreaks; and any uncommon illness of potential public health significance.

(b) Within 24 hours (including weekends and holidays): *Haemophilus influenzae* (any invasive disease; for laboratories, any isolation or identification from a normally sterile site); *measles* (rubeola); *Neisseria meningitidis* (any invasive disease; for laboratories, any isolation or identification from a normally sterile site); *Pesticide Poisoning*; *poliomyelitis*; rabies (human or animal); rubella; and *Vibrio* (all species).

(c) Within one Local Public Health Authority working day: *Bordetella pertussis* (pertussis); *Borrelia* (relapsing fever, Lyme disease); *Brucella* (brucellosis); *Campylobacter* (campylobacteriosis); *Chlamydomydia* (Chlamydia) *psittaci* (psittacosis); *Chlamydia trachomatis* (chlamydia; lymphogranuloma venereum); *Clostridium tetani* (tetanus); *Coxiella burnetii* (Q fever); Creutzfeldt-Jakob disease and other transmissible spongiform encephalopathies; *Cryptosporidium* (cryptosporidiosis); *Cyclospora cayentanensis* (cyclosporiasis); *Escherichia coli* (Shiga-toxicogenic, including E. coli O157 and other serogroups); *Francisella tularensis* (tularemia); *Giardia* (giardiasis); *Haemophilus ducreyi* (chancroid); *hantavirus*; *hepatitis A*; hepatitis B (acute or chronic infection); hepatitis C; hepatitis D (delta); HIV infection (does not apply to anonymous testing) and AIDS; *Legionella* (legionellosis); *Leptospira* (leptospirosis); *Listeria monocytogenes* (listeriosis); *Mycobacterium tuberculosis* and *M. bovis* (tuberculosis); *Neisseria gonorrhoeae* (gonococcal infections); *pelvic inflammatory disease* (acute, non-gonococcal); Plasmodium (malaria); *Rickettsia* (all species: Rocky Mountain spotted fever, typhus, others); *Salmonella* (salmonellosis, including typhoid); *Shigella* (shigellosis); *Taenia solium* (including cysticercosis and undifferentiated Taenia infections); *Treponema pallidum* (syphilis); *Trichinella* (trichinosis); *Yersinia* (other than pestis); any infection that is typically arthropod vector-borne (for example: Western equine encephalitis, Eastern equine encephalitis, St. Louis encephalitis, dengue, West Nile fever, yellow fever, California encephalitis, ehrlichiosis,

babesiosis, Kyasanur Forest disease, Colorado tick fever, etc.); human bites by any other mammal; and hemolytic uremic syndrome.

(d) Within seven days: Suspected Lead Poisoning (for laboratories; this includes all blood lead tests performed on persons with suspected lead poisoning).

(5) Licensed laboratories shall report, within seven days, the results of all tests of CD4+ T-lymphocyte counts, percent of total lymphocytes that are CD4 positive, and viral load tests.

Stat. Auth.: ORS 431, 432, 433

Stats. Implemented: ORS 431, 432, 433

Hist.: HD 15-1981, f. 8-13-81, ef. 8-15-81; HD 20-1985(Temp), f. & ef. 9-30-85; HD 4-1987, f. 6-12-87, ef. 6-19-87; HD 15-1988, f. 7-11-88, cert. ef. 9-1-88; HD 13-1990(Temp), f. 5-25-90, cert. ef. 8-1-90; HD 5-1991, f. 3-29-91, cert. ef. 4-1-91; HD 10-1991, f. & cert. ef. 7-23-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 29-1994, f. & cert. ef. 12-2-94; OHD 22-2001, f. & cert. ef. 10-19-01; OHD 3-2002, f. & cert. ef. 3-4-02; PH 11-2005, f. 6-30-05, cert. ef. 7-5-05; PH 7-2006, f. & cert. ef. 4-17-06

## 333-019-0031

### Acquired Immunodeficiency Syndrome/Human Immunodeficiency Virus

Investigation of cases of HIV infection or AIDS. Investigations of HIV infection or AIDS shall be conducted to the extent that resources permit. DHS, or the Local Public Health Authority, will ensure that each identified case is offered prevention, care, and partner counseling and referral services.

**NOTE:** Specific rules regarding reporting requirements for HIV and AIDS may be found in OAR 333-018-0015. Rules regarding informed consent for HIV testing and confidentiality of HIV test results may be found in OAR 333-012-0265 and 333-012-0270.

Stat. Auth.: ORS 431, 432 & 433

Stats. Implemented: ORS 431, 432 & 433

Hist.: HD 4-1987, f. 6-12-87, ef. 6-19-87; HD 15-1988, f. 7-11-88, cert. ef. 9-1-88; HD 29-1994, f. & cert. ef. 12-2-94; OHD 13-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0223; OHD 22-2001, f. & cert. ef. 10-19-01; OHD 4-2002, f. & cert. ef. 3-4-02; PH 7-2006, f. & cert. ef. 4-17-06

\*\*\*\*\*

**Rule Caption:** Temporary suspension of rules related to the reconsideration process of Certificate of Need decisions.

**Adm. Order No.:** PH 8-2006(Temp)

**Filed with Sec. of State:** 4-17-2006

**Certified to be Effective:** 4-17-06 thru 10-11-06

**Notice Publication Date:**

**Rules Suspended:** 333-670-0000, 333-670-0010, 333-670-0020, 333-670-0030, 333-670-0040, 333-670-0050, 333-670-0060, 333-670-0070, 333-670-0080, 333-670-0090, 333-670-0100, 333-670-0110, 333-670-0120, 333-670-0130, 333-670-0140, 333-670-0150, 333-670-0160, 333-670-0170, 333-670-0180, 333-670-0190, 333-670-0200, 333-670-0210, 333-670-0220, 333-670-0230, 333-670-0240, 333-670-0250, 333-670-0260, 333-670-0270, 333-670-0280

**Subject:** The Department of Human Services is temporarily suspending Oregon Administrative Rules in Chapter 333, Division 670 related to the reconsideration process for appealing a final order on a Certificate of Need application.

**Rules Coordinator:** Christina Hartman—(971) 673-1291

## 333-670-0000

### Purpose

The procedures established in these rules are intended to provide for the speediest practicable hearing and decision in proceedings conducted pursuant to ORS 442.315(5)(b), while affording all interested persons reasonable notice and opportunity to participate, reasonable time to prepare and submit their cases, and a full and fair hearing. This division shall be interpreted to effectuate these policies and to promote justice. Technical violations of these rules which do not affect substantial rights or interests of parties, or of the public, shall not interfere with the review of a petition. The Health Division as the administrative agency, and the hearing officers, may relieve parties from performance of the strict requirements of this division, to the extent legally permissible.

Stat. Auth.: ORS 183.310 - 183.550, 431.120(6) & 442.315

Stats. Implemented: ORS 431.120(6) & 442.315

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; OHD 11-1998, f. & cert. ef. 10-22-98; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0010

### Definitions

Definitions in this division governing the reconsideration proceedings, unless the context or subject matter otherwise require:

# ADMINISTRATIVE RULES

(1) "File or Filing" means the actual receipt of the document not later than 5 p.m. on the date it is required to be filed. Unless otherwise stated in rules, all documents are filed with the hearing officer.

(2) "Petitioner" means any party opposing the order of the administrator of the Health Division.

(3) "Respondent" means any party, including the Health Division, supporting the order of the administrator.

(4) "Service" means actual delivery (if to the division or hearing officer) or mailing by certified mail with return receipt requested (if from the division or hearing officer) not later than 5 p.m. on the date the document is to be served.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0020

### Who is Entitled to File for Reconsideration

(1) Any person or agency entitled as of right to a reconsideration, or any person or agency which the division determines has an interest in the outcome of the proceedings, or represents a public interest in such results, may file a Request for Reconsideration.

(2) The request shall automatically be deemed allowed unless the administrator otherwise notifies the requestor within 15 days of the filing of the Request for Reconsideration. The Request for Reconsideration may be denied if it was not within the time allowed.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0030

### Contents of Request for Reconsideration

The request shall be in the form set forth in **Form R-1** and shall contain:

(1) A caption which sets forth the name of the person filing the notice, identifying that person as a petitioner, and the Health Division as the respondent;

(2) Below the caption the heading, "Request for Reconsideration";

(3) The full title of the Health Division decision as it appears on the order;

(4) The date of the Health Division decision;

(5) A concise description of the Health Division decision; and

(6) The name, address and telephone number of each of the following:

(a) The petitioner, except that if the petitioner is represented by an attorney, then the petitioner's address and telephone number may be deleted and the name, address and telephone number of the attorney shall be included;

(b) The applicant, if any (if other than the petitioner), except that if the applicant was represented by an attorney before the division, then the applicant's address and telephone number may be deleted and the name, address and telephone number of the applicant's attorney of record shall be included;

(c) The division and the division's legal counsel;

(d) Any other person whom Health Division correspondence or notices indicate was mailed written notice of the order for which review is sought.

(7) A statement which advises all persons whose name, address and telephone number are required to appear in the notice as provided in section (6) of this rule, other than the division, that in order to participate in the review proceedings before the division a Motion to Intervene in such proceedings, as required by OAR 333-670-0050, must be filed with the division's hearing officer within seven days of filing the Request for Reconsideration. A statement of facts sufficient to demonstrate that the petitioner may request reconsideration because the petitioner is entitled, has an interest in the outcome of the proceedings or represents public interest in the result.

(9) Proof of service upon all persons required to be named in the request, which conforms to definition of "service" in this division.

[ED. NOTE: Form R-1 referenced is available from the agency.]

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0040

### Filing and Service of Request

The request must be filed with the division, and served on all persons identified in the request as required by OAR 333-670-0030(6), within 60 days from service of the division's final order.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0050

### Who May Intervene

(1)(a) The following persons or agencies are entitled as of right to a reconsideration and are entitled to participate in all proceedings associated with the reconsideration:

(A) Petitioner who has filed a Request for Reconsideration; and

(B) Any person or agency which the hearing officer determines to have an interest in the results.

(b) Any person other than those listed as having a right, who desires to participate as a party in the reconsideration, may make a motion to intervene.

(2) Any person, other than those having a right to a reconsideration hearing, who fails to file a Motion to Intervene may not participate in the proceedings as provided under OAR 333-670-0160, 0170 or 0200.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0060

### Content of Motion to Intervene

The Motion to Intervene shall be in the form set forth in **Form R-2** and shall contain:

(1) A caption which sets forth the name of the person filing the motion, identifying that person as an intervenor-petitioner or as an intervenor-respondent;

(2) Below the caption the heading, "Motion to Intervene";

(3) The full title of the Health Division decision as it appears on the order;

(4) A statement of facts sufficient to demonstrate that the intervenor may file the motion because the intervenor is entitled, has an interest in the outcome, or represents a public interest; and

(5) The name, address and telephone number of intervenor, except that if the intervenor is represented by an attorney, then the intervenor's address and telephone number may be deleted and the name, address and telephone number of the attorney shall be included.

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

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0070

### Filing and Service of Motion

The Motion to Intervene must be filed with the hearing officer, and served on all parties identified in the request as required by OAR 333-670-0030(6), and all parties who have previously filed a Motion to Intervene, within seven days of the division's receipt of the Request for Reconsideration.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0080

### Intervenor to Comply as Petitioner or Respondent

Intervenor-petitioner shall comply with those rules and time schedules applicable to petitioners. Intervenor-respondents shall comply with those rules and time schedules applicable to respondents.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0090

### Designation of Hearing Officer

The administrator may designate a hearing officer to preside over the reconsideration proceedings.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06



# ADMINISTRATIVE RULES

## 333-670-0100

### Hearing Officer to Rule

The hearing officer shall rule on the Motion to Intervene.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0110

### Notice to Party Before Hearing of Rights and Procedures

(1) A general description of the hearing procedure is described in OAR 333-670-0140 to 333-670-0190.

(2) A record will be made and governed by OAR 333-670-0120.

(3) The Health Division shall be represented by the Attorney General. Any party which is a corporation must be represented by an attorney. All parties to the reconsideration proceedings customarily are represented by attorneys.

(4) The title and functions of the hearing officer are specified in this division. The hearing officer's services will be acquired through contract or other arrangement between the hearing officer and the division.

(5) In the event a party not a corporation chooses not to be represented by an attorney, the hearing officer need not recess the proceeding solely to allow the party to employ an attorney.

(6) The hearing officer need not grant an adjournment at the end of the proceeding solely because the party proposes to present additional evidence.

(7) Opportunity for objection to the hearing officer's proposed order can be made pursuant to OAR 333-670-0200.

(8) An appeal to the State Court of Appeals may be taken as provided in ORS 183.480, et seq.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0120

### Record

The records shall include at least the following:

(1) The application for certificate of need;

(2) The administrator's order;

(3) Other such evidence as may be introduced by the parties, including oral evidence admitted by the hearing officer in accordance with ORS 183.450; and

(4) All pleadings, briefs, correspondence sent or received by the hearing officer, any interlocutory orders of the hearing officer, and any recommendation of the hearing officer.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0130

### Amendments to Applications Prohibited

No amendments to the application shall be considered during the reconsideration process.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0140

### Burden of Proof

Petitioners shall have the burden of proving by a preponderance of the evidence all adjudicative facts necessary to establish entitlement to reconsideration, or to the relief it seeks.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0150

### Petition for Reconsideration

(1) The petition shall be a written document containing, referring to, and citing all evidence, facts, arguments, and reasoning that constitutes petitioners' case in chief.

(2) Filing and service of petition: The petition shall be filed with the hearing officer, and served on all parties and persons who have sought to intervene, on one of the following dates:

(a) If no Motion to Intervene as a party petitioner has been filed, not later than 15 days from the date of filing the Request for Reconsideration; or

(b) If a Motion to Intervene as a party petitioner has been filed, not later than 15 days from the date of filing the motion.

(3) Failure to file a petition within the time required will result in dismissal of the request for reconsideration.

(4) Specifications:

(a) The petition shall:

(A) Contain a table of contents in the front portion; and

(B) Not exceed 50 pages exclusive of appendices unless permission for an extended petition is granted by the hearing officer.

(b) Set out on a cover page, which shall be blue in color, the full title of the reconsideration proceedings, including the names, addresses and telephone numbers of all parties or their attorneys, who have filed a Motion to Intervene in the review proceedings;

(c) Be typewritten and double spaced with double space above and below each paragraph or less if quotations. Printed or used area shall not exceed 6-1/4 inches by 9-1/2 inches, exclusive of page numbers;

(d) Be on white pleading paper, without glaze, with surface suitable for both pen and pencil notations;

(e) Contain on the last page the name and the author of the petition for review and the name of the law firm or firms, if any, representing the petitioner.

(5) Contents: The petition shall contain petitioner's brief and shall:

(A) Set out the facts which establish that the petitioner has standing:

(A) The petitioner was entitled, as a matter of right, to notice and hearing prior to the making of the decision sought to be reviewed; or

(B) The petitioner's interests were adversely affected, or the petitioner was aggrieved by the decision.

(b) Open with a clear and concise statement of the case which shall set forth in the following order and under separate headings:

(A) The nature of the Health Division final decision of which reconsideration is sought, and the relief sought by the petitioner;

(B) A succinct and clear summary of arguments appearing in the body of the petition for review;

(C) A concise but complete summary of the facts material to the determination of the question, or questions, represented for reconsideration. The summary shall be in narrative form with reference to appropriate portions of the appendix where the facts appear; and

(D) Any other matters necessary to inform the hearing officer concerning the questions and contentions raised by petitioner, insofar as such matters are a part of the appendix, with reference to the portions of the appendix where such matters appear.

(c) Set forth clearly and succinctly each issue of fact and law under a separate and appropriate heading. Where several issues of fact or law present essentially the same questions, they shall be combined so far as practicable;

(d) Set forth a separate argument for each issue of fact or law, or combination of issues of fact or law;

(e) Contain a copy of the Health Division final decision for which reconsideration is sought, including the written findings of fact, statement of reasons and conclusions of law adopted by the division; and

(f) If the petitioner believes the division applied policy which it was required to, but did not, enact pursuant to rulemaking procedures, then that issue may be raised either as an issue of fact or law, or as a petition for review;

(g) Appendix: The appendix shall contain all evidence upon which the petitioner relies, presented in writing, in a form admissible under ORS 183.450. The appendix may include but not be limited to documents and reports previously submitted to, or generated by, the division.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0160

### Respondent's Brief

(1) Filing of Brief: Respondent's brief shall be filed with the hearing officer within 30 days after the date the Petition for Reconsideration is filed. A copy of the respondent's brief shall be served on all parties.

(2) Specifications: Respondent's brief shall conform to the specifications required by the petition for Reconsideration, except that the brief shall have a cover page which is red in color. If there is more than one respondent in the review proceedings, the cover page should specify which respondent is filing the brief.

# ADMINISTRATIVE RULES

## (3) Contents:

(a) The respondent's brief shall follow the form prescribed for the Petition for Reconsideration. Under the heading "Statement of the Case," the respondent shall specifically accept the petitioner's statement of the case or shall cite any alleged omissions or inaccuracies therein, and may state additional relevant facts or other matters as may apply to the decision. The additional statement shall refer to pages of the petitioner's or respondent's appendix in support of the additional matter set forth, but shall not repeat those portions of petitioner's statement with which respondent agrees;

(b) If respondent challenges petitioner's standing on the basis that the facts alleged in support of standing are not true, respondent shall state in its brief, under a separate heading, the true facts and in what manner the facts alleged by petitioner are untrue. If necessary in order to obtain sufficient information to dispute petitioner's allegations of standing, respondent may take petitioner's deposition pursuant to ORS 183.425. Such deposition, if relied upon by respondent, shall be appended to respondent's brief, or filed with the hearing officer and served on all parties as soon as is practicable;

(c) Respondent's brief shall contain responses and objections, if any, to the weight or admissibility of any evidence in the appendix of the Petition for Reconsideration.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0170

### Procedural Conference

Not later than ten days after filing the respondent's brief, the hearing officer may convene and conduct a conference meeting where the hearing officer may:

(1) Entertain petitioner's objections, if any, to the weight or admissibility of any evidence in the appendix to respondent's brief;

(2) Informally discuss the procedure and merits of the case;

(3) Request additional briefing from the parties;

(4) Perform such other functions as the hearing officer determines necessary or appropriate for the full, fair and speedy submission of the case; and shall

(5) Schedule time and place for direct and cross-examination, and rebuttal testimony or evidence, upon request of any party or on the hearing officer's own motion.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0180

### Reconsideration Hearing

(1) The hearing officer shall order and hold a hearing at which the division's decision shall be reconsidered.

(2) The reconsideration hearing shall be held not later than 15 days following service of the respondent's brief required by OAR 333-670-0160, unless a longer time is agreed to by the parties.

(3) All evidence and testimony permitted by the hearing officer to be admitted into the record shall be the basis for a reconsideration to uphold or deny the division's proposed decision, or to remand the application record to the division for re-review and a new order.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0190

### Recommendation

(1) At any time during the pendency of the reconsideration proceeding, if the hearing officer believes that action by the administrator is necessary for the proper disposition of the case, the hearing officer may, in writing, recommend that the administrator take such action in an interlocutory recommendation.

(2) At the earliest possible time after closing of the record, but not later than 30 days, the hearing officer shall draft, file with the administrator and serve on all parties a proposed order, including recommended findings of fact, conclusions of law, and recommendation for disposition of case.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0200

### Exceptions: Administrator's Final Order

(1) Not later than ten days after the date of the filing with the administrator by the hearing officer, of the hearing officer's final recommendation, any party may file with the administrator, and serve on all parties and the hearing officer, its written exceptions to the recommendation. The administrator may entertain such oral argument as the administrator determines necessary or appropriate to assist the administrator in the proper disposition of the case.

(2) Not later than 30 days after the administrator has received and reviewed the hearing officer's proceedings, the recommendation of the hearing officer, and the exceptions, if any, of the parties thereto, the administrator shall either:

(a) Remand the matter to the hearing officer for further proceedings on any issues of fact which the administrator believes were not fully or adequately developed; or

(b) Enter a final order adopting the recommendation of the hearing officer as the administrator's order; adopting the reconsideration with some modifications as the administrator determines necessary or appropriate; or rejecting the recommendation of the hearing officer. If the administrator elects to reject the recommendation of the hearing officer, the administrator's final order shall contain necessary findings of fact and conclusions of law.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0210

### Subpoenas

The administrator, hearing officer or attorneys representing other affected parties may issue subpoenas pursuant to ORS 183.440.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0220

### Power to Discharge Responsibility

Hearing officers shall have the necessary power to discharge the responsibility to control the course and conduct of the reconsideration proceedings, from the time of filing the Request for Reconsideration to the final recommendation of the hearing officer.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0230

### Appropriateness of Motions

(1) Unless this chapter or applicable statutes provide another form of the application, a request for an order or relief made outside of the hearing shall be made by serving and filing a motion in writing for such order or relief.

(2) Time of filings: A party seeking to challenge the failure of an adverse party to comply with any of the requirements of statutes or this chapter, shall make such challenges by motion either at the hearing or filed with the hearing officer, and served on the adverse party, within ten days after the moving party obtains knowledge of such alleged failure. The adverse party may, within ten days of the receipt of a motion under this rule, serve and file an answer.

(3) How submitted: Except during the hearing, parties shall submit all motions without oral argument except as may be provided at the hearing officer's discretion pursuant to OAR 333-670-0170(5) or unless otherwise directed by the hearing officer. The motion shall show proof of service on all opposing counsel or parties.

(4) In addition to direct evidence received by way of the appendix, required by OAR 333-670-0150(5)(g), the hearing officer shall provide opportunity for direct oral testimony and direct documentary evidence to clarify or explain the issues raised in petitioner's brief, respondent's brief, intervenor-petitioner's brief or intervenor-respondent's brief. However, the hearing officer shall not admit direct oral testimony or evidence which is irrelevant, immaterial or unduly repetitious.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315

Stats. Implemented:

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

# ADMINISTRATIVE RULES

## 333-670-0240

### Conferences

On their own motion or at the request of any party, hearing officers may conduct one or more conferences. The hearing officer shall provide reasonable notice advising all parties of the time, place and purpose of the conference.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315  
Stats. Implemented:  
Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0250

### Computation of Time

The time provided in this chapter for acts to be performed shall be computed by excluding the first day and including the last day. If the last day is Saturday, Sunday or other legal holiday, the act must be performed on the next business day. For good cause, and upon request, extensions of time may be granted by the hearing officer or Health Division, as appropriate.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315  
Stats. Implemented:  
Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0260

### Address and Hours of the Health Division

The Health Division's address is Health Division, 800 N.E. Oregon, #21, Portland, OR 97232. The telephone number is (503) 731-4320. The offices are open from 8 a.m. to 5 p.m., Monday through Friday.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315  
Stats. Implemented:  
Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0270

### Conflict with Model Rules

The Model Rules of Procedure adopted by the Health Division do not apply to reconsideration proceedings. Where the Model Rules of Procedure are in conflict with this chapter or ORS Chapter 442, the Model Rules are null and void.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315  
Stats. Implemented:  
Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

## 333-670-0280

### Release of Materials Under Challenge

As provided in ORS 192.501(1), when a certificate of need order or any other decision by the division is challenged in a court of law, no written materials pertinent to that issue may be released, reproduced or sent to any person or party without prior approval from the division's legal counsel.

Stat. Auth.: ORS 183.310 - 183.550, 409.120, 431.120(6) & 442.315  
Stats. Implemented:  
Hist.: HD 13-1994, f. & cert. ef. 4-22-94; Suspended by PH 8-2006(Temp), f. & cert. ef. 4-17-06 thru 10-11-06

.....

**Rule Caption:** DHS Public Health Rulemaking Procedures for Oregon Administrative Rule Chapter 333.

**Adm. Order No.:** PH 9-2006

**Filed with Sec. of State:** 5-10-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 4-1-06

**Rules Repealed:** 333-001-0000, 333-001-0005

**Subject:** The Department of Human Services, Public Health is permanently repealing Oregon Administrative Rules 333-001-0000 concerning the Notice of Proposed Rule for Public Health and 333-001-0005 concerning the Model Rules of Procedure for Public Health. Public Health will be following the Department rules on these topics being adopted in Chapter 407.

**Rules Coordinator:** Christina Hartman—(971) 673-1291

.....

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

**Rule Caption:** Confidentiality requirements, statewide criminal history approval, paid leave provisions and discontinued FICA refunds.

**Adm. Order No.:** SPD 15-2006

**Filed with Sec. of State:** 4-26-2006

**Certified to be Effective:** 5-1-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 411-031-0020, 411-031-0040, 411-031-0050

**Rules Repealed:** 411-031-0020(T), 411-031-0050(T)

**Subject:** OAR chapter 411, division 031 has been updated to include maintaining client confidentiality as a Homecare Worker enrollment criteria and a reason for termination if violated. Sections were added to Criminal History Clearance Rechecks to reflect the approval period, to indicate approval is specific to Homecare Worker enrollment, and that approval is applied statewide whether the fitness determination was made by an SPD or AAA office. Changes were made to paid leave provisions for Homecare Workers as negotiated in the Home Care Commission's collective bargaining agreement. Language was deleted concerning issuing FICA refunds to those not subject to withholding. Clarification was added that DHS (not DOJ Medicaid Fraud) determines when an overpayment has resulted from fraudulent provider activity. The term "Immediate Suspension" was changed to "Immediate Termination" and "Termination Pending Appeal" was added to reflect the standard form of termination when there is no imminent danger. Information was added about protective services information that must not be disclosed in a termination letter.

**Rules Coordinator:** Lisa Richards—(503) 945-6398

## 411-031-0020

### Definitions

(1) "Activities of Daily Living (ADL)" means those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities include eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel and bladder management), and cognition/behavior as defined in OAR chapter 411, division 015.

(2) "Adult Protective Services" means a service to be provided in response to the need for protection from harm or neglect to an aged, disabled, or blind person 18 years of age or older regardless of income, as described in OAR 411-020-0000 through 411-020-0130.

(3) "Area Agency on Aging (AAA)" means the Department of Human Services (DHS) designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors or individuals with disabilities in a planning and service area. For purposes of these rules, the term Area Agency on Aging (AAA) is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 through 410.300.

(4) "Burden of proof" means that the existence or nonexistence of a fact must be established by a preponderance of the evidence.

(5) "Business days" means Monday through Friday and excludes Saturdays, Sundays and state-sanctioned holidays.

(6) "Case Manager" means an SPD/AAA employee who assesses the service needs of an applicant, determines eligibility, and offers service choices to the eligible individual. The Case Manager authorizes and implements the service plan, and monitors the services delivered.

(7) "Client" or "Client-Employer" means the individual eligible for in-home services.

(8) "Client-Employed Provider Program (CEP)" refers to the program wherein the provider is directly employed by the client and provides either hourly or live-in services. In some aspects of the employer/employee relationship, the Department of Human Services acts as an agent for the Client-Employer. These functions are clearly described in OAR 411-031-0040.

(9) "Companionship Services" means those services which are designated by the Department of Labor as meeting the personal needs of a client and which are exempt from federal and state minimum wage laws.

(10) "Department" means the Oregon Department of Human Services, which includes Seniors and People with Disabilities.

(11) "Evidence" means testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact.

(12) "Fiscal Improprieties" means the Homecare Worker committed financial misconduct involving the client's money, property or benefits. Improprieties include, but are not limited to, financial exploitation, borrowing money from the client, taking the client's property or money, having the client purchase items for the Homecare Worker, forging the client's



# ADMINISTRATIVE RULES

signature, falsifying payment records, claiming payment for hours not worked, or similar acts intentionally committed for financial gain.

(13) "General Household Work" means, according to federal law, housecleaning, chore services, and other household tasks.

(14) "Homecare Worker (HCW)" means a provider, as described in OAR 411-031-0020 and 411-031-0040, who is directly employed by the client and provides either hourly or live-in services to eligible clients. The term Homecare Worker includes providers in the Spousal Pay Program. Independent Choices Program providers and Personal Care Attendants enrolled through Developmental Disability Services or Mental Health Services are excluded from the term Homecare Worker.

(15) "Hourly Services" means the in-home services, including activities of daily living and self-management tasks, which are provided at regularly scheduled times.

(16) "Imminent Danger" means there is reasonable cause to believe a person's life or physical well-being is in danger if no intervention is initiated immediately.

(17) "In-Home Services" means those activities of daily living and self-management tasks that assist an individual to stay in his or her own home.

(18) "Lack of skills, knowledge and ability to adequately or safely perform the required work" means the Homecare Worker does not possess the skills to perform services needed by Department clients. The Homecare Worker may not be physically, mentally, or emotionally capable of providing services to seniors and persons with disabilities. Their lack of skills may put clients at risk, because they fail to perform, or learn to perform, their duties adequately to meet the needs of the client.

(19) "Lack of ability or willingness to maintain Client-Employer confidentiality" means the Homecare Worker is unable or unwilling to keep personal information about their Client-Employer private. Unless given specific permission by the Client-Employer or his or her legal representative, the Homecare Worker must not share any personal information about the eligible individual including medical, social service, financial, public assistance, legal, or interpersonal details.

(20) "Live-In Services" means those Client-Employed Provider Program services provided when a client requires ADL, self-management tasks, and twenty-four hour availability. Time spent by any live-in Homecare Worker doing self-management and twenty-four hour availability are exempt from federal and state minimum wage and overtime requirements under the Companionship Services definition outlined in this rule. To ensure continuity of care for the client, live-in service plans must include at least one HCW providing 24-hour availability for a minimum of five (5) days in a calendar week.

(21) "Office of Administrative Hearings" means the panel established within the Employment Department under section 9, chapter 849, Oregon Laws, 1999, that conducts contested case proceedings and other such duties on behalf of designated state agencies.

(22) "Oregon Project Independence (OPI)" means the program of in-home services defined in OAR chapter 411, division 032.

(23) "Preponderance of the evidence" means that one party's evidence is more convincing than the other party's.

(24) "Provider" means the individual who actually renders the service.

(25) "Provider enrollment" means a Homecare Worker's authorization to work as a provider employed by the client, for the purpose of receiving payment for authorized services provided to Department clients. Provider enrollment includes the issuance of a provider number.

(26) "Provider number" means an identifying number, issued to each Homecare Worker who is enrolled as a provider through the Department.

(27) "Self-Management tasks" or "Instrumental Activities of Daily Living (IADL)" means those activities, other than activities of daily living, required by an individual to continue independent living; i.e., medication and oxygen management, transportation, meal preparation, shopping, and client-focused housekeeping.

(28) "Seniors and People with Disabilities (SPD)" means the part of the Oregon Department of Human Services responsible for the administration of programs to seniors and people with disabilities, including the state local offices that administer benefits and services to eligible individuals in regional areas throughout the state.

(29) "Services are not provided as required," means the Homecare Worker does not provide the services to the client as described in the service plan authorized by the Department.

(30) "Twenty-Four Hour Availability" means the availability and responsibility of a Homecare Worker to meet Activities of Daily Living and self-management needs of a client as required by that client over a twenty-

four hour period. These services are provided by a live-in Homecare Worker and are exempt from federal and state minimum wage and overtime requirements.

(31) "Unacceptable conduct at work" means the Homecare Worker has repeatedly engaged in one or more of the following behaviors: delay in their arrival to work or absences from work not prior-scheduled with the client, which are either unsatisfactory to the client or which neglect the client's care needs; or inviting unwelcome guests or pets into the client's home, which results in the client's dissatisfaction or inattention to the client's required care needs.

(32) "Unacceptable criminal history" means that a criminal history check and fitness determination have been conducted resulting in a "denied" status, as defined in OAR 410-007-0210. A "denied" criminal history check results in the denial or termination of the Homecare Workers' provider enrollment.

(33) "Violation of a drug-free workplace" means there was a substantiated complaint against the Homecare Worker being intoxicated by alcohol or drugs while responsible for the care of the client, while in the client's home, or while transporting the client, or manufacturing or distributing drugs while providing authorized services to the client or while in the client's home.

(34) "Violations of Protective Service and abuse rules" means the Homecare Worker violated protective service and abuse rules as described in OAR 411-020-0002, section (1). Abuse includes physical assault, use of inappropriate or derogatory language, financial exploitation, inappropriate sexual advances, neglect of care, and denying medical care or treatment. Abuse also includes the use of medications or physical restraints when used to discipline the client or for the convenience of the provider.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SPD 17-2004, f. 5-28-04, cert. ef. 6-1-04; SPD 40-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; SPD 10-2005, f. & cert. ef. 7-1-05; SPD 15-2005(Temp), f. & cert. ef. 11-16-05 thru 5-15-06; SPD 15-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-031-0040

### Client-Employed Provider Program

The Client-Employed Provider Program contains systems and payment structures to employ both hourly and live-in providers. The live-in structure assumes that the provider will be required for activities of daily living and self-management tasks and twenty-four hour availability. The hourly structure assumes that the provider will be required for activities of daily living and self-management tasks during specific substantial periods. Except as indicated, all of the following criteria apply to both structures:

(1) Employment Relationship: The relationship between the provider and the client is that of employee and employer.

(2) Job Descriptions: Each Client-Employer, in cooperation with the case manager, or if present, contracted Registered Nurse, may create a job description for the potential employee. Such descriptions will make it clear that general household work will comprise less than 20% of the live-in employee's time.

(3) Homecare Worker Liabilities: The only benefits available to Homecare Workers are those negotiated in the collective bargaining agreement between the Home Care Commission and the Service Employee's International Union, Local 503, OPEU. This agreement does not include participation in the Public Employees Retirement System (PERS) or the Oregon Public Service Retirement Plan (OPSRP). Homecare Workers are not state employees.

(4) Client-Employer Absences: When a Client-Employer is absent from the home due to an illness or medical treatment and is expected to return to the home, a live-in provider, who is the only live-in provider for a client, may be retained to ensure his or her presence upon the Client-Employer's return or to maintain the client's home for up to 30 days at the rate of pay immediately preceding the client's absence. Spousal Pay Providers are not eligible for payment during a client absence.

(5) Selection of Homecare Worker: The Client-Employer carries primary responsibility for locating, interviewing, screening, and hiring his or her own employees. The Client-Employer has the right to employ any individual who successfully meets the provider enrollment standards described in section (8) of this rule. The SPD/AAA office determines whether the employee meets minimum qualifications to provide the authorized services paid by the Department.

(6) Employment Agreement: The Client-Employer retains the full right to establish the employer-employee relationship at any time after Bureau of Citizenship and Immigration Services papers have been completed and identification photocopied. The Department will not guarantee payment for those services until all acceptable enrollment standards have

## ADMINISTRATIVE RULES

been verified and both the employer and Homecare Worker have been formally notified in writing that payment by the Department is authorized.

(7) Terms of Employment: The terms of the employment relationship are the responsibility of the Client-Employer to establish at the time of hire. These terms of employment include dismissal or resignation notice, work scheduling, and absence reporting as well as any sleeping arrangements or meals provided for live-in or hourly employees.

(8) Provider Enrollment:

(a) Enrollment Standards: A Homecare Worker must meet all of the following standards to be enrolled with the Department's Client-Employed Provider Program:

(A) The Homecare Worker must maintain a drug-free work place.

(B) The Homecare Worker must be "approved" following a criminal history check as defined in OAR 410-007-0210.

(C) The Homecare Worker must have the skills, knowledge, and ability to perform, or to learn to perform the required work.

(D) The Homecare Worker's U.S. employment authorization must be verified.

(E) The Homecare Worker must be 18 years of age or older. SPD Central Office may approve limited enrollment, as described in subsection (8)(d) of this rule, for a Homecare Worker who is at least sixteen years of age.

(F) The Homecare Worker must complete an orientation as described in subsection (8)(e) of this rule.

(b) The Department may deny an application for provider enrollment in the Client-Employed Provider Program when:

(A) The applicant has a history of violating protective service and abuse rules;

(B) The applicant has committed fiscal improprieties;

(C) The applicant does not have the skills, knowledge or ability to adequately or safely provide services;

(D) The applicant lacks the ability or willingness to maintain Client-Employer confidentiality;

(E) The applicant has an unacceptable criminal history;

(F) The applicant is not 18 years of age;

(G) The applicant has been excluded by the Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare and all other Federal health care programs; or

(H) SPD/AAA has information that enrolling the applicant as a Homecare Worker would put vulnerable clients at risk.

(c) Criminal History Clearance Rechecks: Criminal history clearance re-checks will be conducted at least every other year from the date the Homecare Worker is enrolled. Re-checks may be conducted more frequently at the discretion of SPD/AAA. SPD/AAA may conduct a re-check based on additional information discovered about the Homecare Worker, such as possible criminal activity.

(A) When a Homecare Worker is approved without restrictions following a criminal history clearance fitness determination, the approval will meet the Homecare Worker enrollment requirement statewide whether the qualified entity is a state-operated SPD office or an AAA operated by a County, Council of Governments or a non-profit organization.

(B) Criminal history clearance approval is effective for two years unless:

(i) There is a change in status based on a new fitness determination;

(ii) The local SPD/AAA office conducts scheduled re-checks annually in which case the approval is effective for one year; or

(iii) The approval has ended because the Homecare Worker is no longer enrolled.

(C) Prior criminal history clearance approval for another DHS provider type is inadequate to meet criminal history clearance requirements for Homecare Worker enrollment.

(d) Limited enrollment: SPD/AAA may approve a limited enrollment for a Homecare Worker to provide services exclusively to a client or to specific clients. In-Home Services providers approved under a limited enrollment are designated as Exclusive Homecare Workers. Generally, limited enrollment would be approved for Homecare Workers providing services exclusively to clients who are family members, friends or neighbors. To remove limited enrollment status and be designated as a Career Homecare Worker, a Homecare Worker must complete a criminal history clearance re-check.

(e) Homecare Worker Orientation: Homecare Workers must participate in an orientation arranged through an SPD/AAA office. The orientation should occur within the first 30 days after becoming enrolled in the Client-Employed Provider Program and prior to beginning work for any specific SPD/AAA clients. When completion of an orientation is not possi-

ble within those timelines, orientation must be completed within 90 days of being enrolled. If a Homecare Worker fails to complete an orientation within 90 days of provider enrollment, their provider number will be inactivated and any authorization for payment of services will be discontinued.

(f) A Homecare Worker's provider enrollment may be inactivated when:

(A) The Homecare Worker has not provided any paid services to any client in the last twelve months;

(B) The Homecare Worker fails to complete a criminal history clearance authorization or provide fingerprints in accordance with the criminal history clearance, when requested by the Department;

(C) The Homecare Worker informs the Department they will no longer be providing Homecare Worker services in Oregon; or

(D) A complaint is being investigated against a Homecare Worker who, at the time, is not providing any paid services to clients.

(9) Paid Leave:

(a) Live-in Home Care Workers: The Department will authorize one twenty-four hour period of leave each month when a live-in Homecare Worker or Spousal Pay Provider is the only live-in provider during the course of a month. For any part of a month worked, the live-in Homecare Worker will receive a proportional share of that twenty-four hour period of leave authorization. A prorated share of the 24 hours will be allocated proportionately to each live-in when there is more than one live-in provider for a client.

(A) Accumulation and Usage: A provider may not accumulate more than 144 hours of accrued leave. The employer, Homecare Worker, and case manager will coordinate the timely use of these hours. Usage may be in one-hour increments. Accrued leave must be taken while employed as a live-in.

(B) The Right to Retain Live-in Paid Leave: The Homecare Worker retains the right to access earned paid leave when terminating employment with one employer, so long as the Homecare Worker is employed with another employer as a live-in within one year of termination.

(C) Transferability of Live-In Paid Leave: Live-in Homecare Workers who convert to hourly or separate from live-in service and return as an hourly Homecare Worker within one (1) year from the last date of live-in services will be credited with their unused hours of leave up to a maximum of sixteen (16) hours. Effective July 1, 2006, unused hours of leave will be credited up to a maximum of thirty-two (32) hours. Paid leave cannot be cashed out.

(b) Hourly Homecare Workers: On July 1st of each year, active Homecare Workers who worked eighty (80) authorized and paid hours in any one (1) of the three (3) months that immediately precede July (April, May, June) will be credited with one sixteen (16) hour block of paid leave to use during the current fiscal biennium (July 1 through June 30) in which it was accrued. On February 1st of each year, active employees who worked eighty (80) authorized and paid hours in any one (1) of the three (3) months that immediately precede February (November, December, January) will be credited with sixteen (16) hours of paid time off. One sixteen hour block of paid leave will be credited to each eligible Homecare Worker, irrespective of the number of clients they serve. Such leave will not be cumulative from biennium to biennium.

(A) Utilization of Hourly Paid Leave: Such time off must be utilized in one (1) eight (8)-hour block subject to authorization. If the Homecare Worker's normal workday is less than eight (8) hours, such time off may be utilized in blocks equivalent to the normal workday. Any remaining hours that are less than the normally scheduled workday may be taken as a single block.

(B) Limitations of Hourly Paid Leave: If the leave hours are not used within the biennium, the balance will be reduced to zero (0). Homecare Workers will not be compensated for paid leave unless the time off work is actually taken. Hourly paid leave cannot be cashed out.

(C) Transferability of Hourly Paid Leave: An hourly Homecare Worker who transfers to work as a live-in Homecare Worker (within the biennium that their hourly leave is earned) will maintain their balance of hourly paid leave and begin accruing live-in paid leave.

(10) Department Fiscal and Accounting Responsibility:

(a) Direct Service Payments: The Department will make payment to the provider on behalf of the client for all in-home services. This payment will be considered full payment for the services rendered under Title XIX. Under no circumstances is the Homecare Worker to demand or receive additional payment for these Title XIX-covered services from the client or any other source. Additional payment to Homecare Workers for the same services covered by Oregon's Title XIX Home and Community Based services waiver is prohibited.

# ADMINISTRATIVE RULES

(b) Timely Submission of Claims: In accordance with OAR 410-120-1300, all claims for services must be submitted within 12 months of the date of service.

(c) Ancillary Contributions:

(A) FICA: Acting on behalf of the Client-Employer, the Department will apply any applicable FICA (Federal Insurance Contributions Act) regulations and will:

(i) Withhold the Homecare Worker-employee contribution from payments; and

(ii) Submit the Client-Employer contribution and the amounts withheld from the Homecare Worker-employee to the Social Security Administration.

(B) Benefit Fund Assessment: The Workers' Benefit Fund assessment pays for programs that provide direct benefits to injured workers and their beneficiaries and that assist employers in helping injured workers return to work. The Department of Consumer & Business Services sets the Workers' Benefit Fund assessment rate for each calendar year. DHS calculates the hours rounded up to the nearest whole hour and deducts an amount rounded up to the nearest cent. Acting on behalf of the Client-Employer, the Department will:

(i) Deduct the Homecare Worker-employees' share of the Benefit Fund Assessment rate for each hour or partial hour worked by each paid Homecare Worker.

(ii) Collect the Client-Employer's share of the Benefit Fund Assessment for each hour or partial hour of paid services received.

(iii) Submit the client and Homecare Worker's contributions to the Workers' Benefit Fund.

(C) The Department will pay the employer's share of the Unemployment Tax.

(d) Ancillary Withholdings. For purposes of subsection (10)(c) of this rule, "labor organization" means any organization that has, as one of its purposes, representing employees in their employment relations.

(A) The Department will deduct from the Homecare Worker's monthly salary or wages the specified amount for payment to a labor organization.

(B) In order to receive this payment, the labor organization must enter into a written agreement with the Department to pay the actual administrative costs of the deductions.

(C) The Department will pay the deducted amount monthly to the designated labor organization.

(e) State and Federal Income Tax Withholding:

(A) The Department will withhold state and federal income taxes on all payments to Homecare Workers, as indicated in the Home Care Commission's collective bargaining agreement with the Service Employee's International Union.

(B) Homecare Workers must complete and return a current Internal Revenue Service (IRS) W-4 form to the local office. The Department will apply standard income tax withholding practices in accordance with the Code of Federal Regulations, Title 26, Part 31 (26 CFR 31).

(11) Homecare Worker Expenses Secondary to Performance of Duties:

(a) Providers may be reimbursed at the published state mileage rate when they use their own car for service plan related transportation, if prior authorized by the case manager. If unscheduled transportation needs arise during non-office hours, an explanation as to the need for the transportation must be provided and approved prior to reimbursement.

(b) Medical transportation through the Office of Medical Assistance Programs (OMAP), volunteer transportation, and other transportation services included in the service plan will be considered a prior resource.

(c) DHS is not responsible for vehicle damage or personal injury sustained while using a personal motor vehicle for OMAP or service plan-related transportation, except as may be covered by workers' compensation.

(12) Workers' Compensation and health insurance are available to eligible Homecare Workers as defined in the Home Care Commission's bargaining agreement with the Service Employee's International Union. In order to receive Homecare Worker services, the Client-Employer must provide written authorization and consent to the Department for the provision of workers' compensation insurance for their employee.

(13) Overpayments:

(a) An overpayment is any payment made to a Homecare Worker by the Department that is more than the person is authorized to receive.

(b) Overpayments are categorized as follows:

(A) Administrative Error Overpayment: Occurs when the Department failed to authorize, compute or process the correct amount of in-home service hours or wage rate.

(B) Provider Error Overpayment: Occurs when the Department overpays the Homecare Worker due to a misunderstanding, unintentional or intentional error.

(C) Fraud Overpayment: The Department of Justice, Medicaid Fraud Unit will determine when a Medicaid Fraud allegation will be pursued for prosecution. The Department will determine when fraudulent activities have resulted in an overpayment.

(c) Overpayments are recovered as follows:

(A) Overpayments will be collected prior to garnishments, such as child support, IRS back taxes, and educational loans.

(B) Administrative or Provider Error Overpayments will be collected at no more than five percent (5%) of the Homecare Worker's gross wages.

(C) Fraud Overpayments: The Department will determine when a fraud overpayment has occurred and the manner and amount to be recovered.

(D) Providers no longer employed as Homecare Workers, will have any remaining overpayment deducted from their final check. The provider is responsible for repaying the amount in full when the final check is insufficient to cover the remaining overpayment.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SPD 17-2004, f. 5-28-04, cert.ef. 6-1-04; SPD 40-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; SPD 10-2005, f. & cert. ef. 7-1-05; SPD 15-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-031-0050

### Administrative Review and Hearing Rights

This rule establishes the appeal and hearing rights for Homecare Workers when the Department suspends or terminates the HCW's provider enrollment.

(1) Exclusions to Appeal and Hearings Rights:

(a) The following are excluded from this administrative review and hearing rights process:

(A) Terminations based on criminal history. The Homecare Worker has the right to a hearing in accordance with OAR 410-007-0200 through 410-007-0380.

(B) Homecare Workers that have not worked in the last twelve months. The provider enrollment may become inactivated but will not be terminated. To activate the provider enrollment number, the HCW must complete an application and criminal history clearance.

(C) Homecare Workers that fail to complete a criminal history recheck.

(D) Homecare Workers that are denied a provider enrollment number at the time of initial application.

(E) Homecare Workers not currently providing services to any clients whose provider enrollment is inactivated while an investigation is being completed.

(F) Homecare Workers who have been excluded by Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare and all other federal programs.

(b) These rules only apply to Homecare Workers as defined in OAR chapter 411, division 031. These rules do not include any other providers enrolled, licensed or otherwise registered by the Department of Human Services.

(2) Violations Resulting in Termination of Provider Enrollment. The Department may terminate the Homecare Worker's provider enrollment when a Homecare Worker:

(a) Violates the requirement to maintain a drug-free work place;

(b) Has an unacceptable criminal history;

(c) Lacks the skills, knowledge, and ability to adequately or safely perform the required work;

(d) Violates protective service and abuse rules, as defined in OAR chapter 411, division 020;

(e) Commits fiscal improprieties;

(f) Fails to provide services as required;

(g) Lacks the ability or willingness to maintain Client-Employer confidentiality;

(h) Engages in unacceptable conduct at work; or

(i) Has been excluded by the Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare and all other federal health care programs.

(3) Immediate Termination: The Department may immediately terminate a provider enrollment on the date the violation is discovered, prior to the outcome of the administrative review when an alleged violation presents imminent danger to current or future clients. The Homecare Worker may file an appeal of this decision directly to SPD Central Office. The



# ADMINISTRATIVE RULES

Homecare Worker must file any appeal within ten (10) business days from the date of the notice.

(4) Termination Pending Appeal: When a violation does not present imminent danger to current or future clients, the provider enrollment will not be terminated during the first ten business days of the Administrative Review appeal period. The Homecare Worker must file any appeal within ten (10) business days from the date of the notice. If the Homecare Worker appeals in writing prior to the deadline for appeal, the enrollment will not be terminated until the conclusion of the Administrative Review.

(5) Termination if No Appeal Filed: The decision of the reviewer will become final if the Homecare Worker does not appeal within ten business days of the notice of the decision. Once the time period for appeal has expired, the reviewer or designee will terminate the provider enrollment.

(6) Burden of Proof: The Department of Human Services has the burden of proving the allegations of the complaint by a preponderance of the evidence. Evidence submitted for the administrative hearing is governed by OAR 137-003-0050.

(7) Administrative Review Process: The Administrative Review process allows an opportunity for the SPD/AAA program manager or SPD Central Office to review and reconsider the decision to terminate the Homecare Worker's provider enrollment. The appeal may include the provision of new information or other actions that may result in the Department changing its decision.

(a) When the Department decides to terminate the Homecare Worker's provider enrollment, the Department will issue a written notice that will include:

(A) An explanation of the reason(s) for termination of the provider enrollment;

(B) The alleged violation as listed in OAR 411-031-0050; and

(C) The Homecare Worker's appeal rights, including the right to union representation, and where to file the appeal.

(b) For terminations based on substantiated protective services complaint, the letter may only contain the limited information allowed by law. In accordance with ORS 124.075, 124.085, 124.090 and OAR 411-020-0030, complainants, witnesses, the name(s) of the alleged victim(s) and protected health information must not be disclosed.

(c) Informal Conference: At the first level of appeal, an informal conference, (described in OAR 461-025-0325), if requested by the Homecare Worker, will be scheduled with the Homecare Worker and any union representative. The Program Manager, or designee, will meet with the Homecare Worker, review the facts, and explain why the agency decision was made. The informal conference may be held by telephone.

(d) The Homecare Worker must specify in the request for review the issues or decisions being appealed and the reason for the appeal. The appropriate party, as stated in the notice, must receive the request for review within ten (10) business days of the decision affecting the worker. If the Homecare Worker decides to file an appeal, they must file their appeal in the following order:

(A) The Administrative Review:

(i) Program Manager (or designee) at the local SPD/AAA office. This is the first level of review for terminations pending appeal described in section (4) of this rule.

(ii) SPD Central Office. This is the first level of review for immediate terminations described in section (3) of this rule.

(B) Office of Administrative Hearings:

(i) A Homecare Worker can file a request for a hearing with the Office of Administrative Hearings if all levels of administrative review have been exhausted, and the Homecare Worker continues to dispute the Department's decision. The request can be filed through the local office with the Office of Administrative Hearings, as described in OAR chapter 137, division 003. The request for the hearing must be filed within 30 calendar days of the written notice from SPD Central Office.

(ii) An Administrative Law Judge (ALJ) with the Office of Administrative Hearings will determine whether the Departments' decision to terminate the provider enrollment number is affirmed or reversed. The ALJ will issue a Final Order with the decision to all appropriate parties.

(iii) No additional hearing rights have been granted to Homecare Workers by this rule, other than the right to a hearing on the Department's decision to terminate the Homecare Worker's provider enrollment number.

(e) In the first two steps of the administrative review process, a written response of the outcome of the review will be sent to the Homecare Worker within ten business days of the review date.

(f) If the Administrative Review determines that the decision to immediately terminate the provider enrollment was unjustified, the reviewer or designee will have the provider number restored to active status and

any earned benefits such as paid leave reinstated. The written response will notify the Homecare Worker that the provider enrollment will be restored.

(8) Request for Extension to Deadline: The Department or the Homecare Worker may request an extension of the 10-day deadline for circumstances beyond their control, if further information needs to be gathered to make a decision or there is difficulty in scheduling a meeting between the parties.

Stat. Auth.: ORS 410.070, 409.050 & 410.090

Stats. Implemented: ORS 410.070

Hist.: SPD 17-2004, f. 5-28-04, cert.ef. 6-1-04; SPD 40-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; Administrative correction 7-20-05; SPD 15-2005(Temp), f. & cert. ef. 11-16-05 thru 5-15-06; SPD 15-2006, f. 4-26-06, cert. ef. 5-1-06

\*\*\*\*\*

**Rule Caption:** Instrumental Activities of Daily Living Policy.

**Adm. Order No.:** SPD 16-2006

**Filed with Sec. of State:** 4-27-2006

**Certified to be Effective:** 5-1-06

**Notice Publication Date:** 4-1-06

**Rules Adopted:** 411-015-0007

**Subject:** This rule explains Instrumental Activities of Daily Living (IADL). IADL needs are identified in service assessments and may be included in a plan of care. The purpose of this rule is to clarify and define the Department's understanding of each Instrumental Activity of Daily Living.

**Rules Coordinator:** Lisa Richards—(503) 945-6398

## 411-015-0007

### Instrumental Activities of Daily Living

(1) "Instrumental Activities of Daily Living (IADL)" or "Self-Management tasks" consists of housekeeping including laundry, shopping, transportation, medication management and meal preparation.

(2) Evaluation of the individual's needs for assistance in Instrumental Activities of Daily Living is based on:

(a) The individual's abilities rather than the services provided; and

(b) How the individual functioned during the thirty days prior to the assessment date, with consideration of how the person is likely to function in the thirty days following the assessment date; and

(c) Evidence of the actual or predicted need for assistance of another person within the assessment time frame and can not be based on potential or preventative needs.

(3) "Independent" means the individual does not meet the definition of "Assist" or "Full Assist" for IADLs as defined in this rule.

(4) "Housekeeping" means the ability to maintain the interior of the individual's residence for the purpose of health and safety. Housekeeping includes activities such as wiping surfaces, cleaning floors, making the individual's bed, cleaning dishes, taking out the garbage and dusting. Housekeeping does not include pet care or home repair. Only the housekeeping activities related to the eligible individual's needs may be considered in housekeeping. Housekeeping needs of roommates, guests, family members or other residents of the household can not be considered.

(a) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of housekeeping without the assistance of another person.

(b) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

(5) "Laundry" means the ability to gather and wash soiled clothing and linens, use washing machines and dryers, hang clothes, fold and put away clean clothing and linens. For service planning, laundry needs are included in Housekeeping.

(a) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of laundry without the assistance of another person.

(b) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

(6) "Meal Preparation" means the ability to safely prepare food to meet the basic nutritional requirements of the individual. It includes cutting food and placing food, dishes and utensils within reach for eating.

(a) Meal Preparation for breakfast, lunch and dinner/supper is assessed for each meal.

(b) When assessing and developing service plans, dinner/supper is considered as the individual's main meal of the day, regardless of the time the meal is served or eaten.

(c) An individual who needs assistance with meal preparation and who meets the criteria established in OAR 411-040-0000 may receive home

# ADMINISTRATIVE RULES

delivered meals, if available in the individual's local area. Even with home delivered meal service, an individual may still meet the assistance or full assistance meal preparation criteria in this rule if the individual is unable to accomplish some or all of the meal preparation tasks.

(d) Set-up for tube feeding is assessed in Eating per OAR 411-015-0005.

(e) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of meal preparation without the assistance of another person.

(f) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

(7) "Medication Management" means the ability to order, organize and administer prescribed medications. Administering prescribed medications includes pills, drops, ointments, creams, injections, inhalers and suppositories unrelated to bowel care. Administering as a paid service means set-up, reminding, cueing, checking for effect and monitoring for choking while taking medications. Oxygen management is included in medication management. Oxygen management means assisting with the administration of oxygen, monitoring the equipment and assuring adequate oxygen supply.

(a) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of medication management without the assistance of another person.

(b) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

(8) "Shopping" means the ability to purchase goods that are necessary for the health and safety of the individual being assessed and are related to the individual's service plan. Goods that are related to the service plan include items such as food (meal preparation), clothing (dressing), and medicine (medication management).

(a) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of shopping without the assistance of another person.

(b) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

(9) "Transportation" means, assuming transportation is available, the ability to arrange rides, the ability to get in or out of a vehicle, and the need for assistance during a ride. The need for assistance during a ride means assistance for a physical or cognitive need such as spasticity, memory impairment, aspiration, choking or seizure. Transportation as a paid service means in accordance with a plan of care, assisting an individual during a ride, assisting an individual to get in or out of a vehicle, or arranging a ride for an individual. Transportation does not include mileage reimbursement.

(a) Assist: Even with assistive devices, the individual is unable to accomplish some of the tasks of transportation without the assistance of another person.

(b) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

Stat. Auth.: ORS 410.070  
Stats. Implemented: ORS 410.070  
Hist.: SPD 16-2006, f. 4-27-06, cert. ef. 5-1-06

\*\*\*\*\*

**Rule Caption:** Amend rule to clarify abuse reporting requirements for Provider Organizations & housekeeping purposes.

**Adm. Order No.:** SPD 17-2006

**Filed with Sec. of State:** 4-26-2006

**Certified to be Effective:** 5-1-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 411-340-0020, 411-340-0030, 411-340-0040, 411-340-0050, 411-340-0060, 411-340-0110, 411-340-0120, 411-340-0130, 411-340-0140, 411-340-0150, 411-340-0160, 411-340-0170, 411-340-0180

**Subject:** Adds the phrase "services provided at sites owned or lease by" to OAR 411-340-0020(1). All other changes are for housekeeping purposes only.

**Rules Coordinator:** Lisa Richards—(503) 945-6398

## 411-340-0020

### Definitions

As used in OAR 411-340-0010 through 411-340-0180:

(1) "Abuse" means:

(a) Except for services provided at sites owned or leased by Provider Organizations listed in OAR 411-340-0020(1)(b), 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;

(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; or

(E) Neglect that leads to physical harm or significant mental injury through withholding of services necessary to maintain health and well-being.

(b) Activities described in OAR 411-320-0020(2)(b) through (c)(F) for Provider Organizations qualifying to be paid with support services funds as:

(A) 24-Hour Residential Programs licensed under OAR chapter 411, division 325;

(B) Adult Foster Homes licensed under OAR chapter 411, division 360.

(C) Employment and Alternative to Employment programs certified under OAR chapter 411, division 345; or

(D) Supported Living Services certified under OAR 309-041-0550 through 309-041-0830.

(2) "Abuse investigation and protective services" means reporting and investigation activities as required by OAR 410-009-0100 and any subsequent services or supports necessary to prevent further abuse.

(3) "Activities of Daily Living (ADL)" means those self-care activities that must be accomplished by an individual for continued well-being including mobility, dressing and grooming, bathing and personal hygiene, toileting, bowel and bladder care and eating.

(4) "Administration of medication" means the act of a person responsible for the individual's care and employed by or under contract to the individual, the individual's legal representative, or a provider organization, of placing a medication in, or on, an individual's body.

(5) "Administrator" means the Assistant Director, 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) "Basic Benefit" means the type and amount of Support Services available to each eligible individual, specifically:

(a) Access to Support Service Brokerage services listed in OAR 411-340-0120(1)(a) through (g) and, if required,

(b) Assistance with purchase of supports listed in OAR 411-340-0130(6)(a) through (p) with no more than:

(A) \$9600 per Plan Year from July 1, 2001 through June 30, 2003, and thereafter an amount assigned and published by the Department, when an individual is a Medicaid recipient and is eligible for, and has chosen to receive, services available through the Support Services waiver; and

(B) An amount equal to the state's General Fund contribution to the maximum amount available per Plan Year to a Medicaid recipient per OAR 411-340-0020(6)(b)(A) from July 1, 2001 through June 30, 2003, and thereafter an amount assigned and published by the Department, when an individual is either not eligible for Medicaid or Medicaid waiver services or does not otherwise receive Medicaid benefits.

(8) "Basic Supplement" means the amount of support services funds in excess of the Basic Benefit to which an individual may have access in order to purchase necessary supports based on demonstration of extraordinary long-term need on the Basic Supplement Criteria Inventory, Form DHS 0203. A Basic Supplement is subject to limitations outlined in OAR 411-340-0130(4)(a)(A) and (B).

(9) "Basic Supplement Criteria Inventory" means Form DHS 0203, the written inventory of an individual's circumstances, which is completed and scored by the Brokerage to determine whether the individual is eligible for annual support service funds in excess of the Basic Benefit due to extraordinary long-term need.

(10) "Certificate" means a document issued by the Department to a Support Services Brokerage or to a Provider Organization that certifies the Brokerage or Provider Organization is eligible to receive State funds for these services.

(11) "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 verifi-

## ADMINISTRATIVE RULES

cation of satisfaction with these services. Choice may be communicated verbally, through sign language, or by other communication method.

(12) "Chore services" mean services needed to maintain a clean, sanitary and safe environment in an individual's home. This service includes heavy household chores such as washing floors, windows and walls, tacking down loose rugs and tiles, moving heavy items of furniture for safe access and egress. These services are provided when no one in the household is capable of either performing, or paying for, the services and when no other relative, caregiver, landlord, community or volunteer agency, or third-party payer is capable of or responsible for their provision.

(13) "Client Process Monitoring System (CPMS)" means the Department's computerized system for enrolling and terminating services for individuals with developmental disabilities.

(14) "Community Inclusion Supports" means services that may include instruction in skills an individual wishes to acquire, retain or improve that enhance independence, productivity, integration, or maintain the individual's physical and mental skills. These supports are provided:

(a) For an individual to participate in activities to facilitate independence and promote community inclusion and contribution; and

(b) At any time in community settings of the individual's choice.

(15) "Community Living Supports" means services provided for the purpose of facilitating independence and promoting community integration by supporting the individual to gain or maintain skills to live as independently as possible in the type of community-based housing the individual chooses, consistent with the outcome for community living defined in the Individual's Support Plan. The type, frequency, and duration of direct support and other community living support is defined in the plan of care based on the individual's selected housing arrangement and assessed needs. Supports are available to individuals who live alone, with roommates, or with family. The services include support designed to develop or maintain skills required for self-care, directing supports, and caring for the immediate environment such as:

(a) Personal skills, including eating, bathing, dressing, personal hygiene, and mobility;

(b) Socialization, including development or maintenance of self-awareness and self-control, social responsiveness, social amenities, and interpersonal skills;

(c) Community participation, recreation or leisure, including the development or maintenance of skills to use generic community services, facilities, or businesses;

(d) Communication, including development or maintenance of expressive and receptive skills in verbal and non-verbal language and the functional application of acquired reading and writing skills; and

(e) Personal environmental skills including planning and preparing meals, budgeting, laundry, and housecleaning.

(16) "Community Developmental Disability Program (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.

(17) "Comprehensive Services" means a package of developmental disability services and supports that includes one of the following living arrangements regulated by the Department alone or in combination with any associated employment or community inclusion program regulated by the Department:

(a) 24-hour residential services including, but not limited to, care provided in a group home, in a foster home, or through a supported living program; or

(b) Supports provided to an individual in the individual or family home that cost more than \$20,000 in funds designated by the Department specifically for that purpose for individuals with developmental disabilities per Plan Year for the July 1, 2001 through June 30, 2003 biennium or more than \$20,000 plus any legislatively-approved cost-of-living increments per Plan Year for each biennium thereafter.

(18) "Department" means the Oregon Department of Human Services, Seniors and People with Disabilities.

(19) "Developmental Disability" 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 person to function in society; or

(d) 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.

(20) "Emergent status" means a temporary, unpredictable situation when an individual enrolled in a Support Service Brokerage may be allowed to receive Department-paid support exceeding \$20,000 per year to remain in his or her home or family home or to enter a short-term out-of-home residential placement without exiting Support Services. An individual will only be considered in emergent status if he or she is in jeopardy of losing his or her living situation due to inability or unavailability of the primary caregiver, when no alternative resources are available, and when the CDDP of the individual's county of residence has determined that the individual meets criteria for crisis or diversion services according to OAR 411-320-0160. Services are provided while an individual is in emergent status to prevent the individual's civil court commitment under ORS Chapter 427 and there is imminent risk of loss of the individual's community support system. Services to maintain the individual in the community and stabilize the situation are crisis or diversion services according to OAR 411-320-1060 that may include short-term residential placement services indicated in the individual's Support Service Brokerage Plan of Care Crisis Addendum, as well as additional support in the individual's home as described in the Support Services Individual Support Plan. Length of emergent status may be authorized only by the CDDP of the individual's county of residence, or the Regional Crisis Program responsible for the individual's county of residence, depending on the source of the crisis or diversion funds. In no case will emergent status for an individual exceed two hundred seventy (270) consecutive days in twelve (12) consecutive months.

(21) "Employer-related supports" means activities that assist individuals and, when applicable, their family members, with directing and supervising provision of services described in the Individual Support Plan. Supports to the employer include, but are not limited to: education about employer responsibilities; orientation to basic wage and hour issues; use of common employer-related tools such as job descriptions; and fiscal intermediary services.

(22) "Entry" means admission to a Department-funded developmental disability service provider.

(23) "Environmental Accessibility Adaptations" means physical adaptations that are necessary to ensure the health, welfare, and safety of the individual in the home, or that enable the individual to function with greater independence in the home.

(a) Examples of these services include, but are not limited to: environmental modification consultation to determine the appropriate type of adaptation; installation of shatter-proof windows; hardening of walls or doors; specialized, hardened, waterproof or padded flooring; an alarm system for doors or windows; protective covering for smoke detectors, light fixtures, and appliances; sound and visual monitoring systems; fencing; installation of ramps and grab-bars, installation of electric door openers; adaptation of kitchen cabinets and sinks; widening of doorways; handrails; modification of bathroom facilities; individual room air conditioners for individuals whose temperature sensitivity issues create behaviors or medical conditions that put themselves or others at risk; installation of non-skid surfaces; overhead track systems to assist with lifting or transferring; specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies necessary for the welfare of the individual; or modifications to a vehicle to meet the unique needs of the individual (lift, interior alterations such as seats, head and leg rests and belts, special safety harnesses, or other unique modifications to keep the individual safe in the vehicle).

(b) Examples of what these services do not include:

(A) Adaptations or improvements to the home that are of general utility and are not of direct medical or remedial benefit to the individual, such as carpeting, roof repair and central air conditioning; and

(B) Adaptations that add to the total square footage of the home.

(24) "Environmental Modification Consultant" means either an Independent Provider or a Provider Organization paid with support services funds to provide advice to an individual, the individual's legal representative, or the individual's Personal Agent about the environmental accessibility adaptation required to meet the individual's needs.



## ADMINISTRATIVE RULES

(25) "Exit" means either termination from a Department-funded program or transfer from one Department-funded program to another. Exit does not mean transfer within a service provider's program.

(26) "Family" for determining individual eligibility for Support Services Brokerage services as a resident in the family home and for determining who may receive family training, means a unit of two or more persons that includes at least one person with developmental disabilities where the primary caregiver(s) is (are):

(a) Related to the individual with developmental disabilities by blood, marriage, or legal adoption; or

(b) In a domestic relationship where partners share:

(A) A permanent residence;

(B) Joint responsibility for the household in general (e.g. child-rearing, maintenance of the residence, basic living expenses); and

(C) Joint responsibility for supporting a member of the household with disabilities related to one of the partners by blood, marriage, or legal adoption.

(27) "Family Training" means training and counseling services for the family of an individual to increase capabilities to care for, support and maintain the individual in the home. This service includes: instruction about treatment regimens and use of equipment specified in the Individual Support Plan; information, education and training about the individual's disability, medical, and behavioral conditions; and counseling for the family to relieve the stress associated with caring for an individual with disabilities. This service is provided by licensed psychologists, professionals licensed to practice medicine, social workers, counselors, or in organized conferences and workshops that are limited to topics related to the individual's disability, identified support needs, or specialized medical or habilitative support needs. The training is not provided to paid caregivers.

(28) "Fiscal Intermediary" means a person or agency that receives and distributes Support Services funds on behalf of an individual according to an Individual Support Plan. The fiscal intermediary responsibilities may include activities and records related to payroll and payment of employer-related taxes and fees as an agent of individuals who employ persons to provide care, supervision, or training in the home or community. In this capacity, the fiscal intermediary does not recruit, hire, supervise, evaluate, dismiss or otherwise discipline employees.

(29) "General business provider" means an organization or entity selected by an individual or the individual's legal representative, and paid with Support Service funds that:

(a) Is primarily in business to provide the service chosen by the individual to the general public;

(b) Provides services for the individual through employees, contractors, or volunteers; and

(c) Receives compensation to recruit, supervise, and pay the persons who actually provide support for the individual.

(30) "Grievance" means a formal complaint by an individual, individual's legal representative, or a person acting on his or her behalf about services or employees of a Support Service Brokerage or Provider Organization.

(31) "Habilitation services" mean services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings. These services include supported employment, community living supports, and community inclusion supports.

(32) "Home" means an individual's primary residence that is not licensed, certified by, and under contract with, the Department of Human Services as a foster home, residential care facility, assisted living facility, nursing facility, or other residential support program site.

(33) "Homemaker services" means support consisting of general household activities such as meal preparation and routine household care provided by a trained homemaker. The services are provided when the person regularly responsible for these activities as well as caring for an individual in the home is temporarily absent, temporarily unable to manage the home as well as care for self or the individual in the home, or needs to devote additional time to caring for the individual.

(34) "Incident report" means a written report of any injury, accident, act 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) "Independent Provider" means a person selected by an individual or the individual's legal representative and paid with Support Service funds who personally provides services to the individual.

(37) "Individual" means an adult with developmental disabilities for whom services are planned and provided.

(38) "Individual Support Plan (ISP)" means the written details of the supports, activities, costs, and resources required for an individual to achieve personal goals. This ISP is developed by the individual, the individual's personal agent, the individual's legal representative (if any), and other persons who have been invited to participate by the individual or individual's legal representative. The ISP articulates decisions and agreements made through a person-centered process of planning and information-gathering. The ISP is the individual's Plan of Care for Medicaid purposes.

(39) "Integration" means use by persons with mental retardation or other developmental disabilities of the same community resources that are used by and available to other persons 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.

(40) "Legal Representative" means an attorney at law who has been retained by or for the adult, or a person or agency authorized by the court to make decisions about services for the individual.

(41) "Local Mental Health Authority (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.

(42) "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.

(43) "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.

(44) "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.

(45) "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, assigned or delegated to the qualified provider or family.

(46) "Occupational Therapy" means the services of a professional licensed under ORS 675.240 that are defined under the approved State Medicaid Plan, except that the amount, duration and scope specified in the State Medicaid Plan do not apply.

(47) "Personal Agent" means a person who works directly with individuals and families to provide or arrange for the services listed in OAR 411-340-0120(1), who meets the requirements of OAR 411-340-0150(4) and who is:

(a) A trained employee of a Support Service Brokerage; or

(b) A person who has been engaged under contract to the Brokerage to allow the Brokerage to meet responsibilities in geographic areas where Personal Agent resources are severely limited.

(48) "Personal Emergency Response Systems" means electronic devices required by certain individuals to secure help in an emergency for safety in the community.

(49) "Person-Centered Planning" means a process, either formal or informal, for gathering and organizing information that helps an individual:

(a) Determine and describe choices about personal goals and lifestyle preferences; and

(b) Design strategies and networks of support to achieve goals and a preferred lifestyle using individual strengths, relationships, and resources.

(c) The process helps the individual and those significant to the individual to identify, use, and strengthen naturally occurring opportunities for support at home and in the community. Methods for gathering information vary, but all are consistent with individual needs and preferences, ranging from simple interviews with the individual to informal observations in home and community settings to formally structured meetings.

(50) "Physical Therapy" means services provided by a professional licensed under ORS 688.020 that are defined under the approved State

## ADMINISTRATIVE RULES

Medicaid Plan, except that the amount, duration and scope specified in the State Medicaid Plan do not apply.

(51) "Plan Year" means twelve (12) consecutive months used to calculate an individual's annual Basic Benefit. Unless otherwise set according to conditions of OAR 411-340-0120(4)(h) or 411-340-0130(4)(b)(G), the initial Plan Year begins on the start date specified on the individual's first ISP after enrollment in a Brokerage after that ISP is approved and signed by the CDDP authorizing implementation; subsequent Plan Years begin on the anniversary of the start date of this initial plan.

(52) "Positive Behavioral Theory and Practice" means a proactive approach to individual behavior and behavior interventions that:

(a) Emphasizes the development of functional alternative behavior and positive behavior intervention;

(b) Uses the least intervention possible;

(c) Ensures that abusive or demeaning interventions are never used; and

(d) Evaluates the effectiveness of behavior interventions based on objective data.

(53) "Prescription medication" means any medication that requires a physician prescription before it can be obtained from a pharmacist.

(54) "Primary Caregiver" means the person identified in an individual's ISP as providing the majority of care and support for an individual in the individual's home.

(55) "Productivity" means engagement in income-producing work by a person with mental retardation or developmental disabilities that is measured through improvements in income level, employment status or job advancement or engagement by a person with mental retardation or developmental disabilities in work contributing to a household or community.

(56) "Provider Organization" means an entity selected by an individual or the individual's legal representative, and paid with Support Service funds that:

(a) Is primarily in business to provide supports for individuals with developmental disabilities;

(b) Provides supports for the individual through employees, contractors, or volunteers; and

(c) Receives compensation to recruit, supervise, and pay the persons who actually provide support for the individual.

(57) "Provider Organization Director" means the employee of a Provider Organization responsible for administration and provision of services according to these rules.

(58) "Psychotropic medication" is defined as 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.

(59) "Quality Assurance" means a systematic procedure for assessing the effectiveness, efficiency, and appropriateness of services.

(60) "Respite Care" means short-term care and supervision provided because of the absence, or need for relief of, persons normally providing the care to individuals unable to care for themselves. Respite may be provided in the individual's or respite provider's home, a foster home, a group home, a licensed day care center, or a community care facility that is not a private residence. Respite includes two types of care, neither of which can be characterized as 8-hours-a-day, 5-days-a-week services or are provided to allow caregivers to attend school or work:

(a) Temporary Respite Care that is provided on less than a 24-hour basis, and

(b) 24-Hour Overnight Care that is provided in segments of 24-hour units that may be sequential.

(61) "Restraint" means any physical hold, device, or chemical substance that restricts, or is meant to restrict, the movement or normal functioning of an individual.

(62) "Self-administration of medication" means the individual manages and takes his or her own medication. It includes identifying his or 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, upon written order of a physician, and safely maintaining the medication(s) without supervision.

(63) "Self-Determination" means a philosophy and process by which individuals with developmental disabilities are empowered to gain control over the selection of support services that meet their needs. The basic principles of self-determination are:

(a) Freedom — The ability for an individual with a developmental disability, together with freely-chosen family and friends, to plan a life with necessary support services rather than purchasing a predefined program;

(b) Authority — The ability for a person with a developmental disability (with the help of a social support network if needed) to control a certain sum of resources in order to purchase support services;

(c) Autonomy — The arranging of resources and personnel — both formal and informal — that will assist an individual with a developmental disability to live a life in the community rich in community affiliations; and

(d) Responsibility — The acceptance of a valued role in a person's community through competitive employment, organizational affiliations, personal development, and general caring for others in the community, as well as accountability for spending public dollars in ways that are life-enhancing for persons with developmental disabilities.

(64) "Social Benefit" or "Social Service" means a service solely intended to assist an adult with disabilities to function in society on a level comparable to that of an adult who does not have such disability. Such a benefit or service does not:

(a) Duplicate benefits and services otherwise available to citizens regardless of disability;

(b) Provide financial assistance with food, clothing, shelter, and laundry needs common to persons with or without disabilities; or

(c) Replace other governmental or community services available to an individual. Financial assistance provided as a social benefit or social services does not exceed the actual cost of the support required by an individual and must be either:

(A) Reimbursement for an expense authorized in a previously-approved plan of service; or

(B) An advance payment in anticipation of an expense authorized in a previously negotiated and approved ISP.

(65) "Special Diet" means specially prepared food or particular types of food needed to sustain the individual in the family home. Special diets can include: high caloric supplements; gluten-free supplements; diabetic, ketogenic or other metabolic supplements. Special diets are ordered by a physician and periodically monitored by a dietician. Special diets are supplements and are not intended to meet an individual's complete daily nutritional requirements. Special diets do not provide or replace the nutritional equivalent of meals and snacks normally required regardless of disability.

(66) "Specialized Medical Equipment and Supplies" mean devices, aids, controls, supplies, or appliances that enable individuals to increase their abilities to perform activities of daily living or to perceive, control, or communicate with the environment in which they live. This service includes items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid State plan. It does not include items not of direct medical or remedial benefit to the individual. All items must meet applicable standards of manufacture, design, and installation.

(67) "Specialized Supports" mean treatment, training, consultation or other unique services necessary to achieve outcomes in the plan of care that are not available through State Medicaid Plan services or other Support Services listed in OAR 411-340-0130(6)(a) through (p) Typical supports include the services of a behavior consultant, a licensed nurse, or a social or sexual consultant to:

(a) Assess the needs of the individual and family, including environmental factors;

(b) Develop a plan of support;

(c) Train caregivers to implement the support plan;

(d) Monitor implementation of plan; and

(e) Revise the plan as needed.

(68) "Speech and Language Therapy Services" means the services of a professional licensed under ORS 681.250 that are defined under the approved State Medicaid Plan, except that the amount, duration and scope specified in the State Medicaid Plan do not apply.

(69) "Support" means assistance that individuals require — solely because of the effects of disability — to maintain or increase independence, achieve community presence and participation, and improve productivity. This assistance is flexible and subject to change with time and circumstances.

(70) "Supported Employment Services" means provision of job training and supervision available to assist an individual who needs intensive ongoing support to choose, get, and keep a job in a community business setting. Supported employment is a service planned in partnership with public vocational assistance agencies and school districts and through Social Security Work Incentives when available.

# ADMINISTRATIVE RULES

(71) "Support Services" means the services of a Support Services Brokerage listed in OAR 411-340-0120(1) as well as the uniquely determined activities and purchases arranged through the Brokerage. Support Services:

(a) Complement the existing formal and informal supports that exist for an individual living in his or her own home or family home;

(b) Are designed, selected, and managed by the individual or individual's legal representative;

(c) Are provided in accordance with an ISP; and

(d) May include purchase of supports as a social benefit required for an individual to live in the individual's home or the family home.

(72) "Support Service Brokerage" or "Brokerage" means an entity, or distinct operating unit within an existing entity, that performs the functions listed in OAR 411-340-0120(1)(a) through (g) associated with planning and implementation of Support Services for adults with developmental disabilities, using the principles of self-determination described in OAR 411-340-0020(63).

(73) "Support Service Brokerage Director" or "Brokerage Director" means the employee of a publicly or privately-operated Support Service Brokerage who is responsible for administration and provision of services according to these rules.

(74) "Support Service Brokerage Plan of Care Crisis Addendum" means the short-term plan that is required by the Department to be added to an individual's ISP to describe crisis or diversion services an individual is to receive while he or she is in emergent status in a short-term residential placement. This short-term plan is coordinated by staff of the CDDP of the individual's county of residence.

(75) "Support Service Brokerage Policy Oversight Group" or "Policy Oversight Group" means the group formed to provide consumer-based leadership and advice to each Support Service Brokerage regarding issues such as development of policy, evaluation of services, and use of resources and which meets the requirements of OAR 411-340-0150(1) for such groups.

(76) "Support Services Funds" means public funds designated by the Support Services Brokerage for assistance with the purchase of supports according to each ISP.

(77) "Support Specialist" means an employee of a CDDP that performs the essential functions necessary to ensure the proper use of support services resources for individuals served by a Brokerage and described in OAR 411-320-0010 through 411-320-0200.

(78) "Transportation" means services that allow individuals to gain access to community services, activities and resources that are not medical in nature.

(79) "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.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp); f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1760, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 38-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0030

### Certification of Support Service Brokerages and Provider Organizations

(1) Certificate required. No person or governmental unit acting individually or jointly with any other person or governmental unit may establish, conduct, maintain, manage or operate a Support Service Brokerage without being certified under these rules. No person or governmental unit acting individually or jointly with any other person or governmental unit may establish, conduct, maintain, or operate a Provider Organization without either certification under these rules or current Department license or certification described in OAR 411-340-0170(1).

(a) Not transferable. Each certificate is issued only for the Support Service Brokerage, or for the Provider Organization requiring certification under OAR 411-340-0170(2), and persons or governmental units named in the application and is not transferable or assignable.

(b) Terms of certificate. Each certificate is issued for a maximum of two years.

(c) Department review. The Department must conduct a review of the Brokerage or Provider Organization requiring certification under OAR 411-340-0170(2) prior to the issuance of a certificate.

(2) A Support Service Brokerage or a Provider Organization requiring certification under OAR 411-340-0170(2) must apply for initial certificate and for certificate renewal.

(a) Form. The application must be on a form provided by the Department and must include all information requested by the Department.

(b) Initial application. The applicant for certification as a Support Services Brokerage must identify the maximum number of individuals to be served.

(c) Renewal application. To renew certification, the Brokerage or Provider Organization requiring certification under OAR 411-340-0170(2) must make application at least 30 days but not more than 120 days prior to the expiration date of the existing certificate. On renewal of Brokerage certification, no increase in the maximum number of individuals to be served by the Brokerage may be certified unless specifically approved by the Department.

(d) Renewal application extends expiration date. Application for renewal must be filed no more than 120 days prior to the expiration date of the existing certificate and will extend the effective date until the Department or its designee takes action upon such application.

(e) Incomplete or incorrect information. Failure to disclose requested information on the application or provision of incomplete or incorrect information on the application may result in denial, revocation or refusal to renew the certificate.

(f) Demonstrated capability. Prior to issuance or renewal of the certificate the applicant must demonstrate to the satisfaction of the Department that the applicant is capable of providing services identified in a manner consistent with the requirements of these rules.

(3) Certification expiration, termination of operations, certificate return.

(a) Expiration. Unless revoked, suspended or terminated earlier, each certificate to operate a Support Services Brokerage or a Provider Organization requiring certification under OAR 411-340-0170(2) will expire on the expiration date specified on the certificate.

(b) Termination of operation. If operation of a Support Services Brokerage or Provider Organization requiring certification under OAR 411-340-0170(2) is discontinued, the certificate terminates automatically on the date the operation is discontinued.

(4) Change of ownership, legal entity, legal status, management corporation. The Support Service Brokerage or Provider Organization requiring certification under OAR 411-340-0170(2) must notify the Department in writing of any pending action resulting in a 5% or more change in ownership and of any pending change in the Brokerage's or Provider Organization's legal entity, legal status or management corporation.

(5) New certificate required. A new certificate is required upon change in a Support Service Brokerage's or Provider Organization's ownership or legal entity or legal status. The Support Service Brokerage or Provider Organization must submit a certificate application at least 30 days prior to change in ownership or legal entity or legal status.

(6) Certificate denial, revocation, refusal to renew. The Department may deny, revoke or refuse to renew a certificate when it finds the Brokerage or Provider Organization, the Brokerage or Provider Organization director, or any person holding five percent or greater financial interest in the Brokerage or Provider Organization:

(a) Demonstrates substantial failure to comply with these rules such that the health, safety or welfare of individuals is jeopardized and fails to correct the noncompliance within 30 calendar days of receipt of written notice of non-compliance; or

(b) Has demonstrated a substantial failure to comply with these rules such that the health, safety or welfare of individuals is jeopardized during two inspections within a six year period (for the purpose of this subsection, "inspection" means an on-site review of the service site by the Department for the purpose of investigation or certification); or

(c) Has been convicted of a felony; or

(d) Has been convicted of a misdemeanor associated with the operation of a Brokerage or Provider Organization; or

(e) Falsifies information required by the Department to be maintained or submitted regarding care of individuals, program finances or individuals' funds; or

(f) Has been found to have permitted, aided or abetted any illegal act that has had significant adverse impact on individual health, safety or welfare; or

(g) Has been placed on the current Centers for Medicare and Medicaid Services list of excluded or debarred providers.

(7) Notice of certificate denial, revocation, or refusal to renew. Following a Department finding that there is a substantial failure to comply



# ADMINISTRATIVE RULES

with these rules such that the health, safety or welfare of individuals is jeopardized, or that one or more of the events listed in section OAR 411-340-0030(6)(a) through (g) has occurred, the Department may issue a notice of certificate revocation, denial or refusal to renew.

(8) Immediate suspension of certificate. In any case where the Department finds a serious and immediate threat to individual health and safety and sets forth the specific reasons for such findings, the Department may, by written notice to the certificate holder, immediately suspend a certificate without a pre-suspension hearing and the service may not continue operation.

(9) Hearing. Following issuance of a notice of certificate denial, revocation, refusal to renew, or suspension, the Department will provide the opportunity for a hearing pursuant to OAR 411-340-0030(9)(a) through (c).

(a) Hearings rights and administrative review. An applicant for a certificate, or certificate holder, upon written notice from the Department of denial, suspension, revocation or refusal to renew a certificate, may request a hearing pursuant to the Contested Case Provisions of ORS Chapter 183. In addition to, or in lieu of, a contested case hearing, the applicant or certificate holder may request a review by the Department Administrator or designee of denial, suspension, revocation or refusal to renew a certificate. This review does not diminish the right of the applicant or certificate holder to a hearing.

(b) Request for hearing. Upon written notification by the Department of revocation, denial or refusal to renew a certificate, pursuant to OAR 411-340-0030(9)(a), the applicant or certified program will be entitled to a hearing in accordance with ORS Chapter 183 within 60 days of receipt of notice. The request for a hearing must include an admission or denial of each factual matter alleged by the Department and must affirmatively allege a short plain statement of each relevant, affirmative defense the applicant or certified program may have.

(c) Hearing rights under OAR 411-340-0030(8). In the event of a suspension pursuant to OAR 411-340-0030(8) and during the first 30 days after the suspension of a certificate, the certified program will be entitled to an administrative review within 10 days after its written request to the Department for a review regarding certificate suspension. Any review requested after the end of the 30-day period following certificate suspension will be treated as a request for hearing under OAR 411-340-0030(9)(b). If following the administrative review the suspension is upheld, the certified program may request a hearing pursuant to the Contested Case Provisions of ORS Chapter 183.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; Renumbered from 309-041-1770, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0040

### Abuse and Unusual Incidents in Support Service Brokerages and Provider Organizations

(1) Abuse prohibited. Any adult as defined by OAR 411-340-0020(6) or individual as defined by OAR 411-340-0020(37) will not be abused nor will abuse be condoned by any employee, staff or volunteer of the Brokerage or Provider Organization.

(a) Basic personnel policies and procedures. Support Service Brokerages and Provider Organizations must have in place appropriate and adequate disciplinary policies and procedures to address instances when a staff member has been identified as an alleged perpetrator in an abuse investigation as well as when the allegation of abuse has been substantiated.

(b) Mandatory abuse reporting personnel policies and procedures. Any employee of a Brokerage or Provider Organization 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 must be provided with a Department-produced card regarding abuse reporting status and abuse reporting.

#### (2) Unusual Incidents.

(a) Written report. A written report that describes any injury, accident, act of physical aggression or unusual incident involving an individual and a Brokerage or Provider Organization employee must be prepared at the time of the incident and 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 and follow-up to be taken to prevent recurrence of the injury, accident, physical aggression or unusual incident.

(b) Copies sent to Support Specialist and Brokerage. Copies of all unusual incident reports involving abuse that occurs while an individual is receiving Brokerage or Provider Organization services must be sent to the CDDP Support Specialist. Copies of reports of all unusual incidents that occur while the individual is receiving services from a Provider Organization, must be sent to the individual's Brokerage within five working days of the incident.

(c) Immediate notification of allegations of abuse and abuse investigations. The Brokerage must immediately report to the CDDP, and the Provider Organization must report to the CDDP with notification to the Brokerage, any incident or allegation of abuse falling within the scope of OAR 411-340-0020(1). When the CDDP has initiated an abuse investigation, the CDDP must ensure that either the Support Specialist or the Brokerage also immediately notify 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 abuse investigation or protective services, or unless notification has been specifically prohibited by law.

(d) Immediate notification. In the case of a serious illness, injury or death of an individual, the Brokerage or Provider Organization must immediately notify:

(A) The individual's legal guardian or conservator, parent, next of kin, designated contact person or other significant person;

(B) The Community Developmental Disability Program;

(C) In the case of the Provider Organization, the individual's Support Services Brokerage; and

(D) The Department of Human Services.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp); f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1780, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0050

### Inspections and Investigations in Support Service Brokerages and Provider Organizations

(1) Inspections and investigations required. All services covered by this rule must allow the following types of investigations and inspections:

(a) Quality assurance and on-site inspections;

(b) Complaint investigations; and

(c) Abuse investigations.

(2) Inspections and investigations by the Department, CDDP or proper authority. The Department, CDDP, or proper authority will perform all inspections and investigations.

(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, CDDP or proper authority; and

(b) Submitted to the Department within the time allotted.

(5) Priority of investigation under (1)(c) of this rule. When abuse is alleged or death of an individual has occurred and a law enforcement agency, or the Department or CDDP has determined to initiate an investigation, the Support Services Brokerage or Provider Organization must not conduct an internal investigation without prior authorization from the Department. For the purposes of this section, an internal investigation is defined as conducting interviews with 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 will be taken.

(6) The Department or CDDP must conduct investigations as prescribed in OAR 410-009-0050 through 410-009-0160, Abuse Reporting and Protective Services in Community Programs and Community Facilities, and must complete an Abuse Investigation and Protective Services Report according to OAR 410-009-0120. 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

# ADMINISTRATIVE RULES

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 persons(s) alleged to have engaged in the conduct.

(7) Upon completion of the abuse investigation by the Department, CDDP, or a law enforcement agency, a service provider may conduct an investigation without further Department approval to determine if any other personnel actions are necessary.

(8) Abuse Investigation and Protective Services Report. Upon completion of the investigation report according to OAR 410-009-0120, the sections of the report that are public records and not exempt from disclosure under the public records law must be provided to the appropriate Support Service Brokerage or Provider Organization.

(9) Plan of improvement. A plan of improvement must be submitted to the Department for any noncompliance found during an inspection pursuant to OAR 411-340-0050(1)(a).

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; Renumbered from 309-041-1790, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0060

### Grievances and Appeals in Support Service Brokerages and Provider Organizations

(1) Grievances. Support Services Brokerages and Provider Organizations 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 resolution. These policies and procedures must provide opportunity for an individual or someone acting on behalf of the individual to informally discuss and resolve any allegation that a Brokerage or Provider Organization has taken action that is contrary to law, rule, or policy and that does not meet the criteria for an abuse investigation. Choosing this opportunity must not preclude the individual or someone acting on behalf of the individual to pursue resolution through formal grievance processes;

(b) Receipt of grievances. The policies and procedures must describe how the Brokerage or Provider Organization 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 CDDP and notify the Brokerage Director and, if applicable, the Provider Organization Director;

(c) Investigation of the facts supporting or disproving the grievance;

(d) Taking appropriate actions on grievances within five working days following receipt of grievance;

(e) Review by the Brokerage Director if the grievance involves Brokerage staff or services, or by the Provider Organization Director if the grievance involves Provider Organization staff or services, if the grievance is not or cannot be resolved with Brokerage or Provider Organization staff, respectively. Such review must be completed and a written response to the grievant provided within 15 days following receipt of the grievance; and

(f) Third-party review when grievances are not resolved by the Brokerage Director or Provider Organization Director.

(A) Unless the grievant is a Medicaid recipient who has elected to initiate hearing processes according to OAR 411-340-0060(3), grievances having to do with development of an individual's ISP, services at variance with the type, amount, frequency, or duration specified in an individual's written ISP, or the selection of any provider of service specified in the individual's ISP must be submitted to the CDDP for review.

(i) This review must be completed according to the CDDP dispute resolution policy and a written response must be provided to the grievant within the timelines described in that policy.

(ii) If the grievance remains unresolved after review by the CDDP, it may be submitted to the Department Administrator or designee for review. Such review must be completed and a written response to the grievant provided within 45 days of receipt of the grievant's written request for Department review. The decision of the Department Administrator or designee will be final unless the grievant is a Medicaid recipient who chooses to initiate further hearing according to OAR 411-340-0060(3).

(B) When a grievance does not involve the circumstances of OAR 411-340-0060(1)(f)(A), and the grievant is not a Medicaid recipient electing to initiate hearing processes according to OAR 411-340-0060(3), the

grievance may be submitted directly to the Department Administrator or designee for review. Such review must be completed and a written response to the grievant provided within 45 days of receipt of the grievant's written request for Department decision of the Department Administrator or designee is final.

(g) Documentation of each grievance and its resolution must be filed or noted in the grievant's record. If a grievance resulted in disciplinary action against a staff member, the documentation must include a statement that disciplinary action was taken.

(h) Copies of all grievances to Support Specialist. Copies of the documentation on all grievances must be sent by the Brokerage or Provider Organization to the Support Specialist within 15 working days of initial receipt of the grievance.

(2) Notification. The Brokerage and Provider Organization must inform each individual, or the individual's legal representative, orally and in writing, of the Brokerage or Provider Organization grievance policy and procedures.

(a) The Brokerage and Provider Organization must inform each individual Medicaid recipient, or the individual Medicaid recipient's legal representative, orally and in writing, of the right of a Medicaid recipient to move directly to hearing as per OAR 411-340-0060(3) at any point if the Brokerage, Provider Organization or Department does not address a grievance satisfactorily.

(b) Information must be presented using language, format, and methods of communication appropriate to the individual's needs and abilities.

(3) Denial, termination, suspension, or reduction of services for individual Medicaid recipients.

(a) Each time the Brokerage takes an action to deny, terminate, suspend, or reduce an individual's access to services covered under Medicaid, the Brokerage must notify the individual or the individual's legal representative(s) of the right to a hearing and the method to obtain a hearing. The Brokerage must mail the notice, or personally serve it to the individual or the individual's legal representative(s) ten (10) days or more prior to the effective date of an action.

(A) The Brokerage must use the Oregon Medical Assistance Program (OMAP) form 3030, Notice of Hearing Rights, or comparable Department-approved form for such notification.

(B) This notification requirement will not apply if an action is part of, or fully consistent with, the ISP and the individual, or the individual's legal representative(s), has agreed with the action by signature to the plan.

(b) The individual or the individual's legal representative may appeal a denial of a request for additional or different services only if the request has been made in writing and submitted to the Brokerage. At the time the Brokerage denies a written request for additional or different services, it must notify the appealing party, in writing, of the information specified in section (3)(c) of this rule.

(c) A notice required by sections (3)(a) or (3)(b) of this rule must be served upon the appealing party personally or by certified mail. The notice must state:

(A) What action the Brokerage intends to take;

(B) The reasons for the intended action;

(C) The specific regulations that support, or the change in Federal or State law that requires, the action;

(D) The appealing party's right to a contested case hearing in accordance with OAR chapter 137, Oregon Attorney General's Model Rules and 42 CFR Part 431, Subpart E;

(E) That the Brokerage's files on the subject of the contested case automatically become part of the contested case record upon default for the purpose of making a prima facie case;

(F) That the actions specified in the notice will take effect by default if the Department representative does not receive a request for a hearing from the party within 45 days from the date that the Brokerage mails the notice of action;

(G) In circumstances of an action based upon a change in law, the circumstances under which a hearing will be granted; and

(H) An explanation of the circumstances under which Brokerage services will be continued if a hearing is requested.

(d) If the individual or the individual's legal representative(s) disagree with a decision or proposed action by the Brokerage, the party may request a contested case hearing. The Department representative must receive the signed form within 45 days after the Brokerage mailed the notice of action.

(e) The individual or the individual's legal representative(s) may request an expedited hearing if he or she feels that there is immediate, serious threat to the individual's life or health should he or she follow the normal timing of the hearing process.

# ADMINISTRATIVE RULES

(f) If the individual or individual's legal representative(s) request an administrative hearing before the effective date of the proposed actions and requests that the existing services be continued, the Department must continue the services. The Department will continue the services until whichever of the following occurs first, but in no event must services be continued in excess of ninety days from the date of the individual's (or individual's legal representative's) request for an administrative hearing:

(A) The current authorization expires;

(B) The hearings officer issues a proposed order and the Department renders a final order about the complaint; or

(C) The individual is no longer eligible for Medicaid benefits.

(D) The Department must notify the individual or individual's legal representative(s) that it is continuing the service. The notice must inform the individual or individual's legal representative that, if the hearing is resolved against him or her, the Department may recover the cost of any services continued after the effective date of the continuation notice.

(g) The Department must reinstate services if:

(A) The Department takes an action without providing the required notice and the individual or individual's legal representative requests a hearing;

(B) The Department does not provide the notice in the time required in this rule and the individual or individual's legal representative requests a hearing within ten days of the mailing of the notice of action; or

(C) The post office returns mail directed to the individual or individual's legal representative, but the location of the individual or the individual's legal representative becomes known during the time that the individual is still eligible for services.

(D) The Department must promptly correct the action taken up to the limit of the original authorization, retroactive to the date the action was taken, if the hearing decision is favorable to the individual, or the Department decides in the individual's favor before the hearing.

(h) The Department representative and the individual or the individual's legal representative(s) may have an informal conference, without the presence of the hearings officer, to discuss any of the matters listed in OAR 137-003-0575, Prehearing Conferences. The informal conference may also be used to:

(A) Provide an opportunity for the Department and the individual or individual's legal representative to settle the matter;

(B) Ensure the individual or individual's legal representative understands the reason for the action that is the subject of the hearing request;

(C) Give the individual or individual's legal representative an opportunity to review the information that is the basis for that action;

(D) Inform the individual or individual's legal representative of the rules that serve as the basis for the contested action;

(E) Give the individual or the individual's legal representative and the Department the chance to correct any misunderstanding of the facts;

(F) Determine if the individual or the individual's legal representative wishes to have any witness subpoenas issued; and

(G) Give the Department an opportunity to review its action or the action of the Brokerage.

(i) The individual or individual's legal representative(s) may, at any time prior to the hearing date, request an additional conference with the Department representative. At his or her discretion, the Department representative may grant such a conference if it will facilitate the hearing process.

(j) The Department may provide the individual or individual's legal representative the relief sought at any time before the final order is served.

(k) Withdrawals. An individual or the individual's legal representative may withdraw a hearing request at any time. The withdrawal will be effective on the date the Department or the hearings officer receives it. The Department must send a final order confirming the withdrawal to the last known address of the individual or the individual's legal representative. The individual or individual's legal representative may cancel the withdrawal up to the tenth workday following the date such an order is issued.

(l) Proposed and final orders.

(A) In a contested case, the hearings officer must serve a proposed order on the individual and the Department.

(B) If the hearings officer issues a proposed order that is adverse to the individual, the individual or the individual's legal representative may file exceptions to the proposed order to be considered by the Department. The exceptions must be in writing and must reach the Department not later than ten days after service of the proposed order. The individual or the individual's legal representative may not submit additional evidence after this period unless the Department prior-approves.

(C) After receiving the exceptions, if any, the Department may adopt the proposed order as the final order or may prepare a new order. Prior to issuing the final order, the Department may issue an amended proposed order.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp); f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1800, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0110

### Standards for Support Service Brokerage Entry and Exit

(1) Providing basic information. The Support Services Brokerage must make accurate, up-to-date information about the program available to individuals referred for services. This information must include:

(a) A declaration of program philosophy;

(b) A brief description of the services provided by the program, including typical timelines for activities;

(c) A description of processes involved in using the services, including application and referral, assessment, planning, and evaluation;

(d) A declaration of Support Service Brokerage employee responsibilities as mandatory abuse reporters;

(e) A brief description of individual responsibilities for use of public funds;

(f) An explanation of individual rights, including rights to:

(A) Choose a Brokerage among Department contracted Brokerages in an individual's county of residence;

(B) Choose a Personal Agent among those available in the selected Brokerage;

(C) Select providers among those qualified according to OAR 411-340-0160, 411-340-0170, and 411-340-0180 to provide supports authorized through the ISP;

(D) Direct the services of support providers; and

(E) Raise and resolve concerns about Brokerage services, including specific rights to notification and hearing for Medicaid recipients according to OAR 411-340-0060(3) when services covered under Medicaid are denied, terminated, suspended, or reduced.

(g) Indication that additional information about the Support Service Brokerage is available on request. That information must include, but is not limited to:

(A) A description of the Support Service Brokerage's organizational structure;

(B) A description of any contractual relationships the Support Service Brokerage has in place or can establish to accomplish the Support Service Brokerage functions required by this rule; and

(C) A description of the relationship between the Support Services Brokerage and its Policy Oversight Group.

(h) The Brokerage must make information required in OAR 411-340-0110(1)(a) through (g) available using language, format, and presentation methods appropriate for effective communication according to individuals' needs and abilities.

(2) Entry into Support Service Brokerage services.

(a) An individual must enter Support Service Brokerage services within 90 calendar days of the date the CDDP has completed processes of eligibility determination, selection of Brokerage, application, and referral except during the period of statewide Support Service Brokerage development July 1, 2001 through June 30, 2009. During that period, and unless the Department has implemented statewide changes in the order of group enrollments according to OAR 411-340-0110(2)(a)(D), individuals who have been determined eligible, selected the Brokerage, and completed CDDP processes for application and referral to the Brokerage will enter in the following order:

(A) First, and continuing through June 30, 2009, individuals who are not receiving any Department-funded developmental disability services as of the date the Brokerage is certified to provide services, entering according to priorities and characteristics described in written Department guidelines, and in order of date of formal application made during the CDDP referral process;

(B) Second, beginning while enrollment of individuals per OAR 411-340-0110(2)(a)(A) is still in progress and continuing through June 30, 2009, individuals receiving only Employment and Alternative to Employment services, regulated by OAR chapter 411, division 345 in the Brokerage's area of service, as of the date the Brokerage is certified to provide services; and

(C) Third, beginning while enrollment of individuals per OAR 411-340-0110(2)(a)(A) and 411-340-0110(2)(a)(B) is still in progress and con-



# ADMINISTRATIVE RULES

tinuing through June 30, 2009, individuals receiving Semi-Independent Living Services regulated by OAR 309-041-0015.

(D) Notwithstanding the order of group enrollments indicated in OAR 411-340-0110(2)(a)(A) through (C), the Department may implement changes in the order of enrollment on a statewide basis when the Department has determined that such changes are prudent and necessary for the continued development and operation of Support Services Brokerages.

(b) The Support Services Brokerage must not accept individuals for entry beyond the total number of individuals specified in its current contract with the Department.

(3) Exit from a Support Services Brokerage. An individual must exit a Support Services Brokerage:

(a) At the written request of the individual or the individual's legal representative to end the service relationship;

(b) No less than thirty (30) days after the Support Service Brokerage has served written notice of intent to terminate services, when the individual either cannot be located or has not responded to repeated attempts by Support Service Brokerage staff to complete plan development and monitoring activities and, further, does not respond to the notice of intent to terminate; or

(c) Whenever the individual's emergent status exceeds two hundred seventy (270) days in twelve (12) consecutive months.

(d) Each Support Service Brokerage must have policies and procedures for notifying the CDDP of an individual's county of residence when that individual plans to exit, or exits, Brokerage services. Notification method, timelines, and content must be based on agreements between the Brokerage and CDDP's of each county in which the Brokerage provides services.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp), f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1850, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 32-2004, f. & cert. ef. 10-25-04; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0120

### Support Service Brokerage Services

(1) Each Support Service Brokerage must provide or arrange for the following services as required to meet individual support needs:

(a) Assistance for individuals to determine needs, plan supports in response to needs, and develop individualized budgets based on available resources;

(b) Assistance for individuals to find and arrange the resources to provide planned supports;

(c) Assistance with development and expansion of community resources required to meet the support needs of individuals served by the Brokerage;

(d) Information, education, and technical assistance for individuals to use to make informed decisions about support needs and to direct support providers;

(e) Fiscal intermediary activities in the receipt and accounting of Support Service funds on behalf of an individual in addition to making payment with the authorization of the individual;

(f) Employer-related supports, assisting individuals to fulfill roles and obligations as employers of support staff when plans call for such arrangements; and

(g) Assistance for individuals to effectively put plans into practice, including help to monitor and improve the quality of supports as well as assess and revise plan goals.

(h) Support Service Brokerages must apply the principles of self-determination as defined in OAR 411-340-0020(62) to provision of services required in OAR 411-340-0120(1)(a) through (g).

(2) Person-centered planning process required. A Support Service Brokerage must use a person-centered planning approach to assist individuals to establish outcomes, determine needs, plan for supports, and review and redesign support strategies.

(3) Health and safety issues. The planning process must address basic health and safety needs and supports, including, but not limited to:

(a) Identification of risks, including risk of serious neglect, intimidation, and exploitation;

(b) Informed decisions by the individual or the individual's legal representative regarding the nature of supports or other steps taken to ameliorate any identified risks; and

(c) Education and support to recognize and report abuse.

(4) Written plan required. The Personal Agent must write an initial ISP that is signed by the individual (or the individual's legal representative) and, unless circumstances allow exception under OAR 411-340-

0120(4)(h), dated within 90 days of entry into Support Service Brokerage services and at least annually thereafter. When an individual's legal representative must sign the plan, the individual's Personal Agent must also work with the legal representative to inform the individual as completely as possible of the contents of the plan and to obtain, to the degree possible, the individual's agreement to the plan. The plan or attached documents must include:

(a) The individual's name;

(b) A description of the supports required, including the reason the support is necessary;

(c) Projected dates of when specific supports are to begin and end;

(d) Projected costs, with sufficient detail to support estimates;

(e) A list of personal, community, and public resources that are available to the individual and how they will be applied to provide the required supports;

(f) The providers, or when the provider is unknown or is likely to change frequently, the type of provider (i.e. independent provider, provider organization, or general provider) of supports to be purchased with support services funds; and

(g) Schedule of plan reviews.

(h) The schedule of the first new Support Services ISP developed in compliance with OAR 411-340-0120(2) after an individual enters a Brokerage may be adjusted to promote continuity of services one time for any individual entering a Brokerage in certain circumstances. Such an adjustment will interrupt any Plan Year in progress and establish a new Plan Year for the individual beginning on the date the first new ISP is approved and signed by the CDDP authorizing implementation. Circumstances where this adjustment is permitted include:

(A) Transition of individuals receiving Self-Directed Support Services governed by 309-041-1110 through 1170 to Support Services between November 1, 2001, through June 30, 2002. The date of the individual's first ISP after enrollment in a Support Services Brokerage may be adjusted to correspond to the expiration date of the individual's Self-Directed Support Plan in place at the time of transition to the Support Service Brokerage if the Self-Directed Support Plan otherwise meets the requirements of OAR 411-340-0120(4)(a) through (g), has been approved for implementation by the CDDP Support Specialist prior to or upon the individual's enrollment in the Support Service Brokerage, and does not authorize support services fund expenditures in excess of the average monthly amount available through the Basic Benefit;

(B) Transition of individuals receiving Employment and Alternative to Employment services regulated by OAR chapter 411, division 345, without Department-paid residential services, to Support Services July 1, 2003. The date of the individual's first new Support Services ISP after enrollment in the Brokerage may be adjusted to correspond to the expiration date of the individual's ISP in place at the time of transition or to October 1, 2003, whichever is later, when the individual is among those required to transition into Support Services from Employment and Alternative to Employment services July 1, 2003, and when the ISP developed while the individual is still enrolled in Employment and Alternative to Employment services has been approved for implementation by the CDDP Support Specialist prior to or upon the individual's enrollment in the Support Service Brokerage;

(C) Transition of individuals receiving Family Support Services for Children with Developmental Disabilities, regulated by OAR chapter 411, division 305, Children's Intensive In-Home Services (CIIS), regulated by OAR chapter 411, division 300, or Medically Fragile Children (MFC) Services, regulated by OAR chapter 411, division 350, when those individuals are 18 years of age. The date of the individual's first new Support Services ISP after enrollment in the Brokerage may be adjusted to correspond to the expiration date of the individual's annual plan (Child and Family Support Plan (Family Support), Complete Plan of Care (CIIS), or Comprehensive Plan of Care (MFC)) in place at the time the individual turns 18 years of age when the annual plan developed while the individual is still receiving Family Support, CIIS, or MFC services has been approved for implementation by the CDDP Support Specialist prior to or upon the individual's enrollment in the Support Service Brokerage; or

(D) Transition of individuals receiving other Department-paid services who are required by the Department to transition to Support Services. The date of the individual's first Support Services ISP may be adjusted to correspond to the expiration date of the individual's plan for services that has been developed according to regulations governing Department-paid services the individual receives prior to transition, is current at the time designated by the Department for transition to Support Services, and is

# ADMINISTRATIVE RULES

approved for implementation by the CDDP Support Specialist prior to or upon the individual's enrollment in the Support Service Brokerage.

(5) Professional or Other Service Plans. When applicable:

(a) A Nursing Care Plan must be attached to the ISP when support services funds are used to purchase care and services requiring the education and training of a licensed professional nurse; and

(b) A Support Services Brokerage Plan of Care Crisis Addendum, or other document prescribed by the Department for use in these circumstances, must be attached when an individual enrolled in a Brokerage:

(A) Has been determined eligible for crisis or diversion services according to OAR 411-320-0160 by the CDDP of the individual's county of residence; and

(B) The individual is in emergent status in a short-term out-of-home residential placement as part of his or her crisis or diversion services

(6) CDDP Support Specialist approval prior to implementation. With the exception of circumstances indicated in 411-340-0120(6)(c), the Support Services Brokerage must obtain written CDDP Support Specialist approval prior to implementation of:

(a) Initial and annual Individual Support Plans; and

(b) Significant changes in the ISP that include, but are not limited to, changes in the types of support purchased with support services funds and changes in supports that will cause total Plan Year expenses to exceed original estimates by more than 10%, but which do not include changes in the providers chosen to provide direct assistance to the individual.

(c) When immediate, unexpected, and significant change in the type of support purchased with support services funds is necessary outside of the normal hours of CDDP operation and to prevent injury or harm to the individual, the Brokerage may implement the change but must obtain written confirmation within 10 calendar days from the date of the change from the CDDP Specialist indicating that the change was appropriate and, if applicable, that ongoing change in services is approved.

(7) Periodic review of plan and resources. The Personal Agent will conduct and document reviews of plans and resources with the individual and the individual's legal representative as follows:

(a) At least quarterly, review and reconcile receipts and records of purchased supports authorized by the ISP;

(b) At least annually and as major activities or purchases are completed:

(A) Evaluate progress toward achieving the purposes of the plan, assessing and revising goals as needed;

(B) Record final Support Services fund costs;

(C) Note effectiveness of purchases based on Personal Agent observation as well as individual satisfaction; and

(D) Determine whether changing needs or availability of other resources has altered the need for continued use of support services funds to purchase supports.

(8) Transition to another Support Service Brokerage. At the request of an individual enrolled in Brokerage services who has selected another Brokerage, the Support Service Brokerage must collaborate with the receiving Brokerage and the CDDP of the individual's county of residence to effect transition of support services.

(a) If the Department has designated and contracted funds solely for the support of the transitioning individual, the Support Services Brokerage must notify the Department to consider transfer of the funds for the individual to the receiving Support Services Brokerage.

(b) The ISP in place at the time of request for transfer may remain in effect 90 days after enrollment in the new Brokerage while a new plan is negotiated and approved.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp), f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1860, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0130

### Using Support Services Funds to Purchase Supports

(1) Approved written plan required. A Support Services Brokerage may use support services funds to assist individuals to purchase supports in accordance with an ISP that:

(a) Identifies supports that are necessary for an individual to live in his or her own home or in the family home;

(b) Specifies cost-effective arrangements for obtaining the required supports, applying public, private, formal, and informal resources available to the eligible individual;

(c) Projects the amount of support services funds, if any, that may be required to purchase the remainder of necessary supports and that are with-

in the Basic Benefit limits, unless authorized for supplement to the Basic Benefit according to OAR 411-340-0130(4)(a) through (e); and

(d) Has been approved for implementation by the CDDP Support Specialist.

(2) Assistance is a social benefit. Goods and services purchased with support services funds on behalf of individuals are provided only as social benefits as defined in OAR 411-340-0020(63).

(3) Limits of financial assistance. Assistance with purchase of individual supports in any Plan Year as defined in OAR 411-340-0020(50) is limited to the Basic Benefit as defined in OAR 411-340-0020(6) unless individual circumstances meet the conditions of the exceptions indicated in OAR 411-340-0130(4)(a) through (i).

(a) Basic Benefit distribution for full Plan Year. Individuals must have access throughout the Plan Year to the total annual amount of support services funds determined necessary to implement an approved ISP, even if there is a delay in implementation of the plan, unless otherwise agreed to in writing by the individual or the individual's legal representative.

(b) Basic Benefit distribution adjustments. The Department may require that annual Basic Benefit amounts be calculated and applied on a monthly basis when an individual's eligibility for Medicaid changes during a Plan Year or when, for any reason, an individual's ISP is developed and written to be in effect for less than twelve months.

(A) In the case of an individual whose Medicaid eligibility changes, the monthly Basic Benefit limit will be one-twelfth of the annual Basic Benefit amount for which the individual would be eligible should the change in Medicaid status remain in effect for twelve calendar months. The monthly Basic Benefit limit will be applied each month for the remainder of the Plan Year in which the individual's change in Medicaid eligibility occurred, from the date the change occurred.

(B) In the case of an individual with an ISP developed for a partial Plan Year, the monthly Basic Benefit limit will be one-twelfth of the annual Basic Benefit amount for which the individual would be eligible should the individual's ISP be in effect for twelve months. The monthly Basic Benefit limit will be applied each month during which the ISP of less than 12 months' duration is in effect.

(c) Individual plan costs. Estimates of individual plan costs must be based on written guidelines for costs of frequently used services published and updated periodically by the Department.

(A) Department guidelines notwithstanding, final costs must not exceed local usual and customary charges for these services as evidenced by the Brokerage's own documented survey.

(B) The Support Service Brokerage must establish a process for review and approval of all budgets based on estimates exceeding published guidelines and must monitor the approved individual plans involved for continued cost effectiveness.

(4) Exceptions to Basic Benefit financial limits. Exceptions to the Basic Benefit annual Support Services fund limit may be only as follows:

(a) Extraordinary long-term need. Individuals with extraordinary long-term need as demonstrated by a score of sixty (60) or greater on the Basic Supplement Criteria Inventory, Form DHS 0203 may have access to more than the Basic Benefit Support Services fund limit in order to purchase necessary supports. The Basic Supplement Criteria Inventory, Form DHS 0203, specifies scoring levels and applicable maximum available funding.

(A) For Medicaid recipients choosing services under the Support Services waiver, the supplement to the Basic Benefit must result in a Plan Year cost that is less than the minimum allowable Plan Year cost for Comprehensive In-Home Support Services in the same biennium; and

(B) For individuals who are not Medicaid recipients choosing services under the Support Services waiver, the supplement to the Basic Benefit must result in a Plan Year cost that is less than the state's General Fund contribution to the minimum allowable Plan Year cost for in-home Comprehensive Services in the same biennium, calculated according to the Medicaid match rate current at the beginning of the Plan Year and adjusted annually to correspond to changes in the Medicaid match rates; and

(C) The Brokerage Director, or a designee from Brokerage management and administration, must administer the Basic Supplement Criteria only after receiving Department-approved training. The Brokerage Director or designee must score Basic Supplement Criteria according to written and verbal instruction received from the Department.

(D) The trained Brokerage Director or designee must administer the Basic Supplement Criteria within 30 calendar days of the written request of the individual or the individual's legal representative.

(E) The Brokerage Director or designee must send written notice of findings regarding eligibility for a supplement to the Basic Benefit to the

## ADMINISTRATIVE RULES

individual and the individual's legal representative within 45 calendar days of the written request for a supplement. This written notice must include:

(i) An offer for the individual and individual's legal representative to discuss the findings in person with the Director and with the individual's Personal Agent in attendance if desired; and

(ii) A notice of appeal processes under OAR 411-340-0060.

(F) Annual ISP reviews for recipients of the supplement must include a review of circumstances and resources to confirm continued need.

(b) Transfers from Employment and Alternative to Employment, Semi-Independent Living, and Self-Directed Support services according to Department-designated schedule of group enrollments under OAR 411-340-0110(2). Support service fund expenditures for individuals enrolled in these services prior to the designated date of group enrollment in Support Services Brokerages may, for a limited amount of time, exceed the Basic Benefit financial limits. To qualify, individuals must be enrolled in Employment and Alternative to Employment services regulated by OAR chapter 411, division 345, enrolled in Semi-Independent Living Services regulated by OAR 309-041-0015 through 0024, or receive Self-Directed Support services previously regulated by OAR 309-041-1110 through 1170 during the month prior to enrollment in a Support Services Brokerage and the Department's annual cost of this previous service must exceed the financial assistance available through the Basic Benefit.

(A) Each qualified individual transferring from Employment and Alternative to Employment Services beginning November 1, 2001, through June 30, 2002, may have access to support services funds in an amount equal to the Department's previous cost for the individual in these services, as negotiated according to Department guidelines, for no more than three hundred sixty-five (365) calendar days from date of enrollment in the Support Services Brokerage;

(B) Each qualified individual transferring from Employment and Alternative to Employment Services beginning July 1, 2003, and who does not have any other Department-paid residential support services prior to that date, may have access to support services funds in an amount each month equal to the Department's previous Employment and Alternative to Employment monthly costs for the individual, as negotiated according to Department guidelines:

(i) For three hundred sixty-five (365) days, if he or she is a Medicaid recipient eligible for waiver services; or

(ii) For one hundred eighty (180) days, if he or she is not a Medicaid recipient eligible for waiver services.

(C) Each qualified individual transferring from Semi-Independent Living services may have access to support services funds in an amount equal to the Department's previous cost for the individual in these services, as negotiated according to Department guidelines, for no more than three hundred sixty-five (365) calendar days from date of enrollment in the Support Services Brokerage; and

(D) Each qualified individual transferring from Self-Directed Support services beginning November 1, 2001, through June 30, 2002, may have access to support services funds in an amount equal to financial assistance authorized by his or her current Self-Directed Support Plan for no more than three hundred sixty-five (365) calendar days from date of enrollment in the Brokerage when the individual is a Medicaid recipient choosing to receive Support Service waiver services and for no more than ninety (90) calendar days from date of enrollment in the Brokerage when the individual is not Medicaid-eligible or does not otherwise receive Medicaid benefits.

(E) Upon individual enrollment in the Brokerage, the Brokerage must fully inform the individual and the individual's legal representative of the time limit for the supplement to the Basic Benefit.

(F) The Support Services Brokerage must complete an assessment, identify resources, and develop a new individualized plan and budget during this period with a goal of reducing Support Services fund annual costs to less than or equal to financial assistance available in the Basic Benefit.

(G) At any point during the individual's first year of enrollment in the Brokerage that annual plan costs are successfully reduced to a cost less than or equal to that available in the Basic Benefit, the individual's new Plan Year will begin on the date the revised ISP is authorized for implementation by the individual's CDDP Support Specialist.

(c) Prior-authorized crisis or diversion services. Individuals who have been assessed as in need of, and meeting criteria for, crisis or diversion services by the CDDP of the individual's county of residence according to OAR 411-320-0160 may receive short-term assistance with purchase of support in excess of the Basic Benefit. Use of crisis or diversion services may only be authorized by the CDDP of the individual's county of resi-

dence or by the Regional Crisis Program responsible for the individual's county of residence.

(A) Funds associated with crisis or diversion services may be used to pay the difference in cost between the authorized ISP and budget in place at the time the individual is determined eligible for crisis or diversion services, and the supports authorized by either the CDDP of the individual's county of residence, or the Regional Crisis Program responsible for crisis or diversion services in the individual's county of residence, depending on the source of crisis or diversion funds, to meet the short-term need.

(B) Although costs for crisis or diversion services may bring the individual's total Plan Year cost temporarily at or above the minimum allowable Plan Year cost of in-home Comprehensive Services in the same biennium, in no case may the individual's costs exceed the state's current ICF/MR daily cost per individual nor may Plan Year expenses at or above the minimum for Comprehensive Services make the individual eligible for Comprehensive Services.

(i) Individuals placed in emergent status due to receiving crisis or diversion services authorized and provided according to OAR 411-320-0160 may remain enrolled in, and receive Support Services from, the Support Service Brokerage while both crisis/diversion services and Support Services are required to stabilize and maintain the individual at home or in the family home. In no case, however, may the individual remain enrolled in the Support Service Brokerage under emergent status for more than 270 consecutive days in any 12-month period.

(ii) The individual's Personal Agent must participate with CDDP or regional crisis or diversion staff in efforts to stabilize supports and return costs to the Basic Benefit or approved supplement levels, documenting reviews of effectiveness at least every ninety (90) days while the individual is receiving crisis or diversion services.

(d) Conversions from other Department-regulated services. Individuals whose source of support funds are, in whole or in part, an individual-specific redirection of funds through Department contract from a Department-regulated residential, work, or day habilitation service to support services funds, or to Comprehensive In-Home Support funds regulated by OAR chapter 411, division 330 prior to enrollment in a Support Service Brokerage, may have access to the amount specified in the Department contract as available for the individual's use. This provision is only applicable when each transition is separate and specific to the individual and the services being converted are not subject to statewide service transitions described in OAR 411-340-0130(4)(b).

(A) Individual Plan Year costs must always be less than the minimum allowable Plan Year cost for in-home Comprehensive Services in the same biennium; and

(B) The Brokerage must review the need for supports and their cost-effectiveness with the individual and, if applicable, the individual's legal representative at least annually, and must make budget reductions when allowed by the ISP.

(e) Funds designated for services to individuals eligible for, and at imminent risk of, civil commitment under ORS 427. Individuals whose support funds were specifically assigned through Department contract to Self-Directed Support Services prior to the date designated by the Department for transfer of the individual from Self-Directed Support services to a Support Service Brokerage may have access to the amount specified in the Department contract as available for the individual's use.

(A) Individual Plan Year costs must always be less than the minimum allowable Plan Year cost for in-home Comprehensive Services in the same biennium; and

(B) The Brokerage must review the need for supports and their cost-effectiveness with the individual and, if applicable, the individual's legal representative at least annually, and must make budget reductions when allowed by the ISP.

(f) Individuals transferring from Department waiver services for the Aged and Adults with Physical Disabilities. Individuals transferring from the Department's Home and Community-Based waiver services for the Aged and Adults with Physical Disabilities who have been determined ineligible for those waiver service funds, in accordance with OAR 411-015-0015(4)(c) will have limited access to support service funds, as described in OAR 411, division 340. The amount of support service funds available will be equal to the Department's previous service costs for the individual for no more than three hundred and sixty-five (365) calendar days. The three hundred and sixty-five (365) calendar days begins the date the individual starts receiving support services exclusively through a Support Service Brokerage.

(g) Supplemental needs for Activities of Daily Living. For Medicaid recipients eligible for and choosing services under the Support Services



## ADMINISTRATIVE RULES

waiver, individuals with additional assistance needs in Activities of Daily Living (ADL) may have access to an additional \$2467 per year, prorated as needed, to purchase needed support services under the following conditions:

(A) The individual must have additional assistance needs with ADLs as defined in OAR 411-340-0020(3) after development of their Individual Support Plan within the Basic Benefit, extraordinary long-term need fund limit, or other exceptions provided in this rule. The services include: basic personal hygiene; toileting, bowel and bladder care; mobility, transfers, comfort; planning and preparing nutritious meals, assuring adequate fluid intake; assisting with administration of medications, assuring medication is taken as ordered by physician, observing for reactions, reminding appropriate persons when prescriptions need to be filled, and maintaining clean oxygen equipment and supply; and delegated nursing tasks.

(B) Incidental activities as defined in OAR 411-034-0020(3). ADL services may include the following activities if they are incidental to the provision of Activities of Daily Living, essential for the health and welfare of the individual, and provided solely for the individual receiving support services: light housekeeping tasks necessary to maintain a healthy and safe environment, arranging for necessary medical appointments, observation of an individual's status and reporting of significant changes to appropriate people, first aid and handling emergencies and extra support due to mental retardation or developmental disability.

(C) Activities and goals related to the provision of ADL services are sufficiently documented in the individual's ISP.

(D) Planned expenses must be based upon the least costly means of providing adequate care, and must only be to the extent necessary to meet the documented ADL needs.

(E) This supplement cannot cause the cost per any plan year to exceed the minimum allowable Plan Year cost for Comprehensive In-Home Support Services in the same biennium, except as stated in the following: Individuals receiving both Support Services under these rules as of June 30, 2005 and State Plan Personal Care Services under OAR chapter 411, division 034 whose total combined annual costs exceed the minimum allowable Plan Year cost for Comprehensive In-Home Support Services in the same biennium may continue to develop future annual ISPs based on the budgeted annual cost amount until the individual terminates their receipt of Support Services.

(F) The Supplemental ADL services are not intended to replace the resources available to an individual receiving Support Services under these rules from their natural support system of relatives, friends, neighbors, or other available sources of support.

(G) For Medicaid recipients receiving State Plan Personal Care Services under OAR chapter 411, division 034 entering Support Services after June 30, 2005, the Medicaid Personal Care Resource Assessment Plan and Authorization, OMHS Form 0531, will serve as the individual's approved Plan of Care for a period not to exceed 90 days.

(5) Amount, method and schedule of payment.

(a) The Brokerage must disburse, or arrange for disbursement of, support services funds to qualified providers on behalf of individuals up to the amount agreed upon in an ISP that has been signed by the individual or the individual's legal representative and approved for implementation by the CDDP Support Specialist. The Brokerage is specifically prohibited from reimbursement of individuals or individuals' families for expenses related to services and from advancing funds to individuals or individuals' families to obtain services.

(b) The method and schedule of payment must be specified in written agreements between the Brokerage and the individual or individual's legal representative.

(6) Types of supports purchased. Supports eligible for purchase with support services funds are:

(a) Chore services as defined in OAR 411-340-0020(12);

(b) Community inclusion supports as defined in OAR 411-340-0020(14);

(c) Community living supports as defined in OAR 411-340-0020(15);

(d) Environmental accessibility adaptations as defined in OAR 411-340-0020(23);

(e) Family training as defined in OAR 411-340-0020(27);

(f) Homemaker services as defined in OAR 411-340-0020(33);

(g) Occupational therapy services as defined in OAR 411-340-0020(46);

(h) Personal emergency response systems as defined in OAR 411-340-0020(48);

(i) Physical therapy services as defined in OAR 411-340-0020(50);

(j) Respite care as defined in OAR 411-340-0020(60);

(k) Special diets as defined in OAR 411-340-0020(65);

(l) Specialized medical equipment and supplies as defined in OAR 411-340-0020(66) as well as the following provisions:

(A) When specialized medical equipment and supplies are primarily and customarily used to serve a medical purpose, then purchase, rental, or repair with support services funds must be limited to the types of equipment and supplies permitted under the State Medicaid Plan and, specifically, those that are not excluded under OAR 410-122-0080. Support services funds may be used to purchase more of an item than the number allowed under the State Medicaid Plan after the limits specified in the State Medicaid Plan have been reached, requests for purchases have been denied by Medicaid State Plan or private insurance, and the denial has been upheld in applicable Medicaid contested case hearing or private insurance benefit appeals process; and

(B) Devices, aids, controls, supplies, or appliances primarily and customarily used to enable an individual to increase his or her abilities to perform activities of daily living or to perceive, control, or communicate with the environment in which he or she lives, may be purchased with support services funds when the individual's developmental disability otherwise prevents or limits the individual's independence in these areas. Equipment and supplies that can be purchased for this purpose must be of direct benefit to the individual and include:

(i) Adaptive equipment for eating, (i.e., utensils, trays, cups, bowls that are specially designed to assist an individual to feed him or herself);

(ii) Adaptive beds;

(iii) Positioning devices;

(iv) Specially designed clothes to meet the unique needs of the individual with the disability, (e.g., clothes designed to prevent access by the individual to the stoma, etc.);

(v) Assistive technology items;

(vi) Computer software used by the individual to express needs, control supports, plan and budget supports;

(vii) Augmentative communication devices;

(viii) Environmental adaptations to control lights, heat, stove, etc.; or  
(ix) Sensory stimulation equipment and supplies that help an individual calm, provide appropriate activity, or safely channel an obsession (e.g., vestibular swing, weighted blanket, tactile supplies like creams and lotions);

(m) Specialized supports as defined in OAR 411-340-0020(67);

(n) Speech and language therapy services as defined in OAR 411-340-0020(68);

(o) Supported employment as defined in OAR 411-340-0020(70); and

(p) Transportation as defined in OAR 411-340-0020(78).

(7) Conditions of purchase. The Brokerage must arrange for supports purchased with support services funds to be provided:

(a) In settings and under contractual conditions that allow the individual to freely redirect support services funds to purchase supports and services from another qualified provider;

(A) Individuals who choose to combine support services funds to purchase group services must receive written instruction about the limits and conditions of such arrangements;

(B) Combined support services funds cannot be used to purchase existing, or create new, Comprehensive Services;

(C) Individual support expenses must be separately projected, tracked, and expensed, including separate contracts, employment agreements and timekeeping for staff working with more than one individual;

(D) Combined arrangements for community inclusion or supported employment services that result in creation of a provider organization as defined in OAR 411-340-0020(56) must be certified according to OAR chapter 411, division 340; and

(E) Combined arrangements for residential supports must include a plan for maintaining an individual at home after the loss of roommates.

(b) In a manner consistent with positive behavioral theory and practice as defined in OAR 411-340-0020(52) and where behavior intervention is not undertaken unless the behavior:

(A) Represents a risk to health and safety of the individual or others;

(B) Is likely to continue to become more serious over time;

(C) Interferes with community participation;

(D) Results in damage to property; or

(E) Interferes with learning, socializing, or vocation.

(c) In accordance with applicable state and federal wage and hour regulations in the case of personal care, training, and supervision;

(d) In accordance with applicable state or local building codes, in the case of environmental accessibility adaptations to the home;

# ADMINISTRATIVE RULES

(e) In accordance with Oregon Board of Nursing Administrative Rules 851 when services involve performance of nursing care or delegation, teaching, and assignment of nursing tasks; and

(f) In accordance with OAR 411-340-0160 through 411-340-0180 governing provider qualifications and responsibilities.

(8) Independent Provider, Provider Organization, General Business Provider agreements and responsibilities. When Support Service funds are used to purchase care, training, supervision or other personal assistance for individuals, the Brokerage must require and document that providers are informed of:

(a) Mandatory responsibility to report suspected abuse as defined in OAR 411-340-0020(1);

(b) Responsibility to immediately notify the person or persons, if any, specified by the individual or individual's legal representative of any injury, illness, accident, or unusual circumstance that occurs when the provider is providing individual care, training, or supervision and that may have a serious effect on the health, safety, physical or emotional well-being, or level of services required;

(c) Limits of payment:

(A) Support Service fund payments for the agreed-upon services are considered full payment and the provider under no circumstances may demand or receive additional payment for these services from the individual, the family, or any other source unless the payment is a financial responsibility (spend-down) of an individual under the Medically Needy Program; and

(B) The provider must bill all third party resources before using Support Service funds unless another arrangement is agreed upon by the Brokerage and described in the ISP;

(d) The provisions of OAR 411-340-0130(9) regarding sanctions that may be imposed on providers; and

(e) The requirement to maintain a drug-free workplace.

(9) Sanctions for Independent Providers, Provider Organizations, and General Business Providers.

(a) Sanction(s) may be imposed on a provider when the Brokerage determines that, at some point after the provider's initial qualification and authorization to provide supports purchased with support services funds, the provider has:

(A) Been convicted of any crime that would have resulted in an unacceptable criminal history check upon hiring or authorization of service;

(B) Been convicted of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;

(C) Had his or her professional license suspended, revoked, or otherwise limited, or surrendered his or her license;

(D) Failed to safely and adequately provide the services authorized;

(E) Had an allegation of abuse or neglect substantiated against him or her;

(F) Failed to cooperate with any Department or Brokerage investigation, or grant access to or furnish, as requested, records or documentation;

(G) Billed excessive or fraudulent charges or been convicted of fraud;

(H) Made false statement concerning conviction of crime or substantiation of abuse;

(I) Falsified required documentation;

(J) Not adhered to the provisions of OAR 411-340-0130(8) or 411-340-0140; or

(K) Been suspended or terminated as a provider by another agency within the Department.

(b) The following sanctions may be imposed on a provider:

(A) The provider may no longer be paid with support services funds;

(B) The provider may not be allowed to provide services for a specified length of time or until specified conditions for reinstatement are met and approved by the Brokerage or Department, as applicable; or

(C) The Brokerage may withhold payments to the provider.

(c) If the Brokerage makes a decision to sanction a provider, the Brokerage must notify the provider by mail of the intent to sanction. The provider may appeal this action within 30 days of the date of the notice. The provider must appeal this action separately from any appeal of audit findings and overpayments.

(d) A provider of Medicaid services may appeal a sanction by requesting an administrative review by the Administrator of the Department or designee.

(e) For an appeal regarding provision of Medicaid services to be valid, written notice of the appeal must be received by the Department within 30 days of the date the sanction notice was mailed to the provider.

(f) At the discretion of the Department, providers who have previously been terminated or suspended by any Department agency may not be authorized as providers of Medicaid services.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp); f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1870, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 10-2004(Temp), f. & cert. ef. 4-30-04 thru 10-25-04; SPD 32-2004, f. & cert. ef. 10-25-04; SPD 38-2004(Temp), f. 12-30-04, cert. ef. 1-1-05 thru 6-30-05; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0140

### Using Support Services Funds for Certain Purchases Is Prohibited

Support Service funds must not be used to pay for:

(1) Services, materials, or activities that are illegal;

(2) Services or activities that are carried out in a manner that constitutes abuse as defined in OAR 411-340-0020(1);

(3) Services from persons who engage in verbal mistreatment and subject an individual to the use of derogatory names, phrases, profanity, ridicule, harassment, coercion or intimidation by threatening injury or withholding of services or supports;

(4) Services that restrict an individual's freedom of movement by seclusion in a locked room under any condition;

(5) Materials or equipment that have been determined unsafe for the general public by recognized consumer safety agencies;

(6) Individual or family vehicles;

(7) Health and medical costs that the general public normally must pay, including: medications; health insurance co-payments; dental treatments and appliances; medical treatments; dietary supplements including, but not limited to, vitamins and experimental herbal and dietary treatments; treatment supplies not related to nutrition, incontinence, or infection control;

(8) Ambulance services;

(9) Legal fees;

(10) Vacation costs for transportation, food, shelter, and entertainment that would normally be incurred by anyone on vacation, regardless of disability, and are not strictly required by the individual's need for personal assistance in all home and community settings;

(11) Individual care, training, or supervision that has not been arranged according to applicable state and federal wage and hour regulations;

(12) Services, activities, materials, or equipment that are not necessary or cost-effective, do not meet the definition of support as defined in OAR 411-340-0020(69), or do not meet the definition of social benefits as defined in OAR 411-340-0020(64);

(13) Educational services for school-age individuals over the age 18, including professional instruction, formal training and tutoring in communication, socialization, and academic skills, and post-secondary educational services such as those provided through two- or four-year colleges for individuals of all ages;

(14) Services, activities, materials, or equipment that can be obtained by the individual or family through other available means such as private or public insurance, or other governmental or public services;

(15) Unless under certain conditions and limits specified in rate-setting guidelines published by the Department, employee wages or contractor charges for time or services when the individual is not present or available to receive services, including but not limited to employee paid time off, hourly "no show" charge, and contractor travel and preparation hours;

(16) Services or activities for which the Legislative or Executive Branch of Oregon government has prohibited use of public funds;

(17) Services when there is sufficient evidence to believe that the individual or individual's representative has engaged in fraud or misrepresentation, failed to use resources as agreed upon in the ISP, refused to accept or delegate record keeping required to use Support Service Brokerage resources, or otherwise knowingly misused public funds associated with Brokerage services; or

(18) Services that, in the opinion of the individual's Personal Agent, are characterized by failure to act or neglect that leads to or is in imminent danger of causing physical injury, through negligent omission, treatment, or maltreatment of an adult, including but not limited to the failure to provide an adult with adequate food, clothing, shelter, medical care, supervision, or through condoning or permitting abuse of an adult by any other person. However, no person may be deemed neglected for the sole reason that he or she voluntarily relies on treatment through prayer alone in lieu of medical treatment.

Stat. Auth.: ORS 409.050 & 410.070

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

# ADMINISTRATIVE RULES

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp); f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1880, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0150

### Standards for Support Services Brokerage Administration and Operations

(1) Individual and family leadership. The Brokerage must develop and implement procedures for incorporating the direction, guidance and advice of individuals and family members of individuals in the administration of the organization.

(a) The Support Services Brokerage must establish and utilize a Policy Oversight Group, of which the membership majority must be individuals with developmental disabilities and family members of individuals with developmental disabilities.

(b) Brokerage procedures must be developed and implemented to assure the policy oversight group has the maximum authority that may be legally assigned or delegated over important program operational decisions, including such areas as program policy development, program planning and goal setting, budgeting and resource allocation, selection of key personnel, program evaluation and quality assurance, grievance or appeal resolution.

(c) If the Policy Oversight Group is not also the governing body of the Support Services Brokerage, then the Brokerage must develop and implement a written procedure that describes specific steps of appeal or remediation to resolve conflicts between the Policy Oversight Group and the governing body of the Brokerage.

(d) A Policy Oversight Group must develop and implement operating policies and procedures.

(2) Full-Time Brokerage Director required. The Support Services Brokerage must employ a full-time Director who is responsible for daily Brokerage operations in compliance with these rules and has authority to make budget, staffing, policy, and procedural decisions for the Brokerage.

(3) Director qualifications. In addition to general staff qualifications of OAR 411-340-0070(1) through (2), the Brokerage Director must have a minimum of a bachelor's degree and two years experience, including supervision, in developmental disabilities, social services, mental health or a related field; or six years of experience, including supervision, in the field of developmental disabilities or a social service or mental health field.

(4) Fiscal Intermediary requirements:

(a) Individuals or entities providing fiscal intermediary services must:

(A) Demonstrate a practical understanding of laws, rules and conditions that accompany the use of public resources;

(B) Develop and implement accounting systems that operate effectively on a large scale as well as track individual budgets;

(C) Establish and meet the time lines for payments that meet individuals' needs;

(D) Develop and implement an effective payroll system, including meeting payroll-related tax obligations;

(E) Generate service, management, and statistical information and reports required by the Brokerage Director and Policy Oversight Group to effectively manage the Brokerage and by individuals to effectively manage supports;

(F) Maintain flexibility to adapt to changing circumstances of individuals; and

(G) Provide training and technical assistance to individuals as required and specified in ISPs;

(b) Contractor and employee qualifications. The Support Brokerage must obtain and maintain written evidence that:

(A) Contractors providing fiscal intermediary services have sufficient education, training, or work experience to effectively and efficiently perform all required activities; and

(B) Employees providing fiscal intermediary services have sufficient education, training, or work experience to effectively and efficiently perform all required activities prior to hire or that the Brokerage has provided requisite education, training and experience.

(5) Personal Agent qualifications. Each Personal Agent must have:

(a) An undergraduate degree in a human services field and at least one year experience in the area of developmental disabilities; or

(b) Five years of equivalent training and work experience related to developmental disabilities; and

(c) Knowledge of the public service system for developmental disability services in Oregon.

(A) Alternative plan to meet qualifications. Persons who do not meet the minimum qualifications set forth in 411-340-0150(5)(a) through (c)

may perform those functions only with prior approval of a variance by the Department. Prior to employment of an individual not meeting minimum qualifications for Personal Agent, the Brokerage 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.

(B) A person who fails to complete a plan for education and training to correct deficiencies may not fulfill the requirements for the qualifications.

(6) Separation of duties. When a CDDP operates a Brokerage:

(a) Support Specialist and Personal Agent activities, responsibilities, and costs must be clearly separated and delineated in individual files, staff job descriptions, and CDDP financial and service reports; and

(b) The individual's Personal Agent must not also be the individual's Support Specialist.

(7) Personal Agent training. The Brokerage must provide or arrange for Personal Agents to receive training needed to provide or arrange for Brokerage services, including, but not limited to principles of self-determination, person-centered planning processes, identification and use of alternative support resources, fiscal intermediary functions, basic employer and employee roles and responsibilities, developing new resources, major public health and welfare benefits, constructing and adjusting individualized support budgets, and assisting individuals to judge and improve quality of personal supports.

(8) Individual record requirements. The Brokerage must maintain current, up-to-date records for each individual served and must make these records available on request for Department review. These records must include, at minimum:

(a) Application and eligibility information received from the referring CDDP;

(b) An easily-accessed summary of basic information, including individual name, family name (if applicable), individual's legal guardian or conservator (if applicable), address, telephone number, date of entry into the program, date of birth, sex, marital status, individual financial resource information, and Plan Year anniversary date;

(c) Documents related to determining eligibility for Brokerage services and the amount of support services funds available to the individual, including Basic Supplement Criteria if applicable;

(d) Records related to receipt and disbursement of funds, including expenditure authorizations, expenditure verification, copies of CPMS expenditure reports, verification that providers meet requirements of OAR 411-340-0160 through 0180;

(e) Documentation, signed by the individual or individual's legal representative, that the individual or individual's legal representative has been informed of responsibilities associated with the use of support services funds;

(f) Incident reports;

(g) Assessments used to determine supports required, preferences, and resources;

(h) Individual Support Plan and reviews;

(i) Personal Agent correspondence and notes related to resource development and plan outcomes; and

(j) Information about individual satisfaction with personal supports and the Brokerage services.

(9) Special records requirements for Support Services fund expenditures. The Brokerage must develop and implement written policies and procedures concerning use of support services funds. These policies and procedures must include, but may not be limited to:

(a) Minimum acceptable records of expenditures;

(A) Itemized invoices and receipts to record purchase of any single item that costs \$25.00 or more;

(B) A trip log indicating purpose, date, and total miles to verify vehicle mileage reimbursement;

(C) Signed contracts and itemized invoices for any services purchased from independent contractors and professionals; and

(D) Pay records, including timesheets signed by both employee and employer, to record employee services.

(b) Procedures for confirming the receipt, and securing the use of, specialized medical equipment and environmental accessibility adaptations;



# ADMINISTRATIVE RULES

(A) When equipment is obtained for the exclusive use of an individual, the Support Services Brokerage must record the purpose, final cost, and date of receipt;

(B) The Brokerage must secure use of equipment or furnishings costing more than \$500 through a written agreement between the Brokerage and the individual or individual's legal representative that specifies the time period the item is to be available to the individual and the responsibilities of all parties should the item be lost, damaged, or sold within that time period;

(C) The Brokerage must ensure that projects for environmental accessibility adaptations involving renovation or new construction in an individual's home costing \$5000 or more per single instance or cumulatively over several modifications:

(i) Are approved by the Department before work begins and before final payment is made;

(ii) Are completed or supervised by a contractor licensed and bonded in the State of Oregon; and

(iii) That steps are taken as prescribed by the Department for protection of the Department's interest through liens or other legally available means; and

(D) The Brokerage must obtain written authorization from the owner of a rental structure before any environmental accessibility adaptations are made to that structure.

(c) Return of purchased goods. Any goods purchased with support services funds that are not used according to an ISP or according to an agreement securing the State's use may be immediately recovered. Failure to furnish written documentation upon written request from the Department, the Oregon Department of Justice Medicaid Fraud Centers for Medicare and Medicaid Services or their authorized representatives immediately or within timeframes specified in the written request may be deemed reason to recover payments or deny further assistance.

(10) Quality Assurance:

(a) The Brokerage Policy Oversight Group must develop a Quality Assurance Plan and review this plan at least twice a year. The plan must include a written statement of values, organizational outcomes, activities, and measures of progress that:

(A) Uses information from a broad range of consumer, advocate, professional and other sources to determine community support needs and preferences;

(B) Involves individuals in ongoing evaluation of the quality of their personal supports; and

(C) Monitors:

(i) Customer satisfaction with the services of the Brokerage and with individual plans in areas such as individual access to supports, sustaining important personal relationships, flexible and unique support strategies, individual choice and control over supports, responsiveness of the Brokerage to changing needs and preferences of individuals; and

(ii) Service outcomes in areas such as achievement of personal goals and effective use of resources.

(b) The Brokerage must participate in statewide evaluation, quality assurance, and regulation activities as directed by the Department.

(11) Brokerage referral to affiliated entities:

(a) When a Brokerage is part of, or otherwise directly affiliated with, an entity that also provides services an individual may purchase with private or support services funds, Brokerage staff must not refer, recommend or otherwise support the individual to utilize this entity to provide services unless:

(A) The Brokerage conducts a review of provider options that demonstrates that the entity's services will be cost-effective and best-suited to provide those services determined by the individual to be the most effective and desirable for meeting needs and circumstances represented in the ISP; and

(B) The entity is freely selected by the individual and is the clear choice by the individual among all available alternatives.

(b) The Brokerage must develop and implement a policy that addresses individual selection of an entity of which the Brokerage is a part or otherwise directly affiliated to provide services purchased with private or support services funds. This policy must address, at minimum:

(A) Disclosure of the relationship between the Brokerage and the potential service provider;

(B) Provision of information about all other potential service providers to the individual without bias;

(C) A process for arriving at the option for selecting the service provider;

(D) Verification of the fact that the service providers were freely chosen among all alternatives;

(E) Collection and review of data on services, purchased by an individual enrolled in the Brokerage, by an entity of which the Brokerage is a part or otherwise directly affiliated; and

(F) Training of Personal Agents and individuals in issues related to selection of service providers.

(12) General operating policies and practices. The Support Services Brokerage must develop and implement such written statements of policy and procedure in addition to those specifically required by this rule as are necessary and useful to enable the agency to accomplish its objectives and to meet the requirements of these rules and other applicable standards and rules.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp), f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1890, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 32-2004, f. & cert. ef. 10-25-04; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0160

### Standards for Independent Providers Paid with Support Services Funds

(1) General independent provider qualifications. Each independent provider who is paid as a contractor, a self-employed person, or an employee of the individual or individual's legal representative to provide homemaker, respite, habilitation, transportation, chore, family training, occupational therapy, physical therapy, speech and language, dietician, or specialized supports must:

(a) Be at least 18 years of age;

(b) Have approval to work based on current Department policy and procedures for review of criminal history;

(c) Be legally eligible to work in the United States;

(d) Not be a spouse of the individual;

(e) Demonstrate by background, education, references, skills, and abilities that he or she is capable of safely and adequately performing the tasks specified on the ISP, with such demonstration confirmed in writing by the individual or individual's legal representative and including:

(A) Ability and sufficient education to follow oral and written instructions and keep any records required;

(B) Responsibility, maturity, and reputable character exercising sound judgment;

(C) Ability to communicate with the individual; and

(D) Training of a nature and type sufficient to ensure that the provider has knowledge of emergency procedures specific to the individual being cared for;

(f) Hold current, valid, and unrestricted appropriate professional license or certification where care and supervision requires specific professional education, training and skill;

(g) Understand requirements of maintaining confidentiality and safeguarding individual information;

(h) Not be on the current Centers for Medicare and Medicaid Services list of excluded or debarred providers; and

(i) If providing transportation, have a valid driver's license and proof of insurance, as well as other license or certification that may be required under state and local law depending on the nature and scope of the transportation service.

(2) Behavior consultants providing specialized supports must:

(a) Have education, skills, and abilities necessary to provide behavior consultation services, including knowledge and experience in developing plans based on positive behavioral theory and practice;

(b) Have received at least two days of training in the Oregon Intervention Services behavior intervention system, and have a current certificate; and

(c) Submit a resume to the brokerage indicating at least one of the following:

(A) A bachelor's degree in Special Education, Psychology, Speech and Communication, Occupational Therapy, Recreation, Art or Music Therapy, or a behavioral science field and at least one year of experience with people with developmental disabilities who present difficult or dangerous behaviors; or

(B) Three years experience with people with developmental disabilities who present difficult or dangerous behaviors and at least one year of that experience must include providing the services of a behavior consultant.

(3) Social or sexual consultants providing specialized supports must:

(a) Have the education, skills, and abilities necessary to provide social or sexual consultation services; and

# ADMINISTRATIVE RULES

(b) Submit a resume to the Brokerage indicating at least one of the following:

(A) A bachelor's degree in Special Education, Psychology, Social Work, Counseling or other behavioral science field and at least one year of experience with people with developmental disabilities; or

(B) Three years experience with people with developmental disabilities who present social or sexual issues and at least one year of that experience must include providing the services of a social or sexual consultant.

(4) Nursing consultants providing specialized supports must:

(a) Have a current Oregon nursing license; and

(b) Submit a resume to the Brokerage indicating the education, skills, and abilities necessary to provide nursing services in accordance with state law, including at least one year of experience with people with developmental disabilities.

(5) Environmental modification consultants must be licensed general contractors and have experience evaluating homes, assessing the needs of the individual and developing cost-effective plans that will make the home safe and accessible for the individual.

(6) Environmental accessibility adaptation providers must be building contractors licensed as applicable under either OAR chapter 812, Construction Contractor's Board, or OAR chapter 808, Landscape Contractors Board.

(7) Providers of family training must be:

(a) Psychologists licensed under ORS 675.030;

(b) Social workers licensed under ORS 675.530;

(c) Counselors licensed under ORS 675.715; or

(d) Medical professionals licensed under ORS 677.100.

(8) Dieticians providing specialized diets must be licensed according to ORS 691.415 through 691.465.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; Renumbered from 309-041-1900, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0170

### Standards for Provider Organizations Paid with Support Services Funds

(1) Provider Organizations with current license or certification. A provider organization's license under OAR chapter 411, division 325 for 24-Hour Residential Programs or OAR chapter 411, division 360 for Adult Foster Homes or certified under OAR chapter 411, division 345, Employment and Alternative to Employment Services, or OAR 309-041-0550 through 309-041-0830, Supported Living Services, may not require additional certification as an organization to provide respite, supported employment, community living, community inclusion, or emergent services.

(a) Current license or certification may be considered sufficient demonstration of ability to:

(A) Recruit, hire, supervise, and train qualified staff;

(B) Provide services according to Individual Support Plans; and

(C) Develop and implement operating policies and procedures required for managing an organization and delivering services, including provisions for safeguarding individuals receiving services.

(b) Provider organizations must assure that all individuals directed by the provider organization as employees, contractors, or volunteers to provide services paid for with support services funds meet standards for qualification of independent providers outlined in OAR 411-340-0160.

(c) Provider Organizations developing new sites, owned or leased by the Provider Organization, that are not reviewed as a condition of the current license or certification and where individuals are regularly present and receiving services purchased with support services funds, must meet the conditions of OAR 411-340-0170(2)(f) in each such site.

(2) Provider Organizations requiring certification under OAR chapter 411, division 340. A Provider Organization without current license under OAR chapter 411, division 325 for 24-Hour Residential Programs or OAR chapter 411, division 360 for Adult Foster Homes or current certification under OAR chapter 411, division 345, Employment and Alternative to Employment, or OAR 309-041-0550 through 309-041-0830, Support Living Services, must be certified as a provider organization according to these rules prior to selection for providing services listed in OAR 411-340-0130(6)(a) through (p) and paid for with support services funds.

(a) Basic policies and procedures required. The provider organization must develop and implement policies and procedures required for administration and operation in compliance with these rules, including, but not limited to:

(A) Policies and procedures required in OAR 411-340-0040 through 411-340-0090 related to abuse and unusual incidents, inspections and investigations, grievances and appeals, personnel policies and practices, records, and variances.

(B) Individual rights. The program must have and implement written policies and procedures that:

(i) Provide for individual participation in selection, training, and evaluation of staff assigned to provide the individual's services;

(ii) Protect individuals during hours of service from financial exploitation that may include, but is not limited to: staff borrowing from or loaning money to individuals; witnessing wills in which the staff or provider organization is beneficiary; or adding the staff member or provider organization name to the individual's bank account(s) or other personal property without approval of the individual or individual's legal representative; and

(C) Policies and procedures appropriate to scope of service, including but not limited to those required to meet minimum standards set forth in OAR 411-340-0170(2)(f) through (k) and consistent with written service agreements for individuals currently receiving services.

(b) Written service agreement. The provider organization must develop a written service agreement with the individual or individual's legal representative and must deliver services according to that agreement. The written service agreement must be consistent with the individual's ISP and must describe at minimum:

(A) Type of service to be provided;

(B) Hours, rates, location of services, and expected outcomes of services; and

(C) Any specific individual health, safety and emergency procedures that may be required, including action to be taken if an individual is unable to provide for his or her own safety and is missing while in the community under the care of the provider agency.

(c) Individual Records. The program must maintain a current record for each individual receiving services. The record must include:

(A) The individual's name, current home address, and home phone number;

(B) Current written service agreement, signed and dated by the individual or individual's legal representative;

(C) Contact information for the legal representative and any other persons designated by the individual or individual's representative to be contacted in case of incident or emergency;

(D) Contact information for the Support Services Brokerage assisting the individual to obtain services; and

(E) Records of service provided, including type of services, dates, hours, and personnel involved.

(d) Staff, contractors, or volunteers who provide services to individuals must meet independent provider qualifications in OAR 411-340-0160. Additionally, those staff, contractors or volunteers must have:

(A) Current CPR and first aid certification, obtained from a recognized training agency prior to working alone with an individual; and

(B) Written documentation of a TB test within two weeks of being engaged by the provider organization to provide services.

(e) General training requirements. The provider organization must ensure that employees, contractors, and volunteers receive training appropriate to scope of the provider organization's services.

(f) Additional standards for services provided in provider organization owned or leased site. Provider organizations that own or lease sites, provide services to individuals at those sites, and regularly have individuals present and receiving services at those sites must meet the following minimum requirements:

(A) Written Plan. A written emergency plan must be developed and implemented and must include instructions for staff and volunteers in the event of fire, explosion, accident, or other emergency including evacuation of individuals served.

(B) Posting of emergency information.

(i) The telephone numbers of the local fire, police department and ambulance service, or "911" service where available, must be posted by designated telephone(s); and

(ii) The telephone numbers of the Provider Organization Director, and other persons to be contacted in case of emergency must be posted by designated telephone(s).

(C) Quarterly safety review. A documented safety review must be conducted quarterly to ensure that the service site is free of hazards. These reports must be kept in a central location by the Provider Organization for three years.

## ADMINISTRATIVE RULES

(D) Emergency evacuations. The support agency must train all individuals when they begin attending the service site to leave the site in response to an alarm or other emergency signal and to cooperate with assistance to exit the site.

(i) Each support agency must conduct an unannounced evacuation drill each month when individuals are present.

(ii) Exit routes must vary based on the location of a simulated fire.

(iii) Any individual failing to evacuate the service site unassisted within the established time limits set by the local fire authority for the site must be provided specialized training or support in evacuation procedures.

(iv) Written documentation must be made at the time of the drill and kept by the support agency for at least two years following the drill. It must include:

(I) The date and time of the drill;

(II) The location of the simulated fire;

(III) The last names of all individuals and staff present at the time of the drill;

(IV) The amount of time required by each individual to evacuate if the individual needs more than the established time limit; and

(V) The signature of the staff conducting the drill.

(v) In sites providing services to individuals who are medically fragile or have severe physical limitations, requirements of evacuation drill conduct may be modified. The modified plan must:

(I) Be developed with the local fire authority, the individual or individual's legal representative, and the provider organization director; and

(II) Be presented as a variance request per OAR 411-340-0090.

(E) Adaptations required for sensory or physically impaired. The support agency must provide necessary adaptations to ensure fire safety for sensory and physically impaired individuals.

(F) Health and safety inspections. The provider organization must assure that at least once every three years health and safety inspection(s) are conducted.

(i) The inspection(s) must cover all areas and buildings where services are delivered to individuals, administrative offices and storage areas.

(ii) The inspection(s) must be performed by: the Oregon Occupational Safety and Health Department; the service's worker's compensation insurance carrier; or an appropriate expert such as a licensed safety engineer or consultant as approved by the Department; and the Oregon Health Department, when necessary.

(iii) The inspection(s) must cover:

(I) Hazardous material handling and storage;

(II) Machinery and equipment used by the service;

(III) Safety equipment;

(IV) Physical environment; and

(V) Food handling, when necessary.

(iv) The documented results of the inspection, including recommended modifications or changes, and documentation of any resulting action taken must be kept by the provider for five years.

(G) Fire and Life Safety Inspections for Owned, Leased, or Rented Buildings and Property. The service provider must ensure that each service site has received initial fire and life safety inspections performed by the local fire authority or a Deputy State Fire Marshal. The documented results of the inspection, including documentation of recommended modifications or changes and documentation of any resulting action taken, must be kept by the provider for five years.

(H) Staffing requirements.

(i) Direct service staff must be present in sufficient number to meet health, safety, and service needs specified in the individual written agreements of the individuals present.

(ii) When individuals are present, staff must have the following minimum skills and training:

(I) At least one staff member on duty with CPR certification at all times;

(II) At least one staff member on duty with current First Aid certification at all times;

(III) At least one staff member on duty with training to meet other specific medical need(s) identified in the individual service agreement; and

(IV) At least one staff member on duty with training to meet other specific behavior intervention need(s) as identified in individual service agreements.

(g) Additional standards for assisting individuals with health and medical needs. Provider organizations providing services to individuals that involve assistance with meeting health and medical needs must:

(A) Develop and implement written policies and procedures addressing: emergency medical intervention; treatment and documentation of ill-

ness and health care concerns; administering, storing and disposing of prescription and non-prescription drugs including self administration, emergency medical procedures including the handling of bodily fluids, and confidentiality of medical records;

(B) Maintain a current written record for each individual receiving assistance with meeting health and medical needs that includes: health status; changes in health status observed during hours of service; any remedial and corrective action required and when such actions were taken if occurring during hours of service; and a description of any restrictions on activities due to medical limitations;

(C) If providing medication administration when the individual is unable to self-administer medications and there is no other responsible person present who can lawfully direct administration of medications, the provider organization must:

(i) Have a written order or copy of the written order, signed by a physician or physician designee, before any medication, prescription or non-prescription, is administered;

(ii) Administer medications per written orders;

(iii) Administer medications from containers labeled as specified per physician written order;

(iv) Keep medications secure and unavailable to any other individual and stored as prescribed;

(v) Record administration on an individualized Medication Administration Record (MAR), including treatments and PRN, or "as needed", orders; and

(vi) Not administer unused, discontinued, outdated, or recalled drugs.

(D) If required to maintain a Medication Administration Record, the MAR must include:

(i) The name of the individual;

(ii) The brand name or generic name of the medication, including the prescribed dosage and frequency of administration as contained on physician order and medication;

(iii) Times and dates the administration or self-administration of the medication occurs;

(iv) The signature of the staff administering the medication or monitoring the self-administration of the medication;

(v) Method of administration;

(vi) Documentation of any known allergies or adverse reactions to a medication;

(vii) Documentation and an explanation of why a PRN, or "as needed", medication was administered and the results of such administration; and

(viii) An explanation of any medication administration irregularity with documentation of administrative review by the provider organization director or designee.

(E) Safeguards to prevent adverse medications reactions must be utilized that include:

(i) Maintaining information about the effects and side-effects of medications the agency has agreed to administer;

(ii) Communicating any concerns regarding any medication usage, effectiveness or effects to the individual, individual's designee, or individual's legal representative; and

(iii) Prohibiting the use of one individual's medications by another. A record of visits to medical professionals, consultants or therapists if facilitated or provided by the service.

(h) Additional standards for providing transportation. Provider organizations that 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 insurance coverage on the vehicles and all authorized drivers;

(D) Carry in vehicles a fire extinguisher and first aid kit; and

(E) Assign drivers who meet applicable Department of Motor Vehicles requirements to operate vehicles that transport individuals.

(i) Additional standards for assisting an individual to manage personal funds. If assisting with management of funds, the provider organization must have and implement written policies and procedures related to the oversight of the individual's financial resources that include:

(A) Procedures that prohibit inappropriately expending an individual's personal funds, theft of an individual's personal funds, using an individual's funds for staff's own benefit, commingling an individual's personal funds with program or another individual's funds, or the program becoming an individual's guardian or conservator; and

(B) The program's reimbursement to the individual of any funds that are missing due to theft or mismanagement on the part of any staff of the



# ADMINISTRATIVE RULES

program, or of any funds within the custody of the program that are missing. Such reimbursement must be made within 10 working days of the verification that funds are missing.

(j) Additional standards for assisting individuals to manage difficult behavior.

(A) Written policy. The provider organization must have and implement a written policy concerning behavior intervention procedures. The provider organization must inform the individual and individual's legal representative of the behavior intervention policy and procedures prior to finalizing the written service agreement.

(B) Any intervention to alter an individual's behavior must be based on positive behavioral theory and practice as defined by OAR 411-340-0020(52) and must be:

(i) Approved in writing by the individual or the individual's legal representative;

(ii) Described in detail in the individual's record.

(C) Psychotropic medications and medications for behavior must be:

(i) Prescribed by physician through a written order; and

(ii) Monitored by the prescribing physician for desired responses and adverse consequences.

(k) Additional standards for supports that involve restraints.

(A) The provider organization must only employ physical restraint:

(i) As part of an ISP that meets OAR 411-340-0020(38);

(ii) As an emergency measure, but only if absolutely necessary to protect the individual or others from immediate injury; or

(iii) As a health-related protection prescribed by a physician, but only if necessary for individual protection during the time that a medical condition exists.

(B) Staff training. Provider organization staff members who need to apply restraint under an individual's service agreement must be trained by a Department-approved trainer and documentation of the training must be maintained in his or her personnel file.

(C) Physical restraints in emergency situations. Physical restraints in emergency situations must:

(i) Be only used until the individual is no longer a threat to self or others;

(ii) Be authorized by the agency provider director or designee, or individual's physician;

(iii) Be authorized within one hour of application of restraint;

(iv) Result in the immediate notification of the individual's designee or legal representative; and

(v) Prompt a review of the written service agreement, initiated by the agency provider, if used more than three times in a six month period.

(D) Physical restraint must be designed to avoid physical injury to the individual or others, and to minimize physical and psychological discomfort.

(E) Incident report. All use of physical restraint must be documented and reported according to procedures described in OAR 411-340-0040. The report must include:

(i) The name of the individual to whom the restraint is applied;

(ii) The date, type and length of time, of restraint application;

(iii) The name and position of the person authorizing the use of the restraint;

(iv) The name of the staff member(s) applying the restraint; and

(v) Description of the incident.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp), f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1910, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

## 411-340-0180

### Standards for General Business Providers

(1) General Business Providers providing services to individuals and paid with support services funds must hold any current license appropriate to function required by the State of Oregon or federal law or regulation, including but not limited to:

(a) A license under ORS 443.015 for a home health agency;

(b) A license under ORS 443.315 for an in-home care agency;

(c) A current license and bond as a building contractor as required by either OAR chapter 812, Construction Contractor's Board or OAR chapter 808, Landscape Contractors, as applicable, for a provider of environmental accessibility adaptations;

(d) Public transportation providers must be regulated according to established standards and private transportation providers must have business license and drivers licensed to drive in Oregon;

(e) Current retail business license for vendors and medical supply companies providing specialized medical equipment and supplies, including enrollment as Medicaid providers through the Oregon Office of Medical Assistance Program if vending medical equipment;

(f) A current business license for providers of personal emergency response systems; and

(g) Retail business licenses for vendors and supply companies providing specialized diets.

(2) Services provided and paid for with support services funds must be limited to those within the scope of the general business provider's license.

Stat. Auth.: ORS 409.050 & 410.070

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

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; Renumbered from 309-041-1920, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06

\*\*\*\*\*

**Rule Caption:** DHS Seniors and People with Disabilities Rulemaking procedures for Chapter 411.

**Adm. Order No.:** SPD 18-2006

**Filed with Sec. of State:** 5-12-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 411-001-0010, 411-001-0100, 411-001-0110, 411-001-0120

**Rules Repealed:** 411-001-0000

**Subject:** Department of Human Services (DHS) Seniors and People with Disabilities (SPD) will amend rule 411-001-0010 to remove references to adoption of rulemaking rules and to update the adoption of Attorney General Model rules and repeal rule 411-001-0000 concerning Notices of Proposed Rulemaking. DHS SPD services in Chapter 411 will be following the department-wide rules on rulemaking adopted in OAR 407-001-0000 and 407-001-0005. DHS SPD will amend rules 411-001-0100, 411-001-0110, and 411-001-0120 to update outdated program references.

**Rules Coordinator:** Lisa Richards—(503) 945-6398

## 411-001-0010

### Administrative Rulemaking

Seniors and People with Disabilities adopts as its rule of procedure relating to rulemaking under the Administrative Procedure Act, the following Attorney General's Model Rules of Procedure, effective January 1, 2006:

(1) All rules in OAR chapter 137, division 001 "Model Rules for Rulemaking"

(2) All rules in OAR chapter 137, division 002 "Model Rules for Agency Declaratory Rulings";

(3) All rules in OAR chapter 137, division 003 "Model Rules of Procedure for Contested Cases"; and

(4) All rules in OAR chapter 137, division 004 "Miscellaneous, Orders in Other than Contested Cases".

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.325 - 183.410

Hist.: SSD 1-1981(Temp), f. & ef. 10-1-81; SSD 2-1982, f. & ef. 4-1-82; SSD 23-1990, f. & cert. ef. 11-13-90; SSD 2-1991, f. & cert. ef. 1-11-91; SPD 18-2006, f. 5-12-06, cert. ef. 6-1-06

## 411-001-0100

### Purpose

(1) The purpose of these rules is to establish procedures for the operation of the Medicaid Long Term Care Quality and Reimbursement Advisory Council.

(2) The Medicaid Long Term Care Quality and Reimbursement Advisory Council was established by the 1995 Legislative Assembly and is directed to advise the, Department of Human Services, Seniors and People with Disabilities on changes or modifications to the Medicaid reimbursement system and the adverse and positive effects of the changes or modifications on the quality of long term care and community-based care services. The Council consists of twelve stakeholders (consumers, advocates and providers) appointed by the Governor, the President of the Senate and the Speaker of the House.

(3) When a proposed change or modification has an estimated fiscal impact of more than \$100,000, the Department is directed to submit the proposed change or modification along with the Council's written recommendation to the Legislative Assembly, when in session, or the Emergency Board for approval prior to implementation.

# ADMINISTRATIVE RULES

Stat. Auth.: ORS 410.070  
Stats. Implemented: ORS 410.550 - 410.455  
Hist.: SSD 7-1996, f. 8-30-96, cert. ef. 9-1-96; SPD 18-2006, f. 5-12-06, cert. ef. 6-1-06

## 411-001-0110

### Definitions

(1) "Council" means the Medicaid Long Term Care Quality and Reimbursement Advisory Council.

(2) "Department" means the Department of Human Services, Seniors and People with Disabilities.

Stat. Auth.: ORS 410.070  
Stats. Implemented: ORS 410.550 - 410.455  
Hist.: SSD 7-1996, f. 8-30-96, cert. ef. 9-1-96; SPD 18-2006, f. 5-12-06, cert. ef. 6-1-06

## 411-001-0120

### Council Operation

(1) Within 60 calendar days after receipt from the Department of any proposed change or modification to the Oregon Medicaid reimbursement system for long term care and community-based care services, the Medicaid Long Term Care Quality and Reimbursement Advisory Council (Council) will issue a written advisory recommendation to the Department. The 60-day period will begin the day following delivery to the chairperson of the Council if a proposed change or modification is faxed, hand-delivered or e-mailed. Otherwise, the 60-day period will begin the third day after the date of mailing first class.

(2) A written advisory recommendation issued by the Council will state:

(a) Whether the Council supports or opposes the proposed change or modification;

(b) Whether the Council concludes that the proposed change or modification will have an adverse or positive effect on the quality of long term care and community-based care services provided under the Oregon Medicaid program; and

(c) The basis for its recommendation including:

(A) The reason(s) for its position;

(B) A list of the principal documents, reports or studies, if any, relied upon in considering the proposed change or modification; and

(C) Other information deemed appropriate by the Council.

(3) Timeline for written recommendation.

(a) Notwithstanding section (1) of this rule, the Department may shorten the time within which the Council must issue a written recommendation if the Department decides to adopt a proposed change or modification by temporary rule and if the Department prepares a written statement in which it:

(A) Finds that its failure to make proposed changes or modifications promptly is likely to result in serious prejudice to the public interest or to the interests of clients of the Department, providers of long term care or community-based care services, or other affected parties;

(B) Specifies reasons why the agency's failure to act promptly is likely to result in serious prejudice to those interests;

(C) States the need for the proposed change or modification and how the change or modification is intended to meet the need;

(D) Lists the principal documents, reports, or studies, if any, prepared or relied upon by the Division in evaluating the need for the proposed change or modification; and

(E) If the proposed change or modification is to be made by administrative rule, cites the legal authority relied upon and bearing upon the adoption, amendment, or suspension of the rule;

(b) However, the Department may not shorten the time for written recommendation to less than five business days.

(4) If the Department intends to adopt an administrative rule that directly or indirectly proposes a change or modification to the Oregon Medicaid reimbursement system, the Department may not proceed with notice requirements provided for in ORS 183.335 until it has received the Council's written recommendation or the time permitted to the Council for issuance of a written recommendation has passed, whichever occurs first.

Stat. Auth.: ORS 410.070  
Stats. Implemented: ORS 410.550 - 410.555  
Hist.: SSD 7-1996, f. 8-30-96, cert. ef. 9-1-96; SPD 18-2006, f. 5-12-06, cert. ef. 6-1-06

.....  
**Department of Human Services,  
Vocational Rehabilitation Services  
Chapter 582**

**Rule Caption:** Adoption of the 2006 Attorney General Model Rules by the Office of Vocational Rehabilitation.

**Adm. Order No.:** VRS 1-2006  
**Filed with Sec. of State:** 5-11-2006  
**Certified to be Effective:** 5-11-06  
**Notice Publication Date:** 4-1-06  
**Rules Amended:** 582-001-0005  
**Rules Repealed:** 582-001-0001

**Subject:** The Department of Human Services (DHS) Office of Vocational Rehabilitation (OVR) amended rule 582-001-0005 to remove references to adoption of rulemaking and to update the adoption of Attorney General Model rules and repealed 582-001-0001 concerning the Notices of Proposed Rulemaking. DHS OVR will follow the department wide rule on this topic adopted in OAR 407-001-0005. All persons, organizations or publication formerly referenced in this rule have been placed on the interested parties list in rule OAR 407-001-0005.

**Rules Coordinator:** Robert Trachtenberg—(503) 945-6734

## 582-001-0005

### General Procedures

Department of Human Services, Vocational Rehabilitation Services, Chapter 582, will comply with OAR 407-001-0000 and 407-001-0005 for Notices of rulemaking.

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; VRS 1-2006, f. & cert. ef. 5-11-06

.....  
**Department of Justice  
Chapter 137**

**Rule Caption:** Establishes fees related to application for approval/amendment of nonprofit hospital conversion order.

**Adm. Order No.:** DOJ 4-2006  
**Filed with Sec. of State:** 5-5-2006  
**Certified to be Effective:** 5-5-06  
**Notice Publication Date:** 4-1-06  
**Rules Adopted:** 137-015-0005, 137-015-0010

**Subject:** ORS 65.800 et seq. requires the parties involved in the conversion of a nonprofit hospital to apply to the Attorney General for approval of the transaction. ORS 65.813(3) provides that the Attorney General may impose, by administrative rule, an application fee to cover the costs of reviewing and evaluating the proposed transaction.

**Rules Coordinator:** Carol Riches—(503) 947-4700

## 137-015-0005

### Transfer of Nonprofit Hospital Assets

The party to whom a hospital transfer is to be made, as described in ORS 65.803(1), shall pay to the Attorney General an application fee, which shall accompany the application, for costs in reviewing and evaluating the proposed transaction. No application shall be considered by the Attorney General until the appropriate fee is received. The amount of the fee shall be calculated as described in paragraphs (1) and (2).

(1) For each of the following types of transactions the fee shall be:

(a) For a transfer or exchange as described in ORS 65.803(1)(a) or (b) from one charitable entity to another existing unrelated charitable entity — \$7,500;

(b) For a whole hospital joint venture between two unrelated charitable entities — \$10,000;

(c) For a transfer or exchange as described in ORS 65.803(1)(a) or (b) from a charitable entity to a noncharitable entity — \$30,000; and

(d) For a whole hospital joint venture between a charitable entity and a noncharitable entity — \$50,000.

(2) The fees described in paragraph (1) are based on the transfer of one hospital facility as described in ORS 442.015(19)(a). The fees described in paragraph (1) shall be increased by 30% for each additional facility to be transferred as part of the transaction.

(3) The application fees collected pursuant to paragraphs (1) and (2) are intended to pay for the Attorney General's costs in reviewing the proposed transaction, preparing an order approving, or disapproving the transaction, evaluating/insuring initial compliance (for a period not to exceed six months) and relating to any appeal from the proceeding.

# ADMINISTRATIVE RULES

(4) The application fee is intended to pay for the direct costs of the functions described in paragraph (3) including, but not limited to, the cost for all the Attorney General office personnel and employee time at the billing rates used by the Department of Justice, costs of travel, printing costs and all costs incurred in the noticing and conduct of public meetings.

(5) After the Attorney General has been paid for all of the costs identified in paragraph (4), the Attorney General shall reimburse the applicant for any remaining funds from the application fee, without interest. The funds shall be reimbursed no later than six months after an order is entered or an appeal from such an order is decided or within 30 days of withdrawal if the applicant withdraws the application to approve the transfer.

(6) The Attorney General shall maintain a record of the costs described in paragraph (4) and that record shall be made available, upon request, to the applicant.

Stat. Auth.: ORS 65.815  
Stats. Implemented: ORS 65.813(3)  
Hist.: DOJ 4-2006, f. & cert. ef. 5-5-06

## 137-015-0010

### Amendment of the Hospital Transfer Order

Pursuant to ORS 65.809(2), the Attorney General may approve a proposed hospital transaction with conditions. In the event the party to whom the transfer is made determines that, due to unforeseen circumstances, the conditions of the order should be amended, the party shall make application to the Attorney General for amendment of the prior order.

(1) The application for amendment shall be accompanied by an application fee equal to 10% of the original application fee or \$1,000, whichever is greater. The terms for payment of the fee to the Attorney General and reimbursement of any excess fee to the applicant shall be the same as provided in OAR 137-015-0005.

(2) A request for an amendment shall include a description of each proposed amendment, a description of the change in circumstance requiring each such amendment, a description of how each such amendment is consistent with the Attorney General's conditioned approval of the transaction, and a description of the efforts of the entity making the request to avoid the need for amendment.

(3) In considering whether to grant the request for amendment, the Attorney General shall follow the same public hearing procedures as described in ORS 65.807 and shall issue an order according to the same time constraints as provided in ORS 65.809(1) with regard to the initial application.

Stat. Auth.: ORS 65.815  
Stats. Implemented: ORS 65.813(3)  
Hist.: DOJ 4-2006, f. & cert. ef. 5-5-06

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

**Rule Caption:** Rescinding explosives fee that was not ratified by the 2005 legislature.

**Adm. Order No.:** OSFM 7-2006

**Filed with Sec. of State:** 5-5-2006

**Certified to be Effective:** 5-5-06

**Notice Publication Date:** 12-1-05

**Rules Amended:** 837-012-1320

**Subject:** This rule change is needed to rescind an explosives fee that was not ratified by the 2005 legislature.

**Rules Coordinator:** Pat Carroll—(503) 373-1540, ext. 276

## 837-012-1320

### Certificate of Registration of Magazine — With Bureau of Alcohol, Tobacco, Firearms and Explosives Inspection

(1) The Office of State Fire Marshal may accept an inspection completed by BATFE in lieu of the Office of State Fire Marshal inspection.

(2) The decision to accept or not accept the BATFE inspection rests solely with the Office of State Fire Marshal.

(3) The Office of State Fire Marshal shall consider, but is not limited to, the following criteria in deciding whether to accept a BATFE inspection:

(a) The inspection shall be completed not more than 180 days prior to the date of the application for a Certificate of Registration;

(b) United States Post Office postmark date shall be used to determine the date of application.

(c) The inspection shall show the Magazine is in compliance with these rules.

(d) If deficiencies are noted on the BATFE inspection, the Office of State Fire Marshal may decide to conduct its own inspection. Should the Office of State Fire Marshal decide to complete its own inspection, the applicant shall submit payment of the additional fee amount of \$75 required for a Certificate of Registration with a State Fire Marshal inspection prior to the Office of State Fire Marshal conducting its inspection.

Stat. Auth.: ORS 476 & 480  
Stats. Implemented: ORS 480.200 - 480.290 & 480.990(6)  
Hist.: OSFM 5-2000(Temp), f. & cert. ef. 4-12-00 thru 10-9-00; OSFM 12-2000, f. & cert. ef. 10-6-00; OSFM 1-2004, f. & cert. ef. 1-14-04; OSFM 5-2004, f. & cert. ef. 11-10-04; OSFM 10-2005, f. 5-24-05, cert. ef. 6-7-05; OSFM 15-2005(Temp), f. & cert. ef. 11-9-05 thru 5-7-06; OSFM 7-2006, f. & cert. ef. 5-5-06

.....  
**Department of Public Safety Standards and Training  
Chapter 259**

**Rule Caption:** Requires minimum employment standards for Fire Service Professionals; requires minimum age of 18 for certification

**Adm. Order No.:** DPSST 5-2006

**Filed with Sec. of State:** 5-3-2006

**Certified to be Effective:** 5-3-06

**Notice Publication Date:** 3-1-06

**Rules Adopted:** 259-009-0059

**Rules Repealed:** 259-009-0059(T)

**Subject:** Requires minimum standards for employment as a Fire Service Professional; requires minimum age of 18 for certification as a Fire Service Professional.

**Rules Coordinator:** Bonnie Salle—(503) 378-2431

## 259-009-0059

### Minimum Standards for Employment as a Fire Service Professional

(1) No person may be certified as a Fire Service Professional who has not yet attained 18 years of age.

(2) Only training received after attaining the age of 16 may be applied for certification purposes.

(3) DPSST Fire Service Agency affiliation may be attained after the age of 16 via submission of a PAF-1 (Personnel Action Form).

Stat. Auth.: ORS 181.610 & 181.640  
Stats. Implemented: ORS 181.610 & 181.640  
Hist.: DPSST 1-2006(Temp), f. & cert. ef. 1-23-06 thru 6-1-06; DPSST 5-2006, f. & cert. ef. 5-3-06

.....  
**Rule Caption:** Amends rules relating to private security professionals and general housekeeping changes.

**Adm. Order No.:** DPSST 6-2006

**Filed with Sec. of State:** 5-15-2006

**Certified to be Effective:** 5-15-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 259-060-0005, 259-060-0010, 259-060-0015, 259-060-0020, 259-060-0060, 259-060-0065, 259-060-0070, 259-060-0075, 259-060-0080, 259-060-0085, 259-060-0090, 259-060-0095, 259-060-0115, 259-060-0120, 259-060-0130, 259-060-0135, 259-060-0150, 259-060-0300, 259-060-0305, 259-060-0450, 259-060-0500, 259-060-0600

**Subject:** Amends rules relating to private security professionals. Rule changes define private security professional and executive and supervisory managers; include certain exemptions for persons employed by OLCC, active duty members of the armed services or an employee of a financial institution; and includes general housekeeping changes relating to grammatical and format changes for readability.

**Rules Coordinator:** Bonnie Salle—(503) 378-2431

## 259-060-0005

### Objectives

(1) The objectives of the Department's Private Security Standards and Certification Rules are to improve the private security industry services in Oregon by raising the level of competence of private security personnel, individually and collectively:

(a) By establishing and maintaining minimum standards and qualifications for the training and certification of private security professionals;

(b) By establishing and maintaining minimum standards and qualifications for the training and licensing of executive and supervisory managers;



# ADMINISTRATIVE RULES

(c) By establishing and maintaining minimum standards for all training courses and testing required of private security professionals, executive and supervisory managers;

(d) By establishing and maintaining minimum standards and qualifications for all instructors providing the required training and testing; and

(e) By maintaining uniform compliance with all provisions of ORS 181.870 through 181.991, hereinafter referred to as the Private Security Service Providers Act, including the use of criminal records checks utilizing computerized criminal history information and fingerprint comparisons.

(2) The delineation of scope of authority and duties between the Board and the Department, as it relates to joint rulemaking, is the same as ORS 181.640(4)(5)(6).

Stat. Auth.: ORS 181.878(4)

Stats. Implemented: ORS 181.875, 181.878 & 181.880

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0010

### Definitions

(1) "Armed Private Security Professional" means a private security professional who is in possession of a firearm at any time while performing duties as a private security professional.

(2) "Assessment module" means a four-hour curriculum given to private security professionals that includes, but is not limited to, the demonstration of task-related skills learned in the eight-hour basic classroom instruction as applied to hypothetical situations.

(3) "Board" means the Board on Public Safety Standards and Training.

(4) "Certification" means recognition by the Department that a private security professional or instructor, meets all the qualifications listed in ORS 181.875 and the rules set forth in this Division.

(5) "Certified Private Security Instructor" and "instructor" as used in ORS 181.878, means recognition by the Department that a person meets the minimum qualifications as specified in OAR 259-060-0135.

(6) "Certified Private Security Firearms Instructor" means recognition by the Department that a person meets the minimum qualifications of a private security firearms instructor as specified in OAR 259-060-0135.

(7) "Conviction" or "Convicted" means a finding of guilt in a court of competent jurisdiction by a plea, a jury verdict or a determination by a judge sitting as a trier of fact at a trial. Conviction does not require a final judgment or sentence. A person will not be considered to have been convicted of an offense for purposes of these rules if the conviction is an offense for which the person has been pardoned. A person will also not be considered to have been convicted of an offense for purposes of these rules if the conviction has been expunged or set aside pursuant to the laws of any jurisdiction other than Oregon, provided, however, that the same offense, if committed in Oregon, would have been expunged or set aside pursuant to ORS 137.225. A person will not be considered convicted of an offense committed in Oregon if the conviction has been set aside and the records of arrest and conviction have been ordered sealed pursuant to ORS 137.225.

(8) "Denial" or "Deny" is that action taken by the Department in refusing to issue a license or certificate to an applicant who has not satisfied all requirements for issuance of a license or certificate.

(9) "Department" means the Department of Public Safety Standards and Training.

(10) "Director" means the Director of the Department of Public Safety Standards and Training.

(11) "Direct supervision of new hire" means actively monitoring the work of a new hire by the ongoing and uninterrupted presence of a certified private security professional, or a licensed executive or supervisory manager. The person being monitored may not make decisions regarding any course of action independent of the person providing the direct supervision.

(12) "Employer" means an individual or entity who employs persons to provide private security services.

(13) "Executive Manager" means an individual who has the authority to act on behalf of the company or business in matters of licensure and certification, and whose primary responsibility is the management of certified private security professionals, including any supervisory managers. An executive manager has authority to issue Temporary Work Permits and has ultimate responsibility for compliance with ORS 181.870-181.991.

(14) "Instructor" means any person who has been certified by the department as meeting the requirements to provide instruction to private security providers or applicants.

(15) "License" means recognition by the Department that an employer, contractor, executive manager or supervisory manager meets the requirements adopted by the Board on Public Safety Standards and Training as necessary to provide private security services.

(16) "Policy Committee" means the Private Security Policy Committee created by ORS 181.889.

(17) "Primary responsibility" means an activity that is fundamental to, and required or expected in, the regular course of employment and is not merely incidental to employment.

(18) "Private security professional" means an individual who performs, as the individual's primary responsibility, private security services for consideration, regardless of whether the individual, while performing the private security services, is armed or unarmed or wears a uniform or plain clothes, and regardless of whether the individual is employed part-time or full-time to perform private security services.

(19) "Private security provider" means any individual who performs the functions of a private security professional, executive manager, supervisory manager or instructor.

(20) "Private security services" means the performance of at least one of the following activities:

(a) The observation and reporting of any unlawful activity.

(b) The prevention of theft or misappropriation of any goods, money or other items of value.

(c) The protection of individuals or property, including, but not limited to, proprietary information, from harm or misappropriation.

(d) The control of access to premises being protected.

(e) The secure movement of prisoners.

(f) The taking of enforcement action by detaining persons or placing persons under arrest under ORS 133.225.

(g) Providing canine services for guarding premises or for the detection of unlawful devices or substances.

(21) "Revocation" or "Revoke" is that action taken by the Department after the licensee or certificate holder has had an opportunity for a hearing and the evidence supports allegations that the licensee or certificate holder has violated provisions of these administrative rules resulting in a Department order concluding that the licensee or certificate holder should not be allowed to continue to provide or implement security services.

(22) "Supervisory Manager" means an employee of or a person supervised by an executive manager who has as a primary responsibility the supervision of certified private security professionals.

(23) "Suspension" or "Suspend" is that action taken by the Department in temporarily depriving the holder of a license or certificate that authorizes provision or implementation of private security services.

(24) "Temporary work permit" or Form PS-20 means a form issued by the employer to allow a company to employ and deploy a private security professional, executive or supervisory manager while the application for certification or licensure is being processed. A temporary work permit will not be issued for armed security applicants.

Stat. Auth.: ORS 181.870 & 181.878

Stats. Implemented: ORS 181.870 & 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0015

### Prohibited Acts

(1) It is unlawful:

(a) For a person to engage in the business of, or perform any service as, a private security professional, or to offer services in such capacity unless the person has obtained a certificate under the Private Security Service Providers Act and these rules.

(b) For a person to engage in the business of, or perform any service as, an executive or supervisory manager, or to offer services in such capacities unless the person has obtained a license under ORS 181.878.

(c) For a person to perform supervisory duties over persons performing crowd management or guest services, as described in ORS 181.871, unless the person has obtained a license or certificate under ORS 181.878.

(d) For an executive or supervisory manager to assign a person to perform private security services unless the person is certified as a private security professional under ORS 181.878 and these rules, except as otherwise provided in ORS 181.873(2) and OAR 259-060-0120(1)(b)(c) (relating to temporary assignments).

# ADMINISTRATIVE RULES

(e) To provide private security services as a private security professional without having a certificate or license issued under ORS 181.878 in the person's possession.

(f) For purposes of these administrative rules, these prohibitions apply to any business, employer, or entity that provides private security services within this state, or the monitoring of alarm systems designed to detect unauthorized intrusion, regardless of whether the business, employer or entity is located in this state.

(2) Conviction for a non-person felony or Class A misdemeanor will result in disqualification or revocation of certification as a private security provider for ten years from date of conviction.

(3) Exemptions: The following persons are exempt from regulation as private security providers:

(a) Persons holding a current Department certification as a police officer or parole and probation officer.

(b) A law enforcement officer of the United States.

(c) An individual while on active duty as a member of the armed services or while performing duties as a law enforcement officer.

(d) An officer or employee of this state, Oregon Health Sciences University established by ORS 353.020 or the United States.

(e) A person appointed or commissioned by the Governor to perform law enforcement or security services.

(f) An attorney admitted to practice law in this state.

(g) An insurance adjuster licensed in this state and performing duties authorized by the license.

(h) A person who monitors fire alarm systems and other alarm systems that are not designed to detect unauthorized intrusions.

(i) A person while protecting the person's property.

(j) A person who repairs and installs intrusion alarms.

(k) A person acting as an investigator or operative as defined in ORS 703.401.

(l) A person performing crowd management or guest services, including, but not limited to, a person described as a ticket-taker, an usher, parking attendant or event staff, or a person employed for the purpose of age verification by a licensee of the Oregon Liquor Control Commission, who is not armed and is not hired with the primary responsibility of taking enforcement action as described in ORS 181.870(8)(f).

(m) A person who performs security services at a facility regulated by the United States Nuclear Regulatory Commission and the facility is operated by the person's employer.

(n) An employee of a financial institution who has been designated as a security officer for the financial institution pursuant to the Bank Protection Act of 1968 (12 U.S.C 1881 et seq.) and regulations adopted thereunder or pursuant to ORS 723.276 (5).

(3) The exemption provided by subsection (2)(l) of this section applies only:

(a) If there is at least one person on-site who is certified or licensed under ORS 181.878 for every 10 or fewer uncertified persons performing the services described in subsection (2)(l) of this section;

(b) If any enforcement action, as described in ORS 181.870(8)(f), other than incidental or temporary action, is taken by or under the supervision of a person certified or licensed under ORS 181.878; and

(c) During the time when a crowd has assembled for the purpose of attending or taking part in an organized event, including pre-event assembly, event operation hours and post-event departure activities.

Stat. Auth.: ORS 181.873, 181.871 & 181.878

Stats. Implemented: ORS 181.873, 181.871 & 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0020

### Minimum Standards for Certification or Licensure

(1) Age.

(a) An applicant for certification or licensure as a private security provider must be:

(A) At least 18 years of age to receive certification as a private security professional or unarmed private security instructor; and

(B) At least 21 years of age to receive certification as an armed security professional or armed private security instructor.

(b) All applicants for licensing as an executive or supervisory manager must be at least 18 years of age.

(2) Training. An applicant for certification or licensure must satisfactorily complete the applicable training requirements as approved by the Board on Public Safety Standards and Training and these rules.

(3) Moral Fitness (Moral Character). All private security providers must be of good moral fitness as determined by a criminal background check or department investigation.

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a private security provider. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the private security provider's performance on the job which makes the private security provider both inefficient and otherwise unfit to render effective service because of a loss of confidence in the private security provider's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a private security provider lacks good moral fitness, a rebuttable presumption will be raised that the private security provider does not possess the requisite moral fitness to be a private security provider. The burden will be upon the private security provider to prove good moral fitness.

(4) Criminal History. An applicant for certification or licensure must not:

(a) Have been convicted of a person felony, as defined in the rules of the Oregon Criminal Justice Commission: ORS 162.165 (Escape I), 162.185 (Supplying Contraband as defined in Crime Categories 6 and 7 (Appendix 3)), 163.095 (Aggravated Murder), 163.115 (Murder), 163.118 (Manslaughter I), 163.125 (Manslaughter II), 163.145 (Negligent Homicide), 163.160(3) (Assault IV Felony), 163.165 (Assault III), 163.175 (Assault II), 163.185 (Assault I), 163.205 (Criminal Mistreatment I), 163.213 (Use of Stun Gun/Tear Gas/Mace I), 163.225 (Kidnapping II), 163.235 (Kidnapping I), 163.275 (Coercion as defined in Crime Category 7 (Appendix 3)), 163.355 (Rape III), 163.365 (Rape II), 163.375 (Rape I), 163.385 (Sodomy III), 163.395 (Sodomy II), 163.405 (Sodomy I), 163.408 (Sexual Penetration II), 163.411 (Sexual Penetration I), 163.425 (Sexual Abuse II), 163.427 (Sexual Abuse I), 163.525 (Incest), 163.535 (Abandon Child), 163.537 (Buying or Selling a Person Under 18 Years of Age), 163.670 (Using Child in Display of Sexually Explicit Conduct), 163.684 (Encouraging Child Sex Abuse I), 163.686 (Encouraging Child Sex Abuse II), 163.688 and 163.689 (Possession of Materials Depicting Sexually Explicit Conduct of a Child I and II), 163.732 (Stalking), 163.747 (Violation of Officer's Stalking Order), 163.750 (Violation of Court's Stalking Order), 164.075 (Theft by Extortion as defined in Crime Category 7 (Appendix 3)), 164.225 (Burglary I as defined in crime Categories 8 and 9, Appendix 3), 164.325 (Arson I), 164.395 (Robbery III), 164.405 (Robbery II), 164.415 (Robbery I), 164.877(3) (Tree Spiking (Injury)), 166.087 (Abuse of Corpse I), 166.165 (Intimidation I), 166.220 (Unlawful Use of a Weapon), 166.275 (Inmate in Possession of Weapon), 166.385(3) (Felony Possession of a Hoax Destructive Device), 167.012 (Promoting Prostitution), 167.017 (Compelling Prostitution), 468.951 (Environmental Endangerment), 811.705 (Hit and Run Vehicle (Injury)), 830.475 (Hit and Run (Boat)) and attempts or solicitations to commit any Class A or Class B person felonies as defined herein, or an equivalent crime with similar elements in another jurisdiction. Only Class B and Class C felony convictions may be considered by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2). There will be no waivers granted for Class A felony convictions.

(b) Within the 10-year period prior to applying for, or during, certification or licensure, must not:

(A) Have been incarcerated, placed on probation or paroled as the result of conviction of any felony, other than those described in subsection (a) of this section in this, or any other, jurisdiction. Class B and Class C felony convictions may be considered on a limited basis by the Policy

# ADMINISTRATIVE RULES

Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2).

(B) Have been convicted of violating ORS 163.435 (Contributing to the Sexual Delinquency of a Minor), 163.672 (1993 Edition) (Possession of Depiction of Sexual Conduct of a Child), 163.673 (1993 Edition) (Dealing in the Depiction of Sexual Conduct of a Child), 167.007 (Prostitution), 167.062 (Sadomasochistic Abuse or Sexual Conduct in a Live Show), 167.065 (Furnishing Obscene Material), 167.070 (Sending Obscene Material to Minors), 167.075 (Exhibiting An Obscene Performance to a Minor), 167.080 (Displaying Obscene Material to Minors), 167.087 (Disseminating Obscene Material) or an equivalent crime with similar elements in another jurisdiction. There will be no waivers granted for these listed convictions.

(C) Have been convicted of a person misdemeanor, as defined in the rules of the Oregon Criminal Justice Commission: ORS 161.405(2)(d) Attempt or 161.435(2)(d) Solicitation to Commit any Class C person felony as defined by the Oregon Criminal Justice Commission, 162.315 (Resisting Arrest), 163.160 (Assault IV), 163.190 (Menacing), 163.195 (Recklessly Endangering Another Person), 163.200 (Criminal Mistreatment II), 163.208 (Assaulting a Public Safety Officer), 163.212 (Unlawful Use of an Electrical Stun Gun, Tear Gas or Mace II), 163.545 (Child Neglect II), 163.575 (Endangering the Welfare of a Minor), 163.605 (Criminal Defamation), 163.732(1) (Stalking), 163.750(1) (Violating Court's Stalking Protective Order), 166.065(4) [Harassment (Offensive Sexual Contact)], 166.155 (Intimidation II), 166.385 (Possession of Hoax Destructive Device) or an equivalent crime with similar elements in another jurisdiction;

(D) Have been convicted of the following misdemeanors: ORS 162.075 (False Swearing), 162.085 (Unsworn Falsification), 162.145 (Escape III), 162.247 (Interfering with a Peace Officer), 162.295 (Tampering with Physical Evidence), 162.335 (Compounding a Felony), 162.365 (Criminal Impersonation), 162.369 (Possession of False Law Enforcement Identification Card), 162.385 (Giving False Information to Police Officer), 163.465 (Public Indecency), 163.709 (Unlawful Directing of Light from a Laser Pointer), 164.045 (Theft II), 164.125(5)(b) (Theft of Services), 164.140 (Criminal Possession of Rented or Leased Personal Property), 164.235 (Possession of Burglar's Tools), 164.255 (Criminal Trespass I), 164.265 (Criminal Trespass while in Possession of a Firearm), 164.335 (Reckless Burning), 164.354 (Criminal Mischief II), 164.369 (Interfering With Police Animal), 164.377(4) (Computer Crime), 165.007 (Forgery II), 165.055(4)(a) (Fraudulent Use of a Credit Card), 165.065 (Negotiating a Bad Check), 166.115 (Interfering With Public Transportation), 166.250 (Unlawful Possession of Firearms), 166.350 (Unlawful Possession of Armor Piercing Ammunition), 166.425 (Unlawful Purchase of Firearm), 167.262 (Adult Using Minor in Commission of Controlled Substance Offense), 471.410 (Providing Liquor to Person under 21 or Intoxicated Person), or an equivalent crime with similar elements in another jurisdiction. Convictions for any of the listed misdemeanors may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2);

(c) Have been convicted, within the 10-year period prior to applying for, or during, certification or licensure, of a "misdemeanor crime of domestic violence," in this or any jurisdiction. A "misdemeanor crime of domestic violence" means a misdemeanor under the law of any jurisdiction involving the use or attempted use of physical force, or threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is co-habiting with or has co-habited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or a guardian of the victim. Convictions for any of the listed misdemeanors may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2);

(d) Have been convicted of a misdemeanor or felony involving the unlawful use, possession, delivery or manufacturing of a controlled substance, or a misdemeanor or felony of similar elements, in this or any jurisdiction: 475.525 (Sale of Drug Paraphernalia), 475.991 (Unlawful Delivery of Imitation Controlled Substance), 475.992 (Prohibited Acts, Manufacturing or Delivering of a Controlled Substance within 1,000 feet of School), or an equivalent crime with similar elements in another jurisdiction.

(e) Have been convicted, within the seven-year period prior to applying for, or during, certification or licensure, of the following misdemeanors, or a misdemeanor of similar elements, in this or any jurisdiction; 164.043

(Theft III), 164.125(5)(a) (Theft of Services), 162.375 (Initiating a False Report), 166.240 (Carrying of Concealed Weapons), or an equivalent crime with similar elements in another jurisdiction. Convictions for any of the listed misdemeanors may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2);

(f) Have been required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597. There will be no waivers granted for any persons in this category.

(5) Firearms Restrictions. An applicant for armed private security professional or instructor certification will not be eligible for certification if the applicant:

(a) Has been committed to the Mental Health and Development Disability Services Division under ORS 426.130, or similar order in another jurisdiction;

(b) Has been found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

(c) Is prohibited under US Code Title 18, Section 922(g)(8) (relating to civil restraining orders including stalking or harassment) from possessing a firearm in interstate commerce; or

(d) Is prohibited under any law of this state or any federal law from purchasing, owning or possessing a firearm.

(6) Failure to Meet Firearms Criteria. In the event a certified armed private security officer, or an applicant for such certification, should at any time fail to meet the requirements of subsections (4)(a) through (d) or (5)(a) through (d) herein, the certificant/applicant and the manager, employer or supervisor of the certificant/applicant, must:

(a) Notify the Department or its designee within 48 hours, in writing, of the circumstance making the certificant/applicant ineligible to purchase, own or possess a firearm. The notification must list all facts known, including any written documentation, and must identify a person whom the Department may contact to obtain additional information;

(b) Transfer the employee to an unarmed position until a determination has been made by the Department regarding the status of the certificant/applicant; and

(c) Retrieve any issued weapons and ammunition.

(7) ADA Compliance. Individual employers or entities are expected to conform to federal ADA guidelines as they relate to physical fitness standards.

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

Stat. Auth.: ORS 181.875, 181.878 & 181.883

Stats. Implemented: ORS 181.875 & 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04; DPSST 9-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0060

### Eight-Hour Basic Classroom Instruction

(1) The training requirements for certification as a private security provider are:

(a) Eight hours of basic classroom instruction based upon a curriculum approved by the Board or its designated staff. For purposes of these rules, classroom instruction includes use of audio, visual or actual classroom instruction. Private security managers and instructors must utilize a management-specific training manual approved by the Board or designated staff, and review the training in a self-study environment. Any manager who provides private security services in the capacity of a private security professional must complete the full training designated for that classification (e.g., unarmed, armed or alarm monitor).

(b) An applicant may challenge the eight-hour basic classroom instruction component of the training requirements, if the person has two or more years of experience in the field of law enforcement, military police or private security; or has received any private security or law enforcement training. The person may challenge the eight-hour basic classroom instruction component only once. The four-hour assessment module may not be challenged.

(c) Four hours of additional assessment by a DPSST-certified instructor as detailed in OAR 259-060-0075. Managers and instructors will complete a four-hour management-specific orientation under the direction of the Department's designee, rather than a certified private security instructor.



# ADMINISTRATIVE RULES

(d) Successful completion of a written examination administered in compliance with OAR 259-060-0065. Managers and instructors will complete the written examination utilizing the management-specific training manual provided as a resource by the Department. The written examination will be reviewed at the manager's or instructor's four-hour orientation for grading by the Department's designee.

(2) All required training must be conducted by a certified private security instructor as defined by OAR 259-060-0135 or Department designee. Only a certified private security instructor or Department designee may sign a Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results).

(3) It is the responsibility of the applicant to obtain a completed Form PS-6 sealed in an approved tamper-proof bag and to submit this sealed bag to the Department, along with the completed application packet and fees. The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(4) The Department or its designated staff may cause inspections of training methods and instructors to be made pursuant to ORS 181.878(4)(b), 181.878(6), and OAR 259-060-0135(6).

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0065

### Written Examinations

(1) Written examinations covering the required classroom instructional materials will be prepared by the Board or its designated staff.

(2) A Department-certified instructor must administer the applicable written examination.

(3) The applicant must achieve a minimum of 80 percent correct answers on general test questions.

(4) A Department-certified instructor must review each incorrect test question with the applicant, explaining the principle behind the question, the correct answer and the basis for the correct answer. Oral responses of the applicant and the instructor's assessment of whether the applicant understands the underlying principles and the appropriate answer may cause the termination of training or indication on the Form PS-6 that the applicant has failed to successfully complete the required training. The instructor has the option of:

(a) Remediating the incorrect test responses (i.e., counting as correct the initially incorrect test answers) if the score is 50 to 99 percent correct; or

(b) Advising the applicant to repeat those portions of the training applicable to the missed questions and to retake the applicable sections of the written examination if the score is under 50 percent; or

(5) The Department-certified instructor must complete Form PS-6 affirming that the applicant's identity was confirmed and that the integrity of the examination process was maintained. No one other than the administering instructor may sign the Form PS-6 reflecting completion of training.

(6) The Department-certified instructor must fully complete, enclose and seal Form PS-6 in the approved tamper-proof bag and present the form(s) to the applicant to be sent to the Department along with Form PS-1 (Application for Licensure or Certification of Private Security Services Providers).

(7) Private Security managers and instructors will complete the written examination utilizing the management-specific training manual provided by the Department. The written examination will be taken to the four-hour orientation for grading by the Department's designee.

(8) The applicant may also elect to complete Form PS-7 (Private Security Instructor Evaluation) for submission to the Department together with the other application materials. The instructor has no authority to view this completed form, which will be used by the Department to evaluate performance.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST

3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0070

### 15-Hour Firearms Course and Marksmanship Qualifications

(1) The training requirements for certification as an armed private security professional are:

(a) Satisfactory completion of the training requirements set forth in OAR 259-060-0060;

(b) An additional 15 hours of instruction based upon a curriculum approved by the Board or its designated staff;

(c) Successful completion of an additional written examination, administered in accordance with OAR 259-060-0065, covering firearms instructional materials;

(d) A minimum marksmanship qualification score of 100 percent on a firearms qualification course and target approved by the Board or its designated staff.

(2) The firearms instructional course and marksmanship qualification must be administered by a certified private security or public safety firearms instructor (OAR 259-060-0135(3)). Only the administering instructor may complete the Form PS-6, and the form must be completed fully.

(3) It is the responsibility of the applicant to obtain a completed Form PS-6 sealed in an approved tamper-proof bag and to submit this sealed bag to the Department. The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(4) The Department or its designated staff may cause inspections of training methods or the instructors to be made pursuant to ORS 181.878(4)(b), 181.878(6), and OAR 259-060-0135(6).

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0075

### Four-Hour Assessment Module

(1) For purposes of these rules, the four-hour assessment module means a four-hour curriculum given to private security professionals that includes, but is not limited to, demonstration of task-related skills learned in the eight-hour basic curriculum instruction as applied to hypothetical situations, approved by the Board or its designated staff and administered by a Department-certified private security instructor. Managers will complete the four-hour orientation under the direction of the Department's designee, rather than a certified private security instructor.

(2) The required activities must include applicant completion of task-related skills based on classroom curriculum.

(3) It is the responsibility of the applicant to obtain a completed Form PS-6 and forward this to the Department. The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(4) It is not necessary for a prospective applicant to be employed as a private security provider to receive the eight-hour classroom training and four-hour assessment module.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

# ADMINISTRATIVE RULES

## 259-060-0080

### Annual and Biennial Refresher Courses of Instruction

(1) In addition to the training requirements set forth in OAR 259-060-0060, 259-060-0070 and 259-060-0075 four-hour unarmed refresher courses and manager orientations must be completed biennially, within the 90 days prior to the expiration date of the certificate or license. Armed refresher courses must be completed annually, within the 90 days prior to the anniversary date of the certificate.

(a) Persons certified as private security professionals, or licensed as executive or supervisory managers, must successfully complete a four-hour refresher course biennially based upon a curriculum approved by the Board or its designated staff within the 90 days prior to the expiration date of the certificate;

(b) Persons certified as armed private security professionals must successfully complete a refresher course annually based upon a curriculum approved by the Board or its designated staff; must requalify annually in firearms marksmanship as provided in OAR 259-060-0085; and shall complete biennially the four-hour unarmed refresher course, within the 90 days prior to the expiration date of the certificate.

(c) Persons certified as private security professionals or licensed as executive or supervisory managers must successfully complete a written examination based upon the content of the required refresher course(s) and administered in accordance with OAR 259-060-0065.

(2) The four-hour biennial unarmed refresher course must be administered by a Department-certified unarmed private security instructor, or a Department-certified private security firearms instructor who has completed the unarmed instruction orientation. Firearms instructors who complete the unarmed instructor training will not be assessed an additional certification fee for the unarmed instructor status. Refresher course instruction required of armed private security officers must be administered by a certified private security or public safety firearms instructor.

(3) It is the responsibility of the holder of the certificate or license to obtain a completed and sealed Form PS-6 and to forward the documentation to the Department. The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(4) The person taking the examination may also elect to complete Form PS-7 (Private Security Instructor Evaluation) for submission to the Department.

(5) The holder of the certificate or license must complete (as required) the biennial four-hour refresher course, submitting the Form PS-6 to DPSST not more than 90 days prior to the expiration date of the certification or licensure. The holder of an armed certificate must also complete the annual firearms instruction refresher course, written exam, and marksmanship qualification, submitting the Form PS-6 to DPSST not more than 90 days prior to the anniversary date of the certification.

(6) Failure to comply with the requirements of this rule may result in suspension or revocation of a certificate or license.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0085

### Annual Firearms Marksmanship Requalifications

(1) The annual firearms marksmanship requalification, required only of armed private security professionals, must be administered by a certified private security or public safety firearms instructor.

(2) The standards and safeguards shall be in conformity with those specified in OAR 259-060-0135(3)(b) and 259-060-0070.

(3) It is the responsibility of the holder of the certificate to obtain a completed and sealed Form PS-6 and to forward this sealed tamper-proof bag to the Department.

(4) The person seeking requalification must complete the annual firearms marksmanship requalification not more than 90 days prior to the anniversary date of the certificate.

(5) Failure to comply with the requirements of this rule will result in the suspension or revocation of the certification.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0090

### Challenge of Classroom Instruction

(1) Private Security Providers Training Challenge.

(a) A person may challenge the eight-hour basic classroom instruction component of the training requirement as described in OAR 259-060-0060 if the person:

(A) Has two or more years of experience in the field of law enforcement, military police or private security; or

(B) Has received any private security or law enforcement training.

(C) For purposes of these rules, private security includes alarm monitoring.

(b) The applicant will only be given one opportunity to challenge the mandated basic classroom instruction course by successfully completing the required written examination administered by a certified private security instructor in accordance with OAR 259-060-0065.

(A) The applicant must submit to the Department the original Form PS-6, sealed in the approved tamper-proof bag, and the completed application packet. The instructor must fully complete the form.

(B) Failure to obtain a passing score on the challenged examination will require attendance at the mandated basic classroom instruction course and successful completion of the examination.

(C) A person who successfully challenges the basic classroom instruction component of the training:

(i) Is required to successfully complete the four-hour assessment module; and

(ii) Must receive from the instructor a private security professional manual, that contains the curriculum of the basic classroom instruction component, to serve as a resource for the challenging applicant.

(2) This provision is intended to recognize formal education and work experience.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0095

### Training Records

(1) It is the sole responsibility of the applicant or holder of the license or certificate to maintain his or her training records. However, instructors must maintain their copies of students' Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results) for two years after the training date. Students are entitled to obtain a copy of the Form PS-6 from the instructor, at reasonable expense to the student, at any time during the life of the training.

(2) It is the sole responsibility of the applicant or holder of the license or certificate to submit the original Form PS-6 as specified in these rules. The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(3) Upon receipt of a properly completed Form PS-6, indicating training completed by a licensee or certificate holder, the Department's designated staff, will record the training records.

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

Stat. Auth.: ORS 181.875, 181.878, 181.880 & 181.883

Stats. Implemented: ORS 181.878 & 181.880

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

# ADMINISTRATIVE RULES

## 259-060-0115

### Restrictions on Vehicles; Restrictions on Description of Security Services and Providers

The Oregon Revised Statutes include restrictions that relate directly to the private security industry, such as criminal impersonation, criminal impersonation of a peace officer, copying or imitating the standard Oregon State Police uniform, knowingly falsifying any information pertinent to an application for private security certification, prohibited lighting on vehicles, misuse of the Oregon State Seal and providing security services as a professional without being certified to do so:

(1) Criminal impersonation of a peace officer = Class C felony, up to five years and \$100,000 fine;

(2) Criminal impersonation of a public servant = Class A misdemeanor, up to one year and \$5,000 fine;

(3) Copy or imitate standard OSP uniform = Class A misdemeanor, up to one year and \$5,000 fine;

(4) Knowingly falsify private security provider application = Class A misdemeanor, up to one year and \$5,000 fine;

(5) Misuse of the Oregon State Seal = civil penalty of up to \$500;

(6) Use of prohibited lighting equipment = Class C traffic violation; fines and assessments may vary.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; BPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0120

### Private Security Professional Certification

(1) Under ORS 181.873(1)(a), it is unlawful for a person to engage in the business of, or perform any service as, a private security professional, or to offer services in such capacity, unless the person has obtained certification as a professional, in accordance with these rules.

(a) A Department-licensed executive manager may temporarily assign a person who is not certified as required by these rules to perform private security services within this state for a period of time not to exceed 90 days if:

(A) The person is employed in another state;

(B) The person holds a private security professional certification or licensure from another state; and

(C) The certification or licensing standards of the other state meet or exceed the standards of this state.

(D) The intent of this provision is to allow a company to transfer its employees to this state for the purpose of temporary assignment.

(E) A Department-licensed executive manager must provide to DPSST a copy of the authorizing state's statutory requirements for private security professionals, demonstrating that the professional has undergone a criminal history fingerprint background check. Additionally, the executive manager must complete Form PS-9 (Private Security Waiver for Reciprocity), a triplicate form; the original must be mailed to the Department or its designated staff, one copy must be retained by the employer, and one copy must be retained by the employee. The employee copy of this form must be carried on the employee's person at all times while performing private security services in this state or while on duty. It must be presented to any law enforcement officer upon demand and must be displayed to any other person upon reasonable request.

(F) The reciprocity packet must bear a postmark on or before the first day the applicant performs private security services in this state.

(b) A Department-licensed executive manager may temporarily assign a person, whose application for certification as a private security professional is being processed, to perform private security services within this state for a period of time not to exceed 120 days under the following conditions:

(A) The applicant has completed all the requirements under this section (OAR 259-060-0120), including training;

(B) A Department-licensed manager has completed and signed the applicable portions of Form PS-20 (Private Security Temporary Work Permit), affirming the above requirements have been met;

(C) The Department-licensed executive manager or supervisory manager has attached the original of Form PS-20 to Form PS-1 (Application for Licensure or Certification of Private Security Services Provider); and

(D) The Department-licensed manager has mailed to the Department each of the items in this section, [Form PS-1 (Application for Licensure or Certification), Form PS-4 (Affidavit of Person Rolling Prints) and finger-

print cards, Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results) and applicable fees] as a complete packet. Form PS-4 is a sworn statement and must be sealed in a tamper-proof bag, along with the fingerprint cards, by the person rolling the prints; Form PS-6 is a sworn statement, and must be sealed in a tamper-proof bag by the issuing instructor. The application packet must bear a postmark on or before the first day the applicant performs private security services. Form PS-27 (Private Security Code of Ethics) is for the use of the applicant.

(E) If an applicant has not completed each step of the application process, including training, the applicant can not perform unsupervised private security services. Such persons may only provide private security services under the direct supervision of a certified private security professional, licensed executive or supervisory manager. The person being monitored can not make decisions regarding any course of action independent of the person providing the direct supervision. The duration for direct supervision for an applicant is no more than 21 consecutive calendar days, during which time the applicant must be under the uninterrupted presence of a certified private security professional.

(F) The intent of the Form PS-20 provision is to allow a company to employ and deploy a private security professional or manager, while the application for certification or licensure is being processed. A temporary work permit will not be issued for armed private security professionals.

(G) The Form PS-20 will last no longer than 120 days and, in any event, shall end upon written notice from the Department to the applicant that the permit has been administratively terminated under subsection (1)(b)(H) of this rule.

(H) Upon written notice from the Department to the applicant and the manager who signed the Form PS-20, the permit and authority to provide private security services may be administratively terminated for the following reasons:

(i) The Department has reason to believe that a person with the applicant's name and birth date has been convicted of a disqualifying crime listed in OAR 259-060-0020.

(ii) The application is incomplete or the Department has been unable to verify application information to its satisfaction due to non-response or non-compliance of the applicant.

(iii) Applicant has violated any private security administrative rule or condition imposed by Form PS-20. Applicants who provide false information in their application, contrary to their sworn oath, will be disqualified from reapplying for a period of 10 years.

(iv) The fingerprint cards of applicant have been rejected under subsection 5(b) of this rule.

(I) Upon notification from the Department that the Form PS-20 has been administratively terminated because of a deficiency in application, the manager who signed the permit must notify the applicant that he or she may not perform private security services. A new application with corrected deficiencies must be filed, along with a new certification fee, prior to the applicant resuming duties. This provision does not apply to terminations based upon criminal conviction disqualification.

(J) The termination of the Form PS-20 due to a criminal conviction disqualification is subject to the contested case hearing procedures set forth in OAR 259-060-0300.

(c) The Department or its designated staff may administratively terminate the application process if the Department is unable to complete the certification process due to non-response or non-compliance of the applicant after exhausting the following efforts:

(A) A letter will be mailed by the Department to the applicant, and the last known employer of the applicant, identifying the deficiencies in the Form PS-1, or the rejection of the fingerprint cards of applicant.

(B) The applicant and any manager supervising the applicant will have 21 calendar days from the date of mailing to bring the applicant into compliance and to notify the Department that the deficiencies are corrected. The Department may, in its discretion, elect to extend the time for compliance upon good cause shown by the applicant or its manager.

(C) If the Department is unable to determine a current address for the applicant, or if the applicant or manager does not respond and correct the deficiencies within 21 calendar days, or such additional time authorized by the Department, the Department will list the applicant's status as "administratively terminated." The Department will notify the applicant at his or her last known address, and notify the last known employer of the applicant, that the Department has administratively terminated the application process.

(D) Once the application process has been administratively terminated, the applicant will be required to submit a new Form PS-1, with another certification fee. An applicant whose application process has been adminis-



# ADMINISTRATIVE RULES

tratively terminated is not eligible to perform private security services until a new, complete application and fees are submitted to the Department, along with a Form PS-6 providing proof of new basic training.

(2) The requirements for certification as an unarmed private security professional are as follows:

(a) Compliance with the minimum standards for certification under OAR 259-060-0020;

(b) Successful completion of the mandatory eight-hour basic classroom instruction required under OAR 259-060-0060, including successful completion of the written examination;

(c) Successful completion of the mandatory four-hour assessment module required under OAR 259-060-0075; and

(d) Submission to the Department of the completed application packet as required under Sub (5) of this rule, together with the appropriate fees.

(3) The requirements for certification as an armed private security professional are as follows:

(a) Compliance with the minimum standards for certification under OAR 259-060-0020;

(b) Successful completion of the mandatory eight-hour basic classroom instruction required under OAR 259-060-0060, including successful completion of the written examination;

(c) Successful completion of the mandatory four-hour assessment module required under OAR 259-060-0075;

(d) Successful completion of the mandatory 15-hour firearms course and marksmanship qualification required under OAR 259-060-0070, including successful completion of the written examination and satisfaction of marksmanship requirements; and

(e) Submission to the Department of the completed application packet as required under (5) of this rule, together with the appropriate fees.

(4) A certified private security provider or applicant must carry the certificate or Form PS-20 on his or her person at all times while performing security services or while on duty. The certificate or Form PS-20 must be presented to any law enforcement officer upon demand, and must be displayed to any other person upon reasonable request. A temporary work permit will not be issued for instructors or armed private security professionals.

(5) The application packet for certification as a private security provider must include:

(a) A completed Form PS-1, including a sworn affidavit attesting to the truth and correctness of the information provided by the applicant, and acknowledging the Department's right to terminate a temporary work permit. Falsification of this application can result in a denial of certification for up to ten years, as well as pursuit of criminal charges.

(b) A completed fingerprint packet. The Department will accept fingerprint cards correctly rolled and completed by private security or public safety personnel trained to roll fingerprints, or a person who is employed and trained by a private business that provides fingerprinting services. These fingerprint cards must be submitted on the pre-printed FBI fingerprint cards supplied by the Department, and must be sealed in a tamper-proof bag by the person rolling the prints. A fee will be charged for the third submittal of fingerprint cards if rejected twice by the Federal Bureau of Investigation;

(A) A fingerprint packet must include two fingerprint cards, and a Form PS-4. The person rolling the fingerprints must complete Form PS-4, enclose the two completed fingerprint cards and the Form PS-4 in the tamper-proof bag, seal it, and return it to the applicant.

(B) When the fees, application and completed fingerprint packet are received, the Department will assign a Private Security Identification number to the applicant, record that number on the fingerprint cards and forward the fingerprint cards to Oregon State Police. The Oregon State Police will process one set of the prints and send the other set of prints to the Federal Bureau of Investigation (FBI) for processing;

(C) The applicant's fingerprints will be retained and kept on file by the Oregon State Police Identification Services Section;

(D) The Oregon State Police Identification Services Section will notify the Department or its designated staff of any criminal record disclosed through processing the applicant's fingerprint cards; and

(E) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department will comply with the most current requirements.

(c) The original Form PS-6 sealed by the instructor in the approved tamper-proof bag;

(d) A completed Form PS-7 (Private Security Instructor Evaluation) (optional);

(e) The original of completed Form PS-20 (if employed).

(6) The applicant must submit the nonrefundable certification fee (including the fingerprint processing fee) to the Department or its designated staff, along with the application packet. The application will be rejected unless the certification fee is paid by business check, money order or cashier's check. No personal checks, credit cards or cash will be accepted.

(7) The completed application packet must be mailed to the Department or its designated staff prior to the applicant performing any private security services.

(8) Renewal of certification must occur every two years subject to the following conditions:

(a) The certificate holder must, within the 90-day period prior to certificate expiration, obtain refresher training as provided for in OAR 259-060-0080, submit the Form PS-6, required fees and a completed Form PS-21 (Renewal of Private Security Licensure or Certification). A copy of the Form PS-21 must be carried on the provider's person, while performing private security duties, until a new certificate is received.

(b) The provider must submit the nonrefundable renewal fee to the Department or its designated staff. The renewal application will be rejected unless the renewal fee is paid by business check, money order or cashier's check. No personal checks, credit cards or cash will be accepted.

(c) The renewal documents must be received by the Department not more than 90 days prior to the anniversary date of the certification or licensure to allow for processing of the forms and criminal history check. The background check may determine convictions or other conditions under OAR 259-060-0020 that would disqualify the provider.

(d) Failure to comply with renewal requirements will result in the expiration of certificate or license.

(A) Persons reapplying within 90 days of expiration must complete the Form PS-21, and shall submit the certification fee.

(B) Persons reapplying after 90 days of expiration must complete the Form PS-21 (Application for Licensure or Certification), and must submit the certification fees, plus a \$25.00 late submission penalty fee.

(C) Persons continuing to provide private security services, after the certification has expired will be subject to penalties as provided for in ORS 181.991.

(9) Any private security provider who is arrested or charged criminally must notify the provider's employer and the Department of that fact not later than 48 hours after the arrest or charge is filed. Any employer who knows that an employee has been arrested or charged with a crime must notify the Department of that fact not later than 48 hours after the employer acquired knowledge. The initial notification may be by telephone, but must be immediately followed by written notification. The notification must include the specific charges, the county and state where any charges are pending, the investigating agency, and the date of the arrest. Failure to notify the Department may result in suspension of the arrested person's certification or licensure.

(10) The applicant or private security provider must notify the Department or its designated staff within 14 calendar days of any change of address by using Form PS-23 (Private Security Services Provider Change of Information). Executive managers may use the form to advise the Department of the termination of employment, or provide their own list. Under ORS 305.385, a summary of all private security providers and applicants is provided annually to the Oregon Department of Revenue, including name, address and Social Security number.

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

Stat. Auth.: ORS 181.873 - 181.878 & 181.883 - 181.885

Stats. Implemented: ORS 181.873 - 181.878 & 181.883 - 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 3-2005(Temp), f. 4-25-05, cert. ef. 5-1-05 thru 10-28-05; DPSST 9-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0130

### Licensing of Executive and Supervisory Manager

(1) Under ORS 181.873(1)(b), it is unlawful for a person to engage in the business of, executive or supervisory manager, or to offer services in such capacities, unless the person has obtained a license in accordance with these rules.

(2) Each business, employer, or entity with a private security professional staff of at least one person must designate one employee who performs the duties of an "Executive Manager", as described in these rules, to obtain an Executive Manager license. An employer may obtain licensure for more than one executive manager. Any person who has responsibility

# ADMINISTRATIVE RULES

and authority in supervising persons providing security services, who has not been licensed as an Executive Manager, must obtain a Supervisory Manager license. This provision applies to any business, employer or entity that provides private security services within this state, regardless of whether the business, employer or entity is located in or out of this state.

(a) In the event contract private security services are utilized, and the business or entity is not itself engaged in providing private security services, or engaging employees in private security services, there is no requirement for that business or entity to obtain a license under these rules.

(b) Issuance of an executive manager or supervisory manager license requires that the applicant meet the qualifications set forth in OAR 259-060-0020. This license authorizes the holder to distribute temporary work permits to private security professionals. A temporary work permit will not be issued for armed private security applicants. The executive manager or supervisory manager must review each application for completeness and criminal history, prior to mailing. DPSST must deny certification for applicants with certain convictions, as outlined in OAR 259-060-0020. Fees are not refundable.

(3) The requirements for licensing as an executive manager or supervisory manager are as follows:

(a) Compliance with the minimum standards for licensing under OAR 259-060-0020;

(b) Successful completion of training required under OAR 259-060-0060, including successful completion of the written examination and orientation under OAR 259-060-0065, and 259-060-0075. The training orientation specific to managers is required; and

(c) Submission to the Department of the completed application packet as required under subsection (6) of this rule, together with the appropriate fees. Because the manager training is completed through self-study, the training manual must be mailed to the manager by the Department upon receipt of the Form PS-1 (Application for Licensure or Certification of Private Security Providers), the fingerprint packet and the appropriate fees. To complete the application process, the manager must complete the written examination and attend the mandated manager orientation. Licensure as a manager does not allow the manager to provide private security services as a professional; the appropriate training course must be completed in order to do so.

(4) The application packet for licensure as an executive manager or supervisory manager must include:

(a) A completed Form PS-1 (Application for Licensure or Certification of Private Security Services Providers);

(b) A completed Form PS-4 (Affidavit of Person Rolling Fingerprints) and fingerprint cards, sealed in a tamper-proof bag;

(c) A completed Form PS-20 (Temporary Work Permit), if the manager-designate qualifies for pre-training employment under the provisions of sub-section (11) in this rule.

(5) The applicant must submit the nonrefundable applicable fee to the Department or its designated staff, along with the application packet. The application will be rejected unless the fee is paid by business check, money order or cashier's check. No personal checks, credit cards or cash will be accepted.

(6) The completed application packet must be mailed to the Department prior to the performance by the applicant of any services as an executive manager or supervisory manager.

(7) Renewal of licensure must occur every two years subject to the following conditions:

(a) The license holder must complete and submit Form PS-21 (Renewal of Private Security Licensure or Certification). Completion of a biennial four-hour refresher course is required under OAR 259-060-0080(1)(a).

(b) The applicant must submit the nonrefundable renewal fee to the Department or its designated staff. The renewal application will be rejected unless the renewal fee is paid by business check, money order or cashier's check. No personal checks, credit cards or cash will be accepted.

(c) The renewal documents must be received by the Department not more than 90 days prior to the expiration of the current license.

(d) Failure to comply with renewal requirements will result in the expiration of the license as provided for in OAR 259-060-0120(8)(d). Managers with expired licensure are not eligible to perform security services until a new, complete application and fees are submitted to the Department, along with a \$25.00 late submission penalty fee. New manager orientation training will also be required.

(8) During the two-year certification period, in the event of a staff change of executive manager(s) or supervisory manager(s), the company or entity must select a replacement manager, and must cause that person to

apply for licensure as an Executive Manager or Supervisory Manager, as required. The company or entity must immediately notify the Department of the staff change on Form PS-23 (Change of Information). The new manager must complete a four-hour management orientation.

(9) A licensed manager who performs private security services must complete the full training required for that classification and be certified.

(10) An applicant or person may hold a temporary work permit as an executive manager or supervisory manager for up to 120 days under the following conditions:

(A) A company or entity has newly established a private security services workforce over whom the person will command, or an existing licensed executive or supervisory manager is suddenly unable to perform such duties due to death, termination or other unexpected circumstance.

(b) The person seeking a temporary work permit as an executive manager or supervisory manager holds at least one of the following qualifications:

(A) Certified in this state as a private security professional; or

(B) Holds a management position that, in the chain of supervision, is equal to, or higher than, the vacated licensed position.

(c) A Form PS-20 (Private Security Services Provider Temporary Work Permit) must be completed and forwarded to the Department or its designated staff prior to performing any duties as an executive manager or supervisory manager relating to providing security services in this state, and is subject to the conditions found under OAR 259-060-0120(1)(b)(G)-(J).

(d) If the person seeking a temporary work permit as an executive manager or supervisory manager has not completed each step of the application process, the person may not have oversight responsibilities for private security services or staff, and the business or entity may not provide private security services.

(e) The intent of the Form PS-20 provision is to allow a business or entity to employ an executive manager or supervisory manager to provide private security services while the recruitment is in process.

(f) An executive manager or supervisory manager may also be temporarily assigned to provide private security services under the provisions of OAR 259-060-0120(1)(a).

(11) The Department or its designated staff may administratively terminate the application process as provided for in OAR 259-060-0120(1)(c)(A)-(D).

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

Stat. Auth.: ORS 181.873 - 181.878 & 181.883 - 181.885

Stats. Implemented: ORS 181.873 - 181.878 & 181.883 - 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0135

### Certification of Private Security Instructors

(1) The Department or its designated staff must certify instructors deemed qualified to teach in any required private security professional training courses.

(2) Certified Private Security Instructor

(a) The minimum requirements for certification as an instructor are as follows:

(A) Compliance with the minimum standards for certification under OAR 259-060-0020;

(B) Successful completion of training and examination required under OAR 259-060-0060, 0065 and 0075;

(C) High school diploma or GED;

(D) Minimum of three years work experience in the private security services, military, or law enforcement fields; and

(E) Compliance with the age requirements under the Private Security Service Providers Act;

(b) A certified instructor is authorized to:

(A) Provide the eight-hour "basic" instruction based on the approved course content and materials provided by the Department or its designated staff as specified in OAR 259-060-0060;

(B) Provide the four-hour assessment module based on the approved private security professional course content, materials and assessment criteria provided by the Department or its designated staff as specified in OAR 259-060-0075;

(C) Provide the four-hour biennial refresher training and testing based on the approved private security professional course content and materials

# ADMINISTRATIVE RULES

provided by the Department or its designated staff as specified in OAR 259-060-0080; and

(D) Administer the applicable written examination(s) as specified in OAR 259-060-0065.

(c) The certified instructor must conduct all instruction, training and testing required by the Department in accordance with these rules. The instructor must provide to the applicant the fully-completed original Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results), sealed in a tamper-proof bag, if the applicant successfully completes all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(3) Certified Private Security Firearms Instructor

(a) The minimum requirements for certification as a private security firearms instructor are as follows:

(A) Compliance with the minimum standards for certification under OAR 259-060-0020;

(B) Successful completion of training required under OAR 259-060-0060 and 259-060-0075, including the successful completion of the written examination and orientation required under OAR 259-060-0065;

(C) Compliance with the firearms restriction requirements of OAR 259-060-0020(5); and

(D) Hold one or more of the following:

(i) A current certification through the National Rifle Association Law Enforcement Firearms Instructor Development School;

(ii) A current certification as a firearms instructor through the Federal Law Enforcement Training Center;

(iii) A current certification from a Department-certified law enforcement or criminal justice firearms instructor course;

(iv) A current certification as a firearms instructor through the Federal Bureau of Investigation; or

(v) A current certification as a private security firearms instructor through the Washington Criminal Justice Training Center.

(b) A certified private security firearms instructor is authorized to:

(A) Provide firearms instruction based upon curriculum approved by the Board, and administer firearms marksmanship qualifications as provided by the Department, or its designated staff, as specified in OAR 259-060-0070;

(B) Provide the annual firearms classroom instruction and firearms requalification as specified in OAR 259-060-0085;

(C) Administer required armed written examination as specified in OAR 259-060-0065; and

(D) Terminate the firearms instruction or firearms marksmanship qualification if, in the instructor's opinion, the applicant is unfit to proceed, taking into consideration the applicant's poor judgment, unsafe practices, abnormal behavior, or other relevant factors. The instructor must immediately notify the applicant of the reason for termination of training and must also notify the Department or its designated staff within 48 hours in writing, using Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results).

(c) A certified private security firearms instructor must conduct all instruction, training, qualification and testing required by the Department in accordance with these rules. Only the certified instructor who conducts the training will sign the Form PS-6. The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(4) Applications for instructor certification must be submitted on Form PS-1 (Application for Licensure or Certification of Private Security Services Provider), and must be accompanied by fees, a detailed resume of the applicant's qualifications, including a copy of a firearms instructor certificate (if applicable), and a fingerprint packet completed and sealed in compliance with OAR 259-060-0120(5)(b).

(5) If instructor certification is denied, the requesting applicant must be notified in writing and advised of the reasons for denial.

(6) Review of instructor certification may be initiated upon the request of a private security provider, the Department or its designee, or other reliable source.

(7)(a) Instructor certification is valid for two years. The certification will be renewed upon payment of a nonrefundable renewal fee and proof of at least four hours of refresher course-work relating to any of the specific subjects being taught or generally improving instructor skills. An instructor

may elect to provide proof of private security classes taught within the past year by submitting a Form PS-8 (Private Security Instructor Proof of Skills Improvement).

(b) Failure to comply with renewal requirements shall result in the expiration of certification. Reapplication after expiration can be conducted as provided for in OAR 259-060-0120(8)(d).

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0150

### Process for Adding Licenses or Certificates

Applicants seeking to add a license or upgrade to an armed private security professional will be charged an administrative fee, as provided for in OAR 259-060-0500. A criminal history check must be conducted on each applicant and certain criteria must be met by the applicant. The expiration date of the certificate or license remains the same; armed applicants may wish to pay the full fee for an armed certification to obtain a full two years on their new armed certificate. To add a license or certificate, the applicant must:

(1) Submit a completed Form PS-1 (Application for Licensure or Certification of Private Security Services Provider) to the Department with the specific request marked, together with the nonrefundable fee; and

(2) Meet the following criteria:

(a) To change a private security professional certification from unarmed to armed, the applicant must obtain armed training from a certified private security or public safety firearms instructor; then submit a completed Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results), sealed in an approved tamper-proof bag, together with the required fee and a completed Form PS-23 (Change of Information). A copy of the Form PS-23 must be carried on the person while performing armed private security services, until a new certificate is received. Because the unarmed training is a prerequisite to the armed certification, it is not necessary for an armed applicant to apply for or hold both certificates.

(b) To add a private security instructor certification, the applicant must submit proof of qualifications as specified in OAR 259-060-0135(2)(a), together with updated personal information, completion of the DPSST instructor orientation and the required fee. Certified private security firearms instructors may add this certification without charge by completing the DPSST instructor orientation.

(c) To add an armed private security instructor certification, the applicant shall submit proof of qualifications as specified in OAR 259-060-0135(3)(a), together with updated personal information, completion of the DPSST armed instructor orientation and the required fee.

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

Stat. Auth.: ORS 181.878 & 181.880

Stats. Implemented: ORS 181.873, 181.875, 181.878 & 181.880

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0300

### Denial/Suspension/Revocation

(1) Grounds for Denying, Suspending or Revoking the Certificate of a Private Security provider; Process for Requesting Board Waiver:

(a) The Department may suspend, revoke or deny a license or certificate after written notice, and a hearing, if requested, based upon a finding that:

(A) The applicant or holder of the certificate or license falsified any information submitted on the application for certification or licensing or on any documents submitted to the Department or falsified any documents pertaining to Private Security certification or licensing;

(B) The license holder or applicant for licensure has violated the temporary assignment provisions of OAR 259-060-0120(1);

(C) The applicant or holder of the certificate or license has failed to timely submit properly completed forms, documentation or fees required under these rules;



## ADMINISTRATIVE RULES

(D) The applicant or holder of the certificate or license has violated the provisions of the Private Security Service Providers Act or these administrative rules or has failed to perform any acts required by these rules.

(b) The Department must revoke or deny a license or certificate after written notice and a hearing, if requested, based upon a finding that:

(A) The applicant or holder of the license or certificate at any time fails to meet the criminal history requirements of OAR 259-060-0020(4);

(B) The holder of an armed security officer or firearms instructor certificate, or an applicant for such a certificate, fails to meet the minimum qualifications and requirements set forth in OAR 259-060-0020(5);

(C) The holder of an armed private security professional or firearms instructor certificate, or an applicant for such a certificate, suffers any disqualification, condition or circumstance which, under federal law or the law of this state, would disqualify the person from owning, possessing or purchasing a firearm; or

(c) Pursuant to OAR 259-060-0300(2)(f), the Department may suspend a license or certificate based upon a finding that:

(A) The holder of the certificate or license has been arrested for or charged with any crime listed in OAR 259-060-0020(4);

(B) The holder of the certificate or license has failed to successfully complete or timely report the annual or biennial refresher training and examination(s) required in OAR 259-060-0080; or

(C) The holder of the armed private security professional certification has failed to successfully complete or timely report the annual firearms marksmanship requalification required under OAR 259-060-0085.

(2) Denial, Suspension and Revocation Procedure:

(a) Employer Request: When the employer of the private security provider requests that the person's certification or licensure be denied, suspended or revoked, the request must be submitted in writing to the Department or its designated staff, stating the reason for the requested suspension, revocation or denial and all factual information supporting the request.

(b) Department Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.878, the Department or its designated staff may request that the person's certification or licensure be suspended, revoked or denied.

(c) Department Staff Review: The Department or its designated staff will review the request and the supporting factual information to determine if the request for suspension, revocation or denial meets statutory and administrative rule requirements. If the reason for the request does not meet the statutory and administrative rule requirements for suspension, revocation or denial, the Department's designated staff shall so notify the requestor. If the reason for the suspension, revocation or denial meets statutory and administrative rule requirements, but is not supported by adequate factual information, the Department or its designated staff will request further information or conduct its own investigation of the matter.

(d) Initiation of Proceedings: The Department's designated staff will determine if the reason for suspension, revocation or denial and supporting factual data meet the statutory and administrative rule requirements and so advise the Department or its designated committee.

(e) Contested Case Notice: The Department or its designated staff will prepare a "Contested Case Notice" in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department or its designated staff must serve a copy of the "Notice" on the person whose certification or licensure is being affected.

(f) Emergency Suspension Order: Notwithstanding subsection (e), the Department may immediately suspend a person upon a report that a person has been arrested for, or charged with, any crime listed in OAR 259-060-0020(4). The report may be received in any form and from any source.

(g) An Emergency Suspension Order must be in writing. The order may be issued without prior notice to the individual and without a prior opportunity for a contested case hearing. An Emergency Suspension Order must:

(A) Generally describe the acts of the person and any circumstances that would be grounds for an Emergency Suspension Order under this rule; and

(B) Identify the person at the Department whom the individual may contact and who is authorized to make recommendations regarding issuance of the order.

(h) When the Department issues an Emergency Suspension Order, it must be served on the individual either personally or by registered or certified mail and must contain the following information:

(A) The effective date of the Emergency Suspension Order;

(B) A statement of findings detailing the specific acts or omissions of the person that violate applicable laws or rules and which serve as the grounds for revocation or suspension;

(C) A reference to the sections of the statutes and rules involved;

(D) A statement indicating the individual has the right to request a hearing to contest the Emergency Suspension Order;

(E) A statement indicating the individual will have waived their right to a hearing regarding the Emergency Suspension Order if the request for a hearing is not received by the Department within 20 calendar days of the date of notice of the Emergency Suspension Order; and

(F) A statement indicating a hearing will be held as soon as is prudent and practicable if a timely request for a hearing is received.

(i) If the individual submits a timely request for a hearing, the Department will hold a hearing on the Emergency Suspension Order as soon as is prudent and practicable.

(A) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license or certificate.

(B) The sole purpose of the hearing will be to determine whether the individual was charged with or arrested for a crime listed in OAR 259-060-0020(4). Upon a showing that an individual was not charged with or arrested for a crime in OAR 259-060-0020(4), the suspension of the individual's certificate or license will be immediately lifted; otherwise, the suspension will remain in effect until final disposition of the charges or arrest.

(j) Response Time:

(A) Revocation or Denial: If the Department is seeking revocation or denial of a license or certificate, a party who has been served with the "Contested Case Notice" must submit a written request for a hearing to the Department within 60 calendar days from the date of mailing or personal service of the notice.

(B) Suspension: If the Department is seeking suspension of a license or certificate, a party who has been served with an Emergency Suspension Order must submit a written request for a hearing to the Department within 20 calendar days from the date of mailing or personal service of the notice. The Department may extend the time allowed for submission of the written request for a hearing for up to 30 calendar days upon request.

(k) Default Order: If a timely request for a hearing is not received by the Department, the Contested Case Notice or Emergency Suspension Order will become a final order revoking, suspending or denying certification pursuant to OAR 137-003-0075(5).

(l) When the Department revokes a certification or denies an applicant's license or certificate, an individual is ineligible to reapply for future certification or licensure for a period of four (4) years from the date of final Department action or order. Any applicant reapplying for certification or licensure must reapply in accordance with the provisions of the Private Security Service Act.

(m) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0075(5).

(n) Waiver Request: It is the responsibility of the Board to set the standards, and of the Department to uphold them in such a manner so as to ensure the highest levels of professionalism and discipline. Those standards must be upheld at all times, unless there is a specific finding of substantial and compelling reason that demonstrates that neither the safety of the public nor the respect of the profession will be compromised by a waiver. Certain criminal convictions will not qualify for waiver request, as identified in OAR 259-060-0020(4). In the event that a waiver of denial, suspension or revocation is granted, the Board's decision must be in writing. The waiver request will suspend timelines for a contested case hearing until an order granting or denying the waiver has been issued. The waiver process applies only to the petitioners who have been certified and licensed under the Private Security Service Providers Act of 1995 on or before October 23, 1999.

(A) The Policy Committee may consider limited waivers to the Department's notice of intent to deny, suspend or revoke certification or licensure, and forward a recommendation to the Board, based upon:

(i) The petitioner having been licensed or certified under the Private Security Service Providers Act of 1995 on or before October 23, 1999;

(ii) The length of time that has elapsed between petitioner's disqualifying conviction and application to the Department is substantial and in the case of a lifetime disqualifier, the length of time exceeds 20 years;

(iii) Letters of reference attesting to good moral and ethical fitness;

(iv) The petitioner's age at the time of the conviction;

(v) Absence of other criminal convictions; and

# ADMINISTRATIVE RULES

(vi) A written explanation of any substantial or compelling reasons, including but not limited to mitigating circumstances of the arrest.

(B) It is the responsibility of the petitioner to request a waiver within 20 calendar days of the Department's notice of denial or revocation.

(C) It is the responsibility of the petitioner to present to the Policy Committee all information relative to the request for waiver, in writing, not less than 15 days prior to the next regularly scheduled Policy Committee meeting. The Policy Committee will make its recommendation to the Board, following review of those documents.

Stat. Auth.: ORS 181.878, 181.882 & 181.885

Stats. Implemented: ORS 181.878 & 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04; DPSST 5-2005(Temp), f. & cert. ef. 8-3-05 thru 1-1-06; DPSST 10-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0305

### Agency Representative in Contested Case Hearings

(1) Subject to the approval of the Attorney General, an officer or employee of this agency is authorized to appear on behalf of the agency in all contested case hearings conducted by this agency.

(2) The agency representative may not make legal argument on behalf of the agency.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(C) The application of court precedent to the facts of the particular contested case hearing;

(b) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the facts to the statutes or rules directly applicable to the issues 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; and

(D) The admissibility of evidence or the correctness of procedures being followed.

(3) When an agency officer or employee represents the agency, the presiding officer will advise each representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer will provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878, 183.341 & 183.457

Hist.: BPSST 3-2000, f. & cert. ef. 8-10-00; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0450

### Compliance

(1) The Department or its designated staff may cause inspections of records and procedures of private security providers, relating to the minimum employment standards and training standards that are mandated by the Private Security Service Providers Act, as well as those records and procedures which are under the purview of OAR 259-060-00005 to 259-060-0500, in order to verify adherence to and compliance with any applicable rule or statute.

(2) The Department or its designated staff may cause any administrative proceeding or court action to be initiated to enforce compliance with the provisions of the Private Security Service Providers Act, and the administrative rules promulgated thereunder.

(3) Scope and authority. Application of a civil penalty includes, but is not limited to, the violations set out in sub-section (5) of this rule.

(a) This rule sets guidelines for civil penalties for violations of the private security laws under ORS 181.870–181.991, and the administrative rules under chapter 259, division 60;

(b) This rule is authorized by ORS 181.870–181.991 and carries out ORS 181.991.

(4) Definitions. For the purposes of this rule:

(a) "Flagrant violation" is:

(A) An act by a provider, contractor, owner or manager who, after being notified of a violation, intentionally continues it;

(b) "Penalty order" is the entry of an administrative order, either:

(A) Assessing a penalty; or

(B) Finding a violation, regardless of whether a penalty is assessed.

(c) "Subsequent violation" is a repeat violation of any statute or rule within a 36-month period following any order for the same violation.

(5) Civil penalty amounts. For non-flagrant violations,

(a) A penalty of no less than \$250 for the first violation and \$500 for subsequent violations will be charged for each of the following:

(A) Failure by a private security professional to complete training, apply for certification or obtain a temporary work permit, prior to providing private security services;

(B) Falsification of DPSST-submitted documents by a private security professional;

(C) Failure of a private security professional to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security professional to report his or her own arrest.

(b) A penalty of no less than \$500 for the first violation and \$750 for subsequent violations will be charged for each of the following:

(A) Failure by an armed private security professional to complete training or apply for certification prior to providing private security services;

(B) Falsification of DPSST-submitted documents by an armed private security professional;

(C) Failure of an armed private security professional to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of an armed private security professional to report his or her own arrest

(c) A penalty of no less than \$500 for the first violation and \$750 for subsequent violations will be charged for each of the following:

(A) Failure by a private security instructor to complete training or apply for certification, prior to providing private security training;

(B) Falsification of DPSST-submitted documents by a private security instructor;

(C) Failure of a private security instructor to cease providing private security training upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security instructor to report his or her own arrest;

(E) Failure of a private security instructor to instruct the full DPSST-certified curriculum.

(d) A penalty of no less than \$750 for the first violation and \$1,000 for subsequent violations will be charged for each of the following:

(A) Failure by a private security firearms instructor to complete training or apply for certification, prior to providing private security training;

(B) Falsification of DPSST-submitted documents by a private security firearms instructor;

(C) Failure of a private security firearms instructor to cease providing private security training upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security firearms instructor to report his or her own arrest;

(E) Failure of a private security firearms instructor to instruct the full DPSST-certified curriculum as required by ORS 181.883.

(e) A penalty of no less than \$1,000 for the first violation and \$1,500 for subsequent violations will be charged for each of the following:

(A) Failure by an executive or supervisory manager to complete training or apply for certification, prior to providing private security services, except as provided for in OAR 259-060-0130(11);

(B) Falsification of DPSST-submitted documents by an executive or supervisory manager;

(C) Failure of an executive or supervisory manager to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of an executive or supervisory manager to report his or her own arrest, or the known arrest of an employed private security services provider;

(E) Failure of an executive or supervisory manager to terminate the employment of a private security services provider or applicant whose

# ADMINISTRATIVE RULES

application has been terminated, or whose certificate has been suspended, denied or revoked, upon notice from the Department to do so.

(F) The employment of private security providers who have not completed the training and application process required under the Private Security Service Providers Act.

## (6) Procedures.

(a) Except as provided in section (8) of this rule, staff will forward a case report of the designated failure to comply and subsequent recommendation of civil penalty for review by the Policy Committee, which in turn, will forward its recommendation to the Board for final dispensation.

(b) Written notice of the violation of administrative rule or statute shall be served upon the licensee or certificate holder by certified and regular mail, with an opportunity for the licensee or certificate holder to remedy the violation within 14 days of the mailing of the notice, except for providers who have falsified the criminal history section of an application;

(c) Civil penalties may be lowered from the amount set in this rule, waived where further mitigation is warranted, or resolved by stipulation as provided in section (8) of this rule. Providers who remedy the stated violation and come into compliance without hearing may be assessed half of the penalty provided for in this rule.

## (7) Options.

(a) If civil penalties are sought under ORS 181.991 for a continuing flagrant violation of the private security laws or rules, staff will seek, and the committee will recommend to the Board on Public Safety Standards and Training, the assessment of \$1,500 per occurrence.

(b) If judicial review of any application of a penalty under this section is requested under ORS 183.480:

(A) No civil penalty will be sought or assessed for the alleged violation until after the review has been completed and the assessment upheld;

(B) Notwithstanding a request for judicial review, civil penalties can be brought or assessed for failure to comply with other laws or rules that do not involve the matter under review;

(C) The obligation to advise the Department of a judicial review request is on the person charged or about to be charged for the violation.

## (8) Resolution by stipulation.

(a) Department staff is authorized to seek resolution by stipulation, subject to acceptance and approval by the Board or Director, if:

(A) The matter is resolved before entry of an order assessing penalty;

(B) The respondent corrects or proceeds to correct all deficiencies itemized by Department staff within the time allowed; and

(C) The penalty amount agreed to is tendered in certified check, bank draft, cashier's check or postal money order, along with the stipulation.

(b) A stipulation will not be accepted for less than the guideline provided for in this rule if the violation is for failure to obtain a required certificate or license, and such is not obtained as part of the resolution.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0500

### License Fees

Payments to the Department are non-refundable, and must be paid by business check, money order or cashier's check. No personal checks, credit cards or cash will be accepted. The Department will charge the following fees:

(1) The fee of \$50 for the issuance of each two-year certification as a private security professional.

(2) Appropriate fees must be submitted with each application for a fingerprint criminal history check. These fees are to recover the costs administering the fingerprint check through the Oregon State Police and Federal Bureau of Investigation. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by FBI. Current fee schedules for processing fingerprints may be obtained from the Department.

(3) The fee of \$50 for the issuance of a two-year license as a supervisory manager.

(4) The fee of \$250 for the issuance of a two-year license as an executive manager.

(5) The fee of \$80 for the issuance of a two-year certification as a private security instructor.

(6) The fee of \$20 for the issuance of each upgrade, duplicate or replacement card issued.

(7) The late submission penalty fee of \$25 may be added to the fees for recertification if the provider fails to complete certification by the expiration date of the license or certificate. If an applicant provides documented proof, such as payroll data, that he or she has not been employed to provide private security services since the prior certification or licensure expired, the late penalty may be waived by the Department's designated staff.

(8) In the event a non-sufficient check is received for payment, an additional \$25 administrative fee will be assessed.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Hist.: PS 1-1997(Temp), f. 2-21-97, cert. ef. 2-24-97; PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 3-2005(Temp), f. 4-25-05, cert. ef. 5-1-05 thru 10-28-05; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06

## 259-060-0600

### Forms

The Department hereby adopts by reference the following forms:

(1) PS-1 — Application for Licensure or Certification of Private Security Services Provider.

(2) PS-3 — Private Security Order Forms Sheet.

(3) PS-4 — Affidavit of Person Rolling Fingerprints.

(4) PS-6 — (Affidavit of Instructor and Private Security Provider Testing Results).

(5) PS-7 — Private Security Instructor Evaluation.

(6) PS-8 — Private Security Instructor Proof of Skills Improvement.

(7) PS-9 — Private Security Waiver for Reciprocity.

(8) PS-20 — Private Security Services Provider Temporary Work Permit.

(9) PS-21 — Renewal of Private Security Services Licensure or Certification.

(10) PS-23 — Private Security Services Provider Change of Information.

(11) PS-27 — Private Security Code of Ethics.

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

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

\*\*\*\*\*

**Rule Caption:** Adopts and amends rules relating to the regulation of private and provisional investigators in Oregon.

**Adm. Order No.:** DPSST 7-2006

**Filed with Sec. of State:** 5-15-2006

**Certified to be Effective:** 5-15-06

**Notice Publication Date:** 2-1-06

**Rules Adopted:** 259-061-0005, 259-061-0010, 259-061-0015, 259-061-0020, 259-061-0030, 259-061-0040, 259-061-0050, 259-061-0055, 259-061-0060, 259-061-0070, 259-061-0080, 259-061-0090, 259-061-0095, 259-061-0100, 259-061-0110, 259-061-0120, 259-061-0130, 259-061-0140, 259-061-0150, 259-061-0160, 259-061-0170, 259-061-0180, 259-061-0190, 259-061-0200, 259-061-0210, 259-061-0220, 259-061-0230, 259-061-0240, 259-061-0250, 259-061-0260

**Subject:** Adopts and amends rule relating to the regulation of private investigators and provisional investigators who conduct business in the state of Oregon.

**Rules Coordinator:** Bonnie Salle—(503) 378-2431

## 259-061-0005

### Definitions

(1) "Administrative Termination" means the Department has stopped the processing of an application due to non-response from applicant or non-compliance with the application requirements or the requirements of these rules."



# ADMINISTRATIVE RULES

(2) "Board" means Board on Public Safety Standards and Training.

(3) "Complainant" means any person or group of persons who file(s) a complaint. The Department may, on its own action, initiate a complaint.

(4) "Complaint" means a specific charge filed with the Department that a licensed investigator or candidate thereto, or any person apparently operating as an investigator without a license, has committed an act in violation of ORS Chapter 703 or OAR chapter 259.

(5) "Committee" means the Private Security Policy Committee.

(6) "Continuing Education Guidelines" or "CE Guidelines" refers to the provisions of Oregon Administrative Rule 259-061-0260.

(7) "Department" means the Department of Public Safety Standards and Training.

(8) "Disciplinary Procedure" means all action up to the final resolution of a complaint after the issuance of a "Notice of Intent."

(9) "Educational endeavor that reasonably could be beneficial to the work of the investigator" as used in ORS 703.447(4) means those educational endeavors that are in compliance with the Department's Continuing Education Guidelines, or are approved by the Private Security Policy Committee.

(10) "Employee," as used in ORS 703.401 to 703.490, means a person who is employed lawfully by an employer. The employer controls the performance of that person; pays the salary, unemployment insurance, and worker's compensation insurance; and has sole authority to fire and control work hours and the conditions of work. "Employee" in this context does not include a person engaged as an independent contractor.

(11) "Expired license": A license is considered expired on the date of expiration. A person may not practice as an investigator with an expired license.

(12) "Hours of experience" means documented clock hours.

(13) "Investigatory work" means any work performed in accordance with ORS 703.401(2).

(14) "Licensee" or "Licensed Investigator", as used in OAR 259-061-0005 through 259-061-0260 means a person licensed as an investigator under ORS 703.430.

(15) "Private investigator" is a licensed investigator who has completed a minimum of 1500 documented clock hours of investigatory work experience or an approved course of study or a combination of work and study as approved by the Department.

(16) "Provisional investigator" is a licensed investigator who has completed fewer than 1500 documented clock hours of investigatory work experience, or an approved course of study, or a combination of work and study as approved by the Department; and who may not employ or supervise other investigators. Under 1997 and 1999 editions of governing statute, this type of investigator was referred to as a "Registered Operative."

(17) "Respondent" means an investigator who is a licensee or candidate for licensure, or any person apparently operating as an investigator without a license, against whom a complaint has been filed.

(18) "Stipulated Agreement" means a written agreement entered into between the Department and a respondent.

(19) "Violation" means a violation of Oregon Revised Statutes or Oregon Administrative Rules as they pertain to the licensing requirements of investigators in the state of Oregon.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0010

### Fees

For the purpose of administering the licensing program under ORS Chapter 703.401 through 703.995, appropriate fees shall be submitted to the Department, by applicants for licensure for each of the following categories:

(1) Application:

- (a) Private Investigator;
- (b) Provisional Investigator.

(2) Licensing:

- (a) Private Investigator;
- (b) Provisional Investigator;
- (c) Inactive License;
- (d) Temporary License;
- (e) Interim License.

(3) Renewal of Licenses:

- (a) Private Investigator;
- (b) Provisional Investigator;
- (4) Issuance of Identification cards.

(5) Replacement of Card/License.

(6) Late Renewal of License.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0015

### Payment of Fees

Fees are due at the time of application. Payments to the department are non-refundable, and must be paid by business check, money order or cashier's check. A current fee schedule for the private investigator licensing program may be obtained from the department.

NOTE: Make all checks payable to DPSST.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0020

### Initial and Renewal Applications

(1) Applications must be submitted on Department approved forms pursuant to ORS 703.425. All applicants must disclose on the initial application information required by ORS 703.425, including:

- (a) Social Security Number;
- (b) Home Address and Telephone Number;
- (c) Business Address and Telephone Number;
- (d) Place of Birth;
- (e) Any license, certification or registration. Including:
  - (A) The title or type of such license, certification or registration;
  - (B) The location of the agency issuing such license, certification, or registration;
  - (C) The license, certification or registration number issued;
  - (D) The dates such license, certification or registration was held; and
  - (E) All information regarding any revoked license, certification or registration.

(2) All applicants must disclose on the initial and renewal application any information requested, including:

- (a) A statement listing all offenses of which the applicant has been convicted;
- (b) A statement that the applicant is not required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597.
- (c) A statement affirming the truth of all information contained in the application;
- (d) A statement listing all complaints, lawsuits, arbitration, mediation, or disciplinary actions regarding investigative activities; and
- (e) A statement listing all claims filed against the investigator's surety bond, credit, or insurance.

(3) Submission of any false information in connection with an application, supporting documentation or attachments for a license or registration may be grounds for discipline, criminal penalty, or civil penalty.

(4) Renewal applications, renewal fees, and support documentation should be received, at a minimum, two weeks prior to, but not more than ninety days prior to, a licensee's expiration date to allow for processing time.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0030

### Application Requirements for Licensees with Expired Licenses

Applicants for licensure who were previously licensed in Oregon must provide either:

- (1) Proof of completion of continuing education requirements during or since the last active status period; or
- (2) A written explanation detailing why continuing education requirements were not met during his/her most recent active status period, and a written plan detailing how they will be made up, including a time line. The Department at its discretion may accept the plan in place of completed CE. Not meeting continuing education requirements could be grounds for denial of a license.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

# ADMINISTRATIVE RULES

## 259-061-0040

### Review of Disclosures

(1) The Department will conduct a review of any application on which disclosures have been made to determine if a license should be issued pursuant to ORS 703.415(3), 703.450, 703.465.

(2) Criminal History. An applicant for licensure must not:

(a) Have been convicted of a person felony, as defined in the rules of the Oregon Criminal Justice Commission: ORS 162.165 (Escape I), 162.185 (Supplying Contraband as defined in Crime Categories 6 and 7 (Appendix 3)), 163.095 (Aggravated Murder), 163.115 (Murder), 163.118 (Manslaughter I), 163.125 (Manslaughter II), 163.145 (Negligent Homicide), 163.160(3) (Assault IV Felony), 163.165 (Assault III), 163.175 (Assault II), 163.185 (Assault I), 163.205 (Criminal Mistreatment I), 163.213 (Use of Stun Gun/Tear Gas/Mace I), 163.225 (Kidnapping II), 163.235 (Kidnapping I), 163.275 (Coercion as defined in Crime Category 7 (Appendix 3)), 163.355 (Rape III), 163.365 (Rape II), 163.375 (Rape I), 163.385 (Sodomy III), 163.395 (Sodomy II), 163.405 (Sodomy I), 163.408 (Sexual Penetration II), 163.411 (Sexual Penetration I), 163.425 (Sexual Abuse II), 163.427 (Sexual Abuse I), 163.525 (Incest), 163.535 (Abandon Child), 163.537 (Buying or Selling a Person Under 18 Years of Age), 163.670 (Using Child in Display of Sexually Explicit Conduct), 163.684 (Encouraging Child Sex Abuse I), 163.686 (Encouraging Child Sex Abuse II), 163.688 and 163.689 (Possession of Materials Depicting Sexually Explicit Conduct of a Child I and II), 163.732 (Stalking), 163.747 (Violation of Officer's Stalking Order), 163.750 (Violation of Court's Stalking Order), 164.075 (Theft by Extortion as defined in Crime Category 7 (Appendix 3)), 164.225 (Burglary I as defined in crime Categories 8 and 9, Appendix 3), 164.325 (Arson I), 164.395 (Robbery III), 164.405 (Robbery II), 164.415 (Robbery I), 164.877(3) (Tree Spiking (Injury)), 166.087 (Abuse of Corpse I), 166.165 (Intimidation I), 166.220 (Unlawful Use of a Weapon), 166.275 (Inmate in Possession of Weapon), 166.385(3) (Felony Possession of a Hoax Destructive Device), 167.012 (Promoting Prostitution), 167.017 (Compelling Prostitution), 468.951 (Environmental Endangerment), 811.705 (Hit and Run Vehicle (Injury)), 830.475 (Hit and Run (Boat)) and attempts or solicitations to commit any Class A or Class B person felonies as defined herein, or an equivalent crime with similar elements in another jurisdiction. Only Class B and Class C felony convictions may be considered by the Policy committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-061-0040(1).

(b) Within the 10-year period prior to applying for, or during, licensure, must not:

(A) Have been incarcerated, placed on probation or paroled as the result of conviction of any felony, other than those described in subsection (a) of this section in this, or any other, jurisdiction.

(B) Have been convicted of violating ORS 163.435 (Contributing to the Sexual Delinquency of a Minor), 163.672 (1993 Edition) (Possession of Depiction of Sexual Conduct of a Child), 163.673 (1993 Edition) (Dealing in the Depiction of Sexual Conduct of a Child), 167.007 (Prostitution), 167.062 (Sadomasochistic Abuse or Sexual Conduct in a Live Show), 167.065 (Furnishing Obscene Material), 167.070 (Sending Obscene Material to Minors), 167.075 (Exhibiting An Obscene Performance to a Minor), 167.080 (Displaying Obscene Material to Minors), 167.087 (Disseminating Obscene Material) or an equivalent crime with similar elements in another jurisdiction. There will be no waivers granted for these listed convictions.

(C) Have been convicted of a person misdemeanor, as defined in the rules of the Oregon Criminal Justice Commission: ORS 161.405(2)(d) Attempt or 161.435(2)(d) Solicitation to Commit any Class C person felony as defined by the Oregon Criminal Justice Commission, 162.315 (Resisting Arrest), 163.160 (Assault IV), 163.190 (Menacing), 163.195 (Recklessly Endangering Another Person), 163.200 (Criminal Mistreatment II), 163.208 (Assaulting a Public Safety Officer), 163.212 (Unlawful Use of an Electrical Stun Gun, Tear Gas or Mace II), 163.545 (Child Neglect II), 163.575 (Endangering the Welfare of a Minor), 163.605 (Criminal Defamation), 163.732(1) (Stalking), 163.750(1) (Violating Court's Stalking Protective Order), 166.065(4) [Harassment (Offensive Sexual Contact)], 166.155 (Intimidation II), 166.385 (Possession of Hoax Destructive Device) or an equivalent crime with similar elements in another jurisdiction;

(D) Have been convicted of the following misdemeanors: ORS 162.075 (False Swearing), 162.085 (Unsworn Falsification), 162.145 (Escape III), 162.247 (Interfering with a Peace Officer), 162.295 (Tampering with Physical Evidence), 162.335 (Compounding a Felony), 162.365 (Criminal Impersonation), 162.369 (Possession of False Law Enforcement Identification Card), 162.385 (Giving False Information to

Police Officer), 163.465 (Public Indecency), 163.709 (Unlawful Directing of Light from a Laser Pointer), 164.045 (Theft II), 164.125(5)(b) (Theft of Services), 164.140 (Criminal Possession of Rented or Leased Personal Property), 164.235 (Possession of Burglar's Tools), 164.255 (Criminal Trespass I), 164.265 (Criminal Trespass while in Possession of a Firearm), 164.335 (Reckless Burning), 164.354 (Criminal Mischief II), 164.369 (Interfering With Police Animal), 164.377(4) (Computer Crime), 165.007 (Forgery II), 165.055(4)(a) (Fraudulent Use of a Credit Card), 165.065 (Negotiating a Bad Check), 166.115 (Interfering With Public Transportation), 166.250 (Unlawful Possession of Firearms), 166.350 (Unlawful Possession of Armor Piercing Ammunition), 166.425 (Unlawful Purchase of Firearm), 167.262 (Adult Using Minor in Commission of Controlled Substance Offense), 471.410 (Providing Liquor to Person under 21 or Intoxicated Person), or an equivalent crime with similar elements in another jurisdiction.

(c) Have been convicted, within the 10-year period prior to applying for, or during, certification or licensure, of a "misdemeanor crime of domestic violence," in this or any jurisdiction. A "misdemeanor crime of domestic violence" means a misdemeanor under the law of any jurisdiction involving the use or attempted use of physical force, or threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is co-habiting with or has co-habited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or a guardian of the victim.

(d) Have been convicted of a misdemeanor or felony involving the unlawful use, possession, delivery or manufacturing of a controlled substance, or a misdemeanor or felony of similar elements, in this or any jurisdiction: 475.525 (Sale of Drug Paraphernalia), 475.991 (Unlawful Delivery of Imitation Controlled Substance), 475.992 (Prohibited Acts, Manufacturing and Delivering), 475.995 (Distribution to Minors), 475.999 (Manufacturing or Delivering of a Controlled Substance within 1,000 feet of School), or an equivalent crime with similar elements in another jurisdiction.

(e) Have been required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597.

(f) Have been convicted, within the seven-year period prior to applying for, or during, certification or licensure, of the following misdemeanors, or a misdemeanor of similar elements, in this or any jurisdiction; 164.043 (Theft III), 164.125(5)(a) (Theft of Services), 162.375 (Initiating a False Report), 166.240 (Carrying of Concealed Weapons), or an equivalent crime with similar elements in another jurisdiction.

(3) Failure to disclose a criminal conviction, on an application for licensure, of any Misdemeanor or Felony crime is grounds for denial, suspension or revocation of a license, and may include criminal or civil penalties.

(a) Department Staff Review: The Department or its designated staff shall review the disclosure and shall request further information or conduct its own investigation of the matter. If there is grounds for a suspension, revocation or denial based on the statutory and administrative rule requirements, the department shall notify the applicant or license holder in writing.

(b) Initiation of Proceedings: The Department's designated staff shall determine if the reason for suspension, revocation or denial and supporting factual data meet the statutory and administrative rule requirements and so advise the applicant or license holder.

(c) Contested Case Notice: The Department or its designated staff shall prepare a "Contested Case Notice" in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure. The Department or its designated staff must serve a copy of the "Notice" on the person whose application or licensure is being affected.

(d) Emergency Suspension Order: Notwithstanding subsection (e), the Department may immediately suspend a person upon a report that a person has been arrested for, or charged with, any crime listed in OAR 259-061-0040(2). The report may be received in any form and from any source.

(e) An Emergency Suspension Order must be in writing. The order may be issued without prior notice to the individual and without a prior opportunity for a contested case hearing. An Emergency Suspension Order must:

(A) Generally describe the acts of the person and any circumstances that would be grounds for an Emergency Suspension Order under this rule; and

(B) Identify the person at the Department whom the individual may contact and who is authorized to make recommendations regarding issuance of the order.

# ADMINISTRATIVE RULES

(f) When the Department issues an Emergency Suspension Order, it shall be served on the individual either personally or by registered or certified mail and must contain the following information:

(A) The effective date of the Emergency Suspension Order;

(B) A statement of findings detailing the specific acts or omissions of the person that violate applicable laws or rules and which serve as the grounds for revocation or suspension;

(C) A reference to the sections of the statutes and rules involved;

(D) A statement indicating the individual has the right to request a hearing to contest the Emergency Suspension Order;

(E) A statement indicating the individual will have waived their right to a hearing regarding the Emergency Suspension Order if the request for a hearing is not received by the Department within 20 calendar days of the date of notice of the Emergency Suspension Order; and

(F) A statement indicating a hearing will be held as soon as is prudent and practicable if a timely request for a hearing is received.

(g) If the individual submits a timely request for a hearing, the Department will hold a hearing on the Emergency Suspension Order as soon as is prudent and practicable.

(A) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license or certificate.

(B) The sole purpose of the hearing will be to determine whether the individual was charged with or arrested for a crime listed in OAR 259-061-0040(2). Upon a showing that an individual was not charged with or arrested for a crime in OAR 259-061-0040(2), the suspension of the individual's certificate or license will be immediately lifted; otherwise, the suspension will remain in effect until final disposition of the charges or arrest.

(h) Response Time:

(A) Revocation or Denial: If the Department is seeking revocation or denial of a license or certificate, a party who has been served with the "Contested Case Notice" must submit a written request for a hearing to the Department within 60 calendar days from the date of mailing or personal service of the notice.

(B) Suspension: If the Department is seeking suspension of a license or certificate, a party who has been served with an Emergency Suspension Order must submit a written request for a hearing to the Department within 20 calendar days from the date of mailing or personal service of the notice. The Department may extend the time allowed for submission of the written request for a hearing for up to 30 calendar days upon request.

(i) Default Order: If a timely request for a hearing is not received by the Department, the Contested Case Notice or Emergency Suspension Order will become a final order revoking, suspending or denying certification pursuant to OAR 137-003-0075(5).

(j) When the Department revokes a certification or denies an applicant's license, an individual is ineligible to reapply for future certification or licensure for a period of three (3) years from the date of final Department action or order. Any applicant reapplying for licensure must reapply in accordance with the provisions of ORS 703.401-703.490

(k) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0075(5).

(l) Waiver Request: It is the responsibility of the Board to set the standards, and of the Department to uphold them in such a manner so as to ensure the highest levels of professionalism and discipline. Those standards shall be upheld at all times, unless there is a specific finding of substantial and compelling reason that demonstrates that neither the safety of the public nor the respect of the profession will be compromised by a waiver. Certain criminal convictions will not qualify for waiver request, as identified in 259-061-0040(2)(a) and (2)(b)(B). In the event that a waiver of denial, suspension or revocation is granted, the Board's decision shall be in writing. The waiver request will suspend timelines for a contested case hearing until an order granting or denying the waiver has been issued. The waiver process applies only to the petitioners that are certified and licensed under ORS 703.401-703.490 on or before December 31, 2005.

(A) The policy committee may consider limited waivers to the Department's notice of intent to deny, suspend or revoke certification or licensure, and forward a recommendation to the Board, based upon:

(i) The length of time that has elapsed between petitioner's disqualifying conviction and application to the Department is substantial and in the case of a lifetime disqualifier, the length of time exceeds 20 years; and

(ii) The substance of written reference checks attests to good moral and ethical fitness; and

(iv) The petitioner's age at the time of the conviction; and

(v) Absence of other criminal convictions; and

(vi) Other substantial and compelling reasons, including but not limited to mitigating circumstances of the arrest.

(B) It shall be the responsibility of the petitioner to request a waiver within 20 calendar days of the Department's notice of denial or revocation.

(C) It shall be the responsibility of the petitioner to present to the policy committee all information relative to the request for waiver, in writing, not less than 15 days prior to the next regularly scheduled policy committee meeting. The policy committee will make its recommendation to the Board, following review of those documents.

(4) A denial or revocation of a license pursuant to ORS 703.450(4) will cause the denial, suspension, or revocation of all licenses administered by the Department.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0050

### Bonds and Letters of Credit

(1) Applications for licensure must be accompanied by proof of a minimum \$5000:

(a) Corporate surety bond completed on a Department approved form; or

(b) An irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005.

(2) Bonds and Letters of Credit must have the applicant's name listed as principal;

(3) A bond will not be valid until filed with the Department and the investigator is licensed with the Department in accordance with ORS Chapter 703;

(4) A bond will not be valid for purposes of licensure in accordance with ORS Chapter 703 unless filed with the Department within sixty (60) days of the signature date on the bond;

(5) An irrevocable letter of credit submitted pursuant to ORS Chapter 703, must be approved by the Department prior to issuance of a license.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0055

### Errors and Omissions Insurance

(1) Any licensed investigator who does not have a current surety bond or irrevocable letter of credit on file with the Department:

(a) Is required to notify the Department if his or her errors and omissions insurance policy is cancelled or lapses for any reason;

(b) Notification must be given to the Department within seven days of such cancellation or lapse;

(2) If a licensed investigator plans to cancel an errors and omissions insurance policy and does not have a current surety bond or irrevocable letter of credit on file with the Department, he or she must give 30 days notice for any such intended cancellation.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0060

### Photographs for Identification

(1) Applications for an investigator's initial or renewal license must be accompanied by two (2) identical color photographs taken of the applicant within the previous six months of filing the application;

(2) The size requirements of the photographs must be in compliance as outlined on the application form. The applicant's head in the photo must not be larger than 1" wide and 1.25" high;

(3) The applicant's face must be clearly visible and free from shadows or other viewing obstacles;

(4) If a replacement identification card is needed, 2 new, identical photographs will be required. Photographs that do not meet the above requirements may be returned to the applicant and delay the application process. Photocopies will not be accepted.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06



# ADMINISTRATIVE RULES

## 259-061-0070

### Fingerprint ID Cards

(1) Applications for licensure must be accompanied by two complete sets of fingerprints.

(2) Fingerprints must be submitted on an FBI standard applicant fingerprint card, Form FD258.

(3) Fingerprints must be clear as outlined in the instructions on the back of the fingerprint card;

(4) Affidavit and bag.

(5) Cards rejected by the state police or FBI may be returned or resubmitted. An additional fee will be charged for the third submittal occurring after the second rejection.

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

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0080

### References

(1) Applications for licensure must be accompanied by three (3) professional letters of reference, none of which may be from a person who is related to the applicant by blood or marriage.

(2) Professional letters of reference may be utilized to help show that the applicant fulfills the experience requirement pursuant to ORS 703.425(2)(d).

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0090

### Review of Application Materials

The Department will review all application materials for completeness and may:

(1) Upon written notice from the Department to the applicant, administratively terminate the application for any of the following reasons:

(a) The Department has reason to believe that a person with the applicant's name and birth date has committed an act that constitutes grounds for denial of a license under ORS 703.465. The termination of an application due to a criminal conviction disqualification is subject to the contested case hearing procedures set forth in ORS 703.470

(b) The application or any required documentation is incomplete or the Department has been unable to verify application information to its satisfaction due to non-response or non-compliance of the applicant.

(c) Applicant has violated any administrative rule or condition imposed by ORS or OAR concerning the licensure and conduct of a Private Investigator or applicant as such. Applicants, who provide false information to the Department, may be disqualified from reapplying for a period of 3 years.

(d) The fingerprint cards of applicant have been rejected and returned by the Oregon State Police or Federal Bureau of Investigations.

(2) The Department or its designated staff may administratively terminate the application process if the Department is unable to complete the certification process due to non-response or non-compliance of the applicant after exhausting the following efforts:

(a) A letter shall be mailed by the Department to the applicant, and the last known mailing address of the applicant, identifying the deficiencies in the application process.

(b) The applicant shall have 21 calendar days from the date of mailing to notify the Department that the deficiencies are corrected. The Department may, in its discretion, elect to extend the time for compliance upon good cause shown by the applicant or its manager.

(c) If the Department is unable to determine a current address for the applicant, or if the applicant does not respond and correct the deficiencies within 21 calendar days, or such additional time authorized by the Department, the Department shall list the applicant's status as "administratively terminated." The Department shall notify the applicant at his or her last known address, that the Department has administratively terminated the application process.

(3) Once the application process has been administratively terminated, the applicant can reapply at any time by submitting a new completed application and appropriate fees.

**Note:** Applicants who have been denied, revoked or suspended for any reason may not reapply for licensure for a period of 3 years from the date of final action.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0095

### Administration of the Exam

(1) The Department will adopt a test of professional investigator competency.

(2) Department staff or department approved designee will proctor the exam at a time and place established by staff or the designee.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0100

### Exam Results

(1) The minimum passing score for the exam is 86%.

(2) The exam may be administered to an applicant no more than three consecutive times. If the applicant does not pass the exam on the third attempt, the applicant must wait one year from the date the last exam was taken to re-take the exam.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0110

### Temporary License

(1) A person licensed as an Investigator in another jurisdiction may be licensed as a temporary investigator in the state of Oregon if:

(a) The person is licensed or certified to practice as an investigator in another state or jurisdiction,

(b) The certification or licensing standards of the other state or jurisdiction meet or exceed the standards for achieving a Provisional License in the state of Oregon, including a criminal background check.

(c) The person pays a non-refundable temporary license fee.

(d) The Department has received the application packet for Temporary License.

(2) The person shall provide to the Department a copy of the authorizing states statutory requirements for private investigators, demonstrating that the person has undergone a criminal history background check. Additionally, the person shall provide a copy of the held certification or license issued by the authorizing jurisdiction and submit a Department approved application requesting a Temporary License. The Application form is a triplicate form; the original and one copy shall be mailed to the Department, one copy shall be retained by the investigator. The investigator's copy shall be carried on the person at all times while performing investigative services in this state. It shall be presented to any law enforcement officer upon demand and shall be displayed to any other person upon reasonable request.

(3) The Temporary License application packet must be mailed to the Department on or before the first day the person performs investigatory services in Oregon.

(4) The Temporary License shall be in effect for 90 days from the date the complete application and fees are received.

(5) The intent of this provision is to allow out-of-state investigators to temporarily conduct lawful business in this state.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0120

### Interim Investigators License

(1) An employer, an attorney, or a private investigator licensed under ORS 703.430 may request an Interim Investigator's License for an applicant whose application for licensure as a Private or Provisional investigator is being processed by the Department. The Interim License allows the applicant to perform investigatory services within this state for a period of time not to exceed 120 days under the following conditions:

(a) The applicant has never been convicted of, pled guilty or no contest to or forfeited security for a crime;

(b) The applicant has submitted all required application materials, paid required fees, and passed the required exam;

(c) The employer has completed and signed the applicable portions of the Interim License request, affirming the above requirements have been met; and

(d) The Interim License request must bear a postmark on or before the first day the applicant performs investigative services.

(2) If an applicant has not completed each step of the application process, the applicant shall not perform investigatory services.

# ADMINISTRATIVE RULES

(3) The intent of this provision is to allow an employer or attorney or private investigator to legally deploy a private or provisional investigator, while the application for licensure is being processed.

(4) The Interim License will be valid no longer than 120 days or, in any event, shall end upon written notice from the Department to the applicant that the License has been administratively terminated under OAR 259-061-0090.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0130

### Copying and Distribution of the Exam

(1) No person, school, association or any other entity is authorized to copy or distribute any exam administered by the Department without prior written authorization;

(2) Applicants who take the exam must not disclose to anyone or any entity the contents of the exam including the exam questions and answers.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0140

### Educational Substitutes for Experience

(1) Completion of a related course of study at an educational institution licensed or approved by a State Department of Education or other State approving agency, and approved by the Department may be substituted for up to 500 hours of the required work experience. Correspondence courses, online courses, or similar coursework will be evaluated on a case-by-case basis.

(2) Educational substitutions applied toward the required work experience will be granted on a three to one (3 to 1) basis and will be calculated using clock hours spent in class. For example, three hours in class would equate to one hour of allowable experience;

(3) Applicants must provide the Department or its authorized representative verifiable documentation in the form of sealed certified transcripts or an official certificate from the administering institution(s) showing successful completion of study in the related subject matter;

(4) The Department or its authorized representative will review the subject matter of the applicant's education on an individual basis;

(5) Certified transcripts or official copies of certificates presented to the Department in an envelope sealed by the program or institution or instructor and verified as sealed may be accepted directly from the applicant;

(6) If a program or institution granting credit is no longer in business, the Department will accept for review a copy of a certificate of completion or transcript or diploma in the required subject matter and hours. The Department may require additional information to verify the authenticity of such documents.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0150

### Provisional Investigator Upgrade to Private Investigator

(1) The license of a Provisional Investigator will be upgraded to a Private Investigator license when the applicant provides verifiable documentation that he or she has performed 1500 hours of investigatory work, or completed a course of study approved by the Department.

(2) The expiration date for a provisional investigator's current license will not change when upgraded to a private investigator unless the upgrade is granted at the time of renewal or a new application and fee is received.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0160

### Applying for Inactive Status

(1) A licensed investigator may apply, using a Department-approved form, for inactive status.

(2) A licensee may be granted inactive status upon:

(a) Payment of the inactive license fee; and

(b) Submission of the inactive status request form to the Department.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0170

### Applying for Reinstatement to Active Status

(1) A licensee in inactive status may apply to the Department to be reinstated to active status by paying the appropriate license renewal fee and completing the appropriate renewal application form;

(2) A licensee applying for reinstatement to active status must comply with appropriate continuing education requirements as outlined in OAR 259-061-0240.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0180

### Maintaining Current Information

Within 10 days of a change, a licensed investigator or applicant for licensure must notify the Department in writing of any changes to name, home address, home phone number, mailing address, business name, business address, or business phone number.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0190

### Code of Ethical Conduct

All licensed investigators must, at all times, observe the rules and requirements of conduct as follows:

(1) Obey all laws in the pursuit of their investigations;

(2) Abide by all provisions of ORS chapter 703 and OAR chapter 259 as they relate to licensed investigators;

(3) Never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence their professional decisions;

(4) Never compromise and shall relentlessly perform their duties in accordance with the law, courteously and appropriately, without fear or favor, malice or ill-will;

(5) Never employ unnecessary or unlawful force or violence;

(6) Maintain each client's confidentiality within the limits of the law;

(7) Be accountable and responsible for their actions;

(8) Accept sole responsibility for their individual standard of professional performance and take every reasonable opportunity to enhance and improve their level of knowledge, competence, and professional integrity;

(9) Actively seek and report the truth in the performance of their professional duties;

(10) Be above reproach in the financial aspects of their relationships with clients;

(11) Keep promises, fulfill commitments and abide by the spirit of agreements made with their clients as well as the letter of agreements with their clients;

(12) Recognize that the credential of a licensed investigator is a symbol of public faith and will accept it as a public trust, to be held only so long as they are true to the ethics of the investigative profession.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0200

### Compliance

(1) The Department or its designated staff may cause inspections of records and procedures of private investigators or of applicants for licensure, relating to the minimum licensing standards and requirements that are mandated by ORS 703.010-703.995, as well as those records and procedures which are under the purview of OAR Chapter 259 in order to verify adherence to and compliance with any applicable rule or statute.

(2) The Department or its designated staff may cause any administrative proceeding or court action to be initiated to enforce compliance with the provisions of ORS 703.010 - 703.995, and the administrative rules promulgated thereunder.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0210

### Filing a Complaint

(1) All complaints must be submitted on a Department approved complaint form, unless the Department grants an exception.

# ADMINISTRATIVE RULES

(2) A complainant other than the Department should file the complaint with the Department within one year of knowledge of the incident's occurrence.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0220

### Form of Complaints

(1) When a complaint is first made, the staff will provide the complainant with the Department's complaint form. Unless there is an approved exception, this form must be completed by the complainant and submitted to the Department staff before a complaint is investigated.

(2) Unless otherwise prohibited by law, if the complainant is a client or former client of the respondent, the complainant must sign the waiver of confidentiality allowing the Department access to records and other materials. Refusal by a complainant to comply with these requirements may result in no investigation of the complaint.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0230

### Compliance

(1) A preliminary administrative review of the complaint will be made by Department staff to assure there is sufficient information to proceed. Staff will conduct a fact finding preliminary investigation (e.g. data searches and other inquiries).

(2) If sufficient information is determined to support the allegation(s) of the complaint, staff will:

(a) Open and conduct an investigation. Gather relevant information and, in doing so, may submit questions to the respondent and require written answers and copies of related documents. The respondent shall comply within twenty (20) days after the request is mailed, unless the Department authorizes an extension.

(b) Notify Respondent of intended action as authorized by ORS 703.465 and 703.995.

(c) Seek Resolution by Stipulation. Department staff is authorized to seek resolution by stipulation, subject to acceptance and approval by the Director, if:

(A) The matter is resolved before entry of any final order;

(B) The agreement has been entered into freely and voluntarily by respondent;

(C) The respondent corrects or proceeds to correct all deficiencies itemized by Department under the terms of the agreement; and

(D) Any penalty amount agreed to is tendered in certified check, bank draft, cashier's check or postal money order along with the stipulation.

(E) A stipulation shall not be accepted if the violation is for failure to obtain a required license, and such is not obtained as part of the resolution.

(3) If the Department finds that an allegation is false, all records of the complaint shall be destroyed.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0240

### Continuing Education Requirements for Investigator License Renewal

(1) No Private Investigator license or renewal will be issued by the Department unless the licensee has satisfactorily completed and reported thirty-two (32) continuing education program hours in compliance with the Department's Continuing Education Guidelines. Two (2) of the hours must be in ethics.

(2) No Provisional Investigator license or renewal will be issued by the Department unless the licensee has satisfactorily completed and reported forty (40) continuing education program hours in compliance with the Department's Continuing Education Guidelines. Two (2) of the hours must be in ethics.

(3) A licensed investigator may carry over up to fifteen (15) hours of unused continuing education credit hours to his/her next licensing period.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0250

### Inactive License Continuing Education Requirements

(1) The Department will review a licensee's application for re-activation and determine, on a case-by-case basis, the number of continuing education credit hours required of the licensee prior to approving the active status;

(2) The licensee should be prepared to provide the Department with documentation of the number of hours of continuing education completed during the licensee's most recent active status period.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480  
Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

## 259-061-0260

### Continuing Education (CE) Guidelines

(1) Conferences and Seminars. The Department will maintain a list of organizations whose conferences, seminars, and educational meetings have standing approval. Continuing Education from other organizations will be approved on a case-by-case basis.

(a) Attendance: 1 CE Hour for each hour of speaker presentation.

(b) Lecturing: 4 CE Hours for each hour presented. (Limit of 8 hours per licensing period.)

(c) Video tapes: 1 CE Hour for each hour viewing of videotapes.

(d) Audiotapes: 1 CE Hour for each hour or listening to audiotapes.

(2) Computer Seminars One (1) CE hour of credit for each hour of attended seminar sessions hosted by computer information sources such as public record vendors; and any other similar approved seminar regarding computer information sources. Seminars on how to operate computers will not be approved for credits. (Limit 12 hours per licensing period.)

(3) Educational Institutions: Educational institutions (including colleges, universities, and trade schools) will be granted standing approval when that institution is licensed or approved by the respective State's Department of Education or other State approving agency, and the course subject matter is appropriate to the investigator. This standing approval will apply to all courses related to law, criminal justice, ethics in the legal or investigative profession, and other courses that are clearly applicable to the private investigator. Others may be approved on a case-by-case basis.

(a) Attendance: 1 CE Hour for each hour of course instruction.

(b) Guest lecture: 4 CE Hours per presentation, 1 hour or more. (Limit of 8 hours per licensing period.)

(4) Publications:

(a) Articles: Six (6) CE hours for each 1000 word or more investigation related article published in a nationally recognized investigative newsletter or journal. (Limit of 12 hours per licensing period.)

(b) Books:

(A) Twenty-four (24) CE hours for writing and publishing a full-length book on a subject appropriate to investigation.

(B) Eight (8) CE hours for updating and republishing an existing full-length published book on a subject appropriate to investigation.

(C) Eight (8) CE hours for writing a single chapter of a full-length published book on a subject appropriate to investigation.

(5) Self-Study:

(a) Correspondence Courses and Online Courses: Twelve (12) CE hours per college-equivalent quarter credit hour; otherwise, Four (4) CE hours per course that is related to investigation, completed and passed.

(b) Books and Manuals: Two (2) CE hours for each non-fiction book or professional/technical manual that is related to investigation. All books published by Lawyers and Judges Publishing have standing approval. Other books will be approved on a case-by-case basis. (Limit of 8 hours per licensing period.)

(6) Television and Radio Appearances Four (4) CE hours for each half hour appearance on a television or radio program which provides education about investigative topics. Merely appearing or participating in a show does not qualify. The program must qualify as an educational program. (Limit of 8 hours per licensing period.)

(7) Board/Committee Meetings: Two (2) CE hours will be granted for attending a Board or Committee Meeting. No CE hours will be granted for attending investigator association board or committee meetings. (Limit of 4 hours per licensing period.)

(8) Network Meetings: Two (2) CE hours will be granted for approved network meetings. Meetings must be noticed and structured, and proof of attendance that includes topics covered must be supplied to attendees by the person organizing the meeting. A minimum of four investigators must be in attendance. (Limit of 8 hours per licensing period.)

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480



# ADMINISTRATIVE RULES

Stats. Implemented: ORS 703.401 - 703.995  
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

.....  
**Department of Transportation,  
Highway Division  
Chapter 734**

**Rule Caption:** Clarifies when lift axles must be deployed and revises requirements for lift axle capacity.

**Adm. Order No.:** HWD 2-2006

**Filed with Sec. of State:** 4-28-2006

**Certified to be Effective:** 4-28-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 734-074-0010

**Subject:** The use of lift axles allows heavier loads to be transported within allowable vehicle or axle weights. Trucks equipped with lift axles are cited when found not to have the lift axle deployed when deployment was necessary to meet legal vehicle or axle weight limits. Citations are currently written either for failure to use a lift axle, in violation of OAR 734-074-0010 (Class D traffic violation), or for exceeding maximum allowable weight, in violation of ORS 818.020 (usually a more costly violation with fines varying based on weight). Courts have dismissed citations for violations of OAR 734-074-0010 because they do not think the existing rule language clearly requires a lift axle to be used when vehicle or axle weight exceeds allowable limits. The rule has been amended to allow officer discretion to cite for OAR 734-074-0010 rather than direct enforcement personnel to write all such citations for the higher bail for violating ORS 818.020. Further, the requirement that lift axle assemblies have a weight rating of at least 10,000 pounds is deleted because lift axle weight rating cannot be enforced.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 734-074-0010

### Vehicle Combinations Eligible for Permits

(1) The following vehicle combinations are eligible for permits issued under OAR chapter 734, division 74 as long as they are in compliance with all applicable rules in OAR chapter 734, division 74:

(a) Combinations of vehicles described in ORS Chapter 818 that meet the requirements of OAR 734-074-0005;

(b) Combinations of vehicles described in OAR chapter 734, division 71;

(c) Combinations of vehicles described in OAR chapter 734, division 73;

(d) Combinations of vehicles that include a dromedary truck-tractor having a dromedary box, plate or deck not exceeding 12-feet, 6-inches in length including any load overhang on the dromedary box, plate or deck, provided the overall length does not exceed that authorized by ORS Chapter 818, OAR chapter 734, division 71 or OAR chapter 734, division 73, whichever is appropriate for the combination of vehicles and the route of travel;

(e) A dromedary truck-tractor having a dromedary box, plate or deck not exceeding 17-feet, 6-inches in length including any load overhang on the dromedary box, plate or deck, towing one stinger-steered semitrailer which is not longer than 53-feet and having an overall length of not more than 75 feet and operating on Group 1 Highways established in OAR chapter 734, division 71;

(f) A laden or unladen combination of vehicles designed and used exclusively to transport overseas marine containers that are enroute to or from a marine port or an intermodal transportation facility. Travel is authorized only on routes indicated in green on Route Map 7. Route Map 7, dated January 2005, is by reference made a part of division 74 rules. The semitrailer may not be longer than 53 feet, and overall length must be 105 feet or less. This combination of vehicles may consist of not more than one truck-tractor, one jeep, one overseas marine container trailer and one booster axle; and

(g) A combination of vehicles commonly known as triples, consisting of a motor truck and two self-supporting trailers, or a truck tractor and semitrailer drawing two self-supporting trailers or semitrailers mounted on dollies equipped with fifthwheels having an overall length not in excess of 105 feet. The self-supporting trailers must be reasonably uniform in length. A motor truck in this combination may not exceed 35 feet in overall length. This combination of vehicles may tow an unladen dolly used to transport a

third load carrying semitrailer, provided the combination, including the dolly, does not exceed 85 feet.

(2) The maximum allowable overall lengths for vehicles described in subsections (1)(a) through (c) of this rule are as follows:

(a) For combinations of vehicles described under subsection (1)(a) of this rule, those lengths indicated in ORS Chapter 818 that comply with OAR 734-074-0005;

(b) For combinations of vehicles described under subsection (1)(b) of this rule, those lengths described in OAR chapter 734, division 71; and

(c) For combinations of vehicles described under subsection (1)(c) of this rule, those lengths described in OAR chapter 734, division 73.

(3) All combinations of vehicles operating under permits authorized by OAR chapter 734, division 74 must have power units equipped with tandem drive axles, except:

(a) The power unit of triple combinations may be equipped with a single drive axle; and

(b) The power unit of double trailer combinations placed in service prior to April 1, 1983, may be equipped with a single drive axle.

(4) A lift or variable load axle(s) may be allowed. The following conditions apply:

(a) The controls for the lift axle may be mounted inside the cab of the power unit provided that it limits the axle movement to the complete up or complete down position;

(b) The control for a variable load, or lift axle, which allows adjustment to increase or decrease loading on the vehicle shall not be accessible from the cab;

(c) The lift or variable load axle must be deployed, and distribute the load, when failure to do so results in any axle, tandem axle or group of axles exceeding the weight limits allowed by ORS 818.010; and

(d) The lift axle assembly (including axles, tires, brakes) must be adequate to carry the weight of the load.

(5) When the weight difference between any trailer or semitrailer of a triple trailer combination is 1,500 pounds or more, the trailers shall be placed from the heaviest to the lightest, with the lightest trailer placed to the rear of the combination.

(6) Combinations of vehicles described as "triple trailers" shall have a visible and fully operable method of adjustment to eliminate slack in the hitch mechanism. The device used may be air chamber operated or it may be adjustable by a mechanical cam method.

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

Stat. Auth.: ORS 184.616, 184.619 & 818.220

Stats. Implemented: ORS 818.200 & 818.220

Hist.: 1 OTC 6-1980, f. & ef. 3-27-80; 2HD 6-1983, f. & ef. 2-18-83; HWY 6-1988, f. & cert. ef. 9-22-88; HWY 7-1992, f. & cert. ef. 3-27-92; HWY 12-1992, f. & cert. ef. 10-16-92; HWY 3-1995, f. & cert. ef. 10-16-95; HWY 8-1997, f. & cert. ef. 8-26-97; TO 2-2001, f. & cert. ef. 6-14-01; HWD 2-2005, f. & cert. ef. 3-18-05; HWD 2-2006, f. & cert. ef. 4-28-06

.....  
**Department of Transportation,  
Motor Carrier Transportation Division  
Chapter 740**

**Rule Caption:** This rule defines ODOT staff required to disclose pecuniary interest in a motor carrier business.

**Adm. Order No.:** MCTD 3-2006

**Filed with Sec. of State:** 4-28-2006

**Certified to be Effective:** 4-28-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 740-020-0010

**Subject:** This rule defines the scope of ORS 823.007. ORS 823.007 requires each ODOT employee who performs functions concerning economic regulation of motor carriers to file a statement with ODOT regarding holdings of the employee and the employee's spouse or minor children of any pecuniary interest in any business or activity subject to ODOT's economic regulation of motor carriers. The rule previously excluded employees of the Driver and Motor Vehicle Services Division (DMV). Legislative Counsel reviewed the rule and determined that the provision of the rule that excludes DMV employees is not authorized by ORS 823.007 and is not within the scope and intent of the enabling legislation. The amendment repeals the section of the rule that excludes DMV employees from the rule.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

# ADMINISTRATIVE RULES

## 740-020-0010

### Scope Defined

(1) ORS 823.007(1) requires each employee of the department who performs a function concerning the economic regulation of motor carriers to file with the department an employee statement of pecuniary interests in motor carriers. Division 20 rules establish when a statement is required, defines terms associated with the statement and describes the circumstances under which disciplinary action may occur for failure to comply with ORS 823.007(1).

(2) For the purposes of ORS 823.007(2), "a function concerning economic regulation of motor carriers" means any action or transaction that affects or potentially affects the financial status of a motor carrier. Such functions include, but may not be limited to:

- (a) Entry, including issuance of operating authority;
- (b) Regulation and establishment of rates of household goods and passenger carriers described in ORS 825.202;
- (c) Registration of commercial motor vehicles for highway use tax purposes;
- (d) Registration or apportioned registration of commercial motor vehicles;
- (e) Receiving, collecting and accounting for money received from motor carriers;
- (f) Enforcement of motor carrier regulations, including audit, inspection and investigation for compliance with tax, safety and other regulations;
- (g) Issuance of variance permits under ORS Chapter 818;
- (h) Weighing commercial vehicles and enforcing highway size and weight standards;
- (i) Authorization of farm registration under ORS Chapter 805;
- (j) Processing insurance and surety deposit filings; and
- (k) Processing refunds.

Stat. Auth.: ORS 184.616, 184.619 & 823.007

Stats. Implemented: ORS 823.007

Hist.: MCTD 3-2003, f. & cert. ef. 7-17-03; MCTD 3-2006, f. & cert. ef. 4-28-06

## Department of Veterans' Affairs Chapter 274

**Rule Caption:** Oregon Veterans' Emergency Financial Assistance Program.

**Adm. Order No.:** DVA 4-2006

**Filed with Sec. of State:** 4-25-2006

**Certified to be Effective:** 4-25-06

**Notice Publication Date:** 4-1-06

**Rules Adopted:** 274-012-0001, 274-012-0100, 274-012-0105, 274-012-0110, 274-012-0115, 274-012-0120, 274-012-0125, 274-012-0130, 274-012-0131

**Rules Repealed:** 274-012-0001(T), 274-012-0100(T), 274-012-0105(T), 274-012-0110(T), 274-012-0115(T), 274-012-0120(T), 274-012-0125(T), 274-012-0130(T), 274-012-0131(T)

**Subject:** This rule repeals and supersedes the Temporary Administrative Rule which was filed on February 23, 2006, and effective through August 18, 2006.

House Bill 3504 of the 2005 Regular Legislative Session created the Oregon Veterans' Emergency Financial Assistance Program (OVEFAP) to provide emergency financial assistance to Oregon veterans and their immediate families. The Department of Veterans' Affairs has adopted these rules to implement the program and to set the criteria for determining eligibility to receive emergency financial assistance.

House Bill 5163 appropriated \$500,000 for the biennium beginning July 1, 2005 to be expended for the OVEFAP.

**Rules Coordinator:** Herbert D. Riley—(503) 373-2055

## 274-012-0001

### Definitions for OAR 274-012-0001 through 274-012-0130

As used in sections 0001 through 0130 of division 012, unless otherwise required by context:

- (1) "Department" or "ODVA" means the State of Oregon Department of Veterans' Affairs.
- (2) "Program" or "OVEFAP" means the Oregon Veterans' Emergency Financial Assistance Program as established in Chapter 831, Oregon Laws 2005 (House Bill 3504).
- (3) "Under Honorable Conditions" means that the official documents of discharge, service, or separation issued upon the termination of the vet-

eran's active duty service with the Armed Forces are characterized by the relevant branch of the Armed Forces as "honorable" or "under honorable conditions."

(4) "Veteran" means a veteran as defined in Chapter 831, Oregon Laws 2005, section 6 (4)(b).

(5) "Immediate family" means a spouse, child or stepchild.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06; DVA 4-2006, f. & cert. ef. 4-25-06

## 274-012-0100

### Purpose and Objective

(1) It is the expressed policy of the Department to provide appropriate emergency financial assistance to veterans and their immediate families by means of the Department's Emergency Financial Assistance Program.

(2) Within the funds established by the Department, pursuant to Chapter 831, Oregon Laws 2005, an account is designated to be used by the Department consistent with this program. Funds held within this account will be used by the Department consistent with this division 012 and applicable law exclusively for the purpose of assisting veterans and their immediate family, as determined by the Department, who have insufficient funds to meet their financial needs or responsibilities. Such needs may include, but are not limited to:

- (a) Emergency or temporary housing and related housing expenses, such as expenses for utilities, insurance, house repairs, rent assistance or food;
- (b) Emergency medical or dental expenses;
- (c) Emergency transportation;
- (d) Expenses related to starting a business, such as business licenses or occupational licenses;

(e) Temporary income after military discharge; and

(f) Legal assistance.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06; DVA 4-2006, f. & cert. ef. 4-25-06

## 274-012-0105

### Evidence Required to Establish Eligibility

The following documentation shall be submitted to the Department when applying for program funds:

(1) A copy of evidence of separation of military service under honorable conditions.

(2) Proof of current Oregon residence.

(3) Proof of any change in name:

(a) Where a veteran's name has been legally changed since discharge, a certified copy of the Court Order, marriage certificate, or divorce decree must be furnished to the Department;

(b) Where a veteran's name has been changed, but not legally, an affidavit from the veteran and affidavits from at least two disinterested persons must be furnished to the Department to show such change.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06; DVA 4-2006, f. & cert. ef. 4-25-06

## 274-012-0110

### Applications

(1) Applications for assistance from the Program shall be made in such manner and detail, and on such forms, as the Department, in its reasonable discretion, shall determine.

(2) Applications generally will be prioritized by the Department for consideration based on the date of completed receipt by the Department. The Department may, however, consider applications in such other order and at such other times as it deems reasonable.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06; DVA 4-2006, f. & cert. ef. 4-25-06

## 274-012-0115

### Evidence of Need

When an application is made for emergency financial assistance, the applicant shall provide the Department with the documentation required under Subsection 0105, together with statement(s) and other documentation satisfactory to the Department indicating how the desired financial assistance will benefit the veteran and his/her immediate family. The

# ADMINISTRATIVE RULES

Department may require additional documentation or information from the applicant as it deems necessary or appropriate.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500  
Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500  
Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06; DVA 4-2006, f. & cert. ef. 4-25-06

## 274-012-0120

### Payment of Emergency Financial Assistance

(1) When determining to whom and in what amount Program funds will be made available to applicants, the Department may take into consideration various factors, including but not limited to:

- (a) The amount of available funds in the Program account;
- (b) Anticipated future deposits into the Program account;
- (c) The amount of present commitments from the Program account;
- (d) Anticipated future commitments from the Program account;
- (e) Comparative critical need by applicants as determined by the

Department;

(f) The appropriateness of the requested assistance;

(g) The ability and established willingness of the applicant and the applicant's immediate family to appropriately use program assistance and to take steps for permanent improvement of their financial circumstances;

(h) The eligibility of the applicant;

(i) The number of persons and ages of such persons in the immediate family of the applicant;

(j) The health and medical needs of the applicant and of immediate family members;

(k) Any disability, particularly a disability that limits gainful employment, by an applicant or of an immediate family member of the applicant; and

(l) Other available assistance or support to the applicant and the applicant's immediate family, including but not limited to:

- (A) United States Department of Veterans Affairs (USDVA) benefits;
- (B) Social Security benefits;
- (C) Other pensions;
- (D) Millennium Bill benefits;
- (E) Medicare benefits;
- (F) Medicaid benefits;
- (G) Annuities;
- (H) Savings;
- (I) Investments; and
- (J) Income from other available resources.

(2) The payment of Program assistance is subject to the discretion of the Department in consideration of factors described above in Paragraph (1), together with any other factors, as deemed relevant by the Department. The Department may refuse, terminate, or suspend Program assistance to any veteran and the veteran's immediate family at any time without notice. The Department shall be under no obligation to provide Program assistance to any applicant or to the immediate family of any applicant.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500  
Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500  
Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06; DVA 4-2006, f. & cert. ef. 4-25-06

## 274-012-0125

### Misrepresentation of Emergency Financial Assistance

The Department may require immediate reimbursement of funds, either in total or in part, if it is determined that applicant intentionally submitted invalid, incomplete, or fraudulent information when applying for funds from this Program, or if it is discovered that the funds were not used for the approved purpose(s).

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500  
Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500  
Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06; DVA 4-2006, f. & cert. ef. 4-25-06

## 274-012-0130

### Review of Decisions

Any person adversely affected by a decision of the Department with respect to program assistance may write a letter of complaint to the Department's Director. The Director, or the Director's designee, will undertake such review of the complaint as deemed appropriate. The Director, or the Director's designee, will endeavor to provide a written response within 30 days of receipt of the written complaint and shall direct the Department to take such corrective action as is determined to be appropriate.

Stat. Auth.: Ch. 831, OL 2005, ORS 406.030, 406.050, 406.130 & 408.010  
Stats. Implemented: Ch. 831, OL 2005, ORS 406.030, 406.050, 406.130 & 408.010  
Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06; DVA 4-2006, f. & cert. ef. 4-25-06

## 274-012-0131

### Waiver of Rules

Subject to the limitations of the law, and at its sole discretion, the Department of Veterans' Affairs may waive all or part of these administrative rules.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500  
Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500  
Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06; DVA 4-2006, f. & cert. ef. 4-25-06

\*\*\*\*\*

## Employment Department Chapter 471

**Rule Caption:** OAR 471-010-0050 Definitions.

**Adm. Order No.:** ED 6-2006

**Filed with Sec. of State:** 4-21-2006

**Certified to be Effective:** 4-23-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 471-010-0050

**Subject:** The Employment Department is amending this rule because the opt in/opt out portion of the law is no longer required under the Privacy Act.

**Rules Coordinator:** Lynn M. Nelson—(503) 947-1724

## 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 three 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



# ADMINISTRATIVE RULES

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) That any information disclosed will come from state government files;

(E) The effects on the customer, if any, of not allowing collection or disclosure of the information; and

(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.

(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; ED 2-2005, f. 4-29-05, cert. ef. 5-1-05; ED 6-2006, f. 4-21-06, cert. ef. 4-23-06

\*\*\*\*\*

## Employment Department, Child Care Division Chapter 414

**Rule Caption:** OAR 414-700-0060 Participating Provider Eligibility Requirements.

**Adm. Order No.:** CCD 2-2006

**Filed with Sec. of State:** 4-21-2006

**Certified to be Effective:** 4-23-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 414-700-0060

**Subject:** This rule sets out the requirements for participating eligibility and is being amended to specify the percent that will be charged to families under ORS 657A.718(1)(g).

**Rules Coordinator:** Lynn M. Nelson—(503) 947-1724

### 414-700-0060

#### Participating Provider Eligibility Requirements

(1) To be eligible for disbursements under this program, child care providers shall:

(a) Be regulated by the Child Care Division;

(b) Accept children for whom child care is paid for through Department of Human Services subsidy;

(c) Provide high quality child care as defined by the Child Care Division in collaboration with the Advisory Council;

(d) Maintain adequate liability insurance, financial records and parent policies and contracts; and

(e) Permit the community agency to conduct visits for monitoring purposes.

(2) If the provider is a home-based business, the provider shall meet the following requirements in addition to those in subsection (1) of this section:

(a) Enter into an agreement with the community agency to continue to provide child care services for at least two additional years; and

(b) Provide care to children from at least two families that have incomes of 85 percent or less of the median income for the region.

(3) If the provider is a child care center, at least 25 percent of the families served by the center must have incomes that are 85 percent or less of the median income for the region.

(4) In selecting participating child care providers, selected community agencies must give preference to providers that provide child care to low and moderate income families.

(5) For care provided to children of families whose income does not exceed the level established by the community agency pursuant to ORS 657A.715(2)(g), the fee charged to the family by an eligible provider shall not exceed ten percent of the family's gross monthly income.

# ADMINISTRATIVE RULES

Stat. Auth.: ORS 657A.706  
Stats. Implemented: ORS 657A.700 - 657A.718  
Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 2-2005(Temp), f. & cert. ef. 6-16-05 thru 12-13-05; CCD 4-2005(Temp), f. 12-2-05, cert. ef. 12-15-05 thru 6-11-06; CCD 2-2006, f. 4-21-06, cert. ef. 4-23-06

\*\*\*\*\*  
**Land Conservation and Development Department**  
**Chapter 660**

**Rule Caption:** Amendments to administrative rules concerning periodic review addressing 2005 legislation hearings procedures.

**Adm. Order No.:** LCDD 4-2006

**Filed with Sec. of State:** 5-15-2006

**Certified to be Effective:** 5-15-06

**Notice Publication Date:** 1-1-06

**Rules Adopted:** 660-025-0035, 660-025-0085, 660-025-0250

**Rules Amended:** 660-022-0040, 660-022-0050, 660-025-0010, 660-025-0020, 660-025-0030, 660-025-0040, 660-025-0050, 660-025-0060, 660-025-0070, 660-025-0080, 660-025-0090, 660-025-0100, 660-025-0110, 660-025-0130, 660-025-0140, 660-025-0150, 660-025-0160, 660-025-0170, 660-025-0175, 660-025-0180, 660-025-0210, 660-025-0220, 660-025-0230

**Rules Repealed:** 660-025-0120

**Subject:** The new amended rules under OAR chapter 660, division 25, include revised provisions for periodic review as required by recent legislative amendments to OAR 197.625 - 197.646, and also include additional amendments to periodic review procedures proposed by the Department of Land Conservation and Development. The Amended rules under OAR chapter 660, division 22, amend certain requirements for Unincorporated Communities Planning in response to recent legislative amendments to ORS chapter 197.

**Rules Coordinator:** Shelia Preston—(503) 373-0050, ext. 222

## 660-022-0040

### Urban Unincorporated Communities

(1) Counties with qualifying communities shall adopt plans and land use regulations for urban unincorporated communities (UUC's). All statewide planning goals applicable to cities shall also apply to UUC's, except for those goals provisions relating to urban growth boundaries and related requirements regarding the accommodation of long-term need for housing and employment growth.

(2) Counties may expand the boundaries of those UUC's with the following characteristics in order to include developable land to meet a demonstrated long-term need for housing and employment:

(a) The UUC is at least 20 road miles from an urban growth boundary with a population over 25,000; and

(b) The UUC is at least 10 road miles from an urban growth boundary with a population of 25,000 or less.

(3) To expand the boundary of a UUC, a county shall demonstrate a long-term need for housing and employment in the community. The county shall base its demonstration upon population growth estimates from a reputable forecast service (such as Portland State University). The county shall coordinate its estimates with those for other cities and communities in the county. The county shall consider:

(a) Plans to extend facilities and services to existing community land; and

(b) The infill potential of existing land in the community.

(4) If a county determines that it must expand the boundary of a UUC to accommodate a long-term need for housing and employment, it shall follow the criteria for amendment of an urban growth boundary in statewide planning Goal 14 and shall select land using the following priorities:

(a) First priority goes to that developable land nearest to the UUC which is identified in an acknowledged comprehensive plan as exception area or nonresource land;

(b) If land described in subsection (a) of this section is not adequate to accommodate the need demonstrated pursuant to section (3) of this rule, second priority goes to land designated in a comprehensive plan for agriculture or forestry, or both. Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use, with designated marginal land considered the lowest capability (highest priority for selection);

(c) Land described in subsection (4)(b) of this section may be included if land of higher priority is inadequate to accommodate the need pro-

jected according to section (3) of this rule for any one of the following reasons:

(A) Specific types of identified land needs cannot be reasonably accommodated on higher priority land; or

(B) Public facilities and services cannot reasonably be provided to the higher priority area due to topographic or other physical constraints; or

(C) Maximum efficiency of land use within the UUC requires inclusion of lower priority land in order to provide public facilities and services to higher priority land.

(5) Counties shall apply plans and land use regulations to ensure that land added to a UUC:

(a) Is used only to satisfy needs identified pursuant to section (3) of this rule; and

(b) Is provided with sewer and water services at the time of development; and

(c) Is planned and zoned according to the requirements of this division; and

(d) If designated for residential use, meets the requirements of statewide planning Goal 10 and ORS 197.314; and

(6) Counties shall not rely upon the use of land included within a UUC as the basis for determining that nearby land designated in compliance with goals relating to agriculture or forestry is committed to nonresource use as defined in OAR 660-004-0005(3).

(7) Counties shall include findings of fact and conclusions of law demonstrating compliance with the provisions of this rule in their comprehensive plans.

(8) For purposes of this rule, "developable land" shall have the meaning given that term in OAR 660-021-0010(5).

(9) For purposes of this rule, "long-term need" means needs for the UUC anticipated for the next 10 years.

Stat. Auth.: ORS 197.040 & 197.245

Stats. Implemented: ORS 197.040

Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-022-0050

### Community Public Facility Plans

(1) In coordination with special districts, counties shall adopt public facility plans meeting the requirements of OAR 660, division 11, and include them in the comprehensive plan for unincorporated communities over 2,500 in population. A community public facility plan addressing sewer and water is required if the unincorporated community is designated as an urban unincorporated community under OAR 660-022-0010 and 660-022-0020. For all communities, a sewer and water community public facility plan is required if:

(a) Existing sewer or water facilities are insufficient for current needs, or are projected to become insufficient due to physical conditions, financial circumstances or changing state or federal standards; or

(b) The plan for the unincorporated community provides for an amount, type or density of additional growth or infill that cannot be adequately served with individual water or sanitary systems or by existing community facilities and services; or

(c) The community relies on groundwater and is within a groundwater limited or groundwater critical area as identified by the Oregon Department of Water Resources; or

(d) Land in the community has been declared a health hazard or has a history of failing septic systems or wells.

(2) A community public facility plan shall include inventories, projected needs, policies and regulations for the water and sewerage facilities which are existing or needed to serve the unincorporated community, including:

(a) An inventory of the condition and capacity of existing public facilities and services;

(b) An assessment of the level of facilities and services needed to adequately serve the planned buildout within the community area boundary; and

(c) Coordination agreements consistent with ORS chapter 195.

(3) If existing community facilities and services are not currently adequate to serve the development allowed in the plan and zoning ordinance, the community public facility plan shall contain either:

(a) Development restrictions to ensure development will not exceed the capacity of the land to absorb waste and provide potable water and will not exceed the capacity of public facilities; or

(b) A list of new facilities, and improvements for existing public facilities, necessary to adequately serve the planned buildout in the unincorporated community, including the projected costs of these improvements and an identification of the provider or providers of these improvements; and

# ADMINISTRATIVE RULES

(c) A discussion of the provider's funding mechanisms and the ability of these and possibly new mechanisms to fund the development of each community public facility project; and

(d) A requirement that development not occur until the necessary public facilities are available for that development.

Stat. Auth.: ORS 197.040 & 197.245

Stats. Implemented: ORS 197.040

Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0010

### Purpose

The purpose of this division is to carry out the state policy outlined in ORS 197.010 and 197.628. This division is intended to implement provisions of ORS 197.626 through 197.646. The purpose for periodic review is to ensure that comprehensive plans and land use regulations remain in compliance with the statewide planning goals adopted pursuant to ORS 197.230, and that adequate provision for needed housing, economic development, transportation, public facilities and services, and urbanization are coordinated as described in ORS 197.015(5). Periodic Review is a cooperative process between the state, local governments, and other interested persons.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0020

### Definitions

For the purposes of this division, the definitions contained in ORS 197.015, 197.303, shall apply unless the context requires otherwise. In addition, the following definitions apply:

(1) "Economic Revitalization Team" means the team established under ORS 284.555.

(2) "Filed" or "Submitted" means that the required documents have been received by the Department of Land Conservation and Development at its Salem, Oregon, office.

(3) "Final Decision" means the completion by the local government of a work task on an approved work program, including the adoption of supporting findings and any amendments to the comprehensive plan or land use regulations. A decision is final when the local government's decision is transmitted to the department for review.

(4) "Metropolitan planning organization" means an organization located wholly within the State of Oregon and designated by the Governor to coordinate transportation planning in an urbanized area of the state pursuant to 49 USC 5303(c).

(5) "Objection" means a written complaint concerning the adequacy of an evaluation, proposed work program, or completed work task.

(6) "Participated at the local level" means to have provided substantive comment, evidence, documents, correspondence, or testimony to the local government during the local proceedings regarding a decision on an evaluation, work program or work task.

(7) "Work Program" means a detailed listing of tasks necessary to revise or amend the local comprehensive plan or land use regulations to ensure the plan and regulations achieve the statewide planning goals. A work program must indicate the date that each work task must be submitted to the department for review.

(8) "Work Task" or "task" means an activity, that is included on an approved work program and that generally results in an adopted amendment to a comprehensive plan or land use regulation.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.015 & 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0030

### Periodic Review Schedule

(1) The commission must approve, and update as necessary, a schedule for periodic review. The schedule must include the date when each local government must be sent a letter by the department requesting the local government to commence the periodic review process.

(2) The schedule developed by the commission must reflect the following:

(a) A city with a population of more than 2,500 within a metropolitan planning organization or a metropolitan service district shall conduct periodic review every seven years after completion of the previous periodic review.

(b) A city with a population of 10,000 or more inside its urban growth boundary that is not within a metropolitan planning organization shall conduct periodic review every 10 years after completion of the previous periodic review.

(c) A county with a portion of its population within the urban growth boundary of a city subject to periodic review under this section shall conduct periodic review for that portion of the county according to the schedule and work program set for the city.

(d) Notwithstanding subsection (c) of this section, if the schedule set for the county is specific as to that portion of the county within the urban growth boundary of a city subject to periodic review under this section, the county shall conduct periodic review for that portion of the county according to the schedule and work program set for the county.

(3) The commission may establish a schedule that varies from the standards in section (2) of this rule if necessary to coordinate approved periodic review work programs or to account for special circumstances. The commission may schedule a local government's periodic review earlier than provided in section (2) of this rule if necessary to ensure that all local governments in a region whose land use decisions would significantly affect other local governments in the region are conducting periodic review concurrently, but not sooner than five years after completion of the previous periodic review.

(4) The director must maintain and implement the schedule. Copies of the schedule must be provided upon request.

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0035

### Initiating Periodic Review Outside the Schedule

(1) A local government may request, and the commission may approve, initiation of periodic review not otherwise provided for in the schedule established under OAR 660-025-0030. The request must be submitted to the commission along with justification for the requested action. The justification must include a statement of local circumstances that warrant periodic review and identification of the statewide planning goals to be addressed.

(2) In consideration of the request filed pursuant to section (1), the commission must consider the needs of the jurisdiction to address the issue(s) identified in periodic review, the interrelationships of the statewide planning goals to be addressed in the periodic review project, and other factors the commission finds relevant. If the commission approves the request, the provisions of this division apply, except as provided in section (3) of this rule.

(3) The Economic Revitalization Team may work with a city to create a voluntary comprehensive plan review that focuses on the unique vision of the city, instead of conducting a standard periodic review, if the team identifies a city that the team determines can benefit from a customized voluntary comprehensive plan review. In order for a voluntary comprehensive plan review to be initiated by the commission, the city must request initiation of such a modified periodic review. The provisions of this division apply except as follows:

(a) If the city is subject to the periodic review schedule in OAR 660-025-0030, the periodic review under this section will not replace or delay the next scheduled periodic review;

(b) If the city misses a deadline related to an evaluation, work program or work task, including any extension, the commission must terminate the evaluation, work program, or work task or impose sanctions pursuant to OAR 660-025-0170(3).

(4) If the commission pays the costs of a local government that is not subject to OAR 660-025-0030 to perform new work programs and work tasks, the commission may require the local government to complete periodic review when the local government has not completed periodic review within the previous five years if:

(a) A city has been growing faster than the annual population growth rate of the state for five consecutive years;

(b) A major transportation project on the Statewide Transportation Improvement Program that is approved for funding by the Oregon Transportation commission is likely to:

(A) Have a significant impact on a city or an urban unincorporated community; or

(B) Be significantly affected by growth and development in a city or an urban unincorporated community;

(c) A major facility, including a prison, is sited or funded by a state agency; or



# ADMINISTRATIVE RULES

(d) Approval by the city or county of a facility for a major employer will increase employment opportunities and significantly affect the capacity of housing and public facilities in the city or urban unincorporated community.

(5) As used in section (4) of this rule, "the costs of a local government" means: normal and customary expenses for supplies, personnel and services directly related to preparing a work program, and completing studies and inventories, drafting of ordinances, preparing and sending notices of hearings and meetings, conducting meetings and workshops, and conducting hearings on possible adoption of amendments to plans or codes, to complete a work task.

Stat. Auth.: ORS 197.040 & 197.633  
Stats. Implemented: ORS 197.628 - ORS 197.646  
Hist.: LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0040

### Exclusive Jurisdiction of LCDC

(1) The commission, pursuant to ORS 197.644(2), has exclusive jurisdiction to review the evaluation, work program, and all work tasks for compliance with the statewide planning goals and applicable statutes and administrative rules. Pursuant to ORS 197.626, the commission has exclusive jurisdiction to review the following land use decisions for compliance with the statewide planning goals:

(a) If made by a city with a population of 2,500 or more inside its urban growth boundary, amendments to an urban growth boundary to include more than 50 acres;

(b) If made by a metropolitan service district, amendments to an urban growth boundary to include more than 100 acres;

(c) plan and land use regulations that designate urban reserve areas.

(2) The director may transfer one or more matters arising from review of a work task, urban growth boundary amendment or designation or amendment of an urban reserve area to the Land Use Board of Appeals pursuant to ORS 197.825(2)(c)(A) and OAR 660-025-0250.

Stat. Auth.: ORS 197.040  
Stats. Implemented: ORS 195.145, 197.628 - 197.646, 197.825  
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0050

### Commencing Periodic Review

(1) The department must commence the periodic review process by sending a letter to the affected local government pursuant to OAR 660-025-0030 or 660-025-0035. The department may provide advance notice to a local government of the upcoming review and must encourage local governments to review their citizen involvement provisions prior to beginning periodic review.

(2) The periodic review commencement letter must include the following information:

(a) A description of the requirements for citizen involvement, evaluation of the plan and preparation of a work program;

(b) The date the evaluation and work program or evaluation and decision that no work program is required must be submitted;

(c) Applicable evaluation forms; and

(d) Other information the department considers relevant.

(3) The director must provide copies of the materials sent to the local government to interested persons upon written request.

Stat. Auth.: ORS 197.040 & 197.633  
Stats. Implemented: ORS 197.628 - 197.646  
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0060

### Periodic Review Assistance Team(s)

(1) The director may create one or more Periodic Review Assistance Team(s) to coordinate state, regional or local public agency comment, assistance, and information into the evaluation and work program development process. The director must seek input from agencies, regional governments and local governments on the membership of Periodic Review Assistance Team(s).

(2) Members of the Periodic Review Assistance Team will provide, as appropriate:

(a) Information relevant to the periodic review process;

(b) New and updated information;

(c) Technical and professional land use planning assistance; or

(d) Coordinated evaluation and comment from state agencies.

(3) Membership. The Periodic Review Assistance Team may include representatives of state agencies with programs affecting land use and rep-

resentatives of regional or local governments who may have an interest in the review.

(4) Meetings. The Periodic Review Assistance Team shall meet as necessary to provide information and advice to a local government in periodic review.

(5) Authority. The Periodic Review Assistance Team shall be an advisory body. The team may make recommendations concerning an evaluation, a work program or work task undertaken pursuant to an approved work program. The team may also make recommendations to cities, counties, state agencies and the commission regarding any other issues related to periodic review.

(6) In addition to the Periodic Review Assistance Team(s), the department may utilize the Economic Revitalization Team or institute an alternative process for coordinating agency participation in the periodic review of comprehensive plans.

(7) Consideration by the commission. The commission must consider the recommendations, if any, of the Periodic Review Assistance Team(s).

Stat. Auth.: ORS 197.040 & 197.633  
Stats. Implemented: ORS 197.628 - 197.646  
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0070

### Need for Periodic Review

(1) The following conditions indicate the need for, and establish the scope of, review for periodic review of comprehensive plans and land use regulations when required under OAR 660-025-0030:

(a) There has been a substantial change in circumstances including but not limited to the conditions, findings, or assumptions upon which the comprehensive plan or land use regulations were based, so that the comprehensive plan or land use regulations do not comply with the statewide planning goals relating to economic development, needed housing, transportation, public facilities and services and urbanization;

(b) Decisions based on acknowledged comprehensive plan and land use regulations are inconsistent with the goals relating to economic development, needed housing, transportation, public facilities and services and urbanization;

(c) There are issues of regional or statewide significance, intergovernmental coordination, or state agency plans or programs affecting land use which must be addressed in order to bring comprehensive plans and land use regulations into compliance with the goals relating to economic development, needed housing, transportation, public facilities and services and urbanization; or

(d) The existing comprehensive plan and land use regulations are not achieving the statewide planning goals relating to economic development, needed housing, transportation, public facilities and services and urbanization.

(2) When a local government requests initiation of periodic review under OAR 660-025-0035(2), the need for periodic review may be based on factors not contained in section (1) of this rule and the scope of such a periodic review may be more limited than would be the case for scheduled periodic review under section (1) of this rule.

Stat. Auth.: ORS 197.040  
Stats. Implemented: ORS 197.628 - 197.646  
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0080

### Citizen Involvement

(1) The local government must use its acknowledged or otherwise approved citizen involvement program to provide adequate participation opportunities for citizens and other interested persons in all phases of the local periodic review. Each local government must publish a notice in a newspaper of general circulation within the community informing citizens about the initiation of the local periodic review. The local government must also provide written notice of the initiation of the local periodic review to other persons who, in writing, request such notice.

(2) Each local government must review its citizen involvement program and assure that there is an adequate process for citizen involvement in all phases of the periodic review process. Citizen involvement opportunities must, at a minimum, include:

(a) Interested persons must have the opportunity to comment in writing in advance of or at one or more hearings on the periodic review evaluation. Citizens and other interested persons must have the opportunity to present comments orally at one or more hearings on the periodic review evaluation. Citizens and other interested persons must have the opportunity to propose periodic review work tasks prior to or at one or more

# ADMINISTRATIVE RULES

hearings. The local government must provide a response to comments at or following the hearing on the evaluation.

(b) Interested persons must have the opportunity to comment in writing in advance of or at one or more hearings on a periodic review work task. Citizens and other interested persons must have the opportunity to present comments orally at one or more hearings on a periodic review work task. The local government must respond to comments at or following the hearing on a work task.

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0085

### Commission Hearings Notice and Procedures

(1) Hearings before the commission on a referral of a local government submittal of an evaluation, work program, determination that a work program is not necessary, or hearings on referral or appeal of a work task must be noticed and conducted in accordance with this rule.

(2) The commission shall take final action on an appeal or referral within 90 days of the date the appeal was filed or the director issued notice of the referral unless:

(a) At the request of a local government and a person who files a valid objection or appeals the director's decision, the department may provide mediation services to resolve disputes related to the appeal. Where mediation is underway, the commission shall delay its hearing until the mediation process is concluded or the director, after consultation with the mediator, determines that mediation is of no further use in resolution of the work program or work task disagreements;

(b) If the appeal or referral raises new or complex issues of fact or law that make it unreasonable for the commission to give adequate consideration to the issues within the 90-day limit the commission is not required to take final action within that time limit; or

(c) If the parties to the appeal and the commission agree to an extension, the hearing may be continued for a period not to exceed an additional 90 days.

(3) The director must provide written notice of the hearing to the local government, the appellant, objectors, and individuals requesting notice in writing. The notice must contain the date and location of the hearing.

(4) The director may prepare a written report to the commission on an appeal or referral. If a report is prepared, the director must mail a copy to the local government, objectors, the appellant, and individuals requesting the report in writing.

(5) Commission hearings will be conducted using the following procedures:

(a) The chair will open the hearing and explain the proceedings;

(b) The director or designee will present an oral report regarding the nature of the matter before the commission, an explanation of the director's decision, if any, and other information to assist the commission in reaching a decision. If another state agency participated in the periodic review under ORS 197.637 or 197.638, the agency may participate in the director's oral report.

(c) Oral argument will be allowed. The local government or governments whose decision is under review and parties who filed objections or an appeal may present oral argument. Oral argument will not be an opportunity to present new evidence regarding the matter before the commission. The local government that submitted the task may provide general information on the task submittal and address those issues raised in the department review, objections and the appeal. Persons who submitted objections or an appeal may address only those issues raised in objections or the appeal. Other affected local governments may address only those issues raised in objections or the appeal.

(d) The commission may request new evidence or information at its discretion and will allow the parties an opportunity to review and respond to the new evidence or information, subject to the time limits in section (2) of this rule.

(e) The director or commission may take official notice of law defined as:

(A) The decisional, constitutional and public statutory law of Oregon, the United States and any state, territory or other jurisdiction of the United States.

(B) Public and private official acts of the legislative, executive and judicial departments of this state, the United States, and any other state, territory or other jurisdiction of the United States.

(C) Regulations, ordinances and similar legislative enactments issued by or under the authority of the United States or any state, territory or possession of the United States.

(D) Rules of court of any court of this state or any court of record of the United States or of any state, territory or other jurisdiction of the United States.

(E) The law of an organization of nations and of foreign nations and public entities in foreign nations.

(F) An ordinance, comprehensive plan or enactment of any local government in this state, or a right derived therefrom.

(G) The commission must make a decision on the appeal or referral as provided in this division.

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0090

### Evaluation, Work Program or Decision that No Work Is Necessary

(1) The local government must conduct an evaluation of its plan and land use regulations based on the periodic review conditions in ORS 197.628 and OAR 660-025-0070. The local evaluation process must comply with the following requirements:

(a) The local government must follow its citizen involvement program and the requirements of OAR 660-025-0080 for conducting the evaluation and determining the scope of a work program.

(b) The local government must provide opportunities for participation by the department and Periodic Review Assistance Team. Issues related to coordination between local government comprehensive plan provisions and certified state agency coordination programs that are raised by the affected agency, or Periodic Review Assistance Team must be considered by the local government.

(c) The local government may provide opportunities for participation by the Economic Revitalization Team.

(d) At least 21 days before submitting the evaluation and work program, or decision that no work program is required, the local government must provide copies of the evaluation to members of the Periodic Review Assistance Team, if formed, and others who have, in writing, requested copies.

(e) After review of comments from interested persons, the local government must adopt an evaluation and work program or decision that no work program is required.

(2) The local government must submit the evaluation and work program, or decision that no work program is required, to the department according to the following requirements:

(a) The evaluation must include completed evaluation forms that are appropriate to the jurisdiction as determined by the director. Evaluation forms will be based on the jurisdiction's size, growth rate, geographic location, and other factors that relate to the planning situation at the time of periodic review. Issues related to coordination between local government comprehensive plan provisions and certified agency coordination programs may be included in evaluation forms.

(b) The local government must also submit to the department a list of persons who requested notice of the evaluation and work program or decision that no work program is required.

(c) The evaluation and work program, or decision that no work program is necessary, must be submitted within six months of the date the department sent the letter initiating the periodic review process, including any extension granted under section (3) of this rule.

(3) A local government may request an extension of time for submitting its evaluation and work program, or decision that no work program is required. The director may grant the request if the local government shows good cause for the extension. A local government may be permitted only one extension, which shall be for no more than 90 days.

(4) A decision by the director to deny a request for an extension may be appealed to the commission according to the procedures in OAR 660-025-0110(5), or the director may refer a request for extension under section (3) of this rule to the commission pursuant to OAR 660-025-0085.

(5) If a local government fails to submit its evaluation and work program, or decision that no work program is necessary, by the deadline set by the director or the commission, including any extension, the director shall schedule a hearing before the commission according to OAR 660-025-0170(3).

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

# ADMINISTRATIVE RULES

## 660-025-0100

### Notice and Filing of Objections (Work Program Phase)

(1) After the local government approves the evaluation and work program, or the evaluation and decision that no work program is necessary, the local government must notify the department and persons who participated at the local level orally or in writing during the local process. The local government notice must contain the following information:

(a) Where a person can review a copy of the local government's evaluation and work program or the evaluation and decision that no work program is necessary, and how a person may obtain a copy of the decision;

(b) The requirements listed in section (2) of this rule for filing a valid objection to the evaluation, work program or decision that no work program is necessary; and

(c) That objectors must give a copy of the objection to the local government.

(2) Persons who participated at the local level orally or in writing during the local process leading to the evaluation and work program or decision that no work program is necessary may object to the local government's decision. To be valid, an objection must:

(a) Be in writing and filed with the department no later than 21 days from the date the notice was mailed by the local government;

(b) Clearly identify an alleged deficiency in the evaluation, work program or decision that no work program is necessary;

(c) Suggest a specific work task that would resolve the deficiency;

(d) Demonstrate that the objecting party participated at the local level orally or in writing during the local process.

(3) Objections that do not meet the requirements of section (2) of this rule must not be considered by the director or commission.

(4) If no valid objections are received within the 21-day objection period, the director may approve the evaluation and work program or decision that no work program is required. Regardless of whether valid objections are received, the department may make its own determination of the sufficiency of the evaluation and work program or determination that no work program is necessary.

(5) If valid objections are received or the department conducts its own review, the department must issue a report. The report must focus on the issues raised in valid objections and concerns of the department. The report must identify specific work tasks to resolve valid objections or department concerns. A valid objection must either be sustained or rejected by the department or commission based on the statewide planning goals and related statutes and administrative rules.

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0110

### Director and Commission Action (Work Program Phase)

(1) The director may:

(a) Issue an order approving the evaluation and work program or evaluation and determination that no work program is necessary;

(b) Issue an order rejecting the evaluation and work program or evaluation and determination that no work program is necessary and suggest modifications to the local government including a date for resubmittal; or

(c) Refer the evaluation and work program or evaluation and determination that no work program is necessary to the commission for review and action.

(2) The director may postpone action, pursuant to subsections (1)(a)-(c) of this rule to allow the department, the jurisdiction, objectors or other persons who participated orally or in writing at the local level to reach agreement on specific issues relating to the evaluation and work program or evaluation and determination that no work program is necessary.

(3) The director must provide written notice of the decision to the local government persons who filed objections, and persons who requested notice of the local government decision.

(4) The director's decision to approve an evaluation and work program or evaluation and determination that no work program is necessary is final and may not be appealed.

(5) The director's decision to deny an evaluation and work program or evaluation and determination that no work program is necessary may be appealed to the commission by the local government, or a person who filed an objection, or other person who participated orally or in writing at the local level.

(a) Appeal of the director's decision must be filed with the department within 21 days of the date notice of the director's action was mailed;

(b) A person appealing the director's decision must show that the person participated in the local government decision. The person appealing the director's decision must show a deficiency in the director's decision to deny the evaluation, work program or decision that no work program is necessary. The person appealing the director's decision also must suggest a specific modification to the evaluation, work program or decision that no work program is necessary to resolve the alleged deficiency.

(6) If no such appeal is filed, the director's decision shall be final.

(7) In response to an appeal, the director may prepare and submit a report to the commission. The provisions in OAR 660-025-0160(3) and (4) apply.

(8) The commission shall hear referrals and appeals of evaluations and work programs according to the procedures in OAR 660-025-0085.

(9) Following its hearing, the commission must issue an order that either:

(a) Establishes a work program; or

(b) Determines that no work program is necessary.

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0130

### Submission of Completed Work Task

(1) A local government must submit completed work tasks as provided in the approved work program to the department along with any form required by the department. A local government must submit to the department a list of persons who participated orally or in writing in the local decision process or who requested notice of the local government's final decision on a work task.

(2) After receipt of a work task, the department must determine whether the submittal is complete.

(3) To be complete a submittal must be a final decision containing all required elements identified for that task in the work program. A portion of a task or subtask may be accepted as a complete submittal if the work program identified that portion of the task or subtask as a separate item for adoption by the local government. Task submittals are subject to the following requirements:

(a) If the local record does not exceed 2,000 pages, a submittal must include the entire local record, including but not limited to adopted ordinances and orders, studies, inventories, findings, staff reports, correspondence, hearings minutes, written testimony and evidence, and any other items specifically listed in the work program;

(b) If the local record exceeds 2,000 pages, a submittal must include adopted ordinances and orders, findings, hearings minutes, written testimony and evidence, and a detailed index listing items not included in the submittal. Items in the local record not included in the submittal must be made available for public review during the period for submitting objections under OAR 660-025-0140. The director or Commission may require submission of any materials not included in the initial submittal;

(c) A task submittal of over 500 pages must include an index of all submitted materials.

(4) A submittal includes only the materials provided to the department pursuant to section (3) of this rule. Following submission of objections pursuant to OAR 660-025-0140, the local government may provide written correspondence that is not part of the local record which identifies material in the record relevant to filed objections. The correspondence may not include or refer to materials not in the record submitted or listed pursuant to section (3) of this rule. The local government must provide the correspondence to each objector at the same time it is sent to the department.

(5) If the department determines that a submittal is incomplete, it must notify the local government. If the department determines that the submittal should be reviewed despite missing information, the department may commence a formal review of the submittal. Missing material may be identified as a deficiency in the review process and be a basis to require further work by the local government.

(6) A local government may request an extension of time for submitting a work task. The director may grant the request if the local government shows good cause for the extension. A local government may be permitted only one extension, which shall be for no more than one year.

(7) If a local government fails to submit a complete work task by the deadline set by the director, or the commission, including any extension, the director must schedule a hearing before the commission. The hearing must be conducted according to the procedures in OAR 660-025-0090(5).

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646



# ADMINISTRATIVE RULES

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0140

### Notice and Filing of Objections (Work Task Phase)

(1) After the local government makes a final decision on a work task, the local government must notify the department and persons who participated at the local level orally or in writing during the local process or who requested notice in writing. The local government notice must contain the following information:

(a) Where a person can review a copy of the local government's final decision, and how a person may obtain a copy of the final decision;

(b) The requirements listed in section (2) of this rule for filing a valid objection to the work task; and

(c) That objectors must give a copy of the objection to the local government.

(2) Persons who participated at the local level orally or in writing during the local process leading to the final decision may object to the local government's work task submittal. To be valid, objections must:

(a) Be in writing and filed with the department's Salem office no later than 21 days from the date the notice was mailed by the local government;

(b) Clearly identify an alleged deficiency in the work task sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the task submittal is alleged to have violated;

(c) Suggest specific revisions that would resolve the objection; and

(d) Demonstrate that the objecting party participated at the local level orally or in writing during the local process.

(3) Objections that do not meet the requirements of section (2) of this rule will not be considered by the director or commission.

(4) If no valid objections are received within the 21-day objection period, the director may approve the work task. Regardless of whether objections are received, the director may make a determination of whether the work task final decision complies with the statewide planning goals and applicable statutes and administrative rules.

(5) When a subsequent work task conflicts with a work task that has been deemed acknowledged, or violates a statewide planning goal related to a previous work task, the director or commission shall not approve the submittal until all conflicts and goal compliance issues are resolved. In such case, the director or commission may enter an order deferring acknowledgment of all, or part, of the work task until completion of additional tasks.

(6) If valid objections are received or the department conducts its own review, the department must issue a report. The report shall focus on the issues raised in valid objections and issues of compliance identified by the department. The report shall identify specific work tasks to resolve valid objections or department concerns. A valid objection shall either be sustained or rejected by the department or commission based on the the statewide planning goals and applicable statutes and administrative rules.

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0150

### Director Action and Appeal of Director Action (Work Task Phase)

(1) The director may:

(a) Issue an order approving the completed work task;

(b) Issue an order remanding the work task to the local government including a date for resubmittal;

(c) Refer the work task and recommendation to the commission for review and action; or

(d) The director may issue an order approving portions of the completed work task provided these portions are not affected by an order remanding or referring the completed work task.

(2) The director must send the order to the local government, persons who filed objections, and persons who, in writing, requested a copy of the action.

(3) The director's action in section (1) of this rule must be sent pursuant to section (2) of this rule within 120 days of the date the department received the task submittal from the local government unless the local government waives the 120-day deadline or the commission grants the director an extension. The local government may withdraw the submittal, in which case the 120-day deadline does not apply, provided the withdrawal will not result in the local government passing the deadline for work task submittal in the work program and any extension allowed in OAR 660-025-0130(7). If the director does not take action as prescribed in this section:

(a) If the department does not receive valid objections to the work task pursuant to OAR 660-025-0140(2), the work task shall be deemed approved and the department must provide a letter to the local government certifying that the work task is approved;

(b) If the department received one or more valid objections to the work task pursuant to OAR 660-025-0140(2), the director must refer the work task to the commission for review and action.

(4) Appeals of director decisions are subject to the requirements of this section.

(a) A person who filed a valid objection may appeal a director's approval or partial approval of a work task to the commission.

(b) The local government, a person who filed a valid objection, or other person who participated orally or in writing at the local level during the local process on the work task may appeal a director's remand or partial remand of a work task to the commission.

(c) Appeals of the director's decision must be filed with the department's Salem office within 21 days of the date the director's action was mailed;

(d) A person appealing the director's decision must:

(A) Show that the person participated at the local level orally or in writing during the local process;

(B) Clearly identify a deficiency in the work task sufficiently to identify the relevant section of the submitted task and the statute, goal, or administrative rule the local government is alleged to have violated; and

(C) Suggest a specific modification to the work task necessary to resolve the alleged deficiency.

(5) If no appeal to the commission is filed within the time provided by section (4) of this rule, the work tasks approved by the director are considered acknowledged. If the director's decision is to remand a work task and no appeal to the commission is filed within the time provided in section (4) of this rule, the decision is final.

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0160

### Commission Review of Referrals and Appeals (Work Task Phase)

(1) The commission shall hear appeals and referrals of work tasks according to the procedures in OAR 660-025-0085.

(2) In response to a referral or appeal, the director may prepare and submit a report to the commission.

(3) The department must mail a copy of the report to the local government, all persons who submitted objections, and other persons who appealed the director's decision. The department must mail the report at least 21 days before the commission meeting to consider the referral or appeal.

(4) Persons who filed valid objections or an appeal, and the submitting local government, may file written exceptions to the director's report within ten (10) days of the date the report is mailed. The director may issue a response to exceptions and may make revisions to the director's report in response to exceptions. A response or revised report may be provided to the commission at or prior to its hearing on the referral or appeal. A revised director's report does not require mailing 21 days prior to the commission hearing.

(5) The commission shall hear appeals based on the record unless the commission requests new evidence or information at its discretion and allows the parties an opportunity to review and respond to the new evidence or information. The written record shall consist of the submittal, timely objections, the director's report, timely exceptions to the director's report, the director's response to exceptions and revised report if any, and the appeal if one was filed.

(6) Following its hearing, the commission must issue an order that does one or more of the following:

(a) Approves the work task or a portion of the task;

(b) Remands the work task or a portion of the task to the local government, including a date for resubmittal;

(c) Requires specific plan or land use regulation revisions to be completed by a specific date. Where specific revisions are required, the order shall specify that no further review is necessary. These changes are final when adopted by the local government. The failure to adopt the required revisions by the date established in the order shall constitute failure to complete a work task by the specified deadline requiring the director to initiate a hearing before the commission according to the procedures in OAR 660-025-0170(3);

# ADMINISTRATIVE RULES

(d) Amends the work program to add a task authorized under OAR 660-025-0170(1)(b); or

(e) Modifies the schedule for the approved work program in order to accommodate additional work on a remanded work task.

(7) If the commission approves the work task under subsection (6)(a) of this section and no appeal to the Court of Appeals is filed within the time provided in ORS 183.482, the work task shall be deemed acknowledged. If the commission decision on a work task is under subsection (6)(b) through (e) of this section and no appeal to the Court of Appeals is filed within the time provided in ORS 183.482, the decision is final.

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0170

### Modification of an Approved Work Program, Extensions, and Sanctions for Failure to Meet Deadlines

(1) The commission may direct, or, upon request of the local government, the director authorize a local government to modify an approved work program when:

(a) Issues of regional or statewide significance arising out of another local government's periodic review requires an enhanced level of coordination;

(b) Issues of goal compliance are raised as a result of completion of a work task resulting in a need to undertake further review or revisions;

(c) Issues relating to the organization of the work program, coordination with affected agencies or persons, or orderly implementation of work tasks result in a need for further review or revision; or

(d) Issues relating to needed housing, economic development, transportation, public facilities and services, or urbanization were omitted from the work program but must be addressed in order to ensure compliance with the statewide planning goals.

(2) Failure to complete a modified work task shall constitute failure to complete a work task by the specified deadline, requiring the director to initiate a hearing before the commission according to the procedures in section (3).

(3) If a local government fails to submit its evaluation and work program, a decision that no work program is necessary, or a work task by the deadline set by the director or the commission, including any extension, the director shall schedule a hearing before the commission. The notice must state the date and location at which the commission will conduct the hearing. The hearing will be conducted pursuant to OAR 660-025-0085 and as follows:

(a) The director shall notify the local government in writing that its submittal is past due and that the commission will conduct a hearing and consider imposing sanctions against the local government as required by ORS 197.636(2);

(b) The director and the local government may prepare written statements to the commission addressing the circumstances causing the local government to miss the deadline and the appropriateness of any of the sanctions listed in ORS 197.636(2). The written statements must be filed in a manner and according to a schedule established by the director;

(c) The commission shall issue an order imposing one or more of the sanctions listed in ORS 197.636(2) until the local government submits its evaluation and work program or its decision that no work program is required, or its work task required under OAR 660-025-0130, as follows:

(A) Require the local government to apply those portions of the goals and rules to land use decisions as specified in an order issued by the commission,

(B) Forfeiture of all or a portion of the grant money received to conduct the review, develop the work program or complete the work task,

(C) Completion of the work program or work task by the department. The commission may require the local government to pay the cost for completion of work performed by the department, following the withholding process set forth in ORS 197.335(4),

(D) Application of such interim measures as the commission deems necessary to ensure compliance with the statewide planning goals.

Stat. Auth.: ORS 197.040 & 197.633

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 1-1998, f. & cert. ef. 4-15-98; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0175

### Review of UGB Amendments and Urban Reserve Area Designations

(1) Land use decisions establishing or amending an urban growth boundary or urban reserve area must be submitted to the department for review with the statewide planning goals and related statutes and rules when not on a work program and:

(a) A metropolitan service district amends its urban growth boundary to include more than 100 acres;

(b) A city with a population of 2,500 or more within its urban growth boundary amends the urban growth boundary to include more than 50 acres; or

(c) A city or metropolitan service district designates or amends urban reserve areas under ORS 195.145.

(2) The standards and procedures in this rule govern the local government process and submittal, and department and commission review.

(3) The local government must provide notice of the proposed amendment according to the procedures and requirements for post-acknowledgement plan amendments in ORS 197.610 and OAR 660-018-0020.

(4) The local government must submit its final decision amending its urban growth boundary, or designating urban reserve areas, to the department according to all the requirements for a work task submittal in OAR 660-025-0130 and 660-025-0140.

(5) Department and commission review and decision on the submittal from the local government must follow the procedures and requirements for review and decision of a work task submittal in OAR 660-025-0140 to 660-025-0160.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.145, 197.626 - 197.646

Hist.: LCDC 3-2000, f. & cert. ef. 2-14-00; LCDC 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0180

### Stay Provisions

(1) When a local government makes a final decision on a work task or portion of a work task that is required by, or carries out, an approved work program, or if the local government is a city with a population of 2,500 or more and either adopts a decision adding more than 50 acres to its urban growth boundary or designates or amends urban reserve areas, or a metropolitan service district that adopts a decision adding more than 100 acres to its urban growth boundary or designates or amends urban reserve areas, interested persons may request a stay of the local government's final decision by filing a request for a stay with the commission. In taking an action on a request to stay a local government's final decision on a work task, the commission must use the standards and procedures contained in OAR chapter 660, division 1.

(2) The director may grant a temporary stay of a final decision on a local government decision described in section (1) of this rule. A temporary stay must meet applicable stay requirements of the Administrative Procedures Act. A temporary stay issued by the director shall only be effective until the commission has acted on a stay request pursuant to section (1) of this rule.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

## 660-025-0210

### Updated Planning Documents

(1) Pursuant to ORS 195.025 and 195.040 and the legislative policy described in ORS 197.010, each local government must file two complete and accurate copies of its comprehensive plan and land use regulations bearing the date of adoption (including plan and zone maps bearing the date of adoption) with the department following completion of periodic review. These materials may be either a new printing or an up-to-date compilation of the required materials or upon approval of the department, an up-to-date copy on computer disk(s) or other electronic format.

(2) Materials described in section (1) of this rule must be submitted to the department within six months of completion of the last work task.

(3) The updated plan must be accompanied by a statement signed by a city or county official certifying that the materials are an accurate copy of current planning documents and that they reflect changes made as part of periodic review.

(4) Jurisdictions that do not file an updated plan on time shall not be eligible for grants from the department until such time as the required materials are provided to the department.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.190, 197.270 & 197.628 - 197.646

Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 4-2006, f. & cert. ef. 5-15-06

# ADMINISTRATIVE RULES

## Oregon Liquor Control Commission Chapter 845

### 660-025-0220

#### Computation of Time

(1) For the purposes of OAR chapter 660, division 25, periodic review rule, unless otherwise provided by rule, the time to complete required tasks, notices, objections, and appeals shall be computed as follows. The first day of the designated period to complete the task, notice, objection or appeal shall not be counted. The last day of the period shall be counted unless it is a Saturday, Sunday or legal holiday recognized by the State of Oregon. In that event the period shall run until the end of the next day that is not a Saturday, Sunday or state legal holiday.

(2) When the period of time to complete the task is less than seven (7) days, intervening Saturdays, Sundays or state legal holidays shall not be counted.

Stat. Auth.: ORS 197.040  
Stats. Implemented: ORS 187.010, 187.020, 197.628 - 197.650  
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 4-2006, f. & cert. ef. 5-15-06

### 660-025-0230

#### Applicability

(1) Amendments to this division apply as follows:

(a) Local governments in periodic review that have not submitted an evaluation and work program, or decision that no work program is required, when rule amendments become effective shall apply the new requirements to the evaluation and work program or decision than no work program is required;

(b) Local governments in periodic review must apply amendments to work tasks not completed or submitted to the department on the effective date of the amendments;

(c) The commission may modify approved work programs to carry out the priorities and standards reflected in amendments;

(d) The procedures and standards in amendments for department and commission review and action on periodic review submittals, requests for extensions, and late submittals apply to all such submittals and requests filed after the effective date of the amendments, as well as any such submittals and requests awaiting initial department action on the effective date of the amendments.

(2) Amendments to OAR 660-025-0030 and 660-025-0035(3) and (4) become effective July 1, 2007.

Stat. Auth.: ORS 197.040-197.245  
Stats. Implemented: ORS 197.628 - 197.646  
Hist.: LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

### 660-025-0250

#### Transfer of Matters to the Land Use Board of Appeals

(1) When the department receives an appeal of a director's decision pursuant to OAR 660-025-0150(4), the director may elect to transfer a matter raised in the appeal to the Land Use Board of Appeals (board) under ORS 197.825(2)(c)(A).

(2) Matters raised in an appeal may be transferred by the director to the board when:

(a) The matter is an urban growth boundary expansion approved by the local government based on a quasi-judicial land use application and does not require an interpretation of first impression of statewide planning Goal 14, ORS 197.296 or 197.298; or

(b)(A) The matter alleges the work task submittal violates a provision of law not directly related to compliance with a statewide planning goal;

(B) The appeal clearly identifies the provision of the task submittal that is alleged to violate a provision of law and clearly identifies the provision of law that is alleged to have been violated; and

(C) The matter is sufficiently well-defined that it can be separated from other allegations in the appeal.

(3) When the director elects to transfer a matter to the board, notice of the decision must be sent to the local jurisdiction, the appellant, objectors, and the board within 60 days of the date the appeal was filed with the department. The notice shall include identification of the matter to be transferred and explanation of the procedures and deadline for appeal of the matter to the board.

(4) The director's decision under this rule is final and may not be appealed.

Stat. Auth.: ORS 197.040  
Stats. Implemented: ORS 197.825  
Hist.: LCDD 4-2006, f. & cert. ef. 5-15-06

**Rule Caption:** Amend rule about use of interpreters and assistive communication devices in contested case proceedings.

**Adm. Order No.:** OLCC 5-2006

**Filed with Sec. of State:** 4-18-2006

**Certified to be Effective:** 5-1-06

**Notice Publication Date:** 1-1-06

**Rules Amended:** 845-003-0340

**Subject:** This rule describes the agency's procedures when a party or witness in a contested case proceeding needs assistance in order to be able to participate in the proceedings. We amended the rule to bring it into agreement with the Attorney General's rule on this subject, and to make clear that the agency will provide assistance when a participant not speaking English with adequate ability, or a participant with a disability needs assistance to communicate effectively in the proceedings.

**Rules Coordinator:** Katie Hilton—(503) 872-5004

### 845-003-0340

#### Interpreters

(1) Notwithstanding OAR 137-003-0590(3)(c)(A) and (B), when a party or a witness in a contested case proceeding, who is an individual with a disability, or who by reason of place of birth or culture, speaks a language other than English and does not speak English with adequate ability to communicate effectively in the proceedings, timely requests an assistive communication device or an interpreter, the agency shall appoint and pay the fees and expenses of a qualified interpreter or assistive communication device whenever it is necessary to interpret the proceedings.

(2) The administrative law judge shall explain to the person with a disability or to the non-English speaking party that a written decision or order will be issued in English, and that the party may contact the interpreter for an oral translation of the decision, or contact the agency to arrange for use of an assistive communication device, and that the translation or use of the assistive communication device itself is at no cost to the party. The interpreter shall provide to the administrative law judge and the party the interpreter's business telephone number and address. The telephone number and address shall be attached to the order mailed to the party. A copy of the order shall also be mailed to the interpreter for use in translation. The agency will provide to the administrative law judge and the party the name, phone number and address of the contact person at the agency who can arrange for an assistive communication device.

(3) For purposes of this rule:

(a) An "assistive communication device" means any equipment designed to facilitate communication by an individual with a disability;

(b) An "individual with a disability" means a person who cannot readily understand the proceedings because of deafness or a physical hearing impairment, or cannot communicate in the proceedings because of a physical speaking impairment;

(c) A "non-English speaking" person means a person who, by reason of place of birth or culture, speaks a language other than English and does not speak English with adequate ability to communicate effectively in the proceedings;

(d) A "qualified interpreter" means:

(A) For an individual with a disability, a person readily able to communicate with the individual with a disability, interpret the proceedings and accurately repeat and interpret the statements of the individual with a disability;

(B) For a non-English speaking person, a person readily able to communicate with the non-English speaking person and who can orally transfer the meaning of statements to and from English and the language spoken by the non-English speaking person. A qualified interpreter must be able to interpret in a manner that conserves the meaning, tone, level, style and register of the original statement, without additions or omissions. "Qualified interpreter" does not include a person who is unable to interpret the dialect, slang or specialized vocabulary used by the party or witness.

Stat. Auth.: ORS 183.341(2), 471.730(5) & (6);

Stats. Implemented: ORS 183.341(2)

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 5-2006, f. 4-18-06, cert. ef. 5-1-06



# ADMINISTRATIVE RULES

**Rule Caption:** Repeal rule requiring Full On-Premises Sales licensees to be open 5 days a week.

**Adm. Order No.:** OLCC 6-2006

**Filed with Sec. of State:** 4-18-2006

**Certified to be Effective:** 5-1-06

**Notice Publication Date:** 1-1-06

**Rules Repealed:** 845-006-0427

**Subject:** This rule describes a requirement that is a holdover from a former license type. The Commission no longer applies this rule, therefore we need to repeal it.

**Rules Coordinator:** Katie Hilton—(503) 872-5004

\*\*\*\*\*

## Oregon State Lottery Chapter 177

**Rule Caption:** Suspension of Lottery retailer's OLCC license by the OLCC; Effect on Lottery retailer contract.

**Adm. Order No.:** LOTT 5-2006

**Filed with Sec. of State:** 4-26-2006

**Certified to be Effective:** 4-27-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 177-040-0160

**Subject:** The Oregon Lottery amended this administrative rule to: Require all Lottery retailers to report the suspension of their OLCC license to the Lottery; Clarify the Director's authority to disable or reactivate Lottery equipment and suspend sales of Lottery tickets and shares when an OLCC license is suspended; Authorize an investigation of the circumstances of a traditional Lottery retailer's OLCC license suspension; and authorize the Director to impose sanctions in lieu of terminating the retailer contract if warranted by the circumstances of the OLCC license suspension.

**Rules Coordinator:** Mark W. Hohlt—(503) 540-1417

### 177-040-0160

#### Suspension of OLCC License

(1) **General:** Any Lottery retailer whose liquor license has been suspended by the Oregon Liquor Control Commission (OLCC) must immediately notify the Lottery of the suspension.

(2) **Disabling Equipment:** The Director shall disable all video lottery terminals in a retailer's establishment during the period that the OLCC has suspended the retailer's liquor license. Notwithstanding the term of the OLCC suspension, the Director may keep the video lottery terminals disabled during the Lottery Security investigation required by section (3) of this rule. The Director may also suspend the sale of all non-video Lottery tickets and shares and suspend all transactions on the retailer's computer link to the Lottery, disabling the retailer's ability to validate tickets and shares.

(3) **Lottery Investigation:** The Director shall initiate an investigation by Lottery Security of the suspension of a video Lottery retailer's liquor license. The Director may initiate an investigation by Lottery Security of the suspension of a traditional Lottery retailer's liquor license. Lottery Security will report the results of the investigation to the Director. The Director will review the findings of that investigation and the circumstances underlying the suspension by the OLCC. The Director will make a determination whether the findings of the investigation and the circumstances underlying the suspension will result in sanctions under the retailer contract, up to and including immediate termination of the contract.

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

Stats. Implemented: ORS 461.300

Hist.: LC 6-1993, f. & cert. ef. 7-2-93; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00, Renumbered from 177-100-0103; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03; LOTT 5-2006, f. 4-26-06, cert. ef. 4-27-06

\*\*\*\*\*

## Parks and Recreation Department Chapter 736

**Rule Caption:** Amend rule to conform to changes made to the statute in the 05-07 legislative session.

**Adm. Order No.:** PRD 3-2006

**Filed with Sec. of State:** 5-8-2006

**Certified to be Effective:** 5-8-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 736-050-0105, 736-050-0110, 736-050-0115, 736-050-0120, 736-050-0125, 736-050-0130, 736-050-0135, 736-050-0140, 736-050-0150

**Subject:** HB 2776 (05-07 Session) revised the Special Assessment for Historic Property Program to allow residential historic property owners a second 15-year period of special assessment as a local government option. The rule amendments have been drafted to respond to the legislative changes.

**Rules Coordinator:** Pamela Berger—(503) 986-0719

### 736-050-0105

#### Definitions

As used in OAR 736-050-0100 through 736-050-0150, unless the context requires otherwise:

(1) "Advisory Committee" means the State Advisory Committee on Historic Preservation appointed by the Governor pursuant to ORS 358.622.

(2) "Alteration" means the act of changing, making different, or removing the elements of a building, structure, landscape, or outbuilding, and can include but is not limited to elements or features such as: Barns, sheds, garages, porches, additions (historic and non-historic), windows, storm windows (interior or exterior), roofs, dormers, siding, foundations, doors, ornament and trim elements in any material, floors, light fixtures, bathrooms, kitchens, bedrooms, walls, ceilings, stairs and railings, beamed or coffered ceilings, fireplaces, built-in cabinetry, wainscoting, paneling, moldings, brackets, as well as the finishes and materials of which these features or elements are made. Exterior paint colors are included. For site or landscape alteration, features or elements include, but are not limited to: Site relationships of buildings and structures, including orientation; character-defining landscape features such as views and topography; original landscape material such as trees, shrubs, water features, fountains, paving, trellises, arbors, gazebos, greenhouses, rockwork, retaining walls, paths, stairways, gates, and fences.

(3) "Governing Body" means the legislative body of the city within which an historic property is located, or the legislative body of the county if the property is not located within a city.

(4) "Historic District" means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of historic sites, buildings, structures or objects unified by past events or aesthetically by plan or physical development. A district may also comprise individual noncontiguous elements separated geographically, but linked by association or history.

(5) "Historic Property" means real property that:

(a) Is individually listed in the National Register of Historic Places; or

(b) Has been individually recommended for nomination to the National Register of Historic Places by the State Advisory Committee on Historic Preservation; or

(c) Is within the boundaries of and contributes to the historical character of an historic district that is listed in the National Register, or an historic district that has been recommended by the Advisory Committee for nomination to the National Register; or

(d) Is within the boundaries of, and has the potential to contribute to the historical character of, an historic district that is listed in the National Register, or an historic district that has been recommended by the Advisory Committee for nomination to the National Register. The burden of proof is on the applicant. The SHPO shall make the final determination of a property's potential to contribute to historic district character.

(6) "Landmarks Commission" means an entity that has been formally designated by a governing body to consider matters pertaining to historic property and cultural resources within the jurisdiction of the governing body.

(7) "SHPO" means either the State Historic Preservation Officer appointed by the Governor pursuant to ORS 358.565 or the State Historic Preservation Office, depending on the context.

(8) "National Register" means the National Register of Historic Places maintained by the United States Department of the Interior.

(9) "New construction" includes, but is not limited to:

(a) An additional new building, structure, or other physical improvement separate from the existing building mass, including but not limited to a parking area to be used or in use for commercial purposes;

(b) An enlargement of the exterior mass or envelope of an existing building, structure, or physical improvement;

(c) Any story or stories added to an existing building, structure, or physical improvement.

(10) "Owner" means one or more who own a majority interest in real property, including a purchaser under recorded instrument of sale.

# ADMINISTRATIVE RULES

(11) "DSHPO" means the Deputy State Historic Preservation Officer, who is manager of the State Historic Preservation Office.

(12) "Americans with Disabilities Act" means the Americans with Disabilities Act of 1990 (P.L. 100-336), as amended as it pertains to removal of architectural barriers under Title III of the Act.

(13) "Commercial Property" means depreciable real property used in trade or business or held for the production of income, including multi-family residential rental property, that is depreciated for federal income tax purposes and is not used as a personal residence of the owner.

(14) "Energy Conservation Measures" means those work items which improve the overall energy efficiency of a building.

(15) "Historic Assessment Review Committee" (HARC) means the three-member committee appointed by the Governor to review and develop final orders in contested case hearings with regard to the special assessment program.

(16) "Preservation Plan" means a written preservation, rehabilitation, and maintenance proposal submitted by the owner with a special assessment application or reapplication and approved by, and from time to time be amended in consultation with, the SHPO.

(17) "The Secretary of the Interior's Standards for the Treatment of Historic Properties" is a document published by the National Park Service that includes standards for the Preservation, Rehabilitation, Restoration, or Reconstruction of historic properties. Any of the standards may be proposed in a Preservation Plan. Only the Rehabilitation standards are used to judge the appropriateness of proposed alterations and additions to historic property under section 736-050-0130 of this rule.

(18) "Rehabilitation" means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

(19) "Renovation Plan" means a written proposal submitted by an owner of commercial property in connection with a reapplication for special assessment which details measures to be taken for purposes of either Americans with Disabilities Act compliance, seismic improvement, or energy conservation.

(20) "Seismic Improvement" means construction or other measures that improve the seismic performance or structural stability of a property, or that reduce the potential for heavy structural damage to a property in the event of an earthquake.

(21) "Significant Investment" means, relating to reapplications of commercial property only, an investment that maintains or returns a property to a high level of architectural, landscape or structural integrity based on the historic record or professional analysis and which promotes compliance with the requirements of the Americans with Disabilities Act (ADA) or results in seismic or energy conservation improvements.

(22) "Maintenance" means the process of mitigating the wear and deterioration of a property without altering the historic character of the property, including action taken to protect and repair the condition of the property with the least possible impact on the historic character of the property.

(23) "Preservation" means:

(a) The process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property, including but not limited to the ongoing maintenance and repair of historic materials but;

(b) Not including the extensive replacement of historic materials or new construction.

(24) "Restoration" means the process of accurately depicting the forms, features and character of a property as it appeared at a particular period of time, by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

(25) "Reconstruction" means the process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

(26) "Real Market Value" has the meaning given in ORS 308.205.

(27) "Tax Year" means a period of 12 months beginning on July 1 (ORS 308.007(1)(c)).

(28) "Net Rentable Area" means the square footage of floor space within a building available to rent. It excludes, common areas, service areas, mechanical rooms, storage rooms, and chases.

(29) "Residential Property" means real property that is used as a personal residence of the owner and is not depreciable for federal income tax purposes.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.545

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

## 736-050-0110

### Application and Reapplication for Special Assessment

(1) An owner who desires a first term of Special Assessment shall submit a complete application on forms supplied by the State Historic Preservation Office (SHPO). An owner who desires an additional term of Special Assessment shall submit a complete reapplication on forms supplied by the SHPO. The application or reapplication must:

(a) Be received and acknowledged in writing as complete by the SHPO during the calendar year preceding the first tax year for which classification and special assessment as historic property is desired. Applications and reapplications are accepted and acknowledged in writing only.

(b) Include documentation from the applicable County Assessor of the subject property's current assessed and real market values. If an application is for only part of a property listed in the assessor's rolls, or if a total property value is to be divided upon approval of an application, an owner must request the county assessor to provide the assessed value of that part of the property that is subject to the application. In this case the assessor must initial the statement of assessed value on the application/affidavit form, or provide a letter that states the assessed value of the property that is subject to the application. In any case, an application must contain or be accompanied by written information or other documents that enable an owner, the assessor, the HARC and the SHPO to clearly understand the extent and current assessed value of the property that is subject to the application;

(c) Include an application fee of one-third of one percent (.0033) of the real market value of the property that is the subject to of the application. The value to be used when computing the fee is the current real market value of land and improvements combined, as determined by the County Assessor.

**EXAMPLE:** The fee for a property with a real market value of \$30,000 for land and \$70,000 for improvements would be: \$100,000 X .0033 = \$333.00. The fee must be paid by certified check or money order made payable to the Oregon Parks and Recreation Department;

(d) Include a reasonably accurate plan drawing of all floors, and labeled, archivally stable color print images (no Polaroid photographs) of each building or landscape that is a subject of the application. The images must clearly show the physical condition of each exterior elevation, and complete views of each historically significant interior spaces, rooms or features of each building or landscape that is a subject of the application. The SHPO shall make the final determination of a property's historic significance. If an owner has questions about historic significance, the SHPO should be consulted prior to application or reapplication.

(e) Include a Preservation Plan as described in OAR 736-050-0150 of these rules; Forms and instructions for completing Preservation Plans, and completed examples, are available from the SHPO or online at: [www.hcd.state.or.us](http://www.hcd.state.or.us).

(f) For a reapplication of a commercial property, include a Renovation Plan as described under OAR 736-050-0150. Instructions for completing Renovation Plans and a completed example are available from the SHPO or online at: [www.hcd.state.or.us](http://www.hcd.state.or.us).

(g) Include an affidavit on a form provided by the SHPO to be read and signed by the applicant testifying to the fact that applicant has read and understands the responsibilities and requirements of participation in the program, and consents to providing access to and viewing of the property, interior and exterior, by the SHPO or SHPO staff.

(h) If a reapplication for residential property, provide evidence that the local jurisdiction has adopted an ordinance or resolution supporting an additional period of special assessment for same within the jurisdiction.

(2) The special assessment applies to all of the property that is described in an application, including all significant historic buildings, landscape features, and outbuildings. The SHPO shall make the final determination of a property's historic significance. If an owner desires part of a property not to be designated historic and specially assessed, the owner must so state in the application. If approved by the SHPO, this consideration will be reflected in the county assessor's appraisal of the property.

(3) An owner whose property is not yet listed in the National Register but that has been recommended for listing by the State Advisory Committee on Historic Preservation may make an application for special assessment in the calendar year preceding the tax year the owner wishes the special assessment to begin. If the property is not listed in the National Register by September 15 of the year for which special assessment is first desired, the application shall be considered an application submitted and acknowledged for the tax year next beginning after the date the property is actually listed.

(4) An application or reapplication not denied on or before September 15 of the year for which special assessment is first desired shall be deemed approved, and the property that is the subject of the application shall be

# ADMINISTRATIVE RULES

considered to be historic property that qualifies under ORS 358.480 to 358.545.

Stat. Auth.: ORS 358.485

Stats. Implemented: ORS 358.545

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

## 736-050-0115

### Acceptance and Review of Special Assessment Applications

(1) Within 15 working days of receipt of an application or reapplication for special assessment, the SHPO shall determine if the subject property qualifies as "historic property" as described in OAR 736-050-0105(5) and if the application is complete. The SHPO staff shall return applications, including fees, for properties that do not qualify as historic property. The SHPO staff shall return incomplete or inaccurate applications, including fees, or may request additional or corrected information if the application is substantially accurate and complete. Upon determination that the subject property qualifies as historic property, and that the application is complete, the SHPO shall acknowledge its acceptance to the applicant in writing, and forward copies of the application to the applicable county assessor and governing body. The date of the SHPO acceptance letter shall be deemed the date of the application for purposes of this rule. No fees shall be returned once an application has been accepted by the SHPO.

(2) The SHPO shall consider recommendations of the county assessor relating to accuracy and completeness of property description and other matters within the county assessor's expertise in determining whether a property qualifies for special assessment.

(3) The SHPO shall consider the governing body's recommendations relating to public benefit when determining whether a property qualifies for special assessment. "Public benefit" recommendations should relate to the historic preservation element, if any, of the governing body's Comprehensive Plan and to the policy statement found in ORS 358.475.

(4) Following acceptance of an application in writing, the SHPO staff shall review it to determine whether it meets the criteria for approval in section (9) of this rule.

(5) If the SHPO does not receive a recommendation from the county assessor, or the governing body by the end of the business day on the 30th calendar day after the date of the SHPO's cover letter forwarding an application to them, the application shall be considered recommended for approval by those entities.

(6) Properties within the boundaries of an historic district may or may not have the potential to contribute to the historical character of the district. For example, "contributing" properties, as designated in the original nomination document, may have been so altered prior to an application for special assessment as to no longer convey historic character and with "non-contributing" rankings may nonetheless possess the potential to contribute to the district's historic character. Therefore, before accepting an application for a property located in an historic district, the SHPO shall determine whether or not the property contributes, or has the potential to contribute, to the character of the district. The burden of proof is on the applicant. Recommendations from the applicable Landmarks Commission, if one exists in the local jurisdiction, shall be requested and considered before a this determination is made. Properties that have been determined by the SHPO not to contribute, or that lack the potential to contribute to the historical character of an historic district, shall not be eligible for special assessment.

(7) The SHPO may approve all or only part of a property described in an application for special assessment. In an application an owner must identify the specific parcel of land to be certified for special assessment by plot number, assessor's tax lot number, a dimensioned plot plan, a metes and bounds description, or other accurate means of description. In rural areas, the SHPO may approve about one acre per building. (For example, a farmhouse, barn, and smoke-house listed in the National Register might receive special assessment for a three-acre parcel on which these buildings are located.) Exceptions to this policy will be made by the SHPO only when a larger parcel is needed to contain significant historic buildings and landscapes, or if exceptional circumstances are demonstrated.

(8) An owner of historic property applying for special assessment is entitled to any other exemption or special assessment provided by law. If the property has an existing exemption(s) or multiple exemptions are being considered at time of application, an owner shall consult with the county assessor's office to establish the historic property's assessed value and/or boundaries for purposes of determining an application value pursuant to OAR 736-050-0110(1)(b).

(9) In order to approve an application, the SHPO must find that:

(a) The treatment proposed in the Preservation and/or Renovation Plan(s) meets the applicable Secretary of the Interior's Standards for the Treatment of Historic Property;

(b) The combined rehabilitation, maintenance, and preservation proposed will result in a property that substantially conveys its historic character; and, for a Commercial Property reapplication, that the proposal constitutes a significant investment that promotes compliance with ADA requirements, seismic improvements, or energy conservation improvements to the property;

(c) The combined rehabilitation, maintenance, and preservation work items proposed will be completed in a timely manner.

(10) The SHPO may impose conditions and timelines on the approval of an application in order to bring it into conformance with the criteria listed in section (9) of this rule.

(11) The SHPO may deny an application or reapplication that does not meet the criteria listed in section (9) of this rule.

(12) The applicant may appeal any matter relating to an application for special assessment under the terms established in OAR 736-050-0140.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.490 & 358.495

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

## 736-050-0120

### Owner and SHPO Responsibilities

(1) An owner of specially assessed property is responsible for maintaining the property in good condition. Noticeable deterioration of a property, or a failure to complete rehabilitation required in a Preservation and/or Renovation Plan during the time period designated, unless otherwise amended, may be sufficient cause for the SHPO to seek mandatory remedial action and/or to initiate removal of the property's special assessment pursuant to OAR 736-050-0135.

(2) Pursuant to subsections (a) through (h) of this section, an owner must provide a reasonable opportunity for members of the public to visit the property at least one day a year, except national holidays. Failure to comply with these requirements may be sufficient cause for the SHPO to seek mandatory remedial action and/or to initiate removal of property's special assessment pursuant to OAR 736-050-0135.

(a) On forms provided by the SHPO, or the equivalent, an owner shall notify the SHPO in writing of the open house visitation date no later than the tenth day of the month prior to the month in which the chosen date occurs. The property must be open to the public for four consecutive hours between 9 a.m. and 9 p.m.

(b) Within 14 calendar days after an open house is held, an owner shall return the completed and signed open house affidavit/guest list form provided by the SHPO, or an equivalent substitute, confirming that the open house was held on the date and time specified. The affidavit/guest or a substitute form must be made available to be signed by those attending the open house.

(c) The SHPO may approve a request for waiver of the open house requirement under the following circumstances:

(A) A waiver may be granted if significant interior or exterior rehabilitation is underway and will not be completed by December 31 of the calendar year, or if the SHPO believes that requiring the property to be open would endanger the public. If the rehabilitation is completed and the premises certified occupiable by the applicable local building official during the calendar year, the owner must hold an open house, and must notify the SHPO as outlined in subsection (a) of this section. A waiver form will be provided by the SHPO upon request of the property owner;

(B) A waiver may be requested and granted in the case of hardship or unexpected circumstances that make it impossible for the owner to hold an open house within a calendar year. Request for a waiver must be in writing and must explain the extenuating circumstances.

(d) During a waiver period granted under subsection (c) of this section, the SHPO may require an interpretive display to be placed on the property or its grounds by the owner, in an area visible to the public, but which will not present a danger to the public or interfere with construction activity. The display shall contain at a minimum: historic name of property as indicated on National Register nomination form (if known); date of construction; and other interpretive information regarding the property's historic or architectural significance;

(e) An owner of a property, parts of which are routinely open to the public without charge, must nonetheless make provision for the public to view all significant parts of the building, including those areas not normally available for public viewing. Owners of properties that are routinely



# ADMINISTRATIVE RULES

open to the public for a fee, such as theaters or privately-operated house museums, must make provision for free public visitation one day a year;

(f) Open houses that are held as a part of community-sponsored events, or as fund raising events for nonprofit organizations will satisfy the mandatory open house requirement provided that:

(A) The event is open to the public; and

(B) The property owner receives no fee that is charged to enter the specially assessed property.

(g) Owners of apartment buildings, condominiums, or other multi-family unit buildings that are under special assessment must make provision for viewing by the public of public areas and at least one representative unit of the apartment, condominium, or multi-family dwelling;

(h) Owners of residential property may restrict interior areas open to the public to spaces or rooms such as living rooms, parlors, dining rooms, hallways, stair halls, or other areas not normally deemed as "private." "Private" means rooms such as bedrooms, closets, bathrooms, or dressing rooms, unless the owner wishes to open these areas for public viewing. The public must have physical access throughout the areas that are open for public viewing.

(3) An owner of specially assessed property certified after July 1, 1996 shall install a SHPO approved plaque on the property in a location that is readable from the public right-of-way. The plaque shall include the historic name of the property as indicated in the National Register nomination, the date of construction, and the following language "This property has been placed on the National Register of Historic Places by the United States Department of the Interior National Park Service and is subject to the provisions of the Oregon Special Assessment Program ORS 358.475 — 545." Plaques meeting these requirements will be offered for purchase from the SHPO at the time the property is certified for Special Assessment. Failure to comply with this requirement may be sufficient cause for the SHPO to seek mandatory remedial action and/or to initiate removal of the property's special assessment pursuant to OAR 736-050-0135.

(4) An owner of specially assessed property is responsible for providing the SHPO with a current mailing address and other contact information.

(5) The SHPO shall monitor owner compliance with program requirements by one or more of the following:

(a) Requesting access to inspect a property and determine its condition. An owner shall allow SHPO staff access with reasonable notice and at reasonable times. If an owner does not allow access, the SHPO may seek mandatory remedial action and/or initiate removal of the property's special assessment pursuant to OAR 736-050-0135;

(b) Requesting such information from owners as is directly related to matters set forth in ORS 358.475 to 358.545 or in these rules. If an owner does not respond to the request by providing the required information within the specified time, the SHPO may seek mandatory remedial action and/or initiate removal of the property's special assessment pursuant to OAR 736-050-0135;

(c) Attending random open house events. If an open house is not held at the time specified, the SHPO may seek mandatory remedial action and/or initiate removal of the property's special assessment pursuant to OAR 736-050-0135.

(6) Once a month the SHPO shall issue a general press release announcing the dates, times, and locations of those specially-assessed properties which will be open to the public in the following month, and including other particulars about the special assessment program.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.575, 358.480, 358.535 & 358.545(1)

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

## 736-050-0125

### Changes and Alterations to Properties Approved for Special Assessment

(1) Pursuant to ORS 358.565, the SHPO delegates special assessment application and design review approval authority to the Deputy State Historic Preservation Officer (DSHPO). The DSHPO shall rely on the expertise of qualified staff in making program decisions.

(2) Owners shall apply in writing on forms provided by the SHPO for review, and receive written approval before undertaking any alteration of, or new construction on specially-assessed property. Definitions for "Alteration" and "New Construction" are found in OAR 736-050-0105. Previously altered spaces, rooms or features, such as kitchens and bathrooms, are exempt from the provisions of this section, unless the owner proposes to demolish or relocate historic features such as walls, windows, or detailing as a part of the proposal, or is proposing to alter the plan configuration to accommodate additions or other new construction.

(3) Portions of a specially-assessed property that are leased or rented by an owner are also subject to the design review requirements of this rule. Owners are responsible for any action that lessees or renters take that may affect the historic character of the property.

(4) At a minimum, applications shall include:

(a) Sufficient current, archivally stable, color print images of each building, structure, or landscape that is a subject of the application, to convey the existing condition of the property;

(b) Written narrative that describes the proposal and explains what effects it will have on the historic character of the property; and

(c) Sufficient plan, elevation, section, and/or detail drawings to accurately convey the effect the proposal will have on the historic character of the property.

(5) In order to approve applications for the alteration of, or new construction on specially assessed property, the SHPO staff must find that the proposal meets the Secretary of the Interior's Standards for Rehabilitation. These standards are:

(a) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment;

(b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided;

(c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken;

(d) Most properties change over time; those changes that have acquired historical significance in their own right shall be retained and preserved;

(e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved;

(f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence;

(g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible;

(h) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken;

(i) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize a property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment;

(j) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(6) Changes and alterations to a property that do not conform with all of these standards, or that are undertaken without prior SHPO approval may be sufficient cause for the SHPO to seek mandatory remedial action and/or to initiate removal of the property's special assessment pursuant to OAR 736-050-0135.

(7) A change or alteration permissible in one circumstance does not necessarily constitute justification or a precedent for a similar change or alteration in another circumstance. The SHPO shall evaluate proposed changes and alterations on a case-by-case basis.

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

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.545(2)

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

## 736-050-0130

### New Construction

(1) Additions to specially-assessed property, otherwise meeting the definition of "new construction" in OAR 736-050-0105(9), may be determined not to be new construction for purpose of special assessment by the SHPO pursuant to section (2) of this rule.

# ADMINISTRATIVE RULES

(2) In order to determine new construction eligible for Special Assessment the SHPO must find:

(a) That the new construction accurately meets the definition(s) of restoration, reconstruction, or both in OAR 736-050-0105(23) and (24) respectively;

(b) That the new construction is required by the fire marshal or building official, to meet fire, life, safety, accessibility code requirements, or any combination thereof, and that the requirement cannot reasonably be accommodated within the existing structure;

(c) That the new construction meets the Standards in OAR 736-050-0125(5), and is used primarily for residential purposes (ORS 358.543(4)(a)(A)); or

(d) That the new construction meets the Standards in OAR 736-050-0125(5), and is used primarily for nonresidential purposes, and that when added to the total net rentable area of the existing historic property, is less than or equal to the total net rentable area of the property that existed prior to the new construction.

(3) New construction that does not conform to all of the Standards, or that is undertaken without prior SHPO approval may be sufficient cause for the SHPO to seek mandatory remedial action; to initiate removal of the property's special assessment pursuant to OAR 736-050-0135; or both.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.543

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

## 736-050-0135

### Removal of Special Assessments

(1) A property's special assessment may be removed at an owner's request or administratively by the SHPO.

(a) When a property is removed at an owner's request, the owner shall be liable for repayment of taxes and interest as described in ORS 358.525(1).

(b) Notwithstanding subsection (a) of this section, when a property is removed at an owner's request, the owner shall not be held liable for repayment of interest as described in ORS 358.525(1) if within two years of the removal,

(A) The property has been accepted into the special assessment program, and

(B) The property owner has spent an amount implementing an approved preservation plan for the property that equals or exceeds five times the amount of interest that would otherwise be payable under ORS 358.525(1).

(c) When a property is removed administratively, the owner shall be liable for repayment of taxes, interest, and a penalty as described in ORS 358.525(2).

(d) No repayment or penalty is required if the property is transferred to an ownership making it exempt from property taxation or is destroyed by accidental fire, vandalism or Act of God.

(e) If a property removed from special assessment continues to meet the definition of historic property in OAR 736-050-0105, a new application may be made for special assessment under OAR 736-050-0110. The county assessor will establish a revised assessed value.

(f) Upon sale or transfer of residential property to a new owner, the property is disqualified for special assessment unless:

(A) for properties with Preservation Plans, the new owner assents to the SHPO in writing to continue to implement the Preservation Plan;

(B) for properties without mandatory Preservation Plans (prior to 1995), the new owner assents to the SHPO in writing that they will notify the SHPO of any planned alterations/changes to the property, and receive approval from the SHPO for those alterations/changes.

(2) The SHPO may determine a questionable property's continued qualification for special assessment on its own initiative, or at the request of a landmarks commission, governing body, or a county assessor. In order to initiate administrative removal of special assessment, the SHPO must find that:

(a) Some or any of the "Owner's Responsibilities" described in OAR 736-050-0120 have not been met;

(b) Inappropriate changes or alterations have been made to the property;

(c) The property includes new construction that is not compatible with its historic character;

(d) Some or all features that define the historic character of the property have been removed or allowed to deteriorate beyond repair;

(e) A procedural error was made in approving the property for special assessment; or

(f) Repairs, improvements, maintenance, or other components of a Preservation Plan or a Renovation Plan have not been carried out in a timely manner.

(3) A request for the SHPO to determine if a property continues to qualify for special assessment shall be in writing, and shall contain the address of the subject property, and the name and current mailing address of the property's owner. It must also state the reason or reasons why the complainant believes that the property no longer qualifies for special assessment. Upon receipt of such a request, the SHPO shall investigate the complaint. As part of the investigation, the SHPO may inspect the property and may request a report from the owner pursuant to ORS 358.535. The SHPO shall make a determination on the property's continuing qualification within 60 days of receipt of the request.

(4) Upon receipt of a request to determine if a property continues to qualify, the SHPO or a designated representative shall deliver a notice to the owner in person or by registered letter. The notice shall:

(a) Identify the property by historic name, street address, and assessor's tax number;

(b) State the reason why the continued qualification for special assessment is being questioned;

(c) Request a detailed response to each problem identified in the notice; and

(d) Identify how the owner can appeal a determination that the property no longer qualifies.

(5) Upon finding that a property no longer qualifies for special assessment, the SHPO shall notify the county assessor in writing that the property is disqualified.

(6) A determination by the SHPO that a property continues to qualify may contain mandatory corrective measures that an owner shall undertake within a specified time in order to remedy or mitigate problems outlined in the notice. Failure to complete corrective measures in the time specified will be cause for disqualification without further notice.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.509, 358.515 & 358.525

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

## 736-050-0140

### Appeals

(1) Any owner, governing body, or assessor affected by a determination of the SHPO with regard to special assessment may request a contested case hearing pursuant to the provisions of ORS 183.413 to 183.425 and 183.440 to 183.470. An appeal must be filed no later than 30 calendar days after the date a decision is made by the SHPO.

(2) After a contested case hearing has been held, the Hearings Officer shall present the proposed order to the Historic Assessment Review Committee (HARC). The HARC shall determine the final order in the case.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.545

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

## 736-050-0150

### Preservation and Renovation Plans

(1) A Preservation Plan submitted to the SHPO as part of the application or reapplication process for special assessment shall be on forms supplied by the SHPO and include:

(a) Property location and ownership information;

(b) A written narrative that briefly describes any significant people and events associated with the property, and states the property's period of historic significance;

(c) A chronology of the property's development, significant modification, and use, e.g. dates of physical construction and modifications over time, if any, including any known change in use prior to the date of application. The narrative should be based on the historical record, first-hand knowledge, physical evidence, or professional analysis;

(d) A written description of the property's exterior and interior architectural and landscape features, and their condition; and

(e) A prioritized treatment plan with general cost estimates, and approximate timelines for completion.

(2) A summary of documentation from a nomination of a National Register property may be substituted in the application for items (a) through (c) if the nomination contains all of the information required in those items.

(3) A Renovation Plan submitted for commercial property to the SHPO as part of the reapplication process for special assessment shall be on forms supplied by the SHPO and include:

# ADMINISTRATIVE RULES

(a) A narrative and graphic description of at least one of the three work items described below. This information shall include a cost estimate and timelines for completion of the work item(s) that falls within the period of the special assessment benefit:

(A) Accessibility improvements meeting the requirements of the Americans With Disabilities Act (ADA). These are work items to implement the removal of architectural barriers, based on professional analysis as referenced in subsection (c) of this section. They can include the addition of ramps or devices to facilitate entrance/-exit; changes to door widths, floor elevations, bathroom or shower facilities; or other appropriate treatments that eliminate or mitigate architectural barriers. The cost of eliminating architectural barriers is not required to exceed those values cited in ORS 447.241.

(B) Seismic safety structural improvements. These are work items to improve the seismic performance or structural stability of a property, based on professional analysis as referenced in subsection (c) of this section, and that reduce the potential for heavy structural damage to a property or improve life/safety performance in the event of an earthquake. Generally, they include the addition of floor stiffening materials; devices to tie floor systems to exterior walls; vertical frames or walls in various materials to reduce the potential for shear or to strengthen areas that have high risk of collapse; base isolation systems; parapet bracing devices, vibration dampening systems, or other appropriate treatments.

(C) Energy conservation improvement measures. These are work items that improve a property's energy performance based on professional analysis as referenced in subsection (c) of this section, and can include: installation of new HVAC systems; rehabilitation of existing historic windows to increase thermal efficiency; installation of various types of insulation systems and other appropriate treatments.

(b) All accessibility, seismic, and energy conservation measures contained in the Renovation Plan must meet the appropriate standards for access, seismic, and energy improvements as prescribed in the Oregon Structural Specialty Codes (OSSC), or other applicable codes for existing buildings.

(c) All ADA, seismic and energy conservation measures contained in the Renovation Plan shall be prioritized based on a comprehensive professional analysis of the building. The building's site shall also be considered in all analyses.

(4) For commercial property, the SHPO may allow an application for the federal investment tax credit (National Park Service Form #10-168) for the rehabilitation of the property to be substituted for a Preservation Plan, a Renovation Plan, or both provided the application calls for significant investment in the property and otherwise meets the requirements of this rule and OAR 736-050-0150 relating to the content of Preservation and Renovation Plans.

(5) Forms for Preservation and Renovation Plans shall be provided by the SHPO, and are available online at [www.hcd.state.or.us](http://www.hcd.state.or.us).

(6) SHPO staff may consult with property owners on the sufficiency of a Preservation and/or Renovation Plan prior to submittal of the application.

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

Stat. Auth.: ORS 358

Stats. Implemented: ORS 358.540

Hist.: PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06

\*\*\*\*\*  
**Public Utility Commission**  
**Chapter 860**

**Rule Caption:** Revises Division 038 Definitions and Rules Regarding Direct Access and Code of Conduct.

**Adm. Order No.:** PUC 6-2006

**Filed with Sec. of State:** 5-11-2006

**Certified to be Effective:** 5-11-06

**Notice Publication Date:** 10-1-04

**Rules Amended:** 860-038-0005, 860-038-0500, 860-038-0520, 860-038-0560, 860-038-0580, 860-038-0600, 860-038-0620, 860-038-0640

**Subject:** These rule amendments update certain direct access rule definitions and amend the code of conduct rules for electric companies, electricity service suppliers, and aggregators.

**Rules Coordinator:** Diane Davis—(503) 378-4372

**860-038-0005**

**Definitions for Direct Access Regulation**

As used in this Division:

(1) "Above-market costs of new renewable energy resources" means the portion of the net present value cost of producing power (including fixed and operating costs, delivery, overhead, and profit) from a new renewable energy resource that exceeds the market value of an equivalent quantity and distribution (across peak and off-peak periods and seasonality) of power from a nondifferentiated source, with the same term of contract.

(2) "Portfolio Options Committee" means a group appointed by the Commission, consisting of representatives from Commission Staff, the Oregon Department of Energy, and the following:

- (a) Local governments;
- (b) Electric companies;
- (c) Residential consumers;
- (d) Public or regional interest groups; and
- (e) Small nonresidential consumers.

(3) "Affiliate" means a corporation or person who has an affiliated interest, as defined in ORS 757.015, with a public utility.

(4) "Aggregate" means combining retail electricity consumers into a buying group for the purchase of electricity and related services. "Aggregator" means an entity that aggregates.

(5) "Ancillary services" means those services necessary or incidental to the transmission and delivery of electricity from resources to retail electricity consumers, including but not limited to scheduling, frequency regulation, load shaping, load following, spinning reserves, supplemental reserves, reactive power, voltage control and energy balancing services.

(6) "Commission" means the Public Utility Commission of Oregon.

(7) "Common costs" means costs that cannot be directly assigned to a particular function.

(8) "Competitive operations" means any electric company's activities involving the sale or marketing of electricity services or directly related products in an Oregon retail market. Competitive operations include, but are not limited to, the following:

- (a) Energy efficiency audits and programs;
- (b) Sales, installation, management, and maintenance of electrical equipment that is used to provide generation, transmission, and distribution related services or enhances the reliability of such services; and
- (c) Energy management services, including those services related to electricity metering and billing. Services or products provided by the electric company as part of its electric service to its non-direct access customers within its allocated service territory, or transmission and distribution services to its direct access customers are not competitive operations.

(9) "Consumer-owned utility" means a municipal electric utility, a people's utility district, or an electric cooperative.

(10) "Cost-of-service consumer" means a retail electricity consumer who is eligible for a cost-of-service rate under ORS 757.603.

(11) "Default supplier" means an electric company that has a legal obligation to provide electricity services to a consumer, as determined by the Commission.

(12) "Direct access" means the ability of a retail electricity consumer to purchase electricity and certain ancillary services directly from an entity other than the distribution utility.

(13) "Direct service industrial consumer" means an end-user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.

(14) "Distribution" means the delivery of electricity to retail electricity consumers through a distribution system consisting of local area power poles, transformers, conductors, meters, substations and other equipment.

(15) "Distribution utility" means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.

(16) "Divestiture" means the sale of all or a portion of an electric company's ownership share of a generation asset to a third party.

(17) "Economic utility investment" means all Oregon allocated investments made by an electric company that offers direct access under ORS 757.600 to 757.667, including plants and equipment and contractual or other legal obligations, properly dedicated to generation or conservation, that were prudent at the time the obligations were assumed but the full benefits of which are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition credits. "Economic utility investment" does not include costs or expenses disallowed by the Commission in a prudence review or other proceeding, to the extent of such disallowance, and does not include fines or penalties authorized and imposed under state or federal law.



## ADMINISTRATIVE RULES

(18) "Electric company" means an entity engaged in the business of distributing electricity to retail electricity consumers in this state but does not include a consumer-owned utility.

(19) "Electric company operational information" means information obtained by an electric company as part of its provision of services or products, as long as such products or services are not defined as "competitive operations." Such information includes, but is not limited to, data relating to the interconnection of customers to an electric company's transmission or distribution systems; trade secrets; competitive information relating to internal processes; market analysis reports; market forecasts; and information about an electric company's transmission or distribution system, processes, operations, or plans or strategies for expansion.

(20) "Electric cooperative" means an electric cooperative corporation organized under ORS Chapter 62 or under the laws of another state if the service territory of the electric cooperative includes a portion of this state.

(21) "Electric utility" means an electric company or consumer-owned utility that is engaged in the business of distributing electricity to retail electricity consumers in this state.

(22) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity, measured in kilowatts, or both.

(23) "Electricity services" means electricity distribution, transmission, generation, or generation-related services.

(24) "Electricity service supplier" or "ESS" means a person or entity that offers to sell electricity services available pursuant to direct access to more than one retail electricity consumer. "Electricity service supplier" does not include an electric utility selling electricity to retail electricity consumers in its own service territory. An ESS can also be an aggregator.

(25) "Emergency default service" means a service option provided by an electric company to a nonresidential consumer that requires less than five business days' notice by the consumer or its electricity service supplier.

(26) "Fully distributed cost" means the cost of an electric company good or service calculated in accordance with the procedures set forth in OAR 860-038-0200.

(27) "Functional separation" means separating the costs of the electric company's business functions and recording the results within its accounting records, including allocation of common costs.

(28) "Joint marketing" means the offering (including marketing, promotion, or advertising) of retail electric services by an electric company in conjunction with its competitive operation to consumers either through contact initiated by the electric company, its Oregon affiliate, or through contact initiated by the consumer.

(29) "Large nonresidential consumer" means a nonresidential consumer whose kW demand at any point of delivery is greater than 30 kW during any two months within a prior 13-month period.

(30) "Load" means the amount of electricity delivered to or required by a retail electricity consumer at a specific point of delivery.

(31) "Local energy conservation" means conservation measures, projects, or programs that are installed or implemented within the service territory of an electric company.

(32) "Low-income weatherization" means repairs, weatherization, and installation of energy efficient appliances and fixtures for low-income residences for the purpose of enhancing energy efficiency.

(33) "Market transformation" means a lasting structural or behavioral change in the marketplace that increases the adoption of energy efficient technologies and practices.

(34) "Multi-state electric company" means an electric company that provided regulated retail electric service in a state in addition to Oregon prior to January 1, 2000.

(35) "Municipal electric utility" means an electric distribution utility owned and operated by or on behalf of a city.

(36) "Net system power mix" means the mix of all power generation within the state or other region less all specific purchases from generation facilities in the state or region, as determined by the Oregon Department of Energy.

(37) "New" as it refers to energy conservation, market transformation, and low-income weatherization means measures, projects or programs that are installed or implemented after the date direct access is offered by an electric company.

(38) "New renewable energy resource" means a renewable energy resource project or a new addition to an existing renewable energy resource project, or the electricity produced by the project, that was not in operation on or before July 23, 1999. "New renewable energy resource" does not include any portion of a renewable energy resource project under contract to the Bonneville Power Administration on or before July 23, 1999.

(39) "Non-energy attributes" means the environmental, economic, and social benefits of generation from renewable energy facilities. These attributes are normally transacted in the form of Tradable Renewable Certificates.

(40) "Nonresidential consumer" means a retail electricity consumer who is not a residential consumer.

(41) "Ongoing valuation" means the process of determining transition costs or benefits for a generation asset by comparing the value of the asset output at projected market prices for a defined period to an estimate of the revenue requirement of the asset for the same time period.

(42) "One-time administrative valuation" means the process of determining the market value of a generation asset over the life of the asset, or a period as established by the Commission, using a process other than divestiture.

(43) "One average megawatt" means 8,760,000 kilowatt-hours (8,784,000 in a leap year) of electricity per twelve consecutive month period.

(44) "Oregon affiliate" means an affiliate engaged in the sale or marketing of electricity services or directly related products in an Oregon retail market.

(45) "Oregon share" means, for a multi-state electric company, an interstate allocation based upon a fixed allocation or method of allocation established in a Resource Plan or, in the case of an electric company that is not a multi-state electric company, 100 percent.

(46) "People's utility district" has the meaning given that term in ORS 261.010.

(47) "Portfolio" means a set of product and pricing options for electricity.

(48) "Proprietary consumer information" means any information compiled by an electric company on a consumer in the normal course of providing electric service that makes possible the identification of any individual consumer by matching such information with the consumer's name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges, billing records, or any other information that the consumer has expressly requested not be disclosed. Information that is redacted or organized in such a way as to make it impossible to identify the consumer to whom the information relates does not constitute proprietary consumer information.

(49) "Qualifying expenditures" means those expenditures for energy conservation measures that have a simple payback period of not less than one year and not more than 10 years and expenditures for the above-market costs of new renewable energy resources, provided that the Oregon Department of Energy may establish by rule a limit on the maximum above-market cost for renewable energy that is allowed as a credit.

(50) "Registered dispute" means an unresolved issue affecting a retail electricity consumer, an ESS, or an electric company that is under investigation by the Commission's Consumer Services Section but is not the subject of a formal complaint.

(51) "Regulated charges" means charges for services subject to the jurisdiction of the Commission.

(52) "Regulatory assets" means assets that result from rate actions of regulatory agencies.

(53) "Renewable energy resources" means:

(a) Electricity-generation facilities fueled by wind, waste, solar or geothermal power, or by low-emission nontoxic biomass based on solid organic fuels from wood, forest, and field residues;

(b) Dedicated energy crops available on a renewable basis;

(c) Landfill gas and digester gas; and

(d) Hydroelectric facilities located outside protected areas as defined by federal law in effect on July 23, 1999.

(54) "Residential consumer" means a retail electricity consumer that resides at a dwelling primarily used for residential purposes. "Residential consumer" does not include retail electricity consumers in a dwelling typically used for residency periods of less than 30 days, including hotels, motels, camps, lodges, and clubs. As used in this section, "dwelling" includes but is not limited to single-family dwellings, separately metered apartments, adult foster homes, manufactured dwellings, recreational vehicles, and floating homes.

(55) "Retail electricity consumer" means the end user of electricity for specific purposes such as heating, lighting, or operating equipment and includes all end users of electricity served through the distribution system of an electric utility on or after July 23, 1999, whether or not each end user purchases the electricity from the electric utility. For purposes of this definition, a new retail electricity consumer means a retail electricity consumer

# ADMINISTRATIVE RULES

that is unaffiliated with the retail electricity consumer previously served after March 1, 2002, at the site.

(56) "Self-directing consumer" means a retail electricity consumer that has used more than one average megawatt of electricity at any one site in the prior calendar year or an aluminum plant that averages more than 100 average megawatts of electricity use in the prior calendar year, that has received final certification from the Oregon Department of Energy for expenditures for new energy conservation or new renewable energy resources and that has notified the electric company that it will pay the public purpose charge, net of credits, directly to the electric company in accordance with the terms of the electric company's tariff regarding public purpose credits.

(57) "Serious injury to person" has the meaning given in OAR 860-024-0050.

(58) "Serious injury to property" has the meaning given in OAR 860-024-0050.

(59) "Site" means:

(a) Buildings and related structures that are interconnected by facilities owned by a single retail electricity consumer and that are served through a single electric meter; or

(b) A single contiguous area of land containing buildings or other structures that are separated by not more than 1,000 feet, such that:

(A) Each building or structure included in the site is no more than 1,000 feet from at least one other building or structure in the site;

(B) Buildings and structures in the site, and land containing and connecting buildings and structures in the site, are owned by a single retail electricity consumer who is billed for electricity use at the buildings and structures; and

(C) Land shall be considered to be contiguous even if there is an intervening public or railroad right of way, provided that rights of way land on which municipal infrastructure facilities exist (such as street lighting, sewerage transmission, and roadway controls) shall not be considered contiguous.

(60) "Small nonresidential consumer" means a nonresidential consumer that is not a large nonresidential consumer.

(61) "Special contract" means a rate agreement that is justified primarily by price competition or service alternatives available to a retail electricity consumer, as authorized by the Commission under ORS 757.230.

(62) "Structural separation" means separating the electric company's assets by transferring assets to an affiliated interest of the electric company.

(63) "Total transition amount" means the sum of an electric company's transition costs and transition benefits.

(64) "Traditional allocation methods" means, in respect to a multi-state electric company, inter-jurisdictional cost and revenue allocation methods relied upon in such electric company's last Oregon rate proceeding completed prior to December 31, 2000.

(65) "Transition benefits" means the value of the below-market costs of an economic utility investment.

(66) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic utility investment.

(67) "Transition costs" means the value of the above-market costs of an uneconomic utility investment.

(68) "Transition credit" means a credit that returns to consumers all or a portion of the benefits from an economic utility investment.

(69) "Transmission grid" means the interconnected electrical system that transmits energy from generating sources to distribution systems and direct service industries.

(70) "Unbundling" means the process of assigning and allocating a utility's costs into functional categories.

(71) "Uneconomic utility investment" means all Oregon allocated investments made by an electric company that offers direct access under ORS 757.600 to 757.667, including plants and equipment and contractual or other legal obligations, properly dedicated to generation, conservation and work-force commitments, that were prudent at the time the obligations were assumed but the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed by the Commission in a prudence review or other proceeding, to the extent of such disallowance and does not include fines or penalties as authorized by state or federal law.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 17-2000, f. & cert. ef. 9-29-00; PUC 2-2001, f. & cert. ef. 1-5-01; PUC 21-2001(Temp), f. & cert. ef. 9-11-01 thru 3-10-02; PUC 23-2001, f. & cert. ef. 10-1-01; PUC 5-2002, f. & cert. ef. 2-8-02; PUC 11-2002, f. & cert. ef. 3-8-02; PUC 18-2002, f. & cert. ef.

10-17-02; PUC 13-2004, f. & cert. ef. 8-31-04; PUC 7-2005, f. & cert. ef. 11-30-05; PUC 6-2006, f. & cert. ef. 5-11-06

## 860-038-0500

### Code of Conduct Purpose

The Code of Conduct rules (OAR 860-038-0500 through 860-038-0640) govern the interactions and transactions among the electric company, its Oregon affiliates, and its competitive operations. The Code of Conduct is designed to protect against market abuses and anti-competitive practices by electric companies in the Oregon retail electricity markets.

Stat. Auth.: ORS 183, 756 & 757

Stat. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 2-2001, f. & cert. ef. 1-5-01; PUC 6-2006, f. & cert. ef. 5-11-06

## 860-038-0520

### Electric Company Name and Logo

An electric company may allow its Oregon affiliates and its competitive operations the use of its corporate name, trademark, brand, or logo in advertisements of specific electricity services to existing or potential consumers located within the electric company's service area, as long as the Oregon affiliate or its competitive provider includes a disclaimer in its communications. The disclaimer must be written in a bold and conspicuous manner or be clearly audible, as appropriate for the communication medium. The disclaimer must be included in all print, auditory and electronic advertisements.

(1) The disclaimer for an Oregon affiliate must state the following: {Name of Oregon affiliate} is not the same company as {name of electric company} and is not regulated by the Public Utility Commission of Oregon. You do not have to buy {name of Oregon affiliate}'s products or services to continue to receive your current electricity service from {name of electric company}.

(2) The disclaimer for a competitive operation must state the following: 'You do not have to buy {product/service name} to continue to receive your current electricity service from {name of electric company}.'

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 2-2001, f. & cert. ef. 1-5-01; PUC 6-2006, f. & cert. ef. 5-11-06

## 860-038-0560

### Treatment of Competitors

(1) An electric company shall treat the competitors of its Oregon affiliates and its competitive operations fairly in all respects and in a manner consistent with the treatment it affords any of its Oregon affiliates or competitive operations in the electric company's:

(a) Provision of supply;

(b) Provision of capacity;

(c) Provision of electricity services;

(d) Provision of information obtained as a result of providing either electric service to its non-direct access customers within its allocated service territory, or transmission and distribution services to direct access customers;

(e) Offering of discounts;

(f) Tariff discretion; and

(g) Processing requests for electricity related services. This section shall not apply to the provision or joint purchasing of corporate services such as accounting, auditing, financial, legal, or information technology services.

(2) An electric company shall not condition or otherwise tie the provision of any regulated services provided by the electric company, nor the availability of discounts of rates or other charges or fees, rebates, or waivers of terms and conditions of any regulated services provided by the electric company, to the taking of any electricity services or directly related products from its Oregon affiliates or competitive operations.

(3) An electric company shall not assign a consumer to whom it currently provides electricity services to any of its Oregon affiliates or competitive operations, whether by default, direct assignment, option, or by any other means, unless that means is equally available to all competitors.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 2-2001, f. & cert. ef. 1-5-01; PUC 6-2006, f. & cert. ef. 5-11-06

## 860-038-0580

### Prevention of Cross-subsidization Between Competitive Operations and Regulated Operations

(1) Other than information that is routinely made public by an electric company, or for which a tariff has been approved subject to OAR 860-038-0540(1), an electric company must not provide electric company operational or marketing information to its competitive operations unless it

# ADMINISTRATIVE RULES

makes such information available to ESSs and other entities that provide electricity services or directly related products on identical terms and conditions.

(2) The electric company must identify and separately account for revenues and costs of its competitive operations.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 2-2001, f. & cert. ef. 1-5-01; PUC 25-2003, f. & cert. ef. 12-11-03; PUC 6-2006, f. & cert. ef. 5-11-06

## 860-038-0600

### Joint Marketing and Referral Arrangements

(1) For joint marketing, advertising, and promotional activities an electric company shall not:

(a) Provide or acquire leads on behalf of its Oregon affiliates;

(b) Solicit business or acquire information on behalf of its Oregon affiliates;

(c) Give the appearance of speaking or acting on behalf of its Oregon affiliates except that an electric company, pursuant to a customer request, may provide information about electricity services or directly related products offered by the electric company's Oregon affiliates. Prior to providing the information, the electric company must inform the customer that:

(A) Other providers may exist; and

(B) The customer does not have to purchase these electricity services or directly related products from the electric company's Oregon affiliate in order for the customer to continue to receive the customer's current electricity service from the electric company;

(d) Represent to consumers or potential consumers that it can offer electricity services or directly related products from the electric company's Oregon affiliates bundled or packaged with its tariffed services; or

(e) Request authorization from its consumers to pass on proprietary consumer information exclusively to its Oregon affiliates.

(2) An electric company shall not engage in joint marketing, advertising, or promotion of its electricity services or directly related products with those of its Oregon affiliates in a manner that favors the electricity services or directly related products of the Oregon affiliate. Such joint marketing, advertising, or promotion includes, but is not limited to, the following:

(a) Acting or appearing to act on behalf of its Oregon affiliates in any communications and contacts with any existing or potential consumers, subject to the exception in (1)(c) above;

(b) Joint sales calls;

(c) Joint proposals, either as requests for proposals or responses to requests for proposals;

(d) Joint promotional communications or correspondence, except that an electric company may allow its Oregon affiliates access to consumer bill advertising inserts according to the terms of a Commission approved tariff, so long as access to such inserts is made available on the same terms and conditions to unaffiliated entities offering similar services as the Oregon affiliates that use bill inserts; or

(e) Joint presentations at trade shows, conferences, or other marketing events within the state of Oregon.

(3) An electric company may participate in meetings with its Oregon affiliates to discuss technical or operational subjects regarding the electric company's provision of transmission or distribution services to the consumer; but only in the same manner and to the same extent the electric company participates in such meetings with unaffiliated entities and their consumers.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 2-2001, f. & cert. ef. 1-5-01; PUC 6-2006, f. & cert. ef. 5-11-06

## 860-038-0620

### Access to Books and Records

(1) An electric company must provide the Commission with full access to all of the electric company's and affiliates' books and records in order to review all transactions between an electric company and its Oregon affiliates.

(2) An electric company and its affiliates shall maintain separate books and records, and, whenever possible, prepare unconsolidated financial statements.

(3) An electric company and its competitive operations shall maintain sufficient records to allow for an audit of the transactions between an electric company and its competitive operations. At its discretion, the Commission may require an electric company to initiate, at the electric company's expense, an audit of the transactions between an electric company and its competitive operations performed by an independent third party.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 2-2001, f. & cert. ef. 1-5-01; PUC 6-2006, f. & cert. ef. 5-11-06

## 860-038-0640

### Compliance Filings

By June 1 of each odd numbered year, an electric company must file a verified report prepared by an independent third-party regarding the electric company's compliance with OAR 860-038-0500 through 860-038-0620 for the prior two calendar years.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 2-2001, f. & cert. ef. 1-5-01; PUC 6-2006, f. & cert. ef. 5-11-06

\*\*\*\*\*

## Secretary of State, Archives Division Chapter 166

**Rule Caption:** Revise and update records retention schedule for Educational Service Districts, Schools and School Districts.

**Adm. Order No.:** OSA 1-2006

**Filed with Sec. of State:** 4-17-2006

**Certified to be Effective:** 4-17-06

**Notice Publication Date:** 3-1-06

**Rules Repealed:** 166-400-0005

**Rules Ren. & Amend:** 166-405-0010 to 166-400-0010, 166-406-0010 to 166-400-0015, 166-407-0010 to 166-400-0020, 166-408-0010 to 166-400-0025, 166-409-0010 to 166-400-0030, 166-410-0010 to 166-400-0035, 166-405-0010 to 166-400-0040, 166-411-0010 to 166-400-0045, 166-412-0010 to 166-400-0050, 166-413-0010 to 166-400-0055, 166-414-0010 to 166-400-0060, 166-415-0010 to 166-400-0065

**Subject:** OAR 166-400 updates and revises the existing rules relating to the retention of records generated by Educational Service Districts, Schools and School Districts. Revisions include several existing records series to make their retentions reflect current requirements, the renaming of several records series to accurately reflect the records title and function and the addition of records series for new programs and program records.

**Rules Coordinator:** Julie Yamaka—(503) 378-5199

## 166-400-0010

### Administrative Records

**Note:** Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) **Activity and Room Scheduling Records** Records documenting scheduling and reservations related to public participation and use of various agency activities, events, classes and facilities. Includes schedules, logs, lists, requests, and similar records. Minimum retention: 1 year.

(2) **Activity Reports, General Daily**, weekly, monthly, or similar reports documenting the activities of employees. Useful for compiling annual reports, planning and budgeting, monitoring work progress and other purposes. Usually tracks type of activity, employees and/or volunteers involved, time spent on activity, work completed, and related information in narrative or statistical form. Minimum retention: 2 years.

(3) **Annual Reports** Reports documenting the program or primary functional activities and accomplishments of the office for the previous year. These are often compiled from monthly, quarterly, or other subsidiary activity reports. Usually includes statistics, narratives, graphs, diagrams, and similar information. Minimum retention: Permanent.

(4) **Association and Organization Membership Records** Records document the membership and participation of the school, district, or ESD in professional and educational associations and organizations. Records may include but are not limited to meeting announcements and agendas; promotional information; meeting, workshop, and conference records; rules and regulations; reports; proposals and planning records; surveys and questionnaires; meeting minutes; and related documentation and correspondence. This series does not include individual faculty or staff membership records unless such membership is paid for by the school, district, or ESD. Minimum retention: 3 years after school year in which records were created.

(5) **Audit Records**, Internal Records document the examination of the agency's fiscal condition, internal control, and compliance policies and procedures. Records may also document performance or other financially related audits by agency or contracted auditors. Records may include audit



## ADMINISTRATIVE RULES

reports, supporting documentation, comments, and correspondence. Minimum retention: 10 years.

(6) **Calendars and Scheduling Records** Records documenting and facilitating routine planning, scheduling, and similar actions related to meetings, appointments, trips, visits, and other activities. Includes calendars, appointment books, notes, telephone messages, diaries, and similar records. Depending on content, some telephone messages and similar records may merit inclusion in related program or project files. This applies to records that contain significant information that is not summarized or otherwise included in reports or similar documents. *Calendar and Scheduling information written in personal day planners or recorded on handheld electronic organizers (i.e. PalmPilots) may be public records under ORS Chapter 192. Information contained in electronic organizers is subject to the same retention as the paper record unless the information is kept in another format for the duration of the retention period.* Minimum retention: 1 year.

(7) **Bond Election Records** Records document the process whereby bond measures to finance school construction and improvements are approved by the voters. Records may include but are not limited to certified copies of election results; county election filing forms; precinct and district maps; election tax levy history; type of election; proposals; assessor's certification; statistical reports to the Oregon Department of Education; and related correspondence and documentation. SEE ALSO Bond Records in the Financial Records section. Minimum retention: 5 years after school year in which bond matures.

(8) **Child Care Facility License Records** Records document the annual licensing of school child care facilities by the Employment Department, Child Care Division. Records may include but are not limited to sanitation inspection reports; 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 and documentation. Minimum retention: (a) If license expired or renewed: 1 year after expiration or renewal (b) If license revoked: 3 years after revoked.

(9) **Committee and Board Meeting Records** Records document the activities, decisions, and proceedings of regularly scheduled, special, executive session, or emergency meetings of governing bodies and committees of the school, district, or ESD. Governing bodies may include boards, advisory councils, commissions, site councils, committees, advisory groups, and task forces. Records may include but are not limited to meeting minutes, agendas and agenda packets, exhibits, resolutions, staff reports, sound recordings, membership lists, meeting books, significant correspondence and memorandum, and other supporting documentation. SEE ALSO Budget Records in the Financial Records section. Minimum retention: (a) School board meeting minutes and agendas: Permanent (b) Exhibits, other minutes, and supporting records: 5 years after school year in which records were created (c) Sound recordings, if transcribed or abstracted: 1 year after minutes approved.

(10) **Committee and Board Member Records** Records document the election or appointment of school, district, or ESD board, budget committee, and other committee members. Records may include but are not limited to date of election and installation, length of term, zone or district represented, and related biographical information about each board or committee member. Minimum retention: 5 years after term expires.

(11) **Conference and Workshop Records** Records document conferences, seminars, workshops, and training activities attended or sponsored by school, district, or ESD personnel. Records may include but are not limited to agendas, reports, speeches, program records, conference or seminar descriptions and schedules, participant lists, fee records, planning records, evaluations, registration material, handouts, and related correspondence and documentation. Records may also include documentation of attendance for certification, continuing education, or in-service training requirements. Minimum retention: (a) Significant program records – school, district, or ESD sponsored: 5 years after school year in which records were created (b) Other records: 2 years after school year in which records were created.

(12) **Contracts and Agreements** Records document the negotiation, execution, completion, and termination of legal agreements between the school, district, or ESD and other parties, including the Oregon Department of Education. Records include the official contract or agreement, amendments, exhibits, addenda, legal records, contract review records, and related correspondence and documentation. Records do not include leases or property records. Minimum retention: (a) Contracts or agreements documenting building construction, alterations, or repair: 10 years after sub-

stantial completion as defined by ORS 12.135(3). (b) Other contracts and agreements: 6 years after expiration.

(13) **Correspondence** Records that: 1. document communications created or received by an agency AND 2. directly relate to an agency program or agency administration AND 3. are not otherwise specified in the State Agency General Records Retention Schedule (OAR 166-300) or in state agency special schedules or in ORS 192.170. Records may include but are not limited to letters, memoranda, notes and electronic messages that communicate formal approvals, directions for action, and information about contracts, purchases, grants, personnel and particular projects or programs. Disposition: File with the associated program or administrative records. Retentions for program records are found in state agency special schedules; retentions for administrative records are typically found in the State Agency General Records Retention Schedule. Communications not meeting the above criteria do not need to be filed and may be retained as needed.

(14) **Eighth Grade Examination Records** Records document the examinations given to eighth grade students. Records may include but are not limited to examinations; examinations registers; diploma lists; and related documentation. These records are no longer being created. Minimum retention: Permanent.

(15) **Fax Reports** Records document facsimile transactions of the agency. Reports may also be used for billing purposes. Information includes date and time fax transmitted or received and recipient/sender's fax number. Minimum retention: (a) Retain if used for billing: 3 years (b) Retain all other reports: 1 year (#) Food/Nutrition Service Program Records document the operation of school food/nutrition service programs. Records may include but are not limited to operations reports; child nutrition program reviews; food service financial records; food supply inventory records; free and reduced price lunch applications and reimbursement claim records; meal production and menu records; meal ticket inventory records; sanitation inspection reports; summer food services records; and related documentation and correspondence. Retention: 3 years (or as specified by 7 CFR 210.7-28 and 225.6-16). Immunization Records, Administrative Records document the review and report of the immunization status of students to the County health department and the exclusion of students who do not meet the minimum immunization requirements. Records may include but are not limited to the annual Primary Review Summary, school copies of Exclusion Orders for No Record, school copies of Exclusion Orders for Incomplete Information/Insufficient Information, and related documentation. SEE ALSO Student Immunization Records in the Student Education Records section. Retention: 1 year.

(16) **Legal Case Records** Records document a school, district, or ESD's legal actions by in-house or outside counsel. Records may include but are not limited to litigation records, correspondence, staff opinions, research findings, and background notes relating to specific cases. Cases may include but are not limited to Tort Liability Claims, Civil Service Commission cases, unemployment and discrimination cases, bid protests and contract disputes, student/parent complaints, and employee complaints. Minimum retention: 10 years after final disposition of case.

(17) **Legal Opinion and Advice Records** Records document the legal opinions and advice given to schools, districts, or ESDs by a lawyer or the Attorney General. Records may include legal advice given to private schools. Records may include but are not limited to requests for opinions; opinions; letters of advice; and related correspondence. Minimum retention: (a) Retain copies of legislative bills, statutes: 6 years (b) Retain Administrative Rule Preparation Records: 10 years after appeal of rule (c) Retain all other records: Permanent.

(18) **Legislative Tracking Records** Records document the development and monitoring of legislation which may have an impact on the programs or policies of a school, district, or ESD. Records may include but are not limited to concept statements, proposals, bill logs, fiscal and organizational impact analysis papers, copies of bills, testimony summaries, committee reports, agendas, record of action, and related correspondence and documentation. Minimum retention: 2 years.

(19) **Lobbyist Records** Records document lobbyist and lobbyist employer activities and are used to report to these activities to the Government Standards and Practices Commission. Records may include but are not limited to expenditure reports, registration statements, termination records, guidelines, and correspondence. Minimum retention: (a) Retain expenditure reports: 4 years (b) Retain all other records: 5 years after last activity.

(20) **Mitigation Program Records** Records document the establishment and maintenance of the agency mitigation programs, plans, and procedures. Records may include mitigation plans and strategies, policies, pro-

## ADMINISTRATIVE RULES

cedures, seismic surveys and structural upgrade records of agency facilities, project reports, hazard mitigation grant records, and related documentation, which may include capital improvement records. SEE ALSO the Emergency Management section. Minimum retention: (a) Retain adopted plans: Permanent (b) Retain all other records: For the life of the structure.

(21) **Notary Public Log Books Records** documenting notarial transactions completed by a notary public and employed by a government agency. Agencies may retain logbooks by agreement with the notary after their separation from employment. *Agencies retaining notary public log books without notary agreements should consult their legal counsel and/or the Secretary of State, Corporation Division for retention instruction.* Minimum retention: 7 years after date of commission expiration.

(22) **Oregon School Register** Records document student enrollment, attendance, and membership in elementary and secondary schools and forms the basis for student attendance reporting to the Oregon Department of Education. The register contains student's name and other personally identifiable information, attendance, indication of student non-residency or withdrawal, program membership, whether student was promoted or retained at end of school year, and related information. Minimum retention: Permanent.

(23) **Organization Records** Records document the lines of organizational hierarchy and administrative responsibility within a program, school, district, or ESD. Records may include but are not limited to drafts and final charts or diagrams, statements, studies, and related documentation. Minimum retention: 4 years after superseded or obsolete.

(24) **Parent-Teacher Organization Records** Records document the history, development, policies, and actions of parent-teacher organizations under the jurisdiction of the District. Records may include but are not limited to minutes; constitutions and by-laws; committee records; budget and accounting records; handbooks; officer and member rosters; scrapbooks; photographs; and related documentation and correspondence. Minimum retention: (a) Retain minutes, constitutions, by-laws, and committee records 10 years after school year in which records were created. (b) Retain all other records 3 years after school year in which records were created.

(25) **Policy and Planning Records** Records document the development, assessment, and review of school, district, or ESD policies, programs, and activities. Records may include but are not limited to board policy and district-wide administrative rules; authorizing bulletins and advisories; mission, policy, and goal statements; finalized policy statements and directives; by-laws; regulations; strategic plans; management plans; and related documentation. Minimum retention: (a) Retain annual board adopted policy and district-wide administrative rules, official copy: Permanent (b) Retain planning documents: 10 years (c) Retain working papers and draft material: 1 year after school year in which final document produced.

(26) **Policy Statements and Directives** Series documents review, assessment, development, and authorization of an agency's formal policies and procedures that have been approved by a governing body. Records may include authorizing bulletins and advisories, mission and goal statements, manuals, and final policy statements and directives. Information often includes policy and procedure numbers, revision dates, subject identification, narrative description, authorization information, and effective date. SEE ALSO Policy and Procedure Guidelines and Manuals in this section. Minimum retention: 10 years after superseded or obsolete.

(27) **Procedure Manuals** Records document internal development and guidelines for consistency and continuity in the operation of a school, district, or ESD department or office. Records may include but are not limited to manuals documenting departmental and program procedures; basic secretarial/clerical instructional procedures; handbooks; desk manuals; emergency response plans; safety plans and procedures; and related documentation and correspondence. Minimum retention: (a) Retain routine clerical manuals: 2 years after superseded or obsolete (b) Retain manuals relating to specific construction and/or engineering projects: 10 years after substantial completion, as defined by ORS 12.135(3)(c) Retain one copy of all other manuals: Permanent.

(28) **Professional Membership Records** Records documenting institutional or agency-paid individual memberships and activities in professional organizations. Minimum retention: 3 years.

(29) **Public Notice Records** Records documenting compliance with laws requiring public notice of government activities. Subjects include assessments, elections, land use changes, public meetings and hearings, sale of property, and others. Records include public or legal notices, certificates, affidavits of publication, and similar documents. SEE ALSO Competitive Bid Records in the Financial section for public notices related to bid openings and awards. Minimum retention: 3 years.

(30) **Reports and Studies** Records document the school, district, or ESD's curriculum offerings, programs, services, problems, projects, student achievements, financial status, staffing, operations, and activities. Reports may be required to be submitted to the Oregon Department of Education or to other state, federal, or private agencies. Reports may be annual reports compiled from monthly, quarterly, or other subsidiary activity reports. Records may include but are not limited to narrative and statistical reports, studies, performance measures, annual reviews, surveys, plans, proposals, progress reports, evaluation reports, financial data and reports, staffing reports, student attendance accounting reports, accreditation studies, summaries, and other types of reports and documentation. Minimum retention: (a) Retain annual reports and studies with historical value or policy implications: Permanent (b) Retain other reports and studies: 5 years or as required by government or agency (c) Retain working papers and draft material: 1 year after school year in which final document produced.

(31) **Requests and Complaints** Records documenting complaints or requests concerning a variety of agency responsibilities not specified elsewhere in this general schedule. Information often includes name, phone number, and address of person making request or complaint, narration of request or complaint, name of person responding to request or complaint, dates of related activities, and other data. (If a specific request or complaint is listed in another records series under a functional area such as law enforcement in this general schedule, the retention period specified in that functional area supersedes the retention period listed in this series.) SEE ALSO Correspondence. Minimum retention: 2 years after last action.

(32) **Routing and Job Control Records** Records used to control the routine flow of documents and other items and actions in and between offices in the agency. Includes routing slips, job control records, status cards, receipts for records charged-out, batch slips, and similar records. Minimum retention: 1 year.

(33) **School Census Records** Records document the number of students of school age within the county, district, or school. Records may contain but are not limited to the names, ages, birth dates, and address of students; information about the parents or guardians; and related documentation. The actual census-reporting requirement ended in 1971 and this record is no longer being created. Minimum retention: Permanent School, District, Or ESD History Records Records document important organizational changes, significant events, celebrations, programs, and projects of the ESD, district, or school. Records may include but are not limited to newsletters, press releases, publications, reports and articles, institution histories, biographies and records of past administrators, faculty, or staff, photographs, scrapbooks, newspaper clippings, and related documentation. SEE ALSO Publications in this section. Retention: Permanent.

(34) **Special Education Census Reports** Records document the number of special education students served by the school and district included in annual census reports to the Oregon Department of Education. Records may include but are not limited to annual reports and district summary reports which includes total number of students and students per district, age of students, and handicapping condition of students; student census information; placement and services provided records; agency information; number of special education teachers; and related documentation. Minimum retention: 5 years after school year in which records were created.

(35) **Special Event and Celebration Records** Records documenting agency-sponsored celebrations of special and historic occasions such as centennials, pioneer days, and similar events. Provides a record of planning and promotional efforts, public attendance and response, major speeches and dedications, and other significant aspects of the celebration. These significant records may include studies, publications, photographs, attendance summaries, final reports, and other significant documents. This series also includes routine documentation related to implementing the promotion and organization of the event. These often include lists, rosters, correspondence, memoranda, volunteer information, and related records. Records may also include scrapbooks, but does not include newsclippings. Newsclippings are not public records and may be discarded. Minimum retention: (a) Retain records documenting significant aspects of the event: Permanent (b) Retain all other records: two years after event.

(36) **Staff Meeting Records** Records document the activities, decisions, and proceedings of school, district, or ESD staff meetings. Records may include but are not limited to minutes, agendas, notes, reports, and related documentation. Minimum retention: Until end of school year.

(37) **Standardization Records** Records document the process of standardization visits from the Oregon Department of Education to schools, districts, or ESDs. Records may include but are not limited to self-evaluation reports, on-site inspection reports; waiver authorizations; letters of

# ADMINISTRATIVE RULES

concern; plans of correction; schedules; and related correspondence and documentation. Minimum retention: 6 years after school year in which records were created.

(38) **Student Information and Demographic Records** Records document the composition of the student population in a variety of sequences, groupings, and lists. Records include demographic profiles of students; student record cards; and other manual or computer produced lists organized by school, class, special program, or other grouping. Records may include but are not limited to student identification information including name, address, birth date, birthplace, parents, and guardians; student demographics including gender, ethnicity, and age; attendance; enrollment dates; previous school attended; student grades and transcript data; health and immunization information; handicapped status; and related documentation. Minimum retention: (a) Retain years ending in 0 and 5 Permanent (b) Retain all others 5 years.

(39) **Student Organization Administrative Records** Records document the history, development, and policies of student organizations, including student clubs, government, and publications. Records may include but are not limited to student organization annual review forms; minutes; constitutions and bylaws; committee, subcommittee, and task force records; student senate bill and resolution records; handbooks; officer and member rosters; scrapbooks; photographs; and related documentation and correspondence. SEE ALSO Student Organization Financial Records in the Financial Section. Minimum retention: (a) Retain constitution and bylaws: Until superseded or obsolete (b) Retain all other records: 2 years after school year in which records were created.

(40) **Superintendent of Schools Records** Records document the official and financial affairs of the superintendent of schools concerning teachers, students, and schools located in the county. Records may include but are not limited to annual statements on the condition of common (public) schools in the county; school district boundary records; school district accounts; book purchases; and related documentation. Information contained in the records may include financial information, school curricula, boundary descriptions, facilities, and enrollment and attendance data. These records are no longer being created. Minimum retention: Permanent.

(41) **Surveys, Polls, and Questionnaires** Records documenting the measurement of public opinion by or for the agency related to various issues, actions, and concerns. May include surveys, polls, questionnaires, summaries, abstracts and significant related records. Examples of summaries include studies which incorporate the significant results of public opinion surveys, abstracts of questionnaires designed to determine the skills and interests of citizens volunteering for agency service, and other records which distill survey data into summary form. Minimum Retention: (a) Retain summary reports and abstracts: 3 years (b) Retain all other records: Until summary report is completed or 3 years, whichever is sooner.

(42) **Test Administration Records** Records document the administration of assessment, placement, diagnostic, credit by exam, and other tests. Records may include but are not limited to rosters of test takers; testing rules and regulations; test administration records; examiner's manuals; exams and tests; test order and payment records; placement and test results; summary reports of results; and related correspondence and documentation. Minimum retention: 3 years after school year in which records were created.

(43) **Work Orders Records** documenting requests and authorizations, according to existing contracts or agreements, for needed services and repairs to agency property and equipment. May include copy center work orders, printing orders, telephone service and installation requests, repair authorizations, and similar records. Minimum Retention: (a) Retain work completed by county personnel: 1 year (b) Retain work completed by outside vendors: 3 years.

(44) **Work Schedules and Assignments Records** documenting the scheduling and assigning of shifts, tasks, projects, or other work to agency employees. Useful for budget and personnel planning and review, assessing employee work performance, and other purposes. May include calendars, schedules, lists, charts, rosters, and related records. Minimum retention: 5 years.

(45) **Year 2000 (Y2K) Planning Records** Records document the planning and development of agency Y2K contingency plans. Records may include but are not limited to meeting minutes, correspondence, draft plans, work notes, plan test results, and final plan. Information includes type of systems vulnerable to Y2K, level of priority, and party responsible for system solution or troubleshooting. Minimum retention: 5 years.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34  
Stats. Implemented: ORS 192 & 357  
Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-405-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0015

### Curriculum and Instruction Records

Note: Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) **Course Descriptions** Records document the list and description of school courses offered to students. Information may include course content descriptions; number of units' granted; required or elective status; goals, competencies and standards for standard and modified diplomas; and other information relative to educational plans. Minimum retention: 10 years after school year in which records were created

(2) **Curriculum Development** Records document the development and approval process for staff or faculty to develop or revise program curriculum or to update curriculum strategies and instruction. Records may include but are not limited to support documentation, reviews, reports, approvals, and related correspondence and documentation. Minimum retention: 3 years after superseded or obsolete.

(3) **Instructional Materials Selection and Adoption Records** Records document the selection and adoption of textbooks and other instructional materials by schools, districts, and ESDs. Records may include but are not limited to adoption authorization records; lists of state adopted textbooks including titles of books, authors, and publishers; and related documentation. SEE ALSO Supplemental Materials Selection and Adoption Records in the Library and Media Records section. Minimum retention: 6 years after school year in which records were created.

(4) **Teacher Daily Instructional Plans** Records document the instruction of students as planned on a daily basis by teachers. Records may include but are not limited to instructional plans and related documentation and correspondence. Minimum retention: 1 year after school year in which records were created.

(5) **Talented and Gifted Program (TAG) Records** Records document district and school efforts to provide TAG education programs and opportunities for students identified as Talented and Gifted under state guidelines. The records document district and ESD efforts to provide Talented and Gifted Education instruction that challenges high-end learners and meets each student's learning needs. Resources and support materials for districts, schools, teachers, parents, and students are included. SEE ALSO Educational Programs Student Records in Student Education Records section for individual participating student records. Minimum retention: 5 years after school year in which records were created.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34  
Stats. Implemented: ORS 192 & 357  
Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-406-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0020

### Property and Equipment Records

Note: Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) **Architectural Drawings, Blueprints, and Maps Records** document a detailed graphic record of the land and buildings of a school, district, or ESD. The records are a primary source tool for improvement and maintenance projects on existing buildings and/or land, including athletic fields, and for new construction. Records may include but are not limited to drawings; maps; photographs; architectural blueprints; sketches; preliminary planning drawings; as-built drawings and blueprints; surveys; drawings reflecting changes to original plans; soil testing maps; and any other type of graphic representation and related documentation produced relating to buildings, systems, and land. Minimum retention: Life of the structure.

(2) **Asbestos Management Records** Records document the identification and proper handling of asbestos material within school, district, or ESD buildings. Records may include but are not limited to federal inspection reports and management plans required by the Environmental Protection Agency, contact reports, laboratory test results, work orders, project checklists, work precautions, site schematics, and related documentation. The management plan may contain response actions, operations and maintenance, and periodic surveillance plans. SEE ALSO Hazardous Materials Management Records in this section. Minimum retention: (a) Retain management plan: 3 years after superseded or obsolete (b) Retain records of measurements taken to monitor employee exposure to asbestos: 30 years after employee separation per 29 CFR 1910.1020 (c) Retain all other records: 5 years after building or property disposed of.

(3) **Building and Grounds Repair, Remodeling, and Construction Records** Records document the condition, repair, and routine maintenance of school, district, or ESD buildings and grounds. Records also document remodeling, improvement, and non-capital construction projects. Records may include but are not limited to floor plans; specifications; layouts;



# ADMINISTRATIVE RULES

building inspection reports; building permits; maintenance agreements; work logs; and related correspondence and documentation. Records may also include records of remodeling or construction due to American Disabilities (ADA) Act requirements. Minimum retention: (a) Retain floor plans, layouts, specifications, final inspection reports, permits for completed structures: Life of the structure (b) Retain other permits: 2 years after revoked or expired (c) Retain contracts and agreements documenting building construction, alterations, or repair: 10 years after substantial completion (d) Retain all other records: 4 years.

(4) **Capital Construction Project Records** Records document the planning, administration, and implementation of current and potential capital construction projects by schools, districts, or ESDs; to project needs for projects; and as a reference to projects once they have been completed. Records may include but are not limited to project descriptions and requirements; plans and plan reviews; project schedules; contract change orders; bid documentation; building permits; contracts and agreements with architects, engineers, consultants, vendors, and contractors; materials and soils reports; progress reports; insurance reports; payment schedules; summary reports; certificates of occupancy; memos; final acceptance statements; and related correspondence and documentation. Minimum retention: (a) Retain contracts and agreements documenting building construction, alterations, or repair: 10 years after expiration as defined by ORS 12.135(3). (b) Retain all other records: Life of the structure.

(5) **Damaged/Stolen Property Records** Used to prepare reports relating to damaged or stolen property. Records may include yearly risk report, restoration fund inventory report, policy manual, property transfer report, self-insurance manual, real property report, money and negotiable securities report and a general risk survey. Minimum retention: 4 years.

(6) **Equipment Loan Records** Records document the loan of district owned equipment to students. Equipment may include but is not limited to musical instruments and athletic equipment. Records may include loan agreements, parental consent forms, approval forms, return forms, logs, overdue records, and related documentation and correspondence. SEE ALSO Audio-Visual Materials and Equipment Loan Records in the Library and Media Records section. Minimum retention: (a) Retain overdue records: Until equipment is returned or debts reconciled or deemed uncollectible (b) Retain all other records: 2 years after school year in which equipment is returned. (c) Retain loan agreements: 6 years.

(7) **Equipment Records** Records document equipment owned by the school, district, or ESD and provides support documentation for warranty, operation, maintenance, service, and repair. Records may include but are not limited to shipping or packing slips; vendor information; operating manuals; warranties and guarantees; specifications; serial numbers; maintenance agreements or contracts; lease agreements; service reports; maintenance records; damaged/stolen property records; and related correspondence and documentation. SEE ALSO Vehicle Maintenance Records in the Transportation Records section. Minimum retention: 2 years after disposal of equipment.

(8) **Facility Use Records** Records document the application for and use of school, district, or ESD facilities by outside individuals or organizations. Records may include but are not limited to the application and contract for using facilities. Information may include name of individual or organization requesting occupancy, type of activity, dates and hours of projected use, facility name and location, use permits, conditions of use, acknowledgment of responsibility for damage or liability resulting from occupancy, insurance documentation, fees and charges, request approval, correspondence, and support documentation. Minimum retention: (a) Retain approved application records: 3 years after school year in which records were created (b) Retain denied applications: 1 year after school year in which records were created.

(9) **Hazardous Materials Management Records** Records document the chain of custody of hazardous materials within a school, district, or ESD and relate to the identification, location, safe handling, storage, transportation, and disposal of hazardous waste materials including PCBs, laboratory chemicals, cleaning solvents, and pesticides. Records may include but are not limited to Environmental Protection Agency/Department of Environmental Quality monitoring forms, Department of Transportation Hazardous Waste Manifest forms, material safety data sheets, invoices, work orders, purchase orders, and other working papers. Records document that use and storage of hazardous materials and hazardous waste management has been performed in accordance with state and federal regulations. SEE ALSO Asbestos Management Records in this section. Minimum retention: (a) Retain material safety data sheets: Until superseded or obsolete (b) Retain all other records: 6 years after school year in which records were created.

(10) **Inventory Records** Records document the expendable and non-expendable property, supplies, equipment, and other items owned by the school, district, and ESD. Examples include but are not limited to buildings, real estate, vehicles, equipment, furniture, and supplies. Records may include but are not limited to description, purchase information, value, purchase price, replacement cost, depreciation, quantity, location, date of acquisition, shipping records, and related correspondence and documentation. SEE ALSO Library and Media Inventory Records in the Library and Media Records section. Minimum retention: 2 years after superseded or obsolete.

(11) **Property Disposition Records** Records document the disposition of non-real property and equipment owned by the school, district, or ESD. Disposition is usually through public auction, competitive bidding, or destruction. Records may include but are not limited to description of property, expendable property inventory listings, disposition, disposition requests and notices, equipment transfer records, reason for disposition, condition, authorization, and related correspondence and documentation. Minimum retention: 3 years after disposition of property.

(12) **Property Records** Records document the purchase, ownership, and sale of land or buildings by the school, district, or ESD. Records may include but are not limited to titles and deeds; title search records; property descriptions; title insurance policies and forms; easements; right of ways; appraisals; records of sale; and related documentation and correspondence. SEE ALSO Facility and Equipment Records section and Lease Records in the Financial Records section. Minimum retention: 3 years after property is no longer owned by agency.

(13) **Underground Storage Tank Management Records** Records document the description, location, operation, testing, maintenance, and final disposition of underground storage tanks owned by schools, districts, or ESDs. Records may include documentation of corrective procedures undertaken in the event of spills, leaks, or corrosion. Minimum retention: 25 years after removal.

(14) **Utilities Systems Operating And Maintenance Records** Records document the operations and maintenance of school, district, or ESD utility systems. Records may include but are not limited to equipment operations logs, mechanical readings charts, permits, equipment maintenance histories, and related correspondence and documentation. Minimum retention: (a) Retain permits: 5 years (b) Retain all other records: Until equipment is no longer in service.

(15) **Work Orders Records** document requests and authorizations for services and/or repairs to school, district, or ESD property and equipment. Records may include but are not limited to repair requests and authorizations, material lists, work order schedules, copy center work orders, printing orders, telephone service orders, and related correspondence. Information includes location and type of work, priority rating, approval signatures and dates, and time and cost estimates. Minimum retention: 3 years after school year in which records were created.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34

Stats. Implemented: ORS 192 & 357

Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-407-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0025

### Financial Records

**Note:** Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) **Accounts Payable Records** Records document outstanding liabilities and provides a record of payment of bills by the school, district, or ESD, including payments from student body fund accounts, disbursed by school personnel. Records may include but are not limited to invoices, invoice vouchers, statements, vouchers, journal entry forms, purchase orders, payment authorizations, check requests, check registers, reports of receipt of goods or service, canceled checks or warrants, daily batch lists, and related correspondence and documentation. Minimum retention: (a) Retain records documenting expenditure of federal funds: 5 years after final or annual expenditure report accepted (b) Retain all other records: 4 years.

(2) **Accounts Receivable Records** Records document billings and collections and provide a record of money owed to or received by the school, district, or ESD, including receivables for student body fund accounts collected by school personnel, for goods or services rendered. Records may serve as subsidiary ledgers of original entry or input which record the amounts received for goods and services. Records may include but are not limited to aging reports used to monitor accounts which are outstanding and overdue, invoices, invoice registers, billing records, receipts, receipts registers, cash receipt records; account edit sheets, and related documentation. Minimum retention: (a) Records documenting recovery of

## ADMINISTRATIVE RULES

federal supplied funds: 3 years after final or annual expenditure report accepted (b) All other records: 3 years after collected or deemed uncollectible.

(3) **Audit Reports** Records document the examination of a school, district, or ESD's financial condition by internal or independent auditors. Audits include an examination of the fiscal condition, internal controls and compliance with policies and procedures, accounting principles and methods, the accuracy and legality of transactions, and performance audits. Records may include but are not limited to audit reports (including those completed for student body fund accounts), supporting documentation, accountant's summary, financial statements, balance sheet details, comments, summaries, recommendations, preparation records, and related correspondence and documentation. Minimum retention: (a) Audit report, official copy: Permanent (b) Grant fund audit records: 5 years after final or annual expenditure report accepted (c) Other records: 4 years.

(4) **Bank Transaction Records** Records document the current status and transaction activity of school, district, or ESD funds held in bank accounts, including accounts for student body funds. Records may include but are not limited to account statements, deposit and withdrawal slips, redeemed, void, or canceled checks, check registers, interest payments, reconciliation worksheets or spreadsheets, and related documentation. Minimum retention: (a) Records documenting grant fund transactions: 5 years after final or annual expenditure report accepted (b) Other records: 3 years.

(5) **Bond Records** Records document the authorization and payment of bonds to finance school construction and improvements. Records may include but are not limited to authorizations, supporting financial documentation, bond ratings, and sample copies of bonds issued; paid bonds, coupons, and receipts; bond registers; and related documentation. SEE ALSO Bond Election Records in the Administrative Records section. Minimum retention: 3 years after final payment.

(6) **Budget Preparation Records** Records document the planning, development, estimation, and proposed budget requests for schools, districts, and ESDs. Records may include but are not limited to budget requests, spreadsheets, expenditure projection work papers and reports, budget proposals, budget development schedules, allotment reports, decision packages, spending plans, funding analysis, revenue projection reports, compensation plan proposals, contingency plans, fiscal impact analysis, and related correspondence and documentation. Minimum retention: 2 years

(7) **Budget Records** Records document the annual financial plan approved by schools, districts, and ESDs. Records may monitor allotments, apportioned fiscal distributions, and expenditures. Records may include but are not limited to budget allotment reports, adopted budgets, budget messages, revenue and expenditure tracking records, status reports, operating programs, debt service, position and wage analysis, summaries, annual report to Oregon Department of Education, and related correspondence and documentation. Minimum retention: (a) Adopted budget, official copy: 20 years (b) Other records: 3 years.

(8) **Competitive Bid Records** Records documenting the publicizing, evaluation, and awarding of quoted bids to vendors and other individuals or organizations. Records may include RFP's and RFI's and provides recorded evidence of accepted and rejected bids. May include bid exemption documents, bid and quote lists, notices of bid opening and award, comparison summaries, spreadsheets, tabulation worksheets, bid advertising records, tally sheets, bid specifications, correspondence, and related records. SEE ALSO Purchasing Records in this section. Minimum retention: (a) Retain accepted bids 10 years after substantial completion (as defined by ORS 12.135(3))(b) Retain other accepted bids: 6 years after bid awarded or canceled (c) Retain rejected bids and bid exemptions: 2 years).

(9) **Credit Slips** Slips issued to citizens who have withdrawn from agency-sponsored classes or activities and are due credit for all or part of fees paid. Information usually includes name of class or activity, date, expiration date, name and address of citizen, and related data. Minimum retention: 3 years after credit expired or redeemed.

(10) **Employee Bond Records** Records document the post of fidelity, performance, or position bonds to guarantee the honest and faithful performance of school, district, and ESD employees. Information may include but is not limited to person's name, amount of coverage, dates, and related documentation. Minimum retention: 6 years after expiration.

(11) **Financial Reports** Records document the financial condition, operation, and activities of schools, districts, and ESDs. Records may include but are not limited to organization and function statements, accounting of income and expenditures, balance sheets, revenue statements, fund balance reports, notes to the financial statements, and exhibits.

Exhibits may include a working trial balance by fund type, adjustments to accounting data, cash flow analysis, and other supporting documentation. Reports may also be completed for student body fund accounts. Records may include monthly, quarterly, or annual reports. Minimum retention: (a) Retain annual report, official copy: Permanent (b) Retain working papers and draft material: 1 year after acceptance of Annual Report (c) Retain all other Financial Reports 3 years.

(12) **General Ledgers Records** document all fiscal transactions of the school, district, or ESD. The ledgers summarize the accounts and reflect the financial position of the school, district, or ESD. Information often includes debit, credit, and balance amounts per account; budget, fund, and department numbers; and totals for notes receivable, interest income, amounts due from other funds, federal grants received; bank loans received, cash in escrow, deferred loan received, cash, encumbrances, revenue, accounts receivable, and accounts payable; and related documentation and data. SEE ALSO Subsidiary Ledgers, Journals, and Registers in this section. Minimum retention: (a) Retain year-end ledgers: 10 years (b) Retain all other general ledgers: 3 years.

(13) **Gift and Contribution Records** Records document gifts and contributions to the school, district, and ESD, including contributions to student body funds. Records may include but are not limited to memorial donation records related to money to be used by the institution in the name of an individual, donor and acknowledgment letters, acquisition lists itemizing purchases made with contributed money, checks, receipts, and related correspondence and documentation. Minimum retention: (a) Retain conditional gift, contribution, and donation records: 6 years after expiration of agreement or conditions met (b) Retain all other records: 3 years.

(14) **Grant Records** Records document the application, evaluation, awarding, administration, monitoring, and status of grants in which the agency is the recipient, grantor, allocator, or administrator. Grants may come from federal or state governments or foundations or other funding sources. Records may include but are not limited to applications including project proposals, summaries, objectives, activities, budgets, exhibits, and award notification; grant evaluation records and recommendations concerning grant applications; grant administration records including progress reports, budgets, project objectives, proposals, and summaries; records documenting allocation of funds; contracts; records monitoring project plans and measuring achievement; equipment inventories; financial reports, accounting records, audit reports, expenditure reports, and related correspondence and documentation. Minimum retention: (a) Retain final reports from significant grants to the School, District, ESD: Permanent (b) Retain records documenting the purchase and/or disposal of real property: 10 years after substantial completion (as defined by ORS 12.135(3)), or 3 years after final disposition, or as specified in agreement, whichever is longer (c) Retain other grant records: 3 years after annual or final expenditure report submitted and approved or, as specified in agreement, whichever is longer (d) Retain unsuccessful grant applications: 1 year after rejection or withdrawal.

(15) **Investment Records** Records document financial investments made by schools, districts, or ESDs. Records may include but are not limited to time certificates of deposit, interest income distribution, and tax anticipation notes. Information includes date purchased, date received, date matured, accrued interest, total interest to date, and related documentation. Minimum retention: 3 years after investment maturity.

(16) **Lease Records** Records document the lease or rental of school, district, or ESD owned property to other parties, and lease or rental of facilities from other parties. Records may include but are not limited to include leases, rental agreements, amendments, addenda, authorizations, and related correspondence and documentation. Leases are typically for office space, equipment, machinery, real estate, or facilities. Minimum retention: 6 years after expiration.

(17) **Petty Cash Fund Records** Records document petty cash activity for a school (including student body funds), district, or ESD. Records include but are not limited to requests and authorizations to establish petty cash funds, ledgers, statements, requests for disbursements, copies of receipts and invoices, and related documentation. Minimum retention: 3 years.

(18) **Purchasing Records** Records document the purchase of goods and services by a school, district, or ESD, including purchases through a student body fund account. Records may include but are not limited to purchase orders and requests; purchase authorizations; requisitions; contract release orders; price agreements; material and cost specifications; copy, print, service, and other types of work orders, receipt and delivery documentation, and related correspondence and documentation. Minimum retention: (a) Retain records documenting expenditure of federal funds: 5

# ADMINISTRATIVE RULES

years after final or annual expenditure report accepted (b) Retain all other records: 3 years.

(19) **Revenue Records** Records document application for and receipt of funds from local, state, and federal revenue sources and disbursement to the school, district, or ESD. Records include funds received directly from federal agencies or apportioned to the school, district, or ESD through the Oregon Department of Education or other state agencies. Records may include but are not limited to projection reports of forecasted revenue earnings; revenue registers listing revenue earned; fund applications and awards; performance and financial reports; supporting fiscal documentation; reimbursement requests and claim records; and related correspondence. Local revenue sources may include tax levies, tuition, local government units, adult continuing education programs, summer school programs, schools transportation and food service programs, community services programs, textbook and other rentals, and private contributions. Intermediate revenue sources may include county school funds, ESD equalization and special program funds, and state timber revenue funds. State revenue sources may include basic school support funds, common school funds, state timber revenue funds, and special education, driver education, vocational education, and special school assistance funds. Federal revenue sources may include migrant education, Indian education, and other funds. Minimum retention: (a) Retain records of revenue from federal and state sources: 5 years after final or annual expenditure report accepted (b) Retain all other records: 3 years.

(20) **Signature Authorization Records** Records document that designated school, district, or ESD employees are authorized to sign fiscal and contractual documents, including those involving student body funds. Minimum retention: 6 years after authorization superseded or expired.

(21) **Student Organization Financial Records** Records document the budgeting, accounting, and financial affairs of student organizations including student clubs, government, and publications. Records may include but are not limited to bank statements, deposit slips, cancelled checks/vouchers, receipts, and related documentation and correspondence. Minimum retention: 3 years after school year in which records were created.

(22) **Subsidiary Ledgers, Journals, and Registers Records** document details of fiscal transactions by a school, district, or ESD such as those related to receipts and expenditures on a daily, monthly, quarterly, or similar basis. Records include journals, ledgers, registers, day books, transaction reports, trial balance reports, and other account books or reports that provide documentation for the general ledger or financial reports. Records may include details of revenues, expenditures, encumbrances, cash receipts, warrants, and other financial records. Information often includes date, payee, purpose, fund credited or debited, check number, and related data. SEE ALSO General Ledgers in this section and Payroll Registers in the Payroll Records section. Minimum retention: (a) Retain year end payroll register: 75 years (b) Retain trust fund ledgers: 3 years after trust fund closed (c) Retain all other subsidiary ledgers, journals, and registers: 3 years.

(23) **Travel Expense Records** Records document requests, authorizations, travel advances and reimbursement claims made by school, district, or ESD employees for travel and related expenses. Records may include but are not limited to travel expense reports and receipts, supporting documentation, and related correspondence. Minimum retention: 3 years.

(24) **Vendor Records Records** document vendors and suppliers providing goods and services to the school, district, or ESD. Records may include but are not limited to lists name and address of vendor or company; description of goods and services provided; catalogs; promotional and advertising materials; product specification sheets; copies of purchase orders and requisitions; packing slips; price quotations; and related correspondence and documentation. Minimum retention: Until superseded or obsolete.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34  
Stats. Implemented: ORS 192 & 357  
Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-408-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0030

### Information and Records Management Records

Note: Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) **Computer System Maintenance Records** Records document the maintenance of school, school district, or ESD computer systems and is used to ensure compliance with any warranties or service contracts; schedule regular maintenance and diagnose system or component problems; and document systems backups. Records may include but are not limited to

computer equipment inventories, hardware performance reports, component maintenance records (invoices, warranties, maintenance logs, correspondence, maintenance reports, and related records), system backup reports and backup tape inventories, and related documentation. Minimum retention: (a) Retain records related to system or component repair or service: Life of the system or component (b) Retain records related to regular or essential records backups: 1 year after superseded or obsolete.

(2) **Computer System Program Documentation** Records document the addition, modification, or removal of software from a school, school district, or ESD computer system. Records usually fall into six categories: 1) records that document operating systems; 2) records that document the in-house creation and modification of application programs; 3) records that document the structure and form of data sets; 4) records that document the use of commercial software packages; 5) records that document the structure of the system; and 6) records that document system-to-system communication. Records may include but are not limited to system overviews, operation logs, job listings, operator instruction manuals, system development logs, system specifications and changes (including narrative and flow chart descriptions), conversion notes, data set logs, data set inventories, data set record layouts, hard copies of tables, data dictionaries, data directories, programming logs, program specifications and changes, record layouts, user views, control program table documentation, program listings, commercial software manuals, and related correspondence and documentation. SEE ALSO Software Management Records in this section. Minimum retention: (a) Retain migration plans: until superseded or obsolete (b) Retain all other records: 1 year after system superseded or obsolete.

(3) **Computer System Security Records** Records documenting the security of the computer systems. Includes employee access requests, passwords, access authorizations, encryption keys, and related documentation. Minimum retention: 3 years after superseded.

(4) **Computer System Wiring Records** Records documenting the wiring of the computer network system. Includes blueprints or drawings of building computer system wiring, cables, computer equipment connections, and related documentation. Minimum retention: Current plus previous version.

(5) **Federal Communications Commission (FCC) License Records** Records document the process of obtaining licenses for television, wireless, radio, and mobile communication frequencies from the Federal Communication Commission. Records may include but are not limited to applications, correspondence, legal opinions, license, excess capacity agreements, contract approval records, and related documentation. Minimum retention: 5 years after school year in which license expires.

(6) **Filing System Records** Records document the establishment, maintenance, alteration, or abolition of school, school district, or ESD filing systems. Records may include but are not limited to include master file lists, organizational charts, program descriptions, and correspondence. Minimum retention: 3 years after superseded or abolished.

(7) **Forms Development Records** Records document the development of new or revised forms used by a school, school district, or ESD. Records may include but are not limited to sample forms, drafts, revisions, form logs/listings, proposals, authorizations and illustrations. Minimum retention: Until superseded or obsolete.

(8) **Information Service Subscription Records** Records document school, district, or ESD subscriptions to information services. Records may include but are not limited to subscriptions, invoices, and correspondence. Minimum retention: 3 years.

(9) **Information System Planning and Development Records** Records document the planning and development of school, school district, or ESD information systems. Although these records typically document computerized information systems, they may also document manual filing systems and microfilm systems. The records are used to insure that planned systems will help the institution fulfill its missions, are cost-effective, conform to adopted information standards, and integrate with existing institution information systems. Records may vary according to the level of documentation required for each system, but may include information technology plans, feasibility studies, cost-benefit analyses, institution studies and surveys, system specifications and revisions, component proposals, technical literature, vendor literature and proposals, and correspondence. Minimum retention: (a) Retain implemented systems: Life of the system (b) Retain unimplemented systems: 3 years.

(10) **Microfilm and Image Quality Control Records** Records document that microfilm and images produced by or for public schools, school districts, or ESDs conforms to the specifications required by Oregon Administrative Rules 166-25-005 to 166-25-030. Records may include but are not limited to microfilmed records lists, microfilm reel indexes, service



# ADMINISTRATIVE RULES

bureau transmittals, film inspection reports, methylene blue certifications, camera/processor/duplicator inspection reports, equipment and operator logs, and correspondence. Minimum retention: Same as related microfilm or digital image.

(11) **Public Records Disclosure Request Records** Records document requests for disclosure of public records and provides a record of school, district, or ESD responses. Records may include but are not limited to requests for disclosure, types of records requested, request logs, notation of transfer to another district, approvals, denials, copies of petitions to the Attorney General for review of denials of disclosure, Attorney General Orders to grant or deny disclosure, correspondence, and related documentation. Minimum retention: (a) Retain approved requests: 5 years. (b) Retain denied requests: 2 years after last action.

(12) **Records Management Records** Records document the authorized retention, scheduling, inventory, and disposition of school, district, or ESD public records. Records may include but are not limited to records retention schedules, inventory worksheets, schedule authorizations, procedure guidelines, transmittals, destruction authorizations, reports, and correspondence. Minimum retention: (a) Retain destruction records permanent (b) Retain all other records 5 years after superseded.

(13) **Software Management Records** Records document the use of software in school, district, or ESD information systems to insure that institution software packages are compatible, that license and copyright provisions are complied with, and that upgrades are obtained in a timely manner. Records may include but are not limited to software purchase records, software inventories, software licenses, site licenses, and correspondence. Minimum retention: 2 years after software disposed of or upgraded.

(14) **Telecommunications System Management Records** Records document the creation, modification, or disposition of school, district, or ESD telecommunications systems. Records may include but are not limited to equipment records, Federal Communications Commission records, repair order forms, system planning records, telecommunications maintenance contracts, telecommunications service orders, and correspondence. Minimum retention: (a) Retain repair and service order records: 4 years. (b) Retain all other records: 1 year after system superseded or obsolete.

(15) **User Support Records** Records documenting troubleshooting and problem-solving assistance provided by information systems personnel to users of the systems (computer, telecommunications, etc. Records may include assistance requests, resolution records, and related documentation. Information may include name of requester, date, time, location, and description of problem and resolution. Minimum retention: 1 year.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34  
Stats. Implemented: ORS 192 & 357  
Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-409-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0035

### Library and Media Records

**Note:** Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) **Acquisition and Deaccession Records** Records document the process of requesting, purchasing, and acquiring, as well as deaccessioning, books, periodicals, audio-visual, and other library materials. Records may include but are not limited to accession and deaccession registers; correspondence with publishers; questionnaires; request forms; bibliographic data; receipt notations; and related documentation. SEE ALSO Library Catalog Records in this section. Minimum retention: (a) Retain registers: Until superseded or obsolete (b) Retain all other records: 3 years after school year in which records were created.

(2) **Audio-Visual Materials and Equipment Loan Records** Records document the loan, rental, scheduling, and delivery of audio-visual or media material and equipment to school, district, or ESD faculty or staff. Records may include but are not limited to request forms; extension and cancellation records; borrower identification; title and material identification; shipping or delivery information; booking records; attendance and number of times media used or shown; usage statistics; accounting records concerning the cost of material; and related documentation. Minimum retention: (a) Retain extension and cancellation records: 1 month (b) Retain equipment inventories: 3 years after superseded or obsolete (c) Retain all other records: 3 years after school year in which records were created.

(3) **Circulation Records** Records document the borrowing of circulating library, audio-visual, media, and learning resource center materials by students and faculty. Records may include but are not limited to name of the borrower, title of material borrowed, due date, overdue status, overdue notices, and related documentation. Records may be exempt from public disclosure per ORS 192.502 (21). Minimum retention: (a) Retain overdue

records: Until material is returned or debts reconciled or deemed uncollectible (b) Retain all other records: 1 year after school year in which records were created.

(4) **Copyright and Duplication Records** Records document permission received from authors, publishers, producers, and distributors of video programs and other media and materials to allow the school, district, and ESD to duplicate the material without copyright infringement. Records may include but are not limited to agreements which state the terms and conditions, copyright releases, authorizing signatures, and related documentation and correspondence. Minimum retention: 6 years after agreement expires.

(5) **Library and Media Inventory Records** Records document approved lists of books, periodicals, audio-visual materials, and other library materials. Records may include but are not limited to annual inventories; and lists of books, periodicals, audio-visual materials, and other materials; and lists of books and materials on specific subjects. Lists document material approved for use in the school or district; materials that may be borrowed from centralized media and resource centers; and are used in the acquisition of materials. Records generally include titles, bibliographic descriptions, and identification numbers. Minimum retention: 3 years after superseded.

(6) **Library Catalog Records** Records document the maintenance, and retrieval of the holdings of the school library; professional library; teaching resource center; and audio-visual, media, or resource center of the school, district, and ESD. Records may include but are not limited to the card or electronic catalog which contains the bibliographic records of the holdings; holdings records which contain data on items in circulation; and related documentation. SEE ALSO Acquisition and Deaccession Records in this section. Minimum retention: Until superseded or disposal of material.

(7) **Supplemental Materials Selection and Adoption Records** Records document the process of evaluation, selection, and approval of supplemental educational materials for use by a school, district, or ESD and inclusion in the library, learning resource center, or media center. Records may also be used for budget, audit, and insurance purposes. Supplemental materials may include library books, periodicals, audio-visual materials, instructional computer software, and related materials. Records may include but are not limited to bibliographic data; summary of content; evaluations; evaluator records including applications, rosters, and expense records; records documenting citizen complaints about educational material; and related correspondence and documentation. Minimum retention: 7 years after school year in which records were created.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34  
Stats. Implemented: ORS 192 & 357  
Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-410-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0040

### School Administration Records

**Note:** Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) **District Boundary Records** Records document the formation, consolidation, and reorganization of school districts and their boundaries. Records may include but are not limited to boundary board meeting minutes; boundary board hearing records; board decisions; maps and plats; land records; boundary descriptions; and related documentation. Minimum retention: Permanent.

(2) **District Clerk's Records** Records document the administration of the school district and the reporting of this general and financial information to the county school superintendent. The district clerk's record books may contain but are not limited to reports of annual school meetings, special school meetings, and district board meetings; financial reports, receipts, and accounts; teacher contracts; annual census of school-aged children; payroll information; summary of subjects taught; records of school boundaries; and related documentation. The school register and record books may contain but are not limited to records of visitors; records of students registration, attendance, and department; general school statistics; teacher salary records; program and class records; evaluations of student progress; data on parents and guardians; and related documentation. These records are no longer being created. Minimum retention: Permanent.

(3) **Food/Nutrition Service Program Records** Records document the operation of school food/nutrition service programs. Records may include but are not limited to operations reports; child nutrition program reviews; food service financial records; food supply inventory records; free and reduced price lunch applications and reimbursement claim records; meal production and menu records; meal ticket inventory records; sanitation inspection reports; summer food services records; and related docu-

# ADMINISTRATIVE RULES

mentation and correspondence. Minimum retention: 3 years (or as specified by 7 CFR 210.7-28 and 225.6-16).

(4) **Interscholastic Athletic Activity Program Records** Records document student eligibility and participation in interscholastic competitive sports and athletic activities, athletic event and team publicity, and athletic events scheduling. Records may include but are not limited to team standings; win/loss records; All-Star selections; team member information; statistics; event and practice schedules; and related documentation and correspondence. Minimum retention: 5 years after school year in which records were created.

(5) **Key and Keycard Records** Records document the issuance of keys and keycards to staff to enable access to buildings and sites. Records may include but are not limited to key inventories, key issue forms, key replacement records, and key disposal records. Minimum retention: (a) Retain access and entry logs 3 years (b) Retain other records 2 years after key is turned in.

(6) **Mailing Lists Records** document the compilation of names and addresses of persons and organizations by a school, district, or ESD for mailing purposes. Lists are used to facilitate billing, outreach activities, and other functions of the school, district, or ESD. Minimum retention: Until superseded or obsolete.

(7) **Parking Records** Records document parking provided for the public or school, district, or ESD staff or students. Records include parking permits and applications, special permits, permit receipts, parking citations, appeal petitions, and related correspondence and documentation. Minimum retention: (a) Retain citation records: 3 years after resolved (b) Retain all other records: 3 years.

(8) **Postal Records** Records document transactions with the U.S. Postal Service and private carriers. Records may include but are not limited to postage meter records, receipts for express deliveries, registered and certified mail; insured mail, special delivery receipts and forms, loss reports, and related correspondence. Minimum retention: 3 years after school year in which records were created.

(9) **Press Releases Records** document school, district, or ESD information that is officially released to the media for dissemination to the public. Records may include press or news releases, public service announcements, and related documentation. Minimum retention: (a) Policy and Historic press/news releases: Permanent (b) Routine news/press releases: 2 years.

(10) **Publications Records** document publications produced by a school, district, or ESD for educational or informational purposes, or to communicate information about programs, policies, services, and events. Records include publications produced by individual school staff, offices, and students. Types of publications may include but are not limited to catalogs, books, magazines, newsletters, rosters, directories, brochures, pamphlets, media guides, guidebooks, proceedings, programs, schedules, yearbooks, manuals, newspapers, calendars, and flyers. Records may include but are not limited to working papers, mock-ups, drafts, photographs, final publications, and publications on the school, district, or ESD's Internet home page. SEE ALSO Press Releases in this section. Minimum retention: (a) Retain significant publications, official copy: Permanent (b) Retain preparation records: Until published (c) Retain all other publications and records: 2 years.

(11) **Scheduling Records** Records document the scheduling and reservations related to in-house participation in and use of various school, district, or ESD activities, events, classes, facilities, and meeting rooms. Records may include but are not limited to schedules, logs, lists, classroom assignments, requests, and related correspondence and documentation. Minimum retention: 2 years after school year in which records were created.

(12) **Security Records** Records document security provided for school, district, or ESD building and grounds. Security may be provided by an on-site public safety office and public safety officers. Records may include but are not limited to security logs, sign-in sheets, visitor logs, security activity reports, incident reports, statistical information, and related correspondence and documentation. SEE ALSO Key Issuance Records in this section. Minimum retention: 3 years after school year in which records were created.

(13) **Student Handbooks Records** document school rules and regulations and student rights and responsibilities. Information may include but is not limited to general school information, academic requirements, dress codes, rules of student conduct, freedoms, and student grievance procedures. Minimum retention: (a) Retain official copy: Permanent (b) Retain all other copies: Until superseded or obsolete.

(14) **Telecommunications Logs Records** document the tracking and status of telephone, voice mail, and facsimile (FAX) communications called or received. Information may include time and date of call, name of caller, phone number called or received, nature of call, and actions taken and results of the call. Minimum retention: 1 year.

(15) **Visitor Logs Records** document visitors to agency buildings. Records name include visitors' names, visitor badges issued, and entrance and exit times. Minimum retention: 1 year.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34  
Stats. Implemented: ORS 192 & 357

Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-405-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0045 Payroll Records

**Note:** Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only if the retention period is 99 years or less.

(1) **Deduction Authorization Records** Records documenting employee application and authorization for voluntary payroll deductions, direct bank deposits, and related actions. Payroll deductions are directly deposited or remitted to the authorized financial institution, insurance company, or other agency or vendor. Records may include insurance applications, enrollment cards, deduction authorizations, approval notices, deduction terminations, and related records. Minimum retention: 3 years after superseded, terminated, or employee separates.

(2) **Deduction Registers** Registers or records serving the same function of documenting voluntary and/or required deductions from the gross pay of agency employees. Types of deductions include federal income and social security taxes, state tax, workers' compensation, union dues, insurance, deferred compensation, credit union, parking permit, prewritten checks, garnishments, levies, charitable contributions, and others. Information may include employee name and number, pay period, social security number, total deductions, net pay, check number, and related data. Minimum retention: (a) Retain registers documenting state and federal taxes: 5 years (b) Retain all other registers: 3 years.

(3) **Employee Payroll Records** Records document school, district, or ESD individual employee pay history. Records include but are not limited to source documents authorizing payroll deductions and withholding such as retirement enrollment forms, insurance applications, and beneficiary designations, leave authorization records, pay related personnel action documents, garnishment orders, child support claim records, electronic deposit authorizations, work out of class and overtime authorizations, deduction reports, and correspondence. SEE ALSO Employee Personnel Records in the Personnel Records section. Minimum retention: (a) Retain PERS enrollment forms, official copy: 75 years after date of hire (b) Retain all other records: 3 years after employee separation.

(4) **Employee Time and Attendance Records** Records document school, district, or ESD employee attendance and time worked. Records may include but are not limited to time cards or sheets; monthly summary reports of employee attendance; forms used to record attendance, sick, vacation, overtime, and compensatory time; leave requests and approval forms; leave records; absence, sick, and vacation leave summary reports; overtime authorization or certification; staff attendance logs; substitute teacher logs; and related documentation and correspondence. Minimum retention: 4 years.

(5) **Federal and State Tax Records** Records, in addition to those itemized in this section, used to report the collection, distribution, deposit, and transmittal of federal and state income taxes as well as social security tax. Examples include the federal miscellaneous income statement (1099), request for taxpayer identification number and certificate (W-9), employer's quarterly federal tax return (941, 941E), tax deposit coupon (8109), and similar federal and state completed forms. Minimum retention: (a) Retain for the retention of records documenting expenditure of grant funds: see Grant Records in the Financial section (b) Retain all other records: 4 years.

(6) **Garnishment Records** Records documenting requests and court orders to withhold wages from employee earnings for garnishments, tax levies, support payments, and other reasons. Usually includes original writs of garnishment, orders to withhold for the Oregon Department of Human Resources, federal or state tax levies, recapitulations of amounts withheld, and related records. Information usually includes employee name and number, name of agency ordering garnishment, amount, name of party to whom payment is submitted, dates, and related data. Minimum retention: 3 years after resolution.

(7) **Leave Applications** Applications or requests submitted by employees for sick, vacation, compensatory, personal business, family and medical leave, long term leave, and other leave time. Information usually

# ADMINISTRATIVE RULES

includes employee name, department, date, leave dates requested, type of leave requested, and related data. SEE ALSO Employee Time Records in this section. Minimum retention: 3 years.

(8) **Leave Balance Reports** Reports documenting individual employee accrual and use of sick, vacation, compensatory, personal business, family and medical leave, and other leave time. Information usually includes employee name and number, social security number, leave beginning balance, leave time accrued, leave time used, ending balance, and related data. SEE ALSO Employee Benefits Records in the Personnel section. Minimum retention: (a) Retain year-end leave balance reports: 75 years after date of hire (b) Retain all other reports: 4 years.

(9) **Payroll Administrative Reports** Records document school, district, or ESD payroll statistics, payroll budget preparation, projections, workload and personnel management, and payroll research. Records may include but are not limited to recapitulation reports organizing wages, deductions, and other data into categories such as quarter-to-date, year-to-date, fiscal year-to-date, department, division, section, employee/employer contributions, and others. Minimum retention: 3 years.

(10) **Payroll Registers Records** document the earnings, voluntary and required deductions, and withholdings of school, district, and ESD employees. Records include but are not limited to monthly listings of all paid employees with details of their earnings and deductions. Minimum retention: (a) Retain year-end payroll register: 75 years (b) Retain leave accrual and monthly payroll registers: 10 years (c) Retain all other registers: 3 years

(11) **Unemployment Compensation Claim** Records Records document claims submitted by former school, district, or ESD employees for unemployment compensation. Records include but are not limited to claims, notices, reports, claim determination appeal records, and related documentation and correspondence. Minimum retention: 3 years

(12) **Unemployment Reports** Records document school, district, or ESD employee earnings on a quarterly basis. Records are used to determine the costs and charges in the event of an unemployment compensation claim. Information in the records includes employee name, social security number, quarterly earnings, days worked, totals, and other data. Minimum retention: 3 years

(13) **Wage and Tax Statements Annual** statements documenting individual employee earnings and withholdings for state and federal income taxes and social security tax. Also known as federal tax form W-2. Information includes agency name and tax identification number, employee name and social security number, wages paid, amounts withheld, and related data. Minimum retention: 5 years

(14) **Withholding Allowance Certificates** Certificates documenting the exemption status of individual agency employees. Also described as W-4 forms. Information includes employee name and address, social security number, designation of exemption status, and signature. Minimum retention: 5 years after superseded or employee separates

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34  
Stats. Implemented: ORS 192 & 357  
Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-411-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0050

### Personnel Records

**Note:** Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less

(1) **Affirmative Action Records** Records document school, district, and ESD compliance with the statutes and regulations of the U.S. Equal Opportunity Commission dealing with affirmative action. Records may include but are not limited to plans, updates, policy statements, reports, and supporting information. SEE ALSO Equal Employment Opportunity Commission Compliance Records in this section. Minimum retention: (a) Retain plans, updates, and policy statements: Permanent (b) Retain all other records: 3 years.

(2) **Benefits Continuation Records** Records document notifications to employees or dependents informing them of their rights to continue insurance coverage after termination of during disability or family leave. Continuation may be under COBRA or another provision. Notice is also sent to a third party administrator who administers the extended coverage. The records typically consist of notices sent and correspondence. Records may be filed with the Employee Benefits Records or Employee Personnel Records. SEE ALSO Employee Payroll Records in the Payroll section. Minimum retention: 3 years after employee separation of eligibility expired

(3) **Collective Bargaining Records** Records document the negotiations and contractual agreements between a school, district, or ESD and an employee bargaining unit. 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; minutes, sound recordings, and exhibits; published manuals; and related correspondence and documentation. Minimum retention: (a) Retain contracts: 75 years after contract expires (b) Retain all other records: 6 years after contract expires

(4) **Comparable Worth Study Records** Records documenting the analysis, study, and resolution of pay equity, alleged job discrimination, and related issues involving the agency and its employees. May include job content questionnaire summaries, position allocation reports, personnel reclassification studies, job category listings, study outlines, graphs, tables, and significant related records. Minimum retention: (a) Retain final study or report: Permanent (b) Retain all other records: 5 years

(5) **Compensation Plan Records** Records document the development, operation, and maintenance of the school, district, or ESD's personnel compensation plans. Records include compensation plans; salary surveys; merit matrixes; pay range tables; and related correspondence and documentation. Minimum retention: (a) Retain compensation plans: 20 years (b) Retain pay range tables, merit matrixes: Until superseded (c) Retain all other records: 3 years.

(6) **Criminal Background Check** Records Records document the pre-employment or periodic criminal record check made on prospective or current staff, faculty, and volunteers by schools, districts, or ESDs. Records include but are not limited to a Fingerprint-Based Criminal History Verification form documenting the result of a criminal history background check coordinated by the Oregon Department of Education through the FBI and Oregon Law Enforcement Data System (LEDS). The form includes name and other personal identifying information, indication of existence or absence of criminal record, and related documentation. Records may be retained as part of the Employee Personnel Record. SEE ALSO Employee Personnel Records and Recruitment and Selection Records in this section. Minimum retention: (a) Retain background check logs until superseded or obsolete (b) Retain fingerprint cards until return of card or receipt of investigation findings (c) Retain all other records 90 days, destroy.

(7) **Disciplinary Action Records** Records documenting termination, suspension, progressive disciplinary measures, and other actions against employees. May include statements, investigative records, interview and hearing records, findings, and related records. May be filed with Employee Personnel Records. Minimum retention: (a) Retain investigations resulting in termination: 10 years after employee separation (b) Retain investigations resulting in disciplinary action or exoneration: 3 years after resolution (c) Retain unfounded investigations: 3 years.

(8) **Drug Testing Records** Records document the testing of current and prospective employees for controlled substances prohibited by policy, procedure, or statute. Records may include but are not limited to the documentation of test results, the collection process, the random sample process, and those documenting the decision to administer reasonable suspicion drug testing. Minimum retention: (a) Retain positive test results: 5 years (b) Retain negative test results: 1 year.

(9) **Employee Benefits Records** Records document school, district, or ESD individual employee benefit information such as selection of insurance plans, retirement, pension, and disability plans, deferred compensation plans, and other benefit program information. Records may include but are not limited to plan selection and application forms, enrollment records, contribution and deduction summaries, personal data records, authorizations, beneficiary information, and related documentation. Records may be filed with the individual Employee Personnel Record. SEE ALSO Employee Payroll Records in the Payroll Records section. Minimum retention: (a) Retain PERS enrollment records, official copy: 75 years after date of hire (b) Retain all other records: 3 years after employee separation or eligibility expired.

(10) **Employee Medical Records** Records document school, district, or ESD individual employee work related medical history. These records are not personnel records and must be kept physically separate from employee personnel records—in a separate location, as required by the Americans with Disabilities Act. Records may include but are not limited to medical examination records (pre-employment, pre-assignment, periodic, or episodic), X-rays, records of significant health or disability limitations related to job assignments, documentation of work related injuries or illnesses, hearing test records, hazard exposure records, drug testing records, first-aid incident records, physician statements, release consent forms, and related correspondence. SEE ALSO Hazard Exposure Records



## ADMINISTRATIVE RULES

in this section. Minimum retention: (a) Retain hazard exposure records: 30 years after separation (b) Retain all other records: 6 years after separation.

(11) **Employee Personnel Records** Records document school, district, and ESD individual employee work history. Records may include but are not limited to applications; notices of appointment; training and licensure (certification) records; records of health limitations; in service training records; salary schedules; tuition reimbursement records; personnel actions; performance evaluations; teacher evaluation reports; letters of commendation and recommendation; letters of reprimand; notices of disciplinary action; notices of layoff; letters of resignation; home address and telephone disclosures; emergency notification forms; oaths of office; grievance and complaint records; pension, retirement, disability, and leave records; and related correspondence and documentation. SEE ALSO Criminal History Check Records, Recruitment and Selection Records, Employee Medical Records, and Employee Benefits Records in this section. Minimum retention: (a) Retain employment applications (most recent and first successful), teacher licensure (certification) records, personnel actions, oaths of office, home address/telephone disclosures, emergency notification form (most recent): 75 years after date of hire (b) Retain grievance, complaint, and disciplinary records: 3 years (c) Retain all other records: 3 years after separation.

(12) **Employment Eligibility Verification Forms (I-9)** Records document the filing of U.S. Immigration and Naturalization Service Form I-9 form which verifies that an applicant or employee is eligible to work in the United States. Information includes employee information and verification data such as citizenship or alien status and signature, and employer review and verification data such as documents which establish identity and eligibility, and employer's signature certifying that documents have been checked. Minimum retention: 3 years or 1 year after employee separation, whichever is longer (8 CFR 274a-2).

(13) **Employee Recognition Records** Recognition of employees for special service to the agency. May include service awards, recognition certificates, commendations, award nominations, lists of past recipients, and presentation or ceremony records and photographs. Some records in this series may have historic value. For appraisal assistance contact the Oregon State Archives. SEE ALSO Employee Suggestion Award Records in this section. Minimum retention: 6 years.

(14) **Employee Suggestion Award Records** Records documenting an employee suggestion program where employees may submit suggestions that improve effectiveness, efficiency, and economy in agency operations. Employees may receive awards for adopted suggestions. Records may include suggestion forms and evaluations, award information, and related documentation. SEE ALSO Employee Recognition Records in this section. Minimum retention: (a) Retain adopted suggestions: 2 years (b) Retain suggestions not adopted: 1 year.

(15) **Equal Employment Opportunity Commission Compliance** Records Records document school, district, or ESD compliance with the U.S. Equal Employment Opportunity Commission regulations. Records may include but are not limited to reports; anti-discrimination committee meeting records and reports; workplace analyses; discrimination complaint policies and procedures; complaints; reports; exhibits; withdrawal notices; copies of decisions; hearings and meeting records; report listing number of employees by gender, race, and job classification; and related correspondence and documentation. SEE ALSO Affirmative Action Records in this section. Minimum retention: (a) Retain plans, updates, and policy statements: Permanent (b) Retain complaint records and documentation: 3 years after final decision issued (c) Retain all other records: 3 years.

(16) **Grievance Records** Records document grievances brought by or against employees of schools, districts, or ESDs. Records may include but are not limited to notice of grievance; informal discussion notes; format hearing notes (including audio tapes); final summary statements or reports; private arbitrator or Employment Relations Board rulings; correspondence; and supporting documentation. Minimum retention: 3 years.

(17) **Hazard Exposure Records** Records document a school, district, or ESD employee's exposure to hazardous conditions such as chemicals, toxic substances, blood-borne pathogens, biological agents, bacteria, virus, fungus, radiation, noise, dust, heat, cold, vibration, repetitive motion, or other dangerous work related conditions. These records are not personnel records and should be maintained in an Employee Medical File. Records may include but are not limited to hearing test records, radiation measurement records, blood test or other laboratory results, incident reports, first-aid records, X-rays, work station air sampling reports, and correspondence. SEE ALSO Employee Medical Records in this section. Minimum retention: 30 years after separation (per 29 CFR 1910.20).

(18) **Layoff, Dismissal, and Non-Renewal Records** Records document the procedures and computations used in laying off, dismissing, or non-renewal of contracts of school, district, and ESD employees. Records may include but are not limited to service credit computations, service credit lists, layoff ranking lists, layoff notice letters, employee layoff election forms, documentation in support of action taken, and related correspondence. Minimum retention: 3 years after final disposition.

(19) **Personnel Research Records** Records document the study and analysis of personnel issues such as comparative salary, pay equity, collective bargaining, fringe benefits, manning standards, minimum qualifications, recruitment, training, job discrimination, and related issues involving the school, district, or ESD and its employees. Records may include but are not limited to questionnaires, data, summary reports, studies, surveys, and related documentation. Minimum retention: (a) Retain final study or report: Permanent (b) Retain all other records: 5 years

(20) **Photo Identification Records** Photographs and other records used to identify agency employees, private security personnel, contract workers, and others. May include photographs taken for agency identification cards, driver's license photographs, and information such as name, date of birth, physical description, identification number, driver's license number, and other data. Minimum retention: Until superseded or obsolete

(21) **Position Description and Classification Records** Records document job descriptions and the studies and evaluations of school, district, or ESD positions to determine if reclassification is appropriate. Records may include but are not limited to current and new job descriptions, organizational charts, classification specifications, desk audits, classification review reports, and related correspondence and documentation. Minimum retention: 3 years after superseded or obsolete

(22) **Recruitment and Selection Records** Records document the recruitment and selection of agency employees. Records may also document the recruitment and selection of contracted service providers such as attorneys, auditors, insurance agents, labor consultants, and others. Records may include but are not limited to job announcements and descriptions, applicant lists, applications and resumes, position advertisement records, civil service and other examination records, classification specifications, affirmative action records, interview questions, interview and application scoring notes, applicant background investigation information, letters of reference, civil service records, position authorization forms, certification of eligibles, recruitment summary records (job announcement, position description, documentation relating to the announcement and test, and test items and rating levels), and related correspondence and documentation. SEE ALSO Employee Personnel Records and Employment Eligibility Verification Forms (I-9) in this section. Minimum retention: (a) Retain announcement records, position description, and records documenting creation of test and rating scale 10 years (b) Retain unsolicited applications and resumes 3 months if not returned to solicitor (c) Retain unsuccessful applications and other records 3 years after position filled or recruitment cancelled

(23) **Teacher Registration and Licensure (Certification) Records** Records document the registration and licensure (certification) of school teachers, including substitute teachers. Records may include but are not limited to licensure (certification) records which list teacher name, type of license (certificate), date of licensure (certification), salary, days taught; Oregon Department of Education licensure (certification) reports which list type of license (certificate), teacher, and district; and related documentation. Early records may include county superintendent administered examination results, copies of examinations, and teacher salary information. SEE ALSO Employee Personnel Records in this section. Minimum retention: (a) Retain licensed (Certificated) Personnel Reports: 2 years after school year in which records were created (b) Retain substitute teachers records: 1 year after school year in which records were created (c) Retain all other records: 75 years after date of hire

(24) **Training Program Records** Records document the design, implementation, and administration of training programs and opportunities provided to school, district, and ESD employees, including in service training for faculty. Records may include but are not limited to class, workshop, or conference descriptions; instructor certifications; planning documentation; instructional materials; course outlines; class enrollment and attendance records; training certification forms; and related correspondence and documentation. Minimum retention: 3 years after school year in which records were created.

(25) **Volunteer Program Records** Records document the activities and administration of volunteer programs in the school, district, or ESD. Records may include but are not limited to volunteer hour statistics; volunteer program publicity records; insurance requirement records; volunteer

# ADMINISTRATIVE RULES

training and orientation records; inactive volunteer files; and related correspondence and documentation. Minimum retention: (a) Retain volunteer worker records: 3 years after separation (b) Retain all other records: 5 years

(26) **Wellness Program Records** Records document the development, operation, and activities of a school, district, or ESD wellness program. Records may include but are not limited to program statements, health and safety surveys, committee minutes, newsletters, and related correspondence and documentation. Minimum retention: 3 years after school year in which records were created.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34

Stats. Implemented: ORS 192 & 357

Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-412-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0055

### Safety and Risk Management Records

**Note:** Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) **Accident and Injury Reports** Records document accidents, including workers' compensation accidents, and injuries to students, faculty, staff, and visitors on school, district, or ESD property, or during school related activities. Records include accident and injury reports; State Accident Insurance Fund (SAIF) accident reports; occupational injury investigations and reports; employee identification and physical assessment records; vehicle accident reports; and related correspondence and documentation. SEE ALSO Legal Case Files and Records in the Administrative Records section, and Insurance Claim Records, State Accident Insurance Fund (SAIF) Claim Records, Tort Liability Claim Records, and Workers' Compensation Claim Records in this section. Minimum retention: (a) Retain employee hazard exposure records: 30 years after employee separation (or as specified by 29 CFR 1910.20) (b) Retain other records, if no claim filed: 3 years (c) Retain other records, if claim filed: Transfer to claim record

(2) **Contractor Liability Insurance Verification Records** Letters or certificates of coverage provided by insurance companies declaring that specific contractors are covered by appropriate liability insurance. Information usually includes insurance company name and address, issue date, expiration date, amount of coverage, type of coverage, special provisions, signature of insurance company representative, and related data. Minimum retention: (a) Retain if related to county or special district improvement project: 10 years after substantial completion, (as defined by ORS 12.135(3)) (b) Retain all other records: 6 years after expiration

(3) **Contractor Performance Bond Records** Records documenting the posting of performance guarantees or surety bonds by contractors performing work for the agency. May include letters, certificates, copies of bonds, and similar records. Information usually includes name of individual or company covered, amount of coverage, effective and expires dates, name of bonding agent, authorized signatures, and related data. Minimum retention: (a) Retain if related to county or special district improvement project: 10 years after substantial completion, (as defined by ORS 12.135(3)) (b) Retain all other bond records: 6 years after expiration

(4) **Disaster Preparedness Plan Records** Records document school, district, or ESD plans and procedures to take in case of a major disaster which has destroyed or compromised the operations of a school, district, or ESD. Components of the recovery plan include but are not limited to physical plant repair and restoration; equipment restoration; electronic data restoration including steps to reload data, recover data, and reconnect networks; reestablish telephone connections; essential records protection; and related procedures and needs dealing with risk management, public relations, and financial issues. Minimum retention: Until superseded or obsolete

(5) **Emergency Response and Safety Plans and Procedures** Records document a school, district, or ESD's plans to promote a safe work environment for employees; procedures to follow in the event of emergency; and student safety instruction records. Records may include but are not limited to step-by-step procedures; safety plans; fire drill reports; records instructing students about safety on school buses; and related documentation. Fire drill reports are submitted annually to the local fire bureau. Minimum retention: (a) Retain fire drill reports: 1 year after school year in which records were created (b) Retain all other records: 1 year after superseded or obsolete

(6) **Hazard Communications Program Records** Records documenting participation in the Hazard Communications Program as required by the Oregon Occupational Safety and Health Administration (OR-OSHA). These records may be useful as documentation for exposure and other claims because they include chemical content, safe handling instruc-

tions, and other facts about a product at a given time in the past. Usually includes plans, reports, and material safety data sheets (MSDS). Information included in the material safety data sheets includes product name, manufacturer's address and phone number, hazardous ingredients contained, ingredient description, carcinogenicity, quantity of ingredients, fire and explosion data, health hazard data, radioactivity data, spill and leak pressures, safe handling and use information, special use precautions and related data. Minimum retention: 75 years after superseded or obsolete

(7) **Hazardous Substance Employer Survey Records** Series documents the locations, quantities, and individuals responsible for specific hazardous chemicals housed by an agency. This record is sent to the State Fire Marshal. Records include hazardous chemical compositions, lot numbers, and emergency disposition instructions. Minimum retention: Until superseded or obsolete

(8) **Insurance Claim Records** Records document school, district, or ESD requests for payment of insurance claims involving personal injury, property damage, motor vehicle accidents, and others. Records may include but are not limited to auto, liability, and property claim reports; estimates of repairs; accident reports; police reports; photographs; summaries; reviews; audio and video recordings and transcriptions; and related correspondence and documentation. SEE ALSO Legal Case Files and Records in the Administrative Records section, and State Accident Insurance Fund (SAIF) Claim Records, Tort Liability Claim Records, and Workers' Compensation Claim Records in this section. Minimum retention: 5 years after final disposition of claim.

(9) **Insurance Policy Records** Records document the terms and conditions of insurance policies between the school, district, or ESD and the insurers. Types of insurance include liability, property, group employee health and life, motor vehicle, workers' compensation, flood, and others. Records may include but are not limited to policies, endorsements, rate change notices, and related documentation. SEE ALSO Risk Factor Evaluation Records in this section. Minimum retention: (a) Retain property, liability, and employee group insurance: 75 years after expiration if no claims pending (b) Retain all other insurance: 6 years after expiration if no claims pending (10) **Liability Claims Records** Records documenting various types of liability claims filed against the agency. These include personal injury, property damage, motor vehicle accident, false arrest, and others. Records often include reports, photographs, summaries, reviews, notices, audio and videotapes, transcriptions of recorded statements, memoranda, correspondence, and related documents. Minimum retention: (a) Retain if action taken: 10 years after case closed, dismissed, or date of last action (b) Retain if no action taken: 3 years

(11) **Liability Waivers Records** document the release of the school, district, or ESD from liability related to various activities that include student, volunteer, or citizen involvement. Records may include but are not limited to release forms with terms, date, signatures, and related information. Minimum retention: 3 years after school year in which records were created

(12) **Master Material Safety Data Records** Series documents all hazardous chemicals used and held by an agency. Records include hazardous materials safety sheets, safety instructions, and emergency instructions. Minimum retention: Until superseded or obsolete

(13) **Occupational Injury and Illness Records** Series is used to provide the Oregon Occupational Safety and Health Administration (OR-OSHA) with workers' compensation claim information about agency employees. Records may include logs and summaries, serious injury reports, injury cost reports, and annual occupational injuries and illnesses surveys. Minimum retention: 6 years

(14) **Risk Factor Evaluation Records** The series is used to assess various risk factors for an agency and determine appropriate insurance needs. Records may include studies, worksheets, yearly risk reports, restoration fund inventory reports, policy manuals, property transfer reports, self insurance manuals, real property reports, money and negotiable securities reports, a general risk survey and correspondence. Minimum retention: 4 years

(15) **Property Damage Records Reports**, photographs, and other records documenting damage to agency property such as signs, trees, picnic tables, buildings, fountains, and fences. Information often includes type and location of property damaged, description of damage, date and time of damage (if known), name and address of individual who caused damage (if known), value of damage, billing costs, and related data. Minimum retention: (a) Retain if litigated: see Civil Case Files in the Counsel or District Attorney section for retention (b) Retain if not litigated: 3 years after date of last action

# ADMINISTRATIVE RULES

(16) **Safety Committee Records** Records document the actions of workplace safety committees which oversee or advise on school, district, or ESD safety issues. Records may include but are not limited to minutes, agendas, exhibits, reports, resolutions, sound recordings, indexes, and related correspondence and documentation. Minimum retention: 3 years

(17) **Safety Inspection and Compliance Records** Records document fire and safety inspections of school, district, or ESD equipment and facilities and documents compliance with state and local safety regulations. Types of inspections may include fire and fire alarm inspections; equipment safety inspections; building inspections; elevator and boiler inspections; and related inspections. Records may include but are not limited to safety inspection reports; schedules of inspections; follow-up actions; and related correspondence and documentation. Minimum retention: 10 years.

(18) **Accident Insurance Fund Claim Records** Records document job-related injury and illness compensation claims made by school, district, and ESD employees to the Accident Insurance Fund and the resulting claim disposition. Records may include but are not limited to injury reports (Workers Compensation Division Form 801), notices of claim acceptance or denial, determination orders, medical reports, notices of closure, employer's payroll reports, Workers Compensation Board hearing transcripts, board orders, claim disposition agreement documents, agency investigation reports, appeal letters, vocational rehabilitation records, legal documents, and correspondence. Does not include workers' compensation program records. Minimum retention: (a) Retain injury reports: 1 year (b) Retain all other records: 6 years after settlement of claim.

(19) **Tort Liability Claim Records** Records document tort liability claims against the school, district, or ESD. Records may include but are not limited to accident and injury reports; liability claim summaries; invoices; correspondence; photographs; investigation reports; legal documents; statistical summary reports; reviews; notices; audio/videotapes; statements; and related documentation. SEE ALSO Legal Case Files and Records in the Administrative Records section, and Insurance Claim Records and State Accident Insurance Fund (SAIF) Claim Records in this section. Minimum retention: (a) Retain statistical reports: 5 years (b) Retain other records, if action taken: 10 years after final disposition of claim (c) Retain other records, if no action taken: 3 years

(20) **Vehicle Accident Records** Records documenting accidents involving agency vehicles. May include dispatch reports with information such as name and address of parties involved, date and time, complaint, description of damage, and other data. Records may also contain motor vehicle accident reports which include the driver's name, address, phone number, date of birth, and driver's license number, as well as passenger and witness names, description of events, make and model of vehicle(s), vehicle identification number, and related data. Photographs and correspondence also may be part of these records. Minimum retention: (a) Retain if litigated: SEE ALSO Civil Case Files in Legal Counsel section (b) Retain if not litigated: 3 years

(21) **Workers' Compensation Claim Records** Records documenting the processing of individual employee claims of job related injuries or illnesses, but not those describing actual medical conditions. Includes records satisfying the procedural requirements of the State Workers' Compensation Division and the State Workers' Compensation Board, as well as those of (depending on agency arrangements) the State Accident Insurance Fund (SAIF), private insurance providers, or self-insurance. Records may include claim disposition notices, claim reporting and status forms; injury reports; determination orders; insurance premium data; hearing requests; safety citations; inspection reports; medical status updates and reports; investigation reports; reimbursement and payment records; and related correspondence and documentation. SEE ALSO Employee Medical Records in the Personnel section for records describing the job related injury or illness and the related subsequent medical condition of the employee. These often include workers' compensation accident reports, medical reports, vocational rehabilitation evaluations, disability determinations and related records. Minimum retention: (a) Retain records describing injuries and illnesses: SEE Employee Medical Records in the Personnel Records section (b) Retain all other records: 6 years after claim closed or final action

(22) **Workers' Compensation Reports** Records document the activities of the worker's compensation program. Records include a variety of reports including but not limited to claims summary reports; status reports; Occupational Safety and Health Administration (OSHA) logs and summaries; financial reports; and related documentation. Minimum retention: (a) Retain OSHA logs and summaries, official copy: 5 years after end of year to which they relate (b) Retain all other records: 3 years

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34  
Stats. Implemented: ORS 192 & 357

Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-413-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0060

### Student Education Records

Note: Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) **Alternative School Referral Records** Records document referrals sent to alternative schools seeking placement of students whose public school attendance and/or disciplinary record has been unsatisfactory. Referral form indicates acceptance or non-acceptance of student in private alternative program; funding source; signatures of referring school principal and alternative program director; student name, age, date of birth, student number; and parent's name and address. Minimum retention: 3 years after school year in which records were created.

(2) **Student Athletic Activity Records** Records document student eligibility and participation in interscholastic competitive sports and athletic activities, athletic event and team publicity, and athletic events scheduling. Records may include but are not limited to parental consent forms; Oregon School Activities Association eligibility forms and reports; and related documentation and correspondence. Minimum retention: 5 years after school year in which records were created.

(3) **Attendance Records** Records document the attendance of students in school. Records may include but are not limited to teacher or school attendance register; classroom daily attendance sheet; weekly attendance and truancy records; excused and unexcused absence records; tardiness records; notes from parents/guardians; and related documentation. The attendance recorded on the Oregon Student Record is a summary of this information. SEE ALSO Oregon Student Record in this section. Minimum retention: 3 years after school year in which records were created.

(4) **Behavioral Records, Major (Class/Group A) Records** document major student behavioral infractions which result in the identification of students for suspensions or expulsions. Records may include but are not limited to psychological tests; personality tests; group or individual intelligence tests; individual education programs; physician statements; state or local government agency reports; and related correspondence and documentation. Minimum retention: Until student turns 21.

(5) **Behavioral Records, Minor (Class/Group B) Records** document minor student behavioral infractions which do not result in the identification of a student for suspension, expulsion, or special education services. Records may include but are not limited to minor behavioral referrals; records of conversations; parent notes regarding student behavior; written behavioral agreements; detention records; bus citations; functional behavior assessments; and related correspondence and documentation. Minimum retention: Until end of school year.

(6) **Child Abuse Reports** Records document suspected child abuse reported by school staff or faculty. Records may include but are not limited to notes and observations of the child, record of contact with the State Office for Services to Children and Families or law enforcement agency, and related documentation. Minimum retention: 3 years after school year in which records were created.

(7) **Child Care Facility Residency Records** Records document students who live or have lived in childcare facilities, which are licensed to provide care for five or more children. Records may include but are not limited to reports filed semi-annually with the Oregon Department of Education. Minimum retention: 3 years after school year in which records were created.

(8) **Certificate of Advanced Mastery (CAM) Records** Records document student progress to fulfilling the State requirements for awarding of a CAM certification. Records may include but are not limited to planning records, test results, work samples, and the CAM award. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(9) **Certificate of Initial Mastery (CIM) Records** Records document student progress to fulfilling the State requirements for awarding of a CIM certification. Records may include but are not limited to planning records, test results, and the CIM award. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(10) **Compensatory Education Programs Student Records** Records document the placement and participation of students in compensatory educational programs, which provide a variety of supplemental education services to children. Programs may or may not be all or partially funded from federal sources. Compensatory programs may include but are not limited to Children Living in Poverty, Migratory Children, Neglected and Delinquent Children, Bilingual Education, Native Children, Parent Involvement, and Civil Rights. Records may include but are not limited to background information, grade placement, instructional and cumulative



## ADMINISTRATIVE RULES

service, student profile forms, placement evaluation forms, withdrawal records and related correspondence and documentation. Minimum retention: (a) Retain records that show compliance with all federal program requirements: 5 years after school year in which records were created (b) Retain all other records: 3 years after school year in which records were created.

(11) **Compulsory Attendance Excuse Records** Records document the formal excuse of a student under sixteen years of age from compulsory school attendance. Records may include but are not limited to names and addresses of student and parent or guardian; reason for request; academic information; recommendations and approval of school district; and related correspondence and documentation. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(12) **Educational Programs Student Records** Records document the placement and participation of students in educational programs which provide a variety of education services to children. Programs may or may not be all or partially funded from federal sources. Educational programs may include but are not limited to Talented and Gifted, Alternative Learning, Early Childhood, Professional Technical Education, School-to-Work, Cooperative Work Experience, and Distance Learning. Records may include but are not limited to background information, grade placement, instructional and cumulative service, student profile forms, placement evaluation forms, and related correspondence and documentation. Minimum retention: (a) Records that show compliance with all federal program requirements: 5 years after school year in which records were created (b) Other records: 3 years after school year in which records were created.

(13) **Grade Records** Records document student progress and grades awarded by teachers, and serve as the basis for the student's official academic record. Records may include test, assignment, paper, and homework scores; and final grades for students. Records may include but are not limited to teacher grade books; grade confirmation reports; grade change records; final grade rosters; and related documentation. SEE ALSO Report Cards in this section. Minimum retention: 6 years after school year in which records were created.

(14) **Grade Reports**, Administrative Records document grades received by students in a variety of reports organized by school, class, special program, or other grouping which are used by staff and faculty. Records may include but are not limited to administrative reports, counselors' reports, teachers' reports, grade point average reports, failure reports, honor roll reports, supplemental grade reports, class lists, and other manual or computer produced reports. Minimum retention: 3 years after school year in which records were created

(15) **Grievance Records** Records document grievances or complaints brought forward by students against the school, district, or ESD concerning student conduct and violations of student rights and responsibilities. Records may include but are not limited to notices of grievance; written description of the complaint; informal discussion notes; formal hearing notes (including audio tapes); summary of interviews with witnesses; final summary statements; resolution of grievance; appeals documentation; and related documentation and correspondence. Minimum retention: 3 years after resolution.

(16) **Education Counseling Records** Records document the advice, assistance, evaluation, and educational planning provided for individual students by school guidance counselors. Records may include but are not limited to school performance and attitude; educational planning records; post-high school plans and career goals; college and scholarship applications records; letters of recommendation; list of honors and activities; information necessary for referral to social service agencies; correspondence; and related documentation. Minimum retention: 3 years after school year in which records were created.

(17) **High School Dual Program Student Records** Records document student participation in programs between community colleges and high schools which offer professional, technical, and other college courses to high school students for college credit. Records may include but are not limited to program approval records; application forms; course descriptions; examinations; competency evaluations and profiles; transmittal forms; registration forms; and related documentation and correspondence. Minimum retention: 3 years after school year in which records were created.

(18) **Home Schooling Records** Records document the basic educational career of a student being educated in a home school program. Records may include but are not limited to notification form or letter of intent to educate student at home; testing information; test results; census reports to the Oregon Department of Education; non-compliance notices; and related correspondence and documentation. SEE ALSO Student

Permanent Record in this section. Minimum retention: 3 years after school year in which records were created.

(19) **Immunization Records**, Administrative Records document the review and report of the immunization status of students to the County health department and the exclusion of students who do not meet the minimum immunization requirements. Records may include but are not limited to the annual Primary Review Summary, school copies of Exclusion Orders for No Record, school copies of Exclusion Orders for Incomplete Information/Insufficient Information, and related documentation. SEE ALSO Student Immunization Records in the Student Education Records section. Minimum retention: 1 year.

(20) **Inter-District Transfer Agreement Records** Records document the application process for allowing a non-resident student to attend school out of district through an inter-district transfer agreement. Records may include but are not limited to procedures, administrative guidelines, inter-district transfer agreements, certificates of residency, and related correspondence and documentation. Minimum retention: 6 years after expiration.

(21) **Intervention Programs Student Records** Records document the assessment of students considered for referral to district-approved supplemental intervention programs and to determine appropriate follow-up actions. Programs may or may not be all or partially funded from federal sources. Programs may include but are not limited to Teen Parent, Alcohol and Drug Prevention, and Violence Prevention and Intervention. Records may include but are not limited to referrals, reports by assessment providers, consent forms, treatment and other reports, program class and support group attendance records, behavioral/discipline records, and related documentation and correspondence. Minimum retention: (a) Retain records that show compliance with all federal program requirements: 5 years after school year in which records were created (b) Retain all other records: 3 years after school year in which records were created.

(22) **Non-Resident Student Records** Records document attendance of non-resident students attending district-financed programs; non-resident dependent children; and other non-resident students for whom the district does not pay tuition. Records are used to report attendance to the Oregon Department of Education and to document reimbursement claims from the Oregon Basic School Support Fund. Records may include but are not limited to attendance reports; basic school support fund reports; and related documentation. Minimum retention: 3 years after school year in which records were created.

(23) **Parent-Teacher Conference Records** Records document a teacher's report to parents or guardians of student's progress prior to end of grading period and may indicate problem areas or areas in which student is excelling. Minimum retention: 3 years after school year in which records were created.

(24) **Parental/Custodial Delegation Records** Records document who has parental or custodial responsibility for a student. Records may include but are not limited to specification of rights or abridgment of rights for non-custodial parents; restraining orders and other court documents; informal documents signed by natural parent(s); and related correspondence and documentation. Minimum retention: Until student reaches age 21 or graduates, whichever is longer

(25) **Personal/Locker Search Records** Records document searches of a student or student's locker. Records include student name, what was searched, when, what was found, and what report was made. Minimum retention: 3 years after school year in which records were created.

(26) **Psychological Guidance and Counseling Records** Records document student psychological health care responsibilities and activities performed by school or district health professionals or non-health staff. Records that are made or maintained separately and solely by a licensed health care professional who is not employed by the educational agency or institution, and are not used for education purposes of planning, are excluded from educational record provisions. See Oregon Department of Education student health record policies for further clarification. Minimum retention: Until student turns 21 or 5 years after last action.

(27) **Registration Records** Records document registration or enrollment of students in elementary, middle, and high school. Records may include but are not limited to enrollment applications registration forms completed annually by the parent or guardian for each student at the time of admittance to school. Information contained in the records generally include student name, address, date and place of birth; parent or guardian name and address; student demographic information such as race and language spoken at home; authorization for school to act in behalf of parent or guardian in case of emergency; class scheduling data; student assignments, such as lockers, counselors, and buses; and related correspondence and

# ADMINISTRATIVE RULES

documentation. Registration information may be used to create student transcripts, attendance records, and to verify or determine residency status. Minimum retention: (a) Retain completed registrations 3 years after school year in which records were created (b) Retain incomplete/withdrawn registration records 3 years after school year in which records were created.

(28) **Report Cards Records** document the periodic report by a school about a student's social, emotional, and physical progress. Information includes but is not limited to full legal name of student; teacher's name; name and address of school; indication of attendance during reporting period; grades; and other related information. This information must be recorded on the Oregon Student Record by the beginning of the next school year. SEE ALSO Grade Records and Student Permanent Record in this section. Minimum retention: (a) If information has been recorded on Student Permanent Record: 6 years after school year in which records were created (b) If information has not been recorded on Student Permanent Record: Permanent.

(29) **Special Education Student Records** Records document students participating in special education programs and early intervention special education services. Records may include speech/hearing, academic, motor, occupational and/or physical therapy, vision/hearing, interdisciplinary team, and classroom observation reports; records relating to student behavior including psychological and social work reports; assessments obtained through other agencies; contact sheets; severity rating scales; test result records; physician's statements; parental consent records; educational program meeting records; request for hearing records; eligibility statements; individualized education plans (IEP); individualized family service plans (IFSP); and related correspondence and documentation. Minimum retention: (a) Records documenting speech pathology and physical therapy services: Until student reaches age 21 or 5 years after last seen, whichever is longer (b) ESD copies, if program at district level: Transfer records to home district after end of student participation (c) Readable photocopies of records necessary to document compliance with State and Federal audits retained by the former educational agency or institution when a student transfers out of district: 5 years after end of school year in which original record was created.

(30) **Student Health Records** Records document student health care responsibilities and activities performed by school or district health professionals or non-health staff. These records are maintained by the school nurse or another individual designated by the district to maintain confidential health information. Records may include but are not limited to medication administration records; records of nursing assessment and nursing care given in the school setting; School Health Management Plans prepared by the nurse for students with special health needs, medical records from outside health care providers and health care agencies; and psychological diagnostic test reports. Health information provided to Special Education for determining eligibility and IEP activity is maintained in the Special Education record and forwarded upon transfer of the student record. School nurse records are medical records subject to issues of confidentiality and exemption from disclosure per ORS 192.496. Health record information is protected and should be treated as other student records. Records that are made or maintained separately and solely by a licensed health care professional who is not employed by the educational agency or institution, and are not used for education purposes of planning, are excluded from educational record provisions. See Oregon Department of Education student health record policies for further clarification. SEE ALSO Student Health Screening Records and Student Immunization Records in this section. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(31) **Student Health Screening Records** Records document the health screening status of students and mandated certifications of health. Required health screening records include vision and hearing screening results; Certificate of Immunization Status; and Tuberculosis (TB) Clearance Certificate (if required by law according to the student's birth country). Records may also include but are not limited to communications related to health and safety and directed to the school from the parent/guardian or health care provider regarding the student's attendance, participation, or activities; communications which are directed to the school by health care providers; and documentation of first aid given, and instructions sent to parents/guardians regarding these screening and first aid events. These records are part of the Student Education Record and are transferred if the student transfers to a new district. See Oregon Department of Education student health record policies for further clarification. SEE ALSO Student Health Records and Student Immunization Records in this section. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(32) **Student Immunization Records** Records document the immunization status of an individual student. Records include but are not limited to the Certificate of Immunization Status (CIS), which includes student identification information, vaccine history, and medical and religious exemptions, and records tracking susceptible for those students not yet completely immunized. Records must be retained as part of the Student Health Screening Record and are transferred if the student transfers to a new district. SEE ALSO Student Health Screening Records and Student Health Records in this section, and Immunization Records, Administrative in the Administrative Records section. Minimum retention: (a) Retain certificate of Immunization Status (CIS): Until student reaches age 21 or graduates, whichever is longer (b) Retain immunization Status Records - Susceptible (Tracking Cards): Until student attendance ends.

(33) **Oregon Student Record** Records document a core set of information about an individual student (including a home-schooled student) and his/her educational career, birth through age 21. Records include name and address of the educational agency or institution; full legal name of the student; student's birth date and place of birth; name of parents/guardians; date of entry into the school; name of school previously attended; subjects taken; marks received; credits earned; attendance; date of withdrawal from school; social security number (as provided on a voluntary basis by parent or eligible student); and such additional information as the educational agency or institution may prescribe. Minimum retention: (a) Retain original: 75 years (b) Retain readable photocopy retained by the former educational agency or institution when a student transfers out of district: 1 year.

(34) **Transfer Application Records** Records document the authorization for transfer of students between schools within the district. Records may include but are not limited to applications for transfer which generally contain name and grade of student; reasons for transfer request; name of present school; name of school to which transfer is requested; authorizing signatures; and related correspondence and documentation. Minimum retention: 3 years after school year in which records were created.

(35) **Truancy Records** Records document non-attendance or truancy of students in elementary, middle, or high schools. Records may include but are not limited to notices of non-attendance or truancy; staff reports; investigations; hearing records; suspension notifications; and related correspondence and documentation. Minimum retention: 3 years after school year in which records were created.

(36) **Tutoring Records** Records document tutoring services provided to students. Records may include but are not limited to registration records, tutor training records, tutor personnel records, tutor class records, tutorial hours, and related documentation. Minimum retention: 3 years after school year in which records were created.

(37) **Withdrawal Records** Records document withdrawal from school by students between the ages of sixteen and eighteen by the mutual consent of parent or guardian and the school administration. Records may include but are not limited to withdrawal agreements which generally contain name and address of student and family; reason for request; student agreement not to loiter on school premises; agreement by staff to assist student with educational planning; and related correspondence and documentation. Records may also include withdrawal slips which assess student status at time of withdrawal and may include assessment of fees paid or refunded; status of textbooks, library materials, locks, and other materials used by the student; grades; attendance; and related documentation. Minimum retention: 3 years after school year in which records were created.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34

Stats. Implemented: ORS 192 & 357

Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-414-0010, OSA 1-2006, f. & cert. ef. 4-17-06

## 166-400-0065

### Transportation Records

Note: Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) **Bus Driver Records** Records document the status and conditions of employment of school bus drivers. Records may include but are not limited to lists of drivers; driving permit and license information; first aid certification; driver training records, examinations, and skill evaluations; change of employment status records; and related correspondence and documentation. Records may also contain copies of physical examinations, accident reports, and insurance documentation. Records may supplement the personnel files of the bus driver. SEE ALSO Employee Personnel Records in the Personnel Records section. Minimum retention: 4 years after school year in which records were created

(2) **Bus Incident and Vandalism Reports** Records document reports of vandalism and other incidents occurring on or near school buses. Reports

# ADMINISTRATIVE RULES

are submitted by the bus drivers and are used to determine action to be taken. Reports consist of a narrative account of the incident; student discipline referral form which notifies schools of disciplinary problems; and related documentation. Student behavioral records may be transferred to the student's education record. Minimum retention: 1 year after school year in which records were created

(3) **Bus Schedule and Route Records** Records document the process of establishing and monitoring bus routes and schedules. Records may include but are not limited to bus route reports providing stop to stop directions for bus drivers; driver input forms detailing changes in stop times, students dropped, safety problems, and other changes to the bus schedule; surveys of alternative routes to be used during inclement weather; reports listing stops and stop times; tiering reports which include bus lines and routes, first and last scheduled stops, and start and finish times for each route; transportation logs; and related documentation. Minimum retention: (a) Retain annual bus route reports: 5 years after school year in which records were created (b) Retain all other records: 1 year after school year in which records were created

(4) **Bus Service Records** Records document the school bus service provided by the school district. Records may include but are not limited to dispatch files containing correspondence, reports, daily transportation forms, driver input forms, bus stop deactivation notices, bus schedule change notices, and similar documentation; release statements by parents of special education students releasing the district from responsibility for students left unattended at a bus stop; requests for school bus service for students normally ineligible for service; quarterly reports on student transportation operations including information on vehicle utilization, student loads, and vehicle distribution; transportation requirement forms requesting changes in transportation services provided by contractors or district fleet; and related documentation and correspondence. Minimum retention: (a) Retain quarterly reports: 10 years after school year in which records were created (b) Retain release forms: 3 years after school year in which records were created (c) Retain all other records: 1 year after school year in which records were created

(5) **Fuel Records** Records documenting the amount of gasoline, diesel, and oil used by agency-owned vehicles. Often includes logs, reports, and related documents. Minimum retention: 2 years

(6) **Transportation Complaint Reports** Records document complaints relating to students, drivers, schedules, or other school bus transportation problems. Records may include but are not limited to complaint forms, correspondence, and related documentation, and the district's response. Minimum retention: 3 years after school year in which complaint resolved

(7) **Transportation Safety Records** Records document safety hazards and safe routes and monitor student safety when taking school transportation. Records may include but are not limited to safety check records which detail pedestrian routes taken by student to and from school and identify number of traffic lanes, posted speeds, and types of crossings; safe stop reports which identify bus stops with safety hazards; railroad crossing reports which consist of annual reports to the Oregon Public Utility Commission which list location of railroad track crossings on school bus routes, name of railroad, and names of intersecting streets; and related documentation. Minimum retention: (a) Retain hazard reports: 1 year after school year in which hazard eliminated (b) Retain all other records: 1 year after school year in which records were created.

(8) **Vehicle Maintenance Records** Records document the maintenance of school buses and other vehicles owned by the school, district, or ESD. Records may include but are not limited to maintenance agreements; annual and semiannual inspection and certification reports; preventive maintenance inspection reports; specified routine maintenance information; reports on expenditures and costs of repairs; new bus check lists; bus breakdown records; repair notices and orders; operations reports listing gas and oil consumption, mileage, and cost of gas, oil, and maintenance; and related documentation. Minimum retention: (a) Retain annual reports: 5 years after school year in which records were created (b) Retain all other records: 3 years after disposal of vehicle.

(9) **Vehicle Records** Records document school, district, or ESD ownership and administration of vehicles such as cars, vans, trucks, and buses. Records may include but are not limited to title application materials; titles; registrations; vehicle warranties, vehicle inventories, and related documentation and correspondence. Minimum retention: (a) Retain title application materials: Until title received (b) Retain titles: Until vehicle disposed of (c) Retain all other records: 3 years after disposal of vehicle.

(10) **Vehicle Usage Records** Records document the use of school, district, or ESD owned vehicles such as cars, trucks, vans, or buses.

Records may include but are not limited to scheduling records; transportation request forms; list of vehicles with vehicle number and description; mileage; billing documentation and worksheets; billing reports; and related documentation and correspondence. Minimum retention: 3 years.

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34

Stats. Implemented: ORS 192 & 357

Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-415-0010, OSA 1-2006, f. & cert. ef. 4-17-06

\*\*\*\*\*

## Secretary of State, Elections Division Chapter 165

**Rule Caption:** Clarifies filing deadline of permanent certificates with Legislative Counsel.

**Adm. Order No.:** ELECT 3-2006

**Filed with Sec. of State:** 4-18-2006

**Certified to be Effective:** 4-18-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 165-001-0000

**Subject:** The proposed amendment of this rule clarifies language that requires the permanent certificate to be submitted to Legislative Counsel within 10 days after the adoption, amendment or repeal of any temporary or permanent administrative rule.

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

### 165-001-0000

#### Notice of Proposed Rule

Before adopting, amending or repealing any permanent rule, the Secretary of State, Elections Division will give notice of the intended action:

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

(2) By mailing, or transmitting by electronic mail a copy of the Statement of Need and Fiscal Impact and the Notice of Proposed Rulemaking, or the Notice of Proposed Rulemaking Hearing, at least 28 days prior to the effective date of the rule, to each person who has requested to be included on the Elections Division's subscription service established pursuant to ORS 183.335(8);

(3) By mailing, or transmitting by electronic mail a copy of the text of the proposed rule to any person upon request;

(4) By mailing, or transmitting by electronic mail a copy of the Statement of Need and Fiscal Impact, the Notice of Proposed Rulemaking, or the Notice of Proposed Rulemaking Hearing, and the text of the proposed rule to the following persons or organizations at least 28 days prior to the effective date:

(a) County Clerks;

(b) The chair or designee of each statewide political party;

(c) Members of the Oregon Legislature;

(d) The Governor's legal counsel;

(e) Attorney General's office;

(f) League of Oregon Cities;

(g) Association of Oregon Counties;

(h) Oregon Special Districts Association;

(i) Oregon School Boards Association; and

(j) Capitol Press Room.

(5) By mailing, or transmitting by electronic mail 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;

(6) Within 10 business days after the adoption, amendment or repeal of any temporary or permanent administrative rule, the Secretary of State, Elections Division will provide, by mail, or electronic mail a copy of the certificate and order and the text of the adopted rule to each person or organization listed in sections (2) through (5) of this rule and within no later than 10 days to the Legislative Counsel, as required by ORS 183.715.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.335 & 183.341

Hist.: SD 103, f. & ef. 1-22-76; Elect 16-1994, f. & cert. ef. 8-25-94; ELECT 9-1997, f. & cert. ef. 10-27-97; ELECT 14-2001, f. & cert. ef. 6-15-01; ELECT 7-2003, f. & cert. ef. 9-3-03; ELECT 7-2005, f. & cert. ef. 12-14-05; ELECT 3-2006, f. & cert. ef. 4-18-06

\*\*\*\*\*

**Rule Caption:** Prescribes when a residence address disclosure exemption may be granted by the county elections official.

**Adm. Order No.:** ELECT 4-2006

**Filed with Sec. of State:** 4-18-2006

**Certified to be Effective:** 4-18-06



# ADMINISTRATIVE RULES

**Notice Publication Date:** 3-1-06

**Rules Amended:** 165-005-0130

**Subject:** This rule designates the process by which electors may request an exemption of the disclosure by the county election office of their residence address information. The rule is being amended as part of a regular review and to make the process more compatible with Oregon Centralized Voter Registration.

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

## 165-005-0130

### Residence Address Disclosure Exemption

(1) The purpose of this rule is to define when a county elections official may exempt the residence address of an elector from disclosure as a public record.

(2) The terms used in this rule shall have the same meaning as defined in ORS Chapters 246 through 260, commonly referred to as “Oregon Election Laws”.

(3) An elector may request that a county elections official not disclose the residence address of the elector. If the elector demonstrates to the satisfaction of the county elections official that the personal safety of the elector, or the personal safety of a family member residing with the elector, is in danger if the residence address remains available for public inspection, the county elections official shall not disclose that information except in compliance with a court order, a request by a law enforcement agency, or with the consent of the elector.

(4) An exemption from disclosure granted under this rule shall include the residence address on the elector’s voter registration record, registration lists produced in accordance with ORS 247.940 and 247.945, poll books, and any other material produced or maintained by the county elections official which is available for public inspection that may reveal the requestor’s residence address. The elector’s mailing address may be used in place of the exempt residence address.

(5) A request under section (3) of this rule shall be submitted to the county elections official. The exemption request shall be submitted on form SEL 550 Application to Exempt Residence Address from Disclosure. The request shall be in writing, signed by the elector, and shall include:

(a) The name of the elector requesting exemption;

(b) A non-exempt mailing address for the elector; and

(c) Evidence sufficient to establish to the satisfaction of the county elections official that disclosure of the elector’s residence address would constitute a danger to the personal safety of the elector, or of a family member residing with the elector. Such evidence may include copies of the following documents:

(A) An affidavit, medical records, police reports or court records showing that the elector, or a family member residing with the elector, has been a victim of domestic violence;

(B) A citation or an order issued under ORS 133.055 for the protection of the elector, or a family member residing with the elector;

(C) An affidavit or police report showing that a law enforcement officer has been contacted concerning domestic violence, other physical abuse, or threatening or harassing letters or telephone calls directed at the elector, or a family member residing with the elector;

(D) A temporary restraining order or other no-contact order to protect the elector, or a family member residing with the elector, from future physical abuse;

(E) Court records showing that criminal or civil legal proceedings have been filed regarding physical protection for the elector, or a family member residing with the elector;

(F) A citation or a court’s stalking protective order pursuant to ORS 163.735 or 163.738, obtained for the protection of the elector, or a family member residing with the elector;

(G) An affidavit or police report showing that the elector, or a family member residing with the elector, has been a victim of a person convicted of the crime of stalking or of violating a court’s stalking protective order;

(H) A conditional release agreement issued under ORS 135.250–135.260 providing protection for the elector, or a family member residing with the elector;

(I) A protective order issued pursuant to ORS 135.873 or 135.970 protecting the identity or place of residence of the elector, or a family member residing with the elector;

(J) An affidavit from a district attorney, or deputy district attorney, stating that the elector, or a family member residing with the elector, is scheduled to testify or has testified as a witness at a criminal trial, grand jury hearing or preliminary hearing, and that such testimony places the personal safety of the witness in danger;

(K) A court order stating that the elector, or a family member residing with the elector, is or has been a party, juror, judge, attorney or involved in some other capacity in a trial, grand jury proceeding or other court proceeding, and that such involvement places the personal safety of that elector in danger; or

(L) Such other documentary evidence that establishes to the satisfaction of the county elections official that disclosure of the elector’s residence address would constitute a danger to the personal safety of the elector, or a family member residing with the elector.

(6) The county elections official receiving a request under this rule will promptly review the request and notify the elector, in writing, whether the evidence submitted is sufficient to demonstrate to the satisfaction of the county elections official that the personal safety of the elector, or a family member residing with the elector, would be in danger if the residence address remains available for public inspection. The county elections official may request that the elector submit additional information concerning the request.

(7) If a county elections official grants the request to exempt the residence address of an elector from disclosure as a public record, the county elections official must include a statement in its notice to the elector that: the exemption will remain effective until the elector requests termination of the exemption or the elector is required to update the elector’s voter registration.

(8) If the elector is required to update the elector’s voter registration, the elector may apply for another exemption from disclosure. At the time of updating if no SEL 550 Application To Exempt Residence Address From Disclosure As A Public Record accompanies the voter registration card or is incomplete, the county elections official must send notice, by certified mail return receipt requested, to the elector that states:

(a) Currently the elector’s address is non-disclosed; and

(b) If an updated SEL 550 Application To Exempt Residence Address From Disclosure As A Public Record is not received within 10 business days of receipt of the notice, the elector’s residence address will not be exempt from disclosure as a public record.

(9) An elector who has requested that a county elections official not disclose his or her residence address may revoke the request by notifying, in writing, the county elections official to which the request was made that disclosure no longer constitutes a danger to personal safety. The notification must be signed by the person who submitted the original request for nondisclosure of the residence address.

(10.) Form SEL 550 may be used by a public safety officer to request that the officer’s home address, home telephone number and electronic mail address be exempted from disclosure pursuant to ORS 192.502. A public safety officer making such a request is not required to provide information described in paragraph (5)(c).

Stat. Auth.: ORS 246.150 & 247.969

Stats. Implemented: ORS 247.965

Hist.: ELECT 3-1994, f. & cert. ef. 2-4-94; ELECT 13-2001, f. & cert. ef. 6-15-01; ELECT 8-2003, f. & cert. ef. 9-3-03; ELECT 4-2006, f. & cert. ef. 4-18-06

.....

**Rule Caption:** Designating ballot request forms.

**Adm. Order No.:** ELECT 5-2006

**Filed with Sec. of State:** 4-18-2006

**Certified to be Effective:** 4-18-06

**Notice Publication Date:** 3-1-06

**Rules Adopted:** 165-007-0035

**Subject:** This proposed rule designates the SEL 111, Absentee Ballot Request form, as the form an elector who will be away during an election, may submit to a county elections official to request an absentee ballot, and designates the SEL 113, Provisional Ballot Request Form, as the form an individual whose eligibility as a voter is in question may use to request a ballot.

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

## 165-007-0035

### Designating Ballot Request Forms

(1) The Secretary of State designates form SEL 111, Absentee Ballot Request Form, as the form an elector who will be away during an election, may submit to a county elections official to request an absentee ballot, except that if the elector is serving in the Armed Forces, the Merchant Marine or is temporarily living outside the territorial limits of the United States, a Federal Absentee Ballot Request Form must be submitted.

(2) The Secretary of State designates form SEL 113, Provisional Ballot Request Form, as the form an individual whose eligibility as a voter

# ADMINISTRATIVE RULES

is in question may use to request a ballot. The provisional ballot will not be counted until the individual's eligibility is determined.

Stat. Auth.: ORS 246.150, 254.465, 254.470, Help America Vote Act P.L. 107-252

Stats. Implemented: ORS 247, 253.03, 254

Hist.: ELECT 5-2006, f. & cert. ef. 4-18-06

\*\*\*\*\*

**Rule Caption:** Repeal voters' pamphlet rules that have been incorporated into existing rules or are redundant.

**Adm. Order No.:** ELECT 6-2006

**Filed with Sec. of State:** 4-18-2006

**Certified to be Effective:** 4-18-06

**Notice Publication Date:** 3-1-06

**Rules Repealed:** 165-016-0015, 165-016-0035, 165-016-0065, 165-022-0020

**Subject:** **165-016-0015** designated form SEL 406 as the required form for filing a petition for argument for or against a ballot measure to be published in the state voters' pamphlet. This rule is proposed for incorporation into OAR 165-016-0050.

**165-016-0035** is proposed for repeal because it is redundant. Other rules within this division set forth the policies and procedures to comply with ORS Chapter 251.

**165-016-0065** is proposed for repeal because the content of this rule is fully contained within state law.

**165-022-0020** set forth the filing fees for statements and arguments to be included in county voters' pamphlets. This rule is proposed for incorporation into OAR 165-022-0050.

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

\*\*\*\*\*

**Rule Caption:** Amends voters' pamphlet rules to reflect current state law and current policies.

**Adm. Order No.:** ELECT 7-2006

**Filed with Sec. of State:** 4-18-2006

**Certified to be Effective:** 4-18-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 165-016-0040, 165-016-0045, 165-016-0050, 165-016-0055, 165-016-0060, 165-016-0070, 165-016-0080, 165-016-0095, 165-022-0000, 165-022-0030, 165-022-0040, 165-022-0050, 165-022-0060

**Subject:** **165-016-0040** and **165-016-0055** are proposed for amendment to remove language allowing for candidates, submitting a candidate statement, or statements of arguments filed by a political party or assembly of electors to be included in the state voters' pamphlet, to use other computer generated forms other than the SEL 430.

**165-016-0045** designates the format of photographs that candidates submit to be included in the state voters' pamphlet. This rule is proposed for amendment to incorporate recent changes to state law that allow the candidate photograph to be less than 4 years old, rather than 2 years old.

**165-016-0050** designates the forms to be used when filing a measure argument for inclusion in the state voters' pamphlet. This rule is proposed for amendment to incorporate form SEL 406, the petition sheet for filing a petition for an argument for or against a ballot measure. This was previously adopted in OAR 165-016-0015 which is proposed for repeal.

**165-016-0060** designates form SEL 400 as the form to be used when submitting a statement of endorsement. The proposed amendment provides further direction on what must be included from form SEL 400 in the statement or argument.

**165-016-0070** sets forth the procedures for the Secretary of State to reject any statement argument or other material filed for publication in the state voters' pamphlet that violates the provisions of ORS 251.055. This proposed amendment make non-substantive changes to rule language and grammar.

**165-016-0080** sets forth the timeline for when the Secretary of State will attempt to contact candidates whose statements or portraits filed for publication in the state voters' pamphlet are not in compli-

ance with ORS 251.049. The proposed amendment removes language that restricts the Secretary in contacting attempts.

**165-016-0095** designates the fees required for a county or metropolitan service district measure to be included in the state voters' pamphlet. The proposed amendment further clarifies the fee or number of signatures required for a petition as required by statute.

**165-022-0000** provides the schedule, filing fees and procedures for preparing, printing and distributing a county voters' pamphlet. The section of this rule proposed for amendment is being incorporated into 165-022-0030 and 165-022-0050 to improve clarity of these rules.

**165-022-0030** provides the format for a statement or portrait to be submitted by any local candidate for inclusion in a county voters' pamphlet. The proposed amendment incorporates the specifications that were removed from 165-022-0000.

**165-022-0040** requires the filing of an explanatory statement for any measure referred by any local government or any initiative or referendum petition. The proposed amendment requires the county clerk to reject any referred measure submitted without an explanatory statement.

**165-022-0050** provides the format for an argument supporting or opposing a measure submitted for inclusion in a county voters' pamphlet. The proposed amendment incorporates the specifications that were removed from 165-022-0000 and incorporates the fees that were in 165-022-0020.

**165-022-0060** provides the printing specifications and distribution schedule for a county that produces a county voters' pamphlet. This proposed amendment incorporates new statutory requirements and specifications previously contained in 165-022-0030.

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

## 165-016-0040

### Candidate Filing Statement

(1) The candidate's statement of required and optional information must be filed on form SEL 430 which prescribes the requirements and instructions necessary for filing a statement in the state voters' pamphlet.

(2) Required information must include:

(a) Occupation, meaning the nature of an individual's principal business, whether paid or unpaid;

(b) Occupational background, meaning any previous occupations;

(c) Educational background, meaning any form of training or teaching; and

(d) Prior governmental experience, meaning any previous appointed or elected position with a governmental organization, whether paid or unpaid.

(3) Text changes may be made by the Elections Division either to correct depth problems or to reduce the word count during the publishing process for the state voters' pamphlet.

(4) A copy of the candidate's original statement or an amended statement transmitted by facsimile machine may be accepted.

(5) Statements shall not be returned to the candidate or the candidate's campaign for proofreading before or after the printing of the voters' pamphlet. The Elections Division shall make every effort to follow any formatting instructions provided by the candidate, but shall not guarantee accuracy.

(6) The individual who signs the statement shall be deemed its author, therefore responsible for its contents.

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

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 251.046, 251.065, 251.075, 251.085, 251.087 & 251.095.

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90;

ELECT 9-1994, f. & cert. ef. 5-10-94; ELECT 3-1996(Temp), f. & cert. ef. 1-3-96; ELECT

15-1996, f. & cert. ef. 12-19-96; ELECT 7-1998, f. & cert. ef. 5-8-98; ELECT 3-2000, f. &

cert. ef. 1-14-00; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-016-0045

### Photographs

(1) If a candidate desires to provide a photograph when filing a candidate statement, the candidate shall:

(a) Provide two identical photographs;

(b) Identify each photograph on the back upper righthand corner with the candidate's name as it should appear on the ballot and the office for which the candidate has filed;

# ADMINISTRATIVE RULES

(c) Photographs may be filed separately from the candidate's statement and fee, but must be received in the Elections Division not later than 5 p.m. on the filing deadline day;

(d) Replacement or substitute photographs may be submitted, but must be received in the Elections Division not later than 5 p.m. on the filing deadline day:

(A) The replacement or substitute photograph must be filed using the same specifications as the original photograph;

(B) The photograph must indicate it is a replacement or substitute photograph;

(C) The date on the replacement photograph must reflect the date the replacement photograph was filed.

(2) A candidate's photograph must be:

(a) Less than four years old when it is filed; and

(b) Front-facing, showing the face, neck and shoulders only. Hands shall not be shown.

(3) It is preferred that a candidate's photograph be:

(a) Portrait-style 5" x 7";

(b) Black and white; and

(c) Matte finish.

(4) Photographs must not:

(a) Display anything in the background (this includes, but is not limited to, backdrops, landscaping, paneling, wallpaper, signs);

(b) Show the candidate wearing clothing which indicates a profession or organization (this includes, but is not limited to, judicial robes, any type of uniform, religious clothing, hats);

(c) Display any symbols which indicates a profession, organization or belief (this includes, but is not limited to, jewelry in the shape of religious symbols, lapel pins of any organization).

(5) Photographs which do not meet the above criteria shall be cropped and airbrushed.

(6) Photographs shall not be returned to the candidate or the candidate's campaign for review before or after printing of the voters' pamphlet. The Elections Division shall make every effort to assure photographs are reproduced as provided by the candidate, however, shall not guarantee the reproduction if cropping or airbrushing is required.

Stat. Auth.: ORS 251.055

Stats. Implemented: ORS 251.087

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-016-0050

### Arguments Filed in Support or Opposition to Ballot Measures

(1) Any individual or organization may file an argument in support of or opposition to a ballot measure. The Secretary of State hereby designates the following forms as the forms necessary for filing a measure argument in the state voters' pamphlet.

(a) Form SEL 405, which prescribes the requirements and instructions necessary for filing a measure argument in the state voters' pamphlet; and

(b) Form SEL 406, the petition sheet for filing a petition for an argument for or against a ballot measure to be published in the state voters' pamphlet.

(2) Text changes may be made by the Elections Division either to correct depth problems or to reduce the word count during the publishing process for the state voters' pamphlet.

(3) A copy of the original argument or an amended argument transmitted by facsimile machine may be accepted.

(4) Measure arguments shall not be returned to the individual or organization that filed for proofreading before or after the printing of the state voters' pamphlet. The Elections Division will attempt to follow any formatting instructions provided by the individual or organization that filed the argument, but shall not guarantee compliance.

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

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 251.046 & 251.255

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90; ELECT 9-1994, f. & cert. ef. 5-10-94; ELECT 3-1996(Temp), f. & cert. ef. 1-3-96; ELECT 15-1996, f. & cert. ef. 12-19-96; ELECT 7-1998, f. & cert. ef. 5-8-98; ELECT 3-2000, f. & cert. ef. 1-14-00; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-016-0055

### Statement of Arguments by Political Party or Assembly of Electors

(1) The managing officers of any statewide or county political party or assembly of electors who have nominated candidates may file, for inclusion in the state voters' pamphlet, a statement of arguments for the success of its principles and election of its candidates on a statewide or county basis or opposing the principles and candidates of other statewide or county political parties or organizations. A statement of arguments must be filed on

form SEL 420 which prescribes the requirements and instructions necessary for filing a statement in the state voters' pamphlet.

(2) Text changes may be made by the Elections Division either to correct depth problems or to reduce the word count during the publishing process for the state voters' pamphlet.

(3) A copy of the original or an amended statement of arguments transmitted by facsimile machine may be accepted.

(4) Statements shall not be returned to the statewide or county political party or assembly of electors for proofreading before or after the printing of the state voters' pamphlet. The Elections Division will attempt to follow any formatting instructions provided by the statewide or county political party or assembly of electors who filed the statement, but shall not guarantee compliance.

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

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 251.046 & 251.115

Hist.: ELECT 15-1996, f. & cert. ef. 12-19-96; ELECT 7-1998, f. & cert. ef. 5-8-98; ELECT 3-2000, f. & cert. ef. 1-14-00; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-016-0060

### Statements of Endorsement

Any name of an individual or organization used in a candidate's optional statement, measure argument or statement of arguments by a statewide political party or assembly of electors must be filed with a statement of endorsement. The Secretary of State designates form SEL 400 which prescribes the requirements and instructions necessary for filing a statement of endorsement together with a candidate's statement, measure argument or statement of arguments in the state voters' pamphlet.

(1) The SEL 400 governs representation and spelling of name, title and organization identifying endorsers in the statement or argument.

(2) Variations in punctuation, abbreviations and capitalizations between the statement or argument and the SEL 400 are allowed. The statement or argument governs these style issues.

(3) The statement or argument may include geographic identifiers and other descriptors such as occupation not listed on the SEL 400. If the SEL 400 contains such descriptors, they must be included in the statement or argument if they add specific information to identify the endorser.

(4) The organizations submitting a measure argument may be listed as submitters based on the SEL 405, the SEL 400 is not necessary.

(5) A spokesperson for an organization may not list individual names of members of the organization without an accompanying SEL 400 for each of those individuals.

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

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 251.049

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90; ELECT 9-1994, f. & cert. ef. 5-10-94; ELECT 3-1996(Temp), f. & cert. ef. 1-3-96; ELECT 15-1996, f. & cert. ef. 12-19-96; ELECT 7-1998, f. & cert. ef. 5-8-98; ELECT 3-2000, f. & cert. ef. 1-14-00; ELECT 5-2002(Temp), f. & cert. ef. 7-1-02 thru 12-28-02; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-016-0070

### Material to be Excluded

The Secretary of State shall reject any statement, argument or other material filed for publication in the state voters' pamphlet which violates the provisions of ORS 251.055:

(1) The Secretary of State shall notify any person submitting a statement, argument or other material of any rejection in the following manner:

(a) By telephone; or

(b) If unable to contact the person by telephone, and if voters' pamphlet timelines permit, by certified mail immediately upon determining a rejection.

(2) Notification of a rejection shall identify the portions of the statement, argument or other material which are deemed to violate the provisions of ORS 251.055 and shall include a deadline for submitting a revised statement.

(3) Any person notified by the Secretary of State of any rejection may revise the statement, argument or other material only to the extent necessary to bring the statement into conformance with state statute.

(4) Any person may submit a revised statement, argument or other material for publication in the state voters' pamphlet provided:

(a) The revised statement does not violate the provisions of ORS 251.055; and

(b) The revised statement is returned to the Secretary of State, Elections Division by the deadline specified in the Secretary of State's notification.

(5) The revised statement may be submitted by facsimile machine, hand-delivered or mailed.



# ADMINISTRATIVE RULES

(6) If the revised statement is made by telephone, written verification of the revision shall be mailed, submitted by facsimile machine or otherwise delivered to the Secretary of State, Elections Division, confirming the telephone revision; the revised statement must be submitted by the deadline set by the Secretary of State, Elections Division.

(7) If the Secretary of State is unable to contact any person submitting a statement, argument or other material for publication in the state voters' pamphlet to inform the person of the rejection of all or part of the statement which is in violation of ORS 251.055, or if the person fails to respond to the Secretary of State's notification, the Secretary of State shall reject the statement, argument or other material in its entirety.

Stat. Auth.: ORS 246.150 & 251  
Stats. Implemented: ORS 251.055  
Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90; ELECT 9-1994, f. & cert. ef. 5-10-94; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-016-0080

### Notice to Candidate of Need to Revise Statement or Portrait for State Voters' Pamphlet

(1) The Secretary of State, Elections Division shall review each candidate's statement and portrait filed for publication in the state voters' pamphlet for compliance with ORS 251.049, 251.075 and 251.085 and contact any candidate whose statement or portrait does not comply.

(2) For purposes of this rule, "contact" means speaking with any person or leaving a message on an answering device at any telephone number provided on the voters' pamphlet filing form, or receiving a facsimile machine confirmation report showing a successful transmission to the facsimile number provided on the voters' pamphlet filing form.

(3) If a candidate's statement or portrait does not comply with provisions of ORS 251.049, 251.075 or 251.085, the Secretary of State, Elections Division shall make up to four attempts to contact the candidate by telephone. If the candidate is contacted by telephone after fewer than four attempts, no further attempts at contact will be made.

(4) The attempts to contact the candidate by telephone will be made not later than the fifth business day after the deadline for filing candidates' statements:

(5) If necessary, in addition to the four attempts to contact the candidate by telephone, one attempt shall be made to contact the candidate by facsimile machine if a facsimile machine number has been provided on the candidate's voters' pamphlet filing form.

(6) An attempt to contact the candidate by facsimile machine shall occur not later than the fifth business day after the deadline for filing statements.

(7) Notification of a need for revision shall identify the reasons why the statement or portrait fails to comply with applicable statutes.

(8) A revised statement may be submitted by electronic mail, facsimile machine, hand-delivered or mailed. A revised portrait may be hand-delivered or mailed.

(9) If the statement is revised by telephone, the Secretary of State, Elections Division may require that a hard (paper) copy of the revised statement, signed by the candidate, be submitted to the Secretary of State, Elections Division, to confirm the telephone revision. The revised statement must be submitted not later than the deadline set by ORS 251.087.

Stat. Auth.: ORS 246.150 & 251.087  
Stats. Implemented: ORS 251.087  
Hist.: ELECT 15-1996, f. & cert. ef. 12-19-96; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-016-0095

### Inclusion Fees for County and Metropolitan Service District Measures

(1) The purpose of this rule is to establish a schedule of fees for counties or metropolitan service districts filing measures to be included in the State Voters' Pamphlet.

(2) Each argument for a county or metropolitan service district measure filed with the county must be accompanied by a filing fee not to exceed \$300 or a verified petition containing not more than a number of signatures equal to 1,000 electors eligible to vote on the measure or 10 percent of the total of such electors, whichever is less.

(3) The county or metropolitan service district shall pay the Secretary of State a fee based on the population of the county or metropolitan service district. The fee schedule is as follows:

(a) For a county or district with a population of less than 10,000 within a county — \$100.00;

(b) For a county or district with a population between 10,000 and 50,000 within a county — \$200.00;

(c) For a county or district with a population over 50,000 within a county or service district — \$300.

(4) Each page (30 square inches) consumed by the ballot title, explanatory statement and text of a measure will be billed to the county or district at the same rate described in section (2) of this rule.

Stat. Auth.: ORS 246.150  
Stats. Implemented: ORS 251.285  
Hist.: ELECT 4-1998(Temp), f. & cert. ef. 2-23-98 thru 4-21-98; ELECT 8-1998, f. & cert. ef. 6-2-98; ELECT 3-2000, f. & cert. ef. 1-14-00; ELECT 15-2000, f. & cert. ef. 8-7-00; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-022-0000

### Definitions

(1) The terms used in this chapter have the same definitions as identified in ORS 251.005(1), (3), (4), (5). For this chapter, the terms:

(a) "Statements" refers to the county voters' pamphlet filings made by candidates;

(b) "Arguments" refers to the filings of measure arguments for inclusion in the county voters' pamphlet;

(c) "Words" refers to both words and numbers;

(d) "Filing forms" for candidate statements, explanatory statements and measure arguments refers to the forms required and provided by the county clerk;

(e) "City office" means any elected position of a city as specified by state law or city charter.

(f) "Local government" means the county or a city, or district as defined in ORS 255.012 located within the county.

(2) For elected public offices, the terms:

(a) "Paid office" means any elected public office for which the person elected will receive a fixed salary. For purposes of this rule, per diem and reimbursement for expenses do not constitute a fixed salary;

(b) "Unpaid office" means any elected public office which is not a paid office.

(3) Recall measures may be excluded from the county voters' pamphlet.

Stat. Auth.: ORS 246.150, 251.305 & 251.325  
Stats. Implemented: ORS 251.305

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93, Renumbered from 165-060-3000; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-022-0030

### Filing Candidate Statement and Portrait

(1) Any candidate for local office may file a candidate statement and portrait with the county clerk of each county in which the local government is located.

(2) The county clerk may require that the candidate statement be type-written and submitted on a form approved by the county clerk.

(3) The content of statements shall conform to ORS 251.395:

(a) The names of persons or organizations to be excluded from statements shall conform to ORS 251.405;

(b) Candidate portrait requirements shall conform to ORS 251.075;

(c) The format of the candidate's statement shall conform to ORS 251.425;

(d) The identification of the candidate's portrait or statement shall conform to ORS 251.125;

(4) Candidate statements shall be limited to 325 words.

(5) All materials submitted by a candidate for inclusion in a county voters' pamphlet shall fit within 30 square inches of space.

Stat. Auth.: ORS 246.150 & 251.325  
Stats. Implemented: ORS 251.325

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93, Renumbered from 165-060-3030; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 6-2000, f. & cert. ef. 3-20-00; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-022-0040

### Filing Explanatory Statements

(1) The governing body for any local government which has referred a measure to the voters, shall submit an impartial, simple and understandable statement explaining the measure and its effect.

(2) For any initiative or referendum by petition, an impartial, simple and understandable statement explaining the measure and its effect shall be submitted by the governing body of the local government only if the local government has an ordinance requiring the submission of such a statement.

(3) Explanatory statements shall be limited to 500 words.

(4) The county clerk shall reject any referred measure submitted without an explanatory statement.

Stat. Auth.: ORS 246.150, 251.305 & 251.325  
Stats. Implemented: ORS 251.345

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93,

# ADMINISTRATIVE RULES

Renumbered from 165-060-3040; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-022-0050

### Filing Measure Arguments

(1) Any person may file an argument supporting or opposing a measure with each county clerk of the counties in which the local government that filed the measure is located if the counties will be publishing a voters' pamphlet.

(2) The county clerk may require that an argument supporting or opposing a measure be typewritten or legibly printed and submitted on a form approved by the county clerk.

(3) The content of arguments shall conform to ORS 251.395:

(4) The names of persons or organizations to be excluded from arguments shall conform to ORS 251.405;

(5) Arguments shall be limited to 325 words.

(6) All materials submitted for inclusion in a county voters' pamphlet shall not exceed 30 square inches of space.

(7) Filing fees or signature petitions for arguments shall be filed with the county clerk at the time of submitting the arguments.

(8) A verified signature petition may be substituted for the appropriate filing fee for measure arguments (ORS 251.355). The petition shall be submitted on forms prescribed by the county clerk.

(9) The filing fees for measure arguments shall be based upon the electoral jurisdiction's registration as of January 1st of the election year.

(10) The filing fees shall be:

(a) For a jurisdiction with voter registration of less than 1,000 within a county -- \$100.00;

(b) For a jurisdiction with voter registration between 1,000 and 4,999 within a county — \$200.00;

(c) For a jurisdiction with voter registration between 5,000 and 9,999 within a county — \$250.00;

(d) For a jurisdiction with voter registration between 10,000 and 24,999 within a county — \$350.00;

(e) For a jurisdiction with voter registration over 25,000 within a county — \$400.00;

(11) Refunds of filing fees shall conform to ORS 251.325(5) and the procedures established by the county clerk.

Stat. Auth.: ORS 246.150, 251.305 & 251.325

Stats. Implemented: ORS 251.355

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93, Renumbered from 165-060-3050; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 7-2006, f. & cert. ef. 4-18-06

## 165-022-0060

### Printing and Distributing the County Voters' Pamphlet

(1) The county clerk shall print the voters' pamphlet using a format which allows for equal space for every statement and portrait.

(2) Candidate portraits shall be printed 1.5 inches by 1.75 inches.

(3) Measure arguments may be printed in a continuous running format.

(4) The county clerk may edit any statements or arguments which do not conform to the allocated space and word count requirements.

(5) The preparation and order of materials for the county voters' pamphlet may be organized by electoral jurisdiction in the following order:

(a) Measure, explanatory statement and arguments;

(A) Measure arguments shall follow the relating measure; arguments in support are placed first and arguments in opposition shall be placed second and are placed in the order the arguments are received by the county clerk;

(B) The identification of a measure argument and the disclaimer to be included in the county voters' pamphlet shall conform to ORS 251.355.

(b) Candidates. The identification of a candidate statement and the disclaimer to be included in the county voters' pamphlet shall conform to ORS 251.335.

(6) The county clerk shall mail or distribute the county voters' pamphlet by the seventh day before the election or the last day for mailing ballots if the election is conducted by mail.

(7) The county clerk shall mail or distribute the county voters' pamphlet in such a manner as to ensure at least one voters' pamphlet to each household with a registered voter within the jurisdictional boundary of any local government that is involved in an election.

Stat. Auth.: ORS 246.150 & 251.325

Stats. Implemented: ORS 251.325

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93, Renumbered from 165-060-3060; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 6-2000, f. & cert. ef. 3-20-00; ELECT 7-2006, f. & cert. ef. 4-18-06

**Rule Caption:** Method of calculating total eligible voters as required by article XI, section 11(8) Oregon Constitution.

**Adm. Order No.:** ELECT 8-2006

**Filed with Sec. of State:** 4-27-2006

**Certified to be Effective:** 4-27-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 165-007-0130

**Subject:** The rule governs the calculation of eligible voters for purposes of determining whether the election has sufficient turnout for an election conducted under Article XI, section 11(8), of the Oregon Constitution. This rule is proposed for amendment to clarify eligible voters as active registered voters and ineligible voters as inactive registered voters. Reference is removed to the SEL 954, which is no longer needed, as the calculation of eligible voters will occur in the Oregon Centralized Voter Registration system.

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

## 165-007-0130

### Method of Calculating Registered Voters Eligible to Vote for Elections Conducted Pursuant to Article XI, Section 11(8) of the Oregon Constitution

(1) The purpose of this rule is to assist county elections officials in calculating the total number of eligible voters for purposes of applying Article XI, section 11(8) of the Oregon Constitution. For purposes of applying Article XI, section 11(8) of the Oregon Constitution and this rule, active registered voters are eligible voters, and inactive registered voters are not eligible voters.

(2) To calculate the total number of eligible voters within the district holding the election, county elections officials must:

(a) Determine the number of active registered voters as of the voter registration deadline in ORS 247.025. This is the base group of "registered voters eligible to vote."

(b) Add to the base group of "registered voters eligible to vote" any voter who is ineligible due to a change in residence address, or any other inactive voter, who updates their voter registration as provided in ORS 247.307.

(c) Add to the base group of "registered voters eligible to vote" any voter determined to have been placed on the inactive list in error.

(d) Subtract from the base group of "registered voters eligible to vote," all voters who are determined during the particular election to be ineligible to vote, based on information received during the conduct of the election. These subtractions shall be made in the following manner:

(A) Subtract all voters who were mailed a ballot, which is returned as undeliverable, if the information on the returned envelope shows that the voter's residence address has changed, or that the voter is deceased.

(B) Subtract all voters for whom written information is received, other than a returned ballot, showing to the satisfaction of the county elections official that the voter is ineligible to vote.

(3) The information regarding eligibility used to make the calculations described in (2)(b) through (d) shall be made based on information received by the county elections official after the voter registration deadline in ORS 247.025 and not later than 8:00 p.m. on election day. Information received after that time shall not be used to calculate the total number of eligible voters for that election.

(4) The calculation of the percentage of ballots cast to the number of eligible voters to vote on the measure for a particular election shall be not later than the thirtieth (30th) day after the election.

(5) A voter eligible to vote within the district holding an election subject to Article XI, section 11(8) of the Oregon Constitution will be considered to have "cast a ballot" if the ballot has been returned to an elections office and the ballot is determined to be qualified to be counted (outer envelope contains signature of voter, signature matches the registration signature of the voter, no marks on outside of envelope which would cause ballot to be rejected). If these conditions are met, the ballot is "cast" even if the ballot, when opened for counting, is determined to be deficient and is not counted, or if the voter does not vote on the particular measure at issue in the calculation.

(6) For purposes of determining voter eligibility of non-voters in local elections, Appendix A of this rule will apply.

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

Stat. Auth.: ORS 246.120, 246.150, 254.465, 254.470 & Or. Const. Art. XI, Sec. 11(8)

Stats. Implemented: Or. Const. Art. XI, Sec. 11(8)

Hist.: ELECT 3-1997, f. & cert. ef. 2-25-97; ELECT 11-1997, f. & cert. ef. 10-27-97; ELECT 12-1999(Temp) f. & cert. ef. 10-19-99 thru 4-14-00; ELECT 4-2000, f. & cert. ef. 2-4-2000; ELECT 9-2003, f. & cert. ef. 9-3-03; ELECT 8-2006, f. & cert. ef. 4-27-06

# ADMINISTRATIVE RULES

**Rule Caption:** Revises fees for providing copies of public records.

**Adm. Order No.:** ELECT 9-2006

**Filed with Sec. of State:** 5-15-2006

**Certified to be Effective:** 5-15-06

**Notice Publication Date:** 4-1-06

**Rules Amended:** 165-002-0010

**Subject:** This rule sets forth the fee schedule for the elections division. This amendment incorporates clarifications of what a page is, the cost of providing a copy order, and the number of copies we will provide to other state agencies for free.

**Rules Coordinator:** Brenda Bays—(503) 986-1518

## 165-002-0010

### Schedule and Fees for Providing Copies of Public Records

(1) Any person may request photocopies, facsimile (fax) copies, electronically distributed (email) copies, certifications and computer disks of public records which are on file in the Office of the Secretary of State, Elections Division in person, in writing, by telephone, by facsimile (fax) or by electronic submission (email). For purposes of this rule a page is considered to be a single sheet of paper with information on either one side or both sides.

(2) Charges for photocopy orders will be the lesser of:

(a) \$0.25 per page; or

(b) For orders requiring 4 or more hours of staff time to process, \$0.03 per page, plus labor charges calculated as provided in paragraph 7(b);

(c) If the completed photocopy order is mailed, the minimum charge will be \$1.00 prepaid. If the order is to be billed, the minimum charge will be \$5.00;

(d) There is no minimum charge for credit card transactions.

(3) Completion of copy orders is contingent upon the number of pending requests and staff availability. Orders will be processed in the order in which they are received.

(4) Facsimile (fax) copy orders shall be processed as follows:

(a) The cost of records transmitted by facsimile (fax) will be \$5.00 for the first page and \$1.00 for each additional page;

(b) Facsimile (fax) orders are limited to a 20 page maximum, not including the cover page;

(c) Facsimile (fax) orders are limited to in-state customers unless prepayment is received.

(5) Certified copies of public records shall be provided at a cost of \$5.00 for each certification plus \$0.25 for each page copied. Certified copies means photocopies which are certified to be true and accurate copies of the original documents.

(6) Copies of public records may also be provided on a 3.5-inch computer disk or compact disk (CD) if the document(s) are stored in the computer system. Disks will be provided at a cost of \$5.00 per disk and may contain as much information as it will hold.

(7) Labor charges for research projects shall be as follows:

(a) No charge for the first 15 minutes of staff time;

(b) Beginning with the 16th minute, the charge per total request shall be \$25.00 per hour or \$6.25 per quarter-hour. No proration will be done for less than a quarter-hour;

(c) "Research", for purposes of this rule, is defined as the compilation of information:

(A) Which is not readily and immediately available from a single source or a group of related sources;

(B) Which requires a search to locate the requested information; or

(C) Where the request is not specific and a staff determination must be made as to the nature of the information which would fulfill the request.

(8) Billing will be done on the following basis:

(a) Payment must be made not later than 30 days after the billing date. If payment is not received and a second notice is required, an additional \$5.00 may be charged;

(b) Billing will not be provided to any customer who has a past due balance from a previous order. Additional orders will be processed only upon receipt of the balance owed and prepayment of the cost of the new order.

(9) For orders, including research projects, which have an estimated total cost exceeding \$50.00, a deposit of one-half of the estimated total cost of the order will be required prior to processing.

(10) The following will be provided free of charge:

(a) Lists of federal and statewide elected officials, the legislative assembly, judges, and district attorneys;

(b) Voter registration statistics;

(c) Press releases;

(d) 8.5" X 11" maps;

(e) Any document distributed by electronic mail (email); and

(f) The first 25 pages of any photocopy order placed by a state agency.

Stat. Auth.: ORS 192.440 & 246.150

Stats. Implemented: ORS 192.440

Hist.: ELECT 21-1989, f. & cert. ef. 10-31-89; ELECT 10-1994, f. & cert. ef. 5-31-94;

ELECT 10-1998, f. & cert. ef. 11-3-98; ELECT 17-2003, f. & cert. ef. 12-5-03; ELECT 9-

2006, f. & cert. ef. 5-15-06

\*\*\*\*\*

## Teacher Standards and Practices Commission

### Chapter 584

**Rule Caption:** Adopt and Amend Alternative Assessment and Highly Qualified Teacher Rules.

**Adm. Order No.:** TSPC 8-2006

**Filed with Sec. of State:** 5-15-2006

**Certified to be Effective:** 6-1-06

**Notice Publication Date:** 3-1-06

**Rules Adopted:** 584-100-0038

**Rules Amended:** 584-052-0030, 584-052-0031, 584-052-0032, 584-052-0033, 584-100-0002, 584-100-0006, 584-100-0011, 584-100-0016, 584-100-0021, 584-100-0026, 584-100-0031, 584-100-0036, 584-100-0041, 584-100-0051, 584-100-0056, 584-100-0061, 584-100-0066, 584-100-0071, 584-100-0091, 584-100-0096, 584-100-0101, 584-100-0106

**Subject:** 584-052-0030 *Eligibility for Alternative Assessment:* Amends the eligibility requirements and the fee for alternative assessment.

584-052-0031 *Evidence Needed for Subject-Matter Alternative Assessment:* Amends the evidence needed for Alternative Assessment.

584-052-0032 *Determination of Subject-Matter:* Competency through Alternative Assessment: Amends the procedure for Alternative Assessment.

584-052-0033 *Resubmission of Alternative Assessments:* Amends the appeals process of Alternative Assessment.

584-100-0002 *Purpose:* These rules establish requirements and procedures under the federal NCLB act.

584-100-0006 *Definitions:* Definitions apply only to Division 100.

584-100-0011 *Highly Qualified Elementary Teacher New to the Profession:* Teachers new to the profession teaching multiple subjects in grades K-8 must meet certain criteria in order to meet the federal definition of HQT.

584-100-0016 *Highly Qualified Elementary Teacher Not New to the Profession:* Teachers not new to the profession teaching multiple subjects in grades K-8 must meet certain criteria in order to meet the federal definition of HQT.

584-100-0021 *Highly Qualified Middle Level Teacher New to the Profession:* Teachers new to the profession teaching core academic subjects in grades seven and eight in a middle or junior high school must meet certain criteria in order to meet the federal definition of HQT.

584-100-0026 *Highly Qualified Middle Level Teacher Not New to the Profession:* Teachers not new to the profession teaching core academic subjects in grades seven and eight in a middle or junior high school must meet the following criteria in order to meet the federal definition of HQT.

584-100-0031 *Highly Qualified Secondary (grades 9-12) Teacher New to the Profession:* Teachers new to the profession teaching core academic subjects in grades nine through twelve in a high school must meet certain criteria in order to meet the federal definition of HQT.

584-100-0036 *Highly Qualified Secondary (grades 9-12) Teacher Not New to the Profession:* Teachers not new to the profession teaching core academic subjects in grades nine through twelve in a high school must meet certain criteria in order to meet the federal definition of HQT.

584-100-0038 *HOUSSE for Middle and High School Teachers:* Teachers may use a combination of coursework, professional devel-



# ADMINISTRATIVE RULES

opment and experience to meet the federal definition of Highly Qualified Teacher (HQT) through Oregon's HOUSSSE standard.

584-100-0041 *Approved NCLB Alternative Route Teaching License*: Upon filing a complete and correct application a qualified applicant shall be granted an Approved NCLB Alternative Route Teaching License.

584-100-0051 *Highly Qualified Professional Technical Teacher*: All professional technical teachers who teach professional technical courses that contain core academic subjects must meet the federal definition for HQ secondary teachers.

584-100-0056 *Highly Qualified Substitute Teacher*: Teachers substituting more than four continuous weeks in a core academic subject must meet the federal definition for HQ teachers.

584-100-0061 *Special Education Teachers Generally*: Special Education teachers who are providing instruction in core academic subjects must meet the federal definition for HQ teachers.

584-100-0066 *Highly Qualified Elementary Special Education Teacher(K-8)*: Special Education teachers who are new or not new to the profession and who produce direct instruction in core academic subjects in grades K-8 to students identified as special education students are HQ under specified conditions.

584-100-0071 *Highly Qualified Middle-Level or Secondary Special Education Teacher*: Special Education teachers who are new or not new to the profession and who produce direct instruction in core academic subjects in grades 9-12 to students identified as special education students are HQ under specified conditions.

584-100-0091 *Licensed and Registered Elementary Charter School Teacher*: Licensed and registered elementary charter school teachers teaching in pre-primary through grade eight self-contained classrooms must meet the HQ teacher definition for new or not new elementary teachers.

584-100-0096 *Licensed and Registered Middle-Level or Secondary Charter School Teacher*: Licensed middle-level or secondary charter school teachers teaching in grades seven through twelve must meet the HQ teacher definition for new or not new middle-level or secondary teachers.

584-100-0101 *Licenses considered "Full State Certification"*: List of Oregon Teaching Licenses that are considered to meet full state certification under the NCLB federal act.

584-100-0106 *Licenses Not Considered to be "Full State Certification"*: List of Oregon Teaching Licenses that are not considered to meet full state certification under the NCLB federal act.

**Rules Coordinator:** Victoria Chamberlain—(503) 378-6813

## 584-052-0030

### Eligibility for Alternative Assessment

(1) Effective July 1, 2006, through June 30, 2007, applicants for any endorsement on a license may petition the Commission for alternative assessment in lieu of passing a subject-matter test when all of the following conditions have been met. The applicant:

(a) Has taken the appropriate subject-matter test at least once without passing;

(b) Submitted an application for alternative assessment in the form and manner required by the Commission; and

(c) Has paid a fee of \$100 for the assessment:

(A) The fee will be valid for 90 days after the receipt of the application for alternative assessment.

(B) If the application is incomplete and the applicant does not complete the application within 90 days from the date the application and fee was received, a new fee must be paid.

(2) All evidence must be submitted at least four weeks prior to the commission meeting in order to be considered. The commission reserves the right to accept late applications for submission only when extenuating circumstances have been demonstrated and commission staff reasonably can complete the evaluation prior to the commission meeting. Requests for late applications will be submitted directly to the Executive Director for consideration.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176

Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-052-0031

### Evidence Needed for Subject-Matter Alternative Assessment

All applications for waiver of subject-matter tests through alternative assessment must contain the following items of evidence:

(1) An application in the form and manner required by the Commission;

(2) A fee of \$100;

(3) Official transcripts showing:

(a) Coursework aligned with the subject-matter endorsement requirements as outlined in OAR 584-038 for which the applicant is seeking waiver;

(b) A 3.0 GPA or better in the coursework directly related to the endorsement; and

(c) That any part of the coursework in the subject-area has been completed within the three (3) years immediately prior to the application for alternative assessment.

(4) A completed and signed affidavit attesting to the applicant's eligibility and the authenticity of the work presented;

(5) Original score report showing the attempt at the test for which the applicant is seeking waiver. All original score reports will be returned to the applicant after verification by Commission staff; and

(6) Two letters of recommendation from two educators attesting to the applicant's content knowledge expertise and describing how the expert has observed the applicant's content knowledge.

(a) The letters must be on professional letterhead and dated not more than one year from the date of submission of the first application for alternative assessment.

(b) The letters must be from any of the following qualified educators:

(A) University faculty members;

(B) College of education practicum or student teaching supervisors;

(C) Practicum or student teaching mentor teacher;

(D) District curriculum specialist; or

(E) Other expert in the content area.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176

Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-052-0032

### Determination of Subject-matter Competency through Alternative Assessment

(1) The application, fee and all evidence for alternative assessment must be submitted at least four weeks prior to the scheduled Commission meeting at which the applicant would like to have the application considered.

(2) The application will be evaluated based on the coursework requirements in division 38 for the endorsement area in which the applicant is seeking licensure.

(a) The evaluation will be based on the following:

(A) Whether coursework submitted meets the requirements in OAR 584 division 38 for the content area the candidate is seeking waiver; and

(B) Whether the coursework in the subject area meets a GPA of 3.0 or better.

(3) If no further coursework is recommended by commission staff, the commission will consider the recommendation of the Executive Director and the applicant's coursework evaluation and other submitted evidence to make a determination of whether the applicant is eligible for subject-matter test waiver.

(4) The Commission will pass a resolution either waiving the applicant's requirement to pass a subject-matter test in the content area or denying the waiver to pass the test based on the evidence submitted for alternative assessment.

(5) If the coursework does not meet the requirements for endorsement in OAR 584 division 38, a list of necessary additional coursework directly relevant to meeting the division 38 requirements will be prepared for the applicant by a TSPC evaluator. The application for alternative assessment will be considered incomplete and the applicant may reapply for alternative assessment once the coursework is completed.

(a) All evidence, such as record of the score report for the attempted test, transcripts and letters of recommendation submitted with the first alternative assessment application will be kept on file for subsequent alternative assessment resubmissions.

(b) Applicants will only need to submit, a new application, a new fee and proof that the additional coursework required has been completed under the conditions set forth under subsection (2) above.

# ADMINISTRATIVE RULES

(6) For purposes of "Highly Qualified Teacher" alternative assessment shall be considered a rigorous state test for new teachers.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176

Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-052-0033

### Resubmissions of Alternative Assessments

(1) The Commission will accept only one resubmission of alternative assessment evidence for another evaluation under the following conditions:

(a) The candidate submits a new application and fee for alternative assessment; and

(b) The candidate submits new evidence of subject-matter competency.

(2) If a candidate has failed the alternative assessment two times, the application for the endorsement, based on waiver of the test will be considered incomplete rather than a denial. The applicant's only recourse is to pass the required subject-matter test.

(3) Candidates who did not pass Alternative Assessment prior to July 1, 2006 may begin the process under the new rules and it will not be considered a resubmission.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176

Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0002

### Purpose

(1) These rules establish requirements and procedures under the federal No Child Left Behind Act that mandates all teachers in core academic areas meet the law's definition of "highly qualified" by the end of the 2005-2006 school year.

(2) Additionally, after the first day of the 2002-2003 school year, all teachers hired in all programs supported with Title IA funds or hired with Title IIA funds to specifically reduce class size must be "highly qualified."

(3) Teachers new to Oregon licensure must first be evaluated under the existing Oregon administrative rules to become licensed, and then meet the requirements for "highly qualified teacher" appropriate for the license with which they qualify.

(4) The rules in division 100 apply only to No Child Left Behind core academic subjects.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0006

### Definitions

These definitions apply only to division 100.

(1) "Advanced Credential or Advanced Certification" for teachers holding middle level or secondary authorization levels:

(a) A Continuing Teaching License; or

(b) A Standard Teaching License with a Standard endorsement in the core academic subject; or

(c) A certificate from the National Board for Professional Teaching Standards in the core academic subject area.

(2) "Bachelor's Degree":

(a) A degree obtained from a regionally accredited institution in the United States; or

(b) A degree from a foreign institution that is appropriately accredited as affirmed through the Oregon Office of Degree Authorization; or

(c) A higher degree in the arts or sciences or an advanced degree in the professions from a regionally-accredited institution may validate a non-regionally accredited bachelor's degree.

(3) "Complete School Year": Any related teaching assignment for 135 instructional days in a school year. Exceptions may be appealed to the Executive Director pursuant to OAR 584-052-0027.

(4) "Core Academic Subjects":

(a) English (Language Arts);

(b) Reading or Language Arts (Reading or Language Arts)

(c) Mathematics (Basic or Advanced Mathematics);

(d) Science (Integrated Science, Biology, Chemistry, or Physics);

(e) Foreign Languages (Spanish, French, German, Russian, Japanese, or Latin);

(f) Civics and Government (Social Studies);

(g) Economics (Social Studies);

(h) Arts (Art, Music, or Drama);

(i) History (Social Studies);

(j) Geography (Social Studies).

(5) "Elementary Classroom": Any combination of self-contained classrooms in grades preprimary through eight in any school identified as an elementary school pursuant to OAR 581-022-0102(25).

(6) "Elementary Teacher": An educator teaching in a self-contained classroom grades preprimary through eight.

(7) "Middle-level Classroom": Any classrooms in grades seven or eight organized departmentally by subject matter.

(8) "New to the Profession": A teacher who has been teaching on an approved license in any U.S. jurisdiction in a public or regionally accredited private school less than three complete school years. (See definition of "Complete School Year" above)

(9) "Newly Hired Teacher": A teacher hired after the first day of the 2002-2003 school year in a Title IA program or Title IA school-wide program. The teacher is not considered "newly hired" if the teacher is already employed in the district and transferred into a Title IA program or Title IA school-wide program.

(10) "Not New to the Profession": A teacher who has been teaching on an approved license in any U.S. jurisdiction in a public or private school for a total of three or more complete school years. (See definition of "Complete School Year" above.)

(11) "Rigorous State Test":

(a) The Multiple Subjects Assessment for Teachers (MSAT) test for elementary or middle level; the ORELA Multiple Subjects Examination; or

(b) The appropriate Praxis II or NTE Subject-matter test for middle-level and high school; or

(c) Satisfaction of the TSPC alternative assessment procedure, pursuant to OAR 584-052 0030 et seq.; or

(d) Another state's subject-matter licensure exam designated as a "rigorous state test."

(12) "Secondary School or high school":

(a) A combination of grades ten through twelve in districts providing a junior high school containing grade nine; or

(b) Any combination of grades nine through twelve organized as a separate unit; or

(c) Grades nine through twelve housed with grades preprimary through twelve.

(13) "Self-contained Classroom": An assignment for teaching in grades preprimary through eight in which the teacher has full responsibility for the curriculum.

(14) "Subject-matter competency": Subject matter competency may be demonstrated through any one of the following:

(a) Passing the appropriate "rigorous state test;" or

(b) Having a major in the subject-matter area (does not apply to elementary endorsements or authorizations); or

(c) Having coursework equivalent to a major in the subject-matter area (does not apply to elementary endorsements or authorizations); or

(d) Having a graduate degree in the subject matter area (does not apply to elementary endorsements or authorizations); or

(e) Satisfying the Highly Objective Uniform State Standard of Evaluation (HOUSSSE) requirements set forth in these rules if have taught three complete years or more.

(15) "Undergraduate Major or Coursework Equivalent to a Major": Thirty-six (36) quarter hours or twenty-four (24) semester hours of undergraduate or graduate coursework in core academic subject matter numbered 100 level or above, from a regionally accredited college or university. (See definition of "Bachelor's Degree" for undergraduate credits obtained from an unaccredited college or university.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0011

### Highly Qualified Elementary Teacher New to the Profession

Teachers new to the profession teaching multiple subjects in grades kindergarten through eight (8) in an Oregon elementary school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a Basic, Initial, Preliminary Teaching License or an Approved NCLB Alternative Route Teaching License; and

(2) Be properly assigned to a self-contained classroom in grades preprimary through eight.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.125

# ADMINISTRATIVE RULES

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0016

### Highly Qualified Elementary Teacher Not New to the Profession

Teachers not new to the profession teaching multiple subjects in grades kindergarten through eight (8) in an Oregon elementary school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a Basic, Standard, Initial, Continuing, Five-Year Elementary Teaching License, Preliminary Teaching License, or Approved NCLB Alternative Route Teaching License; and

(2) Pass a multiple subject rigorous state test appropriate for grades kindergarten (K) through eight (8); or

(3) Meet one of the Elementary Highly Objective Uniform State Standard of Evaluation (HOUSSE) standards as follows:

(a) Complete an approved elementary teacher education program or the coursework equivalent to sixty-quarter hours distributed as follows:

(A) Eighteen quarter or twelve semester hours in language arts;

(B) Twelve quarter or eight semester hours in mathematics;

(C) Nine quarter or six semester hours in science;

(D) Nine quarter or six semester hours in U.S. history, cultural geography, and other social sciences;

(E) Three quarter or two semester hours in health education;

(F) Three quarter or two semester hours in physical education;

(G) Three quarter or two semester hours in music education;

(H) Three quarter or two semester hours in art education; or

(b) Complete the TSPC Alternative Assessment procedure; or

(c) Obtain a certificate as Early Childhood Generalist, Early Childhood Art, Early Childhood Music, or Early Childhood ESOL from the National Board for Professional Teaching Standards; or

(d) Hold a Standard Teaching License with a Standard elementary endorsement; and

(e) Be properly assigned to a self-contained classroom in grades preprimary (pre-K) through eight (8) of an Oregon elementary school.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0021

### Highly Qualified Middle Level Teacher New to the Profession

(1) Teachers new to the profession teaching core academic subjects in grades seven (7) and eight (8) in an Oregon middle, junior high school, or a high school that includes grades seven (7) and eight (8), must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(a) Hold a Basic, Initial, *Approved NCLB Alternative Route Teaching License* or *Preliminary Teaching License* authorized to teach in any one of the core academic areas and satisfy one of the following:

(A) Pass a rigorous state exam in the core academic subject matter area; or

(B) Hold an undergraduate major in the subject core academic matter area; or

(C) Hold a graduate degree in the core academic subject matter area; or

(D) Complete coursework equivalent to an undergraduate major in the core academic subject; and

(b) Be properly assigned in the core academic subject matter area in grades seven (7) or eight (8).

(2) Teachers on an approved conditional assignment permit for any core academic subject may be highly qualified based on completed coursework in the core academic subject area.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0026

### Highly Qualified Middle Level Teacher Not New to the Profession

Teachers not new to the profession teaching core academic subjects in grades seven (7) and eight (8) in an Oregon middle or junior high school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a Basic, Standard, Initial, Continuing, Five-Year Elementary, Five-Year Secondary, Preliminary Teaching License or an *Approved NCLB Alternative Route Teaching License* and satisfy one of the following:

(a) Pass the prescribed rigorous state exam in the core academic subject; or

(b) Hold an undergraduate major in the core academic subject area(s); or

(c) Hold a graduate degree in the core academic subject area(s); or

(d) Complete coursework equivalent to an undergraduate major in the core academic subject area; or

(e) Hold advanced certification or credentialing in the core academic subject area; or

(f) Meet the HOUSSE requirements as defined in OAR 584-100-0038; and

(g) Be properly assigned in the core academic subject area in grades seven (7) or eight (8).

(2) Teachers on an approved conditional assignment permit for any core academic subject may be highly qualified based on completed coursework in the core academic subject area pursuant to OAR 584-100-0038.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04; TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0031

### Highly Qualified Secondary (grades 9-12) Teacher New to the Profession

(1) Teachers new to the profession teaching core academic subjects in grades nine (9) through twelve (12) in an Oregon high school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(a) Hold a Basic, Initial, Preliminary Teaching License, or an *Approved NCLB Alternative Route Teaching License* with an endorsement in the core academic subjects taught; and

(b) Be properly assigned in the core academic subject area in grades nine (9) through twelve (12).

(2) New secondary teachers on an approved conditional assignment permit for any core academic subject may be highly qualified based on completed coursework in the core academic subject area if they have a major or coursework equivalent to a major in the core academic subject, but lack the endorsement on the license.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0036

### Highly Qualified Secondary (grades 9-12) Teacher Not New to the Profession

Teachers not new to the profession teaching core academic subjects in grades nine (9) through twelve (12) in an Oregon high school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a Basic, Standard, Initial, Continuing, Five Year Teaching License, Preliminary Teaching License or an *Approved NCLB Alternative Route Teaching License* with an endorsement in the core academic area(s) taught; or

(2) Meet the HOUSSE requirements for high school teachers as defined in 584-100-0038; and

(3) Be properly assigned in the core academic subject area in grades nine (9) through twelve (12).

(4) Teachers on an approved conditional assignment permit for any core academic subject may be highly qualified based on completed coursework in the core academic subject area pursuant to OAR 584-100-0038.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04; TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0038

### HOUSSE for Middle-Level and High School Teachers

(1) Teachers may use a combination of coursework, professional development and experience to acquire points on a one-hundred (100) point scale to meet the federal definition of Highly Qualified Teacher (HQT) through Oregon's High Objective Uniform State Standard of Evaluation (HOUSSE).

(2) To qualify for the HOUSSE, a total of one hundred (100) points of combined coursework, professional development and experience must be earned. Experience may not count for more than 50 points.



# ADMINISTRATIVE RULES

(3) Teaching Off License in the Core Academic Subjects: Teachers who are conditionally assigned to teach the core academic subject more than 10 hours per week must apply for a conditional assignment permit (CAP) pursuant to rules in Division 36 or Division 60 and must add the endorsement to teach the assignment for more than three years. Unless the teacher meets the federal definition for HQT in the core academic subject, the district may not report the teacher as being highly qualified.

(a) If the educator meets the federal definition for HQT under any circumstances, then the district may report the teacher as HQT for purposes of that core academic subject even if the teacher does not immediately qualify to add the endorsement to the teaching license and even if the teacher is teaching under a conditional assignment permit (CAP).

(b) If the educator meets the federal definition for HQT and is teaching less than 10 hours per week in the core academic subject, the district may report the teacher as highly qualified and the teacher does not have to add the core academic endorsement to the license.

(4) Experience: Experience may not exceed more than fifty (50) points in the HOUSSE calculation. Generally, the educator will be given ten (10) points of credit for each full academic year as defined by the district's contracted teacher year. Experience will be valued under the following conditions:

(a) One (1) instructional day is one (1) period or more teaching the core academic subject.

(b) The subject must have been taught at grade 4 or above.

(c) One full instructional year equals 10 points.

(d) Partial instructional years will be calculated as the number of instructional days teaching the subject divided by the number of contracted days in one full instructional year times 10. [Example: 150 days taught/180 days in full instructional year =  $(5/6 \times 10) = 8.3$  points.]

(e) An educator must have taught at least five complete school years in order to earn the full fifty (50) points.

(5) Academic Coursework in the Core Academic Subject: There is no limit to the number of points that may be obtained through academic coursework related to the core academic subject.

(a) Core academic coursework must be college transfer level or graduate credit and must have a course number of 100 or greater;

(b) Transcripts for core academic coursework must be from a regionally accredited college or university;

(c) Core academic coursework will be valued as follows:

(A) One (1) quarter hour of credit equals three (3) points.

(B) One (1) semester hour of credit equals four and one-half (4.5) points.

(6) Professional Development: Professional Development directly related to the core academic credit may be counted toward the one hundred (100) points needed to meet the state's HOUSSE. Professional Development points will be valued under the following conditions:

(a) One (1) hour of core academic professional development is equal to 0.15 points.

(b) School district personnel authorized to certify professional development must verify that the professional development is directly relevant to the core academic subject in which the teacher is seeking to meet the definition of being "highly qualified." "Directly relevant" means that upon scrutiny, the professional development is more content related than pedagogy related.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0041

### Approved NCLB Alternative Route Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified applicant shall be granted an *Approved NCLB Alternative Route Teaching License*.

(2) The application must be filed jointly by the hiring district and the teacher seeking the license.

(3) Districts hiring a highly qualified teacher based on the *Approved NCLB Alternative Route Teaching License* must ensure that the license has been obtained by the teacher prior to assignment within the district.

(4) The *Approved NCLB Alternative Route Teaching License* shall be restricted to use within the district that has jointly applied for it with the teacher.

(5) The license is not transferable to another district. Should the teacher seek to obtain another *Approved NCLB Alternative Route Teaching License* with another district, the license is only valid for the remainder of the three years from the initial date of the license.

(6) The district must submit an approved plan with the licensee's application that describes how the teacher will receive high-quality professional development that is sustained, intensive and classroom-focused before and while teaching in the district. The plan must also include how the teacher will be making progress toward completing full state licensure requirements in the next three years.

(7) The license will expire exactly three-years from the date of issue and is not subject to the 120-day grace period.

(8) To be eligible for an *Approved NCLB Alternative Route License*, the applicant must:

(a) Hold a bachelor's degree;

(b) Demonstrate core academic subject matter competency by:

(A) Passing the TSPC approved rigorous state test required for the grade-level and subject-matter area; or

(B) Holding an undergraduate major or coursework equivalent in the core academic subject in the teaching area (does not apply to elementary authorizations); or

(C) Holding a graduate degree in the core academic subject in the teaching area (does not apply to elementary authorizations).

(9) Per federal law:

(a) Teachers on the *Approved NCLB Alternative Route Teaching License* are considered highly qualified for only three years; and

(b) The license is not renewable and is not eligible for any extension.

(10) Teachers who have taught on a Restricted Transitional License for one-year or less, upon application with a district may be eligible for the *Approved NCLB Alternative Route Teaching License* provided the requirements of section (8)(a) and (b) of this rule are met.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0051

### Highly Qualified Professional Technical Teacher

All professional technical teachers who teach professional technical courses that contain core academic subjects, for which students receive core academic credit, must meet the federal definitions for highly qualified secondary teachers for that particular core academic subject.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0056

### Highly Qualified Substitute Teacher

Teachers substituting more than four (4) continuous weeks in a core academic subject must meet the federal definitions for highly qualified teacher.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0061

### Special Education Teachers Generally

(1) Special education teachers who are providing direct instruction in core academic subjects must meet the federal definition for "highly qualified teacher."

(2) Special educators who do not provide direct instruction to special education students in any core academic subject, or who provide only consultation to highly qualified teachers of core academic subjects in adapting curricula, using behavioral supports and interventions, and selecting appropriate accommodations, are not required to meet the federal definitions for highly qualified teachers.

(3) A special education teacher would have to meet the federal definitions for highly qualified teacher including, but not limited to, the following circumstances:

(a) Teaching life skills to students;

(b) Teaching elective credits in core academic areas;

(c) Providing direct instruction in a core academic subject in a resource room setting; and

(d) Providing direct instruction in a core academic subject in any setting.

(4) Direct instruction for the purposes of this rule is planning curriculum, delivering instruction and evaluating the performance of the student in any core academic area.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

# ADMINISTRATIVE RULES

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0066

### Highly Qualified Elementary Special Education Teacher (K-8)

Special Education teachers who are new or not new to the profession and who are providing direct instruction in core academic subjects in grades kindergarten (k) through grades eight (8) to students identified as special education students are highly qualified under the following conditions. The teacher:

(1) Holds a Basic, Standard, Initial, Continuing, Five-Year Elementary Teaching License, or Preliminary Teaching License with a special education endorsement and is appropriately assigned on that license; and

(2) Meets the federal definition of Highly Qualified Teacher for elementary teachers in OAR 584-100-0011 if new to the profession; or

(3) Meets the federal definition of Highly Qualified Teacher for elementary teachers in OAR 584-100-0016 if not new to the profession; and

(4) Teaches only in kindergarten (k) through grade eight (8) in a self-contained special education classroom.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0071

### Highly Qualified Secondary Special Education Teacher (9-12)

Special Education teachers who are new or not new to the profession and who are providing direct instruction in core academic subjects in grades nine (9) through grades twelve (12) to students identified as special education students are highly qualified under the following conditions. The teacher:

(1) Holds a Basic, Standard, Initial, Continuing, Five-Year Teaching License, or Preliminary Teaching License with a special education endorsement and is properly assigned in accordance with endorsement; and

(2) Has met the federal definition for highly qualified elementary teacher new or not new to the profession and is teaching special education students who are performing at or below grade eight (8); or

(3) Has met the federal definition for highly qualified secondary teacher new or not new to the profession for each core academic subject the teacher is teaching to students who are performing above the eighth (8th) grade level.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 10-2004(Temp), f. & cert. ef. 10-20-04 thru 3-1-05; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0091

### Licensed and Registered Elementary Charter School Teacher

Licensed and registered elementary charter school teachers teaching in pre-primary through grade eight self-contained classrooms must meet the following criteria:

(1) Licensed teachers must meet the highly qualified teacher definition for new or not new to the profession for elementary teachers.

(2) Registered teachers must hold a bachelor's degree and demonstrate subject matter competency by passing the appropriate rigorous multiple subjects state test.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0096

### Licensed and Registered Middle-Level or Secondary Charter School Teacher

(1) Licensed middle-level or secondary charter school teachers teaching in grades seven (7) through twelve (12) must meet the highly qualified teacher definition for new or not new to the profession for middle-level or secondary teachers.

(2) Registered middle-level or secondary charter school teachers teaching in departmentalized middle level grades seven (7) through twelve (12) must hold a bachelor's degree and must demonstrate subject matter competency by having one of the following:

(a) A passing score on the appropriate rigorous state test in the core academic subject area; or

(b) An undergraduate major in the core academic subject area; or

(c) A graduate degree in the core academic subject area; or

(d) Coursework equivalent to an undergraduate major in the core academic subject area.

(3) Charter school teachers are not eligible for HOUSSE evaluations.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0101

### Licenses Considered "Full State Certification"

The following Oregon Teaching Licenses are considered to meet full state certification under the No Child Left Behind federal act:

(1) Basic Teaching License; or

(2) Standard Teaching License; or

(3) Initial Teaching License; or

(4) Continuing Teaching License; or

(5) Five-Year Elementary Teaching License; or

(6) Five-Year Secondary Teaching License; or

(7) Approved NCLB Alternative Route Teaching License; or

(8) Preliminary Teaching License.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

## 584-100-0106

### Licenses Not Considered to be "Full State Certification"

The following Oregon Teaching Licenses are not considered to meet full state certification under the No Child Left Behind federal act:

(1) Personnel Service Licenses:

(a) School Counseling;

(b) School Psychologist;

(c) Supervisor.

(2) Limited Student Services License.

(3) Restricted or unrestricted Transitional Counselor License.

(4) Restricted or unrestricted School Psychologist License.

(5) Teaching Associate License.

(6) Substitute Teaching License.

(7) American Indian Languages License.

(8) Emergency Teaching License.

(9) Unrestricted Transitional Teaching License.

(10) Restricted Transitional Teaching License (See OAR 584-100-0041 for possible *Approved NCLB Alternative Route Teaching License eligibility*.)

(11) Limited Teaching License.

(12) Any Administrative License.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06

\*\*\*\*\*

## Veterinary Medical Examining Board Chapter 875

**Rule Caption:** These amendments are needed to update standards to conform with current practices.

**Adm. Order No.:** VMEB 2-2006

**Filed with Sec. of State:** 5-11-2006

**Certified to be Effective:** 5-11-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 875-001-0005, 875-005-0005, 875-005-0010, 875-010-0000, 875-010-0006, 875-010-0065, 875-010-0090, 875-015-0030, 875-020-0010, 875-030-0010, 875-030-0025, 875-030-0040

**Subject:** These amendments are needed to update standards to conform with current practices.

**Rules Coordinator:** Lori V. Makinen—(971) 673-0224

## 875-001-0005

### Model Rules of Procedure

The Veterinary Medical Examining Board adopts in its entirety the Attorney General's Model Rules of Procedure under the Administrative Procedures Act.

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

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 183

Hist.: VE 1, f. 7-29-60; VE 2, f. 6-23-72, ef. 7-15-72; VE 3, f. 9-25-74, ef. 10-25-74; Renumbered from 875-010-0005; VE 2-1978, f. & ef. 2-21-78; VE 1-1979, f. & ef. 8-28-79; VME 2-1980, f. & ef. 5-20-80; VME 1-1982, f. & ef. 8-30-82; VME 1-1987, f. & ef. 12-22-

# ADMINISTRATIVE RULES

87; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 4-1992, f. & cert. ef. 12-10-92; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

Stats. Implemented: ORS 475.190, 609.405, 686.130, 686.255 & 686.510  
Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

## 875-005-0005

### Definitions

(1) "Agency": Any animal control department, humane society, or facility which contracts with a public agency or arranges to provide animal sheltering services and is certified by the Euthanasia Task Force and registered by the State Board of Pharmacy.

(2) "Board": The Oregon State Veterinary Medical Examining Board.

(3) "Board of Pharmacy": The Oregon State Board of Pharmacy.

(4) "Certified Euthanasia Technician or C.E.T.": A person who is recognized by an agency as a paid or volunteer staff member and is instructed and certified by the Euthanasia Task Force pursuant to ORS 475.190(4). Any person who was trained prior to October 15, 1983 in euthanasia methods, in the course provided by Multnomah County Animal Control and the Oregon Humane Society, and who has been subsequently certified by the Euthanasia Task Force.

(5) "Comprehensive": Pertaining to all animal species.

(6) "Client": An entity, person, group or corporation that has entered into an agreement with a veterinarian for the purpose of obtaining veterinary medical services.

(7) "Designated Agent": A C.E.T. who is responsible for the withdrawal and return of sodium pentobarbital from the drug storage cabinet.

(8) "Good Standing and Repute": As used in ORS 686.045(1), means:

(a) A university accredited by the American Veterinary Medical Association (AVMA); or

(b) A foreign school listed by the AVMA whose graduates are eligible to apply for a certificate through the Educational Commission for Foreign Veterinary Graduates (ECFVG) committee of the AVMA, or other programs approved by the Board.

(9) "Herd or Flock Animal": Animals managed as a group only for economic gain including but not limited to breeding, sale, show, food production, or racing.

(10) "Lethal Drug": Sodium pentobarbital or any other drug approved by the Task Force, the Board and the Board of Pharmacy, and used for the purpose of humanely euthanizing injured, sick, homeless or unwanted domestic pets and other animals.

(11) "Mobile Clinic": A vehicle, including but not limited to a camper, motor home, trailer, or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.

(12) Surgery Procedure:

(a) "Aseptic Surgery": Aseptic surgical technique exists when everything that comes in contact with the surgical field is sterile and precautions are taken to ensure sterility during the procedure.

(b) "Antiseptic Surgery": Antiseptic surgical technique exists when care is taken to avoid bacterial contamination.

(c) Any injection or implant of a small permanent device is considered surgery.

(13) "Supervision" means that each act shall be performed by any employee or volunteer in the practice only after receiving specific directions from a licensed veterinarian.

(a) "Direct" supervision under this provision means both the certified veterinary technician and the licensed veterinarian are on the premises at the same time;

(b) "Immediate" supervision under this provision means that the supervising veterinarian is in the immediate vicinity of where the work is being performed and is actively engaged in supervising this work throughout the entire period it is being performed;

(14) "Task Force": The Euthanasia Task Force appointed by the Board pursuant to ORS 686.510 consisting of no fewer than five members, and who are either certified euthanasia technicians or licensed veterinarians.

(15) "Veterinary Client Patient Relationship (VCPR)": Except where the patient is a wild or feral animal or its owner is unknown; a VCPR shall exist when the following conditions exist: The veterinarian must have sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has seen the animal within the last year and is personally acquainted with the care of the animal by virtue of a physical examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept.

(16) "Veterinary Medical Facility": Any premise, unit, structure or vehicle where any animal is received and/or confined and veterinary medicine is practiced, except when used for the practice of veterinary medicine pursuant to an exemption under ORS 686.040.

Stat. Auth.: ORS 686.210

## 875-005-0010

### Licensee's Duty to Cooperate

Every licensee of the Board shall:

(1) Cooperate with the Board and respond fully and truthfully to inquiries from and comply with any request from the Board, subject only to the exercise of any applicable right or privilege.

(2) Undergo practice competency or other evaluations requested by the Board.

(3) Provide a home address and telephone number in addition to business location and contact information.

(4) Notify the Board within 30 days of a home or business address and telephone number change.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.020, 686.045 & 686.065

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

## 875-010-0000

### Qualifications for Licenses and Permits

(1) Graduate from a veterinary college or veterinary department of a university or college of good standing and repute as defined in OAR 875-005-0005(8).

(2) Pass the NAVLE and Oregon Jurisprudence Exam/Regional Disease Test as required by OAR 875-010-0015(3).

(3) Temporary and active licenses will not be issued to applicants who do not have at least one year experience, as set out in ORS 686.045(3) and 686.065(1)(b).

(4) The Board may refuse to issue a license or permit to an applicant for any of the following:

(a) Violations of veterinary practice laws and rules in other states, provinces or countries;

(b) Evidence of previous veterinary incompetence or negligence;

(c) Violations of other laws substantially related to the qualifications, functions or duties of veterinary medicine;

(d) The sale or use of illegal drugs or substance abuse; or

(e) Making a misrepresentation or omission on application or otherwise to the Board.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.045 & 686.065

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

## 875-010-0006

### Procedures for Obtaining License or Permit

(1) Graduate from a veterinary college or veterinary department of a university or college as defined in OAR 875-005-0000(8).

(2) To apply for a veterinary license, the applicant must complete an application form available from the Board office. A completed application includes:

(a) An application form completed and signed by the applicant and notarized;

(b) A copy of a college diploma or a letter from the graduate's school verifying satisfactory graduation, or, if a graduate of an unaccredited foreign veterinary school certification of satisfactory completion of requirements of the Educational Commission for Foreign Veterinary Graduates (ECFVG), or verification of completion of other foreign graduate equivalency programs approved by the Board;

(c) A completed Oregon Jurisprudence Exam/Regional Disease Test;

(d) Verification of veterinary experience and certification of status of license(s) in other states if applicable;

(e) The license application and Oregon Jurisprudence Exam/Regional Disease Test fee of \$75.00.

(3) To register for the NAVLE, the candidate shall submit registration and examination fees no later than the deadline established by the Board or its Executive Officer.

(4) The Oregon application fee of \$50 for the NAVLE shall not be refundable. Applicants shall contact NBVME for refund of the NAVLE registration fee.

(5) The applicant may take the NAVLE in another state. For licensing in Oregon, NAVLE scores must be directly transferred to the Board through the Veterinary Information Verifying Agency (VIVA).

(6) An applicant may request a waiver of the Clinical Competency Test requirement if all the following conditions are met:

(a) The applicant has graduated from an accredited veterinary school or earned the ECFVG certificate or completed another equivalency program approved by the Board, as described in OAR 875-010-0000, prior to and including 1990;



# ADMINISTRATIVE RULES

(b) Has been engaged in active veterinary clinical practice for at least five contiguous years immediately preceding the date of application;

(c) Has held license(s) in good standing in other state(s) or U.S. territories since graduation; and

(d) Has met continuing education requirements at least equivalent to 10 hours per year during the five years immediately preceding the date of application.

(e) The Board may request other documentation of competent clinical practice.

(7) Neither NAVLE nor the National Board Exam (NBE) requirement shall be waived.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.075 & 686.255

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

## 875-010-0065

### License Renewal Procedures

(1) The annual renewal fee for all veterinary licenses shall be \$100.

(2) A renewal application is timely if the completed application together with the correct renewal fee is postmarked by December 31st of the current license year. The licensee has the burden of proving that the application was mailed timely. If the renewal application is not timely, the applicant must pay delinquent fees:

(a) The delinquent fee shall be \$50 for each month or part of a month after December 31st, up to a maximum of \$150.

**EXAMPLE:** A license renewal application postmarked February 1 will be assessed a \$100 delinquent fee in addition to the renewal fee for a total of \$150 and one post-marked March 15 will be assessed \$150 in delinquent fees.

(b) In the event a licensee's renewal application is not received by January 31, a certified letter, return receipt requested, will be sent by April 1, advising the licensee of his or her delinquency and that practicing veterinary medicine in Oregon without a current license is a violation of ORS 686.020. It is the licensee's responsibility to provide the Board with a current address;

(c) If the delinquency in license renewal exceeds three months the Board may require the applicant to appear before the Board and/or may attach other conditions to the renewal, e.g. community service, additional continuing education, etc.;

(d) If the delinquency in license renewal exceeds 21 months, the Board may assess an extended delinquency renewal fee, and/or require re-qualification by examination.

(3) Board staff will review renewal applications. If the application is complete with the following requirements, staff will mail out an annual license receipt, which expires on December 31 of the next calendar year:

(a) The renewal application is completed;

(b) The renewal fee is enclosed;

(c) Any delinquent fees are enclosed;

(d) Continuing Education (CE) requirements must have been met; and

(e) The licensee is not in violation of the provisions of ORS 686.120 and 686.130.

(4) A veterinarian who submits a completed renewal application post-marked no later than December 31, and has complied with all requirements under section (3) of this rule, may continue to practice veterinary medicine in Oregon pending notification of renewal or notification that the application is incomplete. A veterinarian who submits a renewal application post-marked after December 31, or who knows the application is incomplete, or has not fulfilled the continuing education requirement, will be subject to delinquent fees and may not lawfully continue to practice veterinary medicine in Oregon until notified that the license has been renewed.

(5) If the veterinarian's license lapses, a 21-month grace period begins. The veterinarian may renew the license within the 21-month period by paying the maximum delinquent fee and the current annual license fee, and by providing documentation of veterinary activities, including completed Continuing Education, during the interim. After 21 months, the license may be revoked and the veterinarian may have to requalify for licensure by taking an examination.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.110 & 686.255

Hist.: VME 3-1986(Temp), f. & ef. 10-23-86; VME 1-1987, f. & ef. 12-22-87; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 3-1991, f. & cert. ef. 12-9-91; VME 1-1992, f. & cert. ef. 10-9-92; VME 2-1994, f. & cert. ef. 11-30-94; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

## 875-010-0090

### Continuing Education Requirements (CE)

(1) All active licensees, including veterinarians and certified veterinary technicians, must comply with the CE provided in this rule in order to

renew their licenses. An active veterinary licensee is one who practices in Oregon for 30 calendar days or more in each year.

(2) "Inactive" veterinary licensees need not comply with the educational requirements, and may renew their licenses in an "inactive" status. An "inactive" licensee is one who practices in Oregon for less than 30 calendar days in each year. There is no "inactive" category for certified veterinary technician licenses.

(3) Active licensees wishing to obtain a renewal of their license must complete the minimum required number of CE hours every two years. Veterinarians shall report 30 hours of CE to the Board with license renewals for every odd-numbered year. Certified veterinary technicians shall report 15 hours of CE to the Board for every even-numbered year beginning January 2008. The required hours may be satisfied with any combination of the following continuing education activities:

(a) Attendance at scientific workshops or seminars approved by the Board.

(b) A maximum of four hours for veterinarians or two hours for certified veterinary technicians reading approved scientific journals. One subscription to an approved journal is equal to one hour of credit.

(c) A maximum of six hours for veterinarians or three hours for certified veterinary technicians of workshops or seminars on non-scientific subjects relating to the practice of veterinary medicine such as communication skills, practice management, stress management, or chemical impairment.

(d) A maximum of 15 hours for veterinarians or 7.5 hours for certified veterinary technicians of audio or video recordings, electronic, computer or interactive materials or programs on scientific or non-scientific subjects, as set forth in subsection (3)(c) above, and prepared or sponsored by any of the organizations defined in subsection (4) below. The sponsor must supply written certification of course completion.

(4) Workshops, seminars, and prepared materials on scientific and non-scientific subjects relating to veterinary medicine sponsored by the following organizations are approved:

(a) American Veterinary Medical Association (AVMA) and Canadian Veterinary Medical Association (CVMA);

(b) Specialty and allied groups of the American Veterinary Medical Association and Canadian Veterinary Medical Association;

(c) Regional meetings such as the Inter-Mountain Veterinary Medical Association, Central Veterinary Conference, and Western Veterinary Conference;

(d) Any state or province veterinary medical association;

(e) Any local or regional veterinary medical association;

(f) The American Animal Hospital Association;

(g) American and Canadian Veterinary Schools accredited by the American Veterinary Medical Association;

(h) All state veterinary academies;

(i) Animal Medical Center, New York;

(j) Angel Memorial Medical Center;

(k) Other programs receiving prior approval by the Board;

(l) The Board may approve other sponsors for lectures or prepared materials upon written request by the attending veterinarian or the sponsor.

(5) The following scientific journals are approved by the Board to satisfy all or a portion of the two hours of non-lecture CE activities:

(a) Journal of the American Veterinary Medical Association;

(b) Journal of the Canadian Veterinary Medical Association;

(c) The Journal of Veterinary Research;

(d) Veterinary Medicine;

(e) Small Animal Clinician;

(f) Modern Veterinary Practice;

(g) Publications of the AVMA/CVMA Approved Constituent Specialty Groups;

(h) Compendium of Continuing Education;

(i) Journal of American Animal Hospital Association;

(j) Other publications approved in advance by the Board.

(6) Study in a graduate resident program at an AVMA-approved veterinary school will satisfy the CE requirements for the year in which the veterinarian is enrolled in such program.

(7) Reporting CE credits:

(a) At the time of making application for license renewal in years when CE reporting is required, the veterinarian shall certify on the application form that 30 hours of CE, and the veterinary technician shall certify on the application form that 15 hours of CE, as set forth in this rule have been satisfied. Proof of participation in such CE programs must be kept by the licensee for a period of at least two years, and the licensee must permit the Board or any of its agents or designees to inspect CE records. Any such failure to keep these records or produce them to the Board, its agents or

# ADMINISTRATIVE RULES

designees shall constitute grounds for non-renewal of the license, or, if the license has been issued for that year, for revocation of the license;

(b) Proof of compliance with the CE requirement of this rule may be supplied through registration forms at lectures, certificates issued by the sponsors of lectures, subscriptions to journals, and other documentation approved by the Board.

(8) The Board may approve CE programs presented by non-veterinarians, if program content is pertinent or complementary to veterinary medicine.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.410 - 686.420

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

## 875-015-0030

### Minimum Veterinary Practice Standards

Each veterinary medical facility shall comply with the following:

(1) Medical Records: A legible individual record shall be maintained for each animal. However, the medical records for a litter may be recorded either on the dam's record or on a litter record until the individual animals are permanently placed or reach the age of three months. Records for herd or flock animals may be maintained on a group or client basis. All records shall be readily retrievable and must be kept for a minimum of three (3) years following the last treatment or examination. However, three (3) years may not be adequate for liability purposes.

Records shall include, but are not limited to, the following information:

- (a) Name or initials of the veterinarian responsible for entries;
- (b) Name, address and telephone number of the owner and/or client;
- (c) Name, number of other identification of the animal and/or herd or flock;

(d) Species, breed, age, sex, and color or distinctive markings, where applicable, each individual animal;

- (e) Vaccination history, if known, shall be part of the medical record;
- (f) Beginning and ending dates of custody of the animal;
- (g) Pertinent history and presenting complaint;

(h) A physical exam shall be performed to establish or maintain a VCPR and each time an animal is presented with a new health problem, unless the animal's temperament precludes examination, or physical exam is declined by the owner. For each physical exam the following conditions shall be evaluated and findings documented when applicable by species, even if such condition is normal:

- (A) Temperature;
- (B) Current weight;
- (C) Body condition;
- (D) Eyes, ears, nose and throat;
- (E) Oral cavity;
- (F) Respiratory system including auscultation of the thorax;
- (G) Palpation of the abdomen;
- (H) Lymph nodes;
- (I) Musculoskeletal system;
- (J) Neurological system;
- (K) Genito/urinary system;
- (L) All data obtained by instrumentation;
- (M) Diagnostic assessment;
- (N) If relevant, a prognosis of the animal's condition;
- (O) Diagnosis or tentative diagnosis at the beginning of custody of animal;

(P) Treatments and intended treatment plan, medications, immunizations administered, dosages, frequency and route of administration;

(Q) All prescription or legend drugs dispensed, ordered or prescribed shall be recorded including: dosage, frequency, quantity and directions for use. Legend drugs, in original unopened manufacturer's packaging, dispensed or ordered, for herd use. Any changes made by telecommunications shall be recorded; Legend drugs in original unopened manufacturer's packaging dispensed or ordered for herd use are exempt from this rule. Legend and prescription drugs are as defined by the U.S. Food and Drug Administration in 'FDA and the Veterinarian'.

(R) Surgical procedures shall include a description of the procedure, name of the surgeon, type of sedative/anesthetic agent(s) used, dosage, route of administration, and strength, if available in more than one strength;

(S) Progress of the case while in the veterinary medical facility;

(T) Exposed radiographs shall have permanent facility and animal identification;

(U) If a client waives or declines any examinations, tests, or other recommended treatments, such waiver or denial shall be noted in the records.

(2) Surgery: Surgery shall be performed in a manner compatible with current veterinary practice with regard to anesthesia, asepsis or antisepsis, life support and monitoring procedures, and recovery care. The minimum standards for surgery shall be:

(a) Aseptic surgery shall be performed in a room or area designated for that purpose and isolated from other activities during the procedure. A separate, designated area is not necessarily required for herd or flock animal surgery or antiseptic surgery;

(b) The surgery room or area shall be clean, orderly, well-lighted and maintained in a sanitary condition;

(c) All appropriate equipment shall be sterilized:

(A) Chemical disinfection ("cold sterilization") shall be used only for field conditions or antiseptic surgical procedures;

(B) Provisions for sterilization shall include a steam pressure sterilizer (autoclave) or gas sterilizer (e.g., ethylene oxide) or equivalent.

(d) For each aseptic surgical procedure, a separate sterile surgical pack shall be used for each animal. Surgeons and surgical assistants shall use aseptic technique throughout the entire surgical procedure;

(e) Minor surgical procedures shall be performed at least under antiseptic surgical techniques;

(f) All animals shall be prepared for surgery as follows:

(A) Clip and surgically prepare the surgical area for aseptic surgical procedures;

(B) Loose hair must be removed from the surgical area;

(C) Scrub the surgical area with appropriate surgical soap;

(D) Disinfect the surgical area;

(E) Drape the surgical area appropriately.

(3) A veterinarian shall use appropriate and humane methods or anesthesia, analgesia and sedation to minimize pain and distress during any procedures and shall comply with the following standards:

(a) Animals shall have a documented physical exam conducted prior to the administration of a sedation or anesthetic, which is necessary for veterinary procedures, unless the temperament of the patient precludes an exam prior to the use of chemical restraint;

(b) An animal under general anesthesia for a medical or surgical procedure shall be under observation during recovery from anesthesia until the patient is awake and in sternal recumbency;

(c) A method of cardiac monitoring shall be available and may include a stethoscope or electronic monitor;

(d) Where general anesthesia is performed in a hospital or clinic for companion animal species (excluding farm animals), anesthetic equipment available shall include an oxygen source, equipment to maintain an open airway and a stethoscope;

(e) Anesthetic procedures and anesthetics used shall be documented;

(f) Adequate means for resuscitation including intravenous catheter and fluids shall be available;

(g) Emergency drugs shall be immediately available at all times;

(h) While under sedation or general anesthesia, materials shall be provided to help prevent loss of body heat;

(i) Appropriate pain management shall be made available to the animal;

(4) Library: A library of appropriate and current veterinary journals and textbooks or access to veterinary internet resources shall be available for ready reference.

(5) Laboratory: Veterinarians shall have the capability for use of either in-house or outside laboratory service for appropriate diagnostic testing of animal samples.

(6) Biologicals and Drugs: The minimum standards for drug procedures shall be:

(a) All controlled substances shall be stored, maintained, administered, dispensed and prescribed in compliance with federal and state laws and manufacturers' recommendations;

(b) Legend drugs shall be dispensed, ordered or prescribed based on a VCPR and shall be labeled with the following:

(A) Name of client and identification of animal(s);

(B) Date dispensed;

(C) Complete directions for use;

(D) Name, strength, dosage and the amount of the drug dispensed;

(E) Manufacturer's expiration date;

(F) Name of prescribing veterinarian and veterinary medical facility.

(c) No biological or drug shall be administered or dispensed after the expiration date, for a fee.

(7) A veterinarian shall not use, or participate in the use of, any form of advertising or solicitation which contains a false, deceptive or misleading statement or claim:

# ADMINISTRATIVE RULES

(a) Specialty Services: Veterinarians shall not make a statement or claim as a specialist or specialty practice unless the veterinarian is a diplomate of a recognized specialty organization of the American Veterinary Medical Association;

(b) The public shall be informed of their options when an animal will be left unattended in the hospital.

(8) The veterinarian shall be readily available or has arranged for emergency coverage or follow-up evaluation in the event of adverse reaction or the failure of the treatment regimen.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.130

Hist.: VME 5-1992, f. & cert. ef. 12-10-92; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

## 875-020-0010

### Euthanasia Task Force

Pursuant to ORS 686.510 and 475.190(4), a Task Force is established for the purposes of training, examining, and certifying euthanasia technicians and their employers. The Task Force shall consist of no fewer than five members appointed by the Board. New members shall be nominated by either the Board or Task Force and be confirmed by the Board. Nominees must submit either a letter of recommendation outlining his or her experience and training or a resume' showing such experience, plus a letter of recommendation from a current Task Force member. Applicants for a Task Force position must be a C.E.T., and be employed by an agency or may be a veterinarian:

(1) Each member shall serve for two years, at the pleasure of the Board. Prior to the expiration of a member's term, the Task Force or Board shall nominate a successor. A Task Force member may be eligible for reappointment. If there is a vacancy for any cause, the Task Force or Board shall nominate and the Board confirm a successor to fill the unexpired term.

(2) The duties of Task Force members may include but not be limited to:

(a) Coordinate and provide euthanasia training classes no less than once a year;

(b) Conduct written and practical examinations to applicants for certification and authorize certification through the Board office.

(c) Inspect and certify agencies serving as the site for euthanasia and/or and employing persons seeking to become certified or seeking recertification;

(d) Review the records, performance, methods and procedures used by persons seeking to be certified or seeking recertification as C.E.T.s; and

(e) Recommend suspension or revocation of certification when necessary.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 475.190, 609.405, 686.510 & 686.255

Hist.: VME 1-1986(Temp), f. & ef. 7-21-86; VME 1-1989, f. 1-12-89, cert. ef. 2-1-89; VMEB 2-2006, f. & cert. ef. 5-11-06

## 875-030-0010

### Criteria for Becoming a Certified Veterinary Technician

In order to become a certified veterinary technician, an individual must:

(1) Pass the examinations referred to in OAR 875-030-0020; and

(2)(a) Hold a certificate in veterinary technology (or a comparable certificate) from a college accredited by the American Veterinary Medical Association, or other program approved by the Board; or

(b) Have received at least 6,000 hours of on-the-job training in the following technical procedures as verified by a veterinarian or veterinarians with valid Oregon veterinary licensure:

(A) Medical Terminology

(B) Basic Comparative Animal Anatomy and Physiology;

(C) Veterinary Office Procedures;

(D) Basic Pharmacology;

(E) Practical Animal Nutrition;

(F) Nursing Care and Handling of Animals;

(G) Animal Behavior;

(H) Applied Radiography;

(I) Applied Anesthesiology;

(J) Applied Clinical Laboratory Procedures;

(K) Principles and Practices of Medical and Surgical Assistance;

(L) Animal Diseases.

(3)(a) Have at a minimum a Bachelor's degree in a field approved by the Board, e.g., Veterinary Technology, Animal Technology, Animal Husbandry, Zoology, etc., and a minimum of 1,500 hours of on-the-job training that meets the requirements of (2)(b); or

(b) Have at a minimum an Associate's degree in a field approved by the Board, e.g., Veterinary Technology, Animal Husbandry, Zoology, etc., and a minimum of 3,000 hours of on-the-job training and that meets the requirements of (2)(b); or

(c) Have acquired a minimum of 30 credit hours of training from a school or program approved by the Board in a field approved by the Board, e.g., Veterinary Technology, Animal Husbandry, Zoology, etc., and a minimum of 4,500 hours of on-the-job training that meets the requirements of (2)(b);

(d) Any other combination of Board-approved education and experience.

(4) The Board may waive the requirement of passing the VTNE (875-030-0020(1)) for applicants who:

(a) Graduated from an accredited veterinary technology college program prior to 1990;

(b) Hold an active certified veterinary technician license or animal health technician license in another state, province or territory of the United States; and

(c) Have a minimum of 7,500 hours of on-the-job training and experience as specified in subsection (b) of this section.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.350 - 686.370

Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 2-2000, f. & cert. ef. 6-21-00; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

## 875-030-0025

### Application for Certified Veterinary Technicians

(1) Complete applications for the VTNE and certification must be submitted no later than 60 days prior to the examination.

(2) In order to be considered complete, applications for certification shall include:

(a) An application form available from the Board office signed by the applicant;

(b) The application fee;

(c)(A) Copy of diploma or verification of impending graduation from school; or

(B) A letter from the veterinarian or veterinarians certifying the on-the-job training required in OAR 875-030-0010(2)(b).

(d) The completed examination on Oregon veterinary medicine and technology laws; and

(e) The VTNE score report if the examination was taken in another state.

(3) The application fee for the VTNE and certification is \$130. The application fee for certification if the VTNE was taken in another state is \$25.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.225 & 686.350 - 686.370

Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

## 875-030-0040

### Supervision of Certified Veterinary Technicians

(1) All duties of certified veterinary technicians must be performed under the supervision of a licensed veterinarian. At minimum, 'supervision' means that each act shall be performed by the certified veterinary technician only after receiving specific directions from a licensed veterinarian.

(2) Certified veterinary technicians may perform the following acts:

(A) Obtain and record information;

(A) Complete admission records, including recording the statements made by the client concerning the patient's problems and history. The certified veterinary technician may also record the technician's own observations of the patient. However, the certified veterinary technician cannot state or record his or her opinion concerning diagnosis of the patient;

(B) Maintain daily progress records, surgery logs, X-ray logs, Drug Enforcement Administration (DEA) logs, and all other routine records as directed by the supervising veterinarian.

(b) Prepare Patients, Instruments, Equipment and Medicant for Surgery:

(A) Prepare and sterilize surgical packs;

(B) Clip, surgically scrub, and disinfect the surgical site in preparation for surgery;

(C) Administer preanesthetic drugs as prescribed by the supervising veterinarian;

(D) Position the patient for anesthesia;



## ADMINISTRATIVE RULES

(E) Induce anesthesia as prescribed by the supervising veterinarian;  
(F) Operate anesthetic machines, oxygen equipment, and monitoring equipment.

(c) Collect specimens and perform laboratory procedures:

(A) Collect urine, feces, sputum, and all other excretions and secretions for laboratory analysis;

(B) Collect blood samples for laboratory analysis;

(C) Collect skin scrapings;

(D) Perform routine laboratory procedures including urinalysis, fecal analyses, hematological and serological examinations.

(d) Apply and remove wound and surgical dressings, casts, and splints;

(e) Assist the veterinarian in diagnostic, medical, and surgical proceedings:

(A) Monitor and record the patient's vital signs;

(B) Medically bathe the patient;

(C) Administer topical, oral hypodermic, and intravenous medication as directed by the supervising veterinarian;

(D) Operate X-ray equipment and other diagnostic imaging equipment;

(E) Take electrocardiograms, electroencephalograms, and tracings;

(F) Perform dental prophylaxis, including operating ultrasonic dental instruments pursuant to OAR 875-015-0050.

(G) Perform extractions under the immediate supervision of a licensed veterinarian.

(H) Administer rabies vaccine under the direct supervision of a licensed veterinarian.

(3) Certified veterinary technicians may perform other acts not specifically enumerated herein under the supervision of a veterinarian licensed to practice veterinary medicine in the State of Oregon. However, nothing in this section shall be construed to permit a veterinarian technician to do the following:

(a) Make any diagnosis;

(b) Prescribe any treatments;

(c) Perform surgery, except as an assistant to the veterinarian;

(d) Sign a rabies vaccination certificate.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.350 - 686.370

Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 1-2002(Temp), f. & cert. ef. 4-23-02 thru 10-20-02; Administrative correction 12-2-02; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06

## OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
105-001-0005	1-30-06	Amend	3-1-06	125-045-0245	6-1-06	Adopt	6-1-06
123-006-0005	12-1-05	Amend	1-1-06	125-045-0250	6-1-06	Adopt	6-1-06
123-006-0020	12-1-05	Amend	1-1-06	125-045-0255	6-1-06	Adopt	6-1-06
123-006-0025	12-1-05	Amend	1-1-06	125-045-0260	6-1-06	Adopt	6-1-06
123-006-0030	12-1-05	Adopt	1-1-06	125-045-0265	6-1-06	Adopt	6-1-06
123-006-0035	12-1-05	Adopt	1-1-06	125-045-0270	6-1-06	Adopt	6-1-06
123-006-0040	12-1-05	Adopt	1-1-06	125-055-0110	1-5-06	Repeal	2-1-06
123-021-0090	2-10-06	Amend	3-1-06	125-125-0050	3-15-06	Amend	4-1-06
123-027-0040	2-10-06	Amend	3-1-06	125-125-0100	3-15-06	Amend	4-1-06
123-027-0050	2-10-06	Amend	3-1-06	125-125-0150	3-15-06	Amend	4-1-06
123-027-0056	2-10-06	Amend	3-1-06	125-125-0200	3-15-06	Amend	4-1-06
123-027-0060	2-10-06	Amend	3-1-06	125-125-0250	3-15-06	Amend	4-1-06
123-027-0070	2-10-06	Amend	3-1-06	125-125-0300	3-15-06	Amend	4-1-06
123-027-0106	2-10-06	Amend	3-1-06	125-125-0350	3-15-06	Amend	4-1-06
123-027-0156	2-10-06	Amend	3-1-06	125-125-0400	3-15-06	Amend	4-1-06
123-027-0161	2-10-06	Amend	3-1-06	125-125-0450	3-15-06	Amend	4-1-06
123-027-0166	2-10-06	Amend	3-1-06	125-145-0010	3-13-06	Amend(T)	4-1-06
123-027-0171	2-10-06	Repeal	3-1-06	125-145-0010(T)	3-13-06	Suspend	4-1-06
123-027-0201	2-10-06	Repeal	3-1-06	125-145-0020	3-13-06	Amend(T)	4-1-06
123-027-0211	2-10-06	Amend	3-1-06	125-145-0020(T)	3-13-06	Suspend	4-1-06
123-071-0000	12-1-05	Repeal	1-1-06	125-145-0030	3-13-06	Amend(T)	4-1-06
123-071-0010	12-1-05	Repeal	1-1-06	125-145-0030(T)	3-13-06	Suspend	4-1-06
123-071-0020	12-1-05	Repeal	1-1-06	125-145-0040	3-13-06	Amend(T)	4-1-06
123-071-0030	12-1-05	Repeal	1-1-06	125-145-0040(T)	3-13-06	Suspend	4-1-06
123-071-0040	12-1-05	Repeal	1-1-06	125-145-0045	3-13-06	Amend(T)	4-1-06
123-071-0050	12-1-05	Repeal	1-1-06	125-145-0045(T)	3-13-06	Suspend	4-1-06
123-125-0000	12-1-05	Amend	1-1-06	125-145-0060	3-13-06	Amend(T)	4-1-06
123-125-0020	12-1-05	Amend	1-1-06	125-145-0060(T)	3-13-06	Suspend	4-1-06
123-125-0040	12-1-05	Amend	1-1-06	125-145-0080	3-13-06	Amend(T)	4-1-06
123-125-0060	12-1-05	Repeal	1-1-06	125-145-0080(T)	3-13-06	Suspend	4-1-06
123-125-0080	12-1-05	Repeal	1-1-06	125-145-0090	3-13-06	Amend(T)	4-1-06
123-125-0100	12-1-05	Repeal	1-1-06	125-145-0090(T)	3-13-06	Suspend	4-1-06
123-125-0120	12-1-05	Repeal	1-1-06	125-145-0100	3-13-06	Amend(T)	4-1-06
123-125-0140	12-1-05	Repeal	1-1-06	125-145-0100(T)	3-13-06	Suspend	4-1-06
125-045-0100	6-1-06	Repeal	6-1-06	125-145-0105	3-13-06	Amend(T)	4-1-06
125-045-0105	6-1-06	Repeal	6-1-06	125-145-0105(T)	3-13-06	Suspend	4-1-06
125-045-0110	6-1-06	Repeal	6-1-06	125-246-0170	12-22-05	Amend(T)	2-1-06
125-045-0120	6-1-06	Repeal	6-1-06	125-247-0290	12-22-05	Adopt(T)	2-1-06
125-045-0125	6-1-06	Repeal	6-1-06	125-247-0291	12-22-05	Adopt(T)	2-1-06
125-045-0130	6-1-06	Repeal	6-1-06	125-247-0292	12-22-05	Adopt(T)	2-1-06
125-045-0140	6-1-06	Repeal	6-1-06	125-700-0010	1-30-06	Adopt	3-1-06
125-045-0150	6-1-06	Repeal	6-1-06	125-700-0012	1-30-06	Adopt	3-1-06
125-045-0160	6-1-06	Repeal	6-1-06	125-700-0015	1-30-06	Adopt	3-1-06
125-045-0170	6-1-06	Repeal	6-1-06	125-700-0020	1-30-06	Adopt	3-1-06
125-045-0180	6-1-06	Repeal	6-1-06	125-700-0025	1-30-06	Adopt	3-1-06
125-045-0190	6-1-06	Repeal	6-1-06	125-700-0030	1-30-06	Adopt	3-1-06
125-045-0195	6-1-06	Repeal	6-1-06	125-700-0035	1-30-06	Adopt	3-1-06
125-045-0200	6-1-06	Adopt	6-1-06	125-700-0040	1-30-06	Adopt	3-1-06
125-045-0205	6-1-06	Adopt	6-1-06	125-700-0045	1-30-06	Adopt	3-1-06
125-045-0210	6-1-06	Adopt	6-1-06	125-700-0050	1-30-06	Adopt	3-1-06
125-045-0215	6-1-06	Adopt	6-1-06	125-700-0055	1-30-06	Adopt	3-1-06
125-045-0220	6-1-06	Adopt	6-1-06	125-700-0060	1-30-06	Adopt	3-1-06
125-045-0225	6-1-06	Adopt	6-1-06	137-008-0005	1-1-06	Amend	1-1-06
125-045-0230	6-1-06	Adopt	6-1-06	137-008-0010	1-1-06	Amend	2-1-06
125-045-0235	6-1-06	Adopt	6-1-06	137-008-0010(T)	1-1-06	Repeal	2-1-06
125-045-0240	6-1-06	Adopt	6-1-06	137-010-0030	12-31-05	Amend	1-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
137-015-0005	5-5-06	Adopt	6-1-06	137-048-0310	1-1-06	Amend	2-1-06
137-015-0010	5-5-06	Adopt	6-1-06	137-048-0320	1-1-06	Amend	2-1-06
137-025-0300	1-4-06	Amend	2-1-06	137-049-0100	1-1-06	Amend	2-1-06
137-045-0010	1-1-06	Amend	2-1-06	137-049-0120	1-1-06	Amend	2-1-06
137-045-0035	1-1-06	Amend	2-1-06	137-049-0130	1-1-06	Amend	2-1-06
137-045-0050	1-1-06	Amend	2-1-06	137-049-0140	1-1-06	Amend	2-1-06
137-045-0070	1-1-06	Amend	2-1-06	137-049-0150	1-1-06	Amend	2-1-06
137-045-0080	1-1-06	Amend	2-1-06	137-049-0160	1-1-06	Amend	2-1-06
137-046-0100	1-1-06	Amend	2-1-06	137-049-0200	1-1-06	Amend	2-1-06
137-046-0110	1-1-06	Amend	2-1-06	137-049-0210	1-1-06	Amend	2-1-06
137-046-0130	1-1-06	Amend	2-1-06	137-049-0220	1-1-06	Amend	2-1-06
137-046-0200	1-1-06	Amend	2-1-06	137-049-0260	1-1-06	Amend	2-1-06
137-046-0210	1-1-06	Amend	2-1-06	137-049-0280	1-1-06	Amend	2-1-06
137-046-0300	1-1-06	Amend	2-1-06	137-049-0290	1-1-06	Amend	2-1-06
137-046-0310	1-1-06	Amend	2-1-06	137-049-0300	1-1-06	Amend	2-1-06
137-046-0320	1-1-06	Amend	2-1-06	137-049-0310	1-1-06	Amend	2-1-06
137-046-0400	1-1-06	Amend	2-1-06	137-049-0320	1-1-06	Amend	2-1-06
137-046-0410	1-1-06	Amend	2-1-06	137-049-0330	1-1-06	Amend	2-1-06
137-046-0440	1-1-06	Amend	2-1-06	137-049-0360	1-1-06	Amend	2-1-06
137-046-0460	1-1-06	Amend	2-1-06	137-049-0370	1-1-06	Amend	2-1-06
137-046-0470	1-1-06	Amend	2-1-06	137-049-0380	1-1-06	Amend	2-1-06
137-046-0480	1-1-06	Amend	2-1-06	137-049-0390	1-1-06	Amend	2-1-06
137-047-0000	1-1-06	Amend	2-1-06	137-049-0395	1-1-06	Adopt	2-1-06
137-047-0100	1-1-06	Amend	2-1-06	137-049-0400	1-1-06	Amend	2-1-06
137-047-0250	1-1-06	Amend	2-1-06	137-049-0420	1-1-06	Amend	2-1-06
137-047-0257	1-1-06	Amend	2-1-06	137-049-0430	1-1-06	Amend	2-1-06
137-047-0260	1-1-06	Amend	2-1-06	137-049-0440	1-1-06	Amend	2-1-06
137-047-0262	1-1-06	Amend	2-1-06	137-049-0450	1-1-06	Amend	2-1-06
137-047-0263	1-1-06	Amend	2-1-06	137-049-0460	1-1-06	Amend	2-1-06
137-047-0265	1-1-06	Amend	2-1-06	137-049-0610	1-1-06	Amend	2-1-06
137-047-0270	1-1-06	Amend	2-1-06	137-049-0620	1-1-06	Amend	2-1-06
137-047-0275	1-1-06	Amend	2-1-06	137-049-0630	1-1-06	Amend	2-1-06
137-047-0280	1-1-06	Amend	2-1-06	137-049-0640	1-1-06	Amend	2-1-06
137-047-0285	1-1-06	Amend	2-1-06	137-049-0645	1-1-06	Adopt	2-1-06
137-047-0300	1-1-06	Amend	2-1-06	137-049-0650	1-1-06	Amend	2-1-06
137-047-0330	1-1-06	Amend	2-1-06	137-049-0660	1-1-06	Amend	2-1-06
137-047-0400	1-1-06	Amend	2-1-06	137-049-0670	1-1-06	Amend	2-1-06
137-047-0410	1-1-06	Amend	2-1-06	137-049-0680	1-1-06	Amend	2-1-06
137-047-0700	1-1-06	Amend	2-1-06	137-049-0690	1-1-06	Amend	2-1-06
137-047-0730	1-1-06	Amend	2-1-06	137-049-0815	1-1-06	Adopt	2-1-06
137-047-0740	1-1-06	Amend	2-1-06	137-049-0820	1-1-06	Amend	2-1-06
137-047-0745	1-1-06	Amend	2-1-06	137-049-0860	1-1-06	Amend	2-1-06
137-047-0800	1-1-06	Amend	2-1-06	137-049-0870	1-1-06	Amend	2-1-06
137-047-0810	1-1-06	Adopt	2-1-06	137-049-0900	1-1-06	Amend	2-1-06
137-048-0100	1-1-06	Amend	2-1-06	137-049-0910	1-1-06	Amend	2-1-06
137-048-0110	1-1-06	Amend	2-1-06	137-055-1020	1-3-06	Amend	2-1-06
137-048-0120	1-1-06	Amend	2-1-06	137-055-1040	1-3-06	Amend	2-1-06
137-048-0130	1-1-06	Amend	2-1-06	137-055-1060	1-3-06	Amend	2-1-06
137-048-0200	1-1-06	Amend	2-1-06	137-055-1070	1-3-06	Amend	2-1-06
137-048-0210	1-1-06	Amend	2-1-06	137-055-1070(T)	1-3-06	Repeal	2-1-06
137-048-0220	1-1-06	Amend	2-1-06	137-055-1090	1-3-06	Amend	2-1-06
137-048-0230	1-1-06	Amend	2-1-06	137-055-1100	1-3-06	Amend	2-1-06
137-048-0240	1-1-06	Amend	2-1-06	137-055-1120	1-3-06	Amend	2-1-06
137-048-0250	1-1-06	Amend	2-1-06	137-055-1120(T)	1-3-06	Repeal	2-1-06
137-048-0260	1-1-06	Amend	2-1-06	137-055-1140	1-3-06	Amend	2-1-06
137-048-0300	1-1-06	Amend	2-1-06	137-055-1140(T)	1-3-06	Repeal	2-1-06



## OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
137-055-1145	1-3-06	Amend	2-1-06	137-055-5400	1-3-06	Amend	2-1-06
137-055-1160	1-3-06	Amend	2-1-06	137-055-5400(T)	1-3-06	Repeal	2-1-06
137-055-1160(T)	1-3-06	Repeal	2-1-06	137-055-5420	1-3-06	Amend	2-1-06
137-055-1180	1-3-06	Amend	2-1-06	137-055-5510	1-3-06	Amend	2-1-06
137-055-1180(T)	1-3-06	Repeal	2-1-06	137-055-5510(T)	1-3-06	Repeal	2-1-06
137-055-1600	1-3-06	Amend	2-1-06	137-055-5520	1-3-06	Amend	2-1-06
137-055-2045	1-3-06	Adopt	2-1-06	137-055-5520(T)	1-3-06	Repeal	2-1-06
137-055-2060	1-3-06	Amend	2-1-06	137-055-6021	1-3-06	Adopt	2-1-06
137-055-2140	1-3-06	Amend	2-1-06	137-055-6021(T)	1-3-06	Repeal	2-1-06
137-055-2160	1-3-06	Amend(T)	2-1-06	137-055-6025	1-3-06	Amend	2-1-06
137-055-3020	1-3-06	Amend(T)	2-1-06	137-055-6040	1-3-06	Amend	2-1-06
137-055-3060	1-3-06	Amend(T)	2-1-06	137-055-6200	1-3-06	Amend	2-1-06
137-055-3140	1-3-06	Amend(T)	2-1-06	137-055-6200(T)	1-3-06	Repeal	2-1-06
137-055-3220	1-3-06	Amend	2-1-06	137-055-6210	1-3-06	Amend	2-1-06
137-055-3240	1-3-06	Amend	2-1-06	137-055-6220	1-3-06	Amend	2-1-06
137-055-3240(T)	1-3-06	Repeal	2-1-06	137-055-6260	1-3-06	Amend	2-1-06
137-055-3280	1-3-06	Amend	2-1-06	137-055-6280	1-3-06	Amend	2-1-06
137-055-3400	1-3-06	Amend	2-1-06	137-087-0000	1-1-06	Adopt	1-1-06
137-055-3420	1-3-06	Amend	2-1-06	137-087-0005	1-1-06	Adopt	1-1-06
137-055-3420(T)	1-3-06	Repeal	2-1-06	137-087-0010	1-1-06	Adopt	1-1-06
137-055-3430	1-3-06	Amend	2-1-06	137-087-0015	1-1-06	Adopt	1-1-06
137-055-3430(T)	1-3-06	Repeal	2-1-06	137-087-0020	1-1-06	Adopt	1-1-06
137-055-3440	1-3-06	Amend	2-1-06	137-087-0025	1-1-06	Adopt	1-1-06
137-055-3440(T)	1-3-06	Repeal	2-1-06	137-087-0030	1-1-06	Adopt	1-1-06
137-055-3480	1-3-06	Amend	2-1-06	137-087-0035	1-1-06	Adopt	1-1-06
137-055-3490	1-3-06	Amend	2-1-06	137-087-0040	1-1-06	Adopt	1-1-06
137-055-3490(T)	1-3-06	Repeal	2-1-06	137-087-0045	1-1-06	Adopt	1-1-06
137-055-3500(T)	1-3-06	Repeal	2-1-06	137-087-0050	1-1-06	Adopt	1-1-06
137-055-3640	1-3-06	Amend	2-1-06	137-087-0055	1-1-06	Adopt	1-1-06
137-055-3660	1-3-06	Amend	2-1-06	137-087-0060	1-1-06	Adopt	1-1-06
137-055-4060	1-3-06	Amend	2-1-06	137-087-0065	1-1-06	Adopt	1-1-06
137-055-4080	1-3-06	Amend	2-1-06	137-087-0070	1-1-06	Adopt	1-1-06
137-055-4100	1-3-06	Amend	2-1-06	137-087-0075	1-1-06	Adopt	1-1-06
137-055-4110	1-3-06	Amend	2-1-06	137-087-0080	1-1-06	Adopt	1-1-06
137-055-4120	1-3-06	Amend	2-1-06	137-087-0085	1-1-06	Adopt	1-1-06
137-055-4120(T)	1-3-06	Repeal	2-1-06	137-087-0090	1-1-06	Adopt	1-1-06
137-055-4130	1-3-06	Amend	2-1-06	137-087-0095	1-1-06	Adopt	1-1-06
137-055-4160	1-3-06	Amend	2-1-06	137-087-0100	1-1-06	Adopt	1-1-06
137-055-4300	1-3-06	Amend	2-1-06	141-085-0010	3-27-06	Amend	5-1-06
137-055-4320	1-3-06	Amend	2-1-06	141-085-0020	3-27-06	Amend	5-1-06
137-055-4420	1-3-06	Amend	2-1-06	141-085-0021	3-27-06	Adopt	5-1-06
137-055-4450	1-3-06	Amend	2-1-06	141-085-0024	3-27-06	Amend	5-1-06
137-055-4520	1-3-06	Amend	2-1-06	141-085-0025	3-27-06	Amend	5-1-06
137-055-4540	1-3-06	Amend	2-1-06	141-085-0027	3-27-06	Amend	5-1-06
137-055-4540(T)	1-3-06	Repeal	2-1-06	141-085-0029	3-27-06	Amend	5-1-06
137-055-4560	1-3-06	Amend	2-1-06	141-085-0031	3-27-06	Amend	5-1-06
137-055-5020	1-3-06	Amend	2-1-06	141-085-0036	3-27-06	Amend	5-1-06
137-055-5020(T)	1-3-06	Repeal	2-1-06	141-085-0064	3-27-06	Amend	5-1-06
137-055-5025	1-3-06	Amend	2-1-06	141-085-0066	3-27-06	Amend	5-1-06
137-055-5110	1-3-06	Amend	2-1-06	141-085-0075	3-27-06	Amend	5-1-06
137-055-5110(T)	1-3-06	Repeal	2-1-06	141-085-0085	3-27-06	Amend	5-1-06
137-055-5120	1-3-06	Amend	2-1-06	141-085-0115	3-27-06	Amend	5-1-06
137-055-5120(T)	1-3-06	Repeal	2-1-06	141-085-0121	3-27-06	Amend	5-1-06
137-055-5125	1-3-06	Repeal	2-1-06	141-085-0126	3-27-06	Amend	5-1-06
137-055-5240	1-3-06	Amend	2-1-06	141-085-0131	3-27-06	Amend	5-1-06
137-055-5240(T)	1-3-06	Repeal	2-1-06	141-085-0136	3-27-06	Amend	5-1-06

## OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
141-085-0141	3-27-06	Amend	5-1-06	150-305.145(3)	1-1-06	Adopt	2-1-06
141-085-0151	3-27-06	Amend	5-1-06	150-305.145(3)-(B)	1-1-06	Repeal	2-1-06
141-085-0256	3-27-06	Amend	5-1-06	150-305.145(3)-(D)	1-1-06	Repeal	2-1-06
141-085-0263	3-27-06	Amend	5-1-06	150-305.145(3)-(E)	1-1-06	Repeal	2-1-06
141-085-0421	3-27-06	Amend	5-1-06	150-305.145(3)-(F)	1-1-06	Repeal	2-1-06
141-089-0105	1-3-06	Amend	2-1-06	150-305.145(3)-(G)	1-1-06	Repeal	2-1-06
141-089-0110	1-3-06	Amend	2-1-06	150-305.145(3)-(H)	1-1-06	Repeal	2-1-06
141-089-0115	1-3-06	Amend	2-1-06	150-305.145(4)(a)	1-1-06	Am. & Ren.	2-1-06
141-089-0120	1-3-06	Amend	2-1-06	150-305.145(4)(b)	1-1-06	Adopt	2-1-06
141-089-0130	1-3-06	Amend	2-1-06	150-305.145(4)(c)	1-1-06	Am. & Ren.	2-1-06
141-089-0145	1-3-06	Amend	2-1-06	150-305.220(1)	1-1-06	Amend	2-1-06
141-089-0150	1-3-06	Amend	2-1-06	150-305.220(2)	1-1-06	Amend	2-1-06
141-089-0155	1-3-06	Amend	2-1-06	150-305.230	1-1-06	Amend	2-1-06
141-089-0165	1-3-06	Amend	2-1-06	150-305.230(1)	1-1-06	Repeal	2-1-06
141-089-0170	1-3-06	Amend	2-1-06	150-305.230(2)	1-1-06	Repeal	2-1-06
141-089-0175	1-3-06	Amend	2-1-06	150-305.992	1-1-06	Amend	2-1-06
141-089-0180	1-3-06	Amend	2-1-06	150-306.132	1-1-06	Adopt	2-1-06
141-089-0185	1-3-06	Amend	2-1-06	150-306.135	1-1-06	Adopt	2-1-06
141-089-0190	1-3-06	Amend	2-1-06	150-308.242(3)	1-1-06	Adopt	2-1-06
141-089-0200	1-3-06	Amend	2-1-06	150-308.865	1-1-06	Amend	2-1-06
141-089-0220	1-3-06	Amend	2-1-06	150-308.865(4)	1-1-06	Repeal	2-1-06
141-089-0225	1-3-06	Amend	2-1-06	150-311.507(1)(d)	1-1-06	Am. & Ren.	2-1-06
141-089-0230	1-3-06	Amend	2-1-06	150-314.280-(N)	1-1-06	Amend	2-1-06
141-089-0240	1-3-06	Amend	2-1-06	150-314.280(3)	1-1-06	Amend	2-1-06
141-089-0250	1-3-06	Amend	2-1-06	150-314.385(1)-(D)	1-1-06	Renumber	2-1-06
141-089-0255	1-3-06	Amend	2-1-06	150-314.415(1)(b)-(A)	1-1-06	Renumber	2-1-06
141-089-0265	1-3-06	Amend	2-1-06	150-314.415(1)(b)-(B)	1-1-06	Renumber	2-1-06
141-089-0275	1-3-06	Amend	2-1-06	150-314.415(1)(e)-(A)	1-1-06	Renumber	2-1-06
141-089-0295	1-3-06	Amend	2-1-06	150-314.415(1)(e)-(B)	1-1-06	Renumber	2-1-06
141-089-0300	1-3-06	Amend	2-1-06	150-314.415(4)(a)	1-1-06	Renumber	2-1-06
141-089-0310	1-3-06	Amend	2-1-06	150-314.415(5)	1-1-06	Renumber	2-1-06
141-089-0415	1-3-06	Amend	2-1-06	150-314.415(7)	1-1-06	Am. & Ren.	2-1-06
141-089-0420	1-3-06	Amend	2-1-06	150-314.415(7)	1-1-06	Renumber	2-1-06
141-089-0430	1-3-06	Amend	2-1-06	150-314.505-(A)	1-1-06	Amend	2-1-06
141-089-0520	1-3-06	Amend	2-1-06	150-314.515	1-1-06	Amend	2-1-06
141-089-0530	1-3-06	Amend	2-1-06	150-314.650	1-1-06	Amend	2-1-06
141-089-0555	1-3-06	Amend	2-1-06	150-314.665(2)-(A)	1-1-06	Amend	2-1-06
141-089-0560	1-3-06	Amend	2-1-06	150-314.752	1-1-06	Amend	2-1-06
141-089-0565	1-3-06	Amend	2-1-06	150-315.204-(A)	1-1-06	Amend	2-1-06
141-089-0570	1-3-06	Amend	2-1-06	150-315.234(8)	1-1-06	Repeal	2-1-06
141-089-0580	1-3-06	Amend	2-1-06	150-315.262	1-1-06	Amend	2-1-06
141-089-0595	1-3-06	Amend	2-1-06	150-316.099	1-1-06	Amend	2-1-06
141-089-0600	1-3-06	Amend	2-1-06	150-316.127-(A)	1-20-06	Amend	3-1-06
141-089-0605	1-3-06	Amend	2-1-06	150-316.127-(D)	1-20-06	Amend	3-1-06
141-089-0615	1-3-06	Amend	2-1-06	150-316.162(2)(j)	1-1-06	Amend	2-1-06
141-100-0000	3-27-06	Amend	5-1-06	150-317.018	1-1-06	Amend	2-1-06
141-100-0020	3-27-06	Amend	5-1-06	150-317.097	1-1-06	Amend	2-1-06
141-100-0030	3-27-06	Amend	5-1-06	150-317.267-(B)	1-1-06	Amend	2-1-06
141-100-0050	3-27-06	Amend	5-1-06	150-320.305	1-1-06	Amend	2-1-06
141-100-0055	3-27-06	Amend	5-1-06	150-321.706(2)	1-1-06	Amend	2-1-06
141-100-0060	3-27-06	Amend	5-1-06	150-OL 2005 Ch. 387	1-1-06	Adopt	2-1-06
141-100-0070	3-27-06	Amend	5-1-06	160-010-0400	2-1-06	Amend	3-1-06
141-100-0080	3-27-06	Amend	5-1-06	160-050-0200	2-6-06	Amend	3-1-06
150-137.300(3)	1-1-06	Amend	2-1-06	160-050-0210	2-6-06	Amend	3-1-06
150-137.302(7)	1-1-06	Amend	2-1-06	160-100-0300	12-1-05	Repeal	1-1-06
150-305.145	1-1-06	Amend	2-1-06	165-001-0000	12-14-05	Amend	1-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
165-001-0000	4-18-06	Amend	6-1-06	177-035-0150	12-31-05	Repeal	2-1-06
165-001-0005	3-7-06	Amend	4-1-06	177-035-0160	12-31-05	Repeal	2-1-06
165-002-0010	5-15-06	Amend	6-1-06	177-035-0200	12-31-05	Repeal	2-1-06
165-005-0130	4-18-06	Amend	6-1-06	177-035-0210	12-31-05	Repeal	2-1-06
165-007-0035	4-18-06	Adopt	6-1-06	177-035-0220	12-31-05	Repeal	2-1-06
165-007-0130	4-27-06	Amend	6-1-06	177-035-0230	12-31-05	Repeal	2-1-06
165-007-0250	4-14-06	Amend(T)	5-1-06	177-035-0300	12-31-05	Repeal	2-1-06
165-007-0280	12-14-05	Adopt	1-1-06	177-035-0310	12-31-05	Repeal	2-1-06
165-010-0005	12-14-05	Amend	1-1-06	177-035-0400	12-31-05	Repeal	2-1-06
165-010-0120	12-30-05	Adopt	2-1-06	177-035-0600	12-31-05	Repeal	2-1-06
165-012-0005	12-30-05	Amend	2-1-06	177-036-0000	12-31-05	Adopt	2-1-06
165-012-0240	12-30-05	Adopt	2-1-06	177-036-0000(T)	12-31-05	Repeal	2-1-06
165-012-1010	12-30-05	Suspend	2-1-06	177-036-0010	12-31-05	Adopt	2-1-06
165-013-0010	12-30-05	Amend	2-1-06	177-036-0010(T)	12-31-05	Repeal	2-1-06
165-013-0020	12-30-05	Amend	2-1-06	177-036-0020	12-31-05	Adopt	2-1-06
165-014-0005	12-14-05	Amend	1-1-06	177-036-0020(T)	12-31-05	Repeal	2-1-06
165-014-0110	12-14-05	Amend	1-1-06	177-036-0030	12-31-05	Adopt	2-1-06
165-016-0015	4-18-06	Repeal	6-1-06	177-036-0030(T)	12-31-05	Repeal	2-1-06
165-016-0035	4-18-06	Repeal	6-1-06	177-036-0040	12-31-05	Adopt	2-1-06
165-016-0040	4-18-06	Amend	6-1-06	177-036-0040(T)	12-31-05	Repeal	2-1-06
165-016-0045	4-18-06	Amend	6-1-06	177-036-0050	12-31-05	Adopt	2-1-06
165-016-0050	4-18-06	Amend	6-1-06	177-036-0050(T)	12-31-05	Repeal	2-1-06
165-016-0055	4-18-06	Amend	6-1-06	177-036-0055	12-31-05	Adopt	2-1-06
165-016-0060	4-18-06	Amend	6-1-06	177-036-0055(T)	12-31-05	Repeal	2-1-06
165-016-0065	4-18-06	Repeal	6-1-06	177-036-0060	12-31-05	Adopt	2-1-06
165-016-0070	4-18-06	Amend	6-1-06	177-036-0060(T)	12-31-05	Repeal	2-1-06
165-016-0080	4-18-06	Amend	6-1-06	177-036-0070	12-31-05	Adopt	2-1-06
165-016-0095	4-18-06	Amend	6-1-06	177-036-0070(T)	12-31-05	Repeal	2-1-06
165-020-0005	12-14-05	Amend	1-1-06	177-036-0080	12-31-05	Adopt	2-1-06
165-022-0000	4-18-06	Amend	6-1-06	177-036-0080(T)	12-31-05	Repeal	2-1-06
165-022-0020	4-18-06	Repeal	6-1-06	177-036-0090	12-31-05	Adopt	2-1-06
165-022-0030	4-18-06	Amend	6-1-06	177-036-0090(T)	12-31-05	Repeal	2-1-06
165-022-0040	4-18-06	Amend	6-1-06	177-036-0100	12-31-05	Adopt	2-1-06
165-022-0050	4-18-06	Amend	6-1-06	177-036-0100(T)	12-31-05	Repeal	2-1-06
165-022-0060	4-18-06	Amend	6-1-06	177-036-0110	12-31-05	Adopt	2-1-06
166-400-0005	4-17-06	Repeal	6-1-06	177-036-0110(T)	12-31-05	Repeal	2-1-06
166-400-0010	4-17-06	Am. & Ren.	6-1-06	177-036-0115	12-31-05	Adopt	2-1-06
166-400-0015	4-17-06	Am. & Ren.	6-1-06	177-036-0115(T)	12-31-05	Repeal	2-1-06
166-400-0020	4-17-06	Am. & Ren.	6-1-06	177-036-0120	12-31-05	Adopt	2-1-06
166-400-0025	4-17-06	Am. & Ren.	6-1-06	177-036-0120(T)	12-31-05	Repeal	2-1-06
166-400-0030	4-17-06	Am. & Ren.	6-1-06	177-036-0130	12-31-05	Adopt	2-1-06
166-400-0035	4-17-06	Am. & Ren.	6-1-06	177-036-0130(T)	12-31-05	Repeal	2-1-06
166-400-0040	4-17-06	Am. & Ren.	6-1-06	177-036-0140	12-31-05	Adopt	2-1-06
166-400-0045	4-17-06	Am. & Ren.	6-1-06	177-036-0140(T)	12-31-05	Repeal	2-1-06
166-400-0050	4-17-06	Am. & Ren.	6-1-06	177-036-0150	12-31-05	Adopt	2-1-06
166-400-0055	4-17-06	Am. & Ren.	6-1-06	177-036-0150(T)	12-31-05	Repeal	2-1-06
166-400-0060	4-17-06	Am. & Ren.	6-1-06	177-036-0160	12-31-05	Adopt	2-1-06
166-400-0065	4-17-06	Am. & Ren.	6-1-06	177-036-0160(T)	12-31-05	Repeal	2-1-06
170-030-0055	12-15-05	Adopt	1-1-06	177-036-0170	12-31-05	Adopt	2-1-06
177-010-0100	3-1-06	Amend	4-1-06	177-036-0170(T)	12-31-05	Repeal	2-1-06
177-035-0000	12-31-05	Repeal	2-1-06	177-036-0180	12-31-05	Adopt	2-1-06
177-035-0110	12-31-05	Repeal	2-1-06	177-036-0180(T)	12-31-05	Repeal	2-1-06
177-035-0115	12-31-05	Repeal	2-1-06	177-036-0190	12-31-05	Adopt	2-1-06
177-035-0120	12-31-05	Repeal	2-1-06	177-036-0190(T)	12-31-05	Repeal	2-1-06
177-035-0130	12-31-05	Repeal	2-1-06	177-036-0200	12-31-05	Adopt	2-1-06
177-035-0140	12-31-05	Repeal	2-1-06	177-036-0200(T)	12-31-05	Repeal	2-1-06



## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
177-036-0210	12-31-05	Adopt	2-1-06	177-085-0020	12-31-05	Amend	2-1-06
177-036-0210(T)	12-31-05	Repeal	2-1-06	177-085-0020(T)	12-31-05	Repeal	2-1-06
177-037-0000	12-31-05	Adopt	2-1-06	177-085-0025	12-31-05	Amend	2-1-06
177-037-0000(T)	12-31-05	Repeal	2-1-06	177-085-0025(T)	12-31-05	Repeal	2-1-06
177-037-0010	12-31-05	Adopt	2-1-06	177-085-0030	12-31-05	Amend	2-1-06
177-037-0010(T)	12-31-05	Repeal	2-1-06	177-085-0030(T)	12-31-05	Repeal	2-1-06
177-037-0020	12-31-05	Adopt	2-1-06	177-085-0035	12-31-05	Amend	2-1-06
177-037-0020(T)	12-31-05	Repeal	2-1-06	177-085-0035(T)	12-31-05	Repeal	2-1-06
177-037-0030	12-31-05	Adopt	2-1-06	177-085-0065	12-31-05	Amend	2-1-06
177-037-0030(T)	12-31-05	Repeal	2-1-06	177-085-0065(T)	12-31-05	Repeal	2-1-06
177-037-0040	12-31-05	Adopt	2-1-06	177-200-0020	12-31-05	Amend	2-1-06
177-037-0040(T)	12-31-05	Repeal	2-1-06	177-200-0020(T)	12-31-05	Repeal	2-1-06
177-037-0050	12-31-05	Adopt	2-1-06	213-001-0000	4-12-06	Amend	5-1-06
177-037-0050(T)	12-31-05	Repeal	2-1-06	213-003-0001	4-12-06	Amend	5-1-06
177-037-0060	12-31-05	Adopt	2-1-06	213-005-0002	4-12-06	Amend	5-1-06
177-037-0060(T)	12-31-05	Repeal	2-1-06	213-013-0001	4-12-06	Amend	5-1-06
177-037-0070	12-31-05	Adopt	2-1-06	213-017-0005	4-12-06	Amend	5-1-06
177-037-0070(T)	12-31-05	Repeal	2-1-06	213-017-0006	4-12-06	Amend	5-1-06
177-040-0000	3-1-06	Amend	4-1-06	213-017-0007	4-12-06	Amend	5-1-06
177-040-0010	12-31-05	Amend	2-1-06	213-017-0008	4-12-06	Amend	5-1-06
177-040-0017	12-31-05	Amend	2-1-06	213-019-0008	4-12-06	Amend	5-1-06
177-040-0017(T)	12-31-05	Repeal	2-1-06	213-019-0010	4-12-06	Amend	5-1-06
177-040-0026	11-23-05	Amend(T)	1-1-06	213-019-0012	4-12-06	Amend	5-1-06
177-040-0026	1-25-06	Amend	3-1-06	213-019-0015	4-12-06	Amend	5-1-06
177-040-0026(T)	1-25-06	Repeal	3-1-06	220-001-0010	5-15-06	Repeal	6-1-06
177-040-0029	12-31-05	Amend	2-1-06	220-001-0020	5-15-06	Repeal	6-1-06
177-040-0105	12-31-05	Amend	2-1-06	220-001-0030	5-15-06	Repeal	6-1-06
177-040-0160	4-27-06	Amend	6-1-06	220-001-0040	5-15-06	Repeal	6-1-06
177-040-0300	3-1-06	Adopt	4-1-06	220-001-0050	5-15-06	Repeal	6-1-06
177-040-0310	3-1-06	Adopt	4-1-06	220-005-0005	12-30-05	Amend(T)	2-1-06
177-040-0320	3-1-06	Adopt	4-1-06	220-005-0005	5-15-06	Repeal	6-1-06
177-046-0020	12-31-05	Amend	2-1-06	220-005-0010	12-30-05	Amend(T)	2-1-06
177-046-0020(T)	12-31-05	Repeal	2-1-06	220-005-0010	5-15-06	Repeal	6-1-06
177-046-0110	12-31-05	Amend	2-1-06	220-005-0015	12-30-05	Amend(T)	2-1-06
177-046-0110(T)	12-31-05	Repeal	2-1-06	220-005-0015	5-15-06	Repeal	6-1-06
177-050-0025	12-31-05	Amend	2-1-06	220-005-0110	12-30-05	Amend(T)	2-1-06
177-050-0025(T)	12-31-05	Repeal	2-1-06	220-005-0110	5-15-06	Repeal	6-1-06
177-050-0027	12-31-05	Amend	2-1-06	220-005-0115	12-30-05	Amend(T)	2-1-06
177-050-0027(T)	12-31-05	Repeal	2-1-06	220-005-0115	5-15-06	Repeal	6-1-06
177-050-0037	12-31-05	Amend	2-1-06	220-005-0120	12-30-05	Amend(T)	2-1-06
177-070-0025	12-31-05	Amend	2-1-06	220-005-0120	5-15-06	Repeal	6-1-06
177-070-0025(T)	12-31-05	Repeal	2-1-06	220-005-0130	12-30-05	Amend(T)	2-1-06
177-070-0035	12-31-05	Amend	2-1-06	220-005-0130	5-15-06	Repeal	6-1-06
177-070-0035(T)	12-31-05	Repeal	2-1-06	220-005-0135	12-30-05	Amend(T)	2-1-06
177-083-0000	4-9-06	Adopt	5-1-06	220-005-0135	5-15-06	Repeal	6-1-06
177-083-0010	4-9-06	Adopt	5-1-06	220-005-0140	12-30-05	Amend(T)	2-1-06
177-083-0020	4-9-06	Adopt	5-1-06	220-005-0140	5-15-06	Repeal	6-1-06
177-083-0030	4-9-06	Adopt	5-1-06	220-005-0150	12-30-05	Amend(T)	2-1-06
177-083-0040	4-9-06	Adopt	5-1-06	220-005-0150	5-15-06	Repeal	6-1-06
177-083-0050	4-9-06	Adopt	5-1-06	220-005-0160	12-30-05	Amend(T)	2-1-06
177-083-0060	4-9-06	Adopt	5-1-06	220-005-0160	5-15-06	Repeal	6-1-06
177-083-0070	4-9-06	Adopt	5-1-06	220-005-0170	12-30-05	Amend(T)	2-1-06
177-085-0005	12-31-05	Amend	2-1-06	220-005-0170	5-15-06	Repeal	6-1-06
177-085-0005(T)	12-31-05	Repeal	2-1-06	220-005-0180	5-15-06	Repeal	6-1-06
177-085-0015	12-31-05	Amend	2-1-06	220-005-0210	12-30-05	Amend(T)	2-1-06
177-085-0015(T)	12-31-05	Repeal	2-1-06	220-005-0210	5-15-06	Repeal	6-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
220-005-0220	12-30-05	Amend(T)	2-1-06	257-050-0020	11-18-05	Adopt	1-1-06
220-005-0220	5-15-06	Repeal	6-1-06	257-050-0040	11-18-05	Amend	1-1-06
220-005-0225	12-30-05	Adopt(T)	2-1-06	257-050-0050	3-31-06	Amend	5-1-06
220-005-0225	5-15-06	Repeal	6-1-06	257-050-0070	11-18-05	Amend	1-1-06
220-005-0230	12-30-05	Suspend	2-1-06	257-050-0070	3-31-06	Amend	5-1-06
220-005-0230	5-15-06	Repeal	6-1-06	257-050-0080	11-18-05	Repeal	1-1-06
220-005-0240	12-30-05	Suspend	2-1-06	257-050-0090	11-18-05	Amend	1-1-06
220-005-0240	5-15-06	Repeal	6-1-06	257-050-0090	3-31-06	Amend	5-1-06
220-005-0245	12-30-05	Adopt(T)	2-1-06	257-050-0095	3-31-06	Adopt	5-1-06
220-005-0245	5-15-06	Repeal	6-1-06	257-050-0100	3-31-06	Amend	5-1-06
220-005-0250	12-30-05	Amend(T)	2-1-06	257-050-0110	3-31-06	Amend	5-1-06
220-005-0250	5-15-06	Repeal	6-1-06	257-050-0120	11-18-05	Repeal	1-1-06
220-010-0020	12-30-05	Amend(T)	2-1-06	257-050-0125	11-18-05	Adopt	1-1-06
220-010-0020	5-15-06	Repeal	6-1-06	257-050-0125	3-31-06	Amend	5-1-06
220-010-0030	12-30-05	Amend(T)	2-1-06	257-050-0140	11-18-05	Amend	1-1-06
220-010-0030	5-15-06	Repeal	6-1-06	257-050-0140	3-31-06	Amend	5-1-06
220-010-0050	12-30-05	Amend(T)	2-1-06	257-050-0145	11-18-05	Adopt	1-1-06
220-010-0050	5-15-06	Repeal	6-1-06	257-050-0145	3-31-06	Amend	5-1-06
220-010-0060	12-30-05	Amend(T)	2-1-06	257-050-0150	11-18-05	Amend	1-1-06
220-010-0060	5-15-06	Repeal	6-1-06	257-050-0150	3-31-06	Amend	5-1-06
220-010-0200	12-30-05	Suspend	2-1-06	257-050-0155	3-31-06	Adopt	5-1-06
220-010-0200	5-15-06	Repeal	6-1-06	257-050-0157	11-18-05	Adopt	1-1-06
220-010-0300	12-30-05	Amend(T)	2-1-06	257-050-0157	3-31-06	Amend	5-1-06
220-010-0300	5-15-06	Repeal	6-1-06	257-050-0160	11-18-05	Repeal	1-1-06
220-030-0035	12-30-05	Amend(T)	2-1-06	257-050-0170	11-18-05	Adopt	1-1-06
220-030-0035	5-15-06	Repeal	6-1-06	257-050-0170	3-31-06	Amend	5-1-06
220-040-0015	12-30-05	Amend(T)	2-1-06	257-050-0180	3-31-06	Adopt	5-1-06
220-040-0015	5-15-06	Repeal	6-1-06	257-050-0200	11-18-05	Adopt	1-1-06
220-040-0025	12-30-05	Suspend	2-1-06	257-050-0200	3-31-06	Amend	5-1-06
220-040-0025	5-15-06	Repeal	6-1-06	259-008-0010	2-28-06	Amend	4-1-06
220-040-0035	12-30-05	Amend(T)	2-1-06	259-008-0045	2-28-06	Amend	4-1-06
220-040-0035	5-15-06	Repeal	6-1-06	259-008-0076	12-7-05	Adopt	1-1-06
220-040-0045	12-30-05	Amend(T)	2-1-06	259-009-0005	1-24-06	Amend	3-1-06
220-040-0045	5-15-06	Repeal	6-1-06	259-009-0059	1-23-06	Adopt(T)	3-1-06
220-040-0050	12-30-05	Amend(T)	2-1-06	259-009-0059	5-3-06	Adopt	6-1-06
220-040-0050	5-15-06	Repeal	6-1-06	259-009-0059(T)	5-3-06	Repeal	6-1-06
220-050-0105	12-30-05	Suspend	2-1-06	259-009-0062	1-24-06	Amend	3-1-06
220-050-0105	5-15-06	Repeal	6-1-06	259-009-0065	1-24-06	Amend	3-1-06
220-050-0110	12-30-05	Amend(T)	2-1-06	259-060-0005	5-15-06	Amend	6-1-06
220-050-0110	5-15-06	Repeal	6-1-06	259-060-0010	5-15-06	Amend	6-1-06
220-050-0140	12-30-05	Amend(T)	2-1-06	259-060-0015	5-15-06	Amend	6-1-06
220-050-0140	5-15-06	Repeal	6-1-06	259-060-0020	5-15-06	Amend	6-1-06
220-050-0150	12-30-05	Suspend	2-1-06	259-060-0060	5-15-06	Amend	6-1-06
220-050-0150	5-15-06	Repeal	6-1-06	259-060-0065	5-15-06	Amend	6-1-06
220-050-0300	12-30-05	Amend(T)	2-1-06	259-060-0070	5-15-06	Amend	6-1-06
220-050-0300	5-15-06	Repeal	6-1-06	259-060-0075	5-15-06	Amend	6-1-06
250-016-0012	1-1-06	Adopt	2-1-06	259-060-0080	5-15-06	Amend	6-1-06
250-020-0102	3-28-06	Amend	5-1-06	259-060-0085	5-15-06	Amend	6-1-06
250-020-0266	3-28-06	Amend	5-1-06	259-060-0090	5-15-06	Amend	6-1-06
250-020-0350	3-28-06	Amend	5-1-06	259-060-0095	5-15-06	Amend	6-1-06
255-015-0003	4-5-06	Amend	5-1-06	259-060-0115	5-15-06	Amend	6-1-06
255-036-0010	4-5-06	Amend	5-1-06	259-060-0120	5-15-06	Amend	6-1-06
255-037-0010	4-5-06	Amend	5-1-06	259-060-0130	5-15-06	Amend	6-1-06
255-060-0011	3-20-06	Amend(T)	5-1-06	259-060-0135	5-15-06	Amend	6-1-06
255-070-0001	4-5-06	Amend	5-1-06	259-060-0150	5-15-06	Amend	6-1-06
255-075-0035	12-29-05	Amend	2-1-06	259-060-0300	5-15-06	Amend	6-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
259-060-0305	5-15-06	Amend	6-1-06	274-012-0110(T)	4-25-06	Repeal	6-1-06
259-060-0450	5-15-06	Amend	6-1-06	274-012-0115	2-23-06	Adopt(T)	4-1-06
259-060-0500	5-15-06	Amend	6-1-06	274-012-0115	4-25-06	Adopt	6-1-06
259-060-0600	5-15-06	Amend	6-1-06	274-012-0115(T)	4-25-06	Repeal	6-1-06
259-061-0005	5-15-06	Adopt	6-1-06	274-012-0120	2-23-06	Adopt(T)	4-1-06
259-061-0010	5-15-06	Adopt	6-1-06	274-012-0120	4-25-06	Adopt	6-1-06
259-061-0015	5-15-06	Adopt	6-1-06	274-012-0120(T)	4-25-06	Repeal	6-1-06
259-061-0020	5-15-06	Adopt	6-1-06	274-012-0125	2-23-06	Adopt(T)	4-1-06
259-061-0030	5-15-06	Adopt	6-1-06	274-012-0125	4-25-06	Adopt	6-1-06
259-061-0040	5-15-06	Adopt	6-1-06	274-012-0125(T)	4-25-06	Repeal	6-1-06
259-061-0050	5-15-06	Adopt	6-1-06	274-012-0130	2-23-06	Adopt(T)	4-1-06
259-061-0055	5-15-06	Adopt	6-1-06	274-012-0130	4-25-06	Adopt	6-1-06
259-061-0060	5-15-06	Adopt	6-1-06	274-012-0130(T)	4-25-06	Repeal	6-1-06
259-061-0070	5-15-06	Adopt	6-1-06	274-012-0131	2-23-06	Adopt(T)	4-1-06
259-061-0080	5-15-06	Adopt	6-1-06	274-012-0131	4-25-06	Adopt	6-1-06
259-061-0090	5-15-06	Adopt	6-1-06	274-012-0131(T)	4-25-06	Repeal	6-1-06
259-061-0095	5-15-06	Adopt	6-1-06	274-020-0340	12-27-05	Amend	2-1-06
259-061-0100	5-15-06	Adopt	6-1-06	274-030-0600	12-23-05	Adopt(T)	2-1-06
259-061-0110	5-15-06	Adopt	6-1-06	274-030-0605	12-23-05	Adopt(T)	2-1-06
259-061-0120	5-15-06	Adopt	6-1-06	274-030-0610	12-23-05	Adopt(T)	2-1-06
259-061-0130	5-15-06	Adopt	6-1-06	274-030-0615	12-23-05	Adopt(T)	2-1-06
259-061-0140	5-15-06	Adopt	6-1-06	274-030-0620	12-23-05	Adopt(T)	2-1-06
259-061-0150	5-15-06	Adopt	6-1-06	274-030-0621	12-23-05	Adopt(T)	2-1-06
259-061-0160	5-15-06	Adopt	6-1-06	274-030-0630	12-23-05	Adopt(T)	2-1-06
259-061-0170	5-15-06	Adopt	6-1-06	274-030-0640	12-23-05	Adopt(T)	2-1-06
259-061-0180	5-15-06	Adopt	6-1-06	274-040-0030	3-31-06	Amend(T)	5-1-06
259-061-0190	5-15-06	Adopt	6-1-06	274-045-0060	12-27-05	Amend	2-1-06
259-061-0200	5-15-06	Adopt	6-1-06	291-047-0005	1-1-06	Amend	2-1-06
259-061-0210	5-15-06	Adopt	6-1-06	291-047-0010	1-1-06	Amend	2-1-06
259-061-0220	5-15-06	Adopt	6-1-06	291-047-0020	1-1-06	Repeal	2-1-06
259-061-0230	5-15-06	Adopt	6-1-06	291-047-0021	1-1-06	Adopt	2-1-06
259-061-0240	5-15-06	Adopt	6-1-06	291-047-0025	1-1-06	Repeal	2-1-06
259-061-0250	5-15-06	Adopt	6-1-06	291-047-0061	1-1-06	Adopt	2-1-06
259-061-0260	5-15-06	Adopt	6-1-06	291-047-0065	1-1-06	Adopt	2-1-06
274-010-0100	1-27-06	Amend	3-1-06	291-047-0070	1-1-06	Adopt	2-1-06
274-010-0115	1-27-06	Amend	3-1-06	291-047-0075	1-1-06	Adopt	2-1-06
274-010-0120	1-27-06	Amend	3-1-06	291-047-0080	1-1-06	Adopt	2-1-06
274-010-0135	1-27-06	Amend	3-1-06	291-047-0085	1-1-06	Adopt	2-1-06
274-010-0140	1-27-06	Repeal	3-1-06	291-047-0090	1-1-06	Adopt	2-1-06
274-010-0145	1-27-06	Amend	3-1-06	291-047-0095	1-1-06	Adopt	2-1-06
274-010-0150	1-27-06	Repeal	3-1-06	291-047-0100	1-1-06	Adopt	2-1-06
274-010-0155	1-27-06	Amend	3-1-06	291-047-0105	1-1-06	Adopt	2-1-06
274-010-0160	1-27-06	Amend	3-1-06	291-047-0110	1-1-06	Adopt	2-1-06
274-010-0170	1-27-06	Amend	3-1-06	291-047-0115	1-1-06	Am. & Ren.	2-1-06
274-010-0175	1-27-06	Amend	3-1-06	291-047-0120	1-1-06	Am. & Ren.	2-1-06
274-012-0001	2-23-06	Adopt(T)	4-1-06	291-047-0125	1-1-06	Am. & Ren.	2-1-06
274-012-0001	4-25-06	Adopt	6-1-06	291-047-0130	1-1-06	Am. & Ren.	2-1-06
274-012-0001(T)	4-25-06	Repeal	6-1-06	291-047-0135	1-1-06	Am. & Ren.	2-1-06
274-012-0100	2-23-06	Adopt(T)	4-1-06	291-047-0140	1-1-06	Am. & Ren.	2-1-06
274-012-0100	4-25-06	Adopt	6-1-06	291-063-0010	1-1-06	Amend	2-1-06
274-012-0100(T)	4-25-06	Repeal	6-1-06	291-063-0016	1-1-06	Amend	2-1-06
274-012-0105	2-23-06	Adopt(T)	4-1-06	291-063-0030	1-1-06	Amend	2-1-06
274-012-0105	4-25-06	Adopt	6-1-06	291-063-0050	1-1-06	Amend	2-1-06
274-012-0105(T)	4-25-06	Repeal	6-1-06	291-077-0020	2-15-06	Amend	3-1-06
274-012-0110	2-23-06	Adopt(T)	4-1-06	291-077-0030	2-15-06	Amend	3-1-06
274-012-0110	4-25-06	Adopt	6-1-06	291-077-0033	2-15-06	Amend	3-1-06



## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
291-077-0035	2-15-06	Amend	3-1-06	325-010-0030	2-6-06	Adopt	3-1-06
291-104-0010	12-7-05	Amend	1-1-06	325-010-0035	2-6-06	Adopt	3-1-06
291-104-0015	12-7-05	Amend	1-1-06	325-010-0040	2-6-06	Adopt	3-1-06
291-104-0030	12-7-05	Amend	1-1-06	325-010-0045	2-6-06	Adopt	3-1-06
291-104-0035	12-7-05	Amend	1-1-06	325-010-0050	2-6-06	Adopt	3-1-06
291-130-0006	3-13-06	Amend	4-1-06	325-010-0055	2-6-06	Adopt	3-1-06
291-130-0010	3-13-06	Repeal	4-1-06	325-010-0060	2-6-06	Adopt	3-1-06
291-130-0011	3-13-06	Adopt	4-1-06	330-070-0010	1-1-06	Amend	2-1-06
291-130-0016	3-13-06	Am. & Ren.	4-1-06	330-070-0013	1-1-06	Amend	2-1-06
291-130-0020	3-13-06	Amend	4-1-06	330-070-0014	1-1-06	Amend	2-1-06
291-130-0021	3-13-06	Adopt	4-1-06	330-070-0020	1-1-06	Amend	2-1-06
291-130-0030	3-13-06	Amend	4-1-06	330-070-0021	1-1-06	Amend	2-1-06
291-130-0050	3-13-06	Amend	4-1-06	330-070-0022	1-1-06	Amend	2-1-06
291-130-0060	3-13-06	Amend	4-1-06	330-070-0025	1-1-06	Amend	2-1-06
291-130-0070	3-13-06	Repeal	4-1-06	330-070-0026	1-1-06	Amend	2-1-06
291-130-0080	3-13-06	Adopt	4-1-06	330-070-0040	1-1-06	Amend	2-1-06
309-012-0000	6-1-06	Repeal	6-1-06	330-070-0045	1-1-06	Amend	2-1-06
309-012-0005	6-1-06	Repeal	6-1-06	330-070-0048	1-1-06	Amend	2-1-06
309-120-0000(T)	1-1-06	Repeal	2-1-06	330-070-0055	1-1-06	Amend	2-1-06
309-120-0005(T)	1-1-06	Repeal	2-1-06	330-070-0059	1-1-06	Amend	2-1-06
309-120-0015	1-1-06	Repeal	2-1-06	330-070-0060	1-1-06	Amend	2-1-06
309-120-0020	1-1-06	Repeal	2-1-06	330-070-0062	1-1-06	Amend	2-1-06
309-120-0021(T)	1-1-06	Repeal	2-1-06	330-070-0063	1-1-06	Amend	2-1-06
309-120-0070	1-1-06	Adopt	2-1-06	330-070-0064	1-1-06	Amend	2-1-06
309-120-0070(T)	1-1-06	Repeal	2-1-06	330-070-0073	1-1-06	Amend	2-1-06
309-120-0075	1-1-06	Adopt	2-1-06	330-070-0089	1-1-06	Amend	2-1-06
309-120-0075(T)	1-1-06	Repeal	2-1-06	330-070-0097	1-1-06	Amend	2-1-06
309-120-0080	1-1-06	Adopt	2-1-06	330-090-0105	1-1-06	Amend	2-1-06
309-120-0080(T)	1-1-06	Repeal	2-1-06	330-090-0110	1-1-06	Amend	2-1-06
309-120-0200	1-1-06	Am. & Ren.	2-1-06	330-090-0120	1-1-06	Amend	2-1-06
309-120-0205	1-1-06	Am. & Ren.	2-1-06	330-090-0130	1-1-06	Amend	2-1-06
309-120-0210	1-1-06	Adopt	2-1-06	330-110-0010	4-3-06	Amend	5-1-06
309-120-0215	1-1-06	Adopt	2-1-06	330-110-0016	4-3-06	Amend	5-1-06
309-120-0220	1-1-06	Adopt	2-1-06	330-110-0042	4-3-06	Amend	5-1-06
309-120-0225	1-1-06	Adopt	2-1-06	330-110-0050	4-3-06	Amend	5-1-06
309-120-0230	1-1-06	Adopt	2-1-06	330-110-0055	4-3-06	Amend	5-1-06
309-120-0235	1-1-06	Adopt	2-1-06	331-405-0020	1-1-06	Amend	1-1-06
309-120-0240	1-1-06	Adopt	2-1-06	331-405-0030	1-1-06	Amend	1-1-06
309-120-0245	1-1-06	Adopt	2-1-06	331-405-0045	1-1-06	Adopt	1-1-06
309-120-0250	1-1-06	Adopt	2-1-06	331-410-0000	1-1-06	Amend	1-1-06
309-120-0255	1-1-06	Adopt	2-1-06	331-410-0010	1-1-06	Amend	1-1-06
309-120-0260	1-1-06	Adopt	2-1-06	331-410-0020	1-1-06	Amend	1-1-06
309-120-0265	1-1-06	Adopt	2-1-06	331-410-0030	1-1-06	Amend	1-1-06
309-120-0270	1-1-06	Am. & Ren.	2-1-06	331-410-0040	1-1-06	Amend	1-1-06
309-120-0275	1-1-06	Am. & Ren.	2-1-06	333-001-0000	6-1-06	Repeal	6-1-06
309-120-0280	1-1-06	Am. & Ren.	2-1-06	333-001-0005	6-1-06	Repeal	6-1-06
309-120-0285	1-1-06	Am. & Ren.	2-1-06	333-008-0000	1-1-06	Amend	2-1-06
309-120-0290	1-1-06	Am. & Ren.	2-1-06	333-008-0010	1-1-06	Amend	2-1-06
309-120-0295	1-1-06	Am. & Ren.	2-1-06	333-008-0020	12-1-05	Amend	1-1-06
325-005-0015	2-6-06	Adopt	3-1-06	333-008-0020	1-1-06	Amend	2-1-06
325-010-0001	2-6-06	Adopt	3-1-06	333-008-0025	1-1-06	Adopt	2-1-06
325-010-0005	2-6-06	Adopt	3-1-06	333-008-0030	1-1-06	Amend	2-1-06
325-010-0010	2-6-06	Adopt	3-1-06	333-008-0040	1-1-06	Amend	2-1-06
325-010-0015	2-6-06	Adopt	3-1-06	333-008-0050	1-1-06	Amend	2-1-06
325-010-0020	2-6-06	Adopt	3-1-06	333-008-0060	1-1-06	Amend	2-1-06
325-010-0025	2-6-06	Adopt	3-1-06	333-008-0070	1-1-06	Amend	2-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
333-008-0080	1-1-06	Amend	2-1-06	333-064-0060	2-8-06	Amend(T)	3-1-06
333-008-0090	1-1-06	Amend	2-1-06	333-064-0060	4-6-06	Amend	5-1-06
333-008-0110	1-1-06	Adopt	2-1-06	333-076-0101	3-2-06	Amend(T)	4-1-06
333-008-0120	1-1-06	Adopt	2-1-06	333-076-0125	3-2-06	Amend(T)	4-1-06
333-012-0260	4-17-06	Amend	6-1-06	333-076-0130	3-2-06	Amend(T)	4-1-06
333-012-0265	1-1-06	Amend(T)	2-1-06	333-076-0135	3-2-06	Amend(T)	4-1-06
333-012-0265	4-17-06	Amend	6-1-06	333-510-0045	1-1-06	Amend(T)	2-1-06
333-012-0265(T)	4-17-06	Repeal	6-1-06	333-670-0000	4-17-06	Suspend	6-1-06
333-018-0015	4-17-06	Amend	6-1-06	333-670-0010	4-17-06	Suspend	6-1-06
333-018-0030	1-1-06	Amend(T)	2-1-06	333-670-0020	4-17-06	Suspend	6-1-06
333-018-0030	4-17-06	Amend	6-1-06	333-670-0030	4-17-06	Suspend	6-1-06
333-018-0030(T)	4-17-06	Repeal	6-1-06	333-670-0040	4-17-06	Suspend	6-1-06
333-019-0031	4-17-06	Amend	6-1-06	333-670-0050	4-17-06	Suspend	6-1-06
333-019-0036	1-1-06	Amend	2-1-06	333-670-0060	4-17-06	Suspend	6-1-06
333-025-0100	1-1-06	Amend	2-1-06	333-670-0070	4-17-06	Suspend	6-1-06
333-025-0105	1-1-06	Amend	2-1-06	333-670-0080	4-17-06	Suspend	6-1-06
333-025-0110	1-1-06	Amend	2-1-06	333-670-0090	4-17-06	Suspend	6-1-06
333-025-0115	1-1-06	Amend	2-1-06	333-670-0100	4-17-06	Suspend	6-1-06
333-025-0120	1-1-06	Amend	2-1-06	333-670-0110	4-17-06	Suspend	6-1-06
333-025-0135	1-1-06	Amend	2-1-06	333-670-0120	4-17-06	Suspend	6-1-06
333-025-0140	1-1-06	Amend	2-1-06	333-670-0130	4-17-06	Suspend	6-1-06
333-025-0160	1-1-06	Amend	2-1-06	333-670-0140	4-17-06	Suspend	6-1-06
333-025-0165	1-1-06	Adopt	2-1-06	333-670-0150	4-17-06	Suspend	6-1-06
333-050-0010	1-27-06	Amend	3-1-06	333-670-0160	4-17-06	Suspend	6-1-06
333-050-0020	1-27-06	Amend	3-1-06	333-670-0170	4-17-06	Suspend	6-1-06
333-050-0040	1-27-06	Amend	3-1-06	333-670-0180	4-17-06	Suspend	6-1-06
333-050-0050	1-27-06	Amend	3-1-06	333-670-0190	4-17-06	Suspend	6-1-06
333-050-0060	1-27-06	Amend	3-1-06	333-670-0200	4-17-06	Suspend	6-1-06
333-050-0080	1-27-06	Amend	3-1-06	333-670-0210	4-17-06	Suspend	6-1-06
333-050-0090	1-27-06	Amend	3-1-06	333-670-0220	4-17-06	Suspend	6-1-06
333-050-0100	1-27-06	Amend	3-1-06	333-670-0230	4-17-06	Suspend	6-1-06
333-050-0130	1-27-06	Amend	3-1-06	333-670-0240	4-17-06	Suspend	6-1-06
333-061-0020	1-31-06	Amend	3-1-06	333-670-0250	4-17-06	Suspend	6-1-06
333-061-0030	1-31-06	Amend	3-1-06	333-670-0260	4-17-06	Suspend	6-1-06
333-061-0032	1-31-06	Amend	3-1-06	333-670-0270	4-17-06	Suspend	6-1-06
333-061-0036	1-31-06	Amend	3-1-06	333-670-0280	4-17-06	Suspend	6-1-06
333-061-0040	1-31-06	Amend	3-1-06	334-010-0010	1-5-06	Amend	2-1-06
333-061-0042	1-31-06	Amend	3-1-06	334-010-0015	1-5-06	Amend	2-1-06
333-061-0043	1-31-06	Amend	3-1-06	334-010-0015	2-16-06	Amend(T)	4-1-06
333-061-0057	1-31-06	Amend	3-1-06	334-010-0017	1-5-06	Amend	2-1-06
333-061-0060	1-31-06	Amend	3-1-06	334-010-0033	1-5-06	Amend	2-1-06
333-061-0070	1-31-06	Amend	3-1-06	334-010-0050	1-5-06	Amend	2-1-06
333-061-0071	1-31-06	Amend	3-1-06	335-005-0025	5-8-06	Amend	6-1-06
333-061-0072	1-31-06	Amend	3-1-06	335-005-0030	5-8-06	Adopt	6-1-06
333-061-0090	1-31-06	Amend	3-1-06	335-005-0035	5-8-06	Adopt	6-1-06
333-061-0097	1-31-06	Amend	3-1-06	335-070-0040	5-8-06	Amend	6-1-06
333-061-0215	1-31-06	Amend	3-1-06	335-070-0060	5-8-06	Amend	6-1-06
333-061-0220	1-31-06	Amend	3-1-06	335-070-0065	5-8-06	Amend	6-1-06
333-061-0230	1-31-06	Amend	3-1-06	335-080-0005	5-8-06	Amend	6-1-06
333-061-0235	1-31-06	Amend	3-1-06	335-095-0010	5-8-06	Amend	6-1-06
333-061-0245	1-31-06	Amend	3-1-06	335-095-0030	5-8-06	Amend	6-1-06
333-061-0250	1-31-06	Amend	3-1-06	335-095-0055	5-8-06	Amend	6-1-06
333-061-0260	1-31-06	Amend	3-1-06	337-010-0030	2-6-06	Amend	3-1-06
333-061-0265	1-31-06	Amend	3-1-06	340-011-0605	5-12-06	Adopt	6-1-06
333-061-0270	1-31-06	Amend	3-1-06	340-012-0027	3-31-06	Amend	5-1-06
333-061-0290	1-31-06	Amend	3-1-06	340-012-0053	3-31-06	Amend	5-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
340-012-0054	3-31-06	Amend	5-1-06	350-012-0009	5-1-06	Adopt	5-1-06
340-012-0055	3-31-06	Amend	5-1-06	350-013-0001	5-1-06	Amend	5-1-06
340-012-0060	3-31-06	Amend	5-1-06	350-016-0004	5-1-06	Amend	5-1-06
340-012-0065	3-31-06	Amend	5-1-06	350-050-0030	5-1-06	Amend	5-1-06
340-012-0066	3-31-06	Amend	5-1-06	350-050-0035	5-1-06	Adopt	5-1-06
340-012-0067	3-31-06	Amend	5-1-06	350-050-0040	5-1-06	Amend	5-1-06
340-012-0068	3-31-06	Amend	5-1-06	350-050-0045	5-1-06	Adopt	5-1-06
340-012-0071	3-31-06	Amend	5-1-06	350-050-0050	5-1-06	Amend	5-1-06
340-012-0072	3-31-06	Amend	5-1-06	350-050-0060	5-1-06	Amend	5-1-06
340-012-0073	3-31-06	Amend	5-1-06	350-050-0070	5-1-06	Amend	5-1-06
340-012-0074	3-31-06	Amend	5-1-06	350-050-0075	5-1-06	Repeal	5-1-06
340-012-0079	3-31-06	Amend	5-1-06	350-050-0080	5-1-06	Amend	5-1-06
340-012-0081	3-31-06	Amend	5-1-06	350-050-0085	5-1-06	Amend	5-1-06
340-012-0082	3-31-06	Amend	5-1-06	350-050-0090	5-1-06	Amend	5-1-06
340-012-0083	3-31-06	Amend	5-1-06	350-050-0100	5-1-06	Amend	5-1-06
340-012-0097	3-31-06	Amend	5-1-06	350-050-0110	5-1-06	Repeal	5-1-06
340-012-0130	3-31-06	Amend	5-1-06	407-001-0000	6-1-06	Adopt	6-1-06
340-012-0135	3-31-06	Amend	5-1-06	407-001-0005	6-1-06	Adopt	6-1-06
340-012-0140	3-31-06	Amend	5-1-06	407-001-0010	6-1-06	Adopt	6-1-06
340-012-0155	3-31-06	Amend	5-1-06	407-005-0000	3-1-06	Adopt	4-1-06
340-045-0033	12-28-05	Amend	2-1-06	407-005-0005	3-1-06	Adopt	4-1-06
340-110-0001	3-15-06	Amend	4-1-06	407-005-0010	3-1-06	Adopt	4-1-06
340-110-0020	3-15-06	Amend	4-1-06	407-005-0015	3-1-06	Adopt	4-1-06
340-110-0061	3-15-06	Amend	4-1-06	407-005-0020	3-1-06	Adopt	4-1-06
340-122-0040	3-17-06	Amend	5-1-06	407-005-0025	3-1-06	Adopt	4-1-06
340-122-0045	3-17-06	Repeal	5-1-06	407-005-0030	3-1-06	Adopt	4-1-06
340-122-0115	3-17-06	Amend	5-1-06	407-010-0001	3-1-06	Adopt	4-1-06
340-200-0020	3-14-06	Amend	4-1-06	407-050-0000	11-28-05	Adopt(T)	1-1-06
340-200-0040	3-14-06	Amend	4-1-06	407-050-0005	11-28-05	Adopt(T)	1-1-06
340-200-0040	3-31-06	Amend	5-1-06	407-050-0010	11-28-05	Adopt(T)	1-1-06
340-216-0060	3-14-06	Amend	4-1-06	410-001-0000	6-1-06	Amend	6-1-06
340-238-0040	3-14-06	Amend	4-1-06	410-001-0005	6-1-06	Amend	6-1-06
340-238-0050	3-14-06	Amend	4-1-06	410-001-0010	6-1-06	Repeal	6-1-06
340-238-0060	3-14-06	Amend	4-1-06	410-001-0020	6-1-06	Amend	6-1-06
340-244-0030	3-14-06	Amend	4-1-06	410-001-0030	6-1-06	Repeal	6-1-06
340-244-0040	3-14-06	Amend	4-1-06	410-002-0000	6-1-06	Repeal	6-1-06
340-244-0220	3-14-06	Amend	4-1-06	410-011-0000	1-1-06	Am. & Ren.	1-1-06
340-257-0010	1-1-06	Adopt(T)	2-1-06	410-011-0010	1-1-06	Am. & Ren.	1-1-06
340-257-0020	1-1-06	Adopt(T)	2-1-06	410-011-0020	1-1-06	Am. & Ren.	1-1-06
340-257-0030	1-1-06	Adopt(T)	2-1-06	410-011-0030	1-1-06	Am. & Ren.	1-1-06
340-257-0040	1-1-06	Adopt(T)	2-1-06	410-011-0040	1-1-06	Am. & Ren.	1-1-06
340-257-0050	1-1-06	Adopt(T)	2-1-06	410-011-0050	1-1-06	Am. & Ren.	1-1-06
340-257-0060	1-1-06	Adopt(T)	2-1-06	410-011-0060	1-1-06	Am. & Ren.	1-1-06
340-257-0070	1-1-06	Adopt(T)	2-1-06	410-011-0070	1-1-06	Am. & Ren.	1-1-06
340-257-0080	1-1-06	Adopt(T)	2-1-06	410-011-0080	1-1-06	Am. & Ren.	1-1-06
340-257-0090	1-1-06	Adopt(T)	2-1-06	410-011-0090	1-1-06	Am. & Ren.	1-1-06
340-257-0100	1-1-06	Adopt(T)	2-1-06	410-011-0100	1-1-06	Am. & Ren.	1-1-06
340-257-0110	1-1-06	Adopt(T)	2-1-06	410-011-0110	1-1-06	Am. & Ren.	1-1-06
340-257-0120	1-1-06	Adopt(T)	2-1-06	410-011-0120	1-1-06	Am. & Ren.	1-1-06
340-257-0130	1-1-06	Adopt(T)	2-1-06	410-120-0000	1-1-06	Amend	1-1-06
340-257-0150	1-1-06	Adopt(T)	2-1-06	410-120-0250	1-1-06	Amend	2-1-06
340-257-0160	1-1-06	Adopt(T)	2-1-06	410-120-1200	1-1-06	Amend	1-1-06
350-011-0004	5-1-06	Amend	5-1-06	410-120-1210	1-1-06	Amend	1-1-06
350-012-0006	5-1-06	Amend	5-1-06	410-120-1280	1-1-06	Amend	2-1-06
350-012-0007	5-1-06	Amend	5-1-06	410-120-1295	1-1-06	Amend	1-1-06
350-012-0008	5-1-06	Amend	5-1-06	410-120-1295	1-1-06	Amend(T)	1-1-06



## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
410-120-1295	1-1-06	Amend(T)	2-1-06	411-001-0120	6-1-06	Amend	6-1-06
410-120-1295(T)	1-1-06	Repeal	1-1-06	411-015-0005	12-29-05	Amend	2-1-06
410-121-0040	3-15-06	Amend(T)	4-1-06	411-015-0007	5-1-06	Adopt	6-1-06
410-121-0147	1-1-06	Amend	1-1-06	411-015-0015	2-1-06	Amend	3-1-06
410-121-0149	1-18-06	Adopt(T)	3-1-06	411-015-0100	12-29-05	Amend	2-1-06
410-121-0157	4-1-06	Amend	5-1-06	411-018-0000	12-12-05	Amend	1-1-06
410-121-0157	4-1-06	Amend(T)	5-1-06	411-018-0010	12-12-05	Amend	1-1-06
410-121-0190	12-1-05	Amend	1-1-06	411-018-0020	12-12-05	Amend	1-1-06
410-121-0300	1-1-06	Amend	2-1-06	411-020-0002	4-1-06	Amend	5-1-06
410-121-0300	4-1-06	Amend(T)	5-1-06	411-020-0010	4-1-06	Amend	5-1-06
410-121-0320	1-1-06	Amend	2-1-06	411-020-0015	4-1-06	Amend	5-1-06
410-122-0190	12-1-05	Amend	1-1-06	411-020-0020	4-1-06	Amend	5-1-06
410-125-0090	1-1-06	Amend	2-1-06	411-020-0030	4-1-06	Amend	5-1-06
410-125-0141	1-1-06	Amend	2-1-06	411-021-0000	4-1-06	Amend	5-1-06
410-125-0181	1-1-06	Amend	2-1-06	411-021-0005	4-1-06	Amend	5-1-06
410-125-0190	1-1-06	Amend	2-1-06	411-021-0010	4-1-06	Amend	5-1-06
410-125-0195	1-1-06	Amend	2-1-06	411-021-0015	4-1-06	Amend	5-1-06
410-125-0201	1-1-06	Amend	2-1-06	411-021-0020	4-1-06	Amend	5-1-06
410-125-0210	1-1-06	Amend	2-1-06	411-021-0025	4-1-06	Amend	5-1-06
410-125-1020	1-1-06	Amend	2-1-06	411-030-0020	12-21-05	Amend(T)	2-1-06
410-125-1060	1-1-06	Amend	2-1-06	411-030-0033	12-21-05	Amend(T)	2-1-06
410-132-0140	12-1-05	Repeal	1-1-06	411-030-0040	12-21-05	Amend(T)	2-1-06
410-136-0420	12-1-05	Amend	1-1-06	411-030-0040	1-13-06	Amend(T)	2-1-06
410-138-0600	2-7-06	Adopt(T)	3-1-06	411-030-0050	12-21-05	Amend(T)	2-1-06
410-138-0610	2-7-06	Adopt(T)	3-1-06	411-030-0055	12-21-05	Adopt(T)	2-1-06
410-138-0620	2-7-06	Adopt(T)	3-1-06	411-030-0070	12-21-05	Amend(T)	2-1-06
410-138-0640	2-7-06	Adopt(T)	3-1-06	411-031-0020	11-16-05	Amend(T)	1-1-06
410-138-0660	2-7-06	Adopt(T)	3-1-06	411-031-0020	5-1-06	Amend	6-1-06
410-138-0680	2-7-06	Adopt(T)	3-1-06	411-031-0020(T)	5-1-06	Repeal	6-1-06
410-138-0700	2-7-06	Adopt(T)	3-1-06	411-031-0040	5-1-06	Amend	6-1-06
410-138-0710	2-7-06	Adopt(T)	3-1-06	411-031-0050	11-16-05	Amend(T)	1-1-06
410-138-0720	2-7-06	Adopt(T)	3-1-06	411-031-0050	5-1-06	Amend	6-1-06
410-138-0740	2-7-06	Adopt(T)	3-1-06	411-031-0050(T)	5-1-06	Repeal	6-1-06
410-138-0760	2-7-06	Adopt(T)	3-1-06	411-055-0003	2-1-06	Amend	3-1-06
410-138-0780	2-7-06	Adopt(T)	3-1-06	411-055-0003(T)	2-1-06	Repeal	3-1-06
410-140-0320	12-1-05	Amend	1-1-06	411-055-0190	1-18-06	Amend(T)	3-1-06
410-140-0400	12-1-05	Amend	1-1-06	411-056-0007	2-1-06	Amend	3-1-06
410-141-0000	1-1-06	Amend	1-1-06	411-056-0007(T)	2-1-06	Repeal	3-1-06
410-141-0010	3-1-06	Adopt	3-1-06	411-056-0020	1-18-06	Amend(T)	3-1-06
410-141-0010(T)	3-1-06	Repeal	3-1-06	411-070-0005	2-1-06	Amend	3-1-06
410-141-0060	1-1-06	Amend	1-1-06	411-070-0010	2-1-06	Amend	3-1-06
410-141-0060	5-4-06	Amend(T)	6-1-06	411-070-0015	2-1-06	Amend	3-1-06
410-141-0070	1-1-06	Amend	1-1-06	411-070-0020	2-1-06	Amend	3-1-06
410-141-0080	1-1-06	Amend	1-1-06	411-070-0025	2-1-06	Amend	3-1-06
410-141-0120	1-1-06	Amend	1-1-06	411-070-0027	2-1-06	Amend	3-1-06
410-141-0160	1-1-06	Amend	1-1-06	411-070-0029	2-1-06	Amend	3-1-06
410-141-0220	1-1-06	Amend	1-1-06	411-070-0035	2-1-06	Amend	3-1-06
410-141-0520	12-1-05	Amend	1-1-06	411-070-0040	2-1-06	Amend	3-1-06
410-141-0520	1-1-06	Amend	2-1-06	411-070-0043	2-1-06	Amend	3-1-06
410-141-0520	4-1-06	Amend	5-1-06	411-070-0045	2-1-06	Amend	3-1-06
410-146-0100	12-1-05	Amend	1-1-06	411-070-0050	2-1-06	Amend	3-1-06
410-147-0365	1-1-06	Amend	1-1-06	411-070-0080	2-1-06	Amend	3-1-06
411-001-0000	6-1-06	Repeal	6-1-06	411-070-0085	2-1-06	Amend	3-1-06
411-001-0010	6-1-06	Amend	6-1-06	411-070-0091	2-1-06	Amend	3-1-06
411-001-0100	6-1-06	Amend	6-1-06	411-070-0095	2-1-06	Amend	3-1-06
411-001-0110	6-1-06	Amend	6-1-06	411-070-0100	2-1-06	Amend	3-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
411-070-0105	2-1-06	Amend	3-1-06	411-320-0020	2-1-06	Amend	3-1-06
411-070-0110	2-1-06	Amend	3-1-06	411-320-0020(T)	2-1-06	Repeal	3-1-06
411-070-0115	2-1-06	Amend	3-1-06	411-320-0030	11-23-05	Amend(T)	1-1-06
411-070-0120	2-1-06	Amend	3-1-06	411-320-0030	2-1-06	Amend	3-1-06
411-070-0125	2-1-06	Amend	3-1-06	411-320-0030(T)	2-1-06	Repeal	3-1-06
411-070-0130	2-1-06	Amend	3-1-06	411-320-0040	11-23-05	Amend(T)	1-1-06
411-070-0140	2-1-06	Amend	3-1-06	411-320-0040	2-1-06	Amend	3-1-06
411-070-0300	2-1-06	Amend	3-1-06	411-320-0040(T)	2-1-06	Repeal	3-1-06
411-070-0302	2-1-06	Amend	3-1-06	411-320-0050	11-23-05	Amend(T)	1-1-06
411-070-0305	2-1-06	Amend	3-1-06	411-320-0050	2-1-06	Amend	3-1-06
411-070-0310	2-1-06	Amend	3-1-06	411-320-0050(T)	2-1-06	Repeal	3-1-06
411-070-0315	2-1-06	Amend	3-1-06	411-320-0060	2-1-06	Amend	3-1-06
411-070-0330	2-1-06	Amend	3-1-06	411-320-0070	11-23-05	Amend(T)	1-1-06
411-070-0335	2-1-06	Amend	3-1-06	411-320-0070	2-1-06	Amend	3-1-06
411-070-0340	2-1-06	Amend	3-1-06	411-320-0070(T)	2-1-06	Repeal	3-1-06
411-070-0345	2-1-06	Amend	3-1-06	411-320-0080	11-23-05	Amend(T)	1-1-06
411-070-0350	2-1-06	Amend	3-1-06	411-320-0080	2-1-06	Amend	3-1-06
411-070-0359	2-1-06	Amend	3-1-06	411-320-0080(T)	2-1-06	Repeal	3-1-06
411-070-0365	2-1-06	Amend	3-1-06	411-320-0090	11-23-05	Amend(T)	1-1-06
411-070-0370	2-1-06	Amend	3-1-06	411-320-0090	2-1-06	Amend	3-1-06
411-070-0375	2-1-06	Amend	3-1-06	411-320-0090(T)	2-1-06	Repeal	3-1-06
411-070-0385	2-1-06	Amend	3-1-06	411-320-0100	11-23-05	Amend(T)	1-1-06
411-070-0400	2-1-06	Amend	3-1-06	411-320-0100	2-1-06	Amend	3-1-06
411-070-0415	2-1-06	Amend	3-1-06	411-320-0100(T)	2-1-06	Repeal	3-1-06
411-070-0420	2-1-06	Amend	3-1-06	411-320-0110	11-23-05	Amend(T)	1-1-06
411-070-0425	2-1-06	Amend	3-1-06	411-320-0110	2-1-06	Amend	3-1-06
411-070-0428	2-1-06	Amend	3-1-06	411-320-0110(T)	2-1-06	Repeal	3-1-06
411-070-0430	2-1-06	Amend	3-1-06	411-320-0120	11-23-05	Amend(T)	1-1-06
411-070-0435	2-1-06	Amend	3-1-06	411-320-0120	2-1-06	Amend	3-1-06
411-070-0452	2-1-06	Amend	3-1-06	411-320-0120(T)	2-1-06	Repeal	3-1-06
411-070-0458	2-1-06	Repeal	3-1-06	411-320-0130	11-23-05	Amend(T)	1-1-06
411-070-0462	2-1-06	Amend	3-1-06	411-320-0130	2-1-06	Amend	3-1-06
411-070-0464	2-1-06	Amend	3-1-06	411-320-0130(T)	2-1-06	Repeal	3-1-06
411-070-0465	2-1-06	Amend	3-1-06	411-320-0140	11-23-05	Amend(T)	1-1-06
411-070-0470	2-1-06	Amend	3-1-06	411-320-0140	2-1-06	Amend	3-1-06
411-088-0020	1-18-06	Amend(T)	3-1-06	411-320-0140(T)	2-1-06	Repeal	3-1-06
411-200-0010	4-1-06	Amend	5-1-06	411-320-0160	11-23-05	Amend(T)	1-1-06
411-200-0020	4-1-06	Amend	5-1-06	411-320-0160	2-1-06	Amend	3-1-06
411-200-0030	4-1-06	Amend	5-1-06	411-320-0160(T)	2-1-06	Repeal	3-1-06
411-200-0040	4-1-06	Amend	5-1-06	411-320-0170	11-23-05	Amend(T)	1-1-06
411-310-0010	4-5-06	Amend	5-1-06	411-320-0170	2-1-06	Amend	3-1-06
411-310-0020	4-5-06	Amend	5-1-06	411-320-0170(T)	2-1-06	Repeal	3-1-06
411-310-0030	4-5-06	Amend	5-1-06	411-340-0020	5-1-06	Amend	6-1-06
411-310-0040	4-5-06	Amend	5-1-06	411-340-0030	5-1-06	Amend	6-1-06
411-310-0050	4-5-06	Amend	5-1-06	411-340-0040	5-1-06	Amend	6-1-06
411-310-0060	4-5-06	Amend	5-1-06	411-340-0050	5-1-06	Amend	6-1-06
411-310-0070	4-5-06	Amend	5-1-06	411-340-0060	5-1-06	Amend	6-1-06
411-315-0010	4-5-06	Amend	5-1-06	411-340-0110	5-1-06	Amend	6-1-06
411-315-0020	4-5-06	Amend	5-1-06	411-340-0120	5-1-06	Amend	6-1-06
411-315-0030	4-5-06	Amend	5-1-06	411-340-0130	5-1-06	Amend	6-1-06
411-315-0050	4-5-06	Amend	5-1-06	411-340-0140	5-1-06	Amend	6-1-06
411-315-0060	4-5-06	Amend	5-1-06	411-340-0150	5-1-06	Amend	6-1-06
411-315-0070	4-5-06	Amend	5-1-06	411-340-0160	5-1-06	Amend	6-1-06
411-315-0080	4-5-06	Amend	5-1-06	411-340-0170	5-1-06	Amend	6-1-06
411-315-0090	4-5-06	Amend	5-1-06	411-340-0180	5-1-06	Amend	6-1-06
411-320-0020	11-23-05	Amend(T)	1-1-06	413-010-0081	2-6-06	Adopt(T)	3-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
413-010-0082	2-6-06	Adopt(T)	3-1-06	413-090-0380	2-1-06	Amend	3-1-06
413-010-0083	2-6-06	Adopt(T)	3-1-06	413-110-0100	5-1-06	Amend	6-1-06
413-010-0084	2-6-06	Adopt(T)	3-1-06	413-110-0110	5-1-06	Amend	6-1-06
413-010-0085	2-6-06	Adopt(T)	3-1-06	413-110-0120	5-1-06	Amend	6-1-06
413-010-0086	2-6-06	Adopt(T)	3-1-06	413-110-0130	5-1-06	Amend	6-1-06
413-010-0086	4-13-06	Amend(T)	5-1-06	413-130-0010	1-1-06	Amend(T)	2-1-06
413-015-0115	1-1-06	Amend(T)	2-1-06	413-130-0080	1-1-06	Amend(T)	2-1-06
413-015-0200	12-1-05	Amend	1-1-06	413-140-0010	1-1-06	Amend(T)	2-1-06
413-015-0205	12-1-05	Amend	1-1-06	413-140-0030	1-1-06	Amend(T)	2-1-06
413-015-0210	12-1-05	Amend	1-1-06	413-200-0210	5-15-06	Amend(T)	6-1-06
413-015-0211	12-1-05	Adopt	1-1-06	413-200-0220	5-15-06	Amend(T)	6-1-06
413-015-0212	12-1-05	Adopt	1-1-06	413-200-0307	3-1-06	Amend(T)	4-1-06
413-015-0213	12-1-05	Adopt	1-1-06	414-061-0070	3-16-06	Amend(T)	5-1-06
413-015-0215	12-1-05	Amend	1-1-06	414-061-0080	1-1-06	Amend	2-1-06
413-015-0220	12-1-05	Amend	1-1-06	414-350-0000	1-1-06	Amend(T)	2-1-06
413-015-0300	1-1-06	Amend(T)	2-1-06	414-350-0010	1-1-06	Amend(T)	2-1-06
413-015-0302	1-1-06	Adopt(T)	2-1-06	414-350-0020	1-1-06	Amend(T)	2-1-06
413-015-0305	1-1-06	Amend(T)	2-1-06	414-350-0030	1-1-06	Amend(T)	2-1-06
413-015-0310	1-1-06	Amend(T)	2-1-06	414-350-0050	1-1-06	Amend(T)	2-1-06
413-015-0405	1-1-06	Amend(T)	2-1-06	414-350-0100	1-1-06	Amend(T)	2-1-06
413-015-0405	2-1-06	Amend	3-1-06	414-350-0120	1-1-06	Amend(T)	2-1-06
413-015-0405	2-1-06	Amend(T)	3-1-06	414-350-0140	1-1-06	Amend(T)	2-1-06
413-015-0405(T)	2-1-06	Suspend	3-1-06	414-350-0160	1-1-06	Amend(T)	2-1-06
413-015-0505	3-1-06	Amend	4-1-06	414-350-0170	1-1-06	Amend(T)	2-1-06
413-015-0505(T)	3-1-06	Repeal	4-1-06	414-350-0220	1-1-06	Amend(T)	2-1-06
413-015-0510	3-1-06	Amend	4-1-06	414-350-0235	1-1-06	Amend(T)	2-1-06
413-015-0510(T)	3-1-06	Repeal	4-1-06	414-350-0250	1-1-06	Amend(T)	2-1-06
413-015-0511	3-1-06	Amend	4-1-06	414-700-0060	12-15-05	Amend(T)	1-1-06
413-015-0511(T)	3-1-06	Repeal	4-1-06	414-700-0060	4-23-06	Amend	6-1-06
413-015-0512	3-1-06	Amend	4-1-06	415-001-0005	6-1-06	Repeal	6-1-06
413-015-0512(T)	3-1-06	Repeal	4-1-06	415-001-0010	6-1-06	Repeal	6-1-06
413-015-0513	3-1-06	Amend	4-1-06	416-310-0000	2-7-06	Repeal	3-1-06
413-015-0513(T)	3-1-06	Repeal	4-1-06	416-310-0010	2-7-06	Repeal	3-1-06
413-015-0514	3-1-06	Amend	4-1-06	416-310-0020	2-7-06	Repeal	3-1-06
413-015-0514(T)	3-1-06	Repeal	4-1-06	416-310-0030	2-7-06	Repeal	3-1-06
413-015-0710	2-1-06	Amend	3-1-06	416-425-0000	11-22-05	Adopt	1-1-06
413-015-0720	1-1-06	Amend(T)	2-1-06	416-425-0010	11-22-05	Adopt	1-1-06
413-015-0900	1-1-06	Amend(T)	2-1-06	416-425-0020	11-22-05	Adopt	1-1-06
413-015-1000	1-1-06	Amend(T)	2-1-06	416-480-0000	2-17-06	Amend	4-1-06
413-020-0140	2-1-06	Amend	3-1-06	416-480-0010	2-17-06	Amend	4-1-06
413-040-0110	2-1-06	Amend	3-1-06	416-480-0020	2-17-06	Amend	4-1-06
413-040-0135	2-1-06	Amend	3-1-06	416-480-0040	2-17-06	Amend	4-1-06
413-040-0140	2-1-06	Amend	3-1-06	416-480-0060	2-17-06	Amend	4-1-06
413-050-0100	1-1-06	Repeal	2-1-06	416-480-0070	2-17-06	Amend	4-1-06
413-050-0110	1-1-06	Repeal	2-1-06	416-480-0080	2-17-06	Amend	4-1-06
413-050-0120	1-1-06	Repeal	2-1-06	416-530-0010	3-20-06	Amend	5-1-06
413-050-0130	1-1-06	Repeal	2-1-06	416-530-0040	3-20-06	Amend	5-1-06
413-050-0140	1-1-06	Repeal	2-1-06	416-600-0000	2-17-06	Amend	4-1-06
413-080-0100	1-1-06	Repeal	2-1-06	416-600-0010	2-17-06	Amend	4-1-06
413-080-0110	1-1-06	Repeal	2-1-06	416-600-0020	2-17-06	Amend	4-1-06
413-080-0120	1-1-06	Repeal	2-1-06	416-600-0030	2-17-06	Amend	4-1-06
413-080-0130	1-1-06	Repeal	2-1-06	416-600-0040	2-17-06	Amend	4-1-06
413-080-0140	1-1-06	Repeal	2-1-06	416-600-0050	2-17-06	Amend	4-1-06
413-080-0150	1-1-06	Repeal	2-1-06	416-650-0000	2-7-06	Repeal	3-1-06
413-090-0300	2-1-06	Amend	3-1-06	416-650-0010	2-7-06	Repeal	3-1-06
413-090-0310	2-1-06	Amend	3-1-06	416-650-0020	2-7-06	Repeal	3-1-06



## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
416-650-0030	2-7-06	Repeal	3-1-06	436-030-0165	1-1-06	Amend	1-1-06
416-650-0040	2-7-06	Repeal	3-1-06	436-030-0175	1-1-06	Amend	1-1-06
416-650-0050	2-7-06	Repeal	3-1-06	436-030-0185	1-1-06	Amend	1-1-06
436-001-0003	1-17-06	Amend	2-1-06	436-030-0575	1-1-06	Amend	1-1-06
436-001-0005	1-17-06	Amend	2-1-06	436-030-0580	1-1-06	Amend	1-1-06
436-009-0004	4-1-06	Amend	4-1-06	436-035-0005	1-1-06	Amend	1-1-06
436-009-0005	4-1-06	Amend	4-1-06	436-035-0007	1-1-06	Amend	1-1-06
436-009-0006	4-1-06	Amend	4-1-06	436-035-0008	1-1-06	Amend	1-1-06
436-009-0008	4-1-06	Amend	4-1-06	436-035-0009	1-1-06	Amend	1-1-06
436-009-0010	4-1-06	Amend	4-1-06	436-035-0011	1-1-06	Amend	1-1-06
436-009-0015	4-1-06	Amend	4-1-06	436-035-0012	1-1-06	Amend	1-1-06
436-009-0020	4-1-06	Amend	4-1-06	436-035-0016	1-1-06	Amend	1-1-06
436-009-0022	4-1-06	Amend	4-1-06	436-035-0017	1-1-06	Amend	1-1-06
436-009-0025	4-1-06	Amend	4-1-06	436-035-0019	1-1-06	Amend	1-1-06
436-009-0030	4-1-06	Amend	4-1-06	436-035-0110	1-1-06	Amend	1-1-06
436-009-0035	4-1-06	Amend	4-1-06	436-035-0190	1-1-06	Amend	1-1-06
436-009-0040	4-1-06	Amend	4-1-06	436-035-0230	1-1-06	Amend	1-1-06
436-009-0050	4-1-06	Amend	4-1-06	436-035-0330	1-1-06	Amend	1-1-06
436-009-0060	4-1-06	Amend	4-1-06	436-035-0340	1-1-06	Amend	1-1-06
436-009-0070	4-1-06	Amend	4-1-06	436-035-0350	1-1-06	Amend	1-1-06
436-009-0080	4-1-06	Amend	4-1-06	436-035-0360	1-1-06	Amend	1-1-06
436-009-0090	4-1-06	Amend	4-1-06	436-035-0380	1-1-06	Amend	1-1-06
436-010-0005	1-1-06	Amend	1-1-06	436-035-0390	1-1-06	Amend	1-1-06
436-010-0008	1-1-06	Amend	1-1-06	436-035-0395	1-1-06	Amend	1-1-06
436-010-0210	1-1-06	Amend	1-1-06	436-035-0400	1-1-06	Amend	1-1-06
436-010-0220	1-1-06	Amend	1-1-06	436-035-0410	1-1-06	Amend	1-1-06
436-010-0230	1-1-06	Amend	1-1-06	436-035-0420	1-1-06	Amend	1-1-06
436-010-0240	1-1-06	Amend	1-1-06	436-035-0430	1-1-06	Amend	1-1-06
436-010-0250	1-1-06	Amend	1-1-06	436-035-0500	1-1-06	Amend	1-1-06
436-010-0265	1-1-06	Amend	1-1-06	436-050-0003	1-1-06	Amend	1-1-06
436-010-0270	1-1-06	Amend	1-1-06	436-050-0008	1-1-06	Amend	1-1-06
436-010-0280	1-1-06	Amend	1-1-06	436-050-0100	1-1-06	Amend	1-1-06
436-010-0290	1-1-06	Amend	1-1-06	436-050-0110	1-1-06	Amend	1-1-06
436-010-0300	1-1-06	Amend	1-1-06	436-050-0170	1-1-06	Amend	1-1-06
436-010-0340	1-1-06	Amend	1-1-06	436-050-0220	1-1-06	Amend	1-1-06
436-015-0005	6-1-06	Amend(T)	6-1-06	436-050-0230	1-1-06	Amend	1-1-06
436-015-0008	1-1-06	Amend	1-1-06	436-055-0070	1-1-06	Amend	1-1-06
436-015-0030	1-1-06	Amend	1-1-06	436-055-0085	1-1-06	Adopt	1-1-06
436-015-0030	6-1-06	Amend(T)	6-1-06	436-055-0100	1-1-06	Amend	1-1-06
436-015-0040	1-1-06	Amend	1-1-06	436-060-0002	1-1-06	Amend	1-1-06
436-015-0040	6-1-06	Amend(T)	6-1-06	436-060-0008	1-1-06	Amend	1-1-06
436-015-0070	1-1-06	Amend	1-1-06	436-060-0009	1-1-06	Amend	1-1-06
436-015-0080	1-1-06	Amend	1-1-06	436-060-0010	1-1-06	Amend	1-1-06
436-015-0110	1-1-06	Amend	1-1-06	436-060-0015	1-1-06	Amend	1-1-06
436-030-0003	1-1-06	Amend	1-1-06	436-060-0017	1-1-06	Amend	1-1-06
436-030-0005	1-1-06	Amend	1-1-06	436-060-0020	1-1-06	Amend	1-1-06
436-030-0007	1-1-06	Amend	1-1-06	436-060-0025	1-1-06	Amend	1-1-06
436-030-0009	1-1-06	Amend	1-1-06	436-060-0030	1-1-06	Amend	1-1-06
436-030-0015	1-1-06	Amend	1-1-06	436-060-0035	1-1-06	Amend	1-1-06
436-030-0020	1-1-06	Amend	1-1-06	436-060-0040	1-1-06	Amend	1-1-06
436-030-0023	1-1-06	Amend	1-1-06	436-060-0055	1-1-06	Amend	1-1-06
436-030-0034	1-1-06	Amend	1-1-06	436-060-0060	1-1-06	Amend	1-1-06
436-030-0055	1-1-06	Amend	1-1-06	436-060-0095	1-1-06	Amend	1-1-06
436-030-0065	1-1-06	Amend	1-1-06	436-060-0105	1-1-06	Amend	1-1-06
436-030-0115	1-1-06	Amend	1-1-06	436-060-0135	1-1-06	Amend	1-1-06
436-030-0155	1-1-06	Amend	1-1-06	436-060-0137	1-1-06	Adopt	1-1-06

## OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-060-0140	1-1-06	Amend	1-1-06	441-910-0070	1-1-06	Repeal	1-1-06
436-060-0147	1-1-06	Amend	1-1-06	441-910-0080	1-1-06	Amend	1-1-06
436-060-0150	1-1-06	Amend	1-1-06	441-910-0090	1-1-06	Amend	1-1-06
436-060-0155	1-1-06	Amend	1-1-06	441-910-0092	1-1-06	Adopt	1-1-06
436-060-0180	1-1-06	Amend	1-1-06	441-910-0093	1-1-06	Adopt	1-1-06
436-060-0190	1-1-06	Amend	1-1-06	441-910-0095	1-1-06	Amend	1-1-06
436-060-0200	1-1-06	Amend	1-1-06	441-910-0110	1-1-06	Amend	1-1-06
436-060-0500	1-1-06	Amend	1-1-06	441-910-0120	1-1-06	Amend	1-1-06
436-060-0510	1-1-06	Adopt	1-1-06	441-910-0130	1-1-06	Repeal	1-1-06
436-070-0020	1-27-06	Amend(T)	3-1-06	441-930-0010	2-22-06	Amend	4-1-06
436-105-0500	1-1-06	Amend	1-1-06	441-930-0020	2-22-06	Repeal	4-1-06
436-110-0002	1-1-06	Amend	1-1-06	441-930-0030	2-22-06	Amend	4-1-06
436-110-0005	1-1-06	Amend	1-1-06	441-930-0040	2-22-06	Repeal	4-1-06
436-110-0310	1-1-06	Amend	1-1-06	441-930-0050	2-22-06	Repeal	4-1-06
436-110-0326	1-1-06	Amend	1-1-06	441-930-0060	2-22-06	Repeal	4-1-06
436-110-0327	1-1-06	Amend	1-1-06	441-930-0070	2-22-06	Amend	4-1-06
436-110-0335	1-1-06	Amend	1-1-06	441-930-0080	2-22-06	Adopt	4-1-06
436-110-0337	1-1-06	Amend	1-1-06	441-930-0200	2-22-06	Repeal	4-1-06
436-110-0345	1-1-06	Amend	1-1-06	441-930-0210	2-22-06	Amend	4-1-06
436-120-0003	1-1-06	Amend	1-1-06	441-930-0220	2-22-06	Amend	4-1-06
436-120-0008	1-1-06	Amend	1-1-06	441-930-0230	2-22-06	Amend	4-1-06
436-120-0320	1-1-06	Amend	1-1-06	441-930-0240	2-22-06	Amend	4-1-06
436-120-0755	1-1-06	Adopt	1-1-06	441-930-0250	2-22-06	Amend	4-1-06
436-120-0900	1-1-06	Amend	1-1-06	441-930-0260	2-22-06	Amend	4-1-06
437-001-0001	2-14-06	Amend	3-1-06	441-930-0270	2-22-06	Amend	4-1-06
437-002-0005	12-14-05	Amend	1-1-06	441-930-0280	2-22-06	Amend	4-1-06
437-002-0100	12-14-05	Amend	1-1-06	441-930-0290	2-22-06	Amend	4-1-06
437-002-0260	12-14-05	Amend	1-1-06	441-930-0300	2-22-06	Amend	4-1-06
437-002-0280	12-14-05	Amend	1-1-06	441-930-0310	2-22-06	Amend	4-1-06
437-002-0300	12-14-05	Amend	1-1-06	441-930-0320	2-22-06	Amend	4-1-06
437-003-0001	4-28-06	Amend	6-1-06	441-930-0330	2-22-06	Amend	4-1-06
440-001-0000	5-9-06	Amend	6-1-06	441-930-0340	2-22-06	Amend	4-1-06
440-001-0005	2-14-06	Amend	3-1-06	441-930-0350	2-22-06	Amend	4-1-06
441-049-1001	5-4-06	Amend	6-1-06	441-930-0360	2-22-06	Amend	4-1-06
441-750-0000	1-9-06	Repeal	2-1-06	441-950-0010	1-9-06	Repeal	2-1-06
441-750-0010	1-9-06	Repeal	2-1-06	441-950-0020	1-9-06	Repeal	2-1-06
441-750-0020	1-9-06	Repeal	2-1-06	441-950-0030	1-9-06	Repeal	2-1-06
441-750-0030	1-9-06	Repeal	2-1-06	441-950-0040	1-9-06	Repeal	2-1-06
441-750-0040	1-9-06	Repeal	2-1-06	441-950-0050	1-9-06	Repeal	2-1-06
441-780-0010	1-9-06	Repeal	2-1-06	442-004-0010	1-17-06	Amend(T)	3-1-06
441-780-0020	1-9-06	Repeal	2-1-06	442-004-0080	1-17-06	Amend(T)	3-1-06
441-780-0030	1-9-06	Repeal	2-1-06	442-004-0085	1-17-06	Amend(T)	3-1-06
441-780-0040	1-9-06	Repeal	2-1-06	442-004-0130	1-17-06	Amend(T)	3-1-06
441-780-0050	1-9-06	Repeal	2-1-06	442-004-0150	1-17-06	Amend(T)	3-1-06
441-780-0060	1-9-06	Repeal	2-1-06	442-004-0160	1-17-06	Amend(T)	3-1-06
441-780-0070	1-9-06	Repeal	2-1-06	442-004-0170	1-17-06	Amend(T)	3-1-06
441-780-0080	1-9-06	Repeal	2-1-06	443-002-0010	1-1-06	Amend	2-1-06
441-780-0090	1-9-06	Repeal	2-1-06	443-002-0030	1-1-06	Amend	2-1-06
441-910-0000	1-1-06	Amend	1-1-06	443-002-0060	1-1-06	Amend	2-1-06
441-910-0010	1-1-06	Amend	1-1-06	443-002-0070	1-1-06	Amend	2-1-06
441-910-0020	1-1-06	Amend	1-1-06	443-002-0080	1-1-06	Amend	2-1-06
441-910-0030	1-1-06	Amend	1-1-06	443-002-0090	1-1-06	Amend	2-1-06
441-910-0040	1-1-06	Amend	1-1-06	443-002-0095	1-1-06	Adopt	2-1-06
441-910-0050	1-1-06	Amend	1-1-06	443-002-0110	1-1-06	Amend	2-1-06
441-910-0055	1-1-06	Am. & Ren.	1-1-06	443-002-0120	1-1-06	Amend	2-1-06
441-910-0060	1-1-06	Repeal	1-1-06	445-050-0115	12-29-05	Amend(T)	2-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
445-050-0125	12-29-05	Amend(T)	2-1-06	461-135-0400	4-1-06	Amend	5-1-06
445-050-0135	12-29-05	Amend(T)	2-1-06	461-135-0506	4-1-06	Amend	5-1-06
459-005-0001	4-5-06	Amend	5-1-06	461-135-0570	4-1-06	Amend	5-1-06
459-005-0610	2-1-06	Amend	3-1-06	461-135-0701	1-1-06	Amend	2-1-06
459-007-0001	2-1-06	Amend	3-1-06	461-135-0701(T)	1-1-06	Repeal	2-1-06
459-007-0001(T)	2-1-06	Repeal	3-1-06	461-135-0730	2-6-06	Amend(T)	3-1-06
459-007-0003	2-1-06	Amend	3-1-06	461-135-0750	1-1-06	Amend	2-1-06
459-007-0003(T)	2-1-06	Repeal	3-1-06	461-135-0780	1-1-06	Amend	2-1-06
459-007-0005	2-1-06	Amend	3-1-06	461-135-0830	1-1-06	Amend	2-1-06
459-007-0005(T)	2-1-06	Repeal	3-1-06	461-135-0832	4-1-06	Amend	5-1-06
459-007-0015	12-7-05	Amend	1-1-06	461-135-0835	4-1-06	Amend	5-1-06
459-007-0090	2-1-06	Amend	3-1-06	461-135-0875	4-1-06	Amend	5-1-06
459-007-0090(T)	2-1-06	Repeal	3-1-06	461-135-0950	1-1-06	Amend(T)	2-1-06
459-007-0095	2-1-06	Repeal	3-1-06	461-135-0950	4-1-06	Amend	5-1-06
459-010-0003	1-1-06	Amend	2-1-06	461-135-0950(T)	4-1-06	Repeal	5-1-06
459-010-0014	1-1-06	Amend	2-1-06	461-135-1200	1-1-06	Amend	2-1-06
459-010-0040	4-5-06	Repeal	5-1-06	461-140-0220	1-1-06	Amend	2-1-06
459-011-0115	4-5-06	Adopt	5-1-06	461-140-0296	1-1-06	Amend	2-1-06
459-013-0300	2-1-06	Repeal	3-1-06	461-145-0020	1-1-06	Amend	2-1-06
459-014-0030	4-5-06	Amend	5-1-06	461-145-0070	1-1-06	Amend	2-1-06
459-017-0060	3-1-06	Amend	4-1-06	461-145-0110	1-1-06	Amend	2-1-06
459-050-0060	4-5-06	Amend	5-1-06	461-145-0150	4-1-06	Amend	5-1-06
459-070-0001	1-1-06	Amend	2-1-06	461-145-0190	1-1-06	Amend	2-1-06
459-070-0001	4-5-06	Amend	5-1-06	461-145-0190	4-1-06	Amend	5-1-06
459-075-0010	4-5-06	Amend	5-1-06	461-145-0330	1-1-06	Amend	2-1-06
459-075-0030	4-5-06	Amend	5-1-06	461-145-0410	1-1-06	Amend	2-1-06
459-080-0150	4-5-06	Amend	5-1-06	461-145-0440	1-1-06	Amend	2-1-06
461-101-0010	1-1-06	Amend	2-1-06	461-145-0540	1-1-06	Amend	2-1-06
461-105-0004(T)	2-1-06	Suspend	3-1-06	461-145-0580	1-1-06	Amend	2-1-06
461-105-0010	4-1-06	Amend	5-1-06	461-150-0055	4-1-06	Amend	5-1-06
461-105-0050	4-1-06	Repeal	5-1-06	461-155-0030	4-1-06	Amend(T)	5-1-06
461-105-0060	4-1-06	Amend	5-1-06	461-155-0150	1-1-06	Amend	2-1-06
461-105-0070	4-1-06	Amend	5-1-06	461-155-0150	4-1-06	Amend(T)	5-1-06
461-105-0080	4-1-06	Repeal	5-1-06	461-155-0175	4-1-06	Adopt(T)	5-1-06
461-105-0090	4-1-06	Repeal	5-1-06	461-155-0210	1-1-06	Amend	2-1-06
461-105-0095	4-1-06	Repeal	5-1-06	461-155-0210(T)	1-1-06	Repeal	2-1-06
461-105-0100	4-1-06	Amend	5-1-06	461-155-0225	1-24-06	Amend	3-1-06
461-105-0110	4-1-06	Amend	5-1-06	461-155-0235	1-24-06	Amend	3-1-06
461-105-0120	4-1-06	Amend	5-1-06	461-155-0250	1-1-06	Amend	2-1-06
461-105-0130	4-1-06	Amend	5-1-06	461-155-0250	3-1-06	Amend	4-1-06
461-105-0140	4-1-06	Repeal	5-1-06	461-155-0250	4-1-06	Amend	5-1-06
461-110-0110	4-1-06	Amend	5-1-06	461-155-0270	1-1-06	Amend	2-1-06
461-110-0370	4-1-06	Amend	5-1-06	461-155-0290	3-1-06	Amend	4-1-06
461-110-0630	4-1-06	Amend	5-1-06	461-155-0291	3-1-06	Amend	4-1-06
461-110-0630	4-1-06	Amend(T)	5-1-06	461-155-0295	3-1-06	Amend	4-1-06
461-115-0071	4-1-06	Amend	5-1-06	461-155-0300	1-1-06	Amend	2-1-06
461-115-0530	4-1-06	Amend	5-1-06	461-155-0520	1-1-06	Repeal	2-1-06
461-115-0651	1-1-06	Amend	2-1-06	461-155-0526	1-1-06	Amend	2-1-06
461-120-0110	4-1-06	Amend	5-1-06	461-155-0630	1-1-06	Amend	2-1-06
461-120-0125	4-1-06	Amend	5-1-06	461-160-0015	4-1-06	Amend	5-1-06
461-120-0510	1-1-06	Amend	2-1-06	461-160-0030	4-1-06	Amend	5-1-06
461-135-0010	4-1-06	Amend	5-1-06	461-160-0040	4-1-06	Amend	5-1-06
461-135-0095	4-1-06	Amend	5-1-06	461-160-0410	4-1-06	Amend	5-1-06
461-135-0095	4-1-06	Amend(T)	5-1-06	461-160-0530	4-1-06	Amend	5-1-06
461-135-0096	4-1-06	Amend(T)	5-1-06	461-160-0580	1-1-06	Amend	2-1-06
461-135-0380	1-1-06	Repeal	2-1-06	461-160-0580	3-6-06	Amend(T)	4-1-06



## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
461-160-0610	1-1-06	Amend	2-1-06	471-031-0142	2-5-06	Amend	3-1-06
461-160-0620	1-1-06	Amend	2-1-06	471-031-0180	1-1-06	Repeal	2-1-06
461-160-0700	4-1-06	Amend	5-1-06	471-040-0005	12-25-05	Amend	2-1-06
461-165-0140	4-1-06	Amend	5-1-06	471-040-0007	3-5-06	Adopt	4-1-06
461-165-0180	4-1-06	Amend	5-1-06	471-040-0008	3-5-06	Adopt	4-1-06
461-165-0410	4-1-06	Amend	5-1-06	471-042-0005	12-25-05	Repeal	2-1-06
461-165-0420	4-1-06	Amend	5-1-06	471-050-0001	12-25-05	Repeal	2-1-06
461-165-0430	4-1-06	Amend	5-1-06	543-040-0020	2-14-06	Amend	3-1-06
461-170-0010	12-1-05	Amend	1-1-06	543-040-0033	2-14-06	Repeal	3-1-06
461-170-0020	12-1-05	Amend	1-1-06	543-050-0010	2-14-06	Repeal	3-1-06
461-170-0101	12-1-05	Amend	1-1-06	543-060-0000	2-14-06	Amend	3-1-06
461-170-0102	12-1-05	Amend	1-1-06	543-060-0010	2-14-06	Amend	3-1-06
461-170-0103	12-1-05	Amend	1-1-06	543-060-0020	2-14-06	Amend	3-1-06
461-170-0104	12-1-05	Amend	1-1-06	543-060-0030	2-14-06	Amend	3-1-06
461-175-0206	4-1-06	Adopt	5-1-06	543-070-0000	2-14-06	Amend	3-1-06
461-180-0100	4-1-06	Amend	5-1-06	573-040-0005	3-31-06	Amend	5-1-06
461-180-0130	1-1-06	Amend	2-1-06	574-001-0000	3-2-06	Amend	4-1-06
461-185-0050	1-1-06	Amend	2-1-06	574-050-0005	3-2-06	Amend	4-1-06
461-190-0161	1-1-06	Amend	2-1-06	575-060-0005	2-8-06	Amend	3-1-06
461-190-0195	1-1-06	Adopt	2-1-06	575-071-0000	3-1-06	Amend	4-1-06
461-190-0211	1-1-06	Amend	2-1-06	575-071-0010	3-1-06	Amend	4-1-06
461-190-0241	1-1-06	Amend	2-1-06	575-071-0020	3-1-06	Amend	4-1-06
461-195-0301	1-1-06	Amend	2-1-06	575-071-0030	3-1-06	Amend	4-1-06
461-195-0303	1-1-06	Amend	2-1-06	575-071-0035	3-1-06	Amend	4-1-06
461-195-0305	1-1-06	Amend	2-1-06	575-071-0040	3-1-06	Amend	4-1-06
461-195-0310	1-1-06	Amend	2-1-06	575-071-0050	3-1-06	Amend	4-1-06
461-195-0315	1-1-06	Amend	2-1-06	575-071-0060	3-1-06	Amend	4-1-06
461-195-0320	1-1-06	Amend	2-1-06	575-071-0070	3-1-06	Amend	4-1-06
461-195-0321	1-1-06	Amend	2-1-06	575-074-0000	3-1-06	Adopt	4-1-06
461-195-0325	1-1-06	Amend	2-1-06	575-074-0005	3-1-06	Adopt	4-1-06
461-195-0350	1-1-06	Amend	2-1-06	575-074-0010	3-1-06	Adopt	4-1-06
461-195-0621	4-1-06	Amend	5-1-06	575-074-0015	3-1-06	Adopt	4-1-06
471-010-0040	12-25-05	Amend	2-1-06	575-074-0020	3-1-06	Adopt	4-1-06
471-010-0050	4-23-06	Amend	6-1-06	575-074-0025	3-1-06	Adopt	4-1-06
471-015-0015	1-1-06	Amend	2-1-06	575-074-0030	3-1-06	Adopt	4-1-06
471-020-0010	12-25-05	Amend	2-1-06	576-045-0020	12-16-05	Amend	2-1-06
471-020-0021	1-8-06	Amend	2-1-06	576-050-0025	12-16-05	Amend	2-1-06
471-030-0030	12-25-05	Repeal	2-1-06	577-001-0100	12-15-05	Amend	1-1-06
471-030-0035	12-25-05	Amend	2-1-06	577-001-0105	12-15-05	Amend	1-1-06
471-030-0036	1-8-06	Amend	2-1-06	577-001-0110	12-15-05	Amend	1-1-06
471-030-0049	1-8-06	Amend	2-1-06	577-001-0115	12-15-05	Amend	1-1-06
471-030-0050	12-25-05	Amend	2-1-06	577-001-0120	12-15-05	Amend	1-1-06
471-030-0056	1-8-06	Adopt	2-1-06	577-031-0131	3-10-06	Amend	4-1-06
471-030-0060	12-25-05	Amend	2-1-06	577-060-0020	12-13-05	Amend	1-1-06
471-030-0065	12-25-05	Amend	2-1-06	579-020-0006	4-14-06	Amend	5-1-06
471-030-0076	1-12-06	Amend(T)	2-1-06	580-043-0060	2-9-06	Adopt(T)	3-1-06
471-030-0080	1-1-06	Amend	2-1-06	580-043-0065	2-9-06	Adopt(T)	3-1-06
471-030-0125	3-12-06	Amend	4-1-06	580-043-0070	2-9-06	Adopt(T)	3-1-06
471-030-0150	12-15-05	Amend	1-1-06	580-043-0075	2-9-06	Adopt(T)	3-1-06
471-030-0174	12-25-05	Amend	2-1-06	580-043-0080	2-9-06	Adopt(T)	3-1-06
471-031-0055	12-25-05	Amend	2-1-06	580-043-0085	2-9-06	Adopt(T)	3-1-06
471-031-0057	12-25-05	Repeal	2-1-06	580-043-0090	2-9-06	Adopt(T)	3-1-06
471-031-0090	1-1-06	Repeal	2-1-06	580-043-0095	2-9-06	Adopt(T)	3-1-06
471-031-0139	2-5-06	Adopt	3-1-06	581-001-0005	2-14-06	Amend(T)	3-1-06
471-031-0140	2-5-06	Amend	3-1-06	581-011-0119	2-14-06	Amend	3-1-06
471-031-0141	2-5-06	Amend	3-1-06	581-021-0042	1-20-06	Adopt	3-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
581-021-0044	2-14-06	Amend(T)	3-1-06	584-052-0030	7-1-06	Amend	6-1-06
581-021-0110	2-21-06	Amend	4-1-06	584-052-0031	7-1-06	Amend	6-1-06
581-022-1110	2-14-06	Amend	3-1-06	584-052-0032	7-1-06	Amend	6-1-06
581-022-1120	2-14-06	Amend	3-1-06	584-052-0033	7-1-06	Amend	6-1-06
581-022-1210	2-14-06	Amend	3-1-06	584-060-0120	5-12-06	Repeal	3-1-06
581-022-1360	12-15-05	Adopt(T)	1-1-06	584-070-0013	4-1-06	Adopt(T)	3-1-06
581-022-1361	12-15-05	Adopt(T)	1-1-06	584-070-0013	4-1-06	Amend(T)	4-1-06
581-022-1730	2-21-06	Amend	4-1-06	584-100-0002	2-3-06	Amend(T)	3-1-06
581-022-1732	2-21-06	Amend	4-1-06	584-100-0002	7-1-06	Amend	6-1-06
581-022-1735	2-14-06	Amend	3-1-06	584-100-0006	2-3-06	Amend(T)	3-1-06
581-023-0040	2-21-06	Amend	4-1-06	584-100-0006	7-1-06	Amend	6-1-06
581-024-0195	12-29-05	Adopt(T)	2-1-06	584-100-0011	2-3-06	Amend(T)	3-1-06
581-024-0205	12-29-05	Amend(T)	2-1-06	584-100-0011	7-1-06	Amend	6-1-06
581-024-0206	12-29-05	Amend(T)	2-1-06	584-100-0016	2-3-06	Amend(T)	3-1-06
581-024-0208	12-29-05	Amend(T)	2-1-06	584-100-0016	7-1-06	Amend	6-1-06
581-024-0210	12-29-05	Amend(T)	2-1-06	584-100-0021	2-3-06	Amend(T)	3-1-06
581-024-0215	2-21-06	Amend	4-1-06	584-100-0021	7-1-06	Amend	6-1-06
581-024-0226	2-14-06	Suspend	3-1-06	584-100-0026	2-3-06	Amend(T)	3-1-06
581-024-0228	2-14-06	Suspend	3-1-06	584-100-0026	7-1-06	Amend	6-1-06
581-024-0285	12-29-05	Amend(T)	2-1-06	584-100-0031	2-3-06	Amend(T)	3-1-06
582-001-0001	5-11-06	Repeal	6-1-06	584-100-0031	7-1-06	Amend	6-1-06
582-001-0005	5-11-06	Amend	6-1-06	584-100-0036	2-3-06	Amend(T)	3-1-06
583-030-0005	12-7-05	Amend	1-1-06	584-100-0036	7-1-06	Amend	6-1-06
583-030-0009	12-7-05	Adopt	1-1-06	584-100-0037	2-10-06	Repeal	3-1-06
583-030-0010	12-7-05	Amend	1-1-06	584-100-0038	2-3-06	Adopt(T)	3-1-06
583-030-0011	12-7-05	Am. & Ren.	1-1-06	584-100-0038	7-1-06	Adopt	6-1-06
583-030-0015	12-7-05	Amend	1-1-06	584-100-0041	2-3-06	Amend(T)	3-1-06
583-030-0016	12-7-05	Amend	1-1-06	584-100-0041	7-1-06	Amend	6-1-06
583-030-0020	12-7-05	Amend	1-1-06	584-100-0051	2-3-06	Amend(T)	3-1-06
583-030-0021	12-7-05	Repeal	1-1-06	584-100-0051	7-1-06	Amend	6-1-06
583-030-0025	12-7-05	Amend	1-1-06	584-100-0056	2-3-06	Amend(T)	3-1-06
583-030-0030	12-7-05	Amend	1-1-06	584-100-0056	7-1-06	Amend	6-1-06
583-030-0032	12-7-05	Am. & Ren.	1-1-06	584-100-0061	2-3-06	Amend(T)	3-1-06
583-030-0035	12-7-05	Amend	1-1-06	584-100-0061	7-1-06	Amend	6-1-06
583-030-0036	12-7-05	Amend	1-1-06	584-100-0066	2-3-06	Amend(T)	3-1-06
583-030-0038	12-7-05	Adopt	1-1-06	584-100-0066	7-1-06	Amend	6-1-06
583-030-0039	12-7-05	Am. & Ren.	1-1-06	584-100-0071	2-3-06	Amend(T)	3-1-06
583-030-0041	12-7-05	Amend	1-1-06	584-100-0071	7-1-06	Amend	6-1-06
583-030-0042	12-7-05	Amend	1-1-06	584-100-0091	2-3-06	Amend(T)	3-1-06
583-030-0043	12-7-05	Amend	1-1-06	584-100-0091	7-1-06	Amend	6-1-06
583-030-0044	12-7-05	Amend	1-1-06	584-100-0096	2-3-06	Amend(T)	3-1-06
583-030-0045	12-7-05	Amend	1-1-06	584-100-0096	7-1-06	Amend	6-1-06
583-030-0046	12-7-05	Amend	1-1-06	584-100-0101	2-3-06	Amend(T)	3-1-06
583-030-0049	12-7-05	Amend	1-1-06	584-100-0101	7-1-06	Amend	6-1-06
584-017-0070	1-3-06	Amend(T)	2-1-06	584-100-0106	2-3-06	Amend(T)	3-1-06
584-017-0070	2-3-06	Amend(T)	3-1-06	584-100-0106	7-1-06	Amend	6-1-06
584-017-0440	5-12-06	Repeal	3-1-06	589-007-0400	4-18-06	Amend	6-1-06
584-017-0450	5-12-06	Repeal	3-1-06	603-021-0008	3-10-06	Repeal	4-1-06
584-021-0170	1-1-06	Amend(T)	1-1-06	603-021-0709	3-10-06	Repeal	4-1-06
584-021-0170	2-10-06	Amend	3-1-06	603-024-0017	3-10-06	Amend	4-1-06
584-021-0177	2-10-06	Amend	3-1-06	603-024-0211	3-10-06	Amend	4-1-06
584-023-0025	2-10-06	Amend	3-1-06	603-024-0234	3-10-06	Amend	4-1-06
584-036-0055	1-1-06	Amend(T)	1-1-06	603-024-0547	3-10-06	Amend	4-1-06
584-036-0055	2-10-06	Amend	3-1-06	603-025-0010	3-10-06	Amend	4-1-06
584-036-0062	2-10-06	Amend	3-1-06	603-025-0030	3-10-06	Amend	4-1-06
584-036-0070	2-3-06	Adopt(T)	3-1-06	603-025-0040	3-10-06	Repeal	4-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
603-025-0150	1-3-06	Amend(T)	2-1-06	629-023-0430	1-3-06	Amend(T)	2-1-06
603-025-0190	3-10-06	Amend	4-1-06	629-023-0430	6-1-06	Amend	6-1-06
603-025-0210	3-10-06	Repeal	4-1-06	629-023-0430(T)	6-1-06	Repeal	6-1-06
603-028-0010	3-10-06	Repeal	4-1-06	629-023-0440	1-3-06	Amend(T)	2-1-06
603-028-0500	3-10-06	Amend	4-1-06	629-023-0440	6-1-06	Amend	6-1-06
603-052-0116	1-13-06	Amend	2-1-06	629-023-0440(T)	6-1-06	Repeal	6-1-06
603-052-0117	1-13-06	Amend	2-1-06	629-023-0450	1-3-06	Amend(T)	2-1-06
603-052-0127	3-22-06	Amend	5-1-06	629-023-0450	6-1-06	Amend	6-1-06
603-052-0129	1-13-06	Amend	2-1-06	629-023-0450(T)	6-1-06	Repeal	6-1-06
603-052-0146	3-22-06	Repeal	5-1-06	629-023-0460	1-3-06	Amend(T)	2-1-06
603-052-0150	1-13-06	Amend	2-1-06	629-023-0460	6-1-06	Amend	6-1-06
603-052-0349	1-13-06	Repeal	2-1-06	629-023-0460(T)	6-1-06	Repeal	6-1-06
603-052-0355	1-13-06	Amend	2-1-06	629-023-0490	1-3-06	Amend(T)	2-1-06
603-052-0360	1-13-06	Amend	2-1-06	629-023-0490	6-1-06	Amend	6-1-06
603-052-0385	1-13-06	Amend	2-1-06	629-023-0490(T)	6-1-06	Repeal	6-1-06
603-052-1150	3-22-06	Amend	5-1-06	629-041-0520	7-1-06	Repeal	1-1-06
603-052-1200	1-13-06	Amend	2-1-06	629-041-0535	7-1-06	Repeal	1-1-06
603-052-1221	1-13-06	Amend	2-1-06	629-041-0545	7-1-06	Repeal	1-1-06
603-052-1230	3-10-06	Amend	4-1-06	629-041-0547	7-1-06	Adopt	1-1-06
603-052-1240	2-6-06	Amend	3-1-06	629-041-0557	7-1-06	Adopt	1-1-06
603-052-1250	3-10-06	Amend	4-1-06	629-042-0100	5-9-06	Adopt	6-1-06
603-054-0016	3-22-06	Amend	5-1-06	629-600-0100	1-1-06	Amend	1-1-06
603-054-0017	3-22-06	Amend	5-1-06	629-600-0100(T)	1-1-06	Repeal	1-1-06
603-054-0018	3-22-06	Amend	5-1-06	629-605-0100	1-1-06	Amend	1-1-06
603-054-0024	3-22-06	Amend	5-1-06	629-605-0100(T)	1-1-06	Repeal	1-1-06
603-057-0006	3-8-06	Amend	4-1-06	629-605-0150	1-1-06	Amend	1-1-06
603-057-0006(T)	3-8-06	Repeal	4-1-06	629-605-0150(T)	1-1-06	Repeal	1-1-06
603-057-0405	4-12-06	Amend	5-1-06	629-605-0170	1-1-06	Amend	1-1-06
603-057-0410	4-12-06	Amend	5-1-06	629-605-0170(T)	1-1-06	Repeal	1-1-06
603-057-0411	4-12-06	Amend	5-1-06	629-605-0173	1-1-06	Adopt	1-1-06
603-057-0412	4-12-06	Amend	5-1-06	629-605-0173(T)	1-1-06	Repeal	1-1-06
603-057-0413	4-12-06	Amend	5-1-06	629-605-0175	1-1-06	Amend	1-1-06
603-057-0415	4-12-06	Amend	5-1-06	629-605-0175(T)	1-1-06	Repeal	1-1-06
603-057-0416	4-12-06	Amend	5-1-06	629-605-0180	1-1-06	Amend	1-1-06
603-057-0417	4-12-06	Amend	5-1-06	629-605-0180(T)	1-1-06	Repeal	1-1-06
603-057-0425	4-12-06	Amend	5-1-06	629-605-0190	1-1-06	Amend	1-1-06
606-010-0015	12-23-05	Amend	2-1-06	629-605-0190(T)	1-1-06	Repeal	1-1-06
619-001-0010	12-15-05	Adopt	1-1-06	629-605-0500	1-1-06	Amend	1-1-06
619-001-0020	12-15-05	Adopt	1-1-06	629-605-0500(T)	1-1-06	Repeal	1-1-06
619-001-0030	12-15-05	Adopt	1-1-06	629-610-0020	1-1-06	Amend	1-1-06
619-001-0040	12-15-05	Adopt	1-1-06	629-610-0020(T)	1-1-06	Repeal	1-1-06
619-001-0050	12-15-05	Adopt	1-1-06	629-610-0030	1-1-06	Amend	1-1-06
619-001-0060	12-15-05	Adopt	1-1-06	629-610-0030(T)	1-1-06	Repeal	1-1-06
629-001-0005	3-15-06	Amend	4-1-06	629-610-0040	1-1-06	Amend	1-1-06
629-001-0010	1-1-06	Amend	1-1-06	629-610-0040(T)	1-1-06	Repeal	1-1-06
629-001-0010(T)	1-1-06	Repeal	1-1-06	629-610-0050	1-1-06	Amend	1-1-06
629-001-0025	1-1-06	Amend	1-1-06	629-610-0050(T)	1-1-06	Repeal	1-1-06
629-001-0025(T)	1-1-06	Repeal	1-1-06	629-610-0060	1-1-06	Amend	1-1-06
629-001-0057	1-13-06	Adopt	2-1-06	629-610-0060(T)	1-1-06	Repeal	1-1-06
629-022-0320	5-2-06	Amend(T)	6-1-06	629-610-0070	1-1-06	Amend	1-1-06
629-023-0410	1-3-06	Amend(T)	2-1-06	629-610-0070(T)	1-1-06	Repeal	1-1-06
629-023-0410	6-1-06	Amend	6-1-06	629-610-0090	1-1-06	Amend	1-1-06
629-023-0410(T)	6-1-06	Repeal	6-1-06	629-610-0090(T)	1-1-06	Repeal	1-1-06
629-023-0420	1-3-06	Amend(T)	2-1-06	629-615-0300	1-1-06	Amend	1-1-06
629-023-0420	6-1-06	Amend	6-1-06	629-615-0300(T)	1-1-06	Repeal	1-1-06
629-023-0420(T)	6-1-06	Repeal	6-1-06	629-623-0450	1-1-06	Amend	1-1-06



## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
629-623-0450(T)	1-1-06	Repeal	1-1-06	629-665-0240(T)	1-1-06	Repeal	1-1-06
629-623-0550	1-1-06	Amend	1-1-06	629-670-0010	1-1-06	Amend	1-1-06
629-623-0550(T)	1-1-06	Repeal	1-1-06	629-670-0010(T)	1-1-06	Repeal	1-1-06
629-623-0700	1-1-06	Amend	1-1-06	629-670-0015	1-1-06	Amend	1-1-06
629-623-0700(T)	1-1-06	Repeal	1-1-06	629-670-0015(T)	1-1-06	Repeal	1-1-06
629-625-0100	1-1-06	Amend	1-1-06	629-670-0100	1-1-06	Amend	1-1-06
629-625-0100(T)	1-1-06	Repeal	1-1-06	629-670-0100(T)	1-1-06	Repeal	1-1-06
629-625-0320	1-1-06	Amend	1-1-06	629-670-0115	1-1-06	Amend	1-1-06
629-625-0320(T)	1-1-06	Repeal	1-1-06	629-670-0115(T)	1-1-06	Repeal	1-1-06
629-625-0430	1-1-06	Amend	1-1-06	629-670-0125	1-1-06	Amend	1-1-06
629-625-0430(T)	1-1-06	Repeal	1-1-06	629-670-0125(T)	1-1-06	Repeal	1-1-06
629-630-0200	1-1-06	Amend	1-1-06	629-670-0210	1-1-06	Amend	1-1-06
629-630-0200(T)	1-1-06	Repeal	1-1-06	629-670-0210(T)	1-1-06	Repeal	1-1-06
629-630-0600	1-1-06	Amend	1-1-06	629-672-0100	1-1-06	Amend	1-1-06
629-630-0600(T)	1-1-06	Repeal	1-1-06	629-672-0100(T)	1-1-06	Repeal	1-1-06
629-630-0700	1-1-06	Amend	1-1-06	629-672-0200	1-1-06	Amend	1-1-06
629-630-0700(T)	1-1-06	Repeal	1-1-06	629-672-0200(T)	1-1-06	Repeal	1-1-06
629-630-0800	1-1-06	Amend	1-1-06	629-672-0210	1-1-06	Amend	1-1-06
629-630-0800(T)	1-1-06	Repeal	1-1-06	629-672-0210(T)	1-1-06	Repeal	1-1-06
629-635-0130	1-1-06	Amend	1-1-06	629-672-0220	1-1-06	Repeal	1-1-06
629-635-0130(T)	1-1-06	Repeal	1-1-06	629-672-0310	1-1-06	Amend	1-1-06
629-640-0100	1-1-06	Amend	1-1-06	629-672-0310(T)	1-1-06	Repeal	1-1-06
629-640-0100(T)	1-1-06	Repeal	1-1-06	629-674-0100	1-1-06	Amend	1-1-06
629-640-0110	1-1-06	Amend	1-1-06	629-674-0100(T)	1-1-06	Repeal	1-1-06
629-640-0110(T)	1-1-06	Repeal	1-1-06	632-030-0022	1-10-06	Amend	2-1-06
629-640-0200	1-1-06	Amend	1-1-06	635-001-0005	2-15-06	Amend	3-1-06
629-640-0200(T)	1-1-06	Repeal	1-1-06	635-003-0003	5-1-06	Amend(T)	6-1-06
629-640-0400	1-1-06	Amend	1-1-06	635-003-0004	3-15-06	Amend(T)	4-1-06
629-640-0400(T)	1-1-06	Repeal	1-1-06	635-003-0004	5-1-06	Amend(T)	6-1-06
629-645-0000	1-1-06	Amend	1-1-06	635-003-0085	5-1-06	Amend(T)	6-1-06
629-645-0000(T)	1-1-06	Repeal	1-1-06	635-004-0011	1-1-06	Adopt	1-1-06
629-645-0020	1-1-06	Amend	1-1-06	635-004-0013	1-1-06	Adopt	1-1-06
629-645-0020(T)	1-1-06	Repeal	1-1-06	635-004-0014	1-1-06	Adopt	1-1-06
629-645-0030	1-1-06	Amend	1-1-06	635-004-0016	1-1-06	Adopt	1-1-06
629-645-0030(T)	1-1-06	Repeal	1-1-06	635-004-0019	11-30-05	Amend(T)	1-1-06
629-645-0050	1-1-06	Amend	1-1-06	635-004-0019	1-1-06	Amend(T)	2-1-06
629-645-0050(T)	1-1-06	Repeal	1-1-06	635-004-0019	3-1-06	Amend(T)	4-1-06
629-650-0040	1-1-06	Amend	1-1-06	635-004-0019	5-1-06	Amend(T)	6-1-06
629-650-0040(T)	1-1-06	Repeal	1-1-06	635-004-0019(T)	11-30-05	Suspend	1-1-06
629-660-0040	1-1-06	Amend	1-1-06	635-004-0019(T)	5-1-06	Suspend	6-1-06
629-660-0040(T)	1-1-06	Repeal	1-1-06	635-004-0027	1-1-06	Amend(T)	2-1-06
629-660-0050	1-1-06	Amend	1-1-06	635-004-0033	11-30-05	Amend(T)	1-1-06
629-660-0050(T)	1-1-06	Repeal	1-1-06	635-004-0033	1-1-06	Amend	1-1-06
629-665-0020	1-1-06	Amend	1-1-06	635-004-0033(T)	11-30-05	Suspend	1-1-06
629-665-0020(T)	1-1-06	Repeal	1-1-06	635-004-0090	1-1-06	Amend(T)	2-1-06
629-665-0110	1-1-06	Amend	1-1-06	635-004-0090	2-15-06	Amend	3-1-06
629-665-0110(T)	1-1-06	Repeal	1-1-06	635-004-0170	1-1-06	Amend	1-1-06
629-665-0120	1-1-06	Amend	1-1-06	635-005-0020	1-1-06	Amend	1-1-06
629-665-0120(T)	1-1-06	Repeal	1-1-06	635-005-0030	1-1-06	Amend	1-1-06
629-665-0210	1-1-06	Amend	1-1-06	635-005-0032	1-1-06	Adopt	1-1-06
629-665-0210(T)	1-1-06	Repeal	1-1-06	635-005-0045	11-29-05	Amend(T)	1-1-06
629-665-0220	1-1-06	Amend	1-1-06	635-005-0045	12-30-05	Amend(T)	1-1-06
629-665-0220(T)	1-1-06	Repeal	1-1-06	635-005-0045(T)	12-30-05	Suspend	1-1-06
629-665-0230	1-1-06	Amend	1-1-06	635-006-0215	1-1-06	Amend	1-1-06
629-665-0230(T)	1-1-06	Repeal	1-1-06	635-006-0232	1-9-06	Amend	2-1-06
629-665-0240	1-1-06	Amend	1-1-06	635-006-0810	1-1-06	Amend	1-1-06

## OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-006-0850	1-1-06	Amend	1-1-06	635-023-0128	5-1-06	Amend(T)	6-1-06
635-006-0850	1-1-06	Amend	1-1-06	635-023-0130	1-1-06	Amend	1-1-06
635-006-0910	1-1-06	Amend	1-1-06	635-023-0130	5-1-06	Amend(T)	6-1-06
635-006-1010	1-1-06	Amend	1-1-06	635-039-0080	1-1-06	Amend	1-1-06
635-006-1010	1-1-06	Amend	1-1-06	635-039-0080	1-1-06	Amend	1-1-06
635-006-1015	1-1-06	Amend	1-1-06	635-039-0090	11-29-05	Amend(T)	1-1-06
635-006-1015	1-1-06	Amend	1-1-06	635-039-0090	12-30-05	Amend(T)	1-1-06
635-006-1025	1-1-06	Amend	1-1-06	635-039-0090	1-1-06	Amend	1-1-06
635-006-1025	1-1-06	Amend	1-1-06	635-039-0090	1-1-06	Amend	1-1-06
635-006-1035	1-1-06	Amend	1-1-06	635-039-0090(T)	11-29-05	Suspend	1-1-06
635-006-1035	1-1-06	Amend	1-1-06	635-039-0090(T)	12-30-05	Suspend	1-1-06
635-006-1065	1-1-06	Amend	1-1-06	635-041-0065	1-27-06	Amend(T)	3-1-06
635-006-1065	1-1-06	Amend	1-1-06	635-041-0076	2-15-06	Adopt	3-1-06
635-006-1075	1-1-06	Amend	1-1-06	635-042-0020	2-15-06	Repeal	3-1-06
635-006-1075	1-1-06	Amend	1-1-06	635-042-0022	2-15-06	Amend	3-1-06
635-006-1075	4-21-06	Amend	6-1-06	635-042-0022	2-23-06	Amend(T)	4-1-06
635-006-1085	1-1-06	Amend	1-1-06	635-042-0022	3-2-06	Amend(T)	4-1-06
635-006-1085	1-1-06	Amend	1-1-06	635-042-0022	3-7-06	Amend(T)	4-1-06
635-006-1095	1-1-06	Amend	1-1-06	635-042-0022	3-9-06	Amend(T)	4-1-06
635-006-1095	1-1-06	Amend	1-1-06	635-042-0022	3-14-06	Amend(T)	4-1-06
635-006-1110	1-1-06	Amend	1-1-06	635-042-0027	2-15-06	Adopt	3-1-06
635-006-1110	1-1-06	Amend	1-1-06	635-042-0110	2-15-06	Amend	3-1-06
635-011-0072	1-1-06	Amend	1-1-06	635-042-0130	1-1-06	Amend(T)	2-1-06
635-011-0100	1-1-06	Amend	1-1-06	635-042-0130	3-9-06	Amend(T)	4-1-06
635-013-0003	1-1-06	Amend	1-1-06	635-042-0133	1-1-06	Amend(T)	2-1-06
635-013-0003	5-1-06	Amend(T)	6-1-06	635-042-0133	2-15-06	Amend	3-1-06
635-013-0004	1-1-06	Amend	1-1-06	635-042-0135	1-1-06	Amend(T)	2-1-06
635-014-0080	1-1-06	Amend	1-1-06	635-042-0135	1-27-06	Amend(T)	3-1-06
635-014-0090	11-23-05	Amend(T)	1-1-06	635-042-0135	2-15-06	Amend	3-1-06
635-014-0090	1-1-06	Amend	1-1-06	635-042-0135(T)	1-27-06	Suspend	3-1-06
635-016-0080	1-1-06	Amend	1-1-06	635-042-0145	2-15-06	Amend	3-1-06
635-016-0090	1-1-06	Amend	1-1-06	635-042-0145	3-16-06	Amend(T)	4-1-06
635-016-0090	5-13-06	Amend(T)	6-1-06	635-042-0145	3-23-06	Amend(T)	5-1-06
635-017-0080	1-1-06	Amend	1-1-06	635-042-0145	3-30-06	Amend(T)	5-1-06
635-017-0090	1-1-06	Amend	1-1-06	635-042-0160	2-15-06	Amend	3-1-06
635-017-0095	1-1-06	Amend	1-1-06	635-042-0160	3-16-06	Amend(T)	4-1-06
635-017-0095	1-1-06	Amend(T)	2-1-06	635-042-0160	3-26-06	Amend(T)	5-1-06
635-017-0095	2-15-06	Amend	3-1-06	635-042-0160	4-2-06	Amend(T)	5-1-06
635-018-0080	1-1-06	Amend	1-1-06	635-042-0160	4-9-06	Amend(T)	5-1-06
635-018-0090	1-1-06	Amend	1-1-06	635-042-0180	2-15-06	Amend	3-1-06
635-019-0080	1-1-06	Amend	1-1-06	635-043-0085	12-16-05	Amend	2-1-06
635-019-0090	1-1-06	Amend	1-1-06	635-045-0000	1-1-06	Amend	1-1-06
635-019-0090	5-15-06	Amend(T)	6-1-06	635-045-0002	12-16-05	Amend	2-1-06
635-021-0080	1-1-06	Amend	1-1-06	635-051-0070	12-20-05	Amend(T)	2-1-06
635-021-0090	1-1-06	Amend	1-1-06	635-060-0000	1-1-06	Amend	1-1-06
635-023-0080	1-1-06	Amend	1-1-06	635-060-0055	4-1-06	Amend	1-1-06
635-023-0085	2-15-06	Adopt	3-1-06	635-065-0001	1-1-06	Amend	1-1-06
635-023-0090	1-1-06	Amend	1-1-06	635-065-0015	1-1-06	Amend	1-1-06
635-023-0095	1-1-06	Amend	1-1-06	635-065-0090	12-16-05	Amend	2-1-06
635-023-0095	1-1-06	Amend(T)	2-1-06	635-065-0401	1-1-06	Amend	1-1-06
635-023-0095	2-15-06	Amend	3-1-06	635-065-0625	1-1-06	Amend	1-1-06
635-023-0095	4-8-06	Amend(T)	5-1-06	635-065-0635	1-1-06	Amend	1-1-06
635-023-0125	1-1-06	Amend	1-1-06	635-065-0720	1-1-06	Amend	1-1-06
635-023-0125	2-15-06	Amend	3-1-06	635-065-0735	12-16-05	Amend	2-1-06
635-023-0125	4-14-06	Amend(T)	5-1-06	635-065-0740	1-1-06	Amend	1-1-06
635-023-0125	5-13-06	Amend(T)	6-1-06	635-065-0760	6-1-06	Amend	1-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
635-065-0765	1-1-06	Amend	1-1-06	660-025-0035	5-15-06	Adopt	6-1-06
635-066-0000	1-1-06	Amend	1-1-06	660-025-0040	5-15-06	Amend	6-1-06
635-067-0000	1-1-06	Amend	1-1-06	660-025-0050	5-15-06	Amend	6-1-06
635-067-0004	1-1-06	Amend	1-1-06	660-025-0060	5-15-06	Amend	6-1-06
635-067-0015	1-1-06	Amend	1-1-06	660-025-0070	5-15-06	Amend	6-1-06
635-068-0000	3-1-06	Amend	1-1-06	660-025-0080	5-15-06	Amend	6-1-06
635-069-0000	2-1-06	Amend	1-1-06	660-025-0085	5-15-06	Adopt	6-1-06
635-070-0000	4-1-06	Amend	1-1-06	660-025-0090	5-15-06	Amend	6-1-06
635-071-0000	4-1-06	Amend	1-1-06	660-025-0100	5-15-06	Amend	6-1-06
635-071-0000	4-7-06	Amend(T)	5-1-06	660-025-0110	5-15-06	Amend	6-1-06
635-071-0010	4-7-06	Amend(T)	5-1-06	660-025-0120	5-15-06	Repeal	6-1-06
635-072-0000	1-1-06	Amend	1-1-06	660-025-0130	5-15-06	Amend	6-1-06
635-073-0000	2-1-06	Amend	1-1-06	660-025-0140	5-15-06	Amend	6-1-06
635-073-0000	4-7-06	Amend(T)	5-1-06	660-025-0150	5-15-06	Amend	6-1-06
635-073-0050	4-7-06	Amend(T)	5-1-06	660-025-0160	5-15-06	Amend	6-1-06
635-075-0026	1-1-06	Amend	1-1-06	660-025-0170	5-15-06	Amend	6-1-06
635-075-0026	1-25-06	Amend	3-1-06	660-025-0175	5-15-06	Amend	6-1-06
635-075-0029	1-25-06	Amend	3-1-06	660-025-0180	5-15-06	Amend	6-1-06
635-075-0035	1-25-06	Adopt	3-1-06	660-025-0210	5-15-06	Amend	6-1-06
635-080-0015	1-1-06	Amend	1-1-06	660-025-0220	5-15-06	Amend	6-1-06
635-080-0016	1-1-06	Amend	1-1-06	660-025-0230	5-15-06	Amend	6-1-06
635-080-0066	1-1-06	Amend	1-1-06	660-025-0250	5-15-06	Adopt	6-1-06
635-080-0068	1-1-06	Amend	1-1-06	660-033-0120	2-15-06	Amend	3-1-06
635-080-0069	1-1-06	Amend	1-1-06	660-033-0130	2-15-06	Amend	3-1-06
635-080-0070	1-1-06	Amend	1-1-06	660-034-0000	4-14-06	Amend	5-1-06
635-080-0071	1-1-06	Amend	1-1-06	660-034-0010	4-14-06	Amend	5-1-06
635-110-0000	12-29-05	Amend	2-1-06	660-034-0015	4-14-06	Amend	5-1-06
635-412-0005	1-9-06	Adopt	2-1-06	660-034-0020	4-14-06	Amend	5-1-06
635-412-0015	1-9-06	Adopt	2-1-06	660-034-0025	4-14-06	Amend	5-1-06
635-412-0020	1-9-06	Amend	2-1-06	660-034-0030	4-14-06	Amend	5-1-06
635-412-0025	1-9-06	Amend	2-1-06	660-034-0035	4-14-06	Amend	5-1-06
635-412-0035	1-9-06	Adopt	2-1-06	660-034-0040	4-14-06	Amend	5-1-06
635-412-0040	1-9-06	Adopt	2-1-06	678-010-0010	1-27-06	Amend	3-1-06
644-010-0010	1-1-06	Amend	1-1-06	678-010-0020	1-27-06	Amend	3-1-06
647-010-0010	6-1-06	Amend	6-1-06	678-010-0030	1-27-06	Amend	3-1-06
660-004-0000	2-15-06	Amend	3-1-06	678-010-0040	1-27-06	Amend	3-1-06
660-004-0018	12-13-05	Amend	1-1-06	678-010-0050	1-27-06	Amend	3-1-06
660-004-0022	2-15-06	Amend	3-1-06	690-030-0085	1-30-06	Amend	3-1-06
660-006-0027	2-15-06	Amend	3-1-06	690-315-0010	11-22-05	Amend	1-1-06
660-006-0031	2-15-06	Amend	3-1-06	690-315-0020	11-22-05	Amend	1-1-06
660-009-0000	1-1-07	Amend	1-1-06	690-315-0030	11-22-05	Amend	1-1-06
660-009-0005	1-1-07	Amend	1-1-06	690-315-0040	11-22-05	Amend	1-1-06
660-009-0010	1-1-07	Amend	1-1-06	690-315-0060	11-22-05	Amend	1-1-06
660-009-0015	1-1-07	Amend	1-1-06	690-315-0070	11-22-05	Amend	1-1-06
660-009-0020	1-1-07	Amend	1-1-06	690-315-0080	11-22-05	Amend	1-1-06
660-009-0025	1-1-07	Amend	1-1-06	690-315-0090	11-22-05	Amend	1-1-06
660-009-0030	1-1-07	Adopt	1-1-06	731-001-0005	1-24-06	Amend	3-1-06
660-014-0040	12-13-05	Amend	1-1-06	731-001-0025	1-24-06	Amend	3-1-06
660-015-0000	12-13-05	Amend	1-1-06	731-005-0470	2-16-06	Amend	4-1-06
660-015-0000	2-10-06	Amend	3-1-06	731-007-0335	11-17-05	Adopt(T)	1-1-06
660-022-0030	12-13-05	Amend	1-1-06	731-007-0335	2-16-06	Adopt	4-1-06
660-022-0040	5-15-06	Amend	6-1-06	731-007-0335(T)	2-16-06	Repeal	4-1-06
660-022-0050	5-15-06	Amend	6-1-06	731-035-0010	11-21-05	Adopt(T)	1-1-06
660-025-0010	5-15-06	Amend	6-1-06	731-035-0010	1-24-06	Adopt	3-1-06
660-025-0020	5-15-06	Amend	6-1-06	731-035-0010(T)	1-24-06	Repeal	3-1-06
660-025-0030	5-15-06	Amend	6-1-06	731-035-0020	11-21-05	Adopt(T)	1-1-06



## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
731-035-0020	1-24-06	Adopt	3-1-06	735-060-0057	12-14-05	Amend	1-1-06
731-035-0020(T)	1-24-06	Repeal	3-1-06	735-060-0060	12-14-05	Amend	1-1-06
731-035-0030	11-21-05	Adopt(T)	1-1-06	735-060-0105	12-14-05	Amend	1-1-06
731-035-0030	1-24-06	Adopt	3-1-06	735-060-0110	12-14-05	Amend	1-1-06
731-035-0030(T)	1-24-06	Repeal	3-1-06	735-060-0110	4-15-06	Amend	5-1-06
731-035-0040	11-21-05	Adopt(T)	1-1-06	735-060-0120	12-14-05	Amend	1-1-06
731-035-0040	1-24-06	Adopt	3-1-06	735-060-0120	4-15-06	Amend	5-1-06
731-035-0040(T)	1-24-06	Repeal	3-1-06	735-060-0130	12-14-05	Amend	1-1-06
731-035-0050	11-21-05	Adopt(T)	1-1-06	735-062-0000	1-1-06	Amend	1-1-06
731-035-0050	1-24-06	Adopt	3-1-06	735-062-0030	11-18-05	Amend	1-1-06
731-035-0050(T)	1-24-06	Repeal	3-1-06	735-062-0030(T)	11-18-05	Repeal	1-1-06
731-035-0060	11-21-05	Adopt(T)	1-1-06	735-062-0075	4-15-06	Amend	5-1-06
731-035-0060	1-24-06	Adopt	3-1-06	735-062-0080	12-14-05	Amend	1-1-06
731-035-0060(T)	1-24-06	Repeal	3-1-06	735-062-0105	11-18-05	Amend	1-1-06
731-035-0070	11-21-05	Adopt(T)	1-1-06	735-062-0105(T)	11-18-05	Repeal	1-1-06
731-035-0070	1-24-06	Adopt	3-1-06	735-062-0110	11-18-05	Amend	1-1-06
731-035-0070(T)	1-24-06	Repeal	3-1-06	735-062-0110(T)	11-18-05	Repeal	1-1-06
731-035-0080	11-21-05	Adopt(T)	1-1-06	735-062-0115	11-18-05	Amend	1-1-06
731-035-0080	1-24-06	Adopt	3-1-06	735-062-0115(T)	11-18-05	Repeal	1-1-06
731-035-0080(T)	1-24-06	Repeal	3-1-06	735-062-0120	11-18-05	Amend	1-1-06
733-030-0065	3-2-06	Amend	4-1-06	735-062-0120(T)	11-18-05	Repeal	1-1-06
734-020-0005	12-14-05	Amend(T)	1-1-06	735-062-0130	1-1-06	Amend(T)	1-1-06
734-030-0010	1-24-06	Amend	3-1-06	735-062-0130	2-15-06	Amend	3-1-06
734-030-0025	1-24-06	Amend	3-1-06	735-062-0130(T)	2-15-06	Repeal	3-1-06
734-073-0051	12-14-05	Amend	1-1-06	735-062-0135	11-18-05	Amend	1-1-06
734-073-0130	12-14-05	Amend	1-1-06	735-062-0135(T)	11-18-05	Repeal	1-1-06
734-074-0010	4-28-06	Amend	6-1-06	735-062-0190	12-14-05	Amend	1-1-06
734-079-0005	12-14-05	Amend	1-1-06	735-062-0190(T)	12-14-05	Repeal	1-1-06
734-079-0015	12-14-05	Amend	1-1-06	735-062-0320	12-14-05	Amend	1-1-06
735-001-0040	1-1-06	Amend(T)	1-1-06	735-064-0005	2-15-06	Amend	3-1-06
735-010-0008	1-1-06	Amend	1-1-06	735-064-0040	2-15-06	Amend	3-1-06
735-010-0210	1-1-06	Amend	1-1-06	735-064-0090	2-15-06	Amend	3-1-06
735-010-0215	1-1-06	Adopt	1-1-06	735-064-0100	2-15-06	Amend	3-1-06
735-010-0240	1-1-06	Adopt	1-1-06	735-064-0110	2-15-06	Amend	3-1-06
735-020-0010	1-1-06	Amend(T)	1-1-06	735-064-0220	12-14-05	Amend	1-1-06
735-020-0070	1-1-06	Amend(T)	1-1-06	735-064-0220(T)	12-14-05	Repeal	1-1-06
735-022-0000	1-1-06	Amend(T)	1-1-06	735-064-0235	12-14-05	Amend	1-1-06
735-024-0015	1-1-06	Amend(T)	1-1-06	735-070-0010	11-18-05	Amend	1-1-06
735-024-0030	1-1-06	Amend(T)	1-1-06	735-070-0010	1-1-06	Amend	1-1-06
735-024-0070	1-1-06	Amend(T)	1-1-06	735-070-0010(T)	11-18-05	Repeal	1-1-06
735-024-0075	1-1-06	Amend(T)	1-1-06	735-070-0020	12-14-05	Amend	1-1-06
735-024-0077	1-1-06	Adopt(T)	1-1-06	735-070-0020(T)	12-14-05	Repeal	1-1-06
735-024-0080	1-1-06	Amend(T)	1-1-06	735-070-0030	12-14-05	Amend	1-1-06
735-024-0120	1-1-06	Amend(T)	1-1-06	735-070-0037	12-14-05	Amend	1-1-06
735-024-0130	1-1-06	Amend(T)	1-1-06	735-070-0054	12-14-05	Amend	1-1-06
735-024-0170	1-1-06	Amend(T)	1-1-06	735-070-0180	12-14-05	Repeal	1-1-06
735-028-0010	1-1-06	Amend(T)	1-1-06	735-150-0005	1-1-06	Amend(T)	1-1-06
735-028-0090	1-1-06	Amend(T)	1-1-06	735-150-0010	1-1-06	Amend	1-1-06
735-028-0110	1-1-06	Amend(T)	1-1-06	735-150-0010	1-1-06	Amend(T)	1-1-06
735-032-0020	1-1-06	Amend(T)	1-1-06	735-150-0033	1-1-06	Adopt	1-1-06
735-046-0080	1-1-06	Suspend	1-1-06	735-150-0040	1-1-06	Amend	1-1-06
735-060-0000	12-14-05	Amend	1-1-06	735-150-0050	1-1-06	Amend	1-1-06
735-060-0030	12-14-05	Amend	1-1-06	735-150-0055	1-1-06	Amend	1-1-06
735-060-0040	12-14-05	Amend	1-1-06	735-150-0110	1-1-06	Amend	1-1-06
735-060-0050	12-14-05	Amend	1-1-06	735-150-0120	1-1-06	Amend	1-1-06
735-060-0055	12-14-05	Amend	1-1-06	735-150-0130	1-1-06	Amend	1-1-06

## OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
735-150-0140	1-1-06	Amend	1-1-06	801-001-0055	1-1-06	Adopt	1-1-06
735-152-0000	1-1-06	Amend(T)	1-1-06	801-005-0010	1-1-06	Amend	1-1-06
735-152-0005	1-1-06	Amend(T)	1-1-06	801-010-0050	1-1-06	Amend	1-1-06
735-152-0010	1-1-06	Amend(T)	1-1-06	801-010-0080	1-1-06	Amend	1-1-06
735-152-0020	1-1-06	Amend(T)	1-1-06	801-020-0720	1-1-06	Amend	1-1-06
735-152-0025	1-1-06	Adopt(T)	1-1-06	801-030-0005	1-1-06	Amend	1-1-06
735-152-0030	1-1-06	Suspend	1-1-06	801-030-0015	1-1-06	Amend	1-1-06
735-152-0031	1-1-06	Adopt(T)	1-1-06	801-030-0020	1-1-06	Amend	1-1-06
735-152-0034	1-1-06	Adopt(T)	1-1-06	801-040-0010	1-1-06	Amend	1-1-06
735-152-0037	1-1-06	Adopt(T)	1-1-06	801-040-0070	1-1-06	Amend	1-1-06
735-152-0040	1-1-06	Amend(T)	1-1-06	801-040-0090	1-1-06	Amend	1-1-06
735-152-0045	1-1-06	Adopt(T)	1-1-06	801-050-0005	12-15-05	Amend	1-1-06
735-152-0050	1-1-06	Amend(T)	1-1-06	801-050-0010	12-15-05	Amend	1-1-06
735-152-0060	1-1-06	Adopt(T)	1-1-06	801-050-0020	12-15-05	Amend	1-1-06
735-152-0070	1-1-06	Adopt(T)	1-1-06	801-050-0030	12-15-05	Amend	1-1-06
735-152-0080	1-1-06	Adopt(T)	1-1-06	801-050-0035	12-15-05	Adopt	1-1-06
735-152-0090	1-1-06	Adopt(T)	1-1-06	801-050-0040	12-15-05	Amend	1-1-06
735-160-0003	1-1-06	Adopt	1-1-06	801-050-0050	12-15-05	Repeal	1-1-06
736-015-0035	2-14-06	Amend	3-1-06	801-050-0060	12-15-05	Amend	1-1-06
736-015-0035(T)	2-14-06	Repeal	3-1-06	801-050-0065	12-15-05	Adopt	1-1-06
736-050-0105	5-8-06	Amend	6-1-06	801-050-0070	12-15-05	Amend	1-1-06
736-050-0110	5-8-06	Amend	6-1-06	801-050-0080	12-15-05	Amend	1-1-06
736-050-0115	5-8-06	Amend	6-1-06	804-020-0055	12-13-05	Amend	1-1-06
736-050-0120	5-8-06	Amend	6-1-06	804-030-0020	3-17-06	Amend	5-1-06
736-050-0125	5-8-06	Amend	6-1-06	804-040-0000	3-17-06	Amend	5-1-06
736-050-0130	5-8-06	Amend	6-1-06	806-001-0004	3-15-06	Amend	4-1-06
736-050-0135	5-8-06	Amend	6-1-06	806-001-0005	3-15-06	Amend	4-1-06
736-050-0140	5-8-06	Amend	6-1-06	806-010-0015	12-13-05	Amend	1-1-06
736-050-0150	5-8-06	Amend	6-1-06	806-010-0037	12-13-05	Amend	1-1-06
736-053-0100	2-27-06	Amend	4-1-06	806-010-0037	3-10-06	Amend	4-1-06
736-053-0105	2-27-06	Amend	4-1-06	806-010-0075	3-10-06	Amend	4-1-06
736-053-0110	2-27-06	Amend	4-1-06	806-010-0075	3-15-06	Amend(T)	4-1-06
736-053-0115	2-27-06	Amend	4-1-06	806-020-0020	12-13-05	Amend	1-1-06
736-053-0120	2-27-06	Amend	4-1-06	808-001-0008	4-1-06	Amend	5-1-06
736-053-0125	2-27-06	Amend	4-1-06	808-002-0150	1-1-06	Adopt	2-1-06
736-053-0130	2-27-06	Amend	4-1-06	808-002-0200	1-1-06	Amend	2-1-06
736-053-0135	2-27-06	Adopt	4-1-06	808-002-0250	1-1-06	Amend	2-1-06
736-053-0140	2-27-06	Adopt	4-1-06	808-002-0298	1-1-06	Repeal	2-1-06
738-015-0005	1-27-06	Amend	3-1-06	808-002-0328	1-1-06	Adopt	2-1-06
738-015-0075	1-27-06	Amend	3-1-06	808-002-0330	1-1-06	Adopt	2-1-06
740-010-0020	12-14-05	Adopt	1-1-06	808-002-0338	1-1-06	Adopt	2-1-06
740-010-0020(T)	12-14-05	Repeal	1-1-06	808-002-0340	1-1-06	Amend	2-1-06
740-020-0010	4-28-06	Amend	6-1-06	808-002-0360	1-1-06	Amend	2-1-06
740-050-0610	12-14-05	Amend	1-1-06	808-002-0455	1-1-06	Adopt	2-1-06
740-055-0300	12-14-05	Repeal	1-1-06	808-002-0460	1-1-06	Repeal	2-1-06
740-055-0320	12-14-05	Amend	1-1-06	808-002-0490	1-1-06	Adopt	2-1-06
740-100-0010	4-1-06	Amend	5-1-06	808-002-0495	1-1-06	Adopt	2-1-06
740-100-0010(T)	4-1-06	Repeal	5-1-06	808-002-0500	1-1-06	Amend	2-1-06
740-100-0060	4-1-06	Amend	5-1-06	808-002-0600	1-1-06	Repeal	2-1-06
740-100-0070	4-1-06	Amend	5-1-06	808-002-0650	1-1-06	Adopt	2-1-06
740-100-0080	4-1-06	Amend	5-1-06	808-002-0720	1-1-06	Repeal	2-1-06
740-100-0090	4-1-06	Amend	5-1-06	808-002-0730	1-1-06	Amend	2-1-06
740-100-0100	4-1-06	Amend	5-1-06	808-002-0734	1-1-06	Adopt	2-1-06
740-110-0010	4-1-06	Amend	5-1-06	808-002-0735	1-1-06	Repeal	2-1-06
740-200-0045	2-16-06	Adopt	4-1-06	808-002-0745	1-1-06	Repeal	2-1-06
801-001-0035	1-1-06	Amend	1-1-06	808-002-0810	1-1-06	Adopt	2-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
808-002-0875	1-1-06	Adopt	2-1-06	812-002-0340	1-1-06	Repeal	1-1-06
808-002-0885	1-1-06	Adopt	2-1-06	812-002-0350	1-1-06	Adopt	1-1-06
808-003-0010	1-1-06	Amend	2-1-06	812-002-0360	1-1-06	Amend	1-1-06
808-003-0015	1-1-06	Amend	2-1-06	812-002-0420	1-1-06	Amend	1-1-06
808-003-0035	1-1-06	Amend	2-1-06	812-002-0430	1-1-06	Amend	1-1-06
808-003-0040	1-1-06	Amend	2-1-06	812-002-0443	1-1-06	Amend	1-1-06
808-003-0045	1-1-06	Amend	2-1-06	812-002-0520	1-1-06	Amend	1-1-06
808-003-0060	1-1-06	Amend	2-1-06	812-002-0533	1-1-06	Adopt	1-1-06
808-003-0105	1-1-06	Amend	2-1-06	812-002-0537	1-1-06	Adopt	1-1-06
808-003-0110	1-1-06	Amend	2-1-06	812-002-0540	1-1-06	Amend	1-1-06
808-003-0130	1-1-06	Amend	2-1-06	812-002-0555	1-1-06	Repeal	1-1-06
808-003-0225	1-1-06	Adopt	2-1-06	812-002-0640	1-1-06	Amend	1-1-06
808-003-0230	1-1-06	Adopt	2-1-06	812-002-0670	1-1-06	Amend	1-1-06
808-003-0235	1-1-06	Adopt	2-1-06	812-002-0675	1-1-06	Amend	1-1-06
808-003-0240	1-1-06	Adopt	2-1-06	812-002-0700	1-1-06	Amend	1-1-06
808-003-0245	1-1-06	Adopt	2-1-06	812-002-0720	1-1-06	Amend	1-1-06
808-003-0250	1-1-06	Adopt	2-1-06	812-002-0740	1-1-06	Amend	1-1-06
808-003-0255	1-1-06	Adopt	2-1-06	812-002-0780	1-1-06	Amend	1-1-06
808-003-0260	1-1-06	Adopt	2-1-06	812-002-0800	1-1-06	Amend	1-1-06
808-004-0320	1-1-06	Amend	2-1-06	812-003-0170	1-1-06	Amend	1-1-06
808-004-0600	1-1-06	Amend	2-1-06	812-003-0175	3-9-06	Adopt(T)	4-1-06
808-005-0020	1-1-06	Amend	2-1-06	812-003-0240	1-1-06	Amend	1-1-06
809-010-0001	12-7-05	Amend	1-1-06	812-003-0240	1-11-06	Amend(T)	2-1-06
809-015-0000	12-14-05	Amend	1-1-06	812-003-0240	3-30-06	Amend	5-1-06
809-015-0005	12-14-05	Amend	1-1-06	812-003-0240(T)	3-30-06	Repeal	5-1-06
809-030-0025	3-17-06	Amend	5-1-06	812-003-0420	1-1-06	Amend	1-1-06
811-010-0084	2-9-06	Adopt(T)	3-1-06	812-004-0180	1-1-06	Amend	1-1-06
811-010-0085	2-9-06	Amend	3-1-06	812-004-0195	1-1-06	Amend	1-1-06
811-010-0093	3-27-06	Amend	5-1-06	812-004-0240	1-1-06	Amend	1-1-06
811-010-0130	2-9-06	Adopt	3-1-06	812-004-0250	1-1-06	Amend	1-1-06
811-015-0005	2-9-06	Amend	3-1-06	812-004-0260	1-1-06	Amend	1-1-06
811-021-0005	2-9-06	Amend	3-1-06	812-004-0300	1-1-06	Amend	1-1-06
812-001-0051	1-1-06	Am. & Ren.	1-1-06	812-004-0320	1-1-06	Amend	1-1-06
812-001-0100	1-1-06	Am. & Ren.	1-1-06	812-004-0325	1-1-06	Repeal	1-1-06
812-001-0110	1-1-06	Am. & Ren.	1-1-06	812-004-0340	1-1-06	Amend	1-1-06
812-001-0120	1-1-06	Am. & Ren.	1-1-06	812-004-0360	1-1-06	Amend	1-1-06
812-001-0120	3-30-06	Amend	5-1-06	812-004-0420	1-1-06	Amend	1-1-06
812-001-0130	1-1-06	Am. & Ren.	1-1-06	812-004-0440	1-1-06	Amend	1-1-06
812-001-0140	1-1-06	Am. & Ren.	1-1-06	812-004-0450	1-1-06	Amend	1-1-06
812-001-0160	1-1-06	Am. & Ren.	1-1-06	812-004-0460	1-1-06	Amend	1-1-06
812-001-0200	1-1-06	Am. & Ren.	1-1-06	812-004-0470	1-1-06	Amend	1-1-06
812-001-0200	1-11-06	Amend(T)	2-1-06	812-004-0480	1-1-06	Amend	1-1-06
812-001-0200	3-30-06	Amend	5-1-06	812-004-0500	1-1-06	Amend	1-1-06
812-001-0200(T)	3-30-06	Repeal	5-1-06	812-004-0530	1-1-06	Amend	1-1-06
812-001-0300	1-1-06	Am. & Ren.	1-1-06	812-004-0590	1-1-06	Amend	1-1-06
812-001-0305	1-1-06	Am. & Ren.	1-1-06	812-005-0100	1-1-06	Am. & Ren.	1-1-06
812-001-0310	1-1-06	Am. & Ren.	1-1-06	812-005-0110	1-1-06	Am. & Ren.	1-1-06
812-001-0500	1-1-06	Am. & Ren.	1-1-06	812-005-0120	1-1-06	Am. & Ren.	1-1-06
812-001-0510	1-1-06	Am. & Ren.	1-1-06	812-005-0130	1-1-06	Am. & Ren.	1-1-06
812-002-0040	1-1-06	Amend	1-1-06	812-005-0140	1-1-06	Am. & Ren.	1-1-06
812-002-0060	1-1-06	Amend	1-1-06	812-005-0150	1-1-06	Am. & Ren.	1-1-06
812-002-0100	1-1-06	Amend	1-1-06	812-005-0160	1-1-06	Am. & Ren.	1-1-06
812-002-0160	1-1-06	Amend	1-1-06	812-005-0170	1-1-06	Am. & Ren.	1-1-06
812-002-0190	1-1-06	Amend	1-1-06	812-005-0180	1-1-06	Am. & Ren.	1-1-06
812-002-0260	1-1-06	Amend	1-1-06	812-005-0200	1-1-06	Am. & Ren.	1-1-06
812-002-0325	1-1-06	Amend	1-1-06	812-005-0210	1-1-06	Am. & Ren.	1-1-06



## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
812-005-0500	1-1-06	Am. & Ren.	1-1-06	813-013-0025	1-5-06	Adopt(T)	2-1-06
812-005-0800	1-1-06	Am. & Ren.	1-1-06	813-013-0030	1-5-06	Adopt(T)	2-1-06
812-005-0800	1-26-06	Amend	3-1-06	813-013-0035	1-5-06	Adopt(T)	2-1-06
812-006-0012	1-1-06	Amend	1-1-06	813-013-0040	1-5-06	Adopt(T)	2-1-06
812-006-0015	1-1-06	Adopt	1-1-06	813-013-0045	1-5-06	Adopt(T)	2-1-06
812-006-0030	1-1-06	Amend	1-1-06	813-013-0050	1-5-06	Adopt(T)	2-1-06
812-008-0050	3-2-06	Amend	4-1-06	813-013-0055	1-5-06	Adopt(T)	2-1-06
812-008-0070	1-26-06	Amend	3-1-06	813-013-0060	1-5-06	Adopt(T)	2-1-06
812-008-0072	1-26-06	Amend	3-1-06	813-040-0005	4-13-06	Amend(T)	5-1-06
812-008-0078	1-26-06	Repeal	3-1-06	813-040-0010	4-13-06	Amend(T)	5-1-06
812-008-0090	3-2-06	Amend	4-1-06	813-040-0015	4-13-06	Amend(T)	5-1-06
812-008-0110	1-1-06	Amend	1-1-06	813-040-0020	4-13-06	Amend(T)	5-1-06
812-008-0202	3-2-06	Amend	4-1-06	813-040-0025	4-13-06	Amend(T)	5-1-06
812-009-0160	1-1-06	Amend	1-1-06	813-040-0030	4-13-06	Amend(T)	5-1-06
812-009-0320	1-1-06	Amend	1-1-06	813-040-0035	4-13-06	Amend(T)	5-1-06
812-009-0400	1-1-06	Amend	1-1-06	813-040-0040	4-13-06	Amend(T)	5-1-06
812-009-0420	1-1-06	Amend	1-1-06	813-040-0045	4-13-06	Amend(T)	5-1-06
812-009-0430	1-1-06	Amend	1-1-06	813-140-0010	3-29-06	Amend(T)	5-1-06
813-001-0000	1-31-06	Repeal	3-1-06	813-140-0020	3-29-06	Amend(T)	5-1-06
813-001-0002	1-31-06	Adopt	3-1-06	813-140-0030	3-29-06	Amend(T)	5-1-06
813-001-0002(T)	1-31-06	Repeal	3-1-06	813-140-0040	3-29-06	Amend(T)	5-1-06
813-001-0003	1-31-06	Am. & Ren.	3-1-06	813-140-0050	3-29-06	Amend(T)	5-1-06
813-001-0003(T)	1-31-06	Repeal	3-1-06	813-140-0060	3-29-06	Amend(T)	5-1-06
813-001-0005	1-31-06	Repeal	3-1-06	813-140-0070	3-29-06	Renumber(T)	5-1-06
813-001-0007	1-31-06	Adopt	3-1-06	813-140-0080	3-29-06	Amend(T)	5-1-06
813-001-0007(T)	1-31-06	Repeal	3-1-06	813-140-0090	3-29-06	Amend(T)	5-1-06
813-001-0008	1-31-06	Repeal	3-1-06	813-140-0110	3-29-06	Amend(T)	5-1-06
813-001-0011	1-31-06	Adopt	3-1-06	813-140-0120	3-29-06	Adopt(T)	5-1-06
813-001-0011(T)	1-31-06	Repeal	3-1-06	817-005-0005	3-15-06	Amend	4-1-06
813-001-0066	1-31-06	Repeal	3-1-06	817-010-0065	3-15-06	Amend	4-1-06
813-001-0068	1-31-06	Repeal	3-1-06	817-010-0068	3-15-06	Amend	4-1-06
813-001-0069	1-31-06	Repeal	3-1-06	817-010-0101	3-15-06	Amend	4-1-06
813-001-0080	1-31-06	Repeal	3-1-06	817-010-0106	3-15-06	Amend	4-1-06
813-001-0090	1-31-06	Repeal	3-1-06	817-015-0050	3-15-06	Amend	4-1-06
813-005-0001	1-31-06	Adopt	3-1-06	817-015-0065	3-15-06	Amend	4-1-06
813-005-0001(T)	1-31-06	Repeal	3-1-06	817-020-0305	3-15-06	Amend	4-1-06
813-005-0005	1-31-06	Amend	3-1-06	817-030-0005	3-15-06	Amend	4-1-06
813-005-0005(T)	1-31-06	Repeal	3-1-06	817-030-0015	3-15-06	Amend	4-1-06
813-005-0010	1-31-06	Repeal	3-1-06	817-030-0018	3-15-06	Amend	4-1-06
813-005-0015	1-31-06	Repeal	3-1-06	817-030-0020	3-15-06	Amend	4-1-06
813-005-0016	1-31-06	Adopt	3-1-06	817-030-0040	3-15-06	Amend	4-1-06
813-005-0016(T)	1-31-06	Repeal	3-1-06	817-030-0045	3-15-06	Amend	4-1-06
813-005-0020	1-31-06	Repeal	3-1-06	817-030-0100	3-15-06	Amend	4-1-06
813-005-0025	1-31-06	Repeal	3-1-06	817-035-0010	3-15-06	Amend	4-1-06
813-005-0030	1-31-06	Repeal	3-1-06	817-035-0030	3-15-06	Amend	4-1-06
813-009-0001	2-10-06	Amend(T)	3-1-06	817-035-0110	3-15-06	Amend	4-1-06
813-009-0005	2-10-06	Amend(T)	3-1-06	817-040-0003	3-15-06	Amend	4-1-06
813-009-0010	2-10-06	Amend(T)	3-1-06	817-080-0005	3-15-06	Amend	4-1-06
813-009-0015	2-10-06	Amend(T)	3-1-06	817-090-0025	3-15-06	Amend	4-1-06
813-009-0020	2-10-06	Amend(T)	3-1-06	817-090-0035	3-15-06	Amend	4-1-06
813-009-0030	2-10-06	Adopt(T)	3-1-06	817-090-0045	3-15-06	Amend	4-1-06
813-013-0001	1-5-06	Adopt(T)	2-1-06	817-090-0050	3-15-06	Amend	4-1-06
813-013-0005	1-5-06	Adopt(T)	2-1-06	817-090-0055	3-15-06	Amend	4-1-06
813-013-0010	1-5-06	Adopt(T)	2-1-06	817-090-0065	3-15-06	Amend	4-1-06
813-013-0015	1-5-06	Adopt(T)	2-1-06	817-090-0070	3-15-06	Amend	4-1-06
813-013-0020	1-5-06	Adopt(T)	2-1-06	817-090-0075	3-15-06	Amend	4-1-06

## OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
817-090-0080	3-15-06	Amend	4-1-06	837-012-0750	3-10-06	Amend	4-1-06
817-090-0085	3-15-06	Amend	4-1-06	837-012-0855	3-10-06	Amend	4-1-06
817-090-0090	3-15-06	Amend	4-1-06	837-012-0900	3-10-06	Amend	4-1-06
817-090-0095	3-15-06	Amend	4-1-06	837-012-0910	3-10-06	Amend	4-1-06
817-090-0100	3-15-06	Amend	4-1-06	837-012-1320	5-5-06	Amend	6-1-06
817-090-0105	3-15-06	Amend	4-1-06	837-040-0001	2-1-06	Amend(T)	2-1-06
817-090-0110	3-15-06	Amend	4-1-06	837-040-0010	2-1-06	Amend(T)	2-1-06
817-090-0115	3-15-06	Amend	4-1-06	837-040-0020	2-1-06	Adopt(T)	2-1-06
817-100-0005	3-15-06	Amend	4-1-06	837-040-0140	2-1-06	Amend(T)	2-1-06
817-120-0005	3-15-06	Amend	4-1-06	839-001-0420	1-1-06	Amend	2-1-06
818-001-0002	4-1-06	Amend	5-1-06	839-001-0470	1-1-06	Amend	2-1-06
818-012-0030	4-1-06	Amend	5-1-06	839-002-0002	3-20-06	Amend	5-1-06
818-015-0007	4-1-06	Amend	5-1-06	839-002-0005	3-20-06	Amend	5-1-06
818-021-0011	4-1-06	Amend	5-1-06	839-003-0020	3-20-06	Amend	5-1-06
818-021-0012	4-1-06	Amend	5-1-06	839-003-0090	3-20-06	Amend	5-1-06
818-021-0025	4-1-06	Amend	5-1-06	839-006-0131	3-17-06	Amend(T)	5-1-06
818-021-0026	4-1-06	Adopt	5-1-06	839-006-0136	3-20-06	Amend	5-1-06
818-026-0080	4-1-06	Amend	5-1-06	839-006-0136(T)	3-20-06	Repeal	5-1-06
818-042-0115	4-1-06	Amend	5-1-06	839-006-0145	3-20-06	Amend	5-1-06
818-042-0116	4-1-06	Amend	5-1-06	839-006-0205	3-20-06	Amend	5-1-06
818-042-0117	4-1-06	Amend	5-1-06	839-006-0305	3-20-06	Amend	5-1-06
820-010-0010	12-13-05	Amend	1-1-06	839-006-0405	3-20-06	Amend	5-1-06
820-010-0205	12-13-05	Amend	1-1-06	839-009-0260	3-24-06	Amend	5-1-06
820-010-0207	12-13-05	Adopt	1-1-06	839-009-0320	3-24-06	Amend	5-1-06
820-010-0215	12-13-05	Amend	1-1-06	839-011-0084	4-18-06	Amend	6-1-06
820-010-0230	12-13-05	Amend	1-1-06	839-014-0025	3-7-06	Repeal	4-1-06
820-010-0255	12-13-05	Amend	1-1-06	839-014-0060	1-1-06	Amend	2-1-06
820-010-0305	12-13-05	Amend	1-1-06	839-014-0100	1-1-06	Amend	2-1-06
820-010-0427	12-13-05	Adopt	1-1-06	839-014-0105	1-1-06	Amend	2-1-06
820-010-0450	12-13-05	Amend	1-1-06	839-014-0200	1-1-06	Amend	2-1-06
820-010-0465	12-13-05	Amend	1-1-06	839-014-0380	1-1-06	Amend	2-1-06
820-010-0610	12-13-05	Amend	1-1-06	839-014-0630	1-1-06	Amend	2-1-06
820-010-0618	12-13-05	Amend	1-1-06	839-015-0002	3-7-06	Repeal	4-1-06
820-010-0619	12-13-05	Adopt	1-1-06	839-015-0130	3-1-06	Amend	4-1-06
820-010-0625	12-13-05	Amend	1-1-06	839-015-0145	3-1-06	Amend	4-1-06
820-010-0635	12-13-05	Amend	1-1-06	839-015-0155	1-1-06	Amend	2-1-06
836-005-0107	4-27-06	Amend	6-1-06	839-015-0157	1-1-06	Amend	2-1-06
836-009-0011	4-14-06	Amend	5-1-06	839-015-0160	1-1-06	Amend	2-1-06
836-011-0000	1-23-06	Amend	3-1-06	839-015-0165	1-1-06	Amend	2-1-06
836-027-0200	2-13-06	Amend	3-1-06	839-015-0200	1-1-06	Amend	2-1-06
836-052-0676	3-20-06	Amend	4-1-06	839-015-0230	1-1-06	Amend	2-1-06
836-052-0696	3-20-06	Amend	4-1-06	839-015-0260	1-1-06	Amend	2-1-06
836-053-0003	5-1-06	Adopt	6-1-06	839-015-0300	1-1-06	Amend	2-1-06
836-053-0460	5-1-06	Amend	6-1-06	839-015-0300	3-1-06	Amend	4-1-06
836-053-1400	4-14-06	Adopt	5-1-06	839-015-0350	1-1-06	Amend	2-1-06
836-071-0180	1-31-06	Amend	3-1-06	839-015-0500	1-1-06	Amend	2-1-06
836-071-0263	1-15-06	Adopt	2-1-06	839-015-0508	1-1-06	Amend	2-1-06
836-071-0277	1-15-06	Amend	2-1-06	839-015-0600	1-1-06	Amend	2-1-06
836-080-0430	3-10-06	Amend	4-1-06	839-015-0610	1-1-06	Amend	2-1-06
836-080-0438	3-10-06	Amend	4-1-06	839-017-0001	3-7-06	Repeal	4-1-06
837-012-0510	3-10-06	Amend	4-1-06	839-019-0002	3-7-06	Repeal	4-1-06
837-012-0555	3-10-06	Amend	4-1-06	839-021-0102	5-15-06	Amend	6-1-06
837-012-0620	3-10-06	Amend	4-1-06	839-021-0104	5-15-06	Amend	6-1-06
837-012-0625	2-13-06	Amend(T)	2-1-06	839-021-0220	5-15-06	Amend	6-1-06
837-012-0625	3-10-06	Amend	4-1-06	839-025-0002	3-7-06	Repeal	4-1-06
837-012-0750	2-13-06	Amend(T)	2-1-06	839-025-0003	1-1-06	Amend	2-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
839-025-0004	1-1-06	Amend	2-1-06	848-001-0000	1-1-06	Amend	2-1-06
839-025-0004	5-15-06	Amend(T)	6-1-06	848-005-0020	1-1-06	Amend	2-1-06
839-025-0010	1-1-06	Amend	2-1-06	848-005-0030	1-1-06	Amend	2-1-06
839-025-0015	1-1-06	Adopt	2-1-06	848-010-0015	1-1-06	Amend	2-1-06
839-025-0020	1-1-06	Amend	2-1-06	848-010-0020	1-1-06	Amend	2-1-06
839-025-0020	5-15-06	Amend(T)	6-1-06	848-010-0026	1-1-06	Amend	2-1-06
839-025-0035	1-1-06	Amend	2-1-06	848-010-0033	1-1-06	Amend	2-1-06
839-025-0037	5-15-06	Adopt(T)	6-1-06	848-010-0035	1-1-06	Amend	2-1-06
839-025-0100	1-1-06	Amend	2-1-06	848-010-0044	1-1-06	Amend	2-1-06
839-025-0100	5-15-06	Amend	6-1-06	848-015-0010	1-1-06	Amend	2-1-06
839-025-0220	1-1-06	Amend	2-1-06	848-015-0030	1-1-06	Amend	2-1-06
839-025-0230	1-1-06	Amend	2-1-06	848-020-0030	1-1-06	Amend	2-1-06
839-025-0240	1-1-06	Repeal	2-1-06	848-020-0060	1-1-06	Amend	2-1-06
839-025-0530	1-1-06	Amend	2-1-06	848-030-0000	1-1-06	Repeal	2-1-06
839-025-0700	1-1-06	Amend	2-1-06	848-030-0010	1-1-06	Repeal	2-1-06
839-025-0700	1-25-06	Amend	3-1-06	848-035-0010	4-14-06	Adopt	5-1-06
839-025-0700	2-9-06	Amend	3-1-06	848-035-0015	4-14-06	Adopt	5-1-06
839-025-0700	2-24-06	Amend	4-1-06	848-035-0020	4-14-06	Adopt	5-1-06
839-025-0700	4-1-06	Amend	5-1-06	848-035-0030	4-14-06	Adopt	5-1-06
839-025-0750	12-23-05	Amend	2-1-06	848-035-0040	4-14-06	Adopt	5-1-06
839-025-0750	3-13-06	Amend	4-1-06	848-040-0105	1-1-06	Amend	2-1-06
839-030-0010	4-7-06	Amend	5-1-06	848-040-0110	1-1-06	Amend	2-1-06
839-050-0010	3-20-06	Amend	5-1-06	848-040-0115	1-1-06	Repeal	2-1-06
839-050-0150	3-24-06	Amend	5-1-06	848-040-0117	1-1-06	Adopt	2-1-06
839-050-0300	3-24-06	Amend	5-1-06	848-040-0120	1-1-06	Amend	2-1-06
845-003-0340	5-1-06	Amend	6-1-06	848-040-0147	1-1-06	Adopt	2-1-06
845-004-0020	1-1-06	Amend	2-1-06	848-045-0010	1-1-06	Amend	2-1-06
845-004-0105	3-1-06	Adopt	4-1-06	848-045-0020	1-1-06	Amend	2-1-06
845-005-0306	12-1-05	Amend	1-1-06	850-060-0225	12-12-05	Amend	1-1-06
845-006-0301	2-1-06	Amend	3-1-06	850-060-0226	12-12-05	Amend	1-1-06
845-006-0335	1-1-06	Amend	1-1-06	851-001-0000	5-8-06	Amend	6-1-06
845-006-0427	5-1-06	Repeal	6-1-06	851-001-0005	5-8-06	Amend	6-1-06
845-006-0430	2-1-06	Amend	3-1-06	851-002-0060	5-8-06	Amend	6-1-06
845-010-0151	1-1-06	Amend	2-1-06	851-031-0006	12-21-05	Amend	2-1-06
845-010-0170	1-1-06	Amend	2-1-06	851-031-0045	12-21-05	Amend	2-1-06
845-015-0165	3-1-06	Amend	4-1-06	851-031-0088	2-22-06	Adopt	4-1-06
847-008-0015	5-8-06	Amend	6-1-06	851-045-0025	12-21-05	Amend	2-1-06
847-008-0023	2-8-06	Adopt(T)	3-1-06	851-050-0131	12-21-05	Amend	2-1-06
847-008-0023	5-8-06	Adopt	6-1-06	851-050-0131	2-22-06	Amend	4-1-06
847-010-0052	2-8-06	Amend	3-1-06	851-050-0131	5-8-06	Amend	6-1-06
847-010-0073	5-8-06	Amend	6-1-06	851-054-0040	5-8-06	Amend	6-1-06
847-020-0130	2-8-06	Amend(T)	3-1-06	851-061-0030	5-8-06	Amend	6-1-06
847-020-0130	5-8-06	Amend	6-1-06	851-061-0080	5-8-06	Amend	6-1-06
847-020-0140	2-8-06	Amend	3-1-06	851-061-0090	12-21-05	Amend	2-1-06
847-020-0150	2-8-06	Amend	3-1-06	851-061-0090	5-8-06	Amend	6-1-06
847-020-0170	2-8-06	Amend	3-1-06	851-061-0100	5-8-06	Amend	6-1-06
847-020-0170	2-8-06	Amend(T)	3-1-06	851-062-0010	12-21-05	Amend	2-1-06
847-020-0170	5-8-06	Amend	6-1-06	851-063-0040	2-22-06	Amend	4-1-06
847-020-0180	2-8-06	Amend	3-1-06	852-010-0080	7-1-06	Amend	5-1-06
847-020-0185	5-8-06	Adopt	6-1-06	852-020-0070	4-1-06	Amend	5-1-06
847-031-0020	2-8-06	Amend	3-1-06	852-050-0006	4-1-06	Amend	5-1-06
847-050-0010	5-8-06	Amend	6-1-06	852-050-0006	7-1-06	Amend	5-1-06
847-050-0025	5-8-06	Amend	6-1-06	852-050-0012	4-1-06	Amend	5-1-06
847-050-0026	2-8-06	Amend	3-1-06	852-050-0014	4-1-06	Amend	5-1-06
847-050-0041	2-8-06	Amend	3-1-06	852-060-0025	12-8-05	Am. & Ren.	1-1-06
847-050-0065	2-8-06	Amend	3-1-06	852-060-0027	12-8-05	Am. & Ren.	1-1-06



## OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
852-060-0028	12-8-05	Am. & Ren.	1-1-06	860-026-0005	11-30-05	Amend	1-1-06
852-060-0075	3-8-06	Amend	4-1-06	860-027-0001	11-30-05	Amend	1-1-06
852-080-0030	4-1-06	Amend	5-1-06	860-027-0045	11-30-05	Amend	1-1-06
852-080-0040	4-1-06	Amend	5-1-06	860-027-0120	11-30-05	Amend	1-1-06
855-025-0001	12-15-05	Adopt	1-1-06	860-027-0300	11-30-05	Amend	1-1-06
855-025-0050	12-14-05	Adopt	1-1-06	860-030-0005	11-30-05	Amend	1-1-06
855-041-0063	12-15-05	Amend	1-1-06	860-030-0010	11-30-05	Amend	1-1-06
856-010-0012	11-29-05	Amend	1-1-06	860-030-0015	11-30-05	Amend	1-1-06
856-010-0026	1-30-06	Adopt	3-1-06	860-030-0018	11-30-05	Amend	1-1-06
860-011-0001	4-14-06	Amend	5-1-06	860-032-0012	12-27-05	Amend	2-1-06
860-011-0036	11-28-05	Adopt	1-1-06	860-034-0270	2-27-06	Amend	4-1-06
860-011-0080	11-30-05	Amend	1-1-06	860-034-0275	2-27-06	Adopt	4-1-06
860-011-0080	12-21-05	Amend	2-1-06	860-034-0275(T)	2-27-06	Repeal	4-1-06
860-012-0040	11-30-05	Amend	1-1-06	860-034-0276	2-27-06	Adopt	4-1-06
860-021-0008	11-30-05	Amend	1-1-06	860-034-0390	12-27-05	Amend	2-1-06
860-021-0010	11-30-05	Amend	1-1-06	860-038-0005	11-30-05	Amend	1-1-06
860-021-0033	11-30-05	Amend	1-1-06	860-038-0005	5-11-06	Amend	6-1-06
860-021-0045	11-30-05	Amend	1-1-06	860-038-0300	11-30-05	Amend	1-1-06
860-021-0120	2-27-06	Amend	4-1-06	860-038-0400	11-30-05	Amend	1-1-06
860-021-0205	11-30-05	Amend	1-1-06	860-038-0410	11-30-05	Amend	1-1-06
860-021-0326	11-30-05	Amend	1-1-06	860-038-0500	5-11-06	Amend	6-1-06
860-021-0328	2-17-06	Adopt(T)	4-1-06	860-038-0520	5-11-06	Amend	6-1-06
860-021-0335	11-30-05	Amend	1-1-06	860-038-0560	5-11-06	Amend	6-1-06
860-021-0405	11-30-05	Amend	1-1-06	860-038-0580	5-11-06	Amend	6-1-06
860-021-0405	2-27-06	Amend	4-1-06	860-038-0600	5-11-06	Amend	6-1-06
860-021-0410	11-30-05	Amend	1-1-06	860-038-0620	5-11-06	Amend	6-1-06
860-021-0414	11-30-05	Amend	1-1-06	860-038-0640	5-11-06	Amend	6-1-06
860-021-0415	11-30-05	Amend	1-1-06	863-015-0186	1-1-06	Adopt(T)	2-1-06
860-021-0420	11-30-05	Amend	1-1-06	863-015-0225	1-1-06	Adopt(T)	2-1-06
860-021-0510	2-27-06	Amend	4-1-06	863-015-0230	1-1-06	Adopt(T)	2-1-06
860-021-0550	2-27-06	Adopt	4-1-06	875-001-0000	2-8-06	Amend	3-1-06
860-021-0550(T)	2-27-06	Repeal	4-1-06	875-001-0005	2-8-06	Amend	3-1-06
860-021-0575	2-27-06	Adopt	4-1-06	875-001-0005	5-11-06	Amend	6-1-06
860-022-0001	11-30-05	Amend	1-1-06	875-001-0010	2-8-06	Repeal	3-1-06
860-022-0017	11-30-05	Amend	1-1-06	875-001-0015	2-8-06	Adopt	3-1-06
860-022-0040	11-30-05	Amend	1-1-06	875-001-0020	2-8-06	Repeal	3-1-06
860-022-0046	11-30-05	Amend	1-1-06	875-001-0030	2-8-06	Repeal	3-1-06
860-022-0075	11-30-05	Adopt	1-1-06	875-005-0000	2-8-06	Adopt	3-1-06
860-023-0000	12-23-05	Amend	2-1-06	875-005-0005	2-8-06	Adopt	3-1-06
860-023-0001	11-30-05	Amend	1-1-06	875-005-0005	5-11-06	Amend	6-1-06
860-023-0001	12-23-05	Amend	2-1-06	875-005-0010	2-8-06	Adopt	3-1-06
860-023-0005	11-30-05	Amend	1-1-06	875-005-0010	5-11-06	Amend	6-1-06
860-023-0005	12-23-05	Amend	2-1-06	875-010-0000	2-8-06	Adopt	3-1-06
860-023-0020	11-30-05	Amend	1-1-06	875-010-0000	5-11-06	Amend	6-1-06
860-023-0054	12-23-05	Adopt	2-1-06	875-010-0006	2-8-06	Adopt	3-1-06
860-023-0055	12-27-05	Amend	2-1-06	875-010-0006	5-11-06	Amend	6-1-06
860-023-0080	11-30-05	Amend	1-1-06	875-010-0010	2-8-06	Repeal	3-1-06
860-023-0090	11-30-05	Amend	1-1-06	875-010-0016	2-8-06	Adopt	3-1-06
860-023-0100	11-30-05	Amend	1-1-06	875-010-0021	2-8-06	Adopt	3-1-06
860-023-0110	11-30-05	Amend	1-1-06	875-010-0026	2-8-06	Adopt	3-1-06
860-023-0120	11-30-05	Amend	1-1-06	875-010-0030	2-8-06	Repeal	3-1-06
860-023-0130	11-30-05	Amend	1-1-06	875-010-0045	2-8-06	Amend	3-1-06
860-023-0140	11-30-05	Amend	1-1-06	875-010-0050	2-8-06	Amend	3-1-06
860-023-0150	11-30-05	Amend	1-1-06	875-010-0055	2-8-06	Repeal	3-1-06
860-023-0160	11-30-05	Amend	1-1-06	875-010-0060	2-8-06	Repeal	3-1-06
860-025-0001	11-30-05	Amend	1-1-06	875-010-0065	2-8-06	Amend	3-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
875-010-0065	5-11-06	Amend	6-1-06	877-040-0055	12-22-05	Amend	2-1-06
875-010-0070	2-8-06	Repeal	3-1-06	877-040-0060	12-22-05	Repeal	2-1-06
875-010-0075	2-8-06	Repeal	3-1-06	877-040-0065	12-22-05	Repeal	2-1-06
875-010-0080	2-8-06	Repeal	3-1-06	877-040-0070	12-22-05	Repeal	2-1-06
875-010-0085	2-8-06	Repeal	3-1-06	918-001-0010	2-13-06	Amend	3-1-06
875-010-0090	2-8-06	Adopt	3-1-06	918-008-0000	3-1-06	Amend(T)	4-1-06
875-010-0090	5-11-06	Amend	6-1-06	918-008-0010	3-1-06	Amend(T)	4-1-06
875-010-0095	2-8-06	Adopt	3-1-06	918-008-0020	3-1-06	Amend(T)	4-1-06
875-011-0005	2-8-06	Adopt	3-1-06	918-008-0030	3-1-06	Amend(T)	4-1-06
875-011-0010	2-8-06	Adopt	3-1-06	918-008-0060	3-1-06	Amend(T)	4-1-06
875-015-0000	2-8-06	Repeal	3-1-06	918-008-0075	1-1-06	Adopt	2-1-06
875-015-0020	2-8-06	Amend	3-1-06	918-008-0080	1-1-06	Adopt	2-1-06
875-015-0030	2-8-06	Amend	3-1-06	918-008-0085	1-1-06	Adopt	2-1-06
875-015-0030	5-11-06	Amend	6-1-06	918-008-0090	1-1-06	Adopt	2-1-06
875-015-0050	2-8-06	Amend	3-1-06	918-008-0095	1-1-06	Adopt	2-1-06
875-020-0000	2-8-06	Repeal	3-1-06	918-008-0110	1-1-06	Adopt	2-1-06
875-020-0010	5-11-06	Amend	6-1-06	918-008-0115	1-1-06	Adopt	2-1-06
875-020-0030	2-8-06	Amend	3-1-06	918-008-0120	1-1-06	Adopt	2-1-06
875-020-0040	2-8-06	Amend	3-1-06	918-020-0090	1-1-06	Amend	2-1-06
875-020-0055	2-8-06	Amend	3-1-06	918-050-0000	1-1-06	Amend	2-1-06
875-030-0010	2-8-06	Amend	3-1-06	918-050-0010	1-1-06	Amend	2-1-06
875-030-0010	5-11-06	Amend	6-1-06	918-050-0020	1-1-06	Amend	2-1-06
875-030-0020	2-8-06	Amend	3-1-06	918-050-0030	1-1-06	Amend	2-1-06
875-030-0025	2-8-06	Amend	3-1-06	918-050-0100	1-1-06	Amend	2-1-06
875-030-0025	5-11-06	Amend	6-1-06	918-050-0110	1-1-06	Amend	2-1-06
875-030-0040	2-8-06	Amend	3-1-06	918-050-0120	1-1-06	Amend	2-1-06
875-030-0040	5-11-06	Amend	6-1-06	918-050-0130	1-1-06	Amend	2-1-06
877-001-0000	12-22-05	Amend	2-1-06	918-050-0140	1-1-06	Amend	2-1-06
877-010-0025	12-22-05	Amend	2-1-06	918-050-0150	1-1-06	Amend	2-1-06
877-020-0000	12-22-05	Amend	2-1-06	918-050-0160	1-1-06	Amend	2-1-06
877-020-0009	12-22-05	Amend	2-1-06	918-050-0170	1-1-06	Amend	2-1-06
877-020-0010	12-22-05	Amend	2-1-06	918-050-0200	1-1-06	Repeal	2-1-06
877-020-0012	12-22-05	Amend	2-1-06	918-050-0800	1-1-06	Amend	2-1-06
877-020-0013	12-22-05	Amend	2-1-06	918-090-0000	1-1-06	Amend	1-1-06
877-020-0015	12-22-05	Amend	2-1-06	918-090-0010	1-1-06	Amend	1-1-06
877-020-0016	12-22-05	Amend	2-1-06	918-090-0200	1-1-06	Amend	1-1-06
877-020-0020	12-22-05	Amend	2-1-06	918-090-0210	1-1-06	Amend	1-1-06
877-020-0030	12-22-05	Amend	2-1-06	918-098-1000	4-1-06	Amend	5-1-06
877-020-0031	12-22-05	Amend	2-1-06	918-098-1005	4-1-06	Amend	5-1-06
877-020-0046	12-22-05	Amend	2-1-06	918-098-1010	4-1-06	Amend	5-1-06
877-020-0050	12-22-05	Repeal	2-1-06	918-098-1012	4-1-06	Amend	5-1-06
877-020-0055	12-22-05	Adopt	2-1-06	918-098-1015	4-1-06	Amend	5-1-06
877-025-0000	12-22-05	Amend	2-1-06	918-098-1025	4-1-06	Amend	5-1-06
877-025-0005	12-22-05	Amend	2-1-06	918-098-1210	4-1-06	Amend	5-1-06
877-030-0040	12-22-05	Amend	2-1-06	918-098-1215	4-1-06	Amend	5-1-06
877-030-0050	12-22-05	Amend	2-1-06	918-098-1300	4-1-06	Amend	5-1-06
877-030-0070	12-22-05	Amend	2-1-06	918-098-1410	4-1-06	Amend	5-1-06
877-030-0090	12-22-05	Amend	2-1-06	918-098-1450	4-1-06	Amend	5-1-06
877-030-0100	12-22-05	Adopt	2-1-06	918-098-1470	4-1-06	Amend	5-1-06
877-035-0012	12-22-05	Amend	2-1-06	918-098-1600	4-1-06	Amend	5-1-06
877-035-0013	12-22-05	Adopt	2-1-06	918-098-1620	4-1-06	Amend	5-1-06
877-035-0015	12-22-05	Amend	2-1-06	918-098-1630	4-1-06	Amend	5-1-06
877-040-0015	12-22-05	Amend	2-1-06	918-100-0000	1-1-06	Amend	2-1-06
877-040-0025	12-22-05	Repeal	2-1-06	918-100-0030	1-1-06	Amend	2-1-06
877-040-0027	12-22-05	Repeal	2-1-06	918-225-0440	1-1-06	Repeal	2-1-06
877-040-0050	12-22-05	Amend	2-1-06	918-225-0610	1-1-06	Amend	2-1-06

## OAR REVISION CUMULATIVE INDEX

<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
918-251-0030	1-1-06	Repeal	2-1-06	918-305-0160	1-1-06	Amend	2-1-06
918-251-0040	1-1-06	Repeal	2-1-06	918-305-0180	1-1-06	Amend	2-1-06
918-261-0025	1-1-06	Adopt	2-1-06	918-400-0230	1-1-06	Repeal	2-1-06
918-281-0000	4-1-06	Amend	5-1-06	918-460-0015	2-1-06	Amend	3-1-06
918-281-0010	4-1-06	Amend	5-1-06	918-525-0310	1-1-06	Amend	2-1-06
918-281-0020	4-1-06	Amend	5-1-06	918-525-0410	1-1-06	Amend	2-1-06
918-283-0010	4-3-06	Amend(T)	5-1-06	918-525-0420	1-1-06	Amend	2-1-06
918-305-0030	1-1-06	Amend	2-1-06	918-525-0520	1-1-06	Amend	2-1-06
918-305-0110	1-1-06	Amend	2-1-06	918-690-0340	1-1-06	Repeal	2-1-06
918-305-0120	1-1-06	Amend	2-1-06	918-690-0350	1-1-06	Repeal	2-1-06
918-305-0130	1-1-06	Amend	2-1-06	918-695-0400	4-1-06	Amend	5-1-06
918-305-0150	1-1-06	Amend	2-1-06	918-780-0035	4-4-06	Amend	5-1-06