

RESUBSCRIPTION ISSUE

# OREGON BULLETIN

Supplements the 2006 *Oregon Administrative Rules Compilation*

Volume 45, No. 10  
October 1, 2006

For August 16, 2006–September 15, 2006

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# INFORMATION AND PUBLICATION SCHEDULE

## General Information

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

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## OTHER NOTICES

### A CHANCE TO COMMENT ON PROPOSED CONSENT JUDGMENT FOR A PROSPECTIVE PURCHASER AGREEMENT GOVERNING THE REYNOLDS METALS SUPERFUND SITE, MULTNOMAH COUNTY, OREGON

**COMMENTS DUE:** October 31, 2006

**PROJECT LOCATION:** 5100 NE Sun Dial Road, Troutdale, Oregon

**PROPOSAL:** The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with the Port of Portland for the property located at 5100 NE Sun Dial Road, Troutdale, Oregon (Property).

**HIGHLIGHTS:** The Property was formerly operated as an aluminum smelter and is being remediated under the supervision of the United States Environmental Protection Agency (USEPA) and DEQ under the Superfund Program. Plant operations, including past waste disposal, spills, leaks and other releases, have caused hazardous substance soil and groundwater contamination.

The Consent Judgment will require the Port of Portland to comply with institutional controls at the Property and to develop the Property consistent with selected remedial actions.

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 beneficial reuse of contaminated property and its cleanup and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing contaminated property. DEQ has approved more than 80 Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide the Port of Portland 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 the Port of Portland with a covenant not to sue and 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 October 31, 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 Mavis Kent at (503) 667-8414x55008.

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 TRIANGLE PARK PROPERTY IN PORTLAND, OREGON

**COMMENTS DUE:** October 31, 2006

**PROJECT LOCATION:** 5828 North Van Houten Place, Portland, Oregon

**PROPOSAL:** The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with the University of Portland for the property located at 5828 North Van Houten Place, Portland, Oregon (the "Property").

**HIGHLIGHTS:** The University of Portland is acquiring the Property to allow the University to remediate and rehabilitate and environmentally damaged Property, provide beneficial redevelopment of the vacant Property, maintain and expand its educational programs, provide enhanced educational opportunities to its students, and expand its civic and financial contributions to the city and state. The Property was used historically for a variety of industrial operations. During historic operations at the site, hazardous substances were released into the ground and groundwater at the Property; such releases may extend into the adjacent Willamette River. Investigations have been conducted at the Property; removal and/or remedial actions are necessary to protect human health and the environment.

The Consent Judgment will require the University of Portland to coordinate future cleanup actions with DEQ and to reimburse a portion of DEQ's past costs at the site. The University of Portland 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.

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 more than 80 Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide the University of Portland 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 the University of Portland 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 October 31, 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 Jim Anderson at (503) 229-6825.

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.

### PROPOSED APPROVAL OF CLEANUP AT LENTS TOWN CENTER

**COMMENTS DUE:** October 30, 2006

**PROJECT LOCATION:** 8925 SE Foster Road, 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 Lents Town Center site.

**HIGHLIGHTS:** The properties that are designated for the new Lents Community Center consist of former business and residential use. Two of the commercial properties had recognized petroleum hydrocarbon contamination, one from a former underground storage tank remediation project, and the other from vehicles leaking lubricants in a parking area. The Portland Development Commission prepared the site for redevelopment by removing the contaminated soils from these areas and backfilling with clean soil. Several heating oil tanks have been decommissioned at the site as well, one from a for-



## OTHER NOTICES

mer residence and one located underneath the sidewalk along SE Foster Road. In total over 1,200 tons of soil were removed from the site during remedial action. Confirmation soil sampling and 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 October 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/>

### NOTICE OF PROPOSED REMEDIAL ACTION CHILOQUIN FOREST PRODUCTS (FORMER) CHILOQUIN, OREGON

**COMMENTS DUE:** October 31, 2006

**PROJECT LOCATION:** west end of Blocklinger St, Chiloquin, Klamath County

Pursuant to Oregon Revised Statute (ORS) 465.320, the Oregon Department of Environmental Quality (DEQ) is issuing this notice regarding the proposed remedial action for dioxin contaminated soil at the former Chiloquin Forest Products located at the west end of Blocklinger Street along the bank of the Sprague River in Chiloquin.

The proposed remedial action consists of excavation and off-site disposal of hot spots, a one foot thick rock cap over a majority of the site, and institutional controls in the form of an Equitable Easement and Servitude. The site will remain listed on the DEQ's Confirmed Release List and Inventory of Hazardous Substances. DEQ will consider all public comments received before issuing the final approval of the proposed remedial action. Additional information on proposed cleanup activities and cleanup activities completed to date may be viewed at: <http://www.deq.state.or.us/wmc/cu/ER/Chiloquin/index.htm>

**HOW TO COMMENT:** The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact the Project Manager, Katie Robertson at (541) 278-4620 or by email at [robertson.katie@deq.state.or.us](mailto:robertson.katie@deq.state.or.us). Written comments must be submitted to Katie Robertson at the address listed above and received by 5:00 p.m. on October 31, 2006.

A copy of significant portions of the project file is also located at the Chiloquin Library in a file entitled the "Chiloquin Mill Site Restoration Project".

### DEQ ISSUES PARTIAL NO FURTHER ACTION DETERMINATION FOR THE FORMER WEYERHAEUSER CONTAINERBOARD MILL NORTH BEND, OREGON

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

**FINAL DECISION:** The Department of Environmental Quality (DEQ) has approved the cleanup actions for contaminated soil and groundwater for selected areas at the former Weyerhaeuser Containerboard Mill in North Bend.

Two areas 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 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 sulfate 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 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.

Due to public interest in the property by a group of more than 10 people, DEQ extended the public comment period from June 1, 2006 until July 3, 2006, and held a public meeting on June 22, 2006. DEQ received written questions and comments centering primarily on the bioaccumulation potential of some residual chemicals located on the Ingram Yard property. DEQ carefully evaluated these comments, and as a result, added additional recommendations and requirements to our Site Summary Report and No Further Action determination letter, which was issued on September 15, 2006.

**ADDITIONAL INFORMATION:** For additional information regarding the site cleanup, contact DEQ Project Manager, Bill Mason at (541) 687-7427 or by email at [mason.bill@deq.state.or.us](mailto:mason.bill@deq.state.or.us)

### CLEANUP ACTION COMPLETED AND DEQ RECOMMENDS NO FURTHER ACTION AT GLENWOOD BUSINESS PARK, PHOENIX, OR

**COMMENTS DUE:** October 30, 2006

**PROJECT LOCATION:** Glenwood Business Park, 117 West Glenwood Road, Phoenix, Oregon

**PROPOSAL:** Oregon Department of Environmental Quality (DEQ) invites public comments from October 1, 2006 through October 30, 2006. DEQ will consider all comments before issuing a no further action determination.

**HIGHLIGHTS:** The staff report will be available for public review at DEQ's Eugene office and DEQ's Medford office from October 1, 2006 through October 30, 2006.

The Glenwood Business Park site is located at 117 West Glenwood Road, in Phoenix, Oregon, approximately 1/4 mile southwest of Highway 99.

Historical operations at the site, which included a small sawmill, a rail yard, a machine shop, and possible asphalt storage resulted in localized hydrocarbon contamination in soils near the north end of

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the property. An underground vault was found in this area, which contained hydrocarbon material. This vault was emptied, and soils immediately surrounding it were removed from the site for disposal. Some contaminated soils remain in place in this area. This portion of the site cannot be built upon due to a railroad setback. Benzene and other chemicals are present in soils in this area at levels that are safe for direct human contact.

There is also low-level groundwater contamination near the north end of the property, which extends off-site to the north, beneath Glenwood Avenue. No nearby residents are drinking water from the shallow aquifer the contamination does not extend a significant distance off-site.

Groundwater impact beneath the site does not pose a risk to site workers or nearby residents.

There is no significant ecological habitat at the site.

**HOW TO COMMENT:** The staff report, project files, investigation reports, administrative record, etc. are available for public review at DEQ's Eugene office and Medford office. Please call (800)844-8467 extension 7819 to schedule an appointment to view files. Written comments should be sent to Geoff Brown, 1102 Lincoln Street, Suite 210, Eugene, Oregon 97402 by 5:00 p.m. October 30, 2006. A public meeting will be held to receive verbal comments if requested by 10 or more persons or by a group with a membership of 10 or more.

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

### **PROPOSED NO FURTHER ACTION AT ROSEBURG FOREST PRODUCTS – NIX PROPERTY DIKE SITE, NORTH BEND, OREGON**

**COMMENTS DUE:** November 1, 2006

**PROJECT LOCATION:** Roseburg Forest Products (RFP) — Nix Property Dike Site, 93543 Hollow Stump Lane by Haynes Inlet at River Mile 2, North Bend, Oregon

**PROPOSAL:** Pursuant to ORS 465.320 and Oregon Administrative Rules (OAR) 340-122-465, the Oregon Department of Environmental Quality (DEQ) requests public comment on its recommen-

dation that no further investigation or cleanup action is required for PCBs and petroleum-contaminated soil at the Nix Property Dike site near North Bend.

**BACKGROUND:** In September 2004, Mr. Nix obtained fill material from Roseburg Forest Products (RFP) to repair the dike located on Hollow Stump Lane. Part of the material was stored in the upland portion of his property and part was placed in a dike. It was later determined that the fill contained PCBs and petroleum products. In January 2005, RFP excavated approximately 100 cubic yards of soil from the dike area above the water level at low tide. The excavated material was stockpiled along with the fill material in the upland area of the Nix property. In August 2005, approximately 1,200 cubic yards of stockpiled soil was removed and stored at RFP's facility until final disposal at Coffin Butte landfill in the fall of 2005. In January 2006 RFP excavation additional fill material from the dike area. RFP removed approximately 660 cubic yards of impacted fill material from southeast and northwest dike faces, and approximately 10 cubic yards from the road bed. Confirmation samples were collected from the excavated areas. No PCBs or petroleum hydrocarbons were detected in the soil samples. Excavated material was disposed at Coffin Butte landfill in the winter of 2006. In the absence of unacceptable human health or substantial environmental risks from residual PCBs and petroleum contamination at the Roseburg Forest Products — Nix Property Dike site, DEQ recommends that no further action be required for investigation and cleanup of this site.

**HOW TO COMMENT:** The project files may be reviewed by appointment at DEQ's Eugene office, 1102 Lincoln Street. Written comments must be received by November 1, 2006. Comments should be submitted to DEQ's Eugene office, located at 1102 Lincoln St., Suite 210, Eugene, OR 97401 or by e-mail at [camarata.mary@deq.state.or.us](mailto:camarata.mary@deq.state.or.us). Questions may also be directed to Mary Camarata at the Eugene address or by calling her at 1-800-844-8467 ext 7435. The TTY number for the hearing impaired is 541-687-5603.

**THE NEXT STEP:** DEQ will consider all public comments before taking final actions on this matter. A public meeting will be held to receive verbal comments on the proposed cleanup action upon written request by ten or more persons, or by a group with ten or more members.

# 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.*

\*\*\*\*\*  
**Board of Architect Examiners**  
**Chapter 806**

**Rule Caption:** Reinstatements, Residency, and Renewal Grace Periods.

**Stat. Auth.:** ORS 671.125

**Stats. Implemented:** ORS 671.080 & 671.125

**Proposed Amendments:** 806-010-0060, 806-010-0145

**Last Date for Comment:** 11-1-06, 4:30 p.m.

**Summary:** This rule clarifies which subsection applies for reinstatement from inactive status, clarifies when the inactive status begins, and eliminates the residency requirement for being eligible for a waiver of continuing professional education (CPE) requirements for renewal and reinstatements.

**Rules Coordinator:** Carol Halford

**Address:** Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301

**Telephone:** (503) 763-0662

\*\*\*\*\*  
**Board of Examiners for Engineering and Land Survey**  
**Chapter 820**

**Rule Caption:** Adopt or amend for clarity the engineering/land surveying/photogrammetry rules pertaining to licensure and professional conduct.

Date:	Time:	Location:
11-14-06	1-2 p.m.	670 Hawthorne Ave. SE Suite 220 Salem, OR 97301

**Hearing Officer:** Bob Neathamer

**Stat. Auth.:** ORS 672.045, 672.097, 672.099, 672.155, 672.255

**Other Auth.:** ORS 670.310

**Stats. Implemented:** ORS 672.002-672.325

**Proposed Amendments:** 820-001-0000, 820-001-0020, 820-010-0010, 820-010-0200, 820-010-0205, 820-010-0207, 820-010-0225, 820-010-0230, 820-010-0255, 820-010-0300, 820-010-0305, 820-010-0400, 820-010-0605, 820-010-0617, 820-010-0622, 820-010-0635

**Proposed Repeals:** 820-010-0618

**Last Date for Comment:** 11-14-06, Close of Hearing

**Summary:** OAR 820-001-0000 — Clarifies the method and to whom will be noticed of any permanent rule adopted on or after 01/01/2006 by the Board.

OAR 820-001-0020 — Clarifies methods to obtain public records.

OAR 820-010-0010 — Clarifies definitions pertaining to licensure.

OAR 820-010-0200 — Housekeeping. Clarifies rule to pertain only to applications for registration as a professional engineer based on licensure by another jurisdiction. This rule had previously unrelated rules and covered too much content, therefore confusing to the reader.

OAR 820-010-0205 — Clarifies rule to pertain only to applications for registration as a professional land surveyors based on licensure by another jurisdiction.

OAR 820-010-0207 — Clarifies rule to pertain only to applications for registration as a registered professional photogrammetrist based on licensure by another jurisdiction.

OAR 820-010-0225 — Housekeeping. Clarifies rule to pertain only to educational qualification to take the fundamentals of engineering examination. This rule had previously unrelated rules and covered too much content, therefore confusing to the reader.

OAR 820-010-0230 — Separates the requirements for professional engineers from other professionals registered with the board.

OAR 820-010-0255 — Includes required references for comity applicants and renames "stamp" to "seal".

OAR 820-010-0300 — Housekeeping. Changes rule to conform with the change of an outside party administering examinations.

OAR 820-010-0305 — Housekeeping. Includes fee for application for registration as a registered professional photogrammetrist.

OAR 820-010-0400 — Reinstatement of the previous OAR 820-010-0200(5) to (7).

OAR 820-010-0605 — Revises the requirement to notify the Board in writing of an address change from 6 months to 30 days.

OAR 820-010-0617 — Clarifies the Board's current practices of assessing civil penalties.

OAR 820-010-0618 — Repeal rule. Civil penalty amount already established in ORS 672.325.

OAR 820-010-0622 — Housekeeping. Changes wording for consistency with other rules ("stamp" to "seal").

OAR 820-010-0635 — Includes additional method to receive professional development hours.

**Rules Coordinator:** Mari Lopez

**Address:** Board of Examiners for Engineering and Land Surveying, 670 Hawthorne Ave. SE, Suite 220 Salem, OR 97301

**Telephone:** (503) 362-2666, ext. 26

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**Rule Caption:** Adopt or amend for clarity the engineering/land surveying/photogrammetry rules pertaining to licensure and professional conduct.

Date:	Time:	Location:
11-14-06	1-2 p.m.	670 Hawthorne Ave. SE, Suite 220 Salem, OR 97301

**Hearing Officer:** Bob Neathamer

**Stat. Auth.:** ORS 672.045, 672.097, 672.099, 672.155, 672.255

**Other Auth.:** ORS 670.310

**Stats. Implemented:** ORS 672.002 - 672.325

**Proposed Adoptions:** 820-010-0204, 820-010-0206, 520-010-0208, 820-010-0209, 520-010-0226, 820-010-0227, 820-010-0228, 820-010-0231

**Proposed Amendments:** 820-015-0005, 820-015-0026, 820-020-0005, 820-020-0025, 820-020-0030, 820-020-0035, 820-020-0045, 820-040-0040

**Proposed Repeals:** 820-015-0010, 820-020-0010

**Last Date for Comment:** 11-14-06, Close of Hearing



# NOTICES OF PROPOSED RULEMAKING

**Summary:** OAR 820-010-0204 — Implement and clarify standards to apply for registration as a professional engineer based on examination in another jurisdiction, but not yet licensed.

OAR 820-010-0209 — Allows for the use of titles such as “Geotechnical engineer”, “soils engineer”, “soil engineer”, or “foundation engineer” by professional engineers practicing in these fields of engineering until the prior practice process has been completed by the Board.

OAR 820-010-0206 — Implement standards to apply for registration as a professional land surveyor based on examination in another jurisdiction, but not yet licensed.

OAR 820-010-0208 — Implement standards to apply for registration as a registered professional photogrammetrist based on examination in another jurisdiction, but not yet licensed.

OAR 820-010-0226 — Implement and clarify educational qualifications to take the fundamentals of land surveying examination for enrollment as a land surveying intern.

OAR 820-010-0227 — Implement and clarify a combination of educational and experience qualifications to take the fundamentals of engineering examination for enrollment as an engineering intern.

OAR 820-010-0228 — Implement and clarify a combination of educational and experience qualifications to take the fundamentals of land surveying examination for enrollment as a land surveying intern.

OAR 820-010-0231 — Implement and clarify information required for application as a professional land surveyor.

OAR 820-015-0005 — Adds definition of “complainant” and removes redundant definition of “Board.”

OAR 820-015-0010 — Clarify the Board’s current complaint procedures.

OAR 820-015-0026 — Clarify the Board’s current practices of failing to comply with professional development requirements.

OAR 820-020-0005 — Removes unnecessary language and adds reference to photogrammetric mapping.

OAR 820-020-0010 — Repeal rule.

OAR 820-020-0025 — Removed potential free speech restrictions.

OAR 820-020-0030 — Clarifies obligation of registrants to act in professional matters or each employer or client as faithful agents or trustees, and to avoid conflicts of interest.

OAR 820-020-0035 — Broadens rule to include applicant and definition of registrant’s associate and clarifies political contributions.

OAR 820-020-0045 — Expands unprofessional behavior rule to include applicants and actions taken by other licensing Boards.

OAR 820-040-0040 — Housekeeping. Clarifies language for recognizing that a person may become a geotechnical engineer without examination (prior to having an accepted examination).

**Rules Coordinator:** Mari Lopez

**Address:** Board of Examiners for Engineering and Land Surveying, 670 Hawthorne Ave. SE, Suite 220, Salem, OR 97301

**Telephone:** (503) 362-2666, ext. 26

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**Board of Medical Examiners**  
**Chapter 847**

**Rule Caption:** Outline process for Board to obtain and use criminal history record information.

**Stat. Auth.:** ORS 677.265

**Other Auth.:** HB 2157, Section 2

**Stats. Implemented:** ORS 677.265(9)

**Proposed Adoptions:** 847-020-0155

**Last Date for Comment:** 10-28-06

**Summary:** The proposed administrative rules are required, per HB 2157, Section 2, in order for the Board to request the Oregon State Police conduct a criminal records check, including fingerprint identification, through the FBI, on an applicant or licensee.

**Rules Coordinator:** Diana M. Dolstra

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

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

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**Board of Nursing**  
**Chapter 851**

**Rule Caption:** Rules Established for Advanced Practice Authority to Prescribe and Dispense Medications.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-9-06	9 a.m.	Portland State Office Bldg. Rm. 135 800 NE Oregon Street Portland, Oregon 97232

**Hearing Officer:** Sandra Theis, Board President

**Stat. Auth.:** ORS 678.150, 678.410

**Other Auth.:** ORS 678.372, 678.385, 678.390

**Stats. Implemented:** ORS 678.410

**Proposed Amendments:** 851-002-0020, 851-002-0035

**Last Date for Comment:** 11-7-06, 5 p.m.

**Summary:** These rules cover the fees for the authority to dispense and prescribe medications by Nurse Practitioners and Clinical Nurse Specialists.

**Rules Coordinator:** KC Cotton

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

**Telephone:** (971) 673-0638

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**Rule Caption:** Specific Requirements for Licensing RNs and LPNs in Oregon.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-9-06	9 a.m.	Portland State Office Bldg. Rm. 135 800 NE Oregon Street Portland, Oregon 97232

**Hearing Officer:** Sandra Theis, Board President

**Stat. Auth.:** ORS 678.150

**Stats. Implemented:** ORS 678.040, 678.050, 678.150

**Proposed Amendments:** 851-031-0010

**Last Date for Comment:** 11-7-06, 5 p.m.

**Summary:** These rules establish the standards for licensure of Registered Nurses and Licensed Practical Nurses. This amendment deletes the language that allows students to be declared eligible to test prior to program completion/graduation. It also modifies language to allow re-entry nurses to apply for licensure by examination.

**Rules Coordinator:** KC Cotton

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

**Telephone:** (971) 673-0638

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**Rule Caption:** Timeframe for Transition of CNA 1 to CNA 2 Extended.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-9-06	9 a.m.	Portland State Office Bldg. Rm. 135 800 NE Oregon Street Portland, Oregon 97232

**Hearing Officer:** Sandra Theis, Board President

**Stat. Auth.:** ORS 678.150

**Stats. Implemented:** ORS 678.040, 678.050, 678.150

**Proposed Amendments:** 851-062-0016

**Last Date for Comment:** 11-7-06, 5 p.m.

**Summary:** These rules establish the standards for certification of nursing assistants and medication aides. This amendment extends the timeframe for the transition of a CNA 1 to a CNA 2.

**Rules Coordinator:** KC Cotton

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

**Telephone:** (971) 673-0638



# NOTICES OF PROPOSED RULEMAKING

## Board of Parole and Post-Prison Supervision Chapter 255

**Rule Caption:** Clarification of the Violation Hearing Process.  
**Stat. Auth.:** ORS 144.050, 144.106(3), 144.108, 144.140, 144.331(2), 144.343, 144.350  
**Stats. Implemented:**  
**Proposed Amendments:** 255-075-0005  
**Last Date for Comment:** 10-21-06  
**Summary:** The amendment of these rules are necessary to clarify the requirements for the violation hearing process.  
**Rules Coordinator:** Michael R. Washington  
**Address:** Board of Parole & Post-Prison Supervision, 2575 Center St. NE - Suite 100, Salem, OR 97301  
**Telephone:** (503) 945-8978

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**Rule Caption:** Adoption of Rules Regarding Procedure for Designation of Predatory Sex Offenders prior to release.  
**Stat. Auth.:** Chapter 163 (1999 OL), ORS 144.050, 144.140, 181.585, 181.586  
**Other Auth.:** V.L.Y. v. Board of Parole & Post-Prison Supervision 338 Or 44 (2005)  
**Stats. Implemented:**  
**Proposed Amendments:** 255-060-0016  
**Last Date for Comment:** 10-21-06  
**Summary:** The adoption of this rule is necessary to cause the Board's procedure for designating sex offenders as predatory prior to being released from custody to be consistent with the Oregon Supreme Court ruling in V.L.Y. v. Board of Parole and Post-Prison Supervision, 338 Or 44 (2005).  
**Rules Coordinator:** Michael R. Washington  
**Address:** Board of Parole & Post-Prison Supervision, 2575 Center St. NE - Suite 100, Salem, OR 97301  
**Telephone:** (503) 945-8978

## Board of Pharmacy Chapter 855

**Rule Caption:** Revises license fee for certified pharmacy technicians to include delinquent renewal fee.  
**Date:** 11-1-06  
**Time:** 9 a.m.  
**Location:** 800 NE Oregon St. #450  
Portland, OR 97232  
**Hearing Officer:** Marcus Watt  
**Stat. Auth.:** ORS 689.205  
**Stats. Implemented:** ORS 689.135 & 689.490  
**Proposed Amendments:** 855-110-0005  
**Last Date for Comment:** 11-1-06, 5 p.m.  
**Summary:** This rule adds a provision for a delinquent renewal fee of \$20 to the fee schedule for certified pharmacy technicians. It was omitted from the original filing. A copy of the proposed rule can be found on the Agency web page <http://www.pharmacy.state.or.us/> under "What's new".  
**Rules Coordinator:** Karen Maclean  
**Address:** Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232  
**Telephone:** (971) 673-0001

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**Rule Caption:** Adds two common decongestants to the list of drugs excepted from the scheduled list.  
**Date:** 11-1-06  
**Time:** 9 a.m.  
**Location:** 800 NE Oregon St. #450  
Portland, OR 97232  
**Hearing Officer:** Marcus Watt  
**Stat. Auth.:** ORS 475.035, 689.205  
**Stats. Implemented:** ORS 475.055, 689.155  
**Proposed Amendments:** 855-080-0028  
**Last Date for Comment:** 11-1-06, 5 p.m.

**Summary:** This rule adds two common proprietary brands of decongestant inhaler back onto the list of drugs that are excepted from the schedule of controlled drugs. These products were originally deleted from this list in the process of removing exceptions associated with pseudoephedrine, ephedrine and phenylpropanolamine. However, it has been concluded that these products cannot be reformulated into methamphetamine and therefore do not pose a threat to the public. A copy of the proposed rule can be found on the Agency web page <http://www.pharmacy.state.or.us/> under "What's new".  
**Rules Coordinator:** Karen Maclean  
**Address:** Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232  
**Telephone:** (971) 673-0001

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**Rule Caption:** Implements 2005 legislation by defining required pain management continuing education for pharmacists.  
**Date:** 11-1-06  
**Time:** 9 a.m.  
**Location:** 800 NE Oregon St. #450  
Portland, OR 97232

**Hearing Officer:** Marcus Watt  
**Stat. Auth.:** ORS 689.205  
**Stats. Implemented:** ORS 689.155, 689.285, 409.560, 409.565  
**Proposed Adoptions:** 855-021-0016  
**Last Date for Comment:** 11-1-06, 5 p.m.  
**Summary:** In 2001, the legislature passed a law (ORS 409.560) that required certain categories of health care professionals to complete a pain management continuing education program and required the education to be completed within 24 months of the first license renewal after January 1, 2006. In 2005, the legislature expanded the categories of health care professionals to include pharmacists. This rule implements the statute and specifies the acceptable content, number of hours and the timetable for completion. Rule also permits this continuing education to count as part of the existing annual requirement for pharmacists. A copy of the proposed rule can be found on the Agency web page <http://www.pharmacy.state.or.us/> under "What's new".  
**Rules Coordinator:** Karen Maclean  
**Address:** Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232  
**Telephone:** (971) 673-0001

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**Rule Caption:** Delete requirement for manufacturers and wholesalers to submit device samples each year  
**Date:** 11-1-06  
**Time:** 9 a.m.  
**Location:** 800 NE Oregon St. #450  
Portland, OR 97232

**Hearing Officer:** Marcus Watt  
**Stat. Auth.:** ORS 689.205  
**Stats. Implemented:** ORS 435.010, 435.080, 435.100, 689.155  
**Proposed Amendments:** 855-070-0005  
**Last Date for Comment:** 11-1-06, 5 p.m.  
**Summary:** Amends rule to delete requirement for manufacturers and wholesalers to submit samples each year. Licensees are now required by federal law to put expiration dates on devices covered by this rule. This makes it unnecessary for the board to receive samples every year in order to check expiration dates. In addition, amends rule to correct spelling errors. A copy of the proposed rule can be found on the Agency web page <http://www.pharmacy.state.or.us/> under "What's new".  
**Rules Coordinator:** Karen Maclean  
**Address:** Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232  
**Telephone:** (971) 673-0001

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**Rule Caption:** Regarding rules for drug wholesalers and manufacturers. Amends definitions, registration, record keeping, and storage requirements.

# NOTICES OF PROPOSED RULEMAKING

**Date:** 11-1-06  
**Time:** 9 a.m.  
**Location:** 800 NE Oregon St. #450  
Portland, OR 97232

**Hearing Officer:** Marcus Watt

**Stat. Auth.:** ORS 689.205

**Stats. Implemented:** ORS 475.125, 475.135, 689.155, 689.305, 689.315, 689.325, 769.405, 689.765

**Proposed Adoptions:** 855-065-0006, 855-065-0012, 855-065-0013

**Proposed Amendments:** 855-006-0005, 855-060-0001, 855-065-0001, 855-065-0005, 855-065-0007, 855-065-0009, 855-065-0010

**Last Date for Comment:** 11-1-06, 5 p.m.

**Summary:** Amends rules regulating drug wholesalers by specifying more detailed application and registration requirements and by requiring greater accountability and record keeping in the supply chain of prescription drugs. Creates a list of prohibited practices. Amends definitions and rules for manufacturers to allow certain specified normal business practices to be exempt from more stringent regulations. Provides exemption from certain registration procedures for small businesses that meet specific criteria. A copy of the proposed rules can be found on the Agency web page <http://www.pharmacy.state.or.us/> under "What's new".

**Rules Coordinator:** Karen Maclean

**Address:** Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232

**Telephone:** (971) 673-0001

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## **Bureau of Labor and Industries Chapter 839**

**Rule Caption:** Correcting inaccurate reference in rule to conform with statutory language.

**Stat. Auth.:** ORS 659A.805

**Stats. Implemented:** ORS 659A.820 & .885, 30.260

**Proposed Amendments:** 839-003-0020

**Last Date for Comment:** 10-23-06

**Summary:** The previous rule at OAR 839-003-0020(6) stated that filing a complaint with the bureau's Civil Rights Division does not toll the one year period allowed by ORS 659A.875 for filling a civil suit alleging whistleblowing discrimination by a public employer. This is not accurate. ORS 659A.875(6) states that a civil action under 659A.885 against a public body based on an unlawful employment practice must be commenced within one year unless a complaint has been timely filed with the Civil Rights Division under ORS 659A.820. The rule affects at least one pending lawsuit and must be changed immediately to prevent possible loss of rights for filling civil suits by plaintiffs who have timely filed complaints with the Civil Rights Division. A temporary rule was promulgated on July 5, 2006 to correct the inaccuracy. The temporary rule will expire on January 3, 2007. This Notice proposes to make the temporary rule permanent.

**Rules Coordinator:** Marcia Ohlemiller

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

**Telephone:** (971) 673-0784

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**Rule Caption:** Clarifies application of PWR law to residential projects; allows reference to rates in contract specifications.

**Stat. Auth.:** ORS 279C & 651.060

**Stats. Implemented:** ORS 279C.800 - 279C.870

**Proposed Adoptions:** 839-025-0037

**Proposed Amendments:** 839-025-0004, 839-025-0020

**Last Date for Comment:** 10-25-06

**Summary:** The proposed rule and rule amendments make permanent temporary rules defining residential construction in the Prevailing Wage Rate (PWR) law and provide that applicable federal residential rates may be paid on such projects subject to state law. The proposed new rule (OAR 839-025-0370) also sets out a process for requesting and approving rates if there are no applicable federal residential rates, and requires 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 proposed amendment to OAR 839-025-0020 makes permanent a temporary rule deleting the requirement that the applicable prevailing wage rates be physically included in all bid specifications for projects subject to the PWR law, and allows a reference to the applicable wage rates to be made in the specifications.

**Rules Coordinator:** Marcia Ohlemiller

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

**Telephone:** (971) 673-0784

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## **Department of Administrative Services Chapter 125**

**Rule Caption:** Criminal records Check and Fitness Determination.

**Date:** 10-19-06  
**Time:** 9-11:30 a.m.  
**Location:** DAS, Executive Bldg  
SFMS Conf. Room, 1st floor  
Salem, OR

**Hearing Officer:** Merrilyn Nixon

**Stat. Auth.:** ORS 181.534, 184.340, 184.365

**Stats. Implemented:** ORS 181.534(9)

**Proposed Adoptions:** 125-007-0200, 125-007-0210, 125-007-0220, 125-007-0230, 125-007-0240, 125-007-0250, 125-007-0260, 125-007-0270, 125-007-0280, 125-007-0290, 125-007-0300, 125-007-0310, 125-007-0320, 125-007-0330

**Last Date for Comment:** 10-19-06, 5 p.m.

**Summary:** These rules control the Department's acquisition of information about a subject individual's criminal history through criminal records checks or other means and its use of that information to determine whether the subject individual is fit to provide services to the Department as an employee, volunteer, contractor or vendor in a position covered by OAR 125-007-0220(2)(a)-(n). The fact that the Department approves a subject individual as fit does not guarantee the individual a position as a Department employee, volunteer, contractor or vendor.

**Rules Coordinator:** Kristin Keith

**Address:** Department of Administrative Services, 155 Cottage St. NE U90, Salem, OR 97301-3972

**Telephone:** (503) 378-5087

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

**Rule Caption:** Establishing Administrative Rule Relating to Collection of Ambulatory Surgery Data.

**Date:** 10-17-06  
**Time:** 1-4 p.m.  
**Location:** State Library (Rm 103)  
250 Winter Street NE  
Salem OR 97301

**Hearing Officer:** Tina Edlund

**Stat. Auth.:** ORS 420.120

**Stats. Implemented:** ORS 420.120

**Proposed Adoptions:** 409-022-0010 - 409-022-0080

**Last Date for Comment:** 10-31-06, 12 p.m.

**Summary:** Rule establishes an Ambulatory Surgery Data reporting program within the Office for Oregon Health Policy and Research. Outlines reporting source, reporting schedule, confidentiality and security guidelines and fee structure for reporting program. Establishes fees to be assessed on a per record (ambulatory surgeries) basis payable by all licensed hospitals and free standing ambulatory surgery facilities in the state.

**Rules Coordinator:** Kristin Keith

**Address:** 155 Cottage Street NE, U10 Salem OR 97301

**Telephone:** (503) 378-5087

# NOTICES OF PROPOSED RULEMAKING

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

**Rule Caption:** Amending current rules governing the eligibility for benefits and procedures.

**Stat. Auth.:** ORS 243.061 - 243.302

**Other Auth.:** ORS 279

**Stats. Implemented:** ORS 243, 659, 743

**Proposed Amendments:** 101-020-0040, 101-040-0080

**Last Date for Comment:** 10-24-06

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

**Rules Coordinator:** Kristin Keith

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

**Telephone:** (503) 378-5087

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## Department of Agriculture, Oregon Sheep Commission Chapter 644

**Rule Caption:** To increase the current wool assessment rate by one-half cent per pound effective January 1, 2007.

Date:	Time:	Location:
11-30-06	1:30 p.m.	Resort at the Mountain 68010 East Fairway Welches, OR 97067

**Hearing Officer:** Cleve Dumdi

**Stat. Auth.:** ORS 576.304

**Stats. Implemented:** ORS 576.304 & 576.325

**Proposed Amendments:** 644-010-0010

**Last Date for Comment:** 11-27-06, 5 p.m.

**Summary:** The proposed amendment to OAR 644-010-0020 would increase the current assessment on the sale of wool sold through commercial channels by one-half cent, making the new assessment rate \$0.025 cents per pound of wool, in the grease basis.

**Rules Coordinator:** Richard Kosesan

**Address:** 1270 Chemeketa Street N.E., Salem, OR 97301

**Telephone:** (503) 364-5462

\*\*\*\*\*

## Department of Community Colleges and Workforce Development Chapter 589

**Rule Caption:** Distribution of WIA Title 1B State Incentive Grants for Local Performance Measures.

Date:	Time:	Location:
10-16-06	11 a.m.-12 p.m.	Public Service Building 255 Capitol Street NE, 3rd Flr. Salem, OR 97310

**Hearing Officer:** Linda Hutchins

**Stat. Auth.:** ORS 660.318, 326.370

**Other Auth.:** Executive Order #03-16

**Stats. Implemented:**

**Proposed Amendments:** 589-020-0210

**Proposed Repeals:** 589-020-0260

**Last Date for Comment:** 10-23-06

**Summary:** Amending OAR 589-020-0210 is necessary because new policy language refers to updated OAR regarding WIA regulations that transfers procedures to agency policy for the distribution of WIA Title 1B Incentive Grant Awards.

Repealing OAR 589-020-0260 is necessary because it is outdated and will be addressed in the amended OAR 589-020-0210.

**Rules Coordinator:** Linda Hutchins

**Address:** Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310

**Telephone:** (503) 378-8648, ext. 474

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

**Rule Caption:** Adopts 2007 Oregon Structural Specialty Code (OSSC).

Date:	Time:	Location:
10-17-06	10 a.m.	1535 Edgewater NW St. Salem, OR 97304

**Hearing Officer:** Richard Rogers

**Stat. Auth.:** ORS 447.230, 447.231, 447.247, 455.020, 455.030, 455.110, 455.112, 455.447

**Stats. Implemented:** ORS 455.110, 447.247, 455.112

**Proposed Amendments:** 918-460-0010, 918-460-0015

**Last Date for Comment:** 10-20-06, 5 p.m.

**Summary:** The proposed rules adopt the 2006 edition of the International Building Code (IBC) with Oregon amendments and will be known as the 2007 Oregon Structural Specialty Code (OSSC). April 1, 2007 is the proposed effective date of the 2007 OSSC.

**Rules Coordinator:** Dodie Wagner

**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309

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

\*\*\*\*\*

**Rule Caption:** Adopts 2007 Oregon Mechanical Specialty Code (OSMC).

Date:	Time:	Location:
10-17-06	9 a.m.	1535 Edgewater NW St. Salem, OR 97304

**Hearing Officer:** Mike Ewert

**Stat. Auth.:** ORS 455.020, 455.030, 455.110

**Stats. Implemented:** ORS 455.110

**Proposed Amendments:** 918-440-0010

**Last Date for Comment:** 10-20-06, 5 p.m.

**Summary:** The proposed rule adopts the 2006 edition of the International Mechanical Code (IMC) and the appended International Fuel Gas Code with amendments, and will be known as the 2007 Oregon Mechanical Specialty Code (OMSC).

**Rules Coordinator:** Dodie Wagner

**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309

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

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**Rule Caption:** Appendix N, Low-Rise Multiple-Family Dwelling Construction moves from 2005 ORSC to 2007 OSSC.

Date:	Time:	Location:
10-17-06	9:30 a.m.	1535 Edgewater NW St. Salem, OR 97304

**Hearing Officer:** Richard Rogers

**Stat. Auth.:** ORS 455.020, 455.110, 455.525, 455.610

**Stats. Implemented:** 455.610

**Proposed Amendments:** 918-480-0010

**Last Date for Comment:** 10-20-06, 5 p.m.

**Summary:** This proposed rule moves appendix 'N' "Low-Rise Multiple-Family Dwelling Construction" from the 2005 Oregon Residential Specialty Code (ORSC) to the 2007 Oregon Structural Specialty Code (OSSC). Only the location of the appendix changes.

**Rules Coordinator:** Dodie Wagner

**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309

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

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**Rule Caption:** Adopt amendments to the Oregon Elevator Specialty Code.



# NOTICES OF PROPOSED RULEMAKING

**Date:** 10-17-06  
**Time:** 2:30 p.m.  
**Location:** 1535 Edgewater St. NW  
Salem, OR 97304

**Hearing Officer:** Casey Hoyer  
**Stat. Auth.:** ORS 460.085  
**Stats. Implemented:** ORS 460.085  
**Proposed Adoptions:** 918-400-0458  
**Proposed Amendments:** 918-400-0455  
**Last Date for Comment:** 10-20-06, 5 p.m.

**Summary:** The proposed rules adopt the nationally published 2005 Supplement and Addenda to the Safety Code for Elevators and Escalators, ASME 17.1, 2004 Edition, as amendments to the Oregon Elevator Specialty Code. The code amendments are housekeeping in nature to correct code references, eliminate duplicative language and clarify existing code requirements. Code amendments also allow for use of new technologies as an option, but do not mandate any change from existing requirements.

**Rules Coordinator:** Dodie Wagner  
**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309  
**Telephone:** (503) 373-7438

.....

**Rule Caption:** Remove references to in-training programs and certification transition periods.

**Date:** 10-17-06  
**Time:** 1:30 p.m.  
**Location:** 1535 Edgewater St. NW  
Salem, OR 97304

**Hearing Officer:** Casey Hoyer  
**Stat. Auth.:** ORS 446.250, 455.100, 455.448, 455.720, 455.730, 455.735  
**Stats. Implemented:** ORS 446.250, 455.448, 455.449, 455.622, 455.720, 455.725, 455.730, 455.735  
**Proposed Amendments:** Rules in 918-098  
**Last Date for Comment:** 10-20-06, 5 p.m.

**Summary:** The proposed rule removes transitional provisions for persons enrolled in inspector in-training, cross-training or approved educational programs. During the transition period persons enrolled in these programs were allowed to apply for either in ICC certification or to apply for an Oregon Code Certification as an inspector. These rules eliminate the option to test for an Oregon Code Certification and inspector in-training programs.

**Rules Coordinator:** Dodie Wagner  
**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309  
**Telephone:** (503) 373-7438

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**Rule Caption:** Allows the Tri-County region to use ICC table for structural and mechanical permit fee calculation.

**Date:** 10-17-06  
**Time:** 1 p.m.  
**Location:** 1535 Edgewater St. NW  
Salem, OR 97304

**Hearing Officer:** Casey Hoyer  
**Stat. Auth.:** ORS 455.046, 455.048  
**Stats. Implemented:** ORS 455.046, 455.048  
**Proposed Amendments:** 918-050-0100, 918-050-0110  
**Last Date for Comment:** 10-20-06, 5 p.m.

**Summary:** Rule allows use of ICC Building Valuation Data Table for residential and structural permit fee calculation for new construction and additions in the Tri-County Region.

**Rules Coordinator:** Dodie Wagner  
**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309  
**Telephone:** (503) 373-7438

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**Rule Caption:** Adopt nationally published addenda to the Oregon Boiler and Pressure Vessel Specialty Code.

**Date:** 10-17-06  
**Time:** 2 p.m.  
**Location:** 1535 Edgewater St. NW  
Salem, OR 97304

**Hearing Officer:** Casey Hoyer  
**Stat. Auth.:** ORS 455.020, 480.545, 480.550  
**Stats. Implemented:** ORS 480.545, 480.550  
**Proposed Adoptions:** 918-225-0435  
**Proposed Amendments:** 918-225-0430  
**Last Date for Comment:** 10-20-06, 5 p.m.  
**Summary:** The proposed rules adopt the nationally published addenda to the Oregon Boiler and Pressure Vessel Specialty Code.  
**Rules Coordinator:** Dodie Wagner  
**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309  
**Telephone:** (503) 373-7438

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

**Rule Caption:** Clarification of loan originator supervision and change education requirements; miscellaneous corrections, mostly technical in nature.

**Date:** 10-26-06  
**Time:** 10:30 a.m.  
**Location:** Conference Rm. E  
Labor and Industries Bldg.  
350 Winter St. NE  
Salem, OR

**Hearing Officer:** Patricia A. Locnikar  
**Stat. Auth.:** ORS 59.850, 59.855, 59.900, 59.935, 59.975  
**Stats. Implemented:** ORS 59.840, 59.845, 59.865, 59.935, 59.945, 59.969, 59.975, 59.977

**Proposed Amendments:** 441-860-0010, 441-860-0020, 441-860-0030, 441-860-0040, 441-860-0060, 441-875-0020, 441-880-0020, 441-880-0030

**Last Date for Comment:** 10-31-06

**Summary:** The proposed amendments involve substantive changes to rules concerning supervision of loan originator activity and education for loan originators. Licensees will be required to diligently supervise all loan originators operating under that licensee's license, regardless of the employment status of the loan originator. Several specific supervision elements are proposed. Loan originators will be required to take an entry level course and pass the corresponding examination before taking any loan applications, rather than taking the course and examination during the first six months of employment as a loan originator. A passing score on the examination will be valid for two years. Finally, some of the amendments involve miscellaneous corrections to existing rules.

**Rules Coordinator:** Shelley Greiner  
**Address:** Department of Consumer and Business Services, Finance and Corporate Securities, 350 Winter St. NE, Rm. 410, Salem, OR 97301  
**Telephone:** (503) 947-7484

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**Department of Fish and Wildlife  
Chapter 635**

**Rule Caption:** Amends bay clam limited entry permits rule to allow unrestricted transfers twice per year.

**Date:** 11-3-06  
**Time:** 8 a.m.  
**Location:** Embassy Suites Hotel  
Portland Airport  
7900 NE 82nd Ave.  
Portland, OR 97220

**Hearing Officer:** ODFW Commission  
**Stat. Auth.:** ORS 506.036, 506.109, 506.119  
**Stats. Implemented:** ORS 506.129

**Proposed Adoptions:** Rules in 635-006

**Proposed Amendments:** Rules in 635-006

**Proposed Repeals:** Rules in 635-006

**Last Date for Comment:** 11-3-06

**Summary:** Amend rules for limited entry permits for bay clams to allow unrestricted transfers up to two times per year. Housekeeping



# NOTICES OF PROPOSED RULEMAKING

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

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## Department of Forestry Chapter 629

**Rule Caption:** Improves the voluntary Forest Resource Trust program for private nonindustrial forestland owners with under-producing forestlands.

Date:	Time:	Location:
10-23-06	1:30 p.m.	Oregon Dept. of Forestry 2600 State St., Bldg. D Santiam Rm. Salem, Oregon 97310

**Hearing Officer:** Mike Cafferata

**Stat. Auth.:** ORS 526.700, 293

**Stats. Implemented:** ORS 526.700 - 526.775

**Proposed Amendments:** 629-022-0040, 629-022-0110, 629-022-0120, 629-022-0130, 629-022-0150, 629-022-0160, 629-022-0200, 629-022-0220, 629-022-0230, 629-022-0250, 629-022-0300, 629-022-0320, 629-022-0380, 629-022-0390, 629-022-0410

**Proposed Repeals:** 629-022-0310, 629-022-0330, 629-022-0340, 629-022-0350, 629-022-0360, 629-022-0370

**Last Date for Comment:** 10-27-06, 5 p.m. PDT

**Summary:** The proposed rules simplify the process for a private nonindustrial forestland owner to receive 100% funding from the Forest Resource Trust for forest establishment on under-producing forestland. The repayment terms create more options for the landowner and are less complicated than the existing rules, which should improve program participation and administration. Eligible acres have been extended to allow large ranches with low site forestland to participate. The timber lien will be used when certain criteria establish the landowner as a risk to the state for repaying funds. The terms of financial assistance acknowledge that society benefits from forest stewardship investments with clean water, soil conservation, fish and wildlife habitat, jobs, taxes, timber, carbon sequestration, scenic quality and biodiversity. Questions specific to the proposed rules may be directed to Lanny Quackenbush at lquackenbush@odf.state.or.us, 503-945-7478

**Rules Coordinator:** Gayle Birch

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

**Telephone:** (503) 945-7210

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

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

Date:	Time:	Location:
10-23-06	8:30 a.m.	Rm 254 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 418.005

**Proposed Amendments:** 413-070-0800, 413-070-0810, 413-070-0830, 413-070-0840, 413-070-0855, 413-070-0860, 413-070-0870, 413-070-0880

**Proposed Repeals:** 413-070-0820, 413-070-0850

**Last Date for Comment:** 11-6-06

**Summary:** The Department is amending and repealing rules about visits and other types of child and family contact for children and young adults in substitute care, including the right to visit, orientation activities, determining priority in contact plans, types of child-family visits and contact plans, supervision of visits, and documentation of contact. These rule changes apply a safety intervention

model and implement recommendations resulting from the Governor's request for a review of Oregon's child welfare system by the National Resource Center for Child Protective Services. The revised rules provide for children in the care or custody of Oregon's child welfare system a greater amount of supervision and a consistent process of evaluating a child's safety through a continuum starting with first contact through return home or adoption, specifying caseworker action and responsibility in monitoring child safety when a child and family are clients of DHS child welfare, wherever the child is located in the system.

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

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

Date:	Time:	Location:
10-23-06	8:30 a.m.	Rm 254 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 418.005

**Proposed Adoptions:** 413-040-0006, 413-040-0009, 413-040-0011, 413-040-0013, 413-040-0024, 413-040-0032

**Proposed Amendments:** 413-040-0000, 413-040-0005, 413-040-0010, 413-040-0017

**Proposed Repeals:** 413-040-0021, 413-040-0027, 413-040-0037, 413-040-0042, 413-040-0047, 413-040-0052, 413-040-0057, 413-040-0061, 413-040-0071

**Proposed Ren. & Amends:** 413-040-0031 to 413-040-0008, 413-040-0063 to 413-040-0016

**Last Date for Comment:** 11-6-06

**Summary:** The Department is adopting, amending, repealing, and renumbering and amending rules that cover the development and management of the case plan (formerly known as the service plan) by Child Welfare caseworkers. The Department is changing the requirements for completing a protective capacity assessment, using the family decision-making meeting, developing a case plan, developing an action agreement, reviewing and revising the case plan, determining when conditions for return have been met, closing the ongoing safety plan, and closing the case. These rule changes apply a safety intervention model and implement recommendations resulting from the Governor's request for a review of Oregon's child welfare system by the National Resource Center for Child Protective Services. The revised rules provide for children in the care or custody of Oregon's child welfare system a greater amount of supervision and a consistent process of evaluating a child's safety through a continuum starting with first contact through return home or adoption, specifying caseworker action and responsibility in monitoring child safety when a child and family are clients of DHS child welfare, wherever the child is located in the system.

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

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

Date:	Time:	Location:
10-23-06	8:30 a.m.	Rm 254 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

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

## NOTICES OF PROPOSED RULEMAKING

**Stats. Implemented:** ORS 418.005

**Proposed Adoptions:** 413-030-0003, 413-030-0009, 413-030-0013, 413-030-0016, 413-030-0019, 413-030-0023, 413-030-0026

**Proposed Amendments:** 413-030-0000, 413-030-0030

**Proposed Repeals:** 413-030-0010

**Proposed Ren. & Amends:** 413-030-0020 to 413-030-0006

**Last Date for Comment:** 11-6-06

**Summary:** The Department is adopting, amending, repealing, and renumbering and amending rules on the subject of family support services, formerly known as preventive/restorative services, that change the eligibility requirements for these voluntary services and the responsibilities of the Department for determination of service needs, development of the family support services case plan, development of service agreements with the client, caseworker contact and monitoring requirements, timelines for reviewing progress, and when these plans are closed. These rule changes provide greater clarity in the eligibility requirements and implement recommendations resulting from the Governor's request for a review of Oregon's child welfare system by the National Resource Center for Child Protective Services, assuring a focus on child safety throughout the continuum of services.

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

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-23-06	8:30 a.m.	Rm 254 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 418.005, 418.027

**Stats. Implemented:** ORS 109.056, 418.015, 418.027, 418.270, 418.275, 418.280, 418.285, 418.312, 419B.192, 419C.080

**Proposed Adoptions:** 413-020-0025, 413-020-0045, 413-020-0060, 413-020-0065, 413-020-0070, 413-020-0075, 413-020-0080, 413-020-0085, 413-020-0090, 413-070-0625, 413-070-0645

**Proposed Amendments:** 413-020-0000, 413-020-0005, 413-020-0010, 413-020-0020, 413-020-0040, 413-020-0050, 413-070-0600, 413-070-0620, 413-070-0630, 413-070-0640

**Proposed Repeals:** 413-070-0610, 413-070-0650

**Last Date for Comment:** 11-6-06

**Summary:** The Department is adopting, amending, and repealing rules about voluntary custody agreements, voluntary placement agreements, and placement matching in the child welfare system, including definitions of terms. The changes to the rules about voluntary custody agreements (OAR 413-020-0000 to 413-020-0050) change the eligibility requirements under which the Department will place and retain a child in substitute care and provide services, including the continuation of services after the age of 18. Language about voluntary placement agreements is being removed from the rules about voluntary custody agreements, and separate rules (OAR 413-020-0060 to 413-020-0090) for voluntary placement agreements are being adopted, which change the eligibility requirements under which the Department will support the placement and services to a child. Two separate rules (OAR 413-020-0025 and 413-020-0080) are being adopted to describe the development of a family support services case plan when a parent or legal guardian enters into a Voluntary Custody Agreement or Voluntary Placement Agreement with the Department. The changes to the rules about Placement Matching (OAR 413-070-0600 to 413-070-0650) adjust the requirements for assessing a child's needs when the Department initially places a child in substitute care, identifying the most appropriate, available substitute care provider who can meet the needs of a child or young adult, and assessing how a substitute care placement is meeting a

child or young adult's need for safety, permanency, and well-being. OAR 413-070-0645 is being adopted to describe caseworker requirements for involving the substitute caregiver in the concurrent permanency plan is being adopted, and OAR 413-070-0650 about emergency placements is being repealed.

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

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-23-06	8:30 a.m.	Rm 254 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 418.005

**Stats. Implemented:** ORS 418.005

**Proposed Adoptions:** 413-080-0052, 413-080-0059, 413-080-0063

**Proposed Amendments:** 413-080-0040, 413-080-0050, 413-080-0055

**Proposed Repeals:** 413-080-0045

**Proposed Ren. & Amends:** 413-080-0060 to 413-080-0067

**Last Date for Comment:** 11-6-06

**Summary:** The Department is adopting, amending, repealing, and renumbering and amending rules that cover monitoring the safety and well-being of children and young adults by Child Welfare caseworkers, including mandatory reporting of a new safety threat on an open case, monitoring safety with an in-home ongoing safety plan, monitoring safety in substitute care (including relative caregivers, foster parents, and providers), additional documentation when a child or young adult is placed in Oregon through the Interstate Compact for the Placement of Children, and the requirements and exceptions for face-to-face contact. These rule changes apply a safety intervention model and implement recommendations resulting from the Governor's request for a review of Oregon's child welfare system by the National Resource Center for Child Protective Services. The revised rules provide for children in the care or custody of Oregon's child welfare system a greater amount of supervision and a consistent process of evaluating a child's safety through a continuum starting with first contact through return home or adoption, specifying caseworker action and responsibility in monitoring child safety when a child and family are clients of DHS child welfare, wherever the child is located in the system.

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

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-23-06	8:30 a.m.	Rm 254 500 Summer St. NE Salem, OR

**Hearing Officer:** Annette Tesch

**Stat. Auth.:** ORS 181.537, 409.050, 418.005, 419B.017

**Stats. Implemented:** ORS 147.425, 181.537, 409.010, 409.185, 418.005, 418.015, 418.800, 419B.005 to 419B.050, 419B.171, 419B.183, 419B.809

**Proposed Adoptions:** 413-015-0409, 413-015-0415, 413-015-0420, 413-015-0425, 413-015-0430, 413-015-0435, 413-015-0440, 413-015-0445, 413-015-0450, 413-015-0460, 413-015-0465, 413-015-0470, 413-015-0475, 413-015-0480

# NOTICES OF PROPOSED RULEMAKING

**Proposed Amendments:** 413-015-0100, 413-015-0105, 413-015-0110, 413-015-0115, 413-015-0125, 413-015-0200, 413-015-0205, 413-015-0210, 413-015-0211, 413-015-0212, 413-015-0213, 413-015-0215, 413-015-0220, 413-015-0225, 413-015-0300, 413-015-0302, 413-015-0305, 413-015-0310, 413-015-0400, 413-015-0405, 413-015-1000, 413-015-1105, 413-015-1110, 413-015-1120, 413-015-1125

**Proposed Repeals:** 413-015-0120, 413-015-0500, 413-015-0505, 413-015-0510, 413-015-0511, 413-015-0512, 413-015-0513, 413-015-0514, 413-015-0600, 413-015-0605, 413-015-0610, 413-015-0615, 413-015-0700, 413-015-0705, 413-015-0710, 413-015-0715, 413-015-0720, 413-015-0725, 413-015-0730, 413-015-0735, 413-015-0800, 413-015-0900, 413-015-0905

**Proposed Ren. & Amends:** 413-015-0410 to 413-015-0455, 413-015-0740 to 413-015-0485

**Last Date for Comment:** 11-6-06

**Summary:** The Department is adopting, repealing, amending, and renumbering and amending rules on the subject of child protective services (CPS), including definitions, the initiation and termination of CPS services, screening activities, timelines, cross-reporting, assessment, protective custody, safety planning, protective actions, working with other entities, interviewing, visitation, notifications, assessment dispositions, confidentiality, and access to LEDS. These rule changes implement recommendations resulting from the Governor's request for a review of Oregon's child welfare system by the National Resource Center for Child Protective Services, assuring a focus on child safety throughout the child protective service process. These rule changes also refine parts of the existing process, provide clarity through language changes, reorganization of rule location, and detail actions that have not previously been described in the rules. The assessment rule is being amended to describe all activities required of the CPS worker, other rules that currently set out those activities are being repealed.

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

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

**Rule Caption:** OHP Mental Health Organizations modified enrollment procedure for children.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-18-06	10:30 a.m.–12 p.m.	Rm 137C – DHS Bldg. 500 Summer St. NE-E35 Salem, OR 97301

**Hearing Officer:** Darlene Nelson

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

**Stats. Implemented:** ORS 414.065, 414.725

**Proposed Adoptions:** 410-141-0050

**Proposed Repeals:** 410-141-0050(T)

**Last Date for Comment:** 10-18-06, 12 p.m.

**Summary:** The Oregon Health Plan (OHP—Division 141) Administrative rules govern the Office of Medical Assistance Programs' (OMAP) services provided to clients. In July 2006, OMAP temporarily adopted 410-141-0050 to reflect necessary modifications to resume enrollment in OHP Mental Health Organizations for children who are eligible. This is the Notice to permanently adopt 410-141-0050, allowing the modified enrollment procedure to remain in effect until further notice. OMAP will repeal the temporary rule 410-141-0050(T), OMAP 30-2006.

**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

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**Rule Caption:** 2006 — Federal Upper Limits for Prescription drugs updates from Centers for Medicare and Medicaid Services (CMS)

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

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-121-0300

**Last Date for Comment:** 10-18-06, 12 p.m.

**Summary:** The Pharmaceutical Services program rules govern Office of Medical Assistance Programs' (OMAP) payments for services provided to certain clients. OAR 410-121-0300 references the CMS Federal Upper Limits (FUL) List that provides information regarding multiple source drugs that meet the criteria set forth in 42 CFR 447.332 and section 1927(e) of the Social Security Act. OMAP must use this list for payment reimbursement to providers, in compliance with federal regulations. OMAP receives all updates to this list from CMS in the form of numbered releases, and subsequently amends rule 410-121-0300 to reference the releases and updated lists. OMAP will amend this rule to reference updates received June 23, 2006 and will further amend with updates received in the remainder of 2006. As the updates are received and permanently filed with the Secretary of State as amendments to OAR 410-120-0300, OMAP will post the information of the following website: <http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/main.html>

The information can also be obtained by contacting OMAP.

**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

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**Rule Caption:** 2006 — Medicaid Drug Rebate Program list updates from Centers for Medicare and Medicaid Services (CMS).

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

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-121-0157

**Last Date for Comment:** 10-18-06, 12 p.m.

**Summary:** The Pharmaceutical Services program rules govern Office of Medical Assistance Programs' (OMAP) payments for services provided to certain clients. OAR 410-121-0157 references the CMS Federal Medicaid Rebate List that provides information regarding pharmaceutical companies participating in the Medicaid Drug Rebate Program that meets criteria set forth in section 1927(b) of the Social Security Act. OMAP must use this list for payment reimbursement to providers, in compliance with federal regulations. OMAP receives all updates to this list from CMS in the form of numbered releases, and subsequently amends rule 410-121-0157 to reference the releases and updated lists. OMAP will amend this rule to reference updates received July 3, 2006 (for the quarter April through June) and August 23, 2006 (for the quarter July through September) and will further amend with updates anticipated to be received in October (for the quarter July through September) and December 2006 (for the quarter October through December). As the updates are received and permanently filed with the Secretary of State as amendments to OAR 410-120-0157, OMAP will post the information on the following website: <http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/main.html>

The information can also be obtained by contacting OMAP.

**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



# NOTICES OF PROPOSED RULEMAKING

## Department of Human Services, Public Health Chapter 333

**Rule Caption:** Registry enrollment, qualification and certification fees for health care interpreters.

Date:	Time:	Location:
10-24-06	1 p.m.	Portland State Office Bldg. 800 NE Oregon Street, Rm. 612 Portland, Oregon

**Hearing Officer:** Shannon O'Fallon

**Stat. Auth.:** ORS 409.623

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

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

**Last Date for Comment:** 10-25-06, 5 p.m.

**Summary:** The Oregon Department of Human Services, Public Health Division (Division) is proposing an increase in the fees assessed to prospective and renewing health care interpreters. Registry enrollment, qualification or certification as a health care interpreter through these rules is voluntary. Implementation including application processing, orientation sessions, written and oral examination sites, proctoring, examiners, recorders and the development of a central registry will be funded by established fees expected to cover the Health Care Interpreter Program's operating costs.

Amendments are also being proposed to clarify the standards for registry enrollment, qualification and certification of health care interpreters.

**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:** Oregon Project Independence Rule Revisions.

Date:	Time:	Location:
10-18-06	8 a.m.	500 Summer St. NE, Rm. 137C Salem, OR 97301

**Hearing Officer:** Lisa Richards

**Stat. Auth.:** ORS 410.070

**Other Auth.:** Senate Bill 870

**Stats. Implemented:** ORS 410.410 - 410.480

**Proposed Adoptions:** 411-032-0013

**Proposed Amendments:** 411-032-0000, 411-032-0001, 411-032-0005, 411-032-0010, 411-032-0015, 411-032-0020, 411-032-0044

**Last Date for Comment:** 10-20-06, 12 p.m.

**Summary:** The division has been updated to allow for Area Agencies on Aging to begin offering fee based case management services per Senate Bill 870. In addition:

(a) Reference for funding has been changed from Oregon's General Fund to the Oregon Project Independence Fund.

(b) All definitions have been updated to conform to the definitions in OAR chapter 411, divisions 015 and 031.

(c) Provision for all OPI clients to contribute to their cost of service plan has been added.

(d) Language has been changed from 'client' to 'eligible individual', and from 'care' plan to 'service' plan.

(e) Removed requirement for client to be receiving another service excluding case management in order to qualify for Home Delivered Meals.

(f) Removed income cap on fees for services.

**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 Justice Chapter 137

**Rule Caption:** Proposed increase in licensing and report fees paid by charitable gaming licensees/permittees.

Date:	Time:	Location:
10-24-06	10:30 a.m.	Douglas Co. Courthouse 1036 SE Douglas Roseburg, OR
10-25-06	11:30 a.m.	Bend Branch Deschutes Co. Library 601 NW Wall Bend, OR
10-30-06	10:30 a.m.	Oregon Bldg. 800 NE Oregon Portland, OR

**Hearing Officer:** Ross Laybourn

**Stat. Auth.:** ORS 464.250(1)(b) & (c)

**Stats. Implemented:**

**Proposed Amendments:** 137-025-0060, 137-025-0090, 137-025-0150, 137-025-0210, 137-025-0280, 137-025-0410, 137-025-0415, 137-025-0480

**Last Date for Comment:** 11-10-06

**Summary:** The Department proposes to increase a number of the application fees paid by prospective charitable gaming licensees/permittees and to increase some fees paid by those entities in conjunction with the filing of periodic financial reports.

**Rules Coordinator:** Carol Riches

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

**Telephone:** (503) 947-4700

.....  
**Department of Oregon State Police  
Chapter 257**

**Rule Caption:** Relating to the methods of operation and approval of breath-alcohol testing devices.

**Stat. Auth.:** ORS 183.355, 813.160

**Stats. Implemented:** ORS 813.160

**Proposed Adoptions:** 257-030-0105, 257-030-0110, 257-030-0120, 257-030-0130, 257-030-0140, 257-030-0150, 257-030-0160, 257-030-0170

**Proposed Amendments:** 257-030-0060, 257-030-0070

**Proposed Repeals:** 257-030-0075

**Last Date for Comment:** 10-24-06

**Summary:** Establishes the approval and methods of operation for the Intoxilyzer 8000. Amends methods of operation for Intoxilyzer 5000. Repeals the approval and methods of operation for the Intoxilyzer 1400.

**Rules Coordinator:** Loree Fogleman

**Address:** Department of State Police, 255 Capitol St. NE, Fourth Fl., Salem, OR 97310

**Telephone:** (503) 378-3720, ext. 4105

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

**Rule Caption:** Revises standards relating to Student Conduct.

**Stat. Auth.:** ORS 181.640

**Stats. Implemented:** ORS 181.640

**Proposed Amendments:** 259-012-0005, 259-012-0010, 259-012-0035

**Proposed Repeals:** 259-012-0005(T), 259-012-0010(T), 259-012-0015(T), 259-012-0020(T), 259-012-0025(T), 259-012-0030(T), 259-012-0035(T)

**Last Date for Comment:** 10-25-2006, 5 p.m.

**Summary:** Revises rules relating to student conduct at Public Safety Academy and establishes secure weapons procedures.

**Rules Coordinator:** Bonnie Salle



## NOTICES OF PROPOSED RULEMAKING

**Address:** Department of Public Safety Standards and Training, 4190  
Aumsville Hwy SE, Salem, OR 97317  
**Telephone:** (503) 378-2431

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### **Department of Transportation Chapter 731**

**Rule Caption:** Public Contracting Rules affecting Procurement of Goods and Services, Public Improvement and Public Works.

**Stat. Auth.:** ORS 279A.065

**Stats. Implemented:** ORS 279A.030, 279A.065 & 279B.015

**Proposed Amendments:** 731-146-0010, 731-147-0010, 731-148-0010, 731-149-0010

**Last Date for Comment:** 10-23-06

**Summary:** These rules are amended to reflect changes made to the Department of Justice (DOJ) Model Rules, effective January 1, 2006, affecting state and local contracting agencies. These permanent amendments replace temporary amendments that became effective May 25, 2006.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

**Rules Coordinator:** Brenda Trump

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

**Telephone:** (503) 945-5278

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

**Rule Caption:** Relating to vehicle evidence of ownership.

**Stat. Auth.:** ORS 184.616, 184.619, 802.010, 803.045, 803.050, 803.120, 803.126, 803.212, 805.100, 819.230, 821.060 & 822.700

**Other Auth.:** 40 CFR Part 52, subpart MM and 49 CFR Part 571

**Stats. Implemented:** ORS 801.402, 803.015, 803.045, 803.050, 803.092, 803.120, 803.126, 803.130-803.138, 803.212, 805.100, 819.230 & 822.700

**Proposed Amendments:** 735-022-0000, 735-022-0030, 735-022-0040, 735-022-0070, 735-022-0080, 735-022-0090, 735-028-0020, 735-040-0030, 735-158-0000

**Proposed Repeals:** 735-022-0020

**Last Date for Comment:** 10-23-06

**Summary:** This rulemaking is needed to make technical and editorial changes to vehicle-related rules. Proposed amendments implement policy changes, update statutory citations, add new definitions and modify language for clarity and consistency with other DMV rules.

OAR 735-022-0000 establishes evidence of ownership of a vehicle for purposes of Oregon law and DMV rules. Proposed changes further clarify what documents constitute evidence of ownership to a vehicle and remove unneeded language. Sections (3) and (4) are moved to OAR 735-022-0070 (Inspection of Vehicle Identification Numbers) because they apply to the assignment of vehicle identification numbers rather than evidence of ownership.

OAR 735-022-0020 is repealed because it is no longer needed. Relevant vehicle-related requirements of the Uniform Commercial Code are specified under ORS 803.100.

OAR 735-022-0030 is amended to update definitions regarding vehicle manufacture's certificate of origin ownership documents.

OAR 735-022-0040 is amended to clarify existing language and to improve readability.

OAR 735-022-0070 is amended to add new requirements regarding the assignment of vehicle identification numbers (VINs) to motorcycles and mopeds. As background, a vehicle must have a VIN before it can be issued Oregon title and registration. If a vehicle does not have a VIN, DMV will assign one and affix it on the vehicle frame.

Currently, however, DMV does not affix an assigned VIN on a motorcycle or moped if it was manufactured without a VIN and if

it also qualifies for antique or special interest registration under ORS 805.010 or 805.020, respectively. This practice is inconsistent with VIN assignments for other vehicles and does not conform with ORS 819.400 that requires any VIN assigned by DMV to be affixed on the vehicle. Under amended OAR 735-022-0070, motorcycles and mopeds assigned VINs will have a VIN decal attached on the frame. Additional changes are made to clarify existing language and improve readability.

OAR 735-022-0080 is amended to update definitions that apply to OAR 735-022-0090.

State and federal law require a vehicle with ownership documents issued outside of the United States (subject vehicle) to comply with U.S. standards for vehicle safety and emissions (federal vehicle standards) before it can be titled and registered in the U.S. OAR 735-022-0090 specifies documents that constitute proof of compliance with federal vehicle standards for purposes of titling a subject vehicle in Oregon. DMV recently met with representatives from the U.S. Customs Service to discuss current federal documentation requirements for subject vehicles. Based on information obtained in the meeting, DMV is updating and clarifying OAR 735-022-0090 to reflect current federal documentation requirements.

The amendment of OAR 735-028-0020 removes erroneous language that implies that an odometer disclosure is required to register an Oregon-titled vehicle. Odometer disclosures are required only for title transactions that include a transfer of interest to a vehicle.

OAR 735-040-0030 describes the information an applicant must submit to be eligible for disabled veteran registration plates. The rule is amended to revise applicant eligibility requirements. More specifically, the changes simplify the application process by reducing the number of documents required to prove eligibility. As proposed, a letter of eligibility issued by the U.S. Department of Veterans Affairs constitutes proof of eligibility.

OAR 735-158-0000 establishes application qualifications to obtain a vehicle appraiser certificate under ORS 819.210. The rule currently attaches the word "abandoned" to the term "vehicle appraiser." This implies that DMV issues an abandoned vehicle appraiser certificate. That is not correct. A certificate issued under 819.230 is a "vehicle appraiser certificate." The certificate authorizes the holder to appraise any vehicle for sale under ORS 819.210 and 819.220. That includes abandoned vehicles, vehicles that are disabled (not drivable) and vehicles in the process of various lien foreclosures. DMV proposes to amend OAR 735-158-0000 to remove all references to the term "abandoned" from the rule. The amendments delete authorization for DMV to refund the application fee when issuance of a certificate is denied because this is contrary to ORS 293.445(2). The text has been rewritten in its entirety, but simply for clarification purposes.

Finally, other non-substantive changes are proposed to these rules to clarify and simplify - language.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

**Rules Coordinator:** Brenda Trump

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

**Telephone:** (503) 945-5278

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**Rule Caption:** Domestic Partner Definition and Inclusion of Domestic Partner in "Immediate Family" Definition for Hardship/Probationary Permits.

**Stat. Auth.:** ORS 184.616, 184.619, 802.010, 807.240 & 807.270

**Stats. Implemented:** ORS 807.240, 807.270 & 813.520

**Proposed Amendments:** 735-064-0005

**Last Date for Comment:** 10-23-06

**Summary:** DMV proposes to amend OAR 735-064-0005 to include a definition for domestic partner and to include domestic partner in the definition of "immediate family." These amendments will allow a person with suspended driving privileges who is issued a hardship or probationary permit to drive a domestic partner, as well as other

## NOTICES OF PROPOSED RULEMAKING

immediate family members, to obtain medical treatment on a regular basis.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

**Rules Coordinator:** Brenda Trump

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

**Telephone:** (503) 945-5278

.....  
**Department of Transportation,  
Highway Division  
Chapter 734**

**Rule Caption:** Amends days and hours hauling restrictions apply for over-width loads; affects holiday travel.

**Stat. Auth.:** ORS 184.616, 184.619 & 818.200

**Stats. Implemented:** ORS 818.200 & 818.220

**Proposed Amendments:** 734-075-0055, 734-082-0021

**Last Date for Comment:** 10-23-06

**Summary:** These rules govern the days and times vehicles and loads that exceed maximum allowed width are allowed to travel. Movement of over-width loads before, during and after a holiday is currently restricted statewide. Average daily traffic counts indicate that there are certain highways where the current restrictions to over-width movement are not necessary. With data now available, the Department can identify holiday days and times that movement of an over-width load would not pose an additional safety hazard to the traveling public. Under the current rule restrictions, holiday movement of over-width loads typically results in an increased number of over-width loads moving as soon as the restriction is over, potentially adding to congestion and safety concerns. Proposed amendments provide for a more uniform traffic flow of over-width loads during holiday periods. Amendments to these rules effectively remove restrictions from the rule language and provide for a permit attachment (Permit Attachment H) to govern various identified exceptions to the existing statewide restrictions.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

**Rules Coordinator:** Brenda Trump

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

**Telephone:** (503) 945-5278

.....  
**Department of Transportation,  
Transportation Safety Division  
Chapter 737**

**Rule Caption:** Application Process for the Safe Routes to School Grant Program.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-17-06	3 p.m.	ODOT Bldg. 355 Capitol St. NE, Rm. 122 Salem, OR

**Hearing Officer:** Julie Yip

**Stat. Auth.:** ORS 184.616, 184.619, 184.740 & 184.741

**Other Auth.:** SAFETEA-LU Title 1, Section 1404 of Public Law 109-59 dated August 10, 2005

**Stats. Implemented:** ORS 184.741

**Proposed Adoptions:** 737-025-0000 – 737-025-0080

**Last Date for Comment:** 10-20-06

**Summary:** ORS 184.741 requires ODOT to adopt rules establishing the criteria used in awarding grants from the Safe Routes to School Fund. These rules establish the application procedure, eligibility criteria and the selection criteria for Safe Routes to School grants.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

**Rules Coordinator:** Brenda Trump

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

**Telephone:** (503) 945-5278

.....  
**Rule Caption:** Requirements for Traffic Safety Education Courses, Instructors and Equipment.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-17-06	1 p.m.	ODOT Bldg 355 Capitol St. NE, Rm. 122 Salem

**Hearing Officer:** John Harvey

**Stat. Auth.:** ORS 184.616, 184.619 & 802.345

**Stats. Implemented:** ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

**Proposed Adoptions:** 737-015-0110

**Proposed Amendments:** 737-015-0020, 737-015-0030, 737-015-0040, 737-015-0050, 737-015-0060, 737-015-0070, 737-015-0080, 737-015-0090, 737-015-0100

**Last Date for Comment:** 10-20-06

**Summary:** These rules relate to traffic safety education courses, instructors and equipment required for the instruction of persons less than 18 years of age. ODOT's Transportation Safety Division (TSD) is responsible for monitoring the schools and instructors who provide this traffic safety course. The 2005 Oregon Legislature amended ORS 336.805 (HB 2112) increasing the amount reimbursed to public schools and facilities offering a course in traffic safety from \$150 to \$210 per eligible student. OAR 737-015-0090 is amended to reflect that change. Other rules pertaining to the program have not been updated in six years. These proposed rule amendments clarify and define exactly what is required for an approved driver education provider. The new language updates curriculum concepts and delivery requirements and outcomes of students completing an approved traffic safety course. These rules outline the requirements and qualifications for driver education instructors. These proposed amendments are part of an on-going process to make these rules better for the safety and mobility of young drivers of Oregon choosing to complete an ODOT-TSD approved course. The proposed amendments eliminate inconsistencies in state-approved driver education requirements for public and private providers. The driving school industry requested that more details be included in the rules.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

**Rules Coordinator:** Brenda Trump

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

**Telephone:** (503) 945-5278

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**Economic and Community Development Department  
Chapter 123**

**Rule Caption:** Adopt rules for the Oregon Coalition Brownfields Cleanup Fund Program.

**Stat. Auth.:** ORS 285A.190, 285A.192

**Stats. Implemented:** ORS 285A.190

**Proposed Adoptions:** 123-140-0010, 123-140-0020, 123-140-0030, 123-140-0040, 123-140-0050

**Last Date for Comment:** 10-21-06

**Summary:** Adopt rules necessary to carry out the provisions of the Oregon Coalition Brownfields Cleanup Fund Program.

**Rules Coordinator:** Paulina Layton

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

**Telephone:** (503) 986-0036

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**Rule Caption:** Technical update to the statutory citations for laws already applicable to the OCDBG program.

**Stat. Auth.:** ORS 285.075, 285A.110

**Stats. Implemented:** ORS 285A.075

**Proposed Amendments:** 123-080-0000 – 123-080-0040

# NOTICES OF PROPOSED RULEMAKING

**Last Date for Comment:** 10-21-06  
**Summary:** Technical update to the statutory citations for laws already applicable to the OCDBG program.  
**Rules Coordinator:** Paulina Layton  
**Address:** Economic and Community Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301-1280  
**Telephone:** (503) 986-0036

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**Rule Caption:** Housekeeping and to align rules with changes made to ORS 285A.185 and ORS 285A.188 in HB 2176 (2005).  
**Stat. Auth.:** ORS 285A.185, 285A.188  
**Stats. Implemented:** ORS 285A.185, 285A.188  
**Proposed Amendments:** 123-135-0040, 123-135-0070  
**Last Date for Comment:** 10-21-06  
**Summary:** Housekeeping and to align rules with changes made to ORS 285A.185 and ORS 285A.188 in HB 2176 (2005).  
**Rules Coordinator:** Paulina Layton  
**Address:** Economic and Community Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301-1280  
**Telephone:** (503) 986-0036

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**Rule Caption:** Restores language erroneously deleted from prior version rule change corrects typographical errors.  
**Stat. Auth.:** ORS 285A.654 - 285A.660  
**Stats. Implemented:** ORS 285A.654 - 285A.660  
**Proposed Amendments:** 123-030-0004, 123-030-0020, 123-030-0030, 123-030-0040, 123-030-0050  
**Last Date for Comment:** 10-21-06  
**Summary:** Restoring language erroneously deleted from prior version rule change and correction of typographical errors.  
**Rules Coordinator:** Paulina Layton  
**Address:** Economic and Community Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301-1280  
**Telephone:** (503) 986-0036

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**Rule Caption:** Restores language erroneously deleted from prior version rule change corrects typographical errors.  
**Stat. Auth.:** ORS 285A.654 - 285A.600  
**Stats. Implemented:** ORS 285A.654 - 285A.600  
**Proposed Amendments:** 123-025-0025, 123-025-0030  
**Last Date for Comment:** 10-21-06  
**Summary:** Provides guidance for administration of Port Planning and Marketing Fund.  
**Rules Coordinator:** Paulina Layton  
**Address:** Economic and Community Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301-1280  
**Telephone:** (503) 986-0036

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**Rule Caption:** Updating the rules to reflect statutory changes from SB1098 and revisions in department's procedures.  
**Stat. Auth.:** ORS 285B.419  
**Other Auth.:** ORS 285A.075  
**Stats. Implemented:** ORS 285B.410 - 285B.482  
**Proposed Adoptions:** 123-042-0026, 123-042-0036, 123-042-0045, 123-042-0055, 123-042-0065, 123-042-0076, 123-042-0122, 123-042-0132, 123-042-0155, 123-042-0165, 123-042-0175  
**Proposed Amendments:** 123-042-0020, 123-042-0180, 123-042-0190  
**Proposed Repeals:** 123-042-0030, 123-042-0040, 123-042-0070, 123-042-0080, 123-042-0150, 123-042-0160  
**Last Date for Comment:** 10-21-06

**Summary:** This rule implements the Special Public Works Fund. The rules add application requirements, contracting requirements, and clarifies the definition and criteria of an eligible project as well as the costs eligible for reimbursement from the fund. The revised rules implement the changes to the program that took effect with passage of SB1098. The revised rules also change the terms under which

loans and grants may be awarded and refer to additional qualifying criteria contained in the program policy "Grant and Loan Funding for the Special Public Works Fund."  
**Rules Coordinator:** Paulina Layton  
**Address:** Economic and Community Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301-1280  
**Telephone:** (503) 986-0036

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**Rule Caption:** Updating the rules to reflect statutory changes from SB1098 and revisions in department's procedures.  
**Stat. Auth.:** ORS 285B.563  
**Other Auth.:** ORS 285A.075  
**Stats. Implemented:**  
**Proposed Adoptions:** 123-043-0102  
**Proposed Amendments:** 123-043-0010, 123-043-0015, 123-043-0025, 123-043-0035, 123-043-0045, 123-043-0055, 123-043-0065, 123-043-0075, 123-043-0085, 123-043-0095, 123-043-0105, 123-043-0115

**Last Date for Comment:** 10-21-06  
**Summary:** This rule implements the Water Wastewater Fund program. The rules add application requirements, contracting requirements and clarifies the definition and criteria of an eligible project as well as the costs eligible for reimbursement from the fund. The revised rules implement the changes to the program that took effect with passage of SB1098. The revised rules also change the terms under which loans and grants may be awarded and refer to additional qualifying criteria contained in the program policy "Grant and Loan Funding for the Water Wastewater Fund."  
**Rules Coordinator:** Paulina Layton  
**Address:** Economic and Community Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301-1280  
**Telephone:** (503) 986-0036

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## Employment Department Chapter 471

**Rule Caption:** OAR Chapter 471-041 — all rules.  
**Date:** 10-19-06  
**Time:** 9 a.m.  
**Location:** OED Auditorium  
875 Union St NE  
Salem 97311

**Hearing Officer:** Lynn Nelson  
**Stat. Auth.:** ORS 183, 657  
**Stats. Implemented:** ORS 657.685  
**Proposed Amendments:** Rules in 471-041  
**Last Date for Comment:** 10-19-06, 5 p.m.  
**Summary:** Amending all rules in OAR 471-041 to clarify the meaning of each rule. Process changes include allowing parties to submit written arguments without having to ask first and increasing the time to request reconsideration.  
**Rules Coordinator:** Lynn M. Nelson  
**Address:** Employment Department, 875 Union St. NE, Salem, OR 97311  
**Telephone:** (503) 947-1724

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## Oregon Commission on Children and Families Chapter 423

**Rule Caption:** Relief Nurseries — requirements of programs, including staffing and client services; and process for funding.  
**Date:** 10-30-06  
**Time:** 10 a.m.  
**Location:** 530 Center St, Suite 405  
Salem, OR

**Hearing Officer:** Barbara Carranza  
**Stat. Auth.:** ORS 417.710  
**Stats. Implemented:** ORS 417.788  
**Proposed Adoptions:** 423-045-0101, 423-045-0105, 423-045-0110, 423-045-0112, 423-045-0115, 423-045-0120, 423-045-0125, 423-045-0130, 423-045-0135, 423-045-0140, 423-045-0150,



# NOTICES OF PROPOSED RULEMAKING

423-045-0155, 423-045-0160, 423-045-0165, 423-045-0170, 423-045-0175, 423-045-0185

**Proposed Amendments:** 423-010-0024

**Last Date for Comment:** 11-17-06

**Summary:** These administrative rules establish prerequisites for operation and funding of Relief Nurseries. The rules establish minimum services, infrastructure, staffing, curriculum, staff training and supervision. The rules also include optional services of Relief Nurseries.

**Rules Coordinator:** Marsha Clark

**Address:** Oregon Commission on Children and Families, 530 Center St. NE - Suite 405, Salem, OR 97301

**Telephone:** (503) 373-128,3 ext. 244

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## Oregon Department of Education Chapter 581

**Rule Caption:** Adoption of Definitions for Test Administration of State Tests.

Date:	Time:	Location:
10-24-06	1 p.m.	Oregon Dept. of Education 2nd Floor — 251A Salem, OR

**Hearing Officer:** Randy Harnisch

**Stat. Auth.:** ORS 326.051 General Authority of Board

**Stats. Implemented:** ORS 329.485

**Proposed Adoptions:** 581-022-0609

**Last Date for Comment:** 10-24-06, 5 p.m.

**Summary:** The statewide tests must be administered in a valid and reliable manner. School and District staff need consistent guidelines as to the how to administer the tests and potential consequences if administrations are inconsistent with state guidelines. Adopting the administrative rule will formalize those guidelines.

**Rules Coordinator:** Paula Merritt

**Address:** Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

**Telephone:** (503) 947-5746

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**Rule Caption:** Amend of State Test Administration Administrative Rule.

Date:	Time:	Location:
10-24-06	1 p.m.	Oregon Dept. of Education 2nd Floor — 251A Salem, OR

**Hearing Officer:** Randy Harnisch

**Stat. Auth.:** ORS 326.051 General Authority of Board

**Stats. Implemented:** ORS 329.485

**Proposed Amendments:** 581-022-0610

**Last Date for Comment:** 10-24-06, 5 p.m.

**Summary:** The statewide tests must be administered in a valid and reliable manner. School and District staff need consistent guidelines as to the how to administer the tests and potential consequences of administrations are inconsistent with state guidelines. Amending the administrative rule will formalize those guidelines.

**Rules Coordinator:** Paula Merritt

**Address:** Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

**Telephone:** (503) 947-5746

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## Oregon Housing and Community Services Chapter 813

**Rule Caption:** Authorizes Department to makes funds available to provide housing or related facilities for farmworkers.

Date:	Time:	Location:
10-24-06	9 a.m.	725 Summer Street NE Rm 124B Salem, Oregon 97301-1266

**Hearing Officer:** Debie Zitzelberger

**Stat. Auth.:** ORS 456.515 - 456.725

**Stats. Implemented:** ORS 456.515 - 456.725, 566.310 - 566.360

**Proposed Adoptions:** 813-015-0001, 813-015-0005, 813-015-0010, 813-015-0015, 813-015-0020, 813-015-0025, 813-015-0030, 813-015-0035, 813-015-0040, 813-015-0045, 813-015-0050

**Last Date for Comment:** 11-6-06 5 p.m.

**Summary:** 813-015-0001 Sets out the purpose for the rules.

813-015-0005 clarifies the common definitions and terms found within the rules.

813-015-0010 defines the eligible borrowers and eligible projects that may apply for available program funding. The rule also defines the program criteria and loan terms and limits.

813-015-0015 clarifies the source of the funds within the program. Stipulates the Department may provide fund subject to the availability of funds through a process including but not limited to a first come - first reviewed process or a competitive review process.

813-015-0020 states that the Department will notify an eligible borrower of the terms and conditions of the funding through a formal commitment letter before funds are advanced or contractual agreements are signed. Defines the terms and conditions that may be included in the formal commitment letter.

813-015-0025 sets out the loan security requirements for receiving funding through the program.

813-015-0030 includes the application process and the project information that must be included as part of the application process.

813-015-0035 defines the Department process and criteria for evaluating each project and processing the loan application.

813-015-0040 states that an eligible borrower who has received a loan cannot transfer or otherwise encumber a property that serves as collateral for the loan without prior written consent from the Department. Defines the terminology 'transfer of ownership.' Sets out the charges applicable to the transferring of ownership.

813-015-0040 includes equal opportunity language for all eligible borrowers.

813-015-0050 includes waiver language that is allowed within statute.

**Rules Coordinator:** Sandy McDonnell

**Address:** 725 Summer Street NE, Suite B, Salem, Oregon 97301-1266

**Telephone:** (503) 986-2012

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## Oregon State Lottery Chapter 177

**Rule Caption:** Clarifies personal criteria for contracting with retailer applicants and approving key persons; reorganizes rule structure.

Date:	Time:	Location:
10-24-06	2:30-3 p.m.	Oregon Lottery 500 Airport Road SE Salem, OR

**Hearing Officer:** Larry Trott

**Stat. Auth.:** ORS chapter 461

**Other Auth.:** Oregon Constitution, Article XV, sec. 4(4)

**Stats. Implemented:** ORS 461.300

**Proposed Amendments:** 177-040-0010

**Last Date for Comment:** 10-24-06, 3 p.m.

**Summary:** The Oregon Lottery has initiated permanent rulemaking to amend this administrative rule to clarify its terms and reorganize its structure.

**Rules Coordinator:** Mark W. Hohlt

**Address:** Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301

**Telephone:** (503) 540-1417

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**Rule Caption:** Amendments to definition for "Key Persons"; Effect on disclosure requirements for retail contract applicants.



# NOTICES OF PROPOSED RULEMAKING

**Date:** 10-24-06  
**Time:** 2–2:30 p.m.  
**Location:** Oregon Lottery  
500 Airport Road SE  
Salem, OR

**Hearing Officer:** Larry Trott  
**Stat. Auth.:** ORS Chapter 461  
**Other Auth.:** Oregon Constitution, Article XV, sec. 4(4)  
**Stats. Implemented:** ORS 461.300  
**Proposed Amendments:** OAR 177-040-0000  
**Last Date for Comment:** 10-24-06, 2:30 p.m.

**Summary:** The Oregon Lottery has initiated permanent rulemaking to amend this rule in accordance with Oregon Laws 2005, Chapter 166, (SB 363) which amends PRS 461.300 regarding disclosure requirements for Lottery game retailers. This rulemaking revises the definition of “key person” to conform it to the requirements of amended ORS 461.300.

**Rules Coordinator:** Mark W. Hohlt  
**Address:** Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301  
**Telephone:** (503) 540-1417

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**Oregon State Treasury**  
**Chapter 170**

**Rule Caption:** Fees Charged by the Debt Management Division.  
**Stat. Auth.:** ORS 287.020(3), 287.036, 288.620(3), 289.205(3) & 293.292  
**Stats. Implemented:** ORS 287.020(3), 287.036, 288.620(3), 289.205(3) & 293.292

**Proposed Amendments:** 170-061-0015  
**Last Date for Comment:** 10-23-06

**Summary:** The Office of the State Treasurer (OST), as staff to the Municipal Debt Advisory Commission (MDAC), is authorized to be reimbursed for expenses incurred in providing services to local government units and assisting state agencies and authorities in the issuance of bonds, notes or certificates of participation. Amendments to Administrative Rule 170-061-015 would reduce fees charged to state agencies and state authorities for issues whose par amount is \$5 million or less. New “express bond” programs often require less work for OST staff than larger regular bond issues.

OST staffing costs exceed the \$75 per hour allowed under the current rule for staff research and preparation of specialized reports and services.

**Rules Coordinator:** Sally Furze  
**Address:** Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301  
**Telephone:** (503) 378-4990

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**Rule Caption:** Allocation of Private Activity Bond Limit.  
**Stat. Auth.:** ORS 286.615  
**Stats. Implemented:** ORS 286.615  
**Proposed Amendments:** 170-071-0005  
**Last Date for Comment:** 10-23-06

**Summary:** The rule change clarifies the Private Activity Bond Committee’s policy of allowing both state agencies and local agencies to apply for private activity bond cap allocations.

**Rules Coordinator:** Sally Furze  
**Address:** Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301  
**Telephone:** (503) 378-4990

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

**Rule Caption:** Proposed rules to carry out procurement authority granted on ORS 279.050(6)(c) to procure “all goods, services, public improvements and personal services relating to state parks.”

**Date:** 10-23-06  
**Time:** 3:30–4:30 p.m.  
**Location:** OPRD HQ Office  
725 Summer St. NE, Suite C  
Salem, OR 97301

**Hearing Officer:** Shirley Finanger  
**Stat. Auth.:** ORS 279A.065, 279A.065(5)(a), 279A.070, 279A.140(2)(h)(A)(i), 244.010 - 244.400

**Stats. Implemented:** ORS 279A.030, 279A.065, 279A.140(2), 279A.140(h)(A), 279A.140, 279A.070, 279A.050, 279A.065(5), 244.010–244.400, 279A.065(5)(a), 279B.075, 279B.065, 279B.015, 279B.025, 279B.270, 279B.280, 279B.080, 279B.085, 279B.090, 279C.110, 279C.115

**Proposed Adoptions:** 736-146-0010, 736-146-0015, 736-146-0020, 736-146-0025, 736-146-0030, 736-146-0040, 736-146-0050, 736-146-0060, 736-146-0070, 736-146-0080, 736-146-0090, 736-146-0100, 736-146-0110, 736-146-0120, 736-146-0130, 736-146-0140, 736-147-0010, 736-147-0020, 736-147-0030, 736-147-0035, 736-147-0040, 736-147-0050, 736-147-0060, 736-148-0010, 736-148-0020, 736-149-0010

**Last Date for Comment:** 10-23-06  
**Summary:** These rules clarify the requirements that are not written in ORS 279A, ORS 279B, ORS 279C and DOJ-OAR 137-046 through DOJ-137-049. They will document the process for procurement not already documented by DOJ and provide reminders of additional OPRD approvals.

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

.....  
**Public Utility Commission**  
**Chapter 860**

**Rule Caption:** In the Matter of a Rulemaking to Amend Division 016 Rules Governing Interconnection Agreements.

**Date:** 10-27-06  
**Time:** 9:30 a.m.  
**Location:** Public Utility Commission  
Main Hearing Rm., 1st Floor  
550 Capitol Street NE  
Salem, Oregon

**Hearing Officer:** Michael Grant  
**Stat. Auth.:** ORS Ch. 756  
**Other Auth.:** 47 USC 252  
**Stats. Implemented:** ORS 756.060, 47 USC 252  
**Proposed Amendments:** 860-016-0020, 860-016-0021, 860-016-0025, 860-016-0030

**Last Date for Comment:** 10-27-06, 5 p.m.  
**Summary:** Currently, Commission rules for processing negotiated interconnection agreements exceed federal law by requiring an opportunity for other carriers to formally comment on the filings. While this process has been successfully used for many years, no other carriers, outside the rare case, file comments. Moreover, while some agreements present novel questions that must be addressed, most are routine in nature.

To help expedite the approval process, the Commission proposes to streamline procedures for routine filings. The primary change would be to eliminate the specific comment period and, if the filing is acceptable, have Staff place the agreement on the consent agenda for approval at a Public Meeting. The Commission also proposes a minor change to the arbitration process to clarify the rights of the parties in arbitration.

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

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**Rule Caption:** Amends rules relating to sanctions for attachments to utility poles and facilities.

# NOTICES OF PROPOSED RULEMAKING

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
10-12-06	1:30 p.m.	Public Utility Commission Workshop with Commissioners Main Hearing Rm., First Flr. 550 Capitol Street NE Salem, OR
11-8-06	9 a.m.	Public Utility Commission Hearing Main Hearing Rm., First Flr. 550 Capitol Street NE Salem, OR

**Hearing Officer:** Christina Smith  
**Stat. Auth.:** ORS 183, 756, 757, 759  
**Other Auth.:** Section 9(3) of House Bill 2271, enacted as Oregon Laws 1999, ch. 832, sec. 9  
**Stats. Implemented:** ORS 756.040, 757.035, 757.270–757.290, 759.045, 759.650–759.675  
**Proposed Amendments:** 860-028-0120 – 860-028-0240  
**Last Date for Comment:** 11-8-06, 5 p.m.

**Summary:** This rulemaking is intended to be an expansion of existing rulemaking docket AR 506 of the Public Utility Commission to establish more comprehensive joint use rules that would apply to electric utilities, telecommunications utilities, telecommunications providers, cable television operators, and other entities that operate electric and communication lines.

The purpose of this rulemaking is to expand or amend PUC rules related to the sanctions amounts and sanctioning processes for violations of PUC rules regarding pole attachments and duties of pole occupants. Specifically, this rulemaking will address both pole occupant and pole owner duties, sanctions amounts, sanctions maximums, and sanctions processes, sanctions for lack of contracts and lack of a permit, sanctions for violation of terms of a contract between the parties, sanctions for violation of OAR chapter 860, division 024, the interrelation between PUC rules and existing contracts between parties, the creation of a sanction grace periods, the elimination of sanctions escalators, rental rate reductions, sanctions notification procedures between pole owners and pole occupants, and permitted use of sanction funds.

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

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**Real Estate Agency**  
**Chapter 863**

**Rule Caption:** Property management recordkeeping requirements, record storage and production, and housekeeping to create internal consistency.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
12-11-06	10 a.m.	1177 Center St. NE Salem, OR 97301

**Hearing Officer:** Staff  
**Stat. Auth.:** ORS 183.335 & 696.385  
**Stats. Implemented:** ORS 696.241, 696.280 & 696.631  
**Proposed Adoptions:** 863-025-0080  
**Proposed Amendments:** 863-025-0005, 863-025-0010, 863-025-0015, 863-025-0020, 863-025-0025, 863-025-0030, 863-025-0035, 863-025-0040, 863-025-0045, 863-025-0050, 863-025-0055, 863-025-0060, 863-025-0065, 863-025-0070  
**Last Date for Comment:** 12-20-06  
**Summary:** The Real Estate Agency and a group of seven individuals representing a variety of interests (large firms, small firms, commercial and/or residential property managers) of licensed property managers in Oregon formed a collaborative rulemaking Property

Management Rules Working Group (the “Working Group”) in the spring of 2006. The purpose of the Working Group was to review all property management rules under OAR Chapter 863 and to arrive at consensus in amendments and/or developing new rules. The group met seven times from April 25 through August 10, 2006 and addressed a number of existing rules that required property managers to create and store records in specific places and in specific formats that are extremely costly to property managers. The Working Group decided that the significant fiscal impact of recordkeeping and of complying with the complexity of the existing rules placed a significant financial burden on property managers. The property management rules affect approximately 6,750 property management clients’ trust accounts. The Working Group determined that the Real Estate Agency’s failure to act promptly and adopt temporary rules would result in serious prejudice to the interests of the parties concerned, and the Agency adopted the following temporary rules effective September 15, 2006: Adopting OAR 863-025-0080 and amending OAR 863-025-0005, 863-025-0025, 863-025-0035, 863-025-0040 and 863-025-0045. These permanent rules will adopt the changes created by the temporary rules and amend all rules in the division for internal consistency and readability.

**Rules Coordinator:** Laurie Skillman  
**Address:** Real Estate Agency, 1177 Center St. NE, Salem, OR 97301  
**Telephone:** (503) 378-4170, ext. 237

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

**Rule Caption:** Disposition of notarial records upon termination of notarial commission.

**Stat. Auth.:** ORS 194  
**Stats. Implemented:** ORS 194.154  
**Proposed Adoptions:** 160-100-0305  
**Last Date for Comment:** 10-30-06, 5 p.m.

**Summary:** This rule addresses the responsibilities a notary public has regarding their notarial records upon commission termination or commission expiration.

This rule was inadvertently repealed (formally rule 160-100-0300). This adoption is to correct the repeal.

**Rules Coordinator:** Kristine Hume Bustos  
**Address:** Secretary of State, Corporation Division, 255 Capitol St. NE, Suite 151, Salem, OR 97310  
**Telephone:** (503) 986-2356

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**Travel Information Council**  
**Chapter 733**

**Rule Caption:** Adopt process to notify and involve businesses and interested parties in annual review of fees.

**Stat. Auth.:** ORS 377.700 - 377.840  
**Stats. Implemented:** ORS 183.310 - 183.550  
**Proposed Amendments:** Rules in 733-030  
**Last Date for Comment:** 10-21-06

**Summary:** The Travel Information Council held a quarterly meeting on August 24, 2006. The Council proposed rule changes to adopt a clear process for notifying and involving motorist service businesses and interested parties in an annual review of proposed Schedule of Fees. The Schedule of Fees will be sent to each business with sign permits and interested parties followed by a 30 day comment period and a scheduled public hearing.

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

# ADMINISTRATIVE RULES

## Board of Architect Examiners Chapter 806

**Rule Caption:** Architectural Agreements/Contracts.  
**Adm. Order No.:** BAE 5-2006  
**Filed with Sec. of State:** 9-5-2006  
**Certified to be Effective:** 9-5-06  
**Notice Publication Date:** 8-1-06  
**Rules Amended:** 806-010-0075  
**Rules Repealed:** 806-010-0075(T)  
**Subject:** This rule is amendment eliminates the elaboration about who the contracts for architectural services should be between.  
**Rules Coordinator:** Carol Halford—(503) 763-0662

### 806-010-0075

#### The Practice of Architecture

(1) The "Practice of Architecture" is defined in ORS 671.010(6) and relates to the professional activities of the registered architect. These activities include all analysis, calculations, research, graphic presentation, literary expression, and advice essential to the preparation of necessary documents for the design and construction of buildings, structures and their related environment whether interior or exterior.

(2) Individuals/firms may participate in a public architectural design competition in Oregon without first being registered by the Board if the individual/firm holds an active registration to practice architecture in another jurisdiction recognized by the Board subject to all of the following:

(a) The individual/firm may use the architect title by complying with OAR 806-010-0037.

(b) If selected as the architect for the project, the individual must apply for Oregon architect registration and will not perform further architectural services on the project until registered by the Oregon Board.

(c) Prior to performing architectural services on the project under any firm name, the architect's firm must meet the requirements of OAR 806-010-0080, 806-010-0110, and ORS 671.041, and become registered with the Oregon Board.

Stat. Auth.: ORS 670 & 671

Stats. Implemented: ORS 671.010

Hist.: AE 5, f. 12-22-64; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 1-1984, f. & ef. 8-22-84; BAE 4-2005, f. 8-29-05, cert. ef. 8-30-05; BAE 1-2006, f. & cert. ef. 3-10-06; BAE 2-2006(Temp), f. 3-14-06, cert. ef. 3-15-06 thru 9-8-06; BAE 5-2006, f. & cert. ef. 9-5-06

## Board of Examiners of Nursing Home Administrators Chapter 853

**Rule Caption:** Update Relicensing Fee And Remove Written Exam And Interview Requirement For Certain Lapsed Licenses.  
**Adm. Order No.:** BENHA 2-2006  
**Filed with Sec. of State:** 8-31-2006  
**Certified to be Effective:** 8-31-06  
**Notice Publication Date:** 7-1-06  
**Rules Amended:** 853-010-0055  
**Subject:** The amendment updates the relicensing fee amount and removes the personal interview and written examination requirements for licenses lapsed longer than one but less than five years. The revisions were previously approved by the Board in 2001 and filed incorrectly with the Secretary of State's office in February 2002.  
**Rules Coordinator:** Janet Bartel—(971) 673-0196

### 853-010-0055

#### Relicensing

(1) A nursing home administrator whose license has expired for less than twelve months may be relicensed upon completion of a license application and a fee of \$425.

(2) A nursing home administrator whose license has lapsed for a period longer than one year but less than five years may be relicensed upon completion of a license application and a fee of \$500. The Board may require the applicant to present evidence of continuing education in long-term care or to complete a specified period of time in an Administrator-in-Training program prior to issuing the license.

(3) A nursing home administrator requesting reinstatement of a license that has been lapsed for a period of five years or longer shall be subject to all current criteria for examination and licensing.

Stat. Auth.: ORS 678.740(1), 678.760(1), (2) & (3), 678.770(2) & 678.775

Stats. Implemented: ORS 678.740(1), 678.760(1), (2) & (3), 678.770(2) & 678.775

Hist.: NHA 12, f. 7-3-75, ef. 7-25-75; NHA 1-1983, f. & ef. 3-17-83; NHA 1-1989, f. & cert. ef. 2-15-89; BENHA 1-2002, f. 1-31-02, cert. ef. 2-1-02; BENHA 2-2006, f. & cert. ef. 8-31-06

## Board of Medical Examiners Chapter 847

**Rule Caption:** Outline process for Board to obtain and use criminal history record information.  
**Adm. Order No.:** BME 20-2006(Temp)  
**Filed with Sec. of State:** 9-14-2006  
**Certified to be Effective:** 9-14-06 thru 3-12-07  
**Notice Publication Date:**  
**Rules Adopted:** 847-020-0155  
**Subject:** The proposed administrative rules are required, per HB 2157, Section 2, in order for the Board to request the Oregon State Police conduct a criminal records check, including fingerprint identification, through the FBI, on an applicant or licensee.  
**Rules Coordinator:** Diana M. Dolstra—(971) 673-2713

### 847-020-0155

#### State and Nationwide Criminal Records Checks, Fitness Determinations

(1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or renewed a license that is issued by the Board.

(2) These rules are to be applied when evaluating the criminal history of an applicant or licensee and conducting fitness determinations based upon such history. The fact that an applicant or licensee has cleared the criminal history check does not guarantee the granting or renewal of a license.

(3) The Board may require fingerprints of all applicants for a medical (MD/DO), podiatric (DPM), physician assistant (PA), and acupuncturist (LAc) license, licensees renewing their license and licensees under investigation to determine the fitness of an applicant or licensee. These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a Criminal History Check and a National Criminal History Check. Any original fingerprint cards will subsequently be destroyed by the Oregon Department of State Police.

(4) The Board shall determine whether an applicant or licensee is fit to be granted a license based on the criminal records background check, any false statements made by the applicant or licensee regarding the criminal history of the individual, any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If an applicant is determined to be unfit, the applicant may not be granted a license. If a licensee is determined to be unfit the licensee's license may not be renewed. The Board may make a fitness determination conditional upon applicant's or licensee's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(5) Except as otherwise provided in section (2), in making the fitness determination the Board shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the applicant or licensee at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(6) All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.



# ADMINISTRATIVE RULES

(7) In order to conduct the Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the licensee or applicant as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(8) Criminal offender information is confidential. Dissemination of information received under HB 2157 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

(9) The Board will permit the individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(10) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests and court records that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.

(11) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.414-470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

(12) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, the application is considered incomplete.

Stat. Auth.: ORS 677.265, HB 2157, Sec. 2 2005  
Stats. Implemented: ORS 677.265(9)  
Hist. BME 20-2006(Temp), f. & cert. ef. 9-14-06 thru 3-12-07

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## Board of Parole and Post-Prison Supervision Chapter 255

**Rule Caption:** Adoption of Rules Regarding Procedure for Designation of Predatory Sex Offenders prior to release.

**Adm. Order No.:** PAR 8-2006(Temp)

**Filed with Sec. of State:** 8-30-2006

**Certified to be Effective:** 8-30-06 thru 2-2-07

**Notice Publication Date:**

**Rules Amended:** 255-060-0016

**Rules Suspended:** 255-060-0016(T)

**Subject:** The adoption of this rule is necessary to cause the Board's procedure for designating sex offenders as predatory prior to being released from custody to be consistent with the Oregon Supreme Court ruling in V.L.Y. v. Board of Parole and Post-Prison Supervision, 338 Or 44 (2005)

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

### 255-060-0016

#### Procedures for Predatory Sex Offender Designation for Inmates.

(1) For purposes of this rule, a predatory sex offender is defined as a person who exhibits characteristics showing a tendency to victimize or injure others and has been convicted of one or more of the following offenses: Rape in any degree, Sodomy in any degree, Unlawful Sexual Penetration in any degree or Sexual Abuse in any degree. In determining whether an inmate or offender is a predatory sex offender under this rule, the Board shall use the STATIC-99 (Exhibit Q-I) and definitions (Exhibit Q-II), which have been approved by the Department of Corrections as required by ORS 181.585(2). The Board may also consider evidence that the inmate is behaving in a manner that is consistent with exhibiting characteristics showing a tendency to victimize or injure others submitted in written reports prepared by an approved evaluator and a release counselor of any Department of Corrections institution.

(2) Predatory sex offender designations made by the board for inmates released from a Department of Corrections institution before July 1, 2006, are not included in this rule. Those designations are governed by the rules in effect when the designation was made or when the inmate was released from custody.

(3) Subject to the procedures set forth in this rule, the Board will make a finding that an inmate is eligible for predatory sex offender designation, if the inmate scores six or more points on the STATIC-99.

(4) A finding that an inmate or offender is a predatory sex offender may be made by one Board Member. The finding may only be made after the inmate has participated in a sex offender evaluation or refused participation in such an evaluation, and participated in an evidentiary hearing or waived participation in such a hearing to determine whether the offender is exhibiting characteristics showing a tendency to victimize or injure others. A finding that an offender is a predatory sex offender will be contained in the offender's original order of supervision or an amended order of supervision.

(5) Subject to the procedures set forth below, inmates who score six or more points on the STATIC-99, and have been identified as eligible for predatory designation are required to participate in a sex offender evaluation to determine whether the inmate is exhibiting characteristics showing a tendency to victimize or injure others. Refusal to participate in such an evaluation will be used as evidence to determine whether the inmate is exhibiting characteristics showing a tendency to victimize or injure others.

(6) Subject to the procedures set forth below, inmates who score six or more points on the STATIC-99, and have been identified as eligible for predatory designation, have the right to be advised of their score and submit written objections to the Board before the Board makes a predatory sex offender finding. The Notice of Rights and Written Objections form for this rule are Exhibits Q-III and Q-IV of the Board's rules.

(a) Written objections must be received by a Department of Corrections' institution or release counselor, or the Board within three days of the date the inmate signed the Notice of Rights (Exhibit Q-III).

(b) The Board must receive and review the signed Notice of Rights (Exhibit Q-III) or written documentation that the inmate refused to sign the Notice of Rights before an evidentiary hearing is conducted or waived to determine a predatory sex offender finding.

(c) The Board must consider any written objections to the score on the STATIC-99 timely submitted by the inmate before an evidentiary hearing is conducted or waived to determine a predatory sex offender finding. The Board may find an inmate is eligible for predatory sex offender designation if there is evidence to support a score on the STATIC-99 of six or more points.

(d) Inmates may elect to waive their right to submit written objections. Any such waiver must be in writing. When inmates waive their right to submit written objections, the Board may find an inmate or offender is eligible for predatory sex offender designation if the inmate's score on the STATIC-99 is six or more points.

(7) The sole purpose of the evidentiary hearing will be to determine whether the inmate is exhibiting characteristics showing a tendency to victimize or injure others. The Board shall receive the sex offender evaluation of the inmate, a copy of the STATIC-99, and any written objections from the inmate to consider at the hearing. The Board may receive a written report from a release counselor of any Department of Corrections institution indicating that the inmate is engaging in behavior that shows the inmate is exhibiting characteristics showing a tendency to victimize or injure others.

(a) Upon receipt of the abovementioned information, including the written report from a release counselor of any Department of Corrections institution, the Board will review it to determine whether it contains sufficient information to conduct an evidentiary hearing for purposes of determining whether the inmate should be designated as a predatory sex offender. If the Board determines there is sufficient information in the report, it will schedule an evidentiary hearing.

(b) The Board will provide the inmate with a copy of the Notice of Rights (Exhibit Q-V) prior to the evidentiary hearing. Upon receipt of the Notice of Rights (Exhibit Q-V), the inmate may proceed with the evidentiary hearing or waive his or her right to the hearing. At the evidentiary hearing, the inmate will be given the opportunity to rebut claims made in the sex offender evaluation, STATIC-99, and any written report submitted by a release counselor. At the conclusion of the evidentiary hearing, the Board will make a determination as to whether the inmate should be designated as a predatory sex offender.

(8) Pursuant to ORS 181.586, the community corrections agency supervising an inmate or offender found to be a predatory sex offender shall notify anyone whom the agency determines is appropriate that the person is a predatory sex offender. The agency shall make this determination as required by ORS 181.586.

(ED. NOTE: Exhibits referenced are available from the agency.)  
Stat. Auth.: 1999 OL ch. 163, ORS 144.050, 144.140, 181.585, 181.586.  
Other Auth. V.L.Y. v. Board of Parole & Post-Prison Supervision, 338 Or 44(2005)



# ADMINISTRATIVE RULES

Hist.: PAR 7-2006(Temp), f. & cert. ef. 8-7-2006 thru 2-2-07; PAR 8-2006(Temp), f. & cert. ef. 8-30-06 thru 2-2-07

## Board of Pharmacy Chapter 855

**Rule Caption:** Revises license fee for certified pharmacy technicians to include delinquent renewal fee.

**Adm. Order No.:** BP 5-2006(Temp)

**Filed with Sec. of State:** 8-25-2006

**Certified to be Effective:** 8-25-06 thru 1-20-07

**Notice Publication Date:**

**Rules Amended:** 855-110-0005

**Subject:** This temporary rule adds a provision for a delinquent renewal fee of \$20 to the fee schedule for certified pharmacy technicians. It was omitted from the original filing and the renewal cycle is currently in progress.

**Rules Coordinator:** Karen Maclean—(971) 673-0005

### 855-110-0005

#### Licensing Fees

- (1) Pharmacist license examination and re-examination fee — \$50.
- (2) Pharmacist jurisprudence re-examination fee — \$25.
- (3) Pharmacist licensing by reciprocity fee — \$200.
- (4) Pharmacist licensing by score transfer fee — \$200.
- (5) Intern License fee. Expires May 31 every four years — \$30.
- (6) Pharmacist license fee. Expires June 30 annually — \$120

Delinquent renewal fee, (postmarked after May 31) — \$50.

(7) Certification of approved providers of continuing education courses fee, none at this time.

(8) Technician license fee. Expires September 30 annually — \$35. Delinquent renewal fee, (postmarked after August 31) — \$20.

(9) Certified Pharmacy Technician license fee. Expires September 30 annually — \$35. Delinquent renewal fee, (postmarked after August 31) — \$20.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.135

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; 1PB 3-1980, f. 5-3-80, ef. 5-3-80 & 7-1-80; 1PB 2-1982, f. 3-8-82, ef. 4-1-82; 1PB 1-1984, f. & ef. 2-16-84; 1PB 3-1985, f. & ef. 12-2-85; PB 3-1988, f. & cert. ef. 5-23-88; PB 7-1989, f. & cert. ef. 5-1-89; PB 15-1989, f. & cert. ef. 12-26-89; PB 10-1990, f. & cert. ef. 12-5-90; PB 3-1991, f. & cert. ef. 9-19-91; PB 1-1992, f. & cert. ef. 1-31-92 (and corrected 2-7-92); PB 4-1992, f. & cert. ef. 8-25-92; PB 1-1994, f. & cert. ef. 2-2-94; PB 1-1996, f. & cert. ef. 4-5-96; PB 2-1997(Temp), f. 10-2-97, cert. ef. 10-4-97; BP 2-1998, f. & cert. ef. 3-23-98; BP 1-2001, f. & cert. ef. 3-5-01; BP 2-2001(Temp), f. & cert. ef. 7-26-01 thru 1-22-02; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2003, f. & cert. ef. 1-14-03; BP 1-2006, f. & cert. ef. 6-9-06; BP 5-2006(Temp), f. & cert. ef. 8-25-06 thru 1-20-07

**Rule Caption:** Adds two common decongestants to the list of drugs excluded from the scheduled list.

**Adm. Order No.:** BP 6-2006(Temp)

**Filed with Sec. of State:** 8-25-2006

**Certified to be Effective:** 8-25-06 thru 1-31-07

**Notice Publication Date:**

**Rules Amended:** 855-080-0028

**Subject:** This temporary rule adds two common proprietary brands of decongestant inhaler back onto the list of drugs that are excepted from the schedule of controlled drugs. These products were originally deleted from this list in the process of removing exceptions associated with pseudoephedrine, ephedrine and phenylpropranolamine. However, it has been concluded that these products can not be reformulated into methamphetamine and therefore do not pose a threat to the public.

**Rules Coordinator:** Karen Maclean—(971) 673-0005

### 855-080-0028

#### Excluded Substances

The following drugs and their generic equivalents are excepted from the schedules in OAR 855-080-0021 through 855-080-0026:

- (1) Benzedrex inhaler (Propylhexedrine).
- (2) Estratest.
- (3) Estratest HS.
- (4) Estradiol Cypionate Injection.
- (5) Estradiol Valerate Injection.
- (6) Premarin with Methyltestosterone.
- (7) Vicks — Vapor inhaler (Levmetamfetamine).

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: 1PB 6-1978(Temp), f. & ef. 7-1-78; 1PB 8-1978, f. & ef. 10-17-78; 1PB 6-1982, f. & ef. 8-6-82; PB 4-1987, f. & ef. 3-30-87; Renumbered from 855-080-0025; PB 5-1991, f. & cert. ef. 9-19-91; PB 1-1995, f. & cert. ef. 4-27-95; BP 4-2006, f. 6-9-06, cert. ef. 7-1-06; BP 6-2006(Temp), f. & cert. ef. 8-25-06 thru 1-31-07

**Rule Caption:** Implements 2005 legislation by defining required pain management continuing education for pharmacists.

**Adm. Order No.:** BP 7-2006(Temp)

**Filed with Sec. of State:** 8-25-2006

**Certified to be Effective:** 8-25-06 thru 1-20-07

**Notice Publication Date:**

**Rules Adopted:** 855-021-0016

**Subject:** Pharmacists are required by statute to complete pain management continuing education. This rule specifies the acceptable content, number of hours and the timetable for completion. Rule also permits this continuing education to count as part of the existing annual requirement for pharmacists.

**Rules Coordinator:** Karen Maclean—(971) 673-0005

### 855-021-0016

#### Continuing Education in Pain Management

(1) A pharmacist licensed under these rules must complete seven hours of continuing education in pain management as follows:

(a) A one-hour pain management course, specific to Oregon, provided by the Pain Management Commission of the Oregon Department of Human Services; and

(b) A minimum of six hours of continuing education in pain management. This requirement may be fulfilled by any combination of continuing education coursework focusing on pain management including but not limited to the treatment of terminally ill and dying patients, and those with chronic, non-malignant pain.

(2) A licensee must complete the required continuing education within 24 months of their first license renewal after January 2, 2006.

(3) A licensee must retain for three years, documentation showing they have met the requirement of this rule, and must provide this documentation if requested by the Board.

(4) The pain management continuing education required under this rule shall count towards the 1.5 continuing pharmacy education units required under OAR 855-021-0005, in the license cycle in which the pain management continuing education is completed. Any portion of this continuing education may count towards the requirement in OAR 855-021-0010(1)(a) for 11 hours continuing education in therapeutics.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.285, 409.560 & 409.565

Hist.: BP 7-2006(Temp) f. & cert. ef. 8-25-06 thru 1-20-07

## Board of Psychologist Examiners Chapter 858

**Rule Caption:** Changes Oral Examination format to Oral Jurisprudence Examination.

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

**Filed with Sec. of State:** 8-29-2006

**Certified to be Effective:** 9-1-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 858-010-0030, 858-050-0125

**Subject:** Changes the oral examination construct in psychologist/psychologist associate licensure by moving to an oral jurisprudence exam format, eliminating the current requirement to test the domain of psychological principles and techniques.

**Rules Coordinator:** Martin Pittioni—(503) 378-4154, ext. 22

### 858-010-0030

#### Procedures for Oral Examination

(1) Oral Examination for Licensure as a Psychologist.

(a) Candidates who have successfully completed the written examination for licensure and two years of approved supervised work experience shall be eligible to sit for the oral examination. An application for licensure must be complete as defined in OAR 858-010-0010 at least 60 days prior to an oral examination to be considered eligible. Board staff shall have discretion in extending this deadline for up to 5 business days.

# ADMINISTRATIVE RULES

(b) The purpose of the oral examination is to determine the competency of each candidate in applicable laws and regulations; and ethical principles.

(c) Special Accommodations. Notice for request for special accommodations for verified disability or for English as a second language must be made at the time of application for licensure. If a disability occurs subsequent to application, a request for accommodation must be made in writing within 120 days of the onset of the disability. The request must include:

(A) Verified Disability: Written verification of disability from a qualified care provider (i.e. a person certified or licensed by the state to provide such services) detailing:

- (i) Nature, extent and duration of disability;
- (ii) Recommendation(s) for accommodation.

(B) English as a Second Language: Written request for reasonable accommodation detailing:

(i) Level of proficiency in English including, but not limited to, number of years speaking and/or writing English; list of all written or oral examinations, academic coursework, and dissertation in English language;

(ii) History of special accommodations granted in similar testing circumstances, for example, interpreter or extra time granted in oral examination process in other licensing jurisdictions or degree granting institution;

(iii) Statement documenting extent that English will or will not be the language in which professional services are provided;

- (iv) Other information to support request for special accommodation;
- (v) Recommendation(s) for accommodation.

(2) Oral Examination Committees. The Board shall appoint oral examination committees for the purpose of conducting the examination. Each committee shall be comprised of two oral examiners. Each committee member shall be a psychologist who has been licensed and engaged in active practice for at least two years in Oregon and has not been sanctioned within three years. Oral examiners shall be given continuing education credit for their participation.

(3) Schedule of Oral Examinations. Oral examinations shall be given at least once a year. A candidate must request in writing to sit for an oral examination. The Board shall approve candidates to sit for the oral examination during its regularly scheduled meeting held prior to the month of the examination. The candidate must pay the oral examination fee at the time the examination is requested. The supervisor's final written evaluation of the supervision must accompany the written request. The evaluation must describe the candidate's areas of proficiency and skills the candidate possesses, and a summary of the candidate's training and experience which have led to competence areas. The evaluation must document the number of hours which the candidate has completed under the supervision of a psychologist. It is the candidate's responsibility to provide the Board a complete summary of all training experiences which are intended to fulfill the supervisory work requirement. When the Board has determined that the application is in order, the candidate shall be approved to sit for an oral examination. Once a candidate has been approved to sit for the examination, the fee is not refundable. At least thirty days prior to the oral examination date, written notification shall be given to candidates who have been approved to take the oral examination. Written notification shall include time, date, and location of the oral examination and a copy of Oregon law and administrative rules regarding psychologist and psychologist associate licensure. Appearances at the scheduled oral examination shall constitute a waiver of the prior written notice.

(4) Oral Examination Committee Procedures. Each oral examination committee shall score each candidate's performance on the oral examination and submit the committee's score to the Board. No later than at its next meeting, the Board shall review the scores and make a final decision whether the candidate has passed or failed the oral examination. Board staff shall notify each candidate in writing regarding the result of the oral examination in each subject area.

(5) Content of the Oral Examination. The examination shall be designed to measure the examinee's knowledge and application of federal, state and local laws and regulations related to the professional practice of psychology, including professional ethical principles incorporated by Board statute and rule.

(6) Oral Examination Scoring System. Examinees shall be given a rating of 0 to 4 by each examination committee for each question: 0 Incompetent; 1 Highly ineffective; 2 Ineffective; 3 Effective; 4 Highly Effective. In order to pass the examination, an examinee must receive a score of at least 24. A maximum score of 32 is possible.

(7) Administration of the Oral Examination.

(a) In advance of each oral examination, the Board, on its own motion or upon the recommendation of its delegates, shall determine the questions

on which an applicant may be examined and shall agree upon the acceptable range of responses to each question and follow-up question.

(b) The Board or its delegates shall compile an orientation handbook which shall include a copy of the Board's oral examination rules and an explanation of Board requirements related to scheduling and the conduct of the examination. The handbook shall include the procedures for reconsideration and reexamination. The handbook shall be reviewed annually and may be revised, as deemed appropriate, and shall be provided to each applicant for examination at least thirty days prior to the examination.

(c) In addition to the examination committee, a Board member or Board staff may be present during an oral examination.

(8) Examination Decision. Reconsideration, Review and Reexamination.

(a) Reconsideration. Applicants shall be informed in writing of the examination results. Within thirty days after notice of the examination decision, an applicant who fails the oral examination may petition the Board in writing for reconsideration of the results of the examination. The Board may conduct the oral examination review or delegate this responsibility to particular Board members. All exam review findings must be approved by the Board.

(b) Review. Any person desiring to inspect the electronic recording of his or her oral examination may, within a period of ninety days following the date of the examination and upon written request to the Board, obtain a copy of the record of the oral examination and inspect such examination materials at the Board's office in Salem during regular office hours. To maintain test security, the applicant shall sign a confidentiality agreement. No more than one inspection shall be allowed. At the time of inspection, no one other than the person inspecting his or her examination, the examinee's supervisor, and a representative of the Board may be present; nor may any notes be made at the time of inspection. Applicants inspecting their exam who do not have a current supervisor may substitute an Oregon licensed psychologist of their choosing who must have been licensed in Oregon for at least three years. Applicants must send a written notice of their choice to the Board's office, received no later than 3 business days prior to exam inspection.

(c) Reexamination. An applicant who fails to pass the examination shall be reexamined. If a candidate does not pass the second oral examination and wishes to take a third oral examination, the candidate shall be examined by the Full Board at the candidate's written request. The Board shall conduct Full Board Oral Examinations at regularly scheduled Board meetings. If a candidate fails to pass the Full Board Oral Examination, the candidate's application for licensure shall be denied. The Board's decision based on the Full Board Oral Examination shall be final.

(9) Disqualification. A candidate sitting for the oral examination may be disqualified during or after the examination for conduct which affects the integrity of the candidate's performance or the examination including, but not limited to, giving or receiving aid, directly or indirectly, during the examination process, recording the examination, or removing or attempting to remove any examination related information from the premises. Disqualification shall invalidate the examination, result in forfeiture of the examination fee and denial of the application.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 1-1981(Temp), f. & ef. 12-9-81; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 1-1985(Temp), f. & ef. 12-20-85; PE 1-1986, f. & ef. 7-1-86; PE 1-1988, f. & ef. 7-25-88; PE 3-1988(Temp), f. & cert. ef. 11-30-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 3-1992(Temp), f. & cert. ef. 12-10-91; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2000(Temp), f. 3-8-00, cert. ef. 3-8-00 thru 9-4-00; BPE 3-2000, f. & cert. ef. 9-7-00; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2004(Temp), f. & cert. ef. 3-2-04 thru 8-29-04; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2006, f. 8-29-06, cert. ef. 9-1-06

## 858-050-0125

### Procedures for Oral Examination

(1) Oral Examination for Licensure as a Psychologist Associate (Masters Level).

(a) Candidates who have successfully complete the written examination and the requisite 36 months of fulltime supervised experience for licensure shall be eligible to sit for the oral examination. An application for licensure must be complete as defined in OAR 858-010-0010(1) at least 60 days prior to an oral examination to be considered eligible. Board staff shall have discretion in extending this deadline for up to 5 business days.

(b) The purpose of the oral examination is to determine the competency of each candidate in applicable laws and regulations, and ethical principles.

# ADMINISTRATIVE RULES

(c) Special Accommodations. Notice for request for special accommodations for verified disability or for English as a second language must be made at the time of application for licensure. If a disability occurs subsequent to application, a request for accommodation must be made in writing within 120 days of the onset of the disability. The request must include:

(A) Verified Disability: Written verification of disability from a qualified care provider (i.e. a person certified or licensed by the state to provide such services) detailing:

- (i) Nature, extent and duration of disability;
- (ii) Recommendation(s) for accommodation.

(B) English as a Second Language: Written request for reasonable accommodation detailing:

- (i) Level of proficiency in English including, but not limited to, number of years speaking and/or writing English; list of all written or oral examinations, academic coursework, and dissertation in English language;
- (ii) History of special accommodations granted in similar testing circumstances, for example, interpreter or extra time granted in oral examination process in other licensing jurisdictions or degree granting institution;
- (iii) Statement documenting extent that English will or will not be the language in which professional services are provided;
- (iv) Other information to support request for special accommodation;
- (v) Recommendation(s) for accommodation.

(2) Oral Examination Committees. The Board shall appoint oral examination committees for the purpose of conducting the examination. Each committee shall be comprised of two oral examiners. Each committee member shall be a psychologist who has been licensed and engaged in active practice for at least two years in Oregon and has not been sanctioned within three years. Oral examiners shall be given continuing education credit for their participation.

(3) Schedule of Oral Examinations. Oral examinations shall be given at least once a year. A candidate must request in writing to sit for an oral examination. The Board shall approve candidates to sit for the oral examination during its regularly scheduled meeting held prior to the month of the examination. The supervisor's final written evaluation of the supervision must accompany the written request. The evaluation must describe the candidate's areas of proficiency and skills the candidate possesses, and a summary of the candidate's training and experience which have led to competence areas. The evaluation must document the number of hours which the candidate has completed under the supervision of a psychologist. It is the candidate's responsibility to provide the Board a complete summary of all training experiences which are intended to fulfill the supervisory work requirement. When the Board has determined that the application is in order, the candidate shall be approved to sit for an oral examination. Once a candidate has been approved to sit for the examination, the fee is not refundable. At least thirty days prior to the oral examination date, written notification shall be given to candidates who have been approved to take the oral examination. Written notification shall include time, date, and location of the oral examination and a copy of Oregon law and administrative rules regarding psychologist and psychologist associate licensure. Appearances at the scheduled oral examination shall constitute a waiver of the prior written notice.

(4) Oral Examination Committee Procedures. Each oral examination committee shall score each candidate's performance on the oral examination and submit the committee's score to the Board. No later than at its next meeting, the Board shall review the scores and make a final decision whether the candidate has passed or failed the oral examination. Board staff shall notify each candidate in writing regarding the result of the oral examination in each subject area.

(5) Content of the Oral Examinations. The examination shall be designed to measure the examinee's knowledge and application of federal, state and local laws and regulations related to the professional practice of psychology, including professional ethical principles incorporated by Board statute and rule.

(6) Oral Examination Scoring System. Examinees shall be given a rating of 0 to 4 by each examination committee for each question: 0 Incompetent; 1 Highly ineffective; 2 Ineffective; 3 Effective; 4 Highly Effective. In order to pass the examination, an examinee must receive a score of at least 24. A maximum score of 32 is possible.

(7) Administration of the Oral Examination.

(a) In advance of each oral examination, the Board, on its own motion or upon the recommendation of its delegates, shall determine the questions on which an applicant may be examined and shall agree upon the acceptable range of responses to each question and follow-up question.

(b) The Board or its delegates shall compile an orientation handbook which shall include a copy of the Board's oral examination rules and an

explanation of board requirements related to scheduling and the conduct of the examination. The handbook shall include the procedures for reconsideration and reexamination. The handbook shall be reviewed annually and may be revised, as deemed appropriate, and shall be provided to each applicant for examination at least thirty days prior to the examination.

(c) In addition to the examination committee, a Board member or Board staff may be present during an oral examination.

(8) Examination Decision. Reconsideration, Review and Reexamination.

(a) Reconsideration. Applicants shall be informed in writing of the examination results. Within thirty days after notice of the examination decision, an applicant who fails the oral examination may petition the Board in writing for reconsideration of the results of the examination. The Board may conduct the oral examination review or delegate this responsibility to particular Board members. All examination review findings must be approved by the Board.

(b) Review. Any person desiring to inspect the electronic recording of his or her oral examination may, within a period of ninety days following the date of the examination and upon written request to the Board, obtain a copy of the record of the oral examination and inspect such examination materials at the Board's office in Salem during regular office hours. To maintain test security, the applicant shall sign a confidentiality agreement. No more than one inspection shall be allowed. At the time of inspection, no one other than the person inspecting his or her examination and a representative of the Board may be present; nor may any notes be made at the time of inspection.

(c) Reexamination. An applicant who fails to pass the examination shall be reexamined. If a candidate does not pass the second oral examination, the candidate shall be examined by the Full Board at the candidate's written request. The Board shall conduct Full Board Oral Examinations at regularly scheduled Board meetings. If a candidate fails to pass the Full Board Oral Examination, the candidate's application for licensure shall be denied. The Board's decision based on the Full Board Oral Examination is final.

(9) Disqualification. A candidate sitting for the oral examination may be disqualified during or after the examination for conduct which affects the integrity of the candidate's performance or the examination including, but not limited to, giving or receiving aid, directly or indirectly, during the examination process, recording the examination, or removing or attempting to remove any examination related information from the premises. Disqualification will invalidate the examination, result in forfeiture of the examination fee and denial of the application.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Hist.: PE 10, f. 4-10-75, ef. 5-11-75; PE 1-1979, f. & ef. 9-5-79; PE 1-1981(Temp), f. & ef. 12-9-81; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 2-1990(Temp), f. & cert. ef. 10-11-90; PE 1-1991, f. & cert. ef. 4-3-91; Renumbered from 858-010-0125 & 858-010-0130; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2000(Temp), f. 3-8-00, cert. ef. 3-8-00 thru 9-4-00; BPE 3-2000, f. & cert. ef. 9-7-00; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2004(Temp), f. & cert. ef. 3-2-04 thru 8-29-04; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2006, f. 8-29-06, cert. ef. 9-1-06

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## Board of Tax Practitioners Chapter 800

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

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

**Filed with Sec. of State:** 9-5-2006

**Certified to be Effective:** 9-5-06

**Notice Publication Date:** 6-1-06

**Rules Amended:** 800-025-0040

**Subject:** The proposed amendments to OAR 800-025-0040 were recommended by the Board's Rules Advisory Committee and are for general "housekeeping" & "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—(503) 378-4034

### 800-025-0040

#### Designated Consultants

(1) A tax preparation business shall not engage in the preparation of personal income tax returns for the public, or offer such services, until the business has designated a tax consultant or other authorized person ("Designated Consultant") as the responsible individual. A form prescribed by the Board shall be signed by the designated consultant and signed by the owner or authorized representative of the tax preparation business.



# ADMINISTRATIVE RULES

(2) The license number of the Designated Consultant shall be placed on all tax returns prepared by the tax preparation business.

(3) The Designated Consultant shall be responsible for all tax preparation activities of the business, and the Designated Consultant and the designating business shall each be responsible for the business's compliance with laws and rules of the Board.

(4) A Designated Consultant will cease to be responsible for a business's tax preparation services upon receipt by the Board of written notice from the consultant or business.

(5) A tax consultant may act as the Designated Consultant for only one tax preparation business, except by written application for waiver.

(6) An application for waiver to serve as a Designated Consultant for more than one tax preparation business shall set forth the following:

(a) The name and address of the tax preparation business for which the tax consultant is presently serving as the Designated Consultant;

(b) The name and address of the additional tax preparation business for which the tax consultant is requesting approval to serve as the Designated Consultant;

(c) A detailed plan how each tax preparation business will be supervised in carrying out the duties as a Designated Consultant;

(d) The financial relationship of the proposed Designated Consultant and the tax preparation businesses;

(e) Unusual or extenuating circumstances why approval should be granted.

(7) In determining whether a tax consultant will be approved to act as a Designated Consultant for more than one tax preparation business, the Board:

(a) May approve an application for waiver only wherein the tax consultant has an ownership interest in the tax preparation businesses, or unusual or extenuating circumstances exist, such as the death of a Designated Consultant, resulting in undue hardship. The Board may limit the tax consultant designation period; and

(b) Shall consider the tax consultant's past record of compliance with ORS 673.605 to 673.735, rules of the Board, statutes of the State of Oregon together with information set forth in the application for waiver, particularly the feasibility of the plan in supervising the corporation, firm or partnership.

(8) A tax preparation business shall notify the Board within ten days of any change in status of its Designated Consultant.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 3-1980, f. & ef. 8-22-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; Renumbered from 800-020-0050; TSE 4-1989, f. & cert. ef. 12-20-89; TSE 11-1991, f. & cert. ef. 10-28-91; TSE 10-1992, f. & cert. ef. 12-22-92; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2006, f. & cert. ef. 9-5-06

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## Bureau of Labor and Industries Chapter 839

**Rule Caption:** Adopts Residential Rates for Specified Residential Projects.

**Adm. Order No.:** BLI 30-2006

**Filed with Sec. of State:** 8-16-2006

**Certified to be Effective:** 8-18-06

**Notice Publication Date:**

**Rules Amended:** 839-025-0750

**Subject:** This rule adopts prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the specified residential projects for the dates specified.

**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

### 839-025-0750

#### Residential Prevailing Wage Rate Determinations

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the following residential rate determinations are the prevailing rates of wage for workers upon said public works projects for the periods of time specified:

(a) *Special Prevailing Wage Rate Determination Extension for Residential Project, Tri-Harbor Landing Apartments, Project #2005-06*, dated July 18, 2005, Rate Extension dated June 15, 2006, for the period of July 1, 2006 through December 31, 2006.

(b) *Special Prevailing Wage Rate Determination Extension for Residential Project, Clark Center Annex, Project #2006-01*, dated March 10, 2006, Rate Extension dated June 15, 2006 for the period of July 1, 2006 through June 30, 2007.

(c) *Special Prevailing Wage Rate Determination-Second Rate Extension-for Residential Project, Headwaters Apartments, Project #2004-06*, dated October 14, 2004. Rate Extension dated June 15, 2006, for the period of July 1, 2006 through June 30, 2007.

(d) *Special Prevailing Wage Rate Determination Extension for Residential Project, Mt. Angel Project, Project #2005-10*, dated October 26, 2005, Rate Extension dated July 14, 2006, for the period of July 18, 2006 through December 31, 2006.

(e) *Special Prevailing Wage Rate Determination for Residential Project, New Winds Project, Project #2006-02*, dated August 15, 2006, for the period of August 18, 2006 through June 30, 2007.

(2) Copies of the rates referenced in section (1) of this rule are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and listed in the blue pages of the phone book. Copies may also be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

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

Stat. Auth.: ORS 279C.815

Stats. Implemented: ORS 279C.815

Hist.: BLI 5-1999, f. 6-30-99, cert. ef. 7-1-99; BLI 7-1999, f. 8-26-99, cert. ef. 9-15-99; BLI 8-1999, f. & cert. ef. 9-8-99; BLI 10-1999, f. 9-14-99, cert. ef. 9-17-99; BLI 11-1999, f. 9-22-99, cert. ef. 9-27-99; BLI 6-2000, f. 2-14-00, cert. ef. 2-15-00; BLI 12-2000, f. 5-24-00, cert. ef. 7-1-00; BLI 18-2000, f. & cert. ef. 9-1-00; BLI 21-2000, f. 9-15-00, cert. ef. 9-22-00; BLI 23-2000, f. & cert. ef. 9-25-00; BLI 24-2000, f. 10-30-00, cert. ef. 11-1-00; BLI 2-2001, f. & cert. ef. 1-24-01; BLI 6-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 7-2001, f. 7-20-01, cert. ef. 7-24-01; BLI 9-2001, f. 7-31-01, cert. ef. 8-1-01; BLI 10-2001, f. 8-14-01, cert. ef. 8-15-01; BLI 11-2001, f. & cert. ef. 8-22-01; BLI 13-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 6-2002, f. 3-14-02, cert. ef. 3-15-02; BLI 7-2002, f. 3-22-02, cert. ef. 3-25-02; BLI 11-2002, f. & cert. ef. 5-23-02; BLI 13-2002, f. 6-26-02, cert. ef. 7-1-02; BLI 14-2002, f. 8-23-02, cert. ef. 10-1-02; BLI 2-2003, f. & cert. ef. 3-28-03; BLI 2-2004, f. 4-23-04, cert. ef. 5-1-04; BLI 3-2004, f. 5-18-04, cert. ef. 5-19-04; BLI 4-2004, f. & cert. ef. 5-24-04; BLI 5-2004, f. 6-23-04, cert. ef. 6-24-04; BLI 7-2004, f. 7-14-04, cert. ef. 7-15-04; BLI 13-2004, f. & cert. ef. 10-19-04; BLI 14-2004, f. 10-29-04, cert. ef. 11-1-04; BLI 16-2004, f. 11-8-04, cert. ef. 11-10-04; Renumbered from 839-016-0750, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 9-2005, f. 4-15-05, cert. ef. 4-18-05; BLI 10-2005, f. & cert. ef. 5-2-05; BLI 11-2005, f. 5-31-05, cert. ef. 6-1-05; BLI 12-2005, f. & cert. ef. 6-21-05; BLI 13-2005, f. 6-30-05, cert. ef. 7-1-05; BLI 14-2005, f. & cert. ef. 7-22-05; BLI 15-2005, f. 8-9-05, cert. ef. 8-10-05; BLI 17-2005, f. 8-26-05, cert. ef. 8-29-05; BLI 23-2005, f. 10-26-05, cert. ef. 10-28-05; BLI 25-2005, f. 12-22-05, cert. ef. 12-23-05; BLI 6-2006, f. 3-9-06, cert. ef. 3-13-06; BLI 22-2006, f. 6-16-06, cert. ef. 7-1-06; BLI 27-2006, f. 7-17-06, cert. ef. 7-18-06; BLI 30-2006, f. 8-16-06, cert. ef. 8-18-06

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**Rule Caption:** Adopts Residential Rates for Specified Residential Projects.

**Adm. Order No.:** BLI 31-2006

**Filed with Sec. of State:** 9-8-2006

**Certified to be Effective:** 9-11-06

**Notice Publication Date:**

**Rules Amended:** 839-025-0750

**Subject:** This rule adopts prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the specified residential projects for the dates specified.

**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

### 839-025-0750

#### Residential Prevailing Wage Rate Determinations

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the following residential rate determinations are the prevailing rates of wage for workers upon said public works projects for the periods of time specified:

(a) *Special Prevailing Wage Rate Determination Extension for Residential Project, Tri-Harbor Landing Apartments, Project #2005-06*, dated July 18, 2005, Rate Extension dated June 15, 2006, for the period of July 1, 2006 through December 31, 2006.

(b) *Special Prevailing Wage Rate Determination Extension for Residential Project, Clark Center Annex, Project #2006-01*, dated March 10, 2006, Rate Extension dated June 15, 2006 for the period of July 1, 2006 through June 30, 2007.

(c) *Special Prevailing Wage Rate Determination-Second Rate Extension-for Residential Project, Headwaters Apartments, Project #2004-06*, dated October 14, 2004. Rate Extension dated June 15, 2006, for the period of July 1, 2006 through June 30, 2007.

(d) *Special Prevailing Wage Rate Determination Extension for Residential Project, Mt. Angel Project, Project #2005-10*, dated October 26, 2005, Rate Extension dated July 14, 2006, for the period of July 18, 2006 through December 31, 2006.

(e) *Special Prevailing Wage Rate Determination for Residential Project, New Winds Project, Project #2006-02*, dated August 15, 2006, for

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the period of August 18, 2006 through June 30, 2007.

(f) *Special Prevailing Wage Rate Determination for Residential Project, Penny Lane Apartments Project, Project #2006-03*, dated September 7, 2006, for the period of September 11, 2006 through June 30, 2007.

(2) Copies of the rates referenced in section (1) of this rule are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and listed in the blue pages of the phone book. Copies may also be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

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

Stat. Auth.: ORS 279C.815

Stats. Implemented: ORS 279C.815

Hist.: BLI 5-1999, f. 6-30-99, cert. ef. 7-1-99; BLI 7-1999, f. 8-26-99, cert. ef. 9-15-99; BLI 8-1999, f. & cert. ef. 9-8-99; BLI 10-1999, f. 9-14-99, cert. ef. 9-17-99; BLI 11-1999, f. 9-22-99, cert. ef. 9-27-99; BLI 6-2000, f. 2-14-00, cert. ef. 2-15-00; BLI 12-2000, f. 5-24-00, cert. ef. 7-1-00; BLI 18-2000, f. & cert. ef. 9-1-00; BLI 21-2000, f. 9-15-00, cert. ef. 9-22-00; BLI 23-2000, f. & cert. ef. 9-25-00; BLI 24-2000, f. 10-30-00, cert. ef. 11-1-00; BLI 2-2001, f. & cert. ef. 1-24-01; BLI 6-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 7-2001, f. 7-20-01, cert. ef. 7-24-01; BLI 9-2001, f. 7-31-01, cert. ef. 8-1-01; BLI 10-2001, f. 8-14-01, cert. ef. 8-15-01; BLI 11-2001, f. & cert. ef. 8-22-01; BLI 13-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 6-2002, f. 3-14-02, cert. ef. 3-15-02; BLI 7-2002, f. 3-22-02, cert. ef. 3-25-02; BLI 11-2002, f. & cert. ef. 5-23-02; BLI 13-2002, f. 6-26-02, cert. ef. 7-1-02; BLI 14-2002, f. 8-23-02, cert. ef. 10-1-02; BLI 2-2003, f. & cert. ef. 3-28-03; BLI 2-2004, f. 4-23-04, cert. ef. 5-1-04; BLI 3-2004, f. 5-18-04, cert. ef. 5-19-04; BLI 4-2004, f. & cert. ef. 5-24-04; BLI 5-2004, f. 6-23-04, cert. ef. 6-24-04; BLI 7-2004, f. 7-14-04, cert. ef. 7-15-04; BLI 13-2004, f. & cert. ef. 10-19-04; BLI 14-2004, f. 10-29-04, cert. ef. 11-1-04; BLI 16-2004, f. 11-8-04, cert. ef. 11-10-04; Renumbered from 839-016-0750, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 9-2005, f. 4-15-05, cert. ef. 4-18-05; BLI 10-2005, f. & cert. ef. 5-2-05; BLI 11-2005, f. 5-31-05, cert. ef. 6-1-05; BLI 12-2005, f. & cert. ef. 6-21-05; BLI 13-2005, f. 6-30-05, cert. ef. 7-1-05; BLI 14-2005, f. & cert. ef. 7-22-05; BLI 15-2005, f. 8-9-05, cert. ef. 8-10-05; BLI 17-2005, f. 8-26-05, cert. ef. 8-29-05; BLI 23-2005, f. 10-26-05, cert. ef. 10-28-05; BLI 25-2005, f. 12-22-05, cert. ef. 12-23-05; BLI 6-2006, f. 3-9-06, cert. ef. 3-13-06; BLI 22-2006, f. 6-16-06, cert. ef. 7-1-06; BLI 27-2006, f. 7-17-06, cert. ef. 7-18-06; BLI 30-2006, f. 8-16-06, cert. ef. 8-18-06; BLI 31-2006, f. 9-8-06, cert. ef. 9-11-06

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**Rule Caption:** Amendment to July 1, 2006 State PWR/Davis-Bacon Wage Rates Publication.

**Adm. Order No.:** BLI 32-2006

**Filed with Sec. of State:** 9-13-2006

**Certified to be Effective:** 9-13-06

**Notice Publication Date:**

**Rules Amended:** 839-025-0700

**Subject:** The amended rule amends the July 1, 2006 PWR rates for public works contracts in Oregon subject to both state and federal Davis-Bacon Act, reflecting changes to Davis-Bacon rates effective September 13, 2006.

**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

## 839-025-0700

### Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2006, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2006, and the effective dates of the applicable special wage determination and rates amendments:

(a) Marine Rates for Public Works Contracts in Oregon (effective September 20, 2005).

(b) Amendments/Corrections to July 1, 2006 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 30, 2006).

(c) Amendments/Corrections to July 1, 2006 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 14, 2006).

(d) Amendments/Corrections to July 1, 2006 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective August 4, 2006).

(e) Amendments/Corrections to July 1, 2006 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective September 1, 2006).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2006, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at [www.oregon.gov/boli](http://www.oregon.gov/boli) or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

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

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS 279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00, cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02, cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02, cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04, cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06, cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06, cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06

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## Construction Contractors Board Chapter 812

**Rule Caption:** Revision of Division 3 rules regarding minimum insurance requirements, providing social security numbers, and notice of criminal convictions.

**Adm. Order No.:** CCB 8-2006

**Filed with Sec. of State:** 9-5-2006

**Certified to be Effective:** 9-5-06

**Notice Publication Date:** 8-1-06

**Rules Adopted:** 812-003-0440

**Rules Amended:** 812-003-0200, 812-003-0260, 812-003-0410

**Subject:** 812-003-0200 is amended to clarify the minimum insurance requirements based on advice from agency's legal counsel.

812-003-0260 and 812-003-0410 are amended to clarify the types of entities that are required to provide social security numbers based on advice from agency's legal counsel

812-003-0440 is adopted to require sole proprietors or partners in a partnership to notify the agency within 30 days if they are convicted of a crime listed in ORS 701.135(1)(h).

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

### 812-003-0200

#### Insurance Generally

(1) An applicant for a license, renewal or reissue shall certify that the applicant:

(a) Has procured the minimum amount of insurance per occurrence as required by ORS 701.105 and as provided in OAR 812-002-0380 from an insurer transacting insurance in Oregon; and

(b) Will continue to meet those insurance requirements for as long as the applicant is licensed.

(2) Licensees shall provide a certificate of insurance or other evidence of insurance as required by the agency upon request or prior to the expiration date of their insurance.

(3) A certificate of insurance must include:

(a) The name of the insurer;

(b) Policy or binder number;

(c) Effective dates of coverage;

(d) Coverage amount per occurrence;

(e) The agent's name, and agent's telephone number; and

(f) The CCB listed as the certificate holder.

(4) If the licensee, in performance of work subject to ORS chapter 701, through failure to comply with this rule, causes damage to another

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entity or to the property of another person for which that entity could have been compensated by an insurer had the required insurance been in effect, the agency may assess a civil penalty against the licensee in an amount up to \$1,000 in addition to such other action as may be taken under ORS 701.135.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.105

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 6-2006, f. 5-25-06, cert. ef. 6-1-06; CCB 8-2006, f. & cert. ef. 9-5-06

## 812-003-0260

### Application for New License

(1) Each entity shall complete an application form prescribed by the agency. Information provided on the form shall include, but not be limited to:

(a) Name of business entity, all additional business names, including assumed business names, under which business as a contractor is conducted, and Corporation Division registry numbers (if applicable);

(b) Mailing and location address of the business entity;

(c) Legal name, date of birth and driver license number of:

(A) The owner of a sole proprietorship;

(B) All partners of a general partnership or limited liability partnership;

(C) All joint venturers of a joint venture;

(D) All general partners of a limited partnership;

(E) All corporate officers of a corporation;

(F) All trustees of a trust; or

(G) All members of a limited liability company, and if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees or members of the entity that is a member of the limited liability company that is the subject of this paragraph.

(d) Social security number of the owner of a sole proprietorship;

(e) Class of independent contractor license and employer account numbers as required under OAR 812-003-0250;

(f) Category of license requested as required under OAR 812-003-0130;

(g) Name and identification number of the responsible managing individual who has completed the education and passed the examination required under ORS 701.072 or is otherwise exempt under Division 6 of these rules;

(h) The Standard Industrial Classification (SIC) numbers of the main construction activities of the entity;

(i) Names and certification numbers of all certified home inspectors if the entity will do work as a home inspector under ORS 701.350;

(j) Litigation, claim, and licensing history;

(k) Criminal background;

(l) Independent contractor certification statement and a signed acknowledgment that if the licensee qualifies as an independent contractor the licensee understands that the licensee and any heirs of the licensee will not qualify for workers' compensation or unemployment compensation unless specific arrangements have been made for the licensee's insurance coverage and that the licensee's election to be an independent contractor is voluntary and is not a condition of any contract entered into by the licensee; and

(m) Signature of owner, partner, joint venturer, corporate officer, member or trustee, signifying that the information provided in the application is true and correct.

(2) A complete license application includes but is not limited to:

(a) A completed application form as provided in section (1) of this rule;

(b) The new application license fee as required under OAR 812-003-0140;

(c) A properly executed bond as required under OAR 812-003-0150; and

(d) The certification of insurance coverage as required under OAR 812-003-0200.

(3) The agency may return an incomplete license application to the applicant with an explanation of the deficiencies.

(4) All entities listed in section (1) of this rule that are otherwise required to be registered with the Oregon Corporation Division must be registered with the Oregon Corporation Division and be active and in good standing. All assumed business names used by persons or entities listed in section (1) of this rule must be registered with the Oregon Corporation

Division as the assumed business name of the person or entity using that name.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 25.270, 25.785, 25.990, 701.035, 701.072, 701.075, 701.085, 701.105, & 701.125

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 3-2005, f. & cert. ef. 8-24-05; CCB 6-2006, f. 5-25-06, cert. ef. 6-1-06; CCB 8-2006, f. & cert. ef. 9-5-06

## 812-003-0410

### Social Security Number

(1) The agency will not issue or renew a license issued to a sole proprietorship unless the owner provides his or her social security number on the application or renewal form. The owner need not provide the social security number on the application for renewal, if the owner's social security number has previously been provided to the agency and is in the record.

(2) If the owner of a sole proprietorship has not been issued a social security number by the United States Social Security Administration, the agency will accept a written statement from the owner to fulfill the requirements of section (1) of this rule. The owner may submit the written statement on a specified agency form with the requisite information. Any written statement must:

(a) Be signed by the owner;

(b) Attest to the fact that no social security number has been issued to the owner by the United States Social Security Administration; and

(c) Acknowledge that knowingly supplying false information under this rule is a Class A misdemeanor, punishable by imprisonment of up to one year and a fine of up to \$6,250.

Stat. Auth.: ORS 25.990, 183.310, 670.310 & 701.235

Stats. Implemented: ORS 25.270, 25.785, 25.990, 183.310 & 701.075

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 8-2006, f. & cert. ef. 9-5-06

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**Rule Caption:** Enforcement — Amendments to set out and clarify when increased bond is required and establish appeal rights.

**Adm. Order No.:** CCB 9-2006

**Filed with Sec. of State:** 9-5-2006

**Certified to be Effective:** 9-5-06

**Notice Publication Date:** 8-1-06

**Rules Adopted:** 812-003-0175, 812-005-0250

**Rules Amended:** 812-005-0210

**Rules Repealed:** 812-003-0175(T)

**Subject:** OAR 812-003-0175 is adopted to establish the responsible parties for past unresolved activity requiring an increased bond amount. Because consumers protected by the construction contractor laws may have inadequate protection from contractors previously associated with businesses with unpaid debts, and because ORS 701.102, as amended, may not adequately provide protection where inconsistent with federal bankruptcy law, the Board adopts this rule to require, under certain circumstances, increased bonds for contractors. This rule, authorized by ORS 701.085(8), provides immediately necessary consumer protection without imposing restrictions on contractor applicants and licensees that may be impermissible under federal bankruptcy law.

OAR 812-005-0210 is amended to set out the amounts of increased bond required and add unpaid construction debt that exceeds the amount of the bond to the conditions to require a larger bond. Requiring a larger bond will provide for additional funds available to consumers who are damaged by construction contractors and hopefully reduce the number of unpaid final orders of the Board.

OAR 812-005-0250 is adopted to clarify when an applicant/licensee may petition the Board for a reduced bond amount and establishes the procedure to appeal the agency's decision to deny the petition for a reduced bond amount.

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

## 812-003-0175

### Increased Bond Amounts, Past Unresolved Activity

(1) A business, including an individual person, applying for or renewing a license will file a bond in an amount up to five times the amount required for the category of license under OAR 812-003-0170, if:

(a) The business has unpaid debts under a final order or arbitration award of the board;

(b) An owner or officer of the business has unpaid debts under a final order or arbitration award of the board; or



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(c) An owner or officer of the business was an owner or officer of another business at the time the other business incurred a debt that is the subject of a final order or arbitration award of the board and such debt remains unpaid.

(2) For purposes of this rule, "owner" means an "owner" as defined in ORS 701.077 and OAR 812-002-0537.

(3) For purposes of this rule, "officer" means an "officer" as defined in OAR 812-002-0533.

(4) Debts due under a final order or arbitration award of the board include amounts not paid by a surety on owner or non-owner claims.

Stat. Auth.: ORS 670.310, 701.085(8) & 701.235

Stats. Implemented: ORS 701.085(8)

Hist.: CCB 4-2006(Temp), f. & cert. ef. 3-9-06 thru 9-5-06; CCB 9-2006, f. & cert. ef. 9-5-06

## 812-005-0210

### Conditions to Require an Increased Bond

Under ORS 701.085(8), the agency may require a bond of up to five times the normally required amount, if it determines that a current or previous license of an owner or officer as defined in ORS 701.055 and 701.077 or OAR 812-002-0537 and 812-002-0533, has:

(1) A history of unpaid final orders consisting of two or more final orders unpaid for longer than thirty (30) days following the date of issuance.

(2) Five or more Dispute Resolution Services complaints filed by five or more separate complainants within a one-year period. The amount of increased bond required will be based on the agency's estimate of the cumulative possible damages.

(3) An unpaid construction debt as defined in ORS 701.005(2) that exceeds the amount of the bond.

(4) The amount of the increased bond required in this section must conform to the following schedule:

(a) If the sum of unpaid amounts on final orders exceeds the licensee's most recent bond by less than 50 percent, the agency may require a bond two times the amount required under ORS 701.085.

(b) If the sum of the unpaid final orders exceeds the licensee's most recent bond by 50 percent or more, but less than 100 percent, the agency may require a bond three times the bond amount required under ORS 701.085.

(c) If the sum of unpaid amounts on final orders exceeds the licensee's most recent bond by 100 percent or more, the agency may require a bond in the amount of five times the normal amount required under ORS 701.085.

Stat. Auth.: ORS 670.310, 701.085 & 701.235

Stats. Implemented: ORS 701.005, 701.077 & 701.085

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 2-2005, f. 6-29-05, cert. ef. 7-1-05;

Renumbered from 812-003-0170(3)(a)-(c), CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 9-2006, f. & cert. ef. 9-5-06

## 812-005-0250

### Repeal of Increased Bond Requirement

(1) Under ORS 701.085(7) or (8) after two years of operating under the increased bond, an applicant or licensee may submit a written request to the Board appealing the agency's determination requiring an increased bond amount.

(2) A licensee required to file a bond of up to five times the normal amount may petition the agency to be relieved of that obligation after demonstrating to the agency two full years of acceptable business practices while having posted the increased bond.

(3) Petitions for return to normal bond requirements under ORS 701.085 must be made in writing and delivered to the agency. Such petitions must provide a full explanation why the licensee no longer poses an increased risk to the public and should be granted a license at the regular bond amount.

(4) The agency shall consider the following factors while considering the licensee's petition:

(a) After the increased bond requirement, whether the petitioner has:

(A) A history of paying Dispute Resolution Services complaints within ten (10) days of the order becoming final; or

(B) Incurred any unpaid court judgments;

(b) A review of the petitioner's CCB enforcement/discipline history; and

(c) A criminal history background check.

(5) The agency shall notify the licensee or applicant in writing within 30 days of the agency's decision regarding the petition. If the agency proposes to deny the petition, the agency shall notify the licensee or applicant of the basis for its proposed denial and provide notice and an opportunity for hearing, as provided for in ORS 183.415.

Stat. Auth.: ORS 670.310, 701.085 & 701.235

Stats. Implemented: ORS 701.085

Hist.: CCB 9-2006, f. & cert. ef. 9-5-06

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**Rule Caption:** Rewrite and reorganization of Division 6 rules for clarity and to implement HB 2200 (2005).

**Adm. Order No.:** CCB 10-2006

**Filed with Sec. of State:** 9-5-2006

**Certified to be Effective:** 10-1-06

**Notice Publication Date:** 8-1-06

**Rules Adopted:** 812-002-0345, 812-006-0150, 812-006-0400

**Rules Repealed:** 812-006-0010

**Rules Ren. & Amend:** 812-006-0011 to 812-006-0100, 812-006-0012 to 812-006-0300, 812-006-0015 to 812-006-0350, 812-006-0020 to 812-006-0450, 812-006-0030 to 812-006-0200, 812-006-0050 to 812-006-0250

**Subject:** Division 6 rules are amended and renumbered to implement HB 2200 (chapter 432 OR Laws 2005). The amendments are made to clarify CCB's authority to establish education/training requirements; change the work "education" to "training"; the training and testing rule is moved into two separate rules, establishes training and testing periods, moves the responsible managing individual (RMI) rules into its own section and defines who can be the RMI; establishes RMI experience in lieu of training and testing; and is amended to allow one language translation book to be used during testing.

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

## 812-002-0345

### Hours of Training

"Hours of Training" as used in OAR 812-006-0200 to 812-006-0250 of these rules refers to clock hours, not credit hours. "Hours of training" does not include time spent for registration or breaks.

Stat. Auth.: ORS 670.310, 701.072 & 701.235

Stats. Implemented: ORS 701.072 & 701.078

Hist.: CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06

## 812-006-0100

### Responsible Managing Individual

(1) As used in these rules, a responsible managing individual (RMI) has that meaning as provided in ORS 701.078(1).

(2) Upon initial application, an applicant for a contractor's license shall designate at least one individual as the applicant's RMI and:

(a) Provide evidence that the applicant's RMI has completed the training and passed the test, as provided for in ORS 701.072, OAR 812-006-0150 and 812-006-0300; or

(b) Document that the applicant's RMI has experience as required by OAR 812-006-0450.

(3) An individual who is not an owner may not be designated as the RMI of more than one licensee.

(4) When an RMI leaves a business, the business shall:

(a) Immediately appoint another RMI; and

(b) Immediately notify the agency in writing of the name of the individual and the date the individual joined the business.

(5) An RMI appointed under section (4) of this rule must:

(a) Document completion of the training and testing requirements under ORS 701.072, OAR 812-006-0150 and 812-006-0300; or

(b) Document that the RMI has experience as required by OAR 812-006-0450.

Stat. Auth.: ORS 670.310, 701.072 & 701.235

Stats. Implemented: ORS 701.072 & 701.078

Hist.: CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 3-2005, f. & cert. ef. 8-24-05; CCB 6-2006, f. 5-25-06, cert. ef. 6-1-06; Renumbered from 812-006-0011, CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06

## 812-006-0150

### Training Requirements

(1) The training required in ORS 701.072 shall cover the subjects listed in OAR 812-006-0250.

(2) Training shall consist of 16 hours.

(3) Training must be provided by a provider approved by the agency as provided in OAR 812-006-0200.

(4) A person seeking to take the training shall:

(a) Pay any fees required by the training provider; and

(b) Provide approved government-issued picture identification to the training provider.

Stat. Auth.: ORS 670.310, 701.072 & 701.235

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 701.072 & 701.078  
Hist.: CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06

## 812-006-0200

### Training Provider Approval

(1) No training shall meet the requirements of ORS 701.072 unless it is offered by a provider approved by the agency.

(2) To receive agency approval, individuals and organizations shall make application and sign an agreement with the agency prior to offering the training.

(3) The provider application shall include, but will not be limited to, provisions for:

(a) Recording the name, address, contact information, and name of responsible administrator of the provider.

(b) Submitting trainer resumes or work summaries that demonstrate that all its trainers have at least two years experience either teaching adults or working in subject areas outlined in the Oregon Contractors Reference Manual.

(4) No provider may offer or provide any training until there is a fully executed agreement between the provider and the agency.

(5) A provider must comply at all times with the following requirements:

(a) The provider will provide 16-hours of training under OAR 812-006-0150.

(b) The provider will verify that each student taking the training has a current agency-approved manual.

(c) The provider will use agency-approved curriculum and the agency-approved training manual.

(d) The provider will send electronic records of completion to the agency in a format approved by the agency and keep records of completion for a minimum of five years.

(e) The provider will communicate law changes and program procedural changes received from the agency to the provider's trainers and will implement these changes within 30 business days.

(f) The provider will use only approved trainers who have at least two years' total experience either teaching adults or working in the trainer's subject area or a combination of the two.

(g) The provider will request and receive, in writing, agency approval of all trainers at least 10 business days before trainers are scheduled to teach.

(h) The provider will provide a mechanism for students to contact their trainer(s) outside of class for a minimum of one hour per week for 90 days from date of enrollment.

(i) The provider will give all students information about how to contact trainers and hours of availability before the end of the training.

(j) The provider will comply with all applicable federal and state laws.

(6) The agency may publicize a provider's test passage rate for its students.

(7) The agency may revoke a provider's right to offer training and terminate the agreement of a provider at any time the provider fails to:

(a) Meet any requirement of the agreement; or

(b) Comply with these rules.

(8) The agency may revoke a provider's right to offer training and terminate the agreement of a provider:

(a) Whose students do not pass the agency test on their first attempt at least 70 percent of the time after the provider has provided training for at least three months, or whose students fail to maintain the 70 percent first attempt test passing rate during the remaining period of the agreement; or

(b) Who acquires or attempts to acquire agency test questions by unauthorized means, including but not limited to, photographing, photocopying or videotaping any part of the agency's test or paying or offering incentives to individuals or business entities to write down, photograph or videotape any part of the agency's test.

Stat. Auth.: ORS 670.310, 701.072 & 701.235

Stats. Implemented: ORS 701.072

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 1-2005(Temp), f. & cert. ef. 1-5-05 thru 7-1-05; CCB 2-2005, f. 6-29-05, cert. ef. 7-1-05; CCB 3-2005, f. & cert. ef. 8-24-05; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06; Renumbered from 812-006-0030, CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06

## 812-006-0250

### Training Subjects

(1) The agency may evaluate and approve training based on written evaluation criteria approved by the Training and Education Committee and

made available to providers. The agency may revoke a provider's right to offer training if a provider's training does not meet the approved criteria.

(2) The hours of training required under OAR 812-006-0150 shall consist of the following topics:

(a) Construction Contractors Board:

(A) Role and authority, licensing requirements, application procedures and major divisions and functions;

(B) Dispute resolution processes;

(C) Business entities;

(D) Mandatory consumer notices;

(E) Rights and responsibilities of consumers and contractors;

(F) Address change notification;

(G) Enforcement program; and

(H) Statutes and rules that govern contractors.

(b) Employer requirements and employee's rights:

(A) State agencies that regulate workplace issues;

(B) Information and resources on employer requirements, employee's rights, workers' compensation insurance, and required workplace postings;

(C) Civil rights;

(D) Title VII, child labor, and important state and federal wage and hour laws;

(E) Current minimum wage rate requirements;

(F) Prevailing wage rate law; and

(G) Employees and independent contractors.

(c) Taxes, record keeping and business practices:

(A) Required employment forms;

(B) Identification numbers;

(C) Cost of employees;

(D) Importance of good record keeping;

(E) Ways to organize records;

(F) Required tax forms and reporting times;

(G) Professional help;

(H) Profit and cash flow; and

(I) Requirements for business licenses.

(d) Building codes:

(A) Applicable codes;

(B) Building codes books;

(C) Code revisions;

(D) Specialty licenses and inspections;

(E) Required and exempt permit work;

(F) Permit applications permit violation penalties;

(G) Required inspections;

(H) Inspection procedures;

(I) Final inspections and occupancy permits; and

(J) Red tag/stop work orders.

(e) Oregon Occupational Safety and Health Division:

(A) OR-OSHA regulations, job site inspections and resources;

(B) Equipment basics and maintenance;

(C) Job site record keeping;

(D) General safety practices; and

(E) Responsibilities and relationships among contractors and subcontractors on a job site.

(f) Sound environmental practices and laws:

(A) Environmental friendly materials;

(B) Good recycling, reduction and reuse methods;

(C) Hazardous waste and special waste found in new and old construction;

(D) Laws and regulations governing environmental hazards, proper handling and disposal methods of environmental hazards and job site debris;

(E) Governmental agencies that regulate environmental conditions at a job site;

(F) Environmental violation penalties;

(G) Site preparation including construction activities that impact rivers;

(H) Soil erosion; and

(I) Wetlands, water quality, sewage and underground storage/heating oil tanks.

(g) Contract law:

(A) Clear and concise contracts;

(B) Four elements of contract law;

(C) Three elements of a construction contract;

(D) Breach of contract;

(E) Minor and major breach of contract;

(F) Written and verbal contracts and change orders;

# ADMINISTRATIVE RULES

- (G) Contractor responsibilities for work of self and others;
  - (H) Partnering, negotiation, mediation, arbitration and litigation; and
  - (I) Buyer's Right to Cancel.
- (h) Oregon construction lien law:
- (A) Purpose;
  - (B) Required notices;
  - (C) Lien law procedures;
  - (D) Steps and timelines to perfect a lien and foreclose; and
  - (E) Important lien law differences of other states.
- (i) Project management, estimating and scheduling:
- (A) Importance of project management and consequences for failing

to do so;

- (B) Simple written budgets that include cost, overhead and profit; and
- (C) Simple project schedules and consequences of improper job scheduling.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.072

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 1-1993, f. & cert. ef. 2-1-93; CCB 4-1993, f. 8-17-93, cert. ef. 8-18-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 2-1995, f. 6-6-95, cert. ef. 6-15-95; CCB 3-1997, f. & cert. ef. 10-3-97; CCB 3-1998, f. & cert. ef. 2-26-98; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2004, f. 8-26-04, cert. ef. 9-1-04; CCB 6-2006, f. 5-25-06, cert. ef. 6-1-06; Renumbered from 812-006-0050, CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06

## 812-006-0300

### Testing Requirements

(1) The test required in ORS 701.072 shall cover the subjects listed in OAR 812-006-0250.

(2) A person seeking to take the test shall:

- (a) Pay any fees required by the test administrator;
- (b) Provide approved government-issued picture identification to the test administrator;
- (c) Pay for any state-certified interpreter needed to take the test; and
- (d) Complete the test within a time limit approved by the agency.

(3) A person taking the test shall be allowed to use an Oregon Contractor's Reference Manual and one language translation book during the test.

(4) A person taking the test shall not:

- (a) Retake the same version of the test on consecutive attempts.
- (b) Be accompanied by anyone while taking the test, except a state-certified interpreter.
- (5) After the test is completed, a person shall not review the test questions or answers.
- (6) There are no reciprocal agreements with other states or organizations that test contractors.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.072

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 4-1993, f. 8-17-93, cert. ef. 8-18-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 2-1995, f. 6-6-95, cert. ef. 6-15-95; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 4-2001(Temp), f. & cert. ef. 5-18-01 thru 11-13-01; Administrative correction 11-20-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06; Renumbered from 812-006-0012, CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06

## 812-006-0350

### Testing Subversion

(1) Testing subversion is the use of any means to alter the results of a test to cause the results to inaccurately represent the competency of an examinee. Testing subversion includes, but is not limited to:

- (a) Communication between examinees inside the testing room;
- (b) Giving or receiving any unauthorized assistance on the test while the test is in process;

(c) Having any printed or written matter or other devices in the examinee's possession during the test except:

- (A) The Oregon Construction Contractor's Reference Manual; and
- (B) One language translation book.

(d) Obtaining, using, buying, selling, distributing, having possession of, or having unauthorized access to secured test questions or other secured examination material prior to, during or after the administration of the examination;

(e) Copying another examinee's answers or looking at another examinee's materials while a test is in process;

(f) Permitting anyone to copy answers to the test;

(g) Copying or removing any test questions from the testing area;

- (h) Allowing another person to take the test in the examinee's place;
- (i) Writing notes or questions in the Oregon Construction Contractor's Reference Manual or language translation book during the test; or
- (j) Leaving the room during the test.

(2) At the discretion of the agency or its designees, if there is evidence of testing subversion by an examinee prior to, during, or after the administration of the test, one or more of the following may occur:

(a) The examinee may be denied the privilege of taking the test if testing subversion is detected before the administration of the test;

(b) If the testing subversion detected has not yet compromised the integrity of the test, such steps as are necessary to prevent further testing subversion shall be taken, and the examinee may be permitted to continue with the test;

(c) The examinee may be requested to leave the testing facility if testing subversion is detected during the test. If the examinee does not leave the facility, the examinee will be deemed a trespasser;

(d) The examinee's test results may be invalidated and the application fee forfeited; or

(e) The examinee may not be allowed to sit for an examination for up to one year.

(3) If testing subversion is detected after the administration of the test, the agency or its designee shall make appropriate inquiry to determine the facts concerning the testing subversion and the agency or its designee may take any of the actions described in this rule.

Stat. Auth.: ORS 670.310, 701.072 & 701.235

Stats. Implemented: ORS 701.072

Hist.: CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06; Renumbered from 812-006-0015, CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06

## 812-006-0400

### Training and Testing Period

(1) The training and testing required under ORS 701.072(1) and (3) shall be valid for 24 months from the date the training was completed. Training and testing that is past the 24-month period from the date of the completed training will not be considered for the purposes of fulfilling the requirements set forth in ORS 701.078(1)(b)(A).

(2) In lieu of complying with section (1) of this rule, an RMI may satisfy the requirements of ORS 701.078(1)(b)(A) provided that the RMI:

(a) Has completed the training and passed the test;

(b) Has been the RMI of a licensee within two years of the date of application by the new applicant; and

(c) The license of the licensee that was previously owned by or that previously employed the RMI has not lapsed or, if lapsed, has lapsed for not more than 24 months.

(3) Sections (1) and (2) of this rule do not apply to an RMI that meets the experience requirements under 812-006-0450.

Stat. Auth.: ORS 670.310, 701.072 & 701.235

Stats. Implemented: ORS 701.072

Hist.: CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06

## 812-006-0450

### Experience

In order for an RMI to qualify for experience as provided in ORS 701.078(1)(b)(B), an RMI must be listed on the agency's current license records as having been a sole proprietor, partner, venturer, member, corporate officer, trustee, or designated RMI of a licensed business before July 1, 2000, and that the business license has not lapsed, or if lapsed, has lapsed for not more than 24 months.

Stat. Auth.: ORS 670.310, 701.072 & 701.235

Stats. Implemented: ORS 701.072 & 701.078

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 4-1993, f. 8-17-93, cert. ef. 8-18-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 2-1995, f. 6-6-95, cert. ef. 6-15-95; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 4-2001(Temp), f. & cert. ef. 5-18-01 thru 11-13-01; Administrative correction 11-20-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 7-2002, f. 6-26-02, cert. ef. 7-1-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 6-2006, f. 5-25-06, cert. ef. 6-1-06; Renumbered from 812-006-0020, CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06

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## Department of Administrative Services Chapter 125

**Rule Caption:** Criminal records Check and Fitness Determination.  
**Adm. Order No.:** DAS 6-2006(Temp)

**Filed with Sec. of State:** 9-12-2006

**Certified to be Effective:** 9-12-06 thru 2-11-07

**Notice Publication Date:**



# ADMINISTRATIVE RULES

**Rules Adopted:** 125-007-0200, 125-007-0210, 125-007-0220, 125-007-0230, 125-007-0240, 125-007-0250, 125-007-0260, 125-007-0270, 125-007-0280, 125-007-0290, 125-007-0300, 125-007-0310, 125-007-0320, 125-007-0330

**Subject:** These rules control the Department's acquisition of information about a subject individual's criminal history through criminal records checks or other means and its use of that information to determine whether the subject individual is fit to provide services to the Department as an employee, volunteer, contractor or vendor in a position covered by OAR 125-007-0220(2)(a)-(n). The fact that the Department approves a subject individual as fit does not guarantee the individual a position as a Department employee, volunteer, contractor or vendor.

**Rules Coordinator:** Kristin Keith—(503) 378-5087

## 125-007-0200

### Statement of Purpose and Statutory Authority

(1) Purpose. These rules control the Department's acquisition of information about a subject individual's criminal history through criminal records checks or other means and its use of that information to determine whether the subject individual is fit to provide services to the Department as an employee, volunteer, contractor or vendor in a position covered by OAR 125-007-0220(2)(a)-(n). The fact that the Department approves a subject individual as fit does not guarantee the individual a position as a Department employee, volunteer, contractor or vendor.

(2) Authority. These rules are authorized under ORS 181.534, 184.340 and 184.365.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9)

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

## 125-007-0210

### Definitions

As used in OAR chapter 125, division 007, unless the context of the rule requires otherwise, the following definitions apply:

(1) **"Approved"** means that, pursuant to a preliminary fitness determination under OAR 125-007-0240 or a final fitness determination under OAR 125-007-0260, an authorized designee has determined that the subject individual is fit to be an employee, volunteer, contractor or vendor in a position covered by OAR 125-007-0220(2)(a)-(n).

(2) **"Authorized Designee"** means a Department employee authorized to obtain and review criminal offender information and other criminal records information about a subject individual through criminal records checks and other means, and to conduct a fitness determination in accordance with these rules.

(3) **"Conviction"** means that a court of law has entered a final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere (no contest) against a subject individual in a criminal case, unless that judgment has been reversed or set aside by a subsequent court decision.

(4) **"Criminal Offender Information"** includes records and related data as to physical description and vital statistics, fingerprints received and compiled by the Oregon Department of State Police Bureau of Criminal Identification for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.

(5) **"Crime Relevant to a Fitness Determination"** means a crime listed or described in OAR 125-007-0270.

(6) **"Criminal Records Check and Fitness Determination Rules"** or "These Rules" means OAR chapter 125, division 007.

(7) **"Criminal Records Check"** or "CRC" means one of three processes undertaken to check the criminal history of a subject individual:

(a) A check of criminal offender information and motor vehicle registration and driving records conducted through use of the Law Enforcement Data System (LEDS) maintained by the Oregon Department of State Police, in accordance with the rules adopted and procedures established by the Oregon Department of State Police (LEDS Criminal Records Check);

(b) A check of Oregon criminal offender information, including through fingerprint identification, conducted by the Oregon Department of State Police at the Department's request (Oregon Criminal Records Check); or

(c) A nationwide check of federal criminal offender information, including through fingerprint identification, conducted by the Oregon Department of State Police through the Federal Bureau of Investigation or otherwise at the Department's request (Nationwide Criminal Records Check).

(8) **"Denied"** means that, pursuant to a preliminary fitness determination under OAR 125-007-0240 or a final fitness determination under OAR 125-007-0260, an authorized designee has determined that the subject individual is not fit to be an employee, volunteer, contractor or vendor in a position covered by OAR 125-007-0220(2)(a)-(n).

(9) **"Department"** means the Oregon Department of Administrative Services (DAS) or any subdivision thereof.

(10) **"False Statement"** means that, in association with an activity governed by these rules, a subject individual either provided the Department with materially false information about his or her criminal history, such as materially false information about his or her identity or conviction record, or failed to provide to the Department information material to determining his or her criminal history.

(11) **"Fitness Determination"** means a determination made by an authorized designee pursuant to the process established in OAR 125-007-0240 (preliminary fitness determination) or 125-007-0260 (final fitness determination) that a subject individual is or is not fit to be a Department employee, volunteer, contractor or vendor in a position covered by OAR 125-007-0220(2)(a)-(n).

(12) **"Other Criminal Records Information"** means any information, in addition to criminal offender information, sought or obtained by the Department about a subject individual relevant to determining the individual's criminal history.

(13) **"Related"** means that an individual has a relationship with another person described by one of the following labels: spouse, domestic partner, natural parent, foster parent, adoptive parent, stepparent, child, foster child, adopted child, stepchild, sibling, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

(14) **"Subject Individual"** means an individual identified in OAR 125-007-0220 as someone from whom the Department may require fingerprints for the purpose of conducting a criminal records check.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

## 125-007-0220

### Subject Individual

**"Subject Individual"** means a person from whom the Department may require fingerprints for the purpose of conducting a criminal records check because the person:

(1)(a) Is employed by or applying for employment with the Department; or

(b) Provides services or seeks to provide services to the Department as a volunteer, contractor, or vendor; and

(2) Is, or will be, working or providing services in a position:

(a) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(b) In which the person has access to information, the disclosure of which is prohibited by state or federal laws, rules or regulations or information that is defined as confidential under state or federal laws, rules or regulations;

(c) That has payroll functions;

(d) In which the person has responsibility for receiving, receipting or depositing money or negotiable instruments;

(e) In which the person has responsibility for billing, collections or other financial transactions;

(f) In which the person has responsibility for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the state;

(g) That has mailroom duties as the primary duty or job function of the position;

(h) In which the person has responsibility for auditing the Department or other governmental agencies;

(i) That has personnel or human resources functions as one of the position's primary responsibilities;

(j) In which the person has access to personal information about employees or members of the public including Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information or criminal history information;

(k) In which the person has access to chemicals or hazardous materials, to facilities in which chemicals and hazardous materials are present or to information regarding the transportation of chemical or hazardous materials;

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(l) In which the person has access to property to which access is restricted in order to protect the health or safety of the public;

(m) In which the person provides security, design or construction services for government buildings, grounds or facilities; or

(n) In which the person has access to critical infrastructure or security-sensitive facilities or information.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

## 125-007-0230

### Criminal Records Check Process

(1) Disclosure of Information by Subject Individual.

(a) Preliminary to a criminal records check, a subject individual shall complete and sign the DAS Criminal Records Request form and, if requested by the Department, a fingerprint card. Both forms ask for identifying information, e.g., name, birth date, Social Security Number, physical characteristics, marital status, driver's license or identification card number and current address. The DAS Criminal Records Request form also asks for information about prior residences and for details concerning any circumstance listed in OAR 125-007-0240(3)(a)-(f).

(b) A subject individual shall complete and submit to the Department the DAS Criminal Records Request form and, if requested, a fingerprint card within three business days of receiving the forms. An authorized designee may extend the deadline for good cause.

(c) The Department shall receive a fingerprint card from a subject individual under the age of 18 years only if the subject individual also submits the written consent of a parent or guardian.

(d) Within a reasonable period of time as established by an authorized designee, a subject individual shall disclose additional information as requested by the Department in order to resolve an issue hindering the completion of a criminal records check, e.g., providing additional proof of identity.

(2) When a Criminal Records Check is conducted. An authorized designee may conduct, or request that the Oregon Department of State Police conduct, a criminal records check when:

(a) An individual meets the definition of "subject individual," but has not been approved under these rules, unless the individual was a Department employee serving in his or her current position prior to the effective date of these rules and that position does not involve authorized designee responsibilities;

(b) An individual employed by the Department meets the definition of "subject individual" because he or she is either moving to or applying for a position that meets the criteria of OAR 125-007-0220(2)(a)-(n), if:

(A) The Department has not conducted a fitness determination on the subject individual within the previous three years;

(B) The subject individual had been previously approved under OAR 125-007-0260(3)(b); or

(C) An authorized designee determines that the new position requires greater responsibility for functions covered by OAR 125-007-0220(2)(a)-(n) than the subject individual's prior position;

(c) An authorized designee has reason to believe that a subject individual committed a crime listed in OAR 125-007-0270 and either a fitness determination has not yet been done on the subject individual or the crime had not been identified in a prior fitness determination;

(d) An authorized designee has reason to believe that a factor relevant to a fitness determination listed in OAR 125-007-0260(2), not previously identified in a fitness determination, applies to a subject individual who had been previously approved under OAR 125-007-0260(3)(b);

(e) Required by federal law or regulation, by state law or administrative rule, or by contract or written agreement with the Department.

(3) Which Criminal Records Check(s) Is Conducted. When an authorized designee determines under subsection (2) of this rule that a criminal record check is needed, the authorized designee shall proceed as follows:

(a) LEDS Criminal Records Check. The authorized designee shall conduct a LEDS criminal records check as part of any fitness determination conducted in regard to a subject individual.

(b) Oregon Criminal Records Check. The authorized designee shall request that the Oregon Department of State Police conduct an Oregon criminal records check when:

(A) The authorized designee determines that an Oregon criminal records check is warranted after review of the information provided by the subject individual, the results of a LEDS criminal records check, or other criminal records information; or

(B) The authorized designee requests a nationwide criminal records check.

(c) Nationwide Criminal Records Check. The authorized designee shall request that the Oregon Department of State Police conduct a nationwide criminal records check when:

(A) A subject individual has lived outside Oregon for 60 or more consecutive days during the previous three (3) years;

(B) Information provided by the subject individual or the results of a LEDS or Oregon criminal records check provide reason to believe, as determined by an authorized designee, that the subject individual has a criminal history outside of Oregon;

(C) As determined by an authorized designee, there is reason to question the identity of or information provided by a subject individual because, e.g., the subject individual fails to disclose a Social Security Number, discloses a Social Security Number that appears to be invalid, or does not have an Oregon driver's license or identification card;

(D) A check is required by federal law or regulation, by state law or administrative rule, or by contract or written agreement with the Department;

(E) A subject individual is a DAS employee working in, moving to, or applying for a position within the State Data Center or Enterprise Security Office;

(F) The Department Director or Deputy Director seeks to serve as an authorized designee; or

(G) A subject individual is a DAS employee working in, moving to, or applying for a position within the Personnel Unit of the Department's Operations Division designated by the Department Director or the Director's designee as including the responsibilities of an authorized designee.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

## 125-007-0240

### Preliminary Fitness Determination.

(1) An authorized designee may conduct a preliminary fitness determination if the Department is interested in hiring or appointing a subject individual on a preliminary basis, pending a final fitness determination.

(2) An authorized designee shall make a preliminary fitness determination about a subject individual based on information disclosed by the subject individual under OAR 125-007-0230(1) and a LEDS criminal records check.

(3) The authorized designee shall approve a subject individual as fit on a preliminary basis if the authorized designee has no reason to believe that the subject individual has made a false statement and the information available to the authorized designee does not disclose that the subject individual:

(a) Has been convicted of, found guilty except for insanity (or comparable disposition) of, or has a pending indictment for a crime listed under OAR 125-007-0270;

(b) Within the last five years, has been arrested for or charged with a crime listed under OAR 125-007-0270;

(c) Is being investigated for, or has an outstanding warrant for a crime listed under OAR 125-007-0270;

(d) Is currently on probation, parole, or another form of post-prison supervision for a crime listed under OAR 125-007-0270;

(e) Has a deferred sentence or conditional discharge or is participating in a diversion program in connection with a crime listed under OAR 125-007-0270; or

(f) Has been adjudicated in a juvenile court and found to be within the court's jurisdiction for an offense that would have constituted a crime listed in OAR 125-007-0270 if committed by an adult.

(4) If the information available to the authorized designee discloses one or more of the circumstances identified in section (3), the authorized designee may nonetheless approve a subject individual as fit on a preliminary basis if the authorized designee concludes, after evaluating all available information, that hiring or appointing the subject individual on a preliminary basis does not pose a risk of harm to the Department, its client entities, the State, or members of the public.

(5) If a subject individual is either approved or denied on the basis of a preliminary fitness determination, an authorized designee thereafter shall conduct a fitness determination under OAR 125-007-0260.

(6) A subject individual may not appeal a preliminary fitness determination, under the process provided under OAR 125-007-0300 or otherwise.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

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## 125-007-0250

### Hiring or Appointing on a Preliminary Basis

(1) The Department may hire or appoint a subject individual on a preliminary basis if an authorized designee has approved the subject individual on the basis of a preliminary fitness determination under OAR 125-007-0240.

(2) A subject individual hired or appointed on a preliminary basis under this rule may participate in training, orientation, or work activities as assigned by the Department.

(3) A subject individual hired or appointed on a preliminary basis is deemed to be on trial service and, if terminated prior to completion of a final fitness determination under OAR 125-007-0260, may not appeal the termination under the process provided under OAR 125-007-0300.

(4) If a subject individual hired or appointed on a preliminary basis is denied upon completion of a final fitness determination, as provided under OAR 125-007-0260(3)(d), then the Department shall immediately terminate the subject individual's employment or appointment.

(5) A subject individual whose employment or appointment is terminated under subsection (4) of this rule may avail himself or herself of the appeal process provided under OAR 125-007-0300.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

## 125-007-0260

### Final Fitness Determination

(1) An authorized designee shall make a fitness determination about a subject individual based on information provided by the subject individual under OAR 125-007-0230(1), the criminal records check(s) conducted, if any, and any false statements made by the subject individual.

(2) In making a fitness determination about a subject individual, an authorized designee shall consider the factors in subsections (a)-(f) in relation to information provided by the subject individual under OAR 125-007-0230(1), any LEADS report or criminal offender information obtained through a criminal records check, and any false statement made by the subject individual. To assist in considering these factors, the authorized designee may obtain other criminal records information from the subject individual or any other source, including law enforcement agencies or courts within or outside of Oregon. To acquire other criminal offender information from the subject individual, an authorized designee may request to meet with the subject individual, to receive written materials from him or her, or both. The authorized designee will use all collected information in considering:

(a) Whether the subject individual has been convicted of, found guilty except for insanity (or a comparable disposition) of, or has a pending indictment for a crime listed in OAR 125-007-0270;

(b) The nature of any crime identified under subsection (a);

(c) The facts that support the conviction, finding of guilty except for insanity, or pending indictment;

(d) The facts that indicate the subject individual made a false statement;

(e) The relevance, if any, of a crime identified under subsection (a) or of a false statement made by the subject individual to the specific requirements of the subject individual's present or proposed position, services or employment; and

(f) The following intervening circumstances, to the extent that they are relevant to the responsibilities and circumstances of the services or employment for which the fitness determination is being made:

(A) The passage of time since the commission or alleged commission of a crime identified under subsection (a);

(B) The age of the subject individual at the time of the commission or alleged commission of a crime identified under subsection (a);

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another crime listed in OAR 125-007-0270;

(E) Whether a conviction identified under subsection (a) has been set aside or pardoned, and the legal effect of setting aside the conviction or of a pardon;

(F) A recommendation of an employer;

(G) The disposition of a pending indictment identified under subsection (a);

(H) Whether the subject individual has been arrested for or charged with a crime listed under OAR 125-007-0270 within the last five years;

(I) Whether the subject individual is being investigated, or has an outstanding warrant, for a crime listed under OAR 125-007-0270;

(J) Whether the subject individual is currently on probation, parole or another form of post-prison supervision for a crime listed under OAR 125-007-0270;

(K) Whether the subject individual has a deferred sentence or conditional discharge or is participating in a diversion program in connection with a crime listed under OAR 125-007-0270;

(L) Whether the subject individual has been adjudicated in a juvenile court and found to be within the court's jurisdiction for an offense that would have constituted a crime listed in OAR 125-007-0270 if committed by an adult;

(M) Periods of incarceration of the subject individual;

(N) Whether the subject individual has a history of drug or alcohol abuse which relates to his or her criminal activity and the subject individual's history of treatment or rehabilitation for such abuse; and

(O) The education and work history (paid or volunteer) of the subject individual since the commission or alleged commission of a crime.

(3) Possible Outcomes of a Final Fitness Determination

(a) Automatic Approval. An authorized designee shall approve a subject individual if the information described in sections (1) and (2) shows:

(A) No credible evidence that the subject individual has been convicted of, or found guilty except for insanity (or comparable disposition) of a crime listed in OAR 125-007-0270(1);

(B) No credible evidence that the subject individual had been convicted of, or found guilty except for insanity (or comparable disposition) of a crime listed in OAR 125-007-0270(2) within ten years of the date that the subject individual signed the DAS Criminal Records Request form;

(C) No credible evidence that the subject individual had been convicted of, or found guilty except for insanity (or comparable disposition) of a crime listed in OAR 125-007-0270(3) within five years of the date that the subject individual signed the DAS Criminal Records Request form;

(D) No credible evidence that the subject individual has a pending indictment for a crime listed in OAR 125-007-0270;

(E) No credible evidence of the subject individual having made a false statement; and

(F) No discrepancies between the criminal offender information, other criminal records information and information obtained from the subject individual.

(b) Evaluative Approval. If a fitness determination under this rule shows credible evidence of any of the factors identified in paragraphs (3)(a)(A)-(F) of this rule, an authorized designee may approve the subject individual only if, in evaluating the information described in sections (1) and (2), the authorized designee determines that the subject individual acting in the position for which the fitness determination is being conducted would not pose a risk of harm to the Department, its client entities, the State, or members of the public.

(c) Restricted Approval.

(A) If an authorized designee approves a subject individual under subsection (3)(b) of this rule, the authorized designee may restrict the approval to specific activities or locations.

(B) An authorized designee shall complete a new criminal records check and fitness determination on the subject individual prior to removing a restriction.

(d) Denial.

(A) If a fitness determination under this rule shows credible evidence of any of the factors identified in paragraphs (3)(a)(A)-(F) of this rule and, after evaluating the information described in sections (1) and (2) of this rule, an authorized designee concludes that the subject individual acting in the position for which the fitness determination is being conducted would pose a risk of harm to the Department, its client entities, the State, or members of the public, the authorized designee shall deny the subject individual as not fit for the position.

(B) Refusal to Consent. If a subject individual refuses to submit or consent to a criminal records check including fingerprint identification, the authorized designee shall deny the subject individual as not fit without further assessment under the fitness determination process.

(C) If a subject individual is denied as not fit, then the subject individual may not be employed by or provide services as a volunteer, contractor or vendor to the Department in a position covered by OAR 125-007-0220(2).

(4) Final Order. A completed final fitness determination becomes a final order of the Department unless the affected subject individual appeals by requesting either a contested case hearing as provided by OAR 125-007-0300(2)(a) or an alternative appeals process as provided by OAR 125-007-0300(6).

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07



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## 125-007-0270

### Crimes Relevant to a Fitness Determination

- (l) Permanent Review Crimes.
- (a) ORS 162.015, Bribe giving;
- (b) ORS 162.025, Bribe receiving;
- (c) ORS 162.065, Perjury;
- (d) ORS 162.085, Unsworn falsification;
- (e) ORS 162.155, Escape II;
- (f) ORS 162.165, Escape I;
- (g) ORS 162.235, Obstructing governmental or judicial administration;
- (h) ORS 162.265, Bribing a witness;
- (i) ORS 162.275, Bribe receiving by a witness;
- (j) ORS 162.305, Tampering with public records;
- (k) ORS 162.325, Hindering prosecution;
- (l) ORS 162.405, Official misconduct II;
- (m) ORS 162.415, Official misconduct I;
- (n) ORS 162.425, Misuse of confidential information;
- (o) ORS 163.005, Criminal homicide;
- (p) ORS 163.095, Aggravated murder;
- (q) ORS 163.115, Murder;
- (r) ORS 163.118, Manslaughter I;
- (s) ORS 163.125, Manslaughter II;
- (t) ORS 163.145, Criminally negligent homicide;
- (u) ORS 163.160, Assault IV;
- (v) ORS 163.165, Assault III;
- (w) ORS 163.175, Assault II;
- (x) ORS 163.185, Assault I;
- (y) ORS 163.187, Strangulation;
- (z) ORS 163.190, Menacing;
- (aa) ORS 163.200, Criminal mistreatment II;
- (bb) ORS 163.205, Criminal mistreatment I;
- (cc) ORS 163.207, Female genital mutilation;
- (dd) ORS 163.208, Assault of Public Safety Officer;
- (ee) ORS 163.213, Unlawful use of an electrical stun gun, tear gas, or mace I;
- (ff) ORS 163.225, Kidnapping II;
- (gg) ORS 163.235, Kidnapping I;
- (hh) ORS 163.257, Custodial interference I;
- (ii) ORS 163.275, Coercion;
- (jj) ORS 163.355, Rape III;
- (kk) ORS 163.365, Rape II;
- (ll) ORS 163.375, Rape I;
- (mm) ORS 163.385, Sodomy III;
- (nn) ORS 163.395, Sodomy II;
- (oo) ORS 163.405, Sodomy I;
- (pp) ORS 163.408, Unlawful Sexual penetration II;
- (qq) ORS 163.411, Unlawful Sexual penetration I;
- (rr) ORS 163.415, Sexual abuse III;
- (ss) ORS 163.425, Sexual abuse II;
- (tt) ORS 163.427, Sexual abuse I;
- (uu) ORS 163.435, Contributing to the sexual delinquency of a minor;
- (vv) ORS 163.452, Custodial sexual misconduct I;
- (ww) ORS 163.454, Custodial sexual misconduct II;
- (xx) ORS 163.465, Public indecency;
- (yy) ORS 163.515, Bigamy;
- (zz) ORS 163.525, Incest;
- (aaa) ORS 163.535, Abandonment of a child;
- (bbb) ORS 163.537, Buying or selling a person under 18 years of age;
- (ccc) ORS 163.545, Child neglect II;
- (ddd) ORS 163.547, Child neglect I;
- (eee) ORS 163.555, Criminal nonsupport;
- (fff) ORS 163.575, Endangering the welfare of a minor;
- (ggg) ORS 163.670, Using child in display of sexually explicit conduct;
- (hhh) ORS 163.684, Encouraging child sexual abuse I;
- (iii) ORS 163.686, Encouraging child sexual abuse II;
- (jjj) ORS 163.687, Encouraging child sexual abuse III;
- (kkk) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I;
- (lll) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II;
- (mmm) ORS 163.693, Failure to report child pornography;
- (nnn) ORS 163.732, Stalking;
- (ooo) ORS 164.057, Aggravated theft I;
- (ppp) ORS 164.075, Theft by extortion; ORS 164.085, Theft by deception;
- (qqq) ORS 164.125, Theft of services; ORS 164.162, Mail theft or receipt of stolen mail;
- (rrr) ORS 164.225, Burglary I;
- (sss) ORS 164.325, Arson I;
- ORS 164.377, Computer crime;
- (ttt) ORS 164.395, Robbery III;
- (uuu) ORS 164.405, Robbery II;
- (vvv) ORS 164.415, Robbery I;
- (www) ORS 165.007, Forgery II;
- (xxx) ORS 165.013, Forgery I;
- (yyy) ORS 165.017, Criminal possession of a forged instrument II;
- (zzz) ORS 165.022, Criminal possession of a forged instrument I;
- (aaaa) ORS 165.032, Criminal possession of a forgery device;
- (bbbb) ORS 165.042, Fraudulently obtaining a signature;
- (cccc) ORS 165.055, Fraudulent use of a credit card;
- (dddd) ORS 165.080, Falsifying business records;
- (eeee) ORS 165.095, Misapplication of entrusted property;
- (ffff) ORS 165.100, Issuing a false financial statement;
- (gggg) ORS 165.581, Cellular counterfeiting I;
- (hhhh) ORS 165.800, Identity theft;
- (iiii) ORS 166.005, Treason;
- (jjjj) ORS 166.015, Riot;
- (kkkk) ORS 166.085, Abuse of corpse II;
- (llll) ORS 166.087, Abuse of corpse I;
- (mmmm) ORS 166.155, Intimidation II;
- (nnnn) ORS 166.165, Intimidation I;
- (oooo) ORS 166.220, Unlawful use of weapon;
- (pppp) ORS 166.270, Possession of weapons by certain felons;
- (qqqq) ORS 166.272, Unlawful possession of machine guns, certain short-barreled firearms and firearm silencers;
- (rrrr) ORS 166.275, Possession of weapons by inmates of institutions;
- (ssss) ORS 166.429, Firearms used in felony;
- (tttt) ORS 166.720, Racketeering activity unlawful;
- (uuuu) ORS 167.012, Promoting prostitution;
- (vvvv) ORS 167.017, Compelling prostitution;
- (wwww) ORS 167.062, Sadomasochistic abuse or sexual conduct in live show;
- (xxxx) ORS 167.065, Furnishing obscene materials to minors;
- (yyyy) ORS 167.070, Sending obscene materials to minors;
- (zzzz) ORS 167.075, Exhibiting an obscene performance to a minor;
- (aaaaa) ORS 167.080, Displaying obscene materials to minors;
- (bbbbb) ORS 167.262, Adult using minor in commission of controlled substance offense;
- (ccccc) ORS 167.315, Animal abuse II;
- (dddd) ORS 167.320, Animal abuse I;
- (eeeee) ORS 167.322, Aggravated animal abuse I;
- (fffff) ORS 167.333, Sexual assault of animal;
- (ggggg) ORS 181.599, Failure to report as sex offender;
- (hhhhh) ORS 192.852/865, Prohibited obtaining or disclosing of protected information;
- (iiiiii) ORS 411.630, Unlawfully obtaining public assistance;
- (jjjjj) ORS 411.675, Submitting wrongful claim or payment (e.g., public assistance);
- (kkkkk) ORS 411.840, Unlawfully obtaining or disposing of food stamp benefits;
- (lllll) ORS 475.525, Sale of drug paraphernalia prohibited;
- (mmmmm) ORS 475.805, Providing hypodermic device to minor prohibited;
- (nnnnn) ORS 475.840, Prohibited acts generally (regarding drug crimes);
- (ooooo) ORS 475.846, Unlawful manufacture of heroin;
- (ppppp) ORS 475.848, Unlawful manufacture of heroin within 1,000 ft of school;
- (qqqqq) ORS 475.850, Unlawful delivery of heroin;
- (rrrrr) ORS 475.852, Unlawful delivery of heroin within 1,000 ft of school;
- (sssss) ORS 475.854, Unlawful possession of heroin;
- (ttttt) ORS 475.856, Unlawful manufacture of marijuana;
- (uuuuu) ORS 475.858, Unlawful manufacture of marijuana within 1,000 ft of school;
- (vvvvv) ORS 475.860, Unlawful delivery of marijuana;
- (wwwww) ORS 475.862, Unlawful delivery of marijuana within 1,000 ft of school;

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(xxxxx) ORS 475.864, Unlawful possession of marijuana;  
(yyyyy) ORS 475.866, Unlawful manufacture of 3,4-methylenedioxymethamphetamine;  
(zzzzz) ORS 475.868, Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 ft of school;  
(aaaaaa) ORS 475.870, Unlawful delivery of 3,4-methylenedioxymethamphetamine;  
(bbbbb) ORS 475.872, Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 ft of school;  
(ccccc) ORS 475.874, Unlawful possession of 3,4-methylenedioxymethamphetamine;  
(ddddd) ORS 475.876, Unlawful manufacture of cocaine;  
(eeeeee) ORS 475.878, Unlawful manufacture of cocaine within 1,000 ft of school;  
(ffffff) ORS 475.880, Unlawful delivery of cocaine;  
(gggggg) ORS 475.882, Unlawful delivery of cocaine within 1,000 ft of school;  
(hhhhh) ORS 475.884, Unlawful possession of cocaine;  
(iiiiii) ORS 475.886, Unlawful manufacture of methamphetamine;  
(jjjjj) ORS 475.888, Unlawful manufacture of methamphetamine within 1,000 ft of school;  
(kkkkk) ORS 475.890, Unlawful delivery of methamphetamine;  
(lllll) ORS 475.892, Unlawful delivery of methamphetamine within 1,000 ft of school;  
(mmmmm) ORS 475.894, Unlawful possession of methamphetamine;  
(nnnnn) ORS 475.904, Penalty for manufacture or delivery of controlled substance within 1000 feet of school;  
(ooooo) ORS 475.906, Penalties for distribution to minors;  
(ppppp) ORS 475.908, Causing another person to ingest a controlled substance;  
(qqqqq) ORS 475.910, Application of controlled substance to the body of another person;  
(rrrrr) ORS 475.914, Prohibited acts for registrants (with the State Board of Pharmacy; regarding felony crimes); ORS 475.916, Prohibited acts involving records and fraud; ORS 475.918, Falsifying drug test results;  
(sssss) ORS 475.920, Providing drug test falsification equipment  
(ttttt) ORS 475.967, Possession of precursor substance with intent to manufacture controlled substance;  
(uuuuu) ORS 475.975, Unlawful possession & distribution of iodine in its elemental form;  
(vvvvv) ORS 475.976, Unlawful possession & distribution of iodine matrix;  
(wwwww) ORS 677.080, Prohibited acts (regarding the practice of medicine);  
(yyyyy) ORS 803.230, Forging, altering or unlawfully producing or using title or registration;  
(zzzzz) ORS 811.140, Reckless driving;  
(aaaaaa) ORS 811.182, Criminal driving while suspended or revoked;  
(bbbbb) ORS 811.540, Fleeing or attempting to elude police officer;  
(ccccc) ORS 811.700, Failure to perform duties of driver when property is damaged;  
(ddddd) ORS 811.705, Failure to perform duties of driver to injured persons;  
(eeeeee) ORS 813.010, Driving under the influence of intoxicants (DUII);  
(ffffff) ORS 819.300, Possession of a stolen vehicle;  
(gggggg) Any federal crime;  
(hhhhh) Any unclassified felony defined in Oregon Revised Statutes not listed elsewhere in this rule;  
(iiiiii) Any other felony under the statutes of Oregon or any other jurisdiction not listed elsewhere in this rule that the authorized designee determines is relevant to performance of the subject individual's present or proposed position as a Department employee, contractor, vendor or volunteer;  
(jjjjj) Any crime of attempt, solicitation or conspiracy to commit a crime listed in this section (1) pursuant to ORS 161.405, 161.435, or 161.450;  
(kkkkk) Any crime based on criminal liability for conduct of another pursuant to ORS 61.155, when the underlying crime is listed in this section (1);

(lllll) Any crime in any other jurisdiction that is the substantial equivalent of any of the Oregon crimes listed in this section (1) as determined by the authorized designee;  
(mmmmm) Any offense that no longer constitutes a crime under Oregon law or the laws of any other jurisdiction, but is the substantial equivalent of any of the crimes listed in this section (1) as determined by the authorized designee.  
(2) Ten-Year Review Crimes.  
(a) ORS 133.076, Failure to appear on criminal citation;  
(b) ORS 162.075, False swearing;  
(c) ORS 162.117, Public investment fraud;  
(d) ORS 162.145, Escape III;  
(e) ORS 162.175, Unauthorized departure;  
(f) ORS 162.185, Supplying contraband;  
(g) ORS 162.195, Failure to appear II;  
(h) ORS 162.205, Failure to appear I;  
(i) ORS 162.247, Interfering with a peace officer or parole & probation officer;  
(j) ORS 162.285, Tampering with a witness;  
(k) ORS 162.295, Tampering with physical evidence;  
(l) ORS 162.315, Resisting arrest;  
(m) ORS 162.335, Compounding;  
(n) ORS 162.355, Simulating legal process;  
(o) ORS 162.365, Criminal impersonation;  
(p) ORS 162.367, Criminal impersonation of peace officer;  
(q) ORS 162.369, Possession of false law enforcement identification card;  
(r) ORS 162.375, Initiating a false report;  
(s) ORS 162.385, Giving false information to police officer for a citation or arrest warrant;  
(t) ORS 163.195, Recklessly endangering another person;  
(u) ORS 163.212, Unlawful use of an electrical stun gun, tear gas, or mace II;  
(v) ORS 163.245, Custodial interference II;  
(w) ORS 163.445, Sexual misconduct;  
(x) ORS 163.467, Private indecency;  
(y) ORS 163.700, Invasion of personal privacy;  
(z) ORS 163.750, Violating court's stalking protective order;  
(aa) ORS 164.043, Theft III;  
(bb) ORS 164.045, Theft II;  
(cc) ORS 164.055, Theft I;  
(dd) ORS 164.095, Theft by receiving;  
(ee) ORS 164.135, Unauthorized use of a vehicle;  
(ff) ORS 164.140, Criminal possession of rented or leased personal property;  
(gg) ORS 164.215, Burglary II;  
(hh) ORS 164.235, Possession of burglar's tools or theft device;  
(ii) ORS 164.255, Criminal trespass I;  
(jj) ORS 164.265, Criminal trespass while in possession of firearm;  
(kk) ORS 164.272, Unlawful entry into motor vehicle;  
(ll) ORS 164.315, Arson II;  
(mm) ORS 164.335, Reckless burning;  
(nn) ORS 164.354, Criminal Mischief II;  
(oo) ORS 164.365, Criminal Mischief I;  
(pp) ORS 165.037, Criminal simulation;  
(qq) ORS 165.065, Negotiating a bad check;  
(rr) ORS 165.070, Possessing fraudulent communications device;  
(ss) ORS 165.074, Unlawful factoring of payment card transaction;  
(tt) ORS 165.085, Sports bribery;  
(uu) ORS 165.090, Sports bribe receiving;  
(vv) ORS 165.102, Obtaining execution of documents by deception;  
(ww) ORS 165.540, Obtaining contents of communication;  
(xx) ORS 165.543, Interception of communications;  
(yy) ORS 165.570, Improper use of emergency reporting system;  
(zz) ORS 165.572, Interference with making a report;  
(aaa) ORS 165.577, Cellular counterfeiting III;  
(bbb) ORS 165.579, Cellular counterfeiting II;  
(ccc) ORS 165.692, Making false claim for health care payment;  
(ddd) ORS 166.023, Disorderly conduct I;  
(eee) ORS 166.025, Disorderly conduct II;  
(fff) ORS 166.065, Harassment;  
(ggg) ORS 166.076, Abuse of a memorial to the dead;  
(hhh) ORS 166.116, Interfering with public transportation;  
(iii) ORS 166.180, Negligently wounding another;  
(jjj) ORS 166.190, Pointing firearm at another;

# ADMINISTRATIVE RULES

(kkk) ORS 166.240, Carrying of concealed weapon;  
(lll) ORS 166.250, Unlawful possession of firearms;  
(mmm) ORS 166.370, Possession of firearm or dangerous weapon in public building or court facility; exceptions; discharging firearm at school;  
(nnn) ORS 166.382, Possession of destructive device prohibited;  
(ooo) ORS 166.384, Unlawful manufacture of destructive device;  
(ppp) ORS 166.470, Limitations and conditions for sales of firearms;  
(qqq) ORS 166.480, Sale or gift of explosives to children;  
(rrr) ORS 166.649, Throwing an object off an overpass II;  
(sss) ORS 166.651, Throwing an object off an overpass I;  
(ttt) ORS 166.660, Unlawful paramilitary activity;  
(uuu) ORS 167.007, Prostitution;  
(vvv) ORS 167.090, Publicly displaying nudity or sex for advertising purposes;  
(www) ORS 167.212, Tampering with drug records;  
(xxx) ORS 167.222, Frequenting a place where controlled substances are used;  
(yyy) ORS 167.325, Animal neglect II;  
(zzz) ORS 167.330, Animal neglect I;  
(aaaa) ORS 167.337, Interfering with law enforcement animal;  
(bbbb) ORS 167.355, Involvement in animal fighting;  
(cccc) ORS 167.365, Dogfighting;  
(dddd) ORS 167.370, Participation in dogfighting;  
(eeee) ORS 167.820, Concealing the birth of an infant;  
(ffff) ORS 417.990, Penalty for placement of children in violation of compact;  
(gggg) ORS 418.130, Unauthorized use and custody of records of temporary assistance for needy families program;  
(hhhh) ORS 418.140, Sharing assistance prohibited;  
(iiii) ORS 418.250, Supervision of child-caring agencies;  
(jjjj) ORS 418.327, Licensing of certain schools and organizations offering residential programs;  
(kkkk) ORS 433.010, Spreading disease (willfully) prohibited;  
(llll) ORS 471.410, Providing liquor to person under 21 or to intoxicated person; allowing consumption by minor on property;  
(mmmm) ORS 475.900, Commercial drug offense;  
(nnnn) ORS 475.912, Unlawful delivery of imitation controlled substance;  
(oooo) ORS 475.914, Prohibited acts for registrants (with the State Board of Pharmacy; regarding misdemeanor crimes);  
(pppp) ORS 475.950, Failure to report precursor substance;  
(qqqq) ORS 475.955, Failure to report missing precursor substances;  
(rrrr) ORS 475.960, Illegally selling drug equipment;  
(ssss) ORS 475.962, Distribution of equipment, solvent, etc., with intent to manufacture controlled substance;  
(tttt) ORS 475.965, Providing false information on precursor substances report;  
(uuuu) ORS 475.979 Unlawful possession of lithium or sodium metal;  
(vvvv) ORS 657A.280, Failure to certify child care facility;  
(wwww) ORS 807.620, Giving false information to police officer;  
(xxxx) ORS 830.475, Failure to perform the duties of an operator (boat);  
(yyyy) Any unclassified misdemeanor defined in Oregon's or any other jurisdiction's statutes and not listed elsewhere in this rule;  
(zzzz) Any other misdemeanor under the statutes of Oregon or any other jurisdiction and not listed elsewhere in this rule that the authorized designee determines is relevant to performance of the subject individual's present or proposed position as a Department employee, contractor, vendor or volunteer;  
(aaaaaa) Any crime of attempt, solicitation or conspiracy to commit a crime listed in this section (2) pursuant to ORS 161.405, 161.435, or 161.450;  
(bbbbbb) Any crime based on criminal liability for conduct of another pursuant to ORS 161.155, when the underlying crime is listed in this section (2);  
(cccccc) Any crime in any other jurisdiction which is the substantial equivalent of any of the Oregon crimes listed in this section (2) as determined by the authorized designee;  
(dddddd) Any offense that no longer constitutes a crime under Oregon law or the laws of another jurisdiction, but is the substantial equivalent of any of the crimes listed in this section (2) as determined by the authorized designee.

(3) Five-Year Review Crimes.

(a) ORS 164.245, Criminal trespass II;

(b) ORS 164.345, Criminal mischief III;  
(c) ORS 164.882, Unlawful operation of audiovisual device;  
(d) ORS 165.555, Unlawful telephone solicitation of contributions for charitable purposes;  
(e) ORS 166.075, Abuse of venerated objects;  
(f) ORS 166.090, Telephonic harassment;  
(g) ORS 166.095, Misconduct with emergency telephone calls;  
(h) ORS 167.340, Animal abandonment;  
(i) ORS 418.630, Operating uncertified foster home;  
(j) ORS 685.990, Violations pertaining to naturopathic medicine;  
(k) ORS 822.045, Crimes relating to conducting a vehicle dealer business;  
(l) ORS 830.035/990, Fleeing or attempting to allude a peace officer (small watercraft);  
(m) ORS 830.053/990, Fraudulent report of theft of boat;  
(n) ORS 830.315/990, Reckless operation of a boat;  
(o) ORS 830.325, Operating boat while under influence of intoxicating liquor or controlled substance;  
(p) ORS 830.730/990, False information to peace officer or State Marine Board;  
(q) ORS 830.955/990, Prohibition of installation of submersible polystyrene device;  
(r) Any crime of attempt, solicitation or conspiracy to commit a crime listed in this section pursuant to ORS 161.405, 161.435 or 161.450  
(s) Any crime based on criminal liability for conduct of another pursuant to ORS 161.155, when the underlying crime is listed in this section (3).

(t) Any crime in any other jurisdiction which is the substantial equivalent of any of the Oregon crimes listed in this section (3) as determined by the authorized designee.

(u) Any offense that no longer constitutes a crime under Oregon law or the law of another jurisdiction, but is the substantial equivalent of any of the crimes listed in this section (3) as determined by the authorized designee.

(4) Evaluation Based on Oregon Laws. An authorized designee shall evaluate a crime on the basis of Oregon laws and, if applicable, federal laws or the laws of any other jurisdiction in which a criminal records check indicates a subject individual may have committed a crime, as those laws are in effect at the time of the fitness determination.

(5) Expunged Juvenile Record. Under no circumstances shall a subject individual be denied under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

## 125-007-0280

### Incomplete Fitness Determination.

(1) The Department will close a preliminary or final fitness determination as incomplete when:

(a) Circumstances change so that a person no longer meets the definition of a "subject individual" under OAR 125-007-0220;

(b) The subject individual does not provide materials or information under OAR 125-007-0230(1) within the timeframes established under that rule;

(c) An authorized designee cannot locate or contact the subject individual;

(d) The subject individual fails or refuses to cooperate with an authorized designee's attempts to acquire other criminal records information under OAR 125-007-0260(2); or

(e) The Department determines that the subject individual is not eligible or not qualified for the position (of employee, contractor, vendor or volunteer) for a reason unrelated to the fitness determination process.

(2) A subject individual does not have a right to a contested case hearing under OAR 125-007-0300 to challenge the closing of an incomplete fitness determination.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

## 125-007-0290

### Notice to Subject Individual of Fitness Determination.

(1) An authorized designee shall provide, in a format approved by the Department, written notice to a subject individual upon completion of a preliminary or final fitness determination, or upon the closing a fitness determination due to incompleteness.



# ADMINISTRATIVE RULES

(a) The authorized designee shall record on the notice the date on which the fitness determination was either closed as incomplete or completed.

(b) If the notice pertains to a completed final fitness determination, it shall be accompanied by a separate notice addressing the subject individual's right to request a contested case hearing to appeal the Department's determination and containing the information required by OAR 137-003-0505.

(2) An authorized designee shall provide for hand delivery or first class mail delivery of the notice as soon as possible after completion or closure of a fitness determination, but in no case later than 14 calendar days after the date of completion or closure, to the address provided by the subject individual on the DAS Criminal Records Request form, or to an updated address as provided in writing by the subject individual.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

## 125-007-0300

### Appealing a Fitness Determination

(1) Purpose. This rule sets forth a contested case hearing process by which a subject individual may appeal a completed final fitness determination made under OAR 125-007-0260 that he or she is fit or not fit to hold a position with, or provide services to the Department as an employee, volunteer, contractor, or vendor. Section (6) of the rule identifies an alternative appeal process available only to current DAS employees.

(2) Process:

(a) A subject individual may appeal a fitness determination by submitting a written request for a contested case hearing to the address specified in the notice provided under OAR 125-007-290(1)(b), within 14 calendar days of the date appearing on the notice. The Department shall address a request received after expiration of the deadline as provided under OAR 137-003-0528.

(b) When a timely request is received by the Department under subsection (a), a contested case hearing shall be conducted by an administrative law judge assigned by the Office of Administrative Hearings, pursuant to the Attorney General's Uniform and Model Rules, "Procedural Rules, Office of Administrative Hearings" OAR 137-003-0501 to 137-003-0700, as supplemented by the provisions of this rule.

(c) The Department shall provide the subject individual or the subject individual's legal representative with all of the information required under OAR 137-003-0510 in writing before the hearing.

(d) As provided in OAR 137-003-0510(3), if participating in a contested case hearing, the Department and the subject individual may agree to use a collaborative method of dispute resolution designed to encourage them to work together to develop a mutually agreeable solution, such as negotiation or a settlement conference.

(3) Discovery:

(a) A subject individual's hearing request under section (2)(a) of this rule shall constitute a discovery request for the following records:

(A) Any records the subject individual has a right to inspect under OAR 125-007-0310(2)(e); and

(B) In accordance with the Public Records Law, any records described in OAR 125-007-0310(3)(a).

(b) The Department or the administrative law judge may protect information made confidential by ORS 181.534(15) or other applicable law as provided in OAR 137-003-0570(7) or (8).

(4) No Public Attendance. Contested case hearings on fitness determinations are closed to non-participants.

(5) Proposed and Final Order:

(a) Proposed Order. After a hearing, the administrative law judge shall issue a proposed order. If the subject individual or subject individual's legal counsel does not file written exceptions with the Department within 14 calendar days after service of the proposed order, the proposed order shall become the final order.

(b) Exceptions. If the subject individual or the subject individual's legal counsel files timely written exceptions to the proposed order with the Department, the Department Director or the Director's designee shall consider the exceptions and serve a final order, or request a revised proposed order from the administrative law judge.

(c) Default. A completed final fitness determination made under OAR 125-007-260 shall constitute a final order without a hearing as provided under OAR 137-003-0672.

(6) Alternative Process. A subject individual currently employed by DAS may choose to appeal a fitness determination either under the process made available by this rule or through the process made available by appli-

cable personnel rules, policies and collective bargaining provisions. A subject individual's decision to appeal a fitness determination through applicable personnel rules, policies, and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(7) Challenging Criminal Offender Information. A subject individual may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon Department of State Police or the Federal Bureau of Investigation.

(a) To challenge information identified in this section (7), a subject individual may use any process made available by the providing agency.

(b) If the subject individual successfully challenges the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or an agency reporting information to the Oregon Department of State Police or the Federal Bureau of Investigation, the subject individual may request that the Department conduct a new criminal records check and re-evaluate the original fitness determination made under OAR 125-007-0260 by submitting a new DAS Criminal Records Request form.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

## 125-007-0310

### Recordkeeping and Confidentiality

(1) An authorized designee shall document a preliminary or final fitness determination, or the closing of a fitness determination due to incompleteness, in writing.

(2) Records Received from the Oregon Department of State Police.

(a) Records the Department receives from the Oregon Department of State Police resulting from a criminal records check, including but not limited to LEDS reports and state or federal criminal offender information originating with the Oregon Department of State Police or the Federal Bureau of Investigation, are confidential pursuant to ORS 181.534(15).

(b) Within the Department, only authorized designees shall have access to records the Department receives from the Oregon Department of State Police resulting from a criminal records check.

(c) An authorized designee shall have access to records received from the Oregon Department of State Police in response to a criminal records check only if the authorized designee has a demonstrated and legitimate need to know the information contained in the records.

(d) Authorized designees shall maintain and disclose records received from the Oregon Department of State Police resulting from a criminal records check in accordance with applicable requirements and restrictions in ORS chapter 181 and other applicable federal and state laws, rules adopted by the Oregon Department of State Police pursuant thereto (see OAR chapter 257, division 15), these rules, and any written agreement between the Department and the Oregon Department of State Police.

(e) If a fingerprint-based criminal records check was conducted with regard to a subject individual, the Department shall permit that subject individual to inspect his or her own state and federal criminal offender information, unless prohibited by federal law.

(f) If a subject individual with a right to inspect criminal offender information under subsection (e) requests, the Department shall provide the subject individual with a copy of the individual's own state and federal criminal offender information, unless prohibited by federal law.

(3) Other Records.

(a) The Department shall treat all records received or created under these rules that concern the criminal history of a subject individual, other than records covered under section (2) of this rule, including DAS Criminal Records Request forms and fingerprint cards, as confidential pursuant to ORS 181.534(15).

(b) Within the Department, only authorized designees shall have access to the records identified under subsection (a).

(c) An authorized designee shall have access to records identified under subsection.

(a) Only if the authorized designee has a demonstrated and legitimate need to know the information contained in the records.

(d) A subject individual shall have access to records identified under subsection (a) pursuant to the terms of the Public Records Law, ORS 192.410 to 192.505.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

# ADMINISTRATIVE RULES

125-007-0320

## Authorized Designees

(1) Appointment.

(a) The Department Director or the Director's designee shall designate positions within the Personnel Unit of the Department's Operations Division as including the responsibilities of an authorized designee.

(b) Appointment to one of the designated positions shall be contingent upon an individual being approved under the Department's criminal records check and fitness determination process.

(c) Appointments shall be made by the Department Director or the Director's designee at his or her discretion.

(2) The Department Director and Deputy Director may also serve as authorized designees, contingent on being approved under the Department's criminal records check and fitness determination process.

(3) Conflict of Interests. An authorized designee shall not participate in a fitness determination or review any information associated with a fitness determination for a subject individual if either of the following is true:

(a) The authorized designee is related to the subject individual; or

(b) The authorized designee has a financial or close personal relationship with the subject individual. If an authorized designee is uncertain of whether a relationship with a subject individual qualifies as a financial or close personal relationship under this subsection (b), the authorized designee shall consult with his or her supervisor prior to taking any action that would violate this rule if such a relationship were determined to exist.

(4) Termination of Authorized Designee Status.

(a) When an authorized designee's employment in a designated position ends, his or her status as an authorized designee is automatically terminated.

(b) The Department shall suspend or terminate a Department employee's appointment to a designated position within the Personnel Unit of the Department's Operations Division, and thereby suspend or terminate his or her status as an authorized designee, if the employee fails to comply with OAR 125-007-0200 thru 125-007-310 in conducting criminal records checks and fitness determinations.

(c) An authorized designee shall immediately report to his or her supervisor if he or she is arrested for or charged with, is being investigated for, or has an outstanding warrant or pending indictment for a crime listed in OAR 125-007-0270. Failure to make the required report is grounds for termination of the individual's appointment to a designated position within the Personnel Unit of the Department's Operations Division, and thereby termination of his or her status as an authorized designee.

(d) The Department will review and update an authorized designee's eligibility for service in a designated position within the Personnel Unit of the Department's Operations Division, during which a new criminal records check and fitness determination may be required:

(A) Every three years; or

(B) At any time the Department has reason to believe that the authorized designee has violated these rules or no longer is eligible to serve in his or her current position within the Personnel Unit of the Department's Operations Division.

(5) A denial under OAR 125-007-0260(3) related to a designated position within the Personnel Unit of the Department's Operations Division is subject to the appeal rights provided under OAR 125-007-0300.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

125-007-0330

## Fees

(1) The Department may charge a fee for acquiring criminal offender information for use in making a fitness determination. In any particular instance, the fee shall not exceed the fee(s) charged the Department by the Oregon Department of State Police and the Federal Bureau of Investigation to obtain criminal offender information on the subject individual.

(2) The Department may charge the fee to the subject individual on whom criminal offender information is sought, or, if the subject individual is an employee of a Department contractor or vendor and is undergoing a fitness determination in that capacity, the Department may charge the fee to the subject individual's employer.

(3) The Department shall not charge a fee if the subject individual is a Department employee, a Department volunteer, or an applicant for employment or a volunteer position with the Department.

Stat. Auth.: ORS 181.534, 184.340, 184.365.

Stats. Implemented: ORS 181.534(9).

Hist.: DAS 6-2006(Temp), f. & cert. ef. 9-12-06 thru 2-11-07

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

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

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

**Filed with Sec. of State:** 9-11-2006

**Certified to be Effective:** 9-11-06

**Notice Publication Date:** 6-1-06

**Rules Amended:** 122-070-0010, 122-070-0030, 122-070-0080

**Subject:** 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—(503) 378-2349 x 325

122-070-0010

### Definition of Financing Agreements

(1) ORS 283.085(4) defines a financing agreement as: A lease purchase agreement, an installment sale agreement, a loan agreement, or any other agreement to finance real or personal property which is or will be owned and operated by the state or any of its agencies.

(2) Distinguishing between a financing agreement and an operating lease:

(a) The transaction is a financing agreement if it meets one of the following criteria:

(A) The agreement transfers ownership of property to the state or any of its agencies when the agreement ends;

(B) The agreement contains a nominal or bargain purchase option. A nominal or bargain purchase is a price less than fair market value at the time of purchase;

(C) The term of the agreement is 75% or more of the economic useful life of the property;

(D) The present value of the minimum payments under the agreement is at least 90% of the current fair market value of the property. Minimum agreement payments include any penalty for terminating the agreement.

(E) Leasing a real property asset built on state owned land will be classified as a financing lease unless the Director of the Department of Administrative Services determines it is an operating lease.

(b) Operating leases are not subject to ORS 283.085–283.092.

(3) Characteristics of various forms of financing agreements:

(a) Certificates of Participation (COPS) are a form of financing agreement characterized by the following features:

(A) Each certificate represents an ownership interest in and a right to receive (1) a portion of the principal component of the loan payments to be paid by the State pursuant to the terms of the loan agreement and (2) a portion of the interest component of the loan payment.

(B) The State's obligation to make loan payments is subject to legislative appropriation.

(C) Originally offered and sold widely on the regional and national municipal security markets;

(D) Actively sold and resold throughout their life on the municipal securities market;

(E) Involves an independent, third party trustee to execute the terms of the COP financing agreement;

(F) Rated by a nationally recognized credit analysis corporation.

(b) Privately placed financing agreements are another form characterized by the following features:

(A) Offered to a select number of sophisticated investors or investment institutions;

(B) Not usually rated by a credit analysis corporation.

(c) Vendor or Owner financing is another form characterized by the following features:

(A) Agreement between the state or any of its agencies and the existing owner, manufacturer or retailer to pay for a product purchased over time;

(B) Not rated by a credit analysis corporation.

Stat. Auth.: ORS 184.340

Stats. Implemented: ORS 283.085 - 283.092

Hist.: GS 15-1992, f. & cert. ef. 7-24-92; BMD 1-1996, f. 4-11-96, cert. ef. 4-15-96,

Renumbered from 125-023-0010; BMD 4-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04;

BMD 7-2003, f. & cert. ef. 12-4-03; BMD 1-2006, f. & cert. ef. 9-11-06

# ADMINISTRATIVE RULES

122-070-0030

## All Financing Agreements Whose Principal Portion Exceeds \$100,000 Are to Be Executed in Name of the Department of Administrative Services Director

(1) The Director of the Department of Administrative Services (Director) is the only party with the authority to enter into financing agreements under ORS 283.087 to 283.092.

(2) In cases of financing agreements approved in writing by the Treasury and the Department of Administrative Services to acquire equipment being procured through the Department of Administrative Services, State Services Division in accordance with ORS chapter 279, the Director's approval of the financing agreement will serve as direction to the State Services Division Administrator to sign the financing agreement under the Director's authority.

Stat. Auth.: ORS 184.340

Stats. Implemented: ORS 283.085 - 283.092

Hist.: GS 15-1992, f. & cert. ef. 7-24-92; BMD 1-1996, f. 4-11-96, cert. ef. 4-15-96, Renumbered from 125-023-0030; BMD 4-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04; BMD 7-2003, f. & cert. ef. 12-4-03; BMD 1-2006, f. & cert. ef. 9-11-06

122-070-0080

## Fees

(1) ORS 283.089(8) permits the Department of Administrative Services to bill every state agency benefiting from the use of financing agreements, for the costs incurred in preparing and executing them. Those costs include but are not limited to:

- (a) Underwriting costs;
- (b) Finance agreement repayment insurance;
- (c) State Treasury, Auditor, Bond Counsel, Financial Consultant, and Attorney General fees;
- (d) Credit rating charges, official statement printing costs.
- (e) Federal tax code compliance calculations and documentation.

(2) Schedule of the Department of Administrative Services' charges:

(a) New issues of financing agreements:

(A) Vendor financing or third party financing of equipment acquisitions will be processed by the Department of Administrative Services and will be charged a fee of \$1,000;

(B) Owner financing agreements providing for the acquisition of real property will be charged a fee of \$ 2,500;

(C) Third party financing agreements provided by private parties to finance real property purchases will be charged a fee of \$ 5,000;

(D) Public sale of all bond, certificate and note issuance including but not limited to Certificates of Participation (COP), Lottery Revenue Bonds, Appropriation Bonds, tax anticipation notes and Oregon Opportunity General Obligation bonds will be charged as follows:

(i) Single project financing will be charged \$18,500;

(ii) A single financing, funding more than one project will be charged \$25,000. The charge will be prorated among the projects financed;

(iii) If more than one financing is sold in a combined offering the charge will be \$15,000 per series issued.

(b) Advance refundings of outstanding series will be charged \$15,000 per series refunded.

(c) Annual calculations of arbitrage liability for statewide financial reporting and each five year reporting period will be reimbursed as follows:

(d) If the calculation and documentation is performed by the Department of Administrative Services, Budget and Management Division, Capital Investment Section (CIS):

(A) Each bond series with a single beneficiary agency that has project money unspent or a bond funded reserve will be charged \$1,000 annually each August when CIS provides the calculation to the agency of the estimate of arbitrage liability.

(B) Each bond series with multiple beneficiary agencies that has project money unspent or a bond funded reserve will be charged \$500 annually per agency each August when CIS provides the calculation to the agency of the estimate of arbitrage liability. If the calculation and documentation is performed by a private contractor under a professional service contract with CIS, the agency will reimburse CIS for the costs of the service performed. Agencies will reimburse CIS for the direct cost of any work performed by CIS bond counsel related to federal tax code compliance requirements.

(e) Defeasance of public debt outstanding on a program administered by the Department of Administrative Services will be charged a fee of \$7,500.

Stat. Auth.: ORS 184.340

Stats. Implemented: ORS 283.085 - 283.092

Hist.: GS 15-1992, f. & cert. ef. 7-24-92; BMD 1-1996, f. 4-11-96, cert. ef. 4-15-96, Renumbered from 125-023-0080; BMD 4-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04; BMD 7-2003, f. & cert. ef. 12-4-03; BMD 1-2006, f. & cert. ef. 9-11-06

## Department of Agriculture Chapter 603

**Rule Caption:** Clarify only Agricultural Water Quality Management program basin rules are enforceable.

**Adm. Order No.:** DOA 16-2006

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 9-15-06

**Notice Publication Date:** 3-1-06

**Rules Amended:** 603-090-0000, 603-090-0010, 603-090-0020, 603-090-0030, 603-090-0040, 603-090-0050, 603-090-0080, 603-090-0110, 603-090-0120

**Subject:** The Division 90 rules establish policies, guidelines, and specific requirements for the development and content and review of agricultural water quality management area plans and rules. The rules describe the requirements of agricultural water quality management area plans and rules for applicable geographic areas. The rules also delineate the process of landowner appeal of specific required actions and of enforcement procedures to be followed by the department.

"Management Area Plan" has been changed to "Management Area Plan and Rules". "Biannual" has been changed to "biennial" in OAR 603-090-0020(4)(c) to clarify that Local Advisory Committees review Area Plan and Rules implementation status every two years. Language has also been added to require biennial reports rather than annual reports to the Board of Agriculture. Language has been added to OAR 603-090-0020 to clarify that Local Advisory Committees may meet as frequently as necessary.

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

**603-090-0000**

### Preamble

(1) ORS 568.900 to 568.933 authorizes the Oregon Department of Agriculture to develop and carry out an agricultural water quality management area plan for agricultural and rural lands where a water quality management plan is required by state or federal law. In executing this responsibility, the department develops, adopts, and periodically modifies programs to effectuate agricultural water quality management area plans in the applicable geographic areas.

(2) These administrative rules establish policies, guidelines, and specific requirements for the development and content of agricultural water quality management area plans and rules, requirements of agricultural water quality management area plans and rules for applicable geographic areas, the process of landowner appeal of specific required actions, and enforcement procedures to be followed by the department.

(3) Agricultural water quality management area plans are plans that comprehensively outline measures that will be taken to prevent and control water pollution from agricultural activities and soil erosion on agricultural and rural lands located in a management area which requires such a plan and for which boundaries have been established by the department.

(4) Agricultural water quality management area rules are adopted by the department to implement an agricultural water quality management area plan. Area rules are the only enforceable aspect of an agricultural water quality management area plan.

(5) It is the policy of the department that:

(a) Cooperation between private and public entities be encouraged during the development and implementation of water quality management area plans;

(b) To the full extent possible, pollution prevention activities be the focus of water quality management area plans;

(c) Voluntary adoption of land management activities be encouraged through education and demonstration programs to achieve the goals and objectives of water quality management area plans;

(d) Enforceable mechanisms be available to address water pollution problems where voluntary compliance is not achieved;

(e) Enforcement action be pursued only when reasonable attempts at voluntary solutions have failed; and

(f) Measures required of individual landowners under agricultural water quality management area rules provide as much flexibility as reasonably possible.

Stat. Auth.: ORS 561 & 568.900 - 568.933

Stats. Implemented: ORS 568.900 - 568.933

Hist.: AD 9-1994, f. & cert. ef. 7-26-94; DOA 16-2006, f. & cert. ef. 9-15-06



# ADMINISTRATIVE RULES

## 603-090-0010

### Definitions

Unless other required by the context, as used in this Division:

- (1) "Agency of this state" has the meaning given in ORS 568.210(1).
- (2) "Area Plan" or "Agricultural Water Quality Management Area Plan" means a plan for the prevention and control of water pollution from agricultural activities and soil erosion in a management area the boundaries of which have been designated under ORS 568.909.
- (3) "Area Rules" or "Agricultural Water Quality Management Area Rules" are administrative rules adopted by the state Department of Agriculture, in consultation with the state Board of Agriculture, for the implementation of the Area Plan adopted under ORS 568.909.
- (4) "Board" means the state Board of Agriculture.
- (5) "Department" means the state Department of Agriculture.
- (6) "Director" means the director of the state Department of Agriculture.
- (7) "Individual Water Quality Management Plan" means a plan for the prevention or control of water pollution for an individual landowner.
- (8) "Landowner" includes any landowner, land occupier or operator as defined in ORS 568.903.
- (9) "Local Management Agency" means any agency of this state, including but not limited to a soil and water conservation district, which has been designated by the department to undertake activities within a management area whose boundaries have been designated under ORS 568.909.
- (10) "Local Management Area Advisory Committee" means a committee established by the department under OAR 603-090-0020.
- (11) "Operator" has the meaning given in ORS 568.900(2).
- (12) "Pollution" or "water pollution" has the meaning given in ORS 468B.005(3).
- (13) "Water" or "the waters of the state" has the meaning given in ORS 468B.005(8).

Stat. Auth.: ORS 561 & 568.900 - 568.933

Stats. Implemented: ORS 568.900 - 568.933

Hist.: AD 9-1994, f. & cert. ef. 7-26-94; DOA 16-2006, f. & cert. ef. 9-15-06

## 603-090-0020

### Local Water Quality Management Area Advisory Committee

(1) The department shall establish a local water quality management area advisory committee for each water quality management area established under these rules. The local water quality management area advisory committee shall represent a balance of affected persons. The local water quality management area advisory committee must provide an opportunity for a high level of citizen involvement in the development and implementation of the agricultural water quality management area plan and rules. The members of each local water quality management area advisory committee shall be appointed by the director in consultation with the board. The director and board shall consider the recommendations, if any, of the designated local management agency when making advisory committee appointments.

(2) A local water quality management area advisory committee shall consist of not more than twelve members, unless otherwise determined by the director in consultation with the board.

(3) A local water quality management area advisory committee shall be composed primarily of landowners in the affected local agricultural water quality management area. Membership may include, but is not limited to:

- (a) State Board of Agriculture representatives;
  - (b) Persons serving on local soil and water conservation districts;
  - (c) Private landowners;
  - (d) Representatives of local, state and federal boards, commissions and agencies;
  - (e) Members of Indian tribes;
  - (f) Members of the public;
  - (g) Persons associated with industry;
  - (h) Members of academic, scientific and professional communities;
  - (i) Public and special interest groups.
- (4) The local water quality management area advisory committee's responsibilities shall include but are not limited to:

(a) Participation in the development and ongoing modifications of the agricultural water quality management area plan and rules;

(b) Recommendation of strategies necessary to achieve water quality goals and objectives outlined in the agricultural water quality management area plan;

(c) Biennial review of the progress of implementation of the agricultural water quality management area plan and rules, including enforcement actions taken, and requests for alternate measures that have been granted or denied;

(d) Submittal of biennial, written reports to the Board and the director, including

(A) A summary of meetings held, advisory committee members present, actions taken, and progress and impediments toward implementation of the agricultural water quality management area plan; and

(B) Recommendations for modifications that may be necessary to achieve the purpose of the agricultural water quality management area plan as provided in OAR 603-090-0030.

(4) The Local Advisory Committee may reconvene as frequently as necessary to carry out the duties described above in OAR 603-090-0020(4).

Stat. Auth.: ORS 561 & 568.900 - 568.933

Stats. Implemented: ORS 568.900 - 568.933

Hist.: AD 9-1994, f. & cert. ef. 7-26-94; DOA 16-2006, f. & cert. ef. 9-15-06

## 603-090-0030

### Requirements of Agricultural Water Quality Management Area Plan and Rules

(1) Agricultural water quality management area plans must describe a program to achieve the water quality goals and standards necessary to protect designated beneficial uses related to water quality, as required by state and federal law. An area plan shall include but not be limited to a description of the geographical area and physical setting to which the area plan applies, a listing of water quality issues of concern, a listing of current designated beneficial uses that are being adversely affected, a statement that the goal of the area plan is to prevent and control water pollution from agricultural activities and soil erosion and to achieve applicable water quality standards, a statement of the water quality objectives of the area plan, a description of the pollution prevention and control measures deemed necessary by the department to achieve the goal, a schedule for implementation of the necessary measures that is adequate to meet applicable dates established by law, guidelines for public participation, and a strategy for ensuring that the necessary measures are implemented.

(2) Agricultural water quality management area rules are the only enforceable aspect of an area plan. Area rules must be sufficient to assure that landowners in compliance with the area rules will prevent and control water pollution from agricultural activities and soil erosion. Some level of erosion and runoff can occur on agricultural and rural lands but must be within the limitations established by existing water quality laws.

Stat. Auth.: ORS 561 & 568.900 - 568.933

Stats. Implemented: ORS 568.900 - 568.933

Hist.: AD 9-1994, f. & cert. ef. 7-26-94; DOA 16-2006, f. & cert. ef. 9-15-06

## 603-090-0040

### Specific Action Requirements — Appeals

(1) Pursuant to ORS 568.912, a landowner subject to agricultural water quality management area rules may be required to undertake certain specific actions. The required specific actions may but need not be incorporated into an individual water quality management plan. A landowner may appeal a specific action requirement by filing a formal request for alternate measures as provided in OAR 603-090-0050.

(2) Prior to filing a formal request for alternate measures, a landowner may informally consult with the department regarding the specific actions required to comply with the agricultural water quality management area rules. Such consultation, however, shall not extend the time periods required for filing a formal request.

(3) A general requirement for an individual water quality management plan may not be appealed under this provision.

Stat. Auth.: ORS 561 & 568.900 - 568.933

Stats. Implemented: ORS 568.900 - 568.933

Hist.: AD 9-1994, f. & cert. ef. 7-26-94; DOA 16-2006, f. & cert. ef. 9-15-06

## 603-090-0050

### Request for Alternate Measures — Filing, Content, and Approval

(1) A request for alternate measures shall be made in writing and filed with the director. The request may be filed at anytime.

(2) A request shall include a detailed description of proposed alternate measures and sufficient information to determine whether the request satisfies the requirements of section (3) of this rule.

(3) A request for alternate measures shall be approved if the director, following consultation with other agencies as appropriate, finds that the alternate measures will provide a level of water quality protection equivalent to that which is provided by the specific actions required to comply with the agricultural water quality management area rules.

(4) The director shall determine whether to allow a request for alternate measures within 60 days after the request is received unless the landowner agrees to extend the period or the director makes a determination that a longer period of time is required to obtain sufficient information to evaluate the request. If the request is filed while an enforcement action

# ADMINISTRATIVE RULES

is pending, this 60 day period shall not begin to run until the enforcement action has been concluded. The enforcement action shall not be considered concluded if an appeal is pending or civil penalties remain unpaid.

(5) The director's decision to approve or deny a request for alternate measures shall be made in writing and shall be an order in other than a contested case for purposes of judicial review.

Stat. Auth.: ORS 561 & 568.900 - 568.933

Stats. Implemented: ORS 568.900 - 568.933

Hist.: AD 9-1994, f. & cert. ef. 7-26-94; DOA 16-2006, f. & cert. ef. 9-15-06

## 603-090-0080

### Enforcement Actions

(1) A Notice of Noncompliance:

(a) Shall inform the landowner of the violation, including a reference to a particular statute, administrative rule(s) or order involved, the location of the violation when appropriate, and the consequences of the violation or future violations;

(b) Shall direct the subject landowner to perform those actions necessary to comply with the water quality management area rules and orders made pursuant to the area rules;

(c) Shall specify a reasonable period of time by which compliance is to be achieved not to exceed 30 business days after the date of the notice, or if the violation requires more than 30 days to correct, a period of time contained in a plan of correction acceptable to the department;

(d) Shall be issued by the director or the director's designee;

(e) Shall be in writing and shall be served personally or by registered or certified mail;

(f) Shall in all cases also be mailed or delivered to the legal owner of the property;

(g) Shall be an order other than a contested case for purposes of judicial review.

(2) A plan of Correction:

(a) Shall include a statement of the actions that must be taken by the landowner to eliminate the violation and shall include a schedule stating the time by which each of the actions is required to be accomplished to achieve compliance;

(b) May include requirements for the landowner to report the completion of specific actions;

(c) Shall be in writing and shall be sent to the landowner by registered or certified mail or served personally;

(d) Shall be an order other than a contested case for the purposes of judicial review.

(3) The department shall make a reasonable attempt to consult with the subject landowner in the development of a plan of correction.

(4) Failure to perform any of the requirements of a plan of correction may be considered by the department to be a failure to correct the violation within the period of time set for correction by the department.

(5) A Notice of Civil Penalty Assessment:

(a) Shall be issued by the director or the director's designee;

(b) Shall be issued in a manner consistent with the provisions of ORS 183.415, 568.900 to 568.933, and OAR chapter 137;

(c) Shall be in writing and shall be served personally or by registered or certified mail;

(d) Shall include but not be limited to:

(A) A reference to the particular statute, administrative rules or order involved;

(B) A short or plain statement of the matters asserted or charged including a reference to the location of the violation when appropriate;

(C) A statement of the amount of the penalty and how it was calculated;

(D) A statement of the person's right to request a hearing within ten business days from the date of receipt of the notice and an explanation of how a hearing may be requested;

(E) A statement that the notice becomes a final order unless the person on whom the civil penalty is assessed makes a written request for a hearing within ten business days from the date of receipt of the notice.

Stat. Auth.: ORS 561 & 568.900 - 568.933

Stats. Implemented: ORS 568.900 - 568.933

Hist.: AD 9-1994, f. & cert. ef. 7-26-94; DOA 16-2006, f. & cert. ef. 9-15-06

## 603-090-0110

### Civil Penalty Assessment

(1) In addition to any other penalty provided by law, the department may assess a civil penalty against a landowner for failing to comply with the requirements of agricultural water quality management area rules adopted under ORS 568.900 to 568.933 including orders to implement the area rules. The amount of civil penalty shall be determined using the two

matrices contained in OAR 603-090-0120 in conjunction with the formula contained in OAR 603-090-0120(4). The amount of the initial civil penalty may not exceed \$2,500 and any subsequent civil penalties for a repeat occurrence may not exceed \$10,000 per violation.

(2) Prior to assessment of a civil penalty for a violation, the department shall provide a notice of noncompliance to the landowner. No advance notice or period to achieve compliance prior to assessment of a civil penalty shall be required under section (1) of this rule and the department may issue a notice of civil penalty assessment if:

(a) The violation is intentional; or

(b) The landowner has received a previous notice of the same or similar violation.

(3) The amount of any civil penalty imposed shall be reduced by the amount of any civil penalty imposed by the Environmental Quality Commission or the Department of Environmental Quality if the latter penalties are imposed on the same person and are based on the same violation.

(4) Magnitude of Violation: The magnitude of a violation shall be categorized as follows:

(a) Category I (Major):

(A) A violation of a department order issued as part of or in connection with a formal enforcement action;

(B) Failure to provide access to premises or records when required by statute, rule or order;

(C) Any direct discharge of wastes that enters the waters of the state, either without a waste discharge permit, or from a point not authorized by a waste discharge permit;

(D) Submitting records, reports or application forms that are false, misleading, or fraudulent;

(E) Failure to provide notification of a spill or upset condition that results in a nonpermitted discharge of public waters;

(b) Category II (Moderate):

(A) Failure to submit a plan or report if required by rule;

(B) Placing wastes such that the wastes are likely to enter the waters of the state by any means;

(C) Any violation of a department rule or order which is not classified elsewhere in these rules as major or minor.

(c) Category III (Minor): Failure to operate in accordance with an approved individual water quality management plan.

(5) The gravity of effect of the violation shall be determined by consideration of the individual or cumulative possibility of harm to public health or the environment caused by a violation or violations. Gravity of effect shall be classified as high, medium or low. The existence of one or more factors determined to be high level shall result in the gravity of effect considered to be of high level. Lacking any factor determined to be of high level, the existence of one or more factors of medium level shall result in the gravity of effect to be considered to be of medium level. Lacking any factor of high or medium level shall result in the gravity being of low level:

(a) Gravity of Effect — High Level:

(A) Significant injury to crops, wildlife or livestock; or

(B) Surface or groundwater contamination of a level that poses a significant risk of harm to public health or the environment.

(b) Gravity of Effect — Medium Level: Surface or groundwater contamination that causes a loss of beneficial uses or a violation of applicable water quality standards, but does not pose a significant threat to human health or the environment.

(c) Gravity of Effect — Minor Level: Water contamination not found or not found at a level in excess of applicable water quality standards.

Stat. Auth.: ORS 561 & 568.900 - 568.933

Stats. Implemented: ORS 568.900 - 568.933

Hist.: AD 9-1994, f. & cert. ef. 7-26-94; DOA 16-2006, f. & cert. ef. 9-15-06

## 603-090-0120

### Civil Penalty Determination Procedure

In determining the amount of a civil penalty to be assessed for any violation of the requirements of agricultural water quality management area rules adopted under ORS 568.900 to 568.933, the department shall apply the following procedure:

(1) Determine the magnitude of the violation as specified in OAR 603-090-0110(4).

(2) Determine the gravity of effect pertinent to the violation as specified in OAR 603-090-0110(5).

(3) Using the magnitude of the violation and the gravity of effect identified, and depending on whether it is the first or a repeat violation, determine the base penalty (B) by reference to the appropriate matrix contained in this rule. [Table not included. See ED. NOTE.]

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(4) Calculate the amount of the civil penalty to be assessed utilizing the formula:  $B + [(1 \times B) (P + H + R)] = \text{Penalty Amount}$  where:

(a) B = Base penalty is the primary penalty for a given violation derived from the appropriate matrix contained in OAR 603-090-0120;

(b) P = Past occurrence of violations of the requirements of water quality management area rules adopted under ORS 568.900 to 568.993. P will be weighted from 0 to 6 in the following manner:

(A) 0 = no prior violation or insufficient evidence on which to base a finding;

(B) 1 = past occurrence of a Category III violation;

(C) 2 = past occurrence of a Category II violation or two category III violations;

(D) 3 = past occurrence of a Category I violation, two Category II violations, or three Category III violations;

(E) 4 = past occurrence of two Category I violations, three Category II violations or four Category III violations;

(F) 5 = past occurrence of three Category I violations, four Category II violations, or five or more Category III violations;

(G) 6 = past occurrence of more than three Category I violations or five or more Category II violations.

(c) H = History of the person in taking all feasible steps or procedures necessary and appropriate to prevent or correct a violation. H will be weighted from -2 to 2 in the following way:

(A) -2 = the person took all feasible steps to correct any prior violations:

(B) 0 = there is no prior history or insufficient information on which to base a finding;

(C) 1 = the person took some, but not all feasible steps to correct prior violations;

(D) 2 = the person took no action to correct prior violations.

(d) R = Preventability of the violation and whether negligence or misconduct was involved. R will be weighted from -2 to 7 in the following way:

(A) -2 = the person's actions determined to be violative were unavoidable;

(B) 0 = information is insufficient to make any finding;

(C) 3 = the person's actions determined to be violative were reasonably avoidable;

(D) 7 = the person's actions were flagrant or reckless.

(5) A civil penalty imposed under the applicable statutes and these rules may be remitted or reduced at the director's discretion upon such terms and conditions that are proper and consistent with public health and safety.

(6) At the discretion of the director, a respondent who is unable to pay the full amount of a civil penalty may be allowed to pay the civil penalty by means of a schedule of payments which may include payment of interest on the unpaid balance for any delayed payments.

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

Stat. Auth.: ORS 561 & 568.900 - 568.933

Stats. Implemented: ORS 568.900 - 568.933

Hist.: AD 9-1994, f. & cert. ef. 7-26-94; DOA 16-2006, f. & cert. ef. 9-15-06

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## Department of Community Colleges and Workforce Development Chapter 589

**Rule Caption:** Establish the Employer Workforce Training Account; adopt rules to implement the administration of the account.

**Adm. Order No.:** DCCWD 5-2006

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 9-15-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 589-020-0225

**Subject:** Executive Order #3-16 established the Employer Workforce Training Account and directed the Department of Community Colleges and Workforce Development to develop and adopt rules to implement the administration of the Account. This rule established the role of the Workforce Response Teams; establishes the amount of funds and manner of distribution of funds; the criteria for the use of the funds earmarked for Regional disbursement and the 100% non-federal match requirement for such funds; the use of funds earmarked for Statewide Opportunity areas; responsibilities of the designated organization or entity serving as the fiscal agent; and performance and reporting requirements. This amendment is necessary

because over 80% of the rule is being transferred to agency policy and procedures.

**Rules Coordinator:** Linda Hutchins—(503) 378-8649, ext. 474

### 589-020-0225

#### Employer Workforce Training Fund

(1) Purpose: The Employer Workforce Training Account (EWTA) was established by Executive Order # 03 -16 to support the retention and growth of living wage jobs, a skilled workforce, and competitive businesses in Oregon. To administer the EWTA, the Department of Community Colleges and Workforce Development (CCWD) established the Employer Workforce Training Fund (EWTF). This workforce development strategy must ensure that public and private sector investments are leveraged for the greatest impact and that training programs are responsive to the needs of business, industry, and the workers.

(2) Definitions:

(a) Employer Workforce Training Account (EWTA): Established by Executive Order to support the Governor's economic recovery plan to ensure that a skilled workforce is available to keep Oregon's industries productive and competitive.

(b) Employer Workforce Training Fund (EWTF): Includes regional Workforce Response Team (WRT) funds, Statewide Opportunity (SO) funds and the Governor's Strategic Training Fund (GSTF). The EWTF has three outcome goals:

(A) create and retain living wage jobs in Oregon;

(B) build a highly skilled workforce, especially in knowledge-based industries; and

(C) enhance the global competitiveness of Oregon businesses based on the skill of their workforce.

(c) Oregon Workforce Investment Board (OWIB): A business sector majority oversight board mandated by the WIA, Section 111. The board oversees the workforce system in Oregon.

(d) Workforce Response Teams (WRT): Formed by and with the collective partners in their represented regional areas. These teams:

(A) provide a single point of contact and a quick turnaround for existing businesses and their workforce needs;

(B) select a fiscal agent to administer the regional funds;

(C) develop regional funding priorities for contracts; and

(D) prioritize projects and award funds to eligible businesses and associations.

(3) General Provisions of Employer Workforce Training Fund (EWTF):

(a) The Oregon Workforce Investment Board (OWIB) shall identify all workforce development funds from federal, state, local and private sources and maximize coordination of resources used.

(b) The EWTF includes by EO, the Oregon Workforce Investment Act (WIA) allocation, identified as reserve funds, under section 128(a) and 133(a) of the WIA. Includes regional WRT funds prioritized and awarded by the local Regional Workforce Response team, Statewide Opportunity funds (SO) and the Governor's Strategic Training Fund (GSTF) funded through the CCWD.

(c) The OWIB has developed guidelines for funding criteria to be utilized by the EWTF which are the most advantageous economically to the region and the state. These criteria may be updated yearly or at the direction of the OWIB and Governor, and published through CCWD EWTF Policy 589-20.4.

(d) EWTF funds shall be distributed in accordance with the allocation formula as determined by the OWIB through an annual review of EWTF outcomes, state and regional needs and economic conditions. Based on the recommendations of the OWIB and/or Governor the CCWD will update CCWD Policy 589-20.4 regarding the EWTF and the fund distribution as needed.

(e) Ineligible expenditures are those expenditures that have been identified as strictly prohibited by the individual funding sources, such as: Workforce Investment Act Title IB funding and relevant OMB Circulars establishing cost principles and as identified in CCWD EWTF policy 589-20.4.

(f) Contract Size — There is no minimum or maximum contract size for regional and/or state projects. Regional WRTs will have discretion in the award of contracts and will make appropriate investments to leverage resources and maximize program outcomes and performance measures. The Governor will determine the appropriate size for statewide contracts.

(g) Employer Match — Entities that receive contracts from the EWTF for projects must provide non-governmental matching funds or third-party in-kind contributions to the project that equal or exceed the amount of the



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contract. An entity's non-Federal contribution may be provided in cash or third-party-in-kind, fairly evaluated, and shall only be used in a manner that is consistent with the purpose of this rule and in accordance with federal definitions found in **29 CFR Part 95.23** and **29 CFR Part 97.24**.

(h) All projects are required to report performance outcomes as identified in their funding contract with CCWD and CCWD EWTF Policy 589-20.4.

(i) CCWD shall prepare an annual report to the OWIB expenditures and outcomes of the Employer Workforce Training Fund.

(j) All employers and partner agencies participating in the Employer Workforce Training Fund must meet the requirements of the Methods of Administration (MOA) per CCWD EWTF Policy 589-20.4.

(3) Regional Workforce Response Team (WRT):

(a) The Regional WRT Funds shall be used to support the training of incumbent/current private sector workers, for growing businesses, training initiatives for industry associations and strategic economic clusters, and initiatives designed by business-labor consortia.

(b) Recapture Clause: Any WRT that does not make a satisfactory commitment to using the funds for their desired outcomes will be subject to the recapture policy as delineated in CCWD EWTF Policy 589-20.4.

(c) Regional WRTs will be required to provide responses to the Recognition Process every year as identified in CCWD EWTF Policy 589-20.4. The responses of the WRT will be reviewed by CCWD before funds will be distributed to the region.

(d) CCWD shall contract with the WRT-selected fiscal agent in each workforce region to distribute, on a cost reimbursement basis, the regional funds. The fiscal agent is responsible for carrying out the functions of a fiscal agent as described in the CCWD EWTF Policy 589-20.4.

(4) Statewide Opportunity Funds (SO):

(a) SO funds are awarded for the purpose of solving challenges or engaging in opportunities within the state with regard to its workforce development needs. SO funds will only be used if the challenge or opportunity cannot be addressed with other system resources (e.g., Title 1B, Wagner-Peyser, Title II).

(b) SO funds will be focused in opportunity areas as identified by the Oregon Workforce Investment Board and the Governor.

(c) CCWD will administer contracts for SO funded projects per CCWD EWTF Policy 589-20.4.

(d) The Oregon Workforce Investment Board will approve SO projects.

(5) Governor's Strategic Training Fund (GSTF):

(a) The GSTF may be used to finance economic and workforce development projects in existing Oregon businesses, industry or worker associations for incumbent/current workers.

(b) The GSTF in coordination with regional WRTs will be used for multiregional or statewide projects that are beyond the scope and/or resources of the regional funds. CCWD will administer GSTF contracts through the WRTs per CCWD EWTF Policy 589-20.4

(c) The Governor will approve GSTF projects.

Stat. Auth.: ORS 660.318

Stats. Implemented:

Hist.: DCCWD 2-2004, f. & cert. ef. 11-30-04; DCCWD 4-2006(Temp), f. & cert. ef. 6-15-06 thru 11-30-06; DCCWD 5-2006, f. & cert. ef. 9-15-06

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

**Rule Caption:** Allows Class 5 Pressure Piping Mechanic applicants to use brazing experience toward license requirements.

**Adm. Order No.:** BCD 11-2006

**Filed with Sec. of State:** 9-5-2006

**Certified to be Effective:** 9-5-06

**Notice Publication Date:** 7-1-06

**Rules Amended:** 918-225-0691

**Subject:** This rule allows applicants for the Class 5 Pressure Piping Mechanic license to count brazing as qualifying experience.

**Rules Coordinator:** Dodie Wagner—(503) 373-7438

**918-225-0691**

**Boiler, Pressure Vessel and Pressure Piping Installation, Alteration or Repair Licensing Requirements**

Persons installing, altering or repairing boilers and pressure vessels shall be licensed under these rules and may only work within the scope of their license.

(1) Persons desiring to obtain a license under these rules shall:

(a) Meet the qualifications for that license;

(b) Apply as established by the division in OAR division 30.

(2) Definitions. For the purpose of this rule:

(a) "Direct Supervision" means the person supervised is in the physical presence of a qualified licensed person at the job site and the person doing the supervision is directly assigned to monitor and direct the activities of the person supervised. Direct supervision must be on a ratio of one qualified licensed person to one trainee/helper.

(b) "Qualified Licensed Person" means a person who holds a Class 2, 3, 4, 5, 5-A or 5-B license and is authorized to do the work involved without supervision;

(c) "Supervision" means the individual person assigned to perform supervision under sections 6, 7 and 10 of this rule is directly and specifically assigned to monitor and direct the activities of the person being supervised. Both the person performing supervision and those being supervised shall be prepared to identify each other.

(3) Class 1 Trainee/Helper License. A person holding this license may install, alter or repair boilers, pressure vessels and pressure piping providing the work is of a mechanical nature only. Work performed shall be under the direct supervision of a qualified licensed person. No ASME Code welding is permitted. There are no minimum qualifications required for applicants to obtain this license.

(4) Class 2 Pressure Vessel Installer License. A person holding this license may install or repair unfired pressure vessels by any non-welded method of attachment.

(a) There are no minimum qualifications required to obtain this license. Applicants shall pass an examination testing the applicant's knowledge of the Boiler and Pressure Vessel Law, ORS 480.510 to 480.665; OAR chapter 918, division 225; and **American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section VIII, Division 1, General Requirements**.

(b) Persons who install refrigeration process equipment assembled and sold as a modular unit by the manufacturer and who do not attach piping to a pressure vessel during the installation are exempt from this rule. To qualify for this exemption, the attachment shall be made by any method other than fusion welding.

(5) Class 3 Building Service Mechanic License. A person holding this license may install or repair boilers (including boiler and non-boiler external piping) and unfired pressure vessels by a non-welded method of attachment. Applicants shall:

(a) Have at least 2,000 hours of experience installing and repairing boilers verified as established in OAR division 30;

(b) Pass an examination testing the applicant's knowledge of:

(A) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665; OAR chapter 918, division 225; and the general requirements of the **American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Sections I, IV, VI, VII and VIII, and CSD-1**;

(B) The State of Oregon Boiler Safety Program Study Guide;

(C) Building Service Systems (Hydronics) for boilers and related appurtenances, **American Society of Mechanical Engineers/ASME B31.1 Power Piping and B31.9 Building Service Piping**; and

(D) Structural and mechanical blueprints with the ability to interpret specifications.

(6) Class 4 Boilermaker License. A person holding this license may install, alter or repair boilers and pressure vessels (excluding non-boiler external piping) by welding or other methods of attachment. Applicants shall:

(a) Have 2,000 hours of experience doing welding and 2,000 hours of experience doing non-welding applications involving boilers or pressure vessels. Experience must be verified as established in OAR division 30; the verification must cover welding and non-welding applications separately; and

(b) Pass an examination testing the applicant's knowledge of:

(A) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665; OAR chapter 918, division 225; and the general requirements of the **American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Sections I, II, IV, V, VI, VII, VIII and IX, CSD-1, B31.1 and B31.9**;

(B) General boilermaker skills and procedures;

(C) Blueprint reading, layout and shop mathematics;

(D) Interpreting plans and specifications covering installation, alteration, repair, fabrication and erection of boilers and pressure vessels;

(E) Welding process, metallurgy and other procedures particularly applicable to boilers and pressure vessels; and

(F) The State of Oregon Boiler Safety Program Study Guide.

# ADMINISTRATIVE RULES

(c) Class 4 Boilermakers may also perform the scope of work allowed under section (7) of these rules providing:

(A) Work may only be done under the supervision of a qualified licensed person under section (7) of these rules; and

(B) Prior to any welding, the individual must qualify to supervisor's employer's welding procedures.

(7) Class 5 Pressure Piping Mechanic License. A person holding this license may:

(a) Fabricate, install, alter and repair pressure piping; and

(b) Install boilers and pressure vessels by attachment of piping connections;

(c) Install, assemble and repair cast iron sectional boilers.

(A) Applicants shall have a minimum of 2,000 hours of experience performing pipe-welding or brazing on ASME B31 pressure piping and 2,000 hours of experience performing work on pressure piping and boilers. Experience must be verified as established in OAR division 30; and

(B) Pass an examination testing the applicant's knowledge of:

(i) **American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Sections I, II, IV, V, VI, VII, VIII, IX, CSD-1 and B31 Pressure Piping;**

(ii) Structural and mechanical blueprints with the ability to interpret specifications;

(iii) Pressure piping systems and controls;

(iv) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665 and OAR chapter 918, division 225;

(v) The State of Oregon Boiler Safety Program Study Guide; and

(vi) Welding and brazing processes, heat treatment, metallurgy and other procedures applicable to pressure piping systems.

(d) Class 5 Pressure Piping Mechanics may also perform the scope of work allowed under section (6) of these rules providing;

(A) Work may only be done under the supervision of a qualified licensed person under section (6) of these rules; and

(B) Prior to any welding, the individual must qualify to supervisor's employer's welding procedures.

(8) Class 5-A Process Piping Mechanic License. A person holding this license may fabricate, install, alter or repair B31.3 process piping. Applicants shall:

(a) Have a minimum of 2,000 hours of experience performing pipe-welding or brazing on B31.3 process piping and 2,000 hours of experience performing work on pressure piping. Experience must be verified as established in OAR division 30; and

(b) Pass an examination testing the applicant's knowledge of:

(A) **American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section B31.3;**

(B) Structural and mechanical blueprints with the ability to interpret specifications;

(C) Pressure piping controls;

(D) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665 and OAR chapter 918, division 225; and

(E) Welding, brazing, chemical bonding procedures, heat treatment, metallurgy and other procedures applicable to pressure piping systems.

(9) Class 5-B Refrigeration Piping Mechanic License. A person holding this license may fabricate, install, alter or repair B31.5 refrigeration piping. Applicants shall:

(a) Have a minimum of 2,000 hours of experience performing pipe-welding or brazing on B31.5 refrigeration piping and 2,000 hours of experience performing work on pressure piping. Experience must be verified as established in OAR division 30; and

(b) Pass an examination testing the applicant's knowledge of:

(A) **American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section B31.5;**

(B) Structural and mechanical blueprints with the ability to interpret specifications;

(C) Pressure piping controls;

(D) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665 and OAR chapter 918, division 225; and

(E) Welding, brazing, heat treatment, metallurgy and other procedures applicable to pressure piping systems.

(10) Class 6 Welder License. A person holding this license may weld on boilers, pressure vessels or pressure piping while employed by an approved welding employer. Work may only be performed under the supervision of a person certified under sections (6) through (9) of this rule as applicable. More than one welder may be supervised by one appropriately qualified licensed person under this license.

(a) A Class 6 Welder may also perform the scope of work under section (3) of this rule providing the work performed is under the direct supervision of a qualified licensed person under sections (4) through (9) of these rules.

(b) Applicants shall be qualified as a welder in accordance with the **American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section IX, Part QW**. The employer shall attest in writing that the applicant is qualified under that code section and is currently qualified to that employer's welding procedures. This written statement is not transferable to another employer.

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

Stat. Auth.: ORS 480.545, 480.630, 183.335

Stats. Implemented: ORS 480.630, 183.335

Hist.: BCD 7-2003, f. 3-14-03, cert. ef. 7-1-03; BCD 13-2003, f. 6-26-03, cert. ef. 7-1-03;

BCD 3-2004(Temp), f. & cert. ef. 3-8-04 thru 9-3-04; BCD 9-2004, f. 6-21-04, cert. ef. 7-1-04; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06; BCD 11-2006, f. & cert.

ef. 9-5-06

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**Rule Caption:** Plumbing Backflow Prevention Device Training Rules for Journeyman and Apprentice Plumbers.

**Adm. Order No.:** BCD 12-2006

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 10-1-06

**Notice Publication Date:** 7-1-06

**Rules Adopted:** 918-030-0140

**Subject:** This rule establishes a method for approval of training programs for Oregon journeyman or apprentice plumbers who test backflow prevention devices assemblies.

**Rules Coordinator:** Dodie Wagner—(503) 373-7438

**918-030-0140**

**Backflow Tester Approved Training**

(1) An Oregon journeyman plumber or an Oregon apprentice plumber must complete an approved training program in order to test backflow prevention device assemblies.

(2) The director recognizes the following state-approved training programs for an Oregon journeyman plumber or an Oregon apprentice plumber who tests backflow prevention device assemblies:

(a) Backflow Tester Training approved by the Department of Human Services; or

(b) Division-approved continuing education course with content related to testing backflow prevention device assemblies.

(3) Backflow tester training approved by the Department of Human Services meets continuing education requirements for Oregon journeyman plumbing license renewal.

Stat. Auth.: ORS 455.110

Stats. Implemented: ORS 455.110

Hist.: BCD 12-2006, f. 9-15-06, cert. ef. 10-1-06

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**Department of Consumer and Business Services,**

**Insurance Division**

**Chapter 836**

**Rule Caption:** Service contracts: proof of financial stability.

**Adm. Order No.:** ID 18-2006

**Filed with Sec. of State:** 9-8-2006

**Certified to be Effective:** 9-8-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 836-200-0020

**Subject:** This rulemaking amends a rule governing service contract obligors and the required proof of financial stability in order to conform the rule to legislation enacted in 2005. This legislation allows certain obligors of service contracts that are home service agreements to provide an alternative proof of financial stability.

**Rules Coordinator:** Sue Munson—(503) 947-7272

**836-200-0020**

**Filing Procedures**

(1) An applicant for registration must include proof of financial stability with the registration application. The proof must satisfy applicable requirements of OAR 836-200-0030 and 836-200-0040, or ORS 646.267(6).

(2) An applicant for registration must file with the Director a copy of the service contract form or forms that the applicant intends to use as a registrant in Oregon.

# ADMINISTRATIVE RULES

(3) A registrant must file with the Director all amendments to its service contract form or forms used in Oregon that change any contract term or condition applicable to the contract's use in Oregon, and all new contract forms to be used in Oregon. A registrant need not file any amendment that changes a contract only in graphics or form, and not substantively.

Stat. Auth.: ORS 646.267 & 646.285

Stats. Implemented: ORS 646.263-646.285

Hist.: ID 6-1995(Temp), f. & cert. ef. 9-12-95; ID 7-1996, f. & cert. ef. 5-28-96; ID 18-2006, f. & cert. ef. 9-8-06

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

**Rule Caption:** Adoption of Federal OSHA's standard on Hexavalent Chromium in General Industry, Construction, Agriculture, and Maritime.

**Adm. Order No.:** OSHA 6-2006

**Filed with Sec. of State:** 8-30-2006

**Certified to be Effective:** 8-30-06

**Notice Publication Date:** 7-1-06

**Rules Amended:** 437-002-0360, 437-002-0382, 437-003-0001, 437-003-1000, 437-004-9000, 437-005-0001, 437-005-0002, 437-005-0003

**Subject:** This rule adds new requirements for exposures to hexavalent chromium, including a lower airborne permissible exposure limit, an action level, airborne exposure assessments, regulated areas, change and washing facilities, medical surveillance, and training.

These changes are required to keep OR-OSHA standards as effective as Federal OSHA.

Oregon OSHA will not adopt the exception for pesticide use. Federal OSHA does not regulate the use of pesticides because the Environmental Protection Agency (EPA) regulates these exposures through the Worker Protection Standard (WPS). However, since Oregon OSHA enforces the WPS this exemption does not apply in Oregon.

Oregon OSHA proposes to adopt these changes into general industry, construction, agriculture, and maritime.

Please visit OR-OSHA's web site at [www.orosha.org](http://www.orosha.org)

**Rules Coordinator:** Sue C. Joye—(503) 947-7449

## 437-002-0360

### Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/99, and any subsequent amendments published in the Federal Register as listed below:

(1) (Reserved) 29 CFR 1910.1000 Air contaminants, published 6/27/74, Federal Register, vol. 39, pp. 23540-23543; amended in the following FR publications: 5/28/75, vol. 40, pp. 23072-23073; 5/3/77, vol. 42, p. 22525; 1/17/78, vol. 43, p. 2600; 2/10/78, vol. 43, p. 5963; 3/29/78, vol. 43, p. 13563; 5/4/78, vol. 43, p. 19624; 6/23/78, vol. 43, p. 27394; 6/30/78, vol. 43, p. 28473; 10/3/78, vol. 43, p. 45809; 11/14/78, vol. 43, p. 53007; 12/8/78, vol. 43, pp. 57602-57603; 2/5/79, vol. 44, p. 7141; 6/18/80, vol. 45, pp. 12416-12417; 7/28/80, vol. 45, pp. 50328-50329; 6/19/81, vol. 46, p. 32022; 6/22/84, vol. 49, p. 25796; 1/02/85, vol. 50, p. 64; 12/13/85, vol. 50, p. 51173; 11/17/86, vol. 51, p. 41477; 9/11/87, vol. 52, p. 34562; 12/4/87, vol. 52, p. 46291; 1/19/89, vol. 54, pp. 2920-2983; 7/5/89, vol. 54, no. 127, pp. 28054-28061; 9/5/89, vol. 54, no. 170, pp. 36767-36768; 11/15/89, vol. 54, no. 219, p. 47513; 2/5/90, vol. 55, no. 24, pp. 3724; 5/9/90, vol. 55, no. 90, pp. 19258-19259; 11/8/90, vol. 55, no. 217, pp. 46948-46950; 7/1/92, vol. 57, no. 127, pp. 29204-29206.

**NOTE:** 29 CFR 1910.1000 was repealed on 11/15/93 by OR-OSHA. In Oregon, OAR 437-002-0382 applies.

(2) 29 CFR 1910.1001 Asbestos, published 6/20/86, Federal Register, vol. 51, no. 119, pp. 22612-22790; amended 10/17/86, FR vol. 51, pp. 37002-37007; amended 5/12/87, FR vol. 52, pp. 17754-17755; amended 9/14/88, FR vol. 53, no. 178, pp. 35610-35627; amended 9/23/88, FR vol. 53, no. 185, p. 37080; amended 7/21/89, FR vol. 54, no. 139, p. 30704-30705; amended 12/20/89, FR vol. 54, no. 243, p. 52028; amended 2/5/90, FR vol. 55, no. 24, pp. 3731-3732; amended 12/10/90, FR vol. 55, no. 237, pp. 50685-50687; amended 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, p. 24330;

8/10/94, FR vol. 59, no. 153, p. 41065; 6/29/95, FR vol. 60, no. 125, pp. 33983-34002; 8/23/96, FR vol. 61, no. 165, pp. 43434-43459; 1/8/98, FR vol. 63, no. 5, p. 1285; 4/23/98, FR vol. 63, no. 78, p. 20099; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(3) 29 CFR 1910.1002 Coal tar pitch volatiles, interpretation of term, published 1/21/83, Federal Register, vol. 43, p. 2768.

(4) 29 CFR 1910.1003 13 Carcinogens, published 3/7/96, Federal Register, vol. 61, no. 46, p. 9242; 1/8/98, FR vol. 63, no. 5, p. 1286; 4/23/98, FR vol. 63, no. 78, p. 20099; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(5) 29 CFR 1910.1004 See §1910.1003, 13 Carcinogens.

(6) Reserved for 29 CFR 1910.1005.

(7) 29 CFR 1910.1006 See §1910.1003, 13 Carcinogens.

(8) 29 CFR 1910.1007 See §1910.1003, 13 Carcinogens.

(9) 29 CFR 1910.1008 See §1910.1003, 13 Carcinogens.

(10) 29 CFR 1910.1009 See §1910.1003, 13 Carcinogens.

(11) 29 CFR 1910.1010 See §1910.1003, 13 Carcinogens.

(12) 29 CFR 1910.1011 See §1910.1003, 13 Carcinogens.

(13) 29 CFR 1910.1012 See §1910.1003, 13 Carcinogens.

(14) 29 CFR 1910.1013 See §1910.1003, 13 Carcinogens.

(15) 29 CFR 1910.1014 See §1910.1003, 13 Carcinogens.

(16) 29 CFR 1910.1015 See §1910.1003, 13 Carcinogens.

(17) 29 CFR 1910.1016 See §1910.1003, 13 Carcinogens.

(18) 29 CFR 1910.1017 Vinyl chloride, published 10/4/74, Federal Register, vol. 39, p. 35896; amended by the following FR publications: 12/3/74, FR vol. 39, p. 41848; 3/25/75, FR vol. 40, p. 13211; 5/28/75, FR vol. 40, p. 23072; 10/24/78, FR vol. 43, p. 49751; 5/23/80, FR vol. 45, p. 35282; 6/7/89, FR vol. 54, p. 24334; 6/30/93, FR vol. 58, no. 124, p. 35310; 1/8/98, FR vol. 63, no. 5, p. 1286; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(19) 29 CFR 1910.1018 Inorganic arsenic, published 5/25/78, Federal Register, vol. 43, p. 19624; amended by the following FR publications: 6/30/78, FR vol. 43, p. 28472; 5/23/80, FR vol. 45, p. 35282; 6/7/89, FR vol. 54, p. 24334; 6/30/93, FR vol. 58, no. 124, p. 35310; 3/7/96, FR vol. 61, no. 46, p. 9245; 1/8/98, FR vol. 63, no. 5, p. 1286; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(20) 29 CFR 1910.1020 Access to Employee Exposure and Medical Records, published May 23, 1980, Federal Register, vol. 45, no. 102, pp. 35277-35281; amended September 29, 1988, Federal Register, vol. 53, no. 189, pp. 38163-38168; 3/7/96, FR vol. 61, no. 46, p. 9235; 6/20/96, FR vol. 61, p. 31427; 4/3/06, FR vol. 71, no. 63, p. 16669. **Appendix A** — Sample Authorization Letter. **Appendix B** — Availability of NIOSH RTECS.

(21) 29 CFR 1910.1025 Lead, published 11/14/78, Federal Register, vol. 44, p. 53007; amended by the following FR publications: 1/26/79, vol. 44, p. 5447; 3/13/79, vol. 44, p. 14554; 8/28/79, vol. 44, p. 50338; 10/23/79, vol. 44, p. 60981; 11/30/79, vol. 44, 68828; 5/23/80, vol. 45, p. 35283; 12/11/81, vol. 46, p. 60775; 11/12/82, vol. 47, p. 51117; 3/6/83, vol. 48, p. 9641; 4/30/84, vol. 49, p. 18295; 6/5/84, vol. 49, p. 23175; 6/5/84, vol. 49, p. 23175; and modified by OSHA Instruction CPL 2-2.47 published by the U. S. Department of Labor on 1/5/89. Amended 7/11/89, vol. 54, p. 29142; 1/30/90, vol. 55, no. 20, pp. 3166-3167; 2/13/90, vol. 55, no. 30, pp. 4998-4999; modification of OSHA Instruction CPL 2-2.47, published by Office of Health Compliance Assistance, OSHA, on 7/10/90. Amended 5/31/91, FR vol. 56, no. 105, p. 24686; amended 10/11/95, FR vol. 60, p. 52856; 1/8/98, FR vol. 63, no. 5, p. 1287; 4/23/98, FR vol. 63, no. 78, p. 20099; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(22) 29 CFR 1910.1026 Chromium (VI), published 2/28/06, Federal Register, vol. 71, no. 39, p. 10100.

(23) 29 CFR 1910.1027 Cadmium, published 9/14/92, Federal Register, vol. 57, no. 178, pp. 42388-42453; corrections published 4/23/93, FR vol. 58, no. 77, pp. 21778-21787; 1/8/98, FR vol. 63, no. 5, p. 1288; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(24) 29 CFR 1910.1028 Benzene, and Appendices A, B, C, D, and E, published 9/11/87, Federal Register, vol. 52, no. 176, pp. 34562-34578; 1/8/98, FR vol. 63, no. 5, p. 1289; 4/23/98, FR vol. 63, no. 78, p. 20099; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(25) 29 CFR 1910.1029 Coke oven emissions, published 10/22/76, Federal Register, vol. 41, p. 46784; amended by the following FR publications: 1/18/77, FR vol. 42, p. 3304; 5/23/80, FR vol. 45, p. 35283; 9/13/85, FR vol. 50, p. 37353; 6/7/89, FR vol. 54, p. 24334; 1/8/98, FR vol. 63, no. 5, p. 1290; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(26) 29 CFR 1910.1030 Bloodborne pathogens, published 12/6/91, Federal Register, vol. 56, no. 235, pp. 64175-64182; amended 7/1/92, vol. 57, no. 127, p. 29206; 1/18/01, FR vol. 66, no. 12, p. 5318; 4/3/06, FR vol. 71, no. 63, p. 16669.



# ADMINISTRATIVE RULES

(27) 29 CFR 1910.1043 Cotton dust, published 6/23/78, Federal Register, vol. 43, p. 27394; amended by the following FR publications: 8/8/78, FR vol. 43, p. 35035; 10/10/80, FR vol. 45, p. 67340; 12/13/85, FR vol. 50, p. 51173; 7/3/86, FR vol. 51, p. 24325; 6/7/89, FR vol. 54, p. 24334; 1/8/98, FR vol. 63, no. 5, p. 1290; 12/7/00, FR vol. 65, no. 236, p. 76563; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(28) 29 CFR 1910.1044 1,2-dibromo-3-chloropropane, published 3/17/78, Federal Register, vol. 43, p. 11527; amended by the following FR publications: 5/23/80, FR vol. 45, p. 35283; 4/30/84, FR vol. 49, p. 18295; 6/7/89, FR vol. 54, p. 24334; 6/30/93, FR vol. 58, no. 124, p. 35310; 1/8/98, FR vol. 63, no. 5, p. 1291; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(29) 29 CFR 1910.1045 Acrylonitrile, published 10/3/78, Federal Register, vol. 43, p. 45809; amended by the following FR publications: 5/23/80, FR vol. 45, p. 35283; 6/7/89, FR vol. 54, p. 24334; 6/30/93, FR vol. 58, no. 124, p. 35310; 1/8/98, FR vol. 63, no. 5, p. 1291; 4/23/98, FR vol. 63, no. 78, p. 20099; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(30) 29 CFR 1910.1047 Ethylene oxide, published 6/22/84, Federal Register, vol. 49, p. 25796; amended 3/12/85, FR vol. 50, p. 9801; amended 10/11/85, FR vol. 50, p. 41494; amended 7/10/86, FR vol. 51, p. 25053; amended 4/6/88, FR vol. 53, p. 11437; amended 7/26/88, FR vol. 53, p. 27960; 1/8/98, FR vol. 63, no. 5, p. 1292; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(31) 29 CFR 1910.1048 Formaldehyde, and Appendices A, B, C, D and E, published 12/4/87, Federal Register, vol. 52, no. 233, pp. 46291-46312; and amendments to 1910.1048 published 3/2/88, FR vol. 53, no. 41, pp. 6628-6629; 11/8/88, FR vol. 53, pp. 45080-45088; 11/22/88, FR vol. 53, p. 47188; 7/13/89, FR vol. 54, no. 133, pp. 29545-29546; 8/1/89, FR vol. 54, no. 146, p. 31765; 8/29/89, FR vol. 54, p. 35639; 9/11/89, FR vol. 54, p. 37531; 10/24/89, vol. 54, pp. 43344-43346; 6/13/90, FR vol. 55, no. 114, p. 24070; 8/10/90, FR vol. 55, no. 155, p. 32616; 12/17/90, FR vol. 55, no. 242, p. 51698; 3/12/91, FR vol. 56, no. 48, pp. 10377-8; 6/12/91, FR vol. 56, no. 113, p. 26909; 8/8/91, FR vol. 56, no. 153, p. 37650-1, 11/13/91, FR vol. 56, no. 219, p. 57593; 1/23/92, FR vol. 57, no. 15, p. 2681-2; 5/5/92, FR vol. 57, no. 87, p. 19262; 5/27/92, FR vol. 57, no. 102, pp. 22307-9; 6/10/92, FR vol. 57, no. 112, p. 24701; 6/18/92, FR vol. 57, no. 118, pp. 27160-1; 1/8/98, FR vol. 63, no. 5, p. 1293; 4/23/98, FR vol. 63, no. 78, p. 20099; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(32) 29 CFR 1910.1050 Methylene dianiline (MDA), published 8/10/92, Federal Register, vol. 57, no. 154, pp. 35666-35681; 1/8/98, FR vol. 63, no. 5, p. 1293; 4/23/98, FR vol. 63, no. 78, p. 20099; 4/3/06, FR vol. 71, no. 63, p. 16669.

(33) 29 CFR 1910.1051 1,3-Butadiene, published 11/4/96, Federal Register, vol. 61, no. 214, p. 56831; 1/8/98, FR vol. 63, no. 5, p. 1294; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.

(34) 29 CFR 1910.1052 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1601; 10/20/97, FR vol. 62, p. 54382; 12/18/97, FR vol. 62, no. 243, p. 66275; 1/8/98, FR vol. 63, no. 5, p. 1295; 4/23/98, FR vol. 63, no. 78, p. 20099; 9/22/98, FR vol. 63, no. 183, p. 50729; amended by AO 12-2001, reference typo corrected, f. and ef. 10/26/01; 4/3/06, FR vol. 71, no. 63, p. 16669.

(NOTE: 29 CFR 1910.1101 Asbestos, was repealed by Federal Register, vol. 57, no. 110, issued 6/8/92, p. 24330.)

(35) 29 CFR 1910.1096 Ionizing radiation, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49746; 11/7/78, FR vol. 43, p. 51759; 4/30/84, FR vol. 49, p. 18295; 6/30/93, FR vol. 58, no. 124, p. 35309; 6/20/96, FR vol. 61, no. 46, p. 31427.

(36) 29 CFR 1910.1200 Hazard communication, published 8/24/87, Federal Register, vol. 52, p. 31877; amended by the following FR publications: 12/4/87, FR vol. 52, p. 46080; 4/27/88, FR vol. 53, p. 15035; 2/15/89, FR vol. 54, p. 6888; 6/7/89, FR vol. 54, p. 24334; 2/9/94, FR vol. 59, no. 27, pp. 6126-6184; 4/13/94, FR vol. 59, no. 71, pp. 17478; 12/22/94, FR vol. 59, no. 245, p. 65947; 3/7/96, FR vol. 61, no. 46, p. 9245.

(37) 29 CFR 1910.1201 Retention of DOT Markings, Placards and Labels, published 7/19/94, Federal Register, vol. 59, p. 36700.

(38) 29 CFR 1910.1450 Occupational Exposure to Hazardous Chemicals in Laboratories, published 1/31/90, Federal Register, vol. 55 no. 21, pp. 3300-3335; corrected 3/6/90, FR vol. 55, no. 44, p. 7967; 7/1/92, vol. 57, no. 127, p. 29204; 4/3/06, FR vol. 71, no. 63, p. 16669.

(39) 29 CFR 1910.1499 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9245.

(40) 29 CFR 1910.1500 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9245.

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 13-1988, f. 8-2-88 & ef. 8-2-88; APD 14-1988, f. & ef. 9-12-88; APD 18-1988, f. & ef. 11-17-88; APD 4-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 6-1989(Temp), f. 4-20-89, ef. 5-1-89; APD 9-1989, f. & ef. 7-7-89; APD 11-1989, f. 7-14-89, ef. 8-14-89; APD 13-1989, f. & ef. 7-17-89; OSHA 1-1990(Temp), f. & ef. 1-11-90; OSHA 3-1990(Temp), f. & ef. 1-19-90; OSHA 6-1990, f. & ef. 3-2-90; OSHA 7-1990, f. & ef. 3-2-90; OSHA 9-1990, f. 5-8-90, ef. 8-8-90; OSHA 11-1990, f. 6-7-90, ef. 7-1-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 14-1990, f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & ef. 8-31-90; OSHA 20-1990, f. & ef. 9-18-90; OSHA 21-1990, f. & ef. 9-18-90; OSHA 7-1991, f. & ef. 4-25-91; OSHA 13-1991, f. & ef. 10-10-91; OSHA 15-1991, f. & ef. 12-13-91; OSHA 1-1992, f. & ef. 1-22-92; OSHA 4-1992, f. & ef. 4-16-92; OSHA 5-1992, f. 4-24-92, cert. ef. 7-1-92; OSHA 6-1992, f. & ef. 5-18-92; OSHA 9-1992(Temp), f. & ef. 9-24-92; OSHA 11-1992, f. & ef. 10-9-92; OSHA 12-1992, f. & ef. 10-13-92; OSHA 14-1992, f. & ef. 12-7-92; OSHA 15-1992, f. & ef. 12-30-92; OSHA 1-1993, f. & ef. 1-22-93; OSHA 6-1993(Temp), f. & ef. 5-17-93; OSHA 12-1993, f. 8-20-93, cert. ef. 11-1-93; OSHA 17-1993, f. & ef. 11-15-93; OSHA 4-1994, f. & ef. 8-4-94; OSHA 1-1995, f. & ef. 1-19-95; OSHA 4-1995, f. & ef. 3-29-95; OSHA 5-1995, f. & ef. 4-6-95; OSHA 8-1995, f. & ef. 8-25-95; OSHA 4-1996, f. & ef. 9-13-96; OSHA 6-1996, f. & ef. 11-29-96; OSHA 4-1997, f. & ef. 4-2-97; OSHA 6-1997, f. & ef. 5-2-97; OSHA 8-1997, f. & ef. 11-14-97; OSHA 1-1998, f. & ef. 2-13-98; OSHA 3-1998, f. & ef. 4-30-99; OSHA 1-1999, f. & ef. 3-22-99; OSHA 2-1999, f. & ef. 4-30-99; OSHA 6-2001, f. & ef. 5-15-01; OSHA 10-2001, f. 9-14-01, cert. ef. 10-18-01; OSHA 12-2001, f. & ef. 10-26-01; OSHA 1-2005, f. & ef. 4-12-05; OSHA 4-2006, f. & ef. 6-24-06; OSHA 6-2006, f. & ef. 8-30-06

## 437-002-0382

### Oregon Rules for Air Contaminants

An employee's exposure to any substance listed in Oregon Tables Z-1, Z-2, or Z-3 of this section shall be limited in accordance with the requirements of the following paragraphs of this section.

#### (1) Oregon Table Z-1.

(a) Substances with limits preceded by "C" — Ceiling Values. An employee's exposure to any substance in Oregon Table Z-1, the exposure limit of which is preceded by a "C", shall at no time exceed the exposure limit given for that substance. If instantaneous monitoring is not feasible, then the ceiling shall be assessed as a 15-minute time weighted average exposure which shall not be exceeded at any time during the working day.

(b) Other substances — 8-hour Time Weighted Averages. An employee's exposure to any substance in Oregon Table Z-1, the exposure limit of which is not preceded by a "C", shall not exceed the 8-hour Time Weighted Average given for that substance in any 8-hour work shift of a 40-hour work week.

(c) Other Substances — Excursion Limits. Excursions in worker exposure levels may exceed 3 times the PEL-TWA for no more than a total of 30 minutes during a workday, and under no circumstances should they exceed 5 times the PEL-TWA, provided that the PEL-TWA is not exceeded.

(d) Skin Designation. To prevent or reduce skin absorption, an employee's skin exposure to substances listed in Oregon Table Z-1 with an "X" in the Skin Designation column following the substance name shall be prevented or reduced to the extent necessary in the circumstances through the use of gloves, coveralls, goggles, or other appropriate personal protective equipment, engineering controls or work practices.

(2) Oregon Table Z-2. An employee's exposure to any substance listed in Oregon Table Z-2 shall not exceed the exposure limits specified as follows:

(a) 8-hour time weighted averages. An employee's exposure to any substance listed in Oregon Table Z-2, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that substance in Oregon Table Z-2.

(b) Acceptable ceiling concentrations. An employee's exposure to a substance listed in Oregon Table Z-2 shall not exceed the acceptable ceiling concentration for the given substance in the table at any time during an 8-hour shift except:

(i) Acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift. An employee's exposure to a substance listed in Oregon Table Z-2 shall not exceed the acceptable maximum peak above the acceptable ceiling concentration, and shall not exceed the maximum duration for the given substance during an 8-hour shift.

(c) Example. Table During an 8-hour work shift, an employee exposed to benzene may be exposed to an 8-hour time weighted average (TWA) of 10 ppm. Concentrations of benzene during the 8-hour work shift may not exceed 25 ppm, unless that exposure is no more than 50 ppm and does not exceed 10 minutes during an 8-hour work shift. Such exposures must be compensated by exposures to concentrations below 10 ppm so that the 8-hour time-weighted average is less than 10 ppm.

# ADMINISTRATIVE RULES

(d) Skin Designation. To prevent or reduce skin absorption, an employee's skin exposure to substances listed in Oregon Table Z-2 with an "X" in the Skin Designation column following the substance name shall be prevented or reduced to the extent necessary in the circumstances through the use of gloves, coveralls, goggles, or other appropriate personal protective equipment, engineering controls or work practices.

(3) Oregon Table Z-3. An employee's exposure to any substance listed in Oregon Table Z-3, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that substance in the table.

(4) Computation formulae. The computation formula which shall apply to employee expo — sure to more than one substance for which 8-hour time weighted averages are included in OAR 437, Division 2/Z, Toxic and Hazardous Substances, in order to determine whether an employee is exposed over the regulatory limit is as follows:

(a) The cumulative exposure for an 8-hour work shift shall be computed as follows:

$$E = (CaTa + CbTb + \dots CnTn) \div 8$$

Where:

E is the equivalent exposure for the working shift.

C is the concentration during any period of time T where the concentration remain constant.

T is the duration in hours of the exposure at the concentration C.

The value of E shall not exceed the 8-hour time weighted average specified in subpart Z of 29 CFR part 1910 for the substance involved.

(b) To illustrate the formula prescribed in paragraph (4)(a)(i) of this section, assume that Substance A has an 8-hour time weighted average limit of 100 ppm (Oregon Table Z-1). Assume that an employee is subject to the following exposure:

Two hours exposure at 150 ppm

Two hours exposure at 75 ppm

Four hours exposure at 50 ppm

Substituting this information in the formula, we have

$$[(2 \times 150) + (2 \times 75) + (4 \times 50)] \div 8 = 81.25 \text{ ppm}$$

Since 81.25 ppm is less than 100 ppm, the 8-hour time weighted average limit, the exposure is acceptable.

In case of a mixture of air contaminants an employer shall compute the equivalent exposure as follows:

$$Em = (C1 \div L1) + (C2 \div L2) + \dots (Cn \div Ln)$$

Where:

Em is the equivalent exposure for the mixture.

C is the concentration of a particular contaminant.

L is the exposure limit for that substance specified in Subpart Z of 29 CFR Part 1910.

The value of Em shall not exceed unity (1).

(c) To illustrate the formula prescribed in paragraph (4)(b)(i) of this section, consider the following exposures:

Substituting in the formula, we have:

$$Em = (500 \div 1000) + (45 \div 200) + (40 \div 200)$$

$$Em = 0.500 + 0.225 + 0.200$$

$$Em = 0.925$$

Since Em is less than unity (1), the exposure combination is within acceptable limits.

(4) To achieve compliance with paragraphs (1) through (4) of this section, administrative or engineering controls must first be determined and implemented whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or any other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed in this section. Any equipment and/or technical measures used for this purpose must be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used, their use shall comply with 1910.134.

Notes, Footnotes, Table, Note, Footnotes, Table, Footnotes, Table

The measurements under this note refer to the use of an AEC (now NRC) instrument. If the respirable fraction of coal dust is determined with a MRE the figure corresponding to that of 2.4 mg/m<sup>3</sup> in the table for coal dust is 4.5 mg/m<sup>3</sup>.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 17-1993, f. & cert. ef. 11-15-93; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 5-1997, f. & cert. ef. 4-22-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 6-2006, f. & cert. ef. 8-30-06

## 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 7/1/99, 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.

# ADMINISTRATIVE RULES

(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; 4/3/06, FR vol. 71, no. 63, p. 16669.

(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; 4/3/06, FR vol. 71, no. 63, p. 16669.

**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.

(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.



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(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.

(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.

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(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, ef. 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; 4/3/06, FR vol. 71, no. 63, p. 16669.

(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: Nonmandatory 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 Reserved.

(o) Appendix C to Subpart R Illustrations of bridging terminus points: Nonmandatory 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): Nonmandatory Guidelines for Complying with §1926.760(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; 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: Nonmandatory 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: Nonmandatory 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: Nonmandatory Guidelines for 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 §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; 4/3/06, FR vol. 71, no. 63, p. 16669.

(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.



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(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; 12/29/05, FR vol. 70, no. 249, p. 76979; 2/28/06, FR vol. 71, no. 39, p. 9909; 7/20/06, FR vol. 71, no. 139, p. 41127.

(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; 12/29/05, FR vol. 70, no. 249, p. 76979; 2/28/06, FR vol. 71, no. 39, p. 9909.

## (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.

(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; 4/3/06, FR vol. 71, no. 63, p. 16669.

(b) 29 CFR 1926.1126 Chromium (VI), published 2/28/06, Federal Register, vol. 71, no. 39, p. 10100.

(c) 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; 4/3/06, FR vol. 71, no. 63, p. 16669.

(d) 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. 8-31-90; 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 1-1993, 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; OSHA 4-2006, f. & cert. ef. 6-24-06; OSHA 5-2006, f. 8-7-06, cert. ef. 1-1-07; OSHA 6-2006, f. & cert. ef. 8-30-06

## 437-003-1000

### Oregon Rules for Air Contaminants

An employee's exposure to any substance listed in Oregon Tables Z-1, Z-2, or Z-3 of this section shall be limited in accordance with the requirements of the following paragraphs of this section.

#### (1) Oregon Table Z-1.

(a) Substances with limits preceded by "C" — Ceiling Values. An employee's exposure to any substance in Oregon Table Z-1, the exposure limit of which is preceded by a "C", shall at no time exceed the exposure limit given for that substance. If instantaneous monitoring is not feasible, then the ceiling shall be assessed as a 15-minute time weighted average exposure which shall not be exceeded at any time during the working day.

(b) Other substances — 8-hour Time Weighted Averages. An employee's exposure to any substance in Oregon Table Z-1, the exposure limit of which is not preceded by a "C", shall not exceed the 8-hour Time Weighted Average given for that substance in any 8-hour work shift of a 40-hour work week.

(c) Other Substances — Excursion Limits. Excursions in worker exposure levels may exceed 3 times the PEL-TWA for no more than a total of 30 minutes during a workday, and under no circumstances should they exceed 5 times the PEL-TWA, provided that the PEL-TWA is not exceeded.

(d) Skin Designation. To prevent or reduce skin absorption, an employee's skin exposure to substances listed in Oregon Table Z-1 with an "X" in the Skin Designation column following the substance name shall



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be prevented or reduced to the extent necessary in the circumstances through the use of gloves, coveralls, goggles, or other appropriate personal protective equipment, engineering controls or work practices.

(2) Oregon Table Z-2. An employee's exposure to any substance listed in Oregon Table Z-2 shall not exceed the exposure limits specified as follows:

(a) 8-hour time weighted averages. An employee's exposure to any substance listed in Oregon Table Z-2, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that substance in Oregon Table Z-2.

(b) Acceptable ceiling concentrations. An employee's exposure to a substance listed in Oregon Table Z-2 shall not exceed the acceptable ceiling concentration for the given substance in the table at any time during an 8-hour shift except: Acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift. An employee's exposure to a substance listed in Oregon Table Z-2 shall not exceed the acceptable maximum peak above the acceptable ceiling concentration, and shall not exceed the maximum duration for the given substance during an 8-hour shift.

(c) Example. [Table not included. See ED. NOTE.] During an 8-hour work shift, an employee exposed to benzene may be exposed to an 8-hour time weighted average (TWA) of 10 ppm. Concentrations of benzene during the 8-hour work shift may not exceed 25 ppm, unless that exposure is no more than 50 ppm and does not exceed 10 minutes during an 8-hour work shift. Such exposures must be compensated by exposures to concentrations below 10 ppm so that the 8-hour time-weighted average is less than 10 ppm.

(3) Oregon Table Z-3. An employee's exposure to any substance listed in Oregon Table Z-3, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that substance in the table.

(4) Computation formulae. The computation formula which shall apply to employee exposure to more than one substance for which 8-hour time weighted averages are included in OAR 437, Division 2/Z, Toxic and Hazardous Substances, in order to determine whether an employee is exposed over the regulatory limit is as follows:

(a)(A) The cumulative exposure for an 8-hour work shift shall be computed as follows:

$$E = (CaTa + CbTb + \dots CnTn) \div 8$$

Where:

E is the equivalent exposure for the working shift.

C is the concentration during any period of time T where the concentrations remain constant.

T is the duration in hours of the exposure at the concentration C.

The value of E shall not exceed the 8-hour time weighted average specified in subpart Z of 29 CFR part 1910 for the substance involved.

(B) To illustrate the formula prescribed in paragraph (4)(a)(i) of this section, assume that Substance A has an 8-hour time weighted average limit of 100 ppm (Oregon Table Z-1). Assume that an employee is subject to the following exposure: [Table not included. See ED. NOTE.]

Substituting this information in the formula, we have:

$$[(2 \times 150) + (2 \times 75) + (4 \times 50)] \div 8 = 81.25 \text{ ppm}$$

Since 81.25 ppm is less than 100 ppm, the 8-hour time weighted average limit, the exposure is acceptable.

(b)(A) In case of a mixture of air contaminants an employer shall compute the equivalent exposure as follows:

$$Em = (C1 \div L1) + (C2 \div L2) + \dots (Cn \div Ln)$$

Where:

Em is the equivalent exposure for the mixture.

C is the concentration of a particular contaminant.

L is the exposure limit for that substance specified in Subpart Z of 29 CFR Part 1910.

The value of Em shall not exceed unity (1).

(B) To illustrate the formula prescribed in paragraph (4)(b)(i) of this section, consider the following exposures: [Table not included. See ED. NOTE.]

Substituting in the formula, we have:

$$Em = (500 \div 1000) + (45 \div 200) + (40 \div 200)$$

$$Em = 0.500 + 0.225 + 0.200$$

$$Em = 0.925$$

Since Em is less than unity (1), the exposure combination is within acceptable limits.

(5) To achieve compliance with paragraphs (1) through (4) of this section, administrative or engineering controls must first be determined and implemented whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or any other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed in this section. Any equipment and/or technical measures used for this purpose must be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used, their use shall comply with 1910.134.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 6-2006, f. & cert. ef. 8-30-06

## 437-004-9000

### Air Contaminants

Exposure to any substance in Tables Z-1, Z-2, or Z-3 must comply with the following:

(1) Table Z-1.

(a) Substances with limits preceded by "C" — ceiling values. Exposure to any substance in Table Z-1, must never be more than the exposure limit for that substance. If instantaneous monitoring is not feasible, then assess the ceiling as a 15-minute time-weighted average. Exposure must not exceed that level any time during the workday.

(b) Other substances — 8-hour time-weighted averages. Exposure to any substance in Table Z-1, must never be more than the 8-hour Time-Weighted Average for that substance in any 8-hour shift of a 40-hour work week.

(c) Other substances — excursion limits. Excursions in exposure levels may be more than three times the PEL-TWA for no more than a total of 30 minutes during a workday, and must never be more than five times the PEL-TWA, if the PEL-TWA is not exceeded.

(d) Skin designation. Use gloves, coveralls, goggles, or other appropriate personal protective equipment, engineering controls or work practices to prevent or reduce skin absorption of substances in Table Z-1 with an "X" in the Skin Designation column following the substance name.

(e) Table Z-1 has hazardous substances commonly found in agriculture. Division 2/Z, OAR 437-002-1000, Table Z-1 has a complete list of regulated substances. If your operation uses substances not common to agriculture, you must check Table Z-1 in 437-002-1000. That table is adopted here and applies equally to agriculture.

(2) Table Z-2. Exposure to any substance in Table Z-2 must never be more than the following limits:

(a) 8-hour time-weighted averages. Exposure to any substance in Table Z-2, in any 8-hour work shift of a 40-hour work week, must never be more than the 8-hour time-weighted average limit for that substance in Table Z-2.

(b) Acceptable ceiling concentrations. Exposure to a substance in Table Z-2 must never be more than the acceptable ceiling concentration during an 8-hour shift except:

(A) Acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift. Exposure to a substance in Table Z-2 must never be more than the acceptable maximum peak above the acceptable ceiling concentration and must not exceed the maximum duration for the substance during an 8-hour shift.

(B) Example. During an 8-hour work shift, an employee's exposure to benzene may be an 8-hour time-weighted average (TWA) of 10 ppm. Concentrations of benzene during the 8-hour work shift may not be more than 25 ppm, unless that exposure is no more than 50 ppm and for not longer than 10 minutes during an 8-hour work shift. Such exposures must be compensated by exposures to concentrations below 10 ppm so that the 8-hour time-weighted average is less than 10 ppm.

(C) Skin designation. Use gloves, coveralls, goggles, or other appropriate personal protective equipment, engineering controls or work practices to prevent or reduce skin absorption of substances in Table Z-2 with an "X" in the Skin Designation column following the substance name.

(3) Table Z-3. An employee's exposure to any substance in Table Z-3, in any 8-hour work shift of a 40-hour work week, must never be more than the 8-hour time-weighted average limit given for that substance.

(4) Computation formulae. The computation formula that applies to exposure to more than one substance, for which 8-hour time-weighted averages are in OAR 437, Division 4/Z, Chemicals/Toxins, to determine if an exposure is over the regulatory limit is:

(a)(A) Compute the cumulative exposure for an 8-hour work shift as follows:

$$E = (CaTa + CbTb + \dots CnTn) \div 8$$

Where:

E is the equivalent exposure for the shift.

C is the concentration during any period T where the concentration remains constant.

T is the duration in hours of the exposure at the concentration C.

The value of E must not exceed the 8-hour time-weighted average in Subdivision 4/Z.

(B) To illustrate the formula in (4)(a)(i) above, assume that Substance A has an 8-hour time-weighted average limit of 100 ppm (Table Z-1). Assume that an employee is subject to the following exposure:

Two hours exposure at 150 ppm

Two hours exposure at 75 ppm

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Four hours exposure at 50 ppm  
Substituting this information in the formula, we have  
 $[(2 \times 150) + (2 \times 75) + (4 \times 50)] \div 8 = 81.25$  ppm  
Since 81.25 ppm is less than 100 ppm, the 8-hour time-weighted average limit, the exposure is acceptable.

(C) In case of a mixture of air contaminants, compute the equivalent exposure as follows:

$$Em = (C1 \div L1) + (C2 \div L2) + \dots (Cn \div Ln)$$

Where:

Em is the equivalent exposure for the mixture.

C is the concentration of a particular contaminant.

L is the exposure limit for that substance in Subdivision 4/Z.

The value of Em must not exceed unity (1).

(b)(A) To illustrate the formula in (4)(b)(i) above, consider the following exposures: [Tables not included. See ED. NOTE.]

Substituting in the formula, we have:

$$Em = (500 \div 1000) + (45 \div 200) + (40 \div 200)$$

$$Em = 0.500 + 0.225 + 0.200$$

$$Em = 0.925$$

Since Em is less than unity (1), the exposure combination is within acceptable limits.

(5) Engineering or administrative controls. Use engineering or administrative controls first to comply with (1) through (4) above, when feasible. When such controls are not feasible, mandate the use of protective equipment or any other protective measures to keep exposure within the limits in this section. Any equipment and/or technical measures used for this purpose must be approved for each particular use by a competent industrial hygienist or other technically qualified person. When using respirators, comply with 4/L, OAR 437-004-1040. [Tables and Notes not included. See ED. NOTE.] The measurements under this note refer to the use of an AEC (now NRC) instrument. If the respirable fraction of coal dust is determined with a MRE the figure corresponding to that of 2.4 mg/m<sup>3</sup> in the table for coal dust is 4.5 mg/m<sup>3</sup>.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 4-1998, f. 8-28-98, cert. ef. 10-1-98; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 9-2001, f. & cert. ef. 9-14-01; OSHA 6-2006, f. & cert. ef. 8-30-06

## 437-005-0001

### 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 1915, revised as of 7/1/03, and any subsequent amendments published in the Federal Register as listed below:

(1) Subdivision A:

(a) 29 CFR 1915.1. Purpose and authority, published 4/20/82, Federal Register (FR) vol. 47, p. 16984.

(b) 29 CFR 1915.2. Scope and application, published 4/20/82, FR vol. 47, p. 16984.

(c) 29 CFR 1915.3. Responsibility, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.4. Definitions, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.5. Incorporation by reference, published 5/24/96, FR vol. 61, no. 102, p. 26359; amended 7/3/02, FR vol. 67, no. 128, p. 44541; 9/15/04, FR vol. 69, p. 55667.

(f) 29 CFR 1915.6. Commercial diving operations, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.7. Competent person, published 4/20/82, FR vol. 47, p. 16984; amended 6/7/89, FR vol. 54, p. 24334; 7/25/94, FR vol. 59, p. 37856.

(2) Subdivision B:

(a) 29 CFR 1915.11. Scope, application and definitions applicable to this Subpart, published 4/20/82, FR vol. 47, p. 16984; amended 7/25/94, FR vol. 59, p. 37857.

(b) 29 CFR 1915.12. Precautions before entering confined and enclosed spaces and other dangerous atmospheres, published 4/20/82, FR vol. 47, p. 16984; amended 7/1/93, FR vol. 58, no. 125, p. 35514; amended 7/25/94, FR vol. 59, p. 37858; 3/16/95, FR vol. 60, no. 51, p. 14218.

(c) 29 CFR 1915.13. Cleaning and other cold work, published 4/20/82, FR vol. 47, p. 16984; amended 7/25/94, FR vol. 59, p. 37859.

(d) 29 CFR 1915.14. Hot work, published 4/20/82, FR vol. 47, p. 16984; amended 7/25/94, FR vol. 59, p. 37860; 3/16/95, FR vol. 60, no. 51, p. 14218; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.15. Maintenance of safe conditions, published 4/20/82, FR vol. 47, p. 16984; amended 7/25/94, FR vol. 59, p. 37860; 3/16/95, FR vol. 60, no. 51, p. 14218; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.16. Warning signs and labels, published 4/20/82, FR vol. 47, p. 16984; amended 7/25/94, FR vol. 59, p. 37861.

Appendix A to Subpart B published 7/25/94, FR vol. 59, p. 37816;

amended 7/3/02, FR vol. 67, no. 128, p. 44541.

Appendix B to Subpart B published 7/25/94, FR vol. 59, p. 37816.

(3) Subdivision C:

(a) 29 CFR 1915.31. Scope & application of subdivision, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.32. Toxic cleaning solvents, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351.

(c) 29 CFR 1915.33. Chemical paint & preservative remover, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351.

(d) 29 CFR 1915.34. Mechanical paint removers, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351.

(e) 29 CFR 1915.35. Painting, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.36. Flammable liquids, published 4/20/82, FR vol. 47, p. 16984.

(4) Subdivision D:

(a) 29 CFR 1915.51. Ventilation & protection in welding, cutting and heating, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.52. Fire prevention, published 4/20/82, FR vol. 47, p. 16984; REMOVED 9/15/04, FR vol. 69, p. 55667.

(c) 29 CFR 1915.53. Welding, cutting and heating of hollow metal containers & structure not covered by 1915.12, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.55. Gas welding & cutting, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.56. Arc welding and cutting, published 4/20/82, FR vol. 47, p. 16984.

(f) 29 CFR 1915.57. Uses of fissionable material in ship repairing and shipbuilding, published 4/20/82, FR vol. 47, p. 16984.

(5) Subdivision E:

(a) 29 CFR 1915.71. Scaffolds or staging, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.72. Ladders, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(c) 29 CFR 1915.73. Guarding of deck openings and edges, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.74. Access to vessels, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.75. Access to and guarding of dry docks and marine railways, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.76. Access to cargo spaces and confined spaces, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.77. Working surfaces, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(6) Subdivision F:

(a) 29 CFR 1915.91. Housekeeping, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.92. Illumination, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(c) 29 CFR 1915.93. Utilities, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.94. Work in confined or isolated spaces, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.95. Ship repairing and shipbuilding work on or in the vicinity of radar and radio, published 4/20/82, FR vol. 47, p. 16984; amended 4/30/84, FR vol. 49, p. 18295; 6/7/89, FR vol. 54, p. 24334.

(f) 29 CFR 1915.96. Work in or on lifeboats, published 4/20/82, FR vol. 47, p. 16984; amended 8/24/87, FR vol. 52, p. 31886.

(g) 29 CFR 1915.97. Health and sanitation, published 4/20/82, FR vol. 47, p. 16984; amended 8/24/87, FR vol. 52, p. 31886; amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(h) 29 CFR 1915.98. First aid, published 4/20/82, FR vol. 47, p. 16984.

(NOTE: 29 CFR 1915.99. Hazard Communication, was redesignated as 1915.1200 on 7/1/93, FR vol. 58, no. 125, p. 35514.)

(i) 29 CFR 1915.100. Retention of DOT markings, placards and labels, published 7/19/94, Federal Register, vol. 59, no. 137, p. 36700.

(7) Subdivision G:

(a) 29 CFR 1915.111. Inspection, published 4/20/82, FR vol. 47, p. 16984.

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- (b) 29 CFR 1915.112. Ropes, chains and slings, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.113. Shackles and hooks, published 4/20/82, FR vol. 47, p. 16984; amended 9/29/86, FR vol. 51, p. 34562.
- (d) 29 CFR 1915.114. Chain falls and pull-lifts, published 4/20/82, FR vol. 47, p. 16984.
- (e) 29 CFR 1915.115. Hoisting and hauling equipment, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (f) 29 CFR 1915.116. Use of gear, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (g) 29 CFR 1915.117. Qualifications of operators, published 4/20/82, FR vol. 47, p. 16984.
- (h) 29 CFR 1915.118. Tables, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (8) Subdivision H:
- (a) 29 CFR 1915.131. General precautions, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (b) 29 CFR 1915.132. Portable electric tools, published 4/20/82, FR vol. 47, p. 16984.
- (c) 29 CFR 1915.133. Hand tools, published 4/20/82, FR vol. 47, p. 16984.
- (d) 29 CFR 1915.134. Abrasive wheels, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (e) 29 CFR 1915.135. Powder actuated fastening tools, published 4/20/82, FR vol. 47, p. 16984; 5/24/96, FR vol. 61, no. 102, p. 26351.
- (f) 29 CFR 1915.136. Internal combustion engines other than ship's equipment, published 4/20/82, FR vol. 47, p. 16984.
- (9) Subdivision I:
- (a) 29 CFR 1915.151. Scope, application and definitions, published 5/24/96, FR vol. 61, no. 102, p. 26352.
- (b) 29 CFR 1915.152. General requirements, published 5/24/96, FR vol. 61, no. 102, p. 26352; 6/13/96, FR vol. 61, p. 29957; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.153. Eye and face protection, published 5/24/96, FR vol. 61, no. 102, p. 26353.
- (d) 29 CFR 1915.154. Respiratory protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (e) 29 CFR 1915.155. Head protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (f) 29 CFR 1915.156. Foot protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (g) 29 CFR 1915.157. Hand and body protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (h) 29 CFR 1915.158. Lifesaving equipment, published 5/24/96, FR vol. 61, no. 102, p. 26354; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (i) 29 CFR 1915.159. Personal fall arrest systems (PFAS), published 5/24/96, FR vol. 61, no. 102, p. 26355; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (j) 29 CFR 1915.160. Positioning device systems, published 5/24/96, FR vol. 61, no. 102, p. 26356; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix A to Subpart I, published 5/24/96, FR vol. 61, no. 102, p. 26356; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix B to Subpart I, published 5/24/96, FR vol. 61, no. 102, p. 26358; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (10) Subdivision J:
- (a) 29 CFR 1915.161. Scope and application of subdivision, published 4/20/82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.162. Ship's boilers, published 4/20/82, FR vol. 47, p. 16984.
- (c) 29 CFR 1915.163. Ship's piping systems, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (d) 29 CFR 1915.164. Ship's propulsion machinery, published 4/20/82, FR vol. 47, p. 16984.
- (e) 29 CFR 1915.165. Ship's decking machinery, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (11) Subdivision K:
- (a) 29 CFR 1915.171. Scope and application of subdivision, published 4/20/82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.172. Portable air receiver and other unfired pressure vessels, published 4/20/82, FR vol. 47, p. 16984; amended 9/29/86, FR vol. 51, p. 34562; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.173. Drums and containers, published 4/20/82, FR vol. 47, p. 16984.
- (12) Subdivision L 29 CFR 1915.181. Electrical circuits and distribution boards, published 4/20/82, FR vol. 47, p. 16984; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (13) Subdivisions M-O (Reserved).
- (14) Subdivision P:
- (a) 29 CFR 1915.501. General provisions, published 9/15/04, FR vol. 69, p. 55667.
- (b) 29 CFR 1915.502. Fire safety plan, published 9/15/04, FR vol. 69, p. 55667.
- (c) 29 CFR 1915.503. Precautions for hot work, published 9/15/04, FR vol. 69, p. 55667.
- (d) 29 CFR 1915.504. Fire watches, published 9/15/04, FR vol. 69, p. 55667.
- (e) 29 CFR 1915.505. Fire response, published 9/15/04, FR vol. 69, p. 55667.
- (f) 29 CFR 1915.506. Hazards of fixed extinguishing systems on board vessels and vessel sections, published 9/15/04, FR vol. 69, p. 55667.
- (g) 29 CFR 1915.507. Land-side fire protection systems, published 9/15/04, FR vol. 69, p. 55667.
- (h) 29 CFR 1915.508. Training, published 9/15/04, FR vol. 69, p. 55667.
- (i) 29 CFR 1915.509. Definitions applicable to this subpart, published 9/15/04, FR vol. 69, p. 55667.
- Appendix A to Subpart P, published 9/15/04, FR vol. 69, p. 55667.
- (15) Subdivision Q-Y (Reserved).
- (16) Subdivision Z:
- (a) 29 CFR 1915.1000. Air Contaminants, published 7/1/93, FR vol. 58, no. 125, p. 35514; 11/4/96, FR vol. 61, p. 56856; 1/10/97, FR vol. 62, p. 1619; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (b) 29 CFR 1915.1001. Asbestos, published 7/1/93, FR vol. 58, no. 125, p. 35514; 8/10/94, FR vol. 59, no. 153, p. 41080; 6/29/95, FR vol. 60, no. 125, pp. 33974-34002; 7/13/95, FR vol. 60, p. 36043; 9/29/95, FR vol. 60, p. 50411; 8/23/96, FR vol. 61, p. 43454; 6/29/98, FR vol. 63, no. 124, p. 35137; amended 7/3/02, FR vol. 67, no. 128, p. 44541; 1/5/05, FR vol. 69, p. 1111; 4/3/06, FR vol. 71, no. 63, p. 16669.
- Appendix A to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- Appendix B to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- Appendix C to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix D to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964.
- Appendix E to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- Appendix F to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- Appendix G to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964.
- Appendix H to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- Appendix I to 1915.1001, published 7/1/93, FR vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964.
- Appendix J to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix K to 1915.1001, published 8/10/94, FR vol. 59, p. 40964; amended 6/29/95, FR vol. 60, p. 33972.
- Appendix L to 1915.1001, published 7/1/93, vol. 58, p. 35553; amended 8/10/94, FR vol. 59, p. 40964; amended 2/21/95, FR vol. 60, p. 9624; amended 6/28/95, FR vol. 60, p. 33343; amended 6/29/95, FR vol. 60, p. 33972; amended 7/13/95, FR vol. 60, p. 36043; amended 9/29/95, FR vol. 60, p. 50411; amended 2/13/96, FR vol. 61, p. 5507; amended 8/23/96, FR vol. 61, p. 43454.
- (c) 29 CFR 1915.1002. Coal tar pitch volatiles; interpretation of term, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.
- (d) 29 CFR 1915.1003. 13 Carcinogens (4-Nitrobiphenyl, etc.), published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (e) 29 CFR 1915.1004. alpha-Naphthylamine, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.
- (f) 29 CFR 1915.1005. (Reserved)
- (g) 29 CFR 1915.1006. Methyl chloromethyl ether, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.



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(h) 29 CFR 1915.1007. 3,3'-Dichlorobenzidene (and its salts), published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(i) 29 CFR 1915.1008. bis-Chloromethyl ether, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(j) 29 CFR 1915.1009. beta-Naphthylamine, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(k) 29 CFR 1915.1010. Benzidine, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(l) 29 CFR 1915.1011. 4-Aminodiphenyl, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1915.1012. Ethyleneimine, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(n) 29 CFR 1915.1013. beta-Propiolactone, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(o) 29 CFR 1915.1014. 2-Acetylaminofluorene, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(p) 29 CFR 1915.1015. 4-Dimethylaminoazobenzene, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(q) 29 CFR 1915.1016. N-Nitrosodimethylamine, published 7/1/93, FR vol. 58, no. 125, p. 35514; 3/7/96, FR vol. 61, no. 46, p. 9245; 6/20/96, FR vol. 61, p. 31427.

(r) 29 CFR 1915.1017. Vinyl chloride, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(s) 29 CFR 1915.1018. Inorganic arsenic, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(t) 29 CFR 1915.1020 Access to employee exposure and medical records, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(u) 29 CFR 1915.1025. Lead, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(v) 29 CFR 1915.1026 Chromium (VI), published 2/28/06, Federal Register, vol. 71, no. 39, p. 10100.

(w) 29 CFR 1915.1027. Cadmium, published 9/14/92, FR vol. 57, no. 178, pp. 42388-42452; amended 4/23/93, FR vol. 58, no. 177, p. 21778; 1/3/94, FR vol. 59, no. 1, pp. 146-215; 6/20/96, FR vol. 61, p. 31427.

(x) 29 CFR 1915.1028. Benzene, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(y) 29 CFR 1915.1030. Bloodborne pathogens, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(z) 29 CFR 1915.1044. 1,2 dibromo-3-chloropropane, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(aa) 29 CFR 1915.1045. Acrylonitrile, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(bb) 29 CFR 1915.1047. Ethylene oxide, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(cc) 29 CFR 1915.1048. Formaldehyde, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(dd) 29 CFR 1915.1050. Methylenedianiline, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(ee) 29 CFR 1915.1052 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619.

(ff) 29 CFR 1915.1120 Access to employee exposure and medical records has been redesignated to §1915.1020.

(Note: 29 CFR 1915.99, Hazard Communication was redesignated as 1915.1200 on 7/1/93, FR vol. 58, no. 125, p. 35514.)

(gg) 29 CFR 1915.1200. Hazard communication, published 9/24/87, FR vol. 52, p. 31886; amended 4/27/88, FR vol. 53, p. 15035; 2/15/89, FR vol. 54, p. 6888; 6/7/89, FR vol. 54, p. 24334; 7/1/93, FR vol. 58, no. 125, p. 35514; 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.

(hh) 29 CFR 1915.1450. Occupational exposure to hazardous chemicals in laboratories, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 19-1993, f. & cert. ef. 12-29-93; OSHA 4-1994 f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 2-1995, f. & cert. ef. 1-25-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; 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 3-1997, f. & cert. ef. 3-28-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 4-2003, f. & cert. ef. 5-6-03; OSHA 8-2004, f. & cert. ef. 12-30-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 4-2006, f. & cert. ef. 6-24-06; OSHA 6-2006, f. & cert. ef. 8-30-06

## 437-005-0002

### 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 1917, revised as of 7/1/97, and any subsequent amendments published in the Federal Register as listed below:

#### (1) Subdivision A

(a) 29 CFR 1917.1 Scope and applicability, published 7/5/83, Federal Register (FR) vol. 48, p. 30909; amended 12/31/87, FR vol. 52, p. 36026; 12/31/87, FR vol. 52, p. 49624; 7/25/97, FR vol. 62, no. 143, p. 40196; 2/28/06, FR vol. 71, no. 39, p. 10100.

(b) 29 CFR 1917.2 Definitions, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40196.

(c) 29 CFR 1917.3 Incorporation by reference, published 7/25/97, FR vol. 62, no. 143, p. 40196.

#### (2) Subdivision B:

(a) 29 CFR 1917.11 Housekeeping, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40196.

(b) 29 CFR 1917.12 Slippery conditions, published 7/5/83, FR vol. 48, p. 30909.

(c) 29 CFR 1917.13 Slinging, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40197.

(d) 29 CFR 1917.14 Stacking of cargo and pallets, published 7/5/83, FR vol. 48, p. 30909.

(e) 29 CFR 1917.15 Coopering, published 7/5/83, FR vol. 48, p. 30909.

(f) 29 CFR 1917.16 Line handling, published 7/5/83, FR vol. 48, p. 30909.

(g) 29 CFR 1917.17 Railroad facilities, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40197.

(h) 29 CFR 1917.18 Log handling, published 7/5/83, FR vol. 48, p. 30909.

(i) 29 CFR 1917.19 Movement of barges and rail cars, published 7/5/83, FR vol. 48, p. 30909.

(j) 29 CFR 1917.20 Interference with communications, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40197.

(k) 29 CFR 1917.21 Open fires, published 7/5/83, FR vol. 48, p. 30909.

(l) 29 CFR 1917.22 Hazardous cargo (see 1917.2(p)), published 7/5/83, FR vol. 48, p. 30909.

(m) 29 CFR 1917.23 Hazardous atmospheres and substances (see 1917.2(p)), published 7/5/83, FR vol. 48, p. 30909; amended 7/13/84, FR vol. 49, p. 28551; 7/25/97, FR vol. 62, no. 143, p. 40197.

(n) 29 CFR 1917.24 Carbon monoxide, published 7/5/83, FR vol. 48, p. 30909; amended 7/13/84, FR vol. 49, p. 28551; 7/25/97, FR vol. 62, no. 143, p. 40197.

(o) 29 CFR 1917.25 Fumigants, pesticides, insecticides and hazardous preservatives (see 1917.2(p)), published 7/5/83, FR vol. 48, p. 30909; amended 7/13/84, FR vol. 49, p. 28551; 7/25/97, FR vol. 62, no. 143, p. 40197.

(p) 29 CFR 1917.26 First aid and lifesaving facilities, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40197.

(q) 29 CFR 1917.27 Personnel, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40197.

(r) 29 CFR 1917.28 Hazard communication (see also §1917.1(a)(2)(vi)), published 7/5/83, FR vol. 48, p. 30909; amended 9/24/87, FR vol. 52, p. 31876; 4/27/88, FR vol. 53, p. 15035; 2/15/89, FR vol. 54, p. 6888; 6/7/89, FR vol. 54, p. 24334; 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; 7/25/97, FR vol. 62, no. 143, p. 40198.

(s) 29 CFR 1917.29 Retention of DOT markings, placards and labels, published 7/19/94, Federal Register, vol. 59, no. 137, p. 36700.

(t) 29 CFR 1917.30 Emergency action plans, published 7/25/97, FR vol. 62, no. 143, p. 40198.

#### (3) Subdivision C:

# ADMINISTRATIVE RULES

- (a) 29 CFR 1917.41 House falls, published 7/5/83, FR vol. 48, p. 30909.
- (b) 29 CFR 1917.42 Miscellaneous auxiliary gear, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40198.
- (c) 29 CFR 1917.43 Powered industrial trucks, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40198.
- (d) 29 CFR 1917.44 General rules applicable to vehicles, published 7/5/83, FR vol. 48, p. 30909; amended 9/25/87, FR vol. 52, p. 36026; 7/25/97, FR vol. 62, no. 143, p. 40199.
- (e) 29 CFR 1917.45 Cranes and derricks (see also §1917.50), published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40199.
- (f) 29 CFR 1917.46 Load indicating devices, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40199.
- (g) 29 CFR 1917.47 Winches, published 7/5/83, FR vol. 48, p. 30909.
- (h) 29 CFR 1917.48 Conveyors, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40200.
- (i) 29 CFR 1917.49 Spouts, chutes, hoppers, bins, and associated equipment, published 7/5/83, FR vol. 48, p. 30909.
- (j) 29 CFR 1917.50 Certification of marine terminal material handling devices (see also Mandatory Appendix IV, Part 1918 of this chapter), published 7/5/83, FR vol. 48, p. 30909; amended 7/13/84, FR vol. 49, p. 28551; 7/25/97, FR vol. 62, no. 143, p. 40200.
- (k) 29 CFR 1917.51 Hand tools, published 7/5/83, FR vol. 48, p. 30909.
- (4) Subdivision D:
- (a) 29 CFR 1917.70 General, published 7/5/83, FR vol. 48, p. 30909.
- (b) 29 CFR 1917.71 Terminals handling intermodal container or roll-on roll-off operations, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40200.
- (c) 29 CFR 1917.72 (Reserved)
- (d) 29 CFR 1917.73 Terminal facilities handling menhaden and similar species of fish (see also §1917.2, definition of hazardous cargo, materials, substance, or atmosphere), published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (5) Subdivision E:
- (a) 29 CFR 1917.91 Eye and face protection, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (b) 29 CFR 1917.92 Respiratory protection, published 7/5/83, FR vol. 48, p. 30909.
- (c) 29 CFR 1917.93 Head protection, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (d) 29 CFR 1917.94 Foot protection, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (e) 29 CFR 1917.95 Other protective measures, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (6) Subdivision F
- (a) 29 CFR 1917.111 Maintenance and load limits, published 7/5/83, FR vol. 48, p. 30909.
- (b) 29 CFR 1917.112 Guarding of edges, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (c) 29 CFR 1917.113 Clearance heights, published 7/5/83, FR vol. 48, p. 30909.
- (d) 29 CFR 1917.114 Cargo doors, published 7/5/83, FR vol. 48, p. 30909.
- (e) 29 CFR 1917.115 Platforms and skids, published 7/5/83, FR vol. 48, p. 30909.
- (f) 29 CFR 1917.116 Elevators and escalators, published 7/5/83, FR vol. 48, p. 30909; amended 7/13/84, FR vol. 49, p. 28551.
- (g) 29 CFR 1917.117 Manlifts, published 7/5/83, FR vol. 48, p. 30909.
- (h) 29 CFR 1917.118 Fixed ladders, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (i) 29 CFR 1917.119 Portable ladders, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (j) 29 CFR 1917.120 Fixed stairways, published 7/5/83, FR vol. 48, p. 30909.
- (k) 29 CFR 1917.121 Spiral stairways, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (l) 29 CFR 1917.122 Employee exits, published 7/5/83, FR vol. 48, p. 30909.
- (m) 29 CFR 1917.123 Illumination, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (n) 29 CFR 1917.124 Dockboards (car and bridge plates), published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.

- (o) 29 CFR 1917.125 Guarding temporary hazards, published 7/5/83, FR vol. 48, p. 30909.
- (p) 29 CFR 1917.126 River banks, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40201.
- (q) 29 CFR 1917.127 Sanitation, published 7/5/83, FR vol. 48, p. 30909.
- (r) 29 CFR 1917.128 Signs and marking, published 7/5/83, FR vol. 48, p. 30909.
- (7) Subdivision G:
- (a) 29 CFR 1917.151 Machine guarding, published 7/5/83, FR vol. 48, p. 30909.
- (b) 29 CFR 1917.152 Welding, cutting and heating (hot work) (see also §1917.2, definition of hazardous cargo, materials, substance, or atmosphere), published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40202.
- (c) 29 CFR 1917.153 Spray painting (see also §1917.2, definition of hazardous cargo, materials, substance, or atmosphere), published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40202.
- (d) 29 CFR 1917.154 Compressed air, published 7/5/83, FR vol. 48, p. 30909.
- (e) 29 CFR 1917.155 Air receivers, published 7/5/83, FR vol. 48, p. 30909.
- (f) 29 CFR 1917.156 Fuel handling and storage, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40202.
- (g) 29 CFR 1917.157 Battery charging and changing, published 7/5/83, FR vol. 48, p. 30909; 7/25/97, FR vol. 62, no. 143, p. 40202.
- (h) 29 CFR 1917.158 Prohibited operations, published 7/5/83, FR vol. 48, p. 30909.

**NOTE:** These standards are available at the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, and the **United States Government Printing Office.**

Stat. Auth.: ORS 654.025(2) & 656.726(3)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 4-1994 f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 9-1997, f. & cert. ef. 12-31-97; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 9-2000, f. & cert. ef. 10-10-00; OSHA 6-2006, f. & cert. ef. 8-30-06

## 437-005-0003

### 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 1918, revised as of 7/1/97, and any subsequent amendments published in the Federal Register as listed below:

#### (1) Subdivision A

- (a) 29 CFR 1918.1 Scope and application, published 7/25/97, Federal Register (FR) vol. 62, no. 143, p. 40202; 2/28/06, FR vol. 71, no. 39, p. 10100.
- (b) 29 CFR 1918.2 Definitions, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (c) 29 CFR 1918.3 Incorporation by reference, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (2) Subdivision B.
- (a) 29 CFR 1918.11 Gear certification (see also §§1918.2 and 1918.51), published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (3) Subdivision C.
- (a) 29 CFR 1918.21 General requirements, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (b) 29 CFR 1918.22 Gangways, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (c) 29 CFR 1918.23 Jacob's ladders, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (d) 29 CFR 1918.24 Fixed and portable ladders, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (e) 29 CFR 1918.25 Bridge plates and ramps (see also §1918.86), published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (f) 29 CFR 1918.26 Access to barges and river towboats, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (4) Subdivision D.
- (a) 29 CFR 1918.31 Hatch coverings, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (b) 29 CFR 1918.32 Stowed cargo and temporary landing surfaces, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (c) 29 CFR 1918.33 Deck loads, published 7/25/97, FR vol. 62, no. 143, p. 40202.
- (d) 29 CFR 1918.34 Other decks, published 7/25/97, FR vol. 62, no. 143, p. 40202.

# ADMINISTRATIVE RULES

(e) 29 CFR 1918.35 Open hatches, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(f) 29 CFR 1918.36 Weather deck rails, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(g) 29 CFR 1918.37 Barges, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(5) Subdivision E.

(a) 29 CFR 1918.41 Coaming clearances, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.42 Hatch beam and pontoon bridles, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.43 Handling hatch beams and covers, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(6) Subdivision F

(a) 29 CFR 1918.51 General requirements (see also §1918.11 and Appendix III of this part), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.52 Specific requirements, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.53 Cargo winches, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.54 Rigging gear, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.55 Cranes (see also §1918.11), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(7) Subdivision G.

(a) 29 CFR 1918.61 General (see also Appendix IV of this part), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.62 Miscellaneous auxiliary gear, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.63 Chutes, gravity conveyors and rollers, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.64 Powered conveyors, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.65 Mechanically-powered vehicles used aboard vessels, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(f) 29 CFR 1918.66 Cranes and derricks other than vessel's gear, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(g) 29 CFR 1918.67 Notifying ship's officers before using certain equipment, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(h) 29 CFR 1918.68 Grounding, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(i) 29 CFR 1918.69 Tools, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(j) 29 CFR 1918.70–1918.80 (Reserved)

(8) Subdivision H.

(a) 29 CFR 1918.81 Slings, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.82 Building drafts, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.83 Stowed cargo, tiering and breaking down, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.84 Bulling cargo, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.85 Containerized cargo operations, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(f) 29 CFR 1918.86 Roll-on roll-off (Ro-Ro) operations (see also 1918.25), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(g) 29 CFR 1918.87 Ship's cargo elevators, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(h) 29 CFR 1918.88 Log operations, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(i) 29 CFR 1918.89 Handling hazardous cargo (see also 1918.2 and 1918.99), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(9) Subdivision I

(a) 29 CFR 1918.90 Hazard communication (see also 1918.1(b)(4)), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.91 Housekeeping, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.92 Illumination, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.93 Hazardous atmospheres and substances (see also 1918.2(j)), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.94 Ventilation and atmospheric conditions (see also 1918.2), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(f) 29 CFR 1918.95 Sanitation, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(g) 29 CFR 1918.96 Maintenance and repair work in the vicinity of longshoring operations, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(h) 29 CFR 1918.97 First aid and lifesaving facilities (see also Appendix V of this part), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(i) 29 CFR 1918.98 Qualifications of machinery operators and supervisory training, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(j) 29 CFR 1918.99 Retention of DOT markings, placards and labels, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(k) 29 CFR 1918.100 Emergency action plans, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(10) Subdivision J

(a) 29 CFR 1918.101 Eye and face protection, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(b) 29 CFR 1918.102 Respiratory protection, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(c) 29 CFR 1918.103 Head protection, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(d) 29 CFR 1918.104 Foot protection, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(e) 29 CFR 1918.105 Other protective measures, published 7/25/97, FR vol. 62, no. 143, p. 40202.

(11) Appendix I — Cargo Gear Register and Certificates (Non-Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(12) Appendix II — Tables for Selected Miscellaneous Auxiliary Gear (Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(13) Appendix III — The Mechanics of Conventional Cargo Gear (Non-Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(14) Appendix IV — Special Cargo Gear (Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

(15) Appendix V — Basic Elements of a First Aid Training Program (Non-Mandatory), published 7/25/97, FR vol. 62, no. 143, p. 40202.

**NOTE:** These standards are available at the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, and the United States Government Printing Office.  
Stat. Auth.: ORS 654.025(2) & 656.726(3)  
Stats. Implemented: ORS 654.001 - 654.295  
Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 4-1994 f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 9-1997, f. & cert. ef. 12-31-97; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 9-2000, f. & cert. ef. 10-10-00; OSHA 6-2006, f. & cert. ef. 8-30-06

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**Rule Caption:** Adoption of changes throughout Division 1, General Administrative Rules.

**Adm. Order No.:** OSHA 7-2006

**Filed with Sec. of State:** 9-6-2006

**Certified to be Effective:** 9-6-06

**Notice Publication Date:** 7-1-06

**Rules Amended:** 437-001-0002, 437-001-0015, 437-001-0057, 437-001-0270, 437-001-0700, 437-001-0765

**Subject:** The following changes are adopted in Division 1, General Administrative Rules:

437-001-0002 Add language from HB 2204 to include e-mail notification.

437-001-0015 Adding a North American Industry Classification System (NAICS) Definition. Amend Grouped Violation definition.

437-001-0057(11) Scheduling inspections. HB 2093 changes the criteria used by OR-OSHA to identify employers who receive notification of increased likelihood of receiving a workplace inspection.

437-001-0270 Discretion If there is No Timely Appeal. Delete the first paragraph.

437-001-0700 Recordkeeping and Reporting.

(6) Work-Related. Adding a new paragraph (a) on when an employee leaves the company with a work related injury.

(11) Occupational Hearing Loss Recoding Criteria. Adding Definitions for ease of reader for STS and audiometric zero.

(17) Annual Summary. Changing the title to "Annual Summary and Posting Requirements".

(18) Paperwork Retention and Updating. Removing paragraph (b) on the retention of OSHA 200 log and old 801 forms.

(21) Reporting Fatalities and Hospitalizations to Oregon OSHA. Adding clarifying language, additional reporting of motor vehicle accidents and adding a definition for ease of reader. **NOTE: The**



# ADMINISTRATIVE RULES

## reporting of motor vehicle accidents has a delayed effective date of January 1, 2007.

437-001-0765(2)(b) Change the paragraph from Loss Workday Case Incidence Rate (LWCIR) to Days Away, Restricted, or Transferred (DART).

Please visit OR-OSHA's web site at [www.orosha.org](http://www.orosha.org)

**Rules Coordinator:** Sue C. Joye—(503) 947-7449

### 437-001-0002

#### Notice to Interested Persons of Rulemaking

Except when adopting a temporary rule, in accordance with ORS 183.335(5), the Director will give prior notice of the proposed adoption, amendment or repeal of an administrative rule by:

(1) Publishing notice of the proposed action in the Secretary of State's Oregon Bulletin at least 21 days prior to the effective date of the action.

(2) Notifying interested persons and organizations on the Division's notification lists of proposed rulemaking actions under ORS 183.335. The same information is also posted on the OR-OSHA web site at [www.orosha.org](http://www.orosha.org). The Division will send the notice to those on OR-OSHA's e-mail notification list, and mail paper copies to those on the hard-copy notification list. Both subscription methods are available on the web site listed above or call the Oregon OSHA Resource Center at 503-378-3272.

Stat. Auth.: ORS 654.025(2), 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 9-1991, f. & cert. ef. 4-25-91; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 7-1999, f. & cert. ef. 7-15-99; OSHA 7-2006, f. & cert. ef. 9-6-06

### 437-001-0015

#### Definitions

The following definitions shall apply to OAR 437, unless the context requires otherwise:

(1) Abatement — Action by an employer to comply with a cited violation of the Oregon Safe Employment Act.

(2) Accepted Disabling Claims — Claims accepted for disabling occupational injuries or illnesses only. A disabling injury or illness entitles the worker to compensation for disability or fatality. This type of claim excludes temporary total disability suffered during the first three calendar days after the employee leaves work as a result of the injury unless the worker is an inpatient in a hospital.

(3) Accepted Disabling Claims Rate — The ratio of accepted disabling claims to annual average employment, times 100. Claims and employment figures are based upon the best knowledge of the Department at the time the rate is calculated (ADCR = Number of claims times 100 divided by the number of employees).

(4) Act — The Oregon Safe Employment Act (ORS 654.001 to 654.295, 654.750 to 654.780, and 654.991).

(5) Administrator — The Administrator of the Oregon Occupational Safety and Health Division (OR-OSHA).

(6) Affected employee — An employee who, in the course and scope of employment, may be or may have been exposed to a condition or practice described in a citation, order, application for an extension date or variance.

(7) Agent of the employer — The manager, superintendent, foreperson or other person in charge or control of all or part of the place of employment.

(8) Appeal — A written request for a hearing in which to contest a citation, notice or order issued by the Division. Unless the context otherwise requires, any writing which clearly contests, objects to or seeks relief from a Division citation, notice or order shall be construed as an appeal.

(9) Audiometric Zero — The lowest sound pressure level that the average, young adult with normal hearing can hear.

(10) Board — The Workers' Compensation Board created by ORS 656.712.

(11) Catastrophe — An accident in which two or more employees are fatally injured, or three or more employees are admitted to a hospital or an equivalent medical facility.

(12) Citation — A document issued by the Division pursuant to ORS 654.071 to cite a violation. A citation may include a notice of penalty and a correction order.

(13) Complaint — A written or oral report from an employee, employee representative or other person that an occupational safety or health violation may exist at a place of employment. A complaint may be classified as one of the following:

- (a) Imminent danger
- (b) Serious
- (c) Other than serious

(14) Compliance Officer — A designated Division employee whose responsibility is to conduct inspections or investigations to identify possible violations and hazards and to propose citations, penalties and correction dates, and to assist employers and employees with information to correct violations and hazards.

(15) Comprehensive Consultation — is a consultation to cover the entire establishment and entails a physical hazard assessment evaluation, reviews of records, written programs and the employer's illness and injury prevention plan. Comprehensive consultations include a written report by the provider including findings, recommendations, and the guidance necessary to resolve the problems noted in the report.

(16) Consultant — A designated Division employee whose responsibility is to provide a full range of occupational safety and health assistance including, but not limited to, providing employers, employees and other agency staff with information, advice and recommendations on maintaining safe employment or a place of employment; on correcting violations or hazards; and on applicable occupational safety and health rules, techniques, devices, methods, practices and development of safety and health programs.

(17) Correction order — A written Division order which directs a person to stop a violation within a given period of time. The term also includes a Red Warning Notice issued pursuant to OAR 437-001-0096.

(18) Days Away, Restricted, or Transferred (DART) — The number of lost workday injury and illness cases experienced by 100 full-time workers (DART rate = Number of lost workday cases times 200,000 divided by the number of employee hours worked).

NOTE: Lost Workday cases include both days away from work and days of restricted time.

(19) Decibel (dB) — Unit of measurement of sound level. For purposes of this rule, decibels refer to the combined average of the readings at 2000, 3000, and 4000 Hz on the audiogram.

(20) Department — The Department of Consumer and Business Services.

(21) Director — The Director of the Department of Consumer and Business Services, or the Director's designee.

(22) Division — The Oregon Occupational Safety and Health (OR-OSHA) Division of the Department of Consumer and Business Services.

(23) Emphasis Program — A special program that targets Division activity to industries that, according to national or state data, have a high potential for serious injuries or illnesses.

(24) Employee — Any individual who is currently employed or formerly employed, including a minor whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, financial or otherwise, subject to the direction and control of an employer, and includes salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts and other public corporations, or any individual who is provided with workers' compensation coverage as a subject worker pursuant to ORS Chapter 656, whether by operation of law or by election.

(25) Employee exposure record — A record of monitoring or measuring which contains a qualitative or quantitative information indicative of employee exposures to toxic materials or harmful physical agents. This includes both individual exposure records and general research or statistical studies based on information collected from exposure records.

(26) Employee medical record — A record which contains information concerning the health status of an employee or employees exposed or potentially exposed to toxic materials or harmful physical agents. These records may include, but are not limited to:

(a) The results of medical examinations and tests;

(b) Any opinions or recommendations of a physician or other health professional concerning the health of an employee or employees; and

(c) Any employee medical complaints relating to workplace exposure. Employee medical records include both individual medical records and general research or statistical studies based on information collected from medical records.

(27) Employee representative — A bargaining unit representative, or an individual selected by employees, who serves as their spokesperson.

(28) Employer — Any person who has one or more employees, or any sole proprietor or member of a partnership who elects workers' compensation coverage as a subject worker pursuant to ORS 656.128.

(29) Employer representative — An individual selected by the employer, to serve as spokesperson or, in the absence of a selected spokesperson, the person in charge of the place of employment at the time of the inspection.

(30) Environmental Exposure Sampling — Sampling of the workplace environment, performed for a variety of reasons including, identifi-

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cation of contaminants present and their sources, determination of worker exposures and checking the effectiveness of controls.

(31) Establishment — An establishment is a single physical location doing business or offering services or with industrial operations. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is the main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

(a) One location/multiple establishments. Normally, one business location has only one establishment. Under limited conditions, two or more separate businesses that share a single location are separate establishments. An employer may divide one location into two or more establishments only when:

(A) each of the establishments represents a distinctly separate business;

(B) each business is engaged in a different economic activity;

(C) no one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments; and

(D) separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, each business can be a separate establishment.

(b) Multiple locations/one establishment. Only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

(A) the employer operates the locations as a single business operation under common management;

(B) the locations are all near each other; and

(C) the employer keeps one set of business records for all the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(c) Telecommuting from home. For employees who telecommute from home, the employee's home is not a business establishment, do not keep a separate 300 Log. Link employees who telecommute to one of your establishments under 437-001-0700(15)(c).

(32) Farm operation — Any operation involved in the growing or harvesting of crops or the raising of livestock or poultry.

(33) Filed — A document shall be deemed to have been filed on the date of postmark if mailed or on the date of receipt if transmitted to OSHA, DCBS, or the WCB by other means.

(34) First aid — Any one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters or similar injuries which do not ordinarily require medical care. Such one-time treatment and subsequent observation is considered first aid even though provided by a physician or registered professional personnel.

(35) Fixed place of employment — The entire facility maintained by an employer at one general location, regardless of the size or number of departments or buildings in the facility. For the purpose of determining repeat violations fixed place of employment includes employers or owners engaged in construction activity who will be at a single worksite continuously for more than 24 months.

(36) Hazard — A condition, practice or act which could result in an injury or illness to an employee.

(37) Health Hazard — Health hazards mean carcinogens, lead, silica, toxic metals and fumes, vapors or gases, toxic or highly corrosive liquids or chemicals, chemical sensitizers, pesticides, fungicides, solvents, biological agents and harmful physical stress agents.

(38) Imminent danger — A condition, practice or act which exists in any place of employment and could reasonably be expected to cause death or serious physical harm immediately.

(39) Injury or illness — An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Record injuries and illnesses only if they are new, work-related cases that meet one or more of the recording criteria.)

(40) Inspection — An official examination of a place of employment by a Compliance Officer to determine if an employer is in compliance with the Act. An inspection may be classified as:

(a) Programmed.

(A) Routine inspection — An inspection of a place of employment which is made based principally on that place of employment's record of workers' compensation claims or Standard Industrial Classification and number of employees;

(i) Emphasis inspection — An inspection made in response to a national or state Emphasis Program.

(B) Periodic inspection — An inspection made because of a time-related factor, including, but not limited to, intermittent or seasonal employment activity;

(C) Area inspection — An inspection made because of a geographic factor;

(D) Random inspection — An inspection scheduled and conducted pursuant to written neutral administrative standards.

(b) Unprogrammed.

(A) Follow-up inspection — An inspection made to determine if a previously cited violation has been corrected or after a request for an extension, a stay of correction time or a variance has been denied;

(B) Complaint inspection — An inspection made in response to a complaint;

(C) Accident investigation — A systematic appraisal of an accident sequence to determine causal factors, corrective actions and preventative measures; and

(D) Referral inspection — An inspection made in response to a referral.

(41) Letter of Corrective Action — A letter stating the corrective action(s) taken by the employer to comply with the violation(s) that were not corrected at the time of the inspection.

(42) Lost workdays — The actual number of days after, but not including, the day of injury or illness during which the employee would have worked, but could not perform all or any part of his/her normal assignment during all or any part of the employee's next regular workday or shift because of the occupational injury or illness.

(43) Lost Workday Cases Incidence Rate (LWDCIR) (Also see DART) — The number of lost workday injury and illness cases experienced by 100 full-time workers (LWDCIR = Number of lost workday cases times 200,000 divided by the number of employee hours worked).

(44) Medical treatment — Treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel, nor does it include treatment ordinarily considered diagnostic or preventative in nature.

(45) North American Industry Classification System (NAICS) — A classification system developed by the Executive Office of the President/Office of Management and Budget, for use in classifying establishments by the type of activity in which they are engaged. Each establishment is assigned an industry code for its major activity. The 2002 edition of the NAICS manual is used for coding.

(46) Owner — Every person having ownership, control or custody of any place of employment or of the construction, repair or maintenance of any place of employment.

(47) Person — One or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons, and includes the state, state agencies, counties, municipal corporations, school districts, and other public corporations or subdivisions.

(48) Personal exposure samples — Measurement of contaminants or physical agents to characterize the environment in the breathing or hearing zone of individual workers in order to evaluate their specific work exposures. Personal samplers are placed on the worker to obtain either one continuous sample covering a portion of the workday or consecutive samples covering a stated time period.

(49) Physician or Other Licensed Health Care Professional — A physician or other licensed health care professional is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows them to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

(50) Place of employment — Includes every place, whether fixed or movable, whether indoors or out or underground, and the premises and structures appurtenant thereto, where either temporarily or permanently an employee works or is intended to work and every place where there is carried on any process, operation or activity related, either directly or indirectly, to an employer's industry, trade, business or occupation, including a labor camp provided by an employer for his/her employees or by another person engaged in providing living quarters or shelters for employees, but

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place of employment does not include any place where the only employment involves nonsubject workers employed in or about a private home. Any corporate farm where the only employment involves the farm's family members, including parents, spouses, sisters, brothers, daughters, sons, daughters-in-law, sons-in-law, nieces, nephews or grandchildren.

(51) Record — Any recorded information regardless of its physical form or character.

(52) Recordable occupational injuries or illnesses — Any occupational injuries or illnesses which result in:

(a) Fatalities, regardless of the time between the injury and death, or the length of the illness;

(b) Lost workday cases, other than fatalities, that prevent the employee from performing his/her normal assignment during any part of the employee's next regular, or any subsequent workday or shift; or

(c) Nonfatal cases, without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid), or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

(53) Referral — A notification made to the responsible agency of safety or health violations observed by a Division employee, other federal, state or local government representatives, or the media.

(54) Rule — Any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedures or practice requirements of the agency and is adopted according to the Administrative Procedure Act. The term includes the amendment or repeal of a prior rule, but does not include, unless a hearing is required by statute, internal management directives, regulations or statements which do not substantially affect the interests of the public.

(55) Scheduling List — An electronic or paper list of places of employment or employers scheduled for inspection. Lists can be in electronic form, paper form or both.

(56) Serious physical harm:

(a) Injuries that could shorten life or significantly reduce physical or mental efficiency by inhibiting, either temporarily or permanently, the normal function of a part of the body. Examples of such injuries are amputations, fractures (both simple and compound) of bones, cuts involving significant bleeding or extensive suturing, disabling burns, concussions, internal injuries, and other cases of comparable severity.

(b) Illnesses that could shorten life or significantly reduce physical or mental efficiency by inhibiting, either temporarily or permanently, the normal function of a part of the body, even though the effects may be cured by halting exposure to the cause or by medical treatment. Examples of such illnesses are cancer, pneumoconiosis, narcosis, or occupational infections (caused by biological agents), and other cases of comparable severity.

(57) Standard Industrial Classification (SIC) — A classification system developed by the Office of Statistical Standards, Executive Office of the President/Office of Management and Budget, for use in classifying establishments by the type of activity in which they are engaged. Each establishment is assigned an industry code for its major activity, which is determined by the value of receipts or revenue for services rendered or products produced, or in some cases by the employment or payroll. The 1987 edition of the SIC manual is used for coding.

(58) Standard Threshold Shift (STS) — A change in hearing threshold relative to the baseline audiogram of an average of 10 dB or more in either ear.

(59) Substantial failure to comply — When an employer engaged in the production of crops intended for human consumption fails to provide acceptable and accessible toilet facilities, handwashing facilities or drinking water, and that failure exposes affected workers to a serious hazard likely to result in an injury or illness.

(60) Suspended penalty — A penalty which is determined but not assessed.

(61) Variance — The written authority given by the Division to an employer permitting the use of a specific alternative means or method to comply with the intent of a rule. Specific types of variances are:

(a) Permanent — A variance that remains in effect until modified or revoked in accordance with OAR 437-001-0430;

(b) Temporary — A variance granted for a stated period of time to permit the employer to achieve compliance with a new rule;

(c) Research — A variance granted for a stated period of time to allow industrial or governmental research designed to demonstrate or validate new and improved safety or health techniques or products; and

(d) Interim order — The temporary authority for an employer to use an alternative means or method by which the employer effectively safeguards the safety and health of employees until final action can be taken on the variance request.

(62) Violation — The breach of a person's duty to comply with an Oregon occupational safety or health statute, regulation, rule, standard or order.

(a) Specific classifications of violations are:

(A) Serious violation — A violation in which there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use in a place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation;

(B) Other than serious violation — A violation which is other than a serious or minimal violation; and

(C) Minimal violation — A violation which does not have a direct or immediate relationship to the safety or health of employees.

(b) Specific types of the above classifications are:

(A) Willful violation — a violation that is committed knowingly by an employer or supervisory employee who, having a free will or choice, intentionally or knowingly disobeys or recklessly disregards the requirements of a statute, regulation, rule, standard or order.

(B) Unabated violation — A violation that has not been fully corrected by the date ordered.

(C) Repeat violation:

(i) An employer's second or subsequent violation of the requirements of the same statute, regulation, rule, standard or order.

(ii) Subsequent violations shall not be considered to be a repeat when more than 36 months have elapsed and the violation has not reoccurred.

(iii) In these rules, Repeat, Repeated and Repeatedly are used as synonyms.

(D) First-instance violation — An employer's first violation of a particular statute, regulation, rule, standard or order.

(E) Egregious — Those conditions which normally constitute a flagrant violation of the OSEAct or OR-OSHA standards or regulations such that each instance of the violation is cited separately.

(c) Combined violation — Multiple violations of the same statute, regulation, rule, standard or order within an establishment which have been combined as one violation to indicate an overall lack of compliance with a safety or health statute, regulation, rule, standard or order.

(d) Grouped violation — Multiple violations of different statutes, regulations, rules, standards or orders, within an establishment which have been combined as one violation:

(A) To indicate an increase in the severity or probability of the violation, or

(B) Recordkeeping and posting requirements involving the same document, or

(C) The violations are so closely related as to constitute a single hazardous condition.

Stat. Auth.: ORS 654.025(2), 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCB 8-1975, f. 8-5-75, ef. 9-1-75; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 7-1979, f. 8-20-79, ef. 9-1-79; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; WCD 9-1983, f. & ef. 11-15-83; WCD 2-1984, f. 3-2-84, ef. 3-15-84; WCD 12-1984, f. 9-20-84, ef. 11-1-84; WCD 9-1986, f. 10-7-86, ef. 12-1-86; APD 6-1987, f. 12-23-87, ef. 1-1-88; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 10-1990(Temp), f. & cert. ef. 5-31-90; OSHA 24-1990, F. & cert. ef. 10-10-90; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 2-1996, f. & cert. ef. 6-13-96; OSHA 5-1998, f. & cert. ef. 10-15-98; OSHA 7-1999, f. & cert. ef. 7-15-99; OSHA 11-1999(Temp), f. & cert. ef. 10-20-99 thru 4-14-00; OSHA 4-2000, f. 4-14-00, cert. ef. 4-15-00; OSHA 11-2001, f. 9-14-01, cert. ef. 1-1-02; OSHA 7-2002, f. & cert. ef. 11-15-02; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 7-2006, f. & cert. ef. 9-6-06

## 437-001-0057

### Scheduling Inspections

The following rules are intended to predominantly focus enforcement activities on the places of employment that the director reasonably believes to be the most unsafe.

(1) The Division will schedule programmed inspections according to a priority system based on neutral administrative standards.

(2) The Division will identify the most hazardous industries and places of employment through information obtained from the Department of Consumer and Business Services claim and employer files, the Bureau of Labor Statistics Occupational Injury and Illness Survey, and knowledge of recognized safety and health hazards associated with certain processes. Health hazards include carcinogens, lead, silica, toxic metals and fumes, vapors or gases, toxic or highly corrosive liquids or chemicals, chemical



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sensitizers, pesticides, fungicides, solvents, harmful physical stress agents and biological agents.

(3) Scheduling lists will be provided by the Division to its field offices, at least on an annual basis.

(4) Scheduling of Fixed Places of Employment for Safety Inspections.

(a) The following scheduling lists are designed as an electronic scheduling system used by safety enforcement managers to schedule fixed places of employment for each compliance officer. The scheduling lists will be sorted by field office. Employers will be selected and placed on one of four lists based on the following criteria:

(A) List A — Fixed places of employment, excluding agriculture, which have 11 or more employees. The following neutral administrative criteria will be used to place employers on this list: 1) one or more accepted disabling claims in the first 12 of the previous 18 months, and 2) no comprehensive safety inspection within the previous 24 months. The employers on this list will be ranked using SIC, Violation History, Weighted Claims Rate, and Weighted Claims as described in subsection (b) of this section.

(B) List B — Fixed places of employment, excluding agriculture, which have 10 or fewer employees. The following neutral administrative criteria will be used to place employers on this list: 1) one or more accepted disabling claims in the first 12 of the previous 18 months, and 2) no comprehensive safety inspection within the previous 24 months. The employers on this list will be ranked using SIC, Violation History, Weighted Claims Rate, and Weighted Claims as described in subsection (b) of this section.

(C) List C — Agriculture places of employment (SIC 01, 02, 0711, 0721, 0722, 0723, 0761, 0762, 0783, 0811) which have 11 or more employees. The following neutral administrative criteria will be used to place employers on this list: 1) one or more accepted disabling claims in the first 12 of the previous 18 months, and 2) no comprehensive safety inspection within the previous 24 months. The employers on this list will be ranked using SIC, Violation History, Weighted Claims Rate, and Weighted Claims as described in subsection (b) of this section.

(D) List D — Agriculture places of employment (SIC 01, 02, 0711, 0721, 0722, 0723, 0761, 0762, 0783, 0811) which have 10 or fewer employees. The following neutral administrative criteria will be used to place employers on this list: 1) one or more accepted disabling claims in the first 12 of the previous 18 months, and 2) no comprehensive safety inspection within the previous 24 months. The employers on this list will be ranked using SIC, Violation History, Weighted Claims Rate, and Weighted Claims as described in subsection (b) of this section.

(b) Ranking Factors: The employers on scheduling lists A, B, C and D are ranked using High Hazard SIC, Violation History, Weighted Claims Rate, and Weighted Claims Count. The rankings from each factor are combined to produce a score for each employer, and the employers are ranked by field office based on their score.

(A) High Hazard SIC: The High Hazard SIC ranking comes from the Bureau of Labor and Statistics (BLS) with employers in an industry ranked as number one by BLS receiving a ranking of one and employers in an industry ranked as 200 by BLS receiving a ranking of 200. Employers in a SIC not ranked by BLS receive a rank of 999. For Agriculture lists, all employers will receive the same ranking of 999 since Agriculture SIC's are not ranked by BLS.

(B) Violation History: Employers with a violation history will be assigned points for each violation on citations that have become a final order within the previous 36 months. Willful violations are assigned five points, failure to abate violations four points, repeat violations three points, serious violations two points, and other-than-serious violations one point. Points are added together with the employer having the most points receiving a ranking of one followed by the employer with the next highest points receiving a ranking of two, etc. Employers not inspected within 36 months are given a ranking of zero, which will put them at the top of this category.

(C) Weighted Claims Count: Selected Claims from the first 12 of the previous 18 months are assigned points based on the seriousness of the claim. These points are totaled for each employer. Employers are ranked on the total points with the employer having the most points receiving a rank of one, followed by the second highest weighted claims count receiving a ranking of two, etc.

(D) Weighted Claims Rate: Employers are ranked in this category with the highest weighted claims rate receiving a ranking of one, followed by the second highest weighted claims rate receiving a ranking of two, etc. The weighted claims count described in (C) above is used to determine the claims rate.

**NOTE:** The selected claims and the points assigned to the selected claims will be identified by the agency in a Program Directive.

(c) The Field Office Managers will provide each Compliance Officer a list of inspections that are assigned in descending order from lists A through D. The Compliance Officer will make a reasonable effort to inspect each employer on that list prior to receiving another list, however failure to inspect all employers on a list will not invalidate subsequent inspections. The Compliance Officer's list will generally be followed in descending order but may be inspected in any order to utilize the Compliance Officer's time efficiently.

(d) No more than one scheduled comprehensive safety inspection will be made at any particular fixed place of employment in any 24-month period unless the place of employment has five or more accepted disabling claims or has processes or operations which vary within the 24-month period.

(5) Scheduling of Construction and Logging Employers for Safety Inspections.

(a) Construction and logging scheduling lists will be used by safety enforcement managers and compliance staff to focus enforcement efforts on employers with the most hazardous places of employment. Employers will be selected and placed on one of two lists based on the following criteria:

(A) Construction List — The following neutral administrative criteria will be used to select and rank employers on this list: Construction employers which have one or more accepted disabling claims in the first 12 of the previous 18 months and are ranked in the top 500 construction employers. The employers on this list will be ranked statewide using Violation History, Weighted Claims Rate, and Weighted Claims Count as described in subsection (b) of this section. The 500 employers with the most points will be placed on a list.

(B) Logging List — The following neutral administrative criteria will be used to select and rank employers on this list: Logging employers which have one or more accepted disabling claims in the first 12 of the previous 18 months and are ranked in the top 50 logging employers. The employers on this list will be ranked statewide using Violation History, Weighted Claims Rate, and Weighted Claims Count as described in subsection (b) of this section. The 50 employers with the most points will be placed on a list.

(b) Ranking Factors: Construction and logging employers are ranked using Violation History, Weighted Claims Rate, and Weighted Claims Count. The rankings from each factor are combined to produce a score for each employer, and the employers are ranked based on their score. The top 500 construction employers will be on one list and the top 50 logging employers will be on another list:

(A) Violation History: Employers with a violation history will be assigned points for each violation on citations that have become a final order within the previous 36 months. Willful violations are assigned five points, failure to abate violations four points, repeat violations three points, serious violations two points, and other-than-serious violations one point. An average points per citation will be determined with the employer having the most points receiving a ranking of one followed by the employer with the next highest points receiving a ranking of two, etc. Employers not inspected within 36 months are given a ranking of zero, which will put them at the top of this category.

(B) Weighted Claims Count: Selected Claims from the first 12 of the previous 18 months are assigned points based on the seriousness of the claim. These points are totaled for each employer. Employers are ranked on the total points with the employer having the most points receiving a rank of one, followed by the second highest weighted claims count receiving a ranking of two, etc.

(C) Weighted Claims Rate: Employers are ranked in this category with the highest weighted claims rate receiving a ranking of one, followed by the second highest weighted claims rate receiving a ranking of two, etc. The weighted claims count described in (B) above is used to determine the claims rate.

**NOTE:** The selected claims and the points assigned to the selected claims will be identified by the agency in a Program Directive.

(c) The field office manager will provide selected Compliance Officers the construction and/or logging lists. The Compliance Officers will make a reasonable effort to locate and inspect those employers on the construction and logging lists, however failure to inspect all employers on a list will not invalidate subsequent inspections.

(6) Scheduling of Fixed Places of Employment for Health Inspections.

(a) The health scheduling lists are designed as an electronic scheduling system used by health enforcement managers to schedule fixed site inspections for each compliance officer. The scheduling lists will be sorted by field office. Employers will be selected and placed on one of four lists based on the following criteria:

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(A) List E — Fixed places of employment in SIC of 13, 15-51, 598, 72-76, 80, 822, 8731, 8734, 8744, or 922 which have 11 or more employees. The following neutral administrative criteria will be used to place employers on this list: 1) one or more disabling health claims in the previous 36 months, or 2) a health inspection with one or more health violations in the previous 36 months, and 3) no comprehensive health inspection within the previous 24 months.

(B) List F — Fixed places of employment in SIC of 13, 15-51, 598, 72-76, 80, 822, 8731, 8734, 8744, or 922 which have 10 or fewer employees. The following neutral administrative criteria will be used to place employers on this list: 1) one or more disabling health claims in the previous 36 months, or 2) a health inspection with one or more health violations in the previous 36 months, and 3) no comprehensive health inspection within the previous 24 months.

(C) List G — Agriculture places of employment (SIC 01, 02, 0711, 0721, 0722, 0723, 0761, 0762, 0783, 0811) which have 11 or employees. The following neutral administrative criteria will be used to place employers on this list: 1) one or more disabling health claims in the previous 36 months, or 2) a health inspection with one or more health violations in the previous 36 months, and 3) no comprehensive health inspection within the previous 24 months.

(D) List H — Agriculture places of employment (SIC 01, 02, 0711, 0721, 0722, 0723, 0761, 0762, 0783, 0811) which have 10 or fewer employees. The following neutral administrative criteria will be used to place employers on this list: 1) one or more disabling health claims in the previous 36 months, or 2) a health inspection with one or more health violations in the previous 36 months, and 3) no comprehensive health inspection within the previous 24 months.

(b) Ranking Factors: The employers on the scheduling lists are ranked using Location Weighted Claims Count, Location Violation History, Employer Weighted Claims Count, Employer Violation History, SIC Claims Count, SIC Violation History, and High Hazard SIC. The rankings from each factor are combined to produce a score for each employer, and the employers are ranked by field office based on their score.

(A) Location Weighted Claims Count: Selected location health claims from the first 12 of the previous 18 months are assigned points based on the seriousness of the claim, and these points are totaled for each employer. Employers are ranked on the total points with the employer having the most points receiving a rank of one followed by the employer with the next highest points receiving a ranking of two, etc.

(B) Location Violation History: Employers with a location health violation history will be assigned points for each health violation per health inspection at the location that have become a final order within the past 36 months. Willful violations are assigned five points, failure to abate violations four points, repeat violations three points, serious violations two points, and other-than-serious violations one point. Points are added together with the employer having the most points receiving a ranking of one followed by the employer with the next highest points receiving a ranking of two, etc.

(C) Employer Weighted Claims Count: Employer selected health claims from the first 12 of the previous 18 months are assigned points based on the seriousness of the claim, and these points are totaled for each employer. Employers are ranked on the total points with the employer having the most points receiving a rank of one followed by the employer with the next highest points receiving a ranking of two, etc.

(D) Employer Violation History: Employers with a health violation history are assigned points for each health violation received per health inspection that have become a final order within the past 36 months. Willful violations are assigned five points, failure to abate violations four points, repeat violations three points, serious violations two points, and other-than-serious violations one point. Points are added together with the employer with the most points receiving a ranking of one followed by the employer with the next most points receiving a ranking of two, etc.

(E) SIC Claims Count: Employers are ranked in this category by the number of selected claims in their three digit SIC over the previous 36 months and the weight factor assigned to the selected claims with the highest number receiving a ranking of one followed by the second highest receiving a ranking of two, etc.

(F) SIC Violation History (not weighted): Employers are ranked in this category by the number of health violations per number of health inspections in their three digit SIC in the previous 36 months. The three digit SIC with the most violations receives a ranking of one followed by the second most receiving a ranking of two, etc.

(G) High Hazard SIC: The High Hazard SIC ranking comes from the Bureau of Labor and Statistics (BLS) with employers in an industry with

the number one ranking by BLS receiving a ranking of one and employers in an industry with a ranking of 200 by BLS receiving a ranking of 200. Employers in a SIC not ranked by BLS receive a rank of 999. For Agriculture lists, all employers receive the same ranking of 999 since Agriculture SIC's are not ranked by BLS.

**NOTE:** The selected claims and the points assigned to the selected claims will be identified by the agency in a Program Directive.

(c) The Field Office Managers will provide each Compliance Officer a list of inspections that are assigned in descending order from lists E through H. The Compliance Officer will make a reasonable effort to inspect each employer on that list prior to receiving another list, however failure to inspect all employers on a list will not invalidate subsequent inspections. The Compliance Officer's list will generally be followed in descending order but may be inspected in any order to utilize the Compliance Officer's time efficiently.

(d) No more than one scheduled comprehensive health inspection will be made at any particular fixed place of employment in any 24-month period unless the place of employment has five or more accepted disabling claims or has processes or operations which vary within the 24-month period.

(7) Scheduling of Nonfixed Places of Employment for Health Inspections — An inspection may be scheduled when from information available to the Division, recognized health hazards known to be associated with certain processes, are reasonably thought to exist at the place of employment, and the Division determines the location of a work-site.

(8) Random Inspections — The Division will conduct random inspections of places of employment that are scheduled and conducted pursuant to written neutral administrative standards. The standards will be issued as Program Directives and changed when the Director believes it necessary to preserve the random nature of the inspections.

(9) Emphasis Inspections — An inspection may be made if the place of employment is included in a National or Local safety or health Emphasis Program. Emphasis programs are established by identifying the most hazardous industries and processes through information obtained from the Department of Consumer and Business Services claim files, the Bureau of Labor Statistics Occupational Injury and Illness Survey, and knowledge of recognized hazards associated with certain processes. Program Directives will be issued to establish and describe emphasis programs and the neutral administrative criteria that will be used to schedule the inspections.

(10) Farm Labor Housing Inspections — Farm labor housing is a National and Local Emphasis program. A list of all known farm housing locations will be sent to field offices annually. Locations may be selected and inspected in any order to make efficient use of available resources. Housing locations not on the list may also be inspected. Farm Labor Housing is not an agricultural operation, therefore the agriculture exemption for employers of 10 or fewer permanent, year-round employees does not apply to farm labor housing inspections.

(11) The Division will make reasonable efforts to notify, in writing, each employer whose place of employment is rated as one of the most unsafe places of employment in the state of the increased likelihood of inspection of the employer's place of employment and of the availability of consultative services.

(a) Notification will be done on an annual basis and sent, by regular mail, to the last known address on record with the Division.

(b) Failure to provide notification to an employer pursuant to this section will not invalidate a subsequent inspection.

(12) Agricultural Employers with 10 or fewer permanent, year-round employees, both full-time and part-time, will be subject to scheduled inspections only if any of the following has occurred:

(a) A valid complaint has been filed pursuant to ORS 654.062, or

(b) Within a 2-year period preceding the proposed inspection date, an accident at the agricultural employer's establishment has resulted in death or an injury or illness resulting in an overnight hospital admission for medical treatment or more than 3 days of lost work, or

(c) The employer and principal supervisors of the agricultural establishment have not completed annually at least 4 hours of instruction on agricultural safety or health rules and procedures. This instruction must be documented.

(A) The instruction will include any conducted or accepted by OSHA. Instruction related to agricultural safety and health that is offered or approved by any public or private college or university or governmental agency will be deemed to be automatically accepted. Documentation of instruction must be maintained by the employer. Such documentation must include the date, provider and duration of the instruction, the subject covered and the signature of the person completing the instruction.

**NOTE:** Certified Applicator Training Core A and B offered by the

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Oregon Department of Agriculture, will satisfy a portion of the required training. One hour credit will be allowed annually for this training.

(B) For purposes of these sections, the time period begins to run when the instruction is received, or

(d) Within the preceding 4-year period the agricultural establishment has not had a comprehensive consultation by an individual acting in a public or private consultant capacity. For purposes of this section, the time period begins to run when the consultation is received, or

(e) If the consultation was done, the agricultural employer has failed to correct violations noted in the consultation report within 90 days of receipt of the report.

**NOTE:** For purposes of determining the number of employees, members of the agricultural employer's immediate family are excluded. This includes grandparents, parents, children, step-children, foster children and any blood relative living as a dependent of the core family.

(13) Effective Dates. The effective date for 437-001-0057(4) through (6) is October 1, 2000. The effective date for all other paragraphs in 437-001-0057 is April 15, 2000.

Stat. Auth.: ORS 654.025(2); 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; APD 6-1987, f. 12-23-87, ef. 1-1-88; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 10-1995, f. & cert. ef. 11-29-95; OSHA 2-1996, f. & cert. ef. 6-13-96; OSHA 11-1999(Temp), f. & cert. ef. 10-20-99 thru 4-14-00; OSHA 4-2000, f. 4-14-00, cert. ef. 4-15-00; OSHA 7-2006, f. & cert. ef. 9-6-06

## 437-001-0270

### Discretion To Prevent a Manifest Injustice

(1) To prevent a manifest injustice, the Administrator, at the Administrator's own discretion or upon request from the Division or an adversely affected person, may vacate or amend a Division citation, notice or order.

(2) If the Administrator proposes to vacate or amend a Division citation, notice or order, an opportunity to be heard will be given to persons, including affected employees, whose rights may be affected.

(3) All requests for reconsideration based on a manifest injustice shall contain a statement indicating the following:

(a) The request has been posted as required by OAR 437-001-0275(2);

(b) The request has been served on the authorized representative of affected employees, if appropriate;

(c) The date the request was posted or service was made; and

(d) All affected employees have been advised of their right to comment.

(4) No decision shall be made on a manifest injustice request until 10 days after the date of posting or service.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist. WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 6-1982, f. 6-28-82, ef. 8-1-82; WCD 3-1983, f. 1-31-83, ef. 2-1-82; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 7-2006, f. & cert. ef. 9-6-06

## 437-001-0700

### Recordkeeping and Reporting

(1) Purpose. This rule requires employers to record and report work-related fatalities, injuries and illnesses.

**Note:** Recording or reporting a work-related injury, illness, or fatality does not assign fault to anybody, does not prove the violation of an OSHA rule, nor establish the employee's eligibility for workers' compensation or other benefits.

(2) Scope. This standard covers all employers covered by the Oregon Safe Employment Act. However, most employers do not have to keep OR-OSHA injury and illness records unless the Director informs them in writing that they must keep records. For example, employers with 10 or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OR-OSHA injury and illness records.

(3) Partial Exemptions.

(a) If your company never had more than ten (10) employees during the last calendar year, you do not need to keep OR-OSHA injury and illness records unless the Director informs you in writing that you must keep records. However, all employers covered by the Oregon Safe Employment Act must report to OR-OSHA any workplace fatality, the hospitalization of three or more employees, or overnight hospitalizations. (See (21) below)

(b) The partial exemption for size is based on the number of employees in the entire company.

(c) If your company had more than ten (10) employees at any time during the last calendar year, you must keep OR-OSHA injury and illness records unless your business is in a specific low hazard retail, service, finance, insurance or real estate industry in Table 1. If so, you do not need

to keep OR-OSHA injury and illness records unless the government asks you to keep the records under 437-001-0700(23).

(d) If one or more of your company's establishments are classified in a nonexempt industry, you must keep OR-OSHA injury and illness records for all of such establishments unless your company is partially exempted because of size under 437-001-0700(3)(a). If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be exempt.

(4) Alternate or Duplicate Records. If you create records to comply with another government agency's injury and illness recordkeeping requirements, those records meet OR-OSHA's recordkeeping requirements if OR-OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as this standard requires you to record. Contact your nearest OR-OSHA office for help in determining if your records meet OR-OSHA's requirements.

(5) Recording Criteria and Forms. This describes the work-related injuries and illnesses that an employer must enter on the OR-OSHA records and explains the OR-OSHA forms that employers must use to record work-related fatalities, injuries, and illnesses. Each employer required to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

(a) Is work-related; and

(b) Is a new case; and

(c) Meets one or more of the general recording criteria of OAR 437-001-0700(8) or the application to specific cases of OAR 437-001-0700(9) through (13). The decision tree for recording work-related injuries and illnesses below shows the steps involved in making this determination.

(6) Work-Related. An injury or illness is work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. You presume work-relatedness for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Table 3 specifically applies.

(a) If you are notified that a former employee has had a work related injury or illness, record the date of the incident on the appropriate OSHA 300 log for the date of the injury. If the date is not known use the last day of employment.

**NOTE:** OR-OSHA defines the work environment as the establishment and other locations where one or more employees work or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of their work. Injuries occurring during travel are work-related if the employee was engaged in work activities in the interest of the employer and it is not one of the exceptions in Table 4. If it is not obvious where the precipitating event occurred you must evaluate the employee's work duties and environment to decide whether events or exposures in the work environment either caused or contributed to the condition or significantly aggravated a pre-existing condition.

(b) A pre-existing injury or illness is significantly aggravated when an event or exposure in the work environment results in any of the following:

(A) Death, provided that the pre-existing injury or illness would likely not have resulted in death but for the occupational event or exposure.

(B) Loss of consciousness, provided that the pre-existing injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

(C) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(D) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

(c) Work at home. Injuries and illnesses that occur while an employee works at home, including work in a home office, is work-related if the injury or illness relates directly to the work rather than to the general home environment or setting.

(7) New Cases. An injury or illness is a "new case" if:

(a) The employee has no previous recorded injury or illness of the same type that affects the same part of the body, or

(b) The employee previously had a recorded injury or illness of the same type that affected the same part of the body but recovered completely (all signs and symptoms disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

(c) For occupational illnesses where the signs or symptoms may recur or continue in the absence of a workplace exposure, record the case only



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once. Examples include occupational cancer, asbestosis, byssinosis and silicosis.

**NOTE:** You are not required to seek the advice of a physician or other licensed health care professional. If you do seek such advice, you must follow their recommendation about whether the case is a new case or a recurrence.

(8) General Recording Criteria. An injury or illness meets the general recording criteria, and is recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. You must record a case if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

**NOTE:** OR-OSHA believes that most significant injuries and illnesses will result in one of the events listed below. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. Cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

(a) You must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death. You must also report any work-related fatality to OR-OSHA within 8 hours.

(b) When an injury or illness involves one or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known.

(A) Begin counting days away on the day after the injury occurred or the illness began.

(B) End the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work. This applies regardless of whether the employee returns earlier or later than recommended. If there is no recommendation from the physician or licensed health care professional, enter the actual number of days the employee is off work.

(C) You must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether or not the employee was scheduled to work on those day(s). Include weekend days, holidays, vacation days or other days off in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.

(D) You may stop tracking of the number of calendar days away from work once the total reaches 180 days away from work and/or days of job transfer or restriction. Entering 180 in the total days away column is adequate.

(E) If the employee leaves your company for a reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, you may stop counting days away from work or days of restriction/job transfer. If the employee leaves your company because of the injury or illness, you must estimate the total number of days away or days of restriction/job transfer and enter the day count on the 300 Log.

(F) You must enter the number of calendar days away for the injury or illness on the OSHA 300 Log that you prepare for the year in which the incident occurred. If the time off extends into a new year, estimate the number of days for that year and add that amount to the days from the year of occurrence. Do not split the days between years and enter amounts on the logs for two different years. Use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap.

(c) When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, you must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column.

(A) Restricted work occurs when, as the result of a work-related injury or illness:

(i) you keep the employee from performing one or more of the routine functions of their job, or from working the full day that they would otherwise work; or

(ii) a physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of their job, or not work the full workday that they would otherwise work.

**NOTE:** For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(iii) A recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, you must evaluate the restriction in light of the routine functions of the injured or ill employee's job.

(iv) A partial day of work is recorded as a day of job transfer or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.

(v) Record job transfer and restricted work cases in the same box on the OSHA 300 Log.

(vi) You count days of job transfer or restriction in the same way you count days away from work. The only difference is that, if you permanently assign the injured or ill employee to a job modified or permanently changed to eliminate the routine functions the employee was restricted from performing, you may stop the day count when the modification or change is permanent. You must count at least 1-day of restricted work or job transfer for such cases.

(d) If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the OSHA 300 Log. If the employee received medical treatment but remained at work without transfer or restriction and the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, you enter a check mark in the box for other recordable cases.

**NOTE:** You must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(A) "Medical treatment" is the management and care of a patient to combat disease or disorder. For this rule, medical treatment does not include:

(i) Visits to a physician or other licensed health care professional solely for observation or counseling;

(ii) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications solely for diagnostic purposes (e.g., eye drops to dilate pupils); or

(iii) "First aid" as in (B) below.

(B) First Aid is:

(e) You must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time they remain unconscious.

(f) Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of occurrence.

(9) Needlestick and Sharps Injury Recording Criteria.

(a) When an injury is diagnosed later as an infectious bloodborne disease, you must update the classification on the 300 log to reflect the new status or classification.

(b) You must record all work-related needlestick injuries and cuts from sharp objects contaminated with another person's blood or other potentially infectious material (as defined by OAR 437-002-1910.1030). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, do not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in OAR 437-001-0700(14)(a) through (14)(i)).

**NOTE:** If you have an exposure incident that is not a needlestick, you must still record it if it results in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, or diagnosis of a significant injury or illness.

(10) Medical Removal Recording Criteria. If another OR-OSHA standard requires the medical removal of an employee, you must record the case on the OSHA 300 Log.

(a) You must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, you must enter the case on the OSHA 300 Log by checking the "poisoning" column.

(b) If the case involves voluntary medical removal before reaching the medical removal levels required by an OR-OSHA standard, do not record the case on the OSHA 300 Log.

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### (11) Occupational Hearing Loss Recording Criteria.

(a) Hearing loss must be recorded on the OSHA 300 Log by checking the hearing loss column when:

(A) An annual audiogram reveals a Standard Threshold Shift (STS) in either or both ears; and

(B) The hearing level in the same ear is 25 dB above audiometric zero.

**Note:** For the ease of the reader the definitions for STS and audiometric zero are provided here.

**Standard Threshold Shift (STS)** — A change in hearing threshold relative to the baseline audiogram of an average of 10 dB or more in either ear. **Audiometric Zero** — The lowest sound pressure level that the average, young adult with normal hearing can hear.

(b) In determining whether an STS has occurred, you may correct for the age of the employee. Use the appropriate table in Appendix A to determine the age adjustment. If the STS is 10 dB or more after the age correction, it still meets the criteria for record-ability.

(c) If you retest the employee's hearing within 30 days of the first test, and the retest does not confirm the recordable STS, you are not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the recordable STS, you must record the hearing loss case within 7 calendar days of the retest. If subsequent audiometric testing performed under the testing requirements of the noise standard (OAR 437-002-1910.95) indicates that an STS is not persistent, you may erase, delete, or line-out the recorded entry.

(d) If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, the case is not work-related. Do not record it on the OSHA 300 Log.

(12) Tuberculosis Reporting Criteria. If any of your employees has an occupational exposure to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the OSHA 300 Log by checking the "respiratory condition" column.

(a) Do not record a pre-employment positive skin test because the exposure was not in your workplace.

(b) Line out or erase a recorded case if you prove that:

(A) the worker lives in a household with a person diagnosed with active TB;

(B) The Public Health Department identifies the worker as a contact of an individual with a case of active TB unrelated to the workplace; or

(C) A medical investigation shows that the employee's infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

(13) Removed.

(14) Forms. You must use OSHA 300, 300-A, and DCBS Form 801 or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is the Log of Work-Related Injuries and Illnesses, the 300-A is the Summary of Work-Related Injuries and Illnesses, and the DCBS Form 801 or equivalent is the Worker's and Employer's Report of Occupational Injury or Disease.

(a) Even if you are exempt from recordkeeping, you must have at each establishment, a copy of DCBS Form 801 or equivalent for each occupational injury or illness that may result in a compensable claim.

(b) You must enter information about your business at the top of the OSHA 300 Log, enter a one or two line description for each recordable injury or illness, and summarize this information on the OSHA 300-A at the end of the year.

(c) You must complete a DCBS Form 801 or equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(d) You must enter each recordable injury or illness on the OSHA 300 Log and DCBS Form 801 or equivalent within 7 calendar days of receiving information that a recordable injury or illness has occurred.

(e) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the DCBS Form 801, or supplement an insurance form by adding any additional information required by OSHA.

(f) Use a computer to keep your records if it can produce equivalent forms when needed.

(g) If you have a "privacy concern case," do not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative has access to the OSHA 300 Log. You

must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(h) The following injuries or illnesses are privacy concern cases:

(A) An injury or illness to an intimate body part or the reproductive system;

(B) An injury or illness resulting from a sexual assault;

(C) Mental illnesses;

(D) HIV infection, hepatitis, or tuberculosis;

(E) Needlestick injuries and cuts from sharp objects contaminated with another person's blood or other potentially infectious material; and

(F) Other illnesses, if the employee voluntarily requests that his or her name not be entered on the log.

**NOTE:** This is a complete list of all injuries and illnesses that are privacy concern cases.

(i) If you reasonably believe that information describing the privacy concern case may be personally identifiable even though the employee's name is omitted, use discretion in describing the injury or illness on both the OSHA 300 and DCBS 801 Forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, describe a sexual assault case as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(j) If you voluntarily disclose the forms to persons other than government representatives, employees, former employees or authorized representatives, you must remove or hide the employees' names and other personally identifying information, except for the following cases:

(A) To an auditor or consultant hired by the employer to evaluate the safety and health program;

(B) To the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(C) To a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR.164.512.

(15) Multiple Business Establishments. You must keep a separate OSHA 300 Log for each establishment that you expect to operate for 1-year or longer.

(a) You may keep one OSHA 300 Log that covers all of your short-term establishments. You may also include the short-term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.

(b) You may keep the records for an establishment at your headquarters or other central location if you can:

(A) Transmit information about the injuries and illnesses from the establishment to the central location within 7 calendar days of receiving information that a recordable injury or illness has occurred; and

(B) Produce and send the records from the central location to the establishment within the time frames required by OAR 437-001-0700(20) and OAR 437-001-0700(22) when you are required to provide records to a government representative, employees, former employees or employee representatives.

(c) You must link each employee with one of your establishments, for recordkeeping purposes. You must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short-term establishment.

(d) If the injury or illness occurs at one of your establishments, you must record the injury or illness on the OSHA 300 Log of the establishment where the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, you must record the case on the OSHA 300 Log at the establishment where the employee normally works.

(16) Covered Employees. You must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

(a) Record the injuries and illnesses to workers from temporary help agencies or employee leasing services only if you supervise these employees on a day-to-day basis.

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(b) If a contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness.

(c) You and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once: either on your OSHA 300 Log (if you provide day-to-day supervision) or on the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

(17) Annual Summary and Posting Requirements. At the end of each calendar year, you must:

(a) Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any problems;

(b) Use the OSHA 300A or equivalent form to create an annual summary of injuries and illnesses from the OSHA 300 Log;

(c) Certify that one of the following examined the OSHA 300 log and believe, based on knowledge of the process by which the information was recorded, that it is correct and complete.

(A) The highest ranking manager at the location where the log is compiled.

(B) If there is no management at the compiling location, any manager with jurisdiction over that location.

(d) You must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the posted annual summary is not altered, defaced or covered by other material.

(e) You must post the summary no later than February 1 of the year following the year covered by the records and keep it posted until April 30.

(18) Paperwork Retention and Updating. You must save the OSHA 300 Log, the privacy case list (if any), the annual summary, and the DCBS Form 801 or equivalent forms for 5 years following the end of the calendar year that they cover. During the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.

**NOTE:** For more information on retention of medical and exposure records, see OAR 437-002-1910.1020.

(19) Change of Business Ownership. If your business changes ownership, you must record and report work-related injuries and illnesses only for the time you owned the establishment. You must transfer the records to the new owner. The new owner must save all records of the establishment kept by the prior owner, but need not update or correct the records of the prior owner.

(20) Employee Involvement. You must involve your employees and their representatives in the recordkeeping system.

(a) Inform each employee of how they are to report an injury or illness to you.

(b) Provide limited access to your injury and illness records for your employees and their representatives.

(c) Your employees, former employees, their personal representatives, and their authorized collective bargaining representatives have the right to access the OSHA injury and illness records, with some limitations, as below.

(d) A personal representative is anybody designated in writing by the employee or former employee. It also is the legal representative of a deceased or legally incapacitated employee.

(e) When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

(A) You must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, do not record the employee's name on the OSHA 300 Log for certain "privacy concern cases."

(d) When an employee, former employee, or personal representative asks for a copy of the DCBS Form 801 or equivalent describing an injury or illness to that employee or former employee, you must give the requester a copy of the DCBS Form 801 or equivalent containing that information by the end of the next business day.

(e) When an authorized employee representative asks for copies of the DCBS Form 801 or equivalent for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within 7

calendar days. You are only required to give the authorized employee representative information from the releasable part of the DCBS Form 801 or equivalent section titled "Tell us about the case" or a similar section. You must remove all other information from the copy of the DCBS Form 801 or equivalent form that you give to the authorized employee representative.

(f) You may not charge for these copies the first time. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.

(21) Reporting Fatalities and Hospitalizations to Oregon OSHA. You must report the following to Oregon OSHA at 1-800-922-2689 or 503-378-3272 within the given time limits:

(a) Fatalities 8 hours after occurrence or employer knowledge You must report a fatality caused by a heart attack at work. You must report a fatality resulting from motor vehicle accidents that happen during the employees work shift. The local OR-OSHA field office safety or health manager will decide whether to investigate the incident, depending on the circumstances of the heart attack or motor vehicle accident. Report a fatality only if it occurs within 30 days of the accident.

(b) Catastrophe 8 hours after occurrence or employer knowledge For the ease of the reader the Definition for Catastrophe is – An accident in which two or more employees are fatally injured, or three or more employees are admitted to a hospital or an equivalent medical facility.

(c) Overnight Hospitalization 24 hours after occurrence or employer knowledge of one or more employees. Overnight hospitalization is for medical treatment only. Hospitalization for observation is not reportable, nor is emergency room treatment. You must report injuries related to a heart attack or motor vehicle accident as well as other work related injuries. Report overnight hospitalizations to the nearest Oregon OSHA field office (Portland, Salem, Bend, Eugene or Medford).

**NOTE:** Oregon OSHA Field Office locations, telephone and Fax numbers are:

(d) Effective date. The effective date for reporting of a fatality resulting from motor vehicle accidents that happen during the employees work shift is January 1, 2007.

(22) Providing Records to Government Representatives. When an authorized government representative asks for the records you keep in compliance with this standard, you must provide copies of the records within 4 business hours.

(a) Authorized government representatives are:

(A) A representative of the Oregon Department of Consumer and Business Services.

(B) A representative of the Secretary of Labor conducting an inspection or investigation under the Act.

(C) A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health — NIOSH) conducting an investigation under Section 20(b) of the Act.

(23) Requests from the Bureau of Labor Statistics or DCBS. If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, or a request for data from the Oregon Department of Consumer and Business Services, you must promptly complete the form and return it following the instructions on the survey form.

(24) Prohibition against discrimination. Oregon Revised Statute 654.062(5) prohibits discrimination against an employee for reporting a work-related fatality, injury or illness. It also protects the employee who files a safety and health complaint, asks for access to this rule, records, or otherwise exercises any rights afforded by law or rule.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCD 7-1979, f. 8-20-79, ef. 9-1-79; WCD 4-1981, f. 5-22-81, ef. 7-1-81; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 11-2001, f. 9-14-01, cert. ef. 1-1-02; OSHA 2-2002, f. & cert. ef. 3-12-02; OSHA 7-2002, f. & cert. ef. 11-15-02; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 7-2006, f. & cert. ef. 9-6-06

### 437-001-0765

#### Rules for Workplace Safety Committees

(1) Purpose. The purpose of a safety committee is to bring workers and management together in a nonadversarial, cooperative effort to promote safety and health in each workplace. A safety committee assists the employer and makes recommendations for change.

(2) General.

(a) Every public or private employer of 11 or more employees shall establish and administer a safety committee.

(b) Every public or private employer of 10 or fewer employees shall establish and administer a safety committee if the employer:

(A) Has a Days Away, Restricted, or Transferred (DART) rate, in the top 10 percent of all rates for the employers in the same industry; or



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(B) The employer is not an agricultural employer and the workers' compensation premium classification assigned to the greatest portion of the payroll for the employer has a premium rate in the top 25 percent of premium rates for all classes as approved by the Director pursuant to ORS 737.320(3).

(c) In making the determination of employment levels under sections (a) and (b) of this rule, the employer shall count all permanent, contract, temporary, and/or seasonal workers under the employer's direction and control, and shall base the number on peak employment.

(d) Temporary services employers and labor contractors shall establish safety committees based upon the total number of workers over which the employer or contractor exercises direction and control.

(e) Employers who hire only seasonal workers shall meet the intent of these rules by holding crew safety meetings prior to the commencement of work at each job site. Such meetings shall promote discussions of safety and health issues. All workers shall be informed of their rights to report workplace hazards, and shall be encouraged to make such reports during the meetings.

(f) Employers in the logging industry may meet the intent of these rules by complying with OAR 437, Division 7, Forest Activities.

(3) Locations.

(a) Safety committees shall be established at each of the employer's primary places of employment. For the purpose of these rules, a primary place of employment shall mean a major economic unit at a single geographic location, comprised of a building, group of buildings, and all surrounding facilities (Examples of primary places of employment would include a pulp or lumber mill, a manufacturing plant, a hospital complex, bank, a farm/ranch, a school district, or a state agency.) As a primary place of employment the location would have both management and workers present, would have control over a portion of a budget, and would have the ability to take action on the majority of the recommendations made by a safety committee.

(b) An employer's auxiliary, mobile, or satellite locations, such as would be found in construction operations, trucking, branch or field offices, sales operations, or highly mobile activities, may be combined into a single, centralized committee. This centralized committee shall represent the safety and health concerns of all the locations.

(c) In addition to locating safety committees at each primary place of employment, an employer with work locations which include fire service activities shall establish a Fire Service Safety Committee as required by OAR 437-002-0182(7) in OAR 437, Division 2/L, Oregon Rules for Fire Fighters.

(4) Innovation. Upon application, the division may approve safety committees which are innovative or differ in form or function, when such committees meet the intent of these rules.

(5) Safety Committee Formation and Membership.

(a) The safety committees required by OAR 437-001-0765(2) shall:

(A) Be composed of an equal number of employer and employee representatives. Employee representatives shall be volunteers or shall be elected by their peers unless there is a provision in their collective bargaining agreement that addresses the selection of employee representatives. When agreed upon by workers and management, the number of employees on the committee may be greater than the number of employer representatives. Seasonal workers shall not be counted for the purpose of determining the number of members who will serve on the committee.

(B) Consist of:

(i) No fewer than 2 members for each employer with 20 or less employees, or

(ii) No fewer than 4 members for each employer with more than 20 employees.

(C) Have a chairperson elected by the committee members.

(b) Employee representatives attending safety committee meetings required by OAR 437-001-0765(2) or participating in safety committee instruction or training required by OAR 437-001-0765(7) shall be compensated by the employer at the regular hourly wage.

(c) Employee representatives shall serve a continuous term of at least 1-year. Length of membership shall be alternated or staggered so that at least one experienced member is always serving on the committee.

(d) Reasonable efforts shall be made to ensure that committee members are representative of the major work activities of the firm.

(6) Safety Committee Duties and Functions.

(a) Management commitment to workplace health and safety.

(A) The committee shall develop a written agenda for conducting safety committee meetings. The agenda shall prescribe the order in which committee business will be addressed during the meeting.

(B) The safety committee shall hold regular meetings at least once a month except months when quarterly workplace safety inspections are made. This does not exclude other months from safety committee meetings if more frequent safety inspections are conducted.

(C) Quarterly safety committee meetings may be substituted for monthly meetings where the committee's sole area of responsibility involves low hazard work environments such as offices.

(D) Small farms of five or fewer full time employees may substitute quarterly meetings for monthly meetings during the farms' off season. The off season shall mean that period of time when only routine farm upkeep is being done.

(b) Written records.

(A) Minutes shall be made of each meeting which the employer shall review and maintain for 3 years for inspection by the Division. Copies of minutes shall be posted or made available for all employees and shall be sent to each committee member.

(B) All reports, evaluations, and recommendations of the safety committee shall be made a part of the minutes of the safety committee meeting.

(C) A reasonable time limit shall be established for the employer to respond in writing to all safety committee recommendations.

(c) Employee involvement.

(A) The committee shall establish a system to allow the members to obtain safety-related suggestions, reports of hazards, or other information directly from all persons involved in the operations of the workplace. The information obtained shall be reviewed at the next safety committee meeting, and shall be recorded in the minutes for review and necessary action by the employer.

(d) Hazard assessment and control.

(A) The safety committee shall assist the employer in evaluating the employer's accident and illness prevention program, and shall make written recommendations to improve the program where applicable. Additionally, the safety committee shall:

(i) Establish procedures for workplace inspections by the safety committee inspection team to locate and identify safety and health hazards;

(ii) Conduct workplace inspections at least quarterly; and

(iii) Recommend to the employer how to eliminate hazards and unsafe work practices in the workplace;

(B) The inspection team shall include employer and employee representatives and shall document in writing the location and identity of the hazards and make recommendations to the employer regarding correction of the hazards.

(C) Quarterly inspections of satellite locations shall be conducted by the committee team or by a person designated at the location.

(D) Mobile work sites or locations and activities which do not lend themselves to a quarterly schedule shall be inspected by a designated person as often as Oregon occupational safety and health rules require and/or the committee determines is necessary.

(E) The person designated to carry out inspection activities at the locations identified in sections (C) and (D) of this rule shall be selected by the employer and shall receive training in hazard identification in the workplace.

(e) Safety and health planning. The safety committee shall establish procedures for the review of all safety and health inspection reports made by the committee. Based on the results of the review, the committee shall make recommendations for improvement of the employer's accident and illness prevention program.

(f) Accountability. The safety committee shall evaluate the employer's accountability system and make recommendations to implement supervisor and employee accountability for safety and health.

(g) Accident investigation. The safety committee shall establish procedures for investigating all safety-related incidents including injury accidents, illnesses and deaths. This rule shall not be construed to require the committee to conduct the investigations.

(7) Safety and Health Training and Instruction.

(a) The following items shall be discussed with all safety committee members:

(A) Safety committee purpose and operation;

(B) OAR 437-001-0760 through 437-001-0765 and their application; and

(C) Methods of conducting safety committee meetings.

(b) Committee members shall have ready access to applicable Oregon Occupational Safety and Health Codes which apply to the particular establishment and verbal instructions regarding their use.

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(c) All safety committee members shall receive training based upon the type of business activity. At a minimum, members shall receive training regarding:

- (A) Hazard identification in the workplace; and
- (B) Principles regarding effective accident and incident investigations.

(8) Effective Date. The effective date for OAR 437-001-0765 is March 1, 1991.

Stat. Auth.: ORS 654.025(2) & 656.726(4)  
Stats. Implemented: ORS 654.176  
Hist.: WCD 10-1982, f. & ef. 7-30-82; OSHA 12-1990(Temp), f. & cert. ef. 6-18-90; OSHA 28-1990, f. 12-18-90, cert. ef. 3-1-91; OSHA 6-1994, f. & cert. ef. 9-30-94, Renumbered from 437-040-0044, 437-040-0045, 437-040-0046, 437-040-0047, 437-040-0048 & 437-040-0049; OSHA 10-1995, f. & cert. ef. 11-29-95; OSHA 8-2001, f. & cert. ef. 7-13-01; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 7-2006, f. & cert. ef. 9-6-06

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**Rule Caption:** Repeal rules for a program that is no longer administered by Oregon OSHA.

**Adm. Order No.:** OSHA 8-2006

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 9-15-06

**Notice Publication Date:** 8-1-06

**Rules Repealed:** 437-001-0905, 437-001-0910, 437-001-0915, 437-001-0920, 437-001-0925, 437-001-0930, 437-001-0935, 437-001-0940

**Subject:** Oregon OSHA repealed eight rules in Division 1, General Administrative Rules, originally created to help administer the Farm Worker Housing Tax Credits program. Oregon Housing and Community Services now administers this program, therefore we repealed our administrative rules relating to this program.

Please visit OR-OSHA's web site at [www.orsosha.org](http://www.orsosha.org)

**Rules Coordinator:** Sue C. Joye—(503) 947-7449

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## Department of Fish and Wildlife Chapter 635

**Rule Caption:** Inseason change to the Oregon Ocean Commercial Troll Salmon season.

**Adm. Order No.:** DFW 85-2006(Temp)

**Filed with Sec. of State:** 8-18-2006

**Certified to be Effective:** 8-19-06 thru 2-14-07

**Notice Publication Date:**

**Rules Amended:** 635-003-0077

**Subject:** These rules will implement an inseason change to the Oregon Ocean Commercial Troll Salmon season as adopted by the Pacific Fishery Management Council.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

### 635-003-0077

#### US-Canada Border to Cape Falcon

(1) All vessels participating in the commercial ocean salmon fishery must land their fish within the area or in Garibaldi, Oregon, and within 24 hours of any closure of this fishery. Oregon licensed limited fish sellers and fishers intending to transport and deliver their catch outside the area must notify ODFW one hour prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(2) The commercial troll salmon fishery is closed to all troll salmon fishing from 12:01 a.m. June 16, 2006 through 11:59 p.m. June 26, 2006.

(3) The commercial troll salmon fishery is open effective 12:01 a.m. June 27, 2006 through 11:59 p.m. June 30, 2006. For the four day period there is a 20 chinook landing and possession limit per vessel.

(4) The commercial troll salmon fishery is open effective 12:01 a.m. July 29, 2006 through 11:59 p.m. September 15, 2006. From July 29, 2006 through August 1, 2006 the fishery is open on a cycle of Saturday through Tuesday with a 60 chinook and 35 adipose fin-clipped coho landing and possession limit per vessel per open period. From August 19, 2006 through September 15, 2006 the fishery is open on a cycle of Saturday through Tuesday with a 80 chinook and 40 adipose fin-clipped coho landing and possession limit per vessel per open period. Only single point/single shank barbless hooks may be used. No other special gear regulations are in effect.

Stat. Auth.: ORS 496.138, 496.146 & 506.119  
Stats. Implemented: ORS 506.129

Hist.: DFW 6-2005, f. & cert. ef. 2-14-05; DFW 36-2005(Temp), f. & cert. ef. 5-4-05 thru 10-27-05; DFW 48-2005(Temp), f. 5-23-05, cert. ef. 5-24-05 thru 10-27-05; DFW 49-2005(Temp), f. 6-1-05, cert. ef. 6-3-05 thru 10-27-05; DFW 59-2005(Temp), f. 6-21-05, cert. ef. 6-26-05 thru 10-27-05; DFW 97-2005(Temp), f. & cert. ef. 8-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 43-2006(Temp), f. & cert. ef. 6-16-06 thru 11-16-06; DFW 70-2006(Temp), f. 7-28-06, cert. ef. 7-29-06 thru 12-31-06; DFW 85-2006(Temp), f. 8-18-06, cert. ef. 8-19-06 thru 2-14-07

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**Rule Caption:** Implementation of Tribal Treaty Fall salmon fishery in the Columbia River.

**Adm. Order No.:** DFW 86-2006(Temp)

**Filed with Sec. of State:** 8-18-2006

**Certified to be Effective:** 8-21-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-041-0075

**Subject:** This rule implements the Tribal Treaty fall salmon gill net fishery in Zone 6 of the mainstem Columbia River beginning 6:00 a.m. August 21, 2006 until further notice. Implementation is consistent with action taken August 17, 2006 by the Columbia River Compact.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

### 635-041-0075

#### Fall Salmon Season

(1) Chinook, coho, steelhead, walleye, carp, and shad may be taken with gill net for commercial purposes in the mainstem Columbia River in all of Zone 6.

(2) The open fishing periods are:

(a) 6:00 a.m. Monday August 21, 2006 through 6:00 p.m. Thursday August 24, 2006 (84 hours);

(b) 6:00 a.m. Monday August 28, 2006 through 6:00 p.m. Friday September 1, 2006 (108 hours);

(c) 6:00 a.m. Tuesday September 5, 2006 through 6:00 p.m. Saturday September 9, 2006 (108 hours).

(3) Through September 1, 2006 there is no mesh size restriction. For the fishing period beginning September 5, 2006 there is an 8-inch minimum mesh size restriction.

(4) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek which is the larger area described in OAR 635-041-0045(11).

(5) Sturgeon may not be sold. However, sturgeon between 48 inches and 60 inches in length from The Dalles and John Day Pools and sturgeon between 45 inches and 60 inches from the Bonneville Pool may be kept for subsistence use.

(6) Commercial sale of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 12:01 a.m., Tuesday August 1, 2006 until further notice.

(a) Gear is restricted to: hoopnets, dipnets, and rod and reel with hook-and-line.

(b) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be kept for subsistence use but not sold.

(c) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools and sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(d) Fish caught during Yakama Nation's scheduled open tributary fishing periods in the Klickitat and White Salmon rivers may be sold when the sale of platform and hook-and-line fish is allowed.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC

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90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; FWC 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06

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**Rule Caption:** Expand sport salmon season in the Pacific Ocean.

**Adm. Order No.:** DFW 87-2006(Temp)

**Filed with Sec. of State:** 8-18-2006

**Certified to be Effective:** 8-19-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-013-0004

**Subject:** Amend rule to ensure consistency with federal regulations for west coast salmon fisheries. Specifically, the ocean recreational salmon fishery season from Leadbetter Point, Washington to Cape Falcon, Oregon.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-013-0004

### Inclusions and Modifications

(1) OAR 635-013-0005 through 635-013-0009 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2006 Oregon Sport Fishing Regulations**.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**, and the **2006 Oregon Sport Fishing Regulations** contain requirements for sport salmon angling in the Pacific Ocean off the Oregon coast. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the published federal regulations and the **2006 Oregon Sport Fishing Regulations**. This means that persons must consult not only the federal regulations and the published sport fishing regulations but also the Department's web page to determine all applicable sport fishing regulations.

(3) This rule contains requirements that modify sport salmon angling regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean sport salmon fishery in general and within management zones established by the Pacific Fishery Management Council and enacted by **Federal Regulations (CFR, Title 50, Part 660, Subparts A and H)**.

(4) Effective 12:01 a.m. August 11, 2006, in the area from Leadbetter Point, WA, to Cape Falcon, OR, the salmon fishery is open seven days per week. The Columbia River Control Zone closure remains in effect, and the area between Tillamook Head and Cape Falcon closes to all salmon fishing beginning August 1. The bag limit is two salmon per day. Minimum length requirements are 24-inches for chinook and 16-inches for coho. All retained coho must have a healed adipose fin-clip.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 43-1997(Temp), f. 8-8-97, cert. ef. 8-10-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 59-1998(Temp), f. & cert. ef. 8-10-98 thru 8-21-98; DFW 66-1998(Temp), f. & cert. ef. 8-21-98 thru 9-24-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 20-1999(Temp), f. 3-29-99, cert. ef. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 61-1999(Temp), f. 8-31-99, cert. ef. 9-3-99 thru 9-17-99; DFW 66-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 16-2000(Temp), f. 3-31-00, cert. ef. 4-1-00 thru 4-30-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 47-2000(Temp), f. 8-10-00, cert. ef. 8-13-00 thru 9-30-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 16-2001(Temp), f. 3-28-01, cert. ef. 4-1-01 thru 4-30-01; Administrative correction 6-20-01; DFW 59-2001(Temp), f. 7-18-01, cert. ef. 7-19-01 thru 10-31-01; DFW 20-2002(Temp), f. 3-19-02, cert. ef. 4-1-01 thru 4-30-02; DFW 75-2002(Temp), f. 7-19-02, cert. ef. 7-21-02 thru 12-31-02; DFW 80-2002(Temp), f. 7-31-02, cert. ef. 8-1-02 thru 12-31-02; DFW 85-2002(Temp), f. 8-8-02, cert. ef. 8-11-02 thru 12-31-02; DFW 99-2002(Temp), f. 8-30-02, cert. ef. 9-2-02 thru 12-31-02; DFW 100-2002(Temp), f. & cert. ef. 9-6-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 69-2003(Temp), f. 7-21-03, cert. ef. 7-25-03 thru 12-31-03; DFW 78-2003(Temp), f. 8-14-03, cert. ef. 8-20-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 75-2004(Temp), f. 7-20-04, cert. ef. 7-23-04 thru 12-31-04; DFW 80-2004(Temp), f. 8-12-04, cert. ef. 8-13-04 thru 12-31-04; DFW 93-2004(Temp), f. 9-2-04, cert. ef. 9-4-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 81-2005(Temp), f. 7-25-05, cert. ef. 7-29-05 thru 12-31-05; DFW 103-2005(Temp), f. 9-7-05, cert. ef. 9-9-05 thru 12-31-05; DFW 106-2005(Temp), f. 9-14-05, cert. ef. 9-17-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 67-2006(Temp), f. 7-25-06, cert. ef. 8-11-06 thru 12-31-06; DFW 87-2006(Temp), f. 8-18-06, cert. ef. 8-19-06 thru 12-31-06

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**Rule Caption:** Modifications to commercial Fall Chinook salmon gill net seasons in the mainstem Columbia River.

**Adm. Order No.:** DFW 88-2006(Temp)

**Filed with Sec. of State:** 8-18-2006

**Certified to be Effective:** 8-21-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-042-0031

**Subject:** This amended rule extends the commercial fall chinook salmon gill net season in the mainstem Columbia River (Zones 1–5). Implementation is consistent with action taken August 17, 2006 by the Columbia River Compact.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-042-0031

### Early Fall Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes in the waters of the Columbia River:

(a) Zones 1-5 upstream of the Astoria-Megler Bridge though August 14, 2006; and Zones 2-5 from August 15th through 18th, 2006, as identified in OAR 635-042-0001.

(b) Zones 3-5 from August 21st through 22nd, 2006, as identified in OAR 635-042-0001.

(c) Zones 4-5 from August 24th through 25th, 2006, as identified in OAR 635-042-0001.

(2) It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9 3/4 inches (as described in OAR 635-042-0010(4)) through August 20, 2006. Beginning August 21, 2006 there is a 9-inch minimum mesh size restriction. Monofilament gill nets are allowed.

(3) The open fishing periods are:

(a) 7:00 p.m. Wednesday August 2, 2006 to 7:00 a.m. Thursday August 3, 2006 (12 hours);

(b) 7:00 p.m. Monday August 7, 2006 to 7:00 a.m. Tuesday August 8, 2006 (12 hours);

(c) 7:00 p.m. Wednesday August 9, 2006 to 7:00 a.m. Thursday August 10, 2006 (12 hours);

(d) 7:00 p.m. Sunday August 13, 2006 to 7:00 a.m. Monday August 14, 2006 (12 hours);

(e) 7:00 p.m. Tuesday August 15, 2006 to 7:00 a.m. Wednesday August 16, 2006 (12 hours);



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(f) 7:00 p.m. Thursday August 17, 2006 to 7:00 a.m. Friday August 18, 2006 (12 hours);

(g) 8:00 p.m. Monday August 21, 2006 to 7:00 a.m. Tuesday August 22, 2006 (11 hours);

(h) 8:00 p.m. Thursday August 24, 2006 to 7:00 a.m. Friday August 25, 2006 (11 hours).

(4) A maximum of five white sturgeon through August 12, 2006, and a maximum of 7 white sturgeon beginning August 13, 2006, may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). Sturgeon possession and sales limit includes both mainstem and Select Area fisheries combined. Retention of green sturgeon is prohibited.

(5) Closed waters, as described in OAR 635-042-0005 for Grays River sanctuary, Elokomin-A sanctuary, Cowlitz River, Kalama-A sanctuary, Lewis-A sanctuary, Washougal River sanctuary and Sandy River sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. & cert. ef. 8-29-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 82-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. ef. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. ef. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. ef. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. ef. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. ef. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. ef. 8-21-06 thru 12-31-06

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**Rule Caption:** Modifications to commercial Fall Chinook salmon gill net seasons in the mainstem Columbia River.

**Adm. Order No.:** DFW 89-2006(Temp)

**Filed with Sec. of State:** 8-24-2006

**Certified to be Effective:** 8-25-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-042-0031

**Subject:** This revised rule modifies the ongoing commercial fall chinook salmon gill net season in the mainstem Columbia River (Zones 4-5). Implementation is consistent with action taken August 23, 2006 by the Columbia River Compact.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-042-0031

### Early Fall Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes in the waters of the Columbia River:

(a) Zones 1-5 upstream of the Astoria-Megler Bridge through August 14, 2006; and Zones 2-5 from August 15th through 18th, 2006, as identified in OAR 635-042-0001.

(b) Zones 3-5 from August 21st through 22nd, 2006, as identified in OAR 635-042-0001.

(c) Zones 4 upstream of the I-205 Bridge and all of Zone 5 August 25th, 2006, as identified in OAR 635-042-0001.

(2) It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches (as described in OAR 635-042-0010(4)) through August 20, 2006. Beginning August 21, 2006 there is a 9-inch minimum mesh size restriction. Monofilament gill nets are allowed.

(3) The open fishing periods are:

(a) 7:00 p.m. Wednesday August 2, 2006 to 7:00 a.m. Thursday August 3, 2006 (12 hours);

(b) 7:00 p.m. Monday August 7, 2006 to 7:00 a.m. Tuesday August 8, 2006 (12 hours);

(c) 7:00 p.m. Wednesday August 9, 2006 to 7:00 a.m. Thursday August 10, 2006 (12 hours);

(d) 7:00 p.m. Sunday August 13, 2006 to 7:00 a.m. Monday August 14, 2006 (12 hours);

(e) 7:00 p.m. Tuesday August 15, 2006 to 7:00 a.m. Wednesday August 16, 2006 (12 hours);

(f) 7:00 p.m. Thursday August 17, 2006 to 7:00 a.m. Friday August 18, 2006 (12 hours);

(g) 8:00 p.m. Monday August 21, 2006 to 7:00 a.m. Tuesday August 22, 2006 (11 hours);

(h) 12:01 a.m. to 6:00 a.m. Friday August 25, 2006 (6 hours).

(4) A maximum of five white sturgeon through August 12, 2006, and a maximum of 7 white sturgeon beginning August 13, 2006, may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). Sturgeon possession and sales limit includes both mainstem and Select Area fisheries combined. Retention of green sturgeon is prohibited.

(5) Closed waters, as described in OAR 635-042-0005 for Grays River sanctuary, Elokomin-A sanctuary, Cowlitz River, Kalama-A sanctuary, Lewis-A sanctuary, Washougal River sanctuary and Sandy River sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. & cert. ef. 8-29-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. ef. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. ef. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. ef. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. ef. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. ef. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. & cert. ef. 8-24-06, cert. ef. 8-25-06 thru 12-31-06

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**Rule Caption:** Expand sport salmon season in the Pacific Ocean.

**Adm. Order No.:** DFW 90-2006(Temp)

**Filed with Sec. of State:** 8-25-2006

**Certified to be Effective:** 8-26-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-013-0004

**Subject:** Amend rule to ensure consistency with federal regulations for west coast salmon fisheries. Specifically, the ocean recreational salmon fishery season from Leadbetter Point, Washington to Cape Falcon, Oregon.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-013-0004

### Inclusions and Modifications

(1) OAR 635-013-0005 through 635-013-0009 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subparts A and H**, and the **2006 Oregon Sport Fishing Regulations**.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**, and the **2006 Oregon Sport Fishing Regulations** contain requirements for sport salmon angling in the Pacific Ocean off the Oregon coast. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the published federal regulations and the **2006 Oregon Sport Fishing Regulations**. This means that persons must consult not only the federal regulations and the published sport fishing regulations but also the Department's web page to determine all applicable sport fishing regulations.

# ADMINISTRATIVE RULES

(3) This rule contains requirements that modify sport salmon angling regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean sport salmon fishery in general and within management zones established by the Pacific Fishery Management Council and enacted by **Federal Regulations (CFR, Title 50, Part 660, Subparts A and H)**.

(4) Effective 12:01 a.m. August 26, 2006, in the area from Leadbetter Point, WA, to Cape Falcon, OR, the salmon fishery is open seven days per week. The bag limit is two salmon per day. Minimum length requirements are 24-inches for chinook and 16-inches for coho. All retained coho must have a healed adipose fin-clip.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119  
Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129  
Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 43-1997(Temp), f. 8-8-97, cert. ef. 8-10-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 59-1998(Temp), f. & cert. ef. 8-10-98 thru 8-21-98; DFW 66-1998(Temp), f. & cert. ef. 8-21-98 thru 9-24-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 20-1999(Temp), f. 3-29-99, cert. ef. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 61-1999(Temp), f. 8-31-99, cert. ef. 9-3-99 thru 9-17-99; DFW 66-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 16-2000(Temp), f. 3-31-00, cert. ef. 4-1-00 thru 4-30-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 47-2000(Temp), f. 8-10-00, cert. ef. 8-13-00 thru 9-30-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 16-2001(Temp), f. 3-28-01, cert. ef. 4-1-01 thru 4-30-01; Administrative correction 6-20-01; DFW 59-2001(Temp), f. 7-18-01, cert. ef. 7-19-01 thru 10-31-01; DFW 20-2002(Temp), f. 3-19-02, cert. ef. 4-1-01 thru 4-30-02; DFW 75-2002(Temp), f. 7-19-02, cert. ef. 7-21-02 thru 12-31-02; DFW 80-2002(Temp), f. 7-31-02, cert. ef. 8-1-02 thru 12-31-02; DFW 85-2002(Temp), f. 8-8-02, cert. ef. 8-11-02 thru 12-31-02; DFW 99-2002(Temp), f. 8-30-02, cert. ef. 9-2-02 thru 12-31-02; DFW 100-2002(Temp), f. & cert. ef. 9-6-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 69-2003(Temp), f. 7-21-03, cert. ef. 7-25-03 thru 12-31-03; DFW 78-2003(Temp), f. 8-14-03, cert. ef. 8-20-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 75-2004(Temp), f. 7-20-04, cert. ef. 7-23-04 thru 12-31-04; DFW 80-2004(Temp), f. 8-12-04, cert. ef. 8-13-04 thru 12-31-04; DFW 93-2004(Temp), f. 9-2-04, cert. ef. 9-4-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 81-2005(Temp), f. 7-25-05, cert. ef. 7-29-05 thru 12-31-05; DFW 103-2005(Temp), f. 9-7-05, cert. ef. 9-9-05 thru 12-31-05; DFW 106-2005(Temp), f. 9-14-05, cert. ef. 9-17-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 67-2006(Temp), f. 7-25-06, cert. ef. 8-11-06 thru 12-31-06; DFW 87-2006(Temp), f. 8-18-06, cert. ef. 8-19-06 thru 12-31-06; DFW 90-2006(Temp), f. 8-25-06, cert. ef. 8-26-06 thru 12-31-06

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**Rule Caption:** Rule to identify open areas for Western Oregon General Elk Bow hunting season.

**Adm. Order No.:** DFW 91-2006(Temp)

**Filed with Sec. of State:** 8-18-2006

**Certified to be Effective:** 8-18-06 thru 2-10-07

**Notice Publication Date:**

**Rules Adopted:** 635-073-0075

**Subject:** This rule corrects an inadvertent omission in the 2006 Big Game Regulations by identifying open areas for General Elk Bow hunting. This emergency rule is due to an omission which occurred in the 2006 Big Game Regulations proposal taken to the Oregon Fish and Wildlife Commission in June 2006, which required action by the Department. On page 93 in the 2006 Big Game Regulations, at the bottom of the "Western Oregon" section, in the OPEN AREA column, is the statement "Units to be determined in June 2006". The Department failed to identify those units in June.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-073-0075

### Late Western Oregon Bowhunting Seasons

General Bowhunting Seasons — Western Oregon.

(1) Open Season: November 25–December 10, 2006.

(2) Bag Limit and Hunt Area: The bag limit is One Antlerless Elk in the Aalsea, McKenzie, and Stott Mt units, that part of the Indigo Unit in the Willamette Rvr drainage, (includes Middle Fork Willamette Rvr, Brice Cr, Sharp Cr, Mosby Cr, Big Rvr, Little Rvr, and Lost Cr), and Linn and Marion Co, portions of Santiam Units EXCLUDING Mt Hood NF lands in Marion Co.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: DFW 91-2006(Temp), f. & cert. ef. 8-18-06 thru 2-10-07

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**Rule Caption:** Implementation of the Blind Slough and Knappa

Slough Select Area commercial fall salmon fisheries.

**Adm. Order No.:** DFW 92-2006(Temp)

**Filed with Sec. of State:** 9-1-2006

**Certified to be Effective:** 9-5-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-042-0160

**Subject:** Amend rule to implement the commercial gill net fall salmon season in the Blind Slough and Knappa Slough select areas and allow retention and sales of white sturgeon. Revision is consistent with action taken August 31, 2006 by the Columbia River Compact.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-042-0160

### Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes during open fishing periods described as the fall fishery in paragraphs (2)(a), (3)(a) and (3)(b) of this rule in those waters of Blind Slough and Knappa Slough as described in (3) and (4) below.

(2) The open fishing periods established as the fall fishery in Blind Slough only are as follows:

(a) From 7:00 p.m. until 7:00 a.m. nightly (12 hours) commencing: 7:00 p.m. Tuesday Sept. 5, 2006 through 7:00 a.m. Friday Sept. 8, 2006 (3 nights).

(3) The open fishing periods established as the fall fishery in Blind Slough and Knappa Slough are as follows:

(a) From 7:00 p.m. until 7:00 a.m. nightly (12 hours) commencing: 7:00 p.m. Tuesday Sept. 12, 2006 through 7:00 a.m. Friday Sept. 15, 2006 (3 nights); 7:00 p.m. Monday Sept. 18, 2006 through 7:00 a.m. Friday Sept. 22, 2006 (4 nights); and

(b) From 6:00 p.m. until 8:00 a.m. nightly (14 hours) commencing: 6:00 p.m. Monday Sept. 25, 2006 through 8:00 a.m. Friday Sept. 29, 2006 (4 nights); 6:00 p.m. Monday Oct. 2, 2006 through 8:00 a.m. Friday Oct. 6, 2006 (4 nights); 6:00 p.m. Monday Oct. 9, 2006 through 8:00 a.m. Friday Oct. 13, 2006 (4 nights); 6:00 p.m. Monday Oct. 16, 2006 through 8:00 a.m. Friday Oct. 20, 2006 (4 nights); and 6:00 p.m. Monday Oct. 23, 2006 through 8:00 a.m. Friday Oct. 27, 2006 (4 nights).

(4) Blind Slough fishing area is defined as those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(5) Knappa Slough fishing area is defined as all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to the boundary line defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore.

(6) Gear restrictions are as follows:

During the fall fishery, outlined in paragraphs (2)(a) and (2)(b) above, gill nets may not exceed 100 fathoms in length with no weight restriction on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Monofilament gill nets are allowed. It is *unlawful* to use a gill net having a mesh size that is greater than 6 inches.

(7) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (2)(a) and (2)(b) above, the weekly aggregate sturgeon limit applies to possessions and sales in the mainstem Columbia River fishery and all open Select Area fisheries combined. Retention of green sturgeon is prohibited.

(8) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-

# ADMINISTRATIVE RULES

31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06

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**Rule Caption:** Inseason change to the Oregon Ocean Commercial Troll Salmon season.

**Adm. Order No.:** DFW 93-2006(Temp)

**Filed with Sec. of State:** 9-7-2006

**Certified to be Effective:** 9-8-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-003-0077

**Subject:** This rule will implement an inseason change to the Oregon Ocean Commercial Troll Salmon season as adopted by the Pacific Fishery Management Council.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-003-0077

### US-Canada Border to Cape Falcon

(1) All vessels participating in the commercial ocean salmon fishery must land their fish within the area or in Garibaldi, Oregon, and within 24 hours of any closure of this fishery. Oregon licensed limited fish sellers and fishers intending to transport and deliver their catch outside the area must notify ODFW one hour prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(2) The commercial troll salmon fishery is closed to all troll salmon fishing from 12:01 a.m. June 16, 2006 through 11:59 p.m. June 26, 2006.

(3) The commercial troll salmon fishery is open effective 12:01 a.m. June 27, 2006 through 11:59 p.m. June 30, 2006. For the four day period there is a 20 chinook landing and possession limit per vessel.

(4) The commercial troll salmon fishery is open effective 12:01 a.m. July 29, 2006 through 11:59 p.m. September 15, 2006. From July 29, 2006 through August 1, 2006 the fishery is open on a cycle of Saturday through Tuesday with a 60 chinook and 35 adipose fin-clipped coho landing and possession limit per vessel per open period. From August 19, 2006 through September 7, 2006 the fishery is open on a cycle of Saturday through Tuesday with a 80 chinook and 40 adipose fin-clipped coho landing and possession limit per vessel per open period. From September 8, 2006 through September 15, 2006 the fishery is open with a 160 chinook and 80 adipose fin-clipped coho landing and possession limit for the eight day period. Only single point/single shank barbless hooks may be used. No other special gear regulations are in effect.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 506.129

Hist: DFW 6-2005, f. & cert. ef. 2-14-05; DFW 36-2005(Temp), f. & cert. ef. 5-4-05 thru 10-27-05; DFW 48-2005(Temp), f. 5-23-05, cert. ef. 5-24-05 thru 10-27-05; DFW 49-2005(Temp), f. 6-1-05, cert. ef. 6-3-05 thru 10-27-05; DFW 59-2005(Temp), f. 6-21-05, cert. ef. 6-26-05 thru 10-27-05; DFW 97-2005(Temp), f. & cert. ef. 8-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 43-2006(Temp), f. & cert. ef. 6-16-06 thru 11-16-06; DFW 70-2006(Temp), f. 7-28-06, cert. ef. 7-29-06 thru 12-31-06; DFW 85-2006(Temp), f. 8-18-06, cert. ef. 8-19-06 thru 2-14-07; DFW 93-2006(Temp), f. 9-7-06, cert. ef. 9-8-06 thru 12-31-06

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**Rule Caption:** In-season modification to Tribal Treaty Fall salmon fishery in the Columbia River.

**Adm. Order No.:** DFW 94-2006(Temp)

**Filed with Sec. of State:** 9-8-2006

**Certified to be Effective:** 9-11-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-041-0075

**Subject:** Amending this rule extends the Tribal Treaty fall salmon gill net fishery in Zone 6 of the mainstem Columbia River with an additional fishing period beginning 6:00 a.m. Monday September 11,

2006 through 6:00 p.m. Friday September 15, 2006 (108 hours). Adoption of this rule is consistent with action taken September 7, 2006 by the Columbia River Compact.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-041-0075

### Fall Salmon Season

(1) Chinook, coho, steelhead, walleye, carp, and shad may be taken with gill net for commercial purposes in the mainstem Columbia River in all of Zone 6.

(2) The open fishing periods are:

(a) 6:00 a.m. Monday August 21, 2006 through 6:00 p.m. Thursday August 24, 2006 (84 hours);

(b) 6:00 a.m. Monday August 28, 2006 through 6:00 p.m. Friday September 1, 2006 (108 hours);

(c) 6:00 a.m. Tuesday September 5, 2006 through 6:00 p.m. Saturday September 9, 2006 (108 hours);

(d) 6:00 a.m. Monday September 11, 2006 through 6:00 p.m. Friday September 15, 2006 (108 hours).

(3) Through September 1, 2006 there is no mesh size restriction. Beginning September 5, 2006 there is an 8-inch minimum mesh size restriction.

(4) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek which is the larger area described in OAR 635-041-0045(11).

(5) Sturgeon may not be sold. However, sturgeon between 48 inches and 60 inches in length from The Dalles and John Day Pools and sturgeon between 45 inches and 60 inches from the Bonneville Pool may be kept for subsistence use.

(6) Commercial sale of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 12:01 a.m., Tuesday August 1, 2006 until further notice.

(a) Gear is restricted to: hoopnets, dipnets, and rod and reel with hook-and-line.

(b) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be kept for subsistence use but not sold.

(c) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools and sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(d) Fish caught during Yakama Nation's scheduled open tributary fishing periods in the Klickitat and White Salmon rivers may be sold when the sale of platform and hook-and-line fish is allowed.

Stat. Auth.: ORS 183.325, 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98



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thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06

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**Rule Caption:** Suspension of waiting period requirement for commercial ocean Dungeness crab permit transfers.

**Adm. Order No.:** DFW 95-2006(Temp)

**Filed with Sec. of State:** 9-8-2006

**Certified to be Effective:** 9-8-06 thru 11-24-06

**Notice Publication Date:**

**Rules Amended:** 635-006-1095

**Subject:** Amend rule to suspend the 60-month waiting period requirement for transfer of commercial ocean Dungeness crab permits.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-006-1095

### Transferability of Permits

Any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void. The following rules apply to transfer of limited entry fishery permits:

- (1) Gillnet salmon — see ORS 508.793.
- (2) Troll salmon — see ORS 508.822.
- (3) Shrimp — see ORS 508.907.
- (4) Scallop — see ORS 508.864.

(5) Roe-herring:

(A) A permit is transferable to:

(A) A replacement vessel of the permit holder; or, upon request of a permit holder, the Department may authorize transfer of a permit to a replacement vessel owned by an individual other than the permit holder. However, any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void;

(B) The purchaser of the vessel when the vessel is sold.

(6) Sea Urchin:

(a) Medical Transfers: If the number of permits is at 31 or more, the Department may authorize a permit to be transferred to a specified individual for up to 90 days upon petition by a permittee on the form provided by the Department. The Department's decision to allow a transfer shall be based on a finding that the current permit holder is unable to participate in the fishery due to injury or illness which prevents diving, based on medical evidence submitted by the permit holder and such other evidence the Department considers reliable. At the end of the transfer period, the transfer may be renewed by the Department to the original transferee or to a new transferee, provided that the permittee again submits medical evidence documenting that the injury or illness continues to prevent the permittee's return to diving. There is a two-year limit on the eligibility of each individual permit for medical transfer status, beginning with the start date of the first medical transfer of that permit on or after January 1, 1996, and ending two years from that date. When the total number of permits reaches 30 or less the Department shall not allow any permit transfers for any medical reason;

(b) If the Department, or the Board, after review of a denial by the Department, allows a transfer, the original permit holder shall give written notice to the Department of the name, address and telephone number of the transferee. The original permit holder may, at any time during the transfer period specified in subsection (6)(a), request the Department to transfer the permit back to the original permit holder. Such transfer requires 30 days' written notice to the Department. In any event, upon expiration of the transfer period specified in (6)(a), or upon cancellation of a transfer due to lack of medical evidence of continuing inability to dive, the permit shall revert automatically to the original permit holder, unless the transfer is renewed, as provided in subsection (6)(a) of this rule;

(c) The total landings of sea urchins by all transferees of a permit shall not exceed the greater of either of the following amounts:

(A) Up to 5,000 pounds per 90-day period, not to exceed 5,000 pounds annually; or

(B) Twenty-five percent of the amount landed by the original permit holder in the previous season's catch, for each 90-day period.

(d) Combination Permit Transfers: If the number of permits is at 31 or more, the Department may transfer permits from one person to another as follows:

(A) The individual receiving the transferred permit (the purchaser) obtains no more than three total permits, each of which is valid for the current year in which the permit is purchased, from existing permit holders;

(B) The Department combines the three permits into a single new permit issued to the purchaser; and

(C) No transferred permit is valid for harvesting sea urchins until conditions (6)(d)(A) and (6)(d)(B) are met. Individual permits which are transferred may not be used individually and are not renewable. Once a permit has been transferred in accordance with (6)(d)(A) the individual to whom the permit has been transferred has up to 24 months from the date of transfer to combine it with two others to create a valid new permit.

(e) When the total number of permits reaches 30 or less, the Department shall approve the transfer of any permit to any purchaser of the permit, provided that not more than one sale or transfer of the permit occurs within that calendar year;

(f) Lottery-issued permit transfers: No permit issued to an individual through the lottery after 1998 may be transferred to another individual until a cumulative total of 20,000 pounds of sea urchins have been landed on commercial fish receiving tickets by the individual issued the permit through the lottery.

(7) Ocean Dungeness crab — see ORS 508.936; and

(a) The vessel permit is transferable one time between September 8, 2006 and November 24, 2006 provided the vessel holding the permit has landed at least 500 pounds of ocean Dungeness crab in each of two crab fishing seasons in the last five crab seasons which includes landings made during any season open at the time of application. Crab fishing season means ocean Dungeness crab season. However, the Board may waive the landing requirement for transfers, if the Board finds that strict adherence to this requirement would create undue hardship to the individual seeking to transfer a permit. The board also may delegate to the Department its authority to waive this requirement in such specific instances as the Board sets forth in a letter of delegation to the Department;

(b) The vessel permit is transferable:

(A) To another vessel; or

(B) To the purchaser of the vessel when the vessel is sold.

(c) The vessel to which a permit is transferred, with the exception of vessels covered by (7)(e):

(A) Shall not be more than 10 feet longer than the vessel which held the permit on January 1, 2006, and

(B) Shall not be more than 99 feet in length.

(d) For the purpose of (7)(c)(A), the Commercial Fishery Permit Review Board may waive the boat length restriction if it finds that strict adherence would create undue hardship. For this purpose, undue hardship means significant adverse consequences caused by death, permanent disability injury or serious illness requiring extended care by a physician.

(e) Permits obtained as a result of qualifying under section (1)(e) of ORS 508.931 may only be transferred to vessels of a length of 26 feet or less;

(f) In the event a vessel is destroyed due to fire, capsizing, sinking or other event, the vessel owner has up to two years to transfer the ocean Dungeness crab fishery permit to a replacement vessel.

(8) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.957.

(9) Brine shrimp fishery: Permits are transferable.

(10) Bay clam dive fishery:

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(a) The permittee may request the Department to transfer, to a replacement vessel that is owned by the same person that owns the vessel to which the permit was originally issued, a bay clam dive permit up to two times per calendar year.

(b) In the event of the death of a permit holder, the permit of the deceased may be issued to an immediate family member upon request, validated by the Department's receipt of a copy of the death certificate and the original permit.

(c) The Department may authorize a permit issued to an individual to be transferred to a specified individual for up to 90 days upon petition by the permittee on the form provided by the Department due to a medical condition.

(A) The Department's decision to allow a transfer shall be based on a finding that the current permit holder is unable to participate in the fishery due to injury or illness which prevents diving, based on medical evidence submitted by the permit holder, and such other evidence the Department considers reliable.

(B) At the end of the transfer period, the Department may reinstate the permit to the original permit holder or to a new transferee, provided that the original permit holder again submits medical evidence documenting that the injury or illness continues to prevent their return to diving.

(C) There is a two-year limit on the eligibility of each individual permit for medical transfer status, beginning with the start date of the first medical transfer of that permit on or after January 1, 2006, and ending two years from that date.

(D) If the Department, after review of a denial by the Commission, allows a transfer, the original permit holder shall give written notice to the Department of the name, address and telephone number of the transferee. The original permit holder may, at any time during the transfer period specified in subsection (10)(c), request the Department reinstate the permit back to their possession. Such transfer requires 30 days' written notice to the Department. In any event, upon expiration of the transfer period specified in (10)(c), or upon cancellation of a transfer due to lack of medical evidence of continuing inability to dive, the permit shall revert automatically to the original permit holder, unless the transfer is renewed, as provided in subsection (10)(c) of this rule.

## (11) Sardine Fishery:

(a) Permits are transferable up to two times in one calendar year

(b) Applications to transfer a sardine fishery permit shall only be accepted to vessels, which in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting sardines are not eligible for transfer.

Stat. Auth.: ORS 506.109, 506.119, 506.129, 508.921, 508.936, 506.755  
Stats. Implemented: ORS 506.109, 506.129, 508.921-508.941, 506.755

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 94-1998, 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 95-2006(Temp), f. & cert. ef. 9-8-06 thru 11-24-06

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**Rule Caption:** Remove a gear limitation program for the commercial ocean Dungeness crab fishery.

**Adm. Order No.:** DFW 96-2006(Temp)

**Filed with Sec. of State:** 9-8-2006

**Certified to be Effective:** 9-8-06 thru 3-6-07

**Notice Publication Date:**

**Rules Amended:** 635-005-0055, 635-006-1015, 635-006-1065

**Subject:** Removes provisions establishing a crab pot limit system.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-005-0055

### Fishing Gear

It is *unlawful* to:

(1) Take crab for commercial purposes by any means other than crab rings or crab pots (ORS 509.415); a crab ring is any fishing device that allows crab unrestricted entry or exit while fishing.

(2) Use any crab pot which does not include a minimum of two circular escape ports of at least 4-1/4 inches inside diameter located on the top or side of the pot. If escape ports are placed on the side of the pot, they shall be located in the upper half of the pot.

(3) Use any crab pot which does not have a release mechanism. Acceptable release mechanisms are:

(a) Iron lid strap hooks constructed of iron or "mild" steel rod (not stainless steel) not to exceed 1/4-inch (6mm) in diameter;

(b) A single loop of untreated cotton or other natural fiber twine, or other twine approved by the Department not heavier than 120 thread size between pot lid tiedown hooks and the tiedown straps; or

(c) Any modification of the wire mesh on the top or side of the pot, secured with a single strand of 120 thread size untreated cotton, natural fiber, or other twine approved by the Department which, when removed, will create an opening of at least five inches in diameter.

(4) Place, operate, or leave crab rings or pots in the Pacific Ocean and Columbia River or in any bay or estuary during the closed season, except that in only the Pacific Ocean and Columbia River, rings or pots may be placed no more than 64 hours immediately prior to the date the Dungeness crab season opens. In addition, unbaited crab rings or pots with open release mechanisms may be left in the Pacific Ocean (not including the Columbia River) for a period not to exceed 14 days following the closure of the Dungeness crab season.

(5) Use commercial crab pots in the Columbia River or Pacific Ocean unless the pots are individually marked with a surface buoy bearing, in a visible and legible manner, the brand of the owner and an ODFW buoy tag, provided that:

(a) The brand is a number registered with and approved by the Department;

(b) Authority to use branded gear by other than the hired captain fishing from the owner's boat shall be in writing by the pot owner, with the document to be available for inspection on demand by persons authorized to enforce the commercial fishing laws of this state.

(6) Use longline gear for Dungeness crab, except longline gear may be used for Dungeness crab outside 40 fathoms until August 15, 1997.

(a) Crab longline gear means commercial crab pots or traps that are attached together with a line;

(b) Each terminal end of crab longline gear shall be marked with a surface buoy in the manner outlined in subsections (5)(a) and (b) of this rule. Longline marker buoys shall be equipped with a pole and a flag, light, and radar reflector.

(7) Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.

(8) Operate more than 15 crab rings from any one fishing vessel in bays or estuaries, except the Columbia River.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 285(74-20), f. 11-27-74, ef. 12-25-74, Renumbered from 625-010-0160; FWC 49-1978, f. & ef. 9-27-78, Renumbered from 635-036-0130; FWC 56-1982, f. & ef. 8-27-82; FWC 81-1982, f. & ef. 11-4-82; FWC 82-1982(Temp), f. & ef. 11-9-82; FWC 13-1983, f. & ef. 3-24-83; FWC 11-1984, f. 3-30-84, ef. 9-16-84, except section (5) per FWC 45-1984, f. & ef. 8-30-84; FWC 72-1984, f. & ef. 10-22-84; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 78-1986 (Temp), f. & ef. 12-1-86; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-29-88; FWC 107-1990, f. & cert. ef. 10-1-90; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94; FWC 68-1996(Temp), f. & cert. ef. 12-5-96; FWC 2-1997, f. 1-27-97, cert. ef. 2-1-97; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06; DWF 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07

## 635-006-1015

### Requirement for Permit

(1) The following provide general requirements for permits:

(a) Gillnet salmon — see ORS 508.775;

(b) Troll salmon — see ORS 508.801 and 508.828;

(c) Shrimp — see ORS 508.880 and 508.883;

(d) Scallop — see ORS 508.840 and 508.843;

(e) Roe-herring:

(A) It is *unlawful* for an individual to operate a vessel in the Yaquina Bay roe-herring fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive roe-herring taken in the Yaquina Bay roe-herring fishery from a vessel for which the permit required by section (1)(e) of this rule has not been issued.

(f) Sea Urchin:

(A) It is *unlawful* for an individual to take or attempt to take sea urchins for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive sea urchins taken in the sea urchin fishery from a person for which the permit required by section (1)(f) of this rule has not been issued.

(g) Ocean Dungeness crab:

(A) Except as provided under the reciprocity provisions of ORS 508.941(3), it is *unlawful* for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941. A Dungeness crab vessel permit is not

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required for vessels that are engaged solely in setting gear for a permitted vessel and which do not retrieve, retain or possess Dungeness crab.

(B) If the Commission establishes a vessel crab pot limitation or allocation system beyond the 2002-03 ocean crab season, August 14, 2001 is the control date for eligibility criteria related to past participation in the ocean fishery.

(C) In addition to certifying that the vessel is free of crab on November 30 each year, as required by OAR 635-005-0045(1), each vessel operator must declare and certify on the Oregon hold inspection certification form the maximum number of pots that will be used in that season's fishery before fishing.

(D) A single delivery license may not be substituted for an ocean Dungeness crab permit. Once a vessel has obtained an ocean Dungeness crab permit, Dungeness crab may be landed by the vessel using a combination of an ocean Dungeness crab permit and a single delivery permit in lieu of a commercial fishing and boat license. However, crab may not be landed more than twice in any one crab season using single delivery permits.

(h) Developmental Fisheries: See ORS 506.450 through 506.465 and 635-006-0800 through 635-006-0950.

(i) July 1, 2001 is the control date to establish eligibility criteria for the purpose of future limited entry programs for the commercial groundfish fishery.

(j) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.945.

(k) Brine Shrimp:

(A) It is *unlawful* to take or attempt to take brine shrimp for commercial purposes without first obtaining a brine shrimp fishery permit issued pursuant to OAR 635-006-1035 through OAR 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive brine shrimp taken in the brine shrimp fishery from a person for which the permit required by this rule has not been issued.

(C) The Department may issue no more than three permits required by section (1)(k) of this rule.

(l) Bay clam dive fishery:

(A) It is *unlawful*:

(i) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in any Oregon estuary without first obtaining a coast-wide bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through 635-006-1095;

(ii) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in Oregon estuaries south of Heceta Head without first obtaining a south-coast bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through 635-006-1095;

(iii) For a wholesaler, canner, or buyer to buy or receive bay clams taken in the bay clam dive fishery from a vessel or person not issued the permit required by this rule.

(iv) To take or attempt to take bay clams where more than two divers operating from any one boat were in the water at the same time or where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any boat while harvesting, possessing, or transporting bay clams.

(B) The Department may not issue more than ten coast-wide permits required by section (1)(l)(A)(i) of this rule and five south-coast permits required by (1)(l)(A)(ii) of this rule.

(C) Permits may be issued to individuals or to vessels, designated at the beginning of the year. Designation may not change during the year.

(m) Sardine fishery:

(A) It is *unlawful* for an individual to operate a vessel in the Sardine fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095. The sardine fishery permit is not required for vessels to retain sardines as incidental catch in other fisheries.

(B) It is unlawful for a wholesaler, canner or buyer to buy or receive sardines taken in the Sardine fishery from a vessel for which the permit required by section (1)(m)(A) of this rule has not been issued.

(C) The Department may not issue more than 20 permits required by section (1)(m)(A) of this rule.

(D) The Sardine Advisory Group as defined under OAR 635-006-1065 may advise the Commission on increasing the number of permits, developing criteria for issuing the new permits, and other regulations concerning the sardine fishery.

(E) By January 1, 2008, vessels permitted under section (1)(m)(A) of this rule shall be operated or owned by the permit holder.

(2) The permits required by section (1) of this rule are in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and 508.260.

(3) No vessel may hold more than one vessel permit for a given fishery at any one time.

(4) If permits are issued on an individual basis, no individual may hold more than one permit for a given fishery at any one time.

(5) Unless otherwise provided, permits must be purchased by December 31 of the license year.

(6) No vessel permit may be transferred away from a vessel without the lien holder's written permission.

(7) Applications for permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

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 103-2001, f. & cert. ef. 10-23-01; DFW 95-2002, f. & cert. ef. 8-27-02; 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 45-2006, f. 6-20-06, cert. ef. 12-1-06; DFW 74-2006, f. & cert. ef. 8-7-06; DFW 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07

## 635-006-1065

### Review of Denials

(1) Except for bay clam dive fishery and sardine fishery permits, an individual whose application for issuance or renewal of a limited entry permit is denied by the Department may request review of the Department's decision by doing so in writing to the Commercial Fishery Permit Board. The procedure for requesting review and the applicable standard of review shall be as follows:

(a) Gillnet salmon — see ORS 508.796;

(b) Troll salmon — see ORS 508.825;

(c) Shrimp — see ORS 508.910;

(d) Scallop — see ORS 508.867;

(e) Roe-herring — see ORS 508.765. For the roe-herring fishery, the Board may waive requirements for permits if the Board finds that:

(A) The individual for personal or economic reasons chose to actively commercially fish the permit vessel in some other ocean fishery during the roe-herring season; or

(B) The Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(f) Sea Urchin — see ORS 508.760. For the sea urchin fishery, the Board may waive requirements for permits if the Board finds that failure to meet the requirements was due to illness, injury or circumstances beyond the control of the permittee;

(g) Ocean Dungeness crab — see ORS 508.941.

(h) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.960.

(2) The Board may delegate to the Department its authority to waive requirements for renewal of permits in all fisheries in such specific instances as the Board sets forth in a letter of delegation to the Department.

(3) For those fisheries requiring a \$75 application fee for Board review, the fee is nonrefundable. However, if the Board grants the applicant's request, the nonrefundable fee shall apply toward the permit fee.

(4) Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to 183.550.

(5) Bay clam dive fishery permit:

(a) An individual whose application for issuance, renewal or transfer of a bay clam fishery permit is denied by the Department may, within 60 days of receipt of denial, make written request, to the Commission, for a hearing for review of the denial. The request shall identify why the permit should be granted.

(b) In accordance with any applicable provisions of ORS 183.310 to 183.550 for conduct of contested cases, a hearings officer shall review the proposed denial by the Department of an application for issuance, renewal or transfer of a permit.

(c) A party must petition for Commission review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants the proposed order changed. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.

(d) Final Orders shall be issued by the Commission and may be appealed as provided in ORS 183.480 to 183.550.

(6) Sardine fishery permit:



# ADMINISTRATIVE RULES

(a) An individual whose application for issuance, renewal or transfer of a sardine fishery permit is denied by the Department may, within 60 days of receipt of denial, make written request, to the Commission, for a hearing for review of the denial. The request shall identify why the permit should be granted.

(b) In accordance with any applicable provisions of ORS 183.310 to 183.550 for conduct of contested cases, a hearings officer shall review the proposed denial by the Department of an application for issuance, renewal or transfer of a permit. The Sardine Advisory Board is designated as a party to the contested case.

(c) A party, including the Department, must petition for Commission review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants to file an exception to the proposed order. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.

(d) The Sardine Advisory Group:

(A) Shall consist of members appointed by the Commission as follows:

- (i) Three members shall be chosen to represent the sardine industry.
- (ii) Two members shall be chosen to represent the public.

(B) Is subject to requirements of OAR 635-006-1200 sections (1) and (2).

Stat. Auth.: ORS 506.119  
Stats. Implemented: ORS 506.109  
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 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 45-2006, f. 6-20-06, cert. ef. 12-1-06; DWF 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07

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**Rule Caption:** Establish a gear limitation program for the commercial ocean Dungeness crab fishery.

**Adm. Order No.:** DFW 97-2006(Temp)

**Filed with Sec. of State:** 9-8-2006

**Certified to be Effective:** 9-9-06 thru 3-7-07

**Notice Publication Date:**

**Rules Amended:** 635-005-0055, 635-006-1015, 635-006-1065

**Subject:** Establish a gear limitation program to restrict participation by vessels fishing off Oregon in the commercial ocean Dungeness crab fishery.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-005-0055

### Fishing Gear

It is *unlawful* for commercial purposes to:

(1) Take crab by any means other than crab rings or crab pots (ORS 509.415); a crab ring is any fishing device that allows crab unrestricted entry or exit while fishing.

(2) Use any crab pot which is greater than thirteen cubic feet in volume, calculated using external dimensions.

(3) Use any crab pot which does not include a minimum of two circular escape ports of at least 4 -1/4 inches inside diameter located on the top or side of the pot. If escape ports are placed on the side of the pot, they shall be located in the upper half of the pot.

(4) Use any crab pot which does not have a release mechanism. Acceptable release mechanisms are:

(a) Iron lid strap hooks constructed of iron or "mild" steel rod (not stainless steel) not to exceed 1/4-inch (6mm) in diameter;

(b) A single loop of untreated cotton or other natural fiber twine, or other twine approved by the Department not heavier than 120 thread size between pot lid tiedown hooks and the tiedown straps; or

(c) Any modification of the wire mesh on the top or side of the pot, secured with a single strand of 120 thread size untreated cotton, natural fiber, or other twine approved by the Department which, when removed, will create an opening of at least five inches in diameter.

(5) Place, operate, or leave crab rings or pots in the Pacific Ocean and Columbia River or in any bay or estuary during the closed season, except that in only the Pacific Ocean and Columbia River, rings or pots may be placed no more than 64 hours immediately prior to the date the Dungeness crab season opens. In addition, unbaited crab rings or pots with open release mechanisms may be left in the Pacific Ocean (not including the Columbia River) for a period not to exceed 14 days following the closure of the Dungeness crab season.

(6) Use commercial crab pots in the Columbia River or Pacific Ocean unless the pots are individually marked with a surface buoy bearing, in a

visible and legible manner, the brand of the owner and an ODFW buoy tag, provided that:

(a) The brand is a number registered with and approved by the Department;

(b) Only one unique buoy brand shall be registered to any one permitted vessel;

(c) All crab pots fished by a permitted vessel must use only the Oregon buoy brand number registered to that vessel in the area off of Oregon;

(d) The Department shall issue crab buoy tags to the owner of each commercial crab permit in the amount determined by OAR 635-006-1015(1)(g)(E);

(e) All buoy tags eligible to a permit holder must be purchased from the Department at cost and attached to the gear prior to setting gear; and

(f) Buoys attached to a crab pot must have the buoy tag securely attached to the first buoy on the crab pot line (the buoy closest to the crab pot) at the end away from the crab pot line;

(g) Additional buoy tags to replace lost tags will be issued by the Department as follows:

(A) After 45 days following the season opening in the area fished, up to ten percent of the tags initially issued for that season; or

(B) For a catastrophic loss, defined as direct loss of non-deployed gear in the event of a vessel being destroyed due to fire, capsizing, or sinking. Documentation of a catastrophic loss may include any information the Department considers appropriate, such as fire department or US Coast Guard reports.

(C) Permit holders must obtain, complete, and sign a declaration of loss under penalty of perjury in the presence of an authorized Department employee. The declaration shall state the number of buoy tags lost, the specific tag number of each lost tag, the location and date where lost gear or tags were last observed, and the presumed cause of the loss.

(7) Remove, damage, or otherwise tamper with crab buoy or pot tags except when lawfully applying or removing tags on the vessel's buoys and pots.

(8) Possess, use, control, or operate any crab pot not bearing a tag identifying the pot as that vessel's, or buoys not bearing tags issued by the Department to that vessel, except:

(a) To set gear as allowed under OAR 635-006-1015; or

(b) Under a waiver granted by the Department to allow one time retrieval of permitted crab gear to shore by another crab permitted vessel provided that:

(A) Vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or sinking;

(B) Circumstances beyond the control of the permit holder created undue hardship as defined by OAR 635-006-1095(7)(d);

(C) A Request must be in writing and a waiver approved and issued prior to retrieval.

(D) A copy of the waiver must be on board the vessel making the retrieval. (Contact Oregon Department of Fish and Wildlife License Services, Salem for guidelines.)

(9) Attach one crab pot to another crab pot or ring net by a common groundline or any other means that connects crab pots together,

(10) Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.

(11) Operate more than 15 crab rings from any one fishing vessel in bays or estuaries, except the Columbia River.

(12) Take or fish for Dungeness crab for commercial purposes in the Columbia River or Pacific Ocean adjacent to the state of Oregon unless a crab pot allocation has been issued to the permit required under OAR 635-006-1015(1)(g).

(13) Deploy or fish more crab pots than the number of pots assigned by the crab pot allocation certificate or to use any vessel other than the vessel designated on the crab pot allocation, except to set gear as allowed under OAR 635-006-1015.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 285(74-20), f. 11-27-74, ef. 12-25-74, Renumbered from 625-010-0160; FWC 49-1978, f. & ef. 9-27-78, Renumbered from 635-036-0130; FWC 56-1982, f. & ef. 8-27-82; FWC 81-1982, f. & ef. 11-4-82; FWC 82-1982(Temp), f. & ef. 11-9-82; FWC 13-1983, f. & ef. 3-24-83; FWC 11-1984, f. 3-30-84, ef. 9-16-84, except section (5) per FWC 45-1984, f. & ef. 8-30-84; FWC 72-1984, f. & ef. 10-22-84; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 78-1986 (Temp), f. & ef. 12-1-86; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-29-88; FWC 107-1990, f. & cert. ef. 10-1-90; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94; FWC 68-1996(Temp), f. & cert. ef. 12-5-96; FWC 2-1997, f. 1-27-97, cert. ef. 2-1-97; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06; DWF 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07; DFW 97-2006(Temp), f. 9-8-06, cert. ef. 9-9-06 thru 3-7-07

# ADMINISTRATIVE RULES

## 635-006-1015

### Requirement for Permit

(1) The following provide general requirements for permits:

- (a) Gillnet salmon — see ORS 508.775;
- (b) Troll salmon — see ORS 508.801 and 508.828;
- (c) Shrimp — see ORS 508.880 and 508.883;
- (d) Scallop — see ORS 508.840 and 508.843;
- (e) Roe-herring:

(A) It is *unlawful* for an individual to operate a vessel in the Yaquina Bay roe-herring fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive roe-herring taken in the Yaquina Bay roe-herring fishery from a vessel for which the permit required by section (1)(e) of this rule has not been issued.

(f) Sea Urchin:

(A) It is *unlawful* for an individual to take or attempt to take sea urchins for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive sea urchins taken in the sea urchin fishery from a person for which the permit required by section (1)(f) of this rule has not been issued.

(g) Ocean Dungeness crab:

(A) Except as provided under the reciprocity provisions of ORS 508.941(3) or section (F) below, it is *unlawful* for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941. A Dungeness crab vessel permit is not required for vessels that are engaged solely in setting gear for a permitted vessel and which do not retrieve, retain or possess Dungeness crab.

(B) If the Commission establishes a vessel crab pot limitation or allocation system beyond the 2002-03 ocean crab season, August 14, 2001 is the control date for eligibility criteria related to past participation in the ocean fishery.

(C) In addition to certifying that the vessel is free of crab on November 30 each year, as required by OAR 635-005-0045(1), each vessel operator must declare and certify on the Oregon hold inspection certification form the maximum number of pots that will be used in that season's fishery before fishing.

(D) A single delivery license may not be substituted for an ocean Dungeness crab permit. Once a vessel has obtained an ocean Dungeness crab permit, Dungeness crab may be landed by the vessel using a combination of an ocean Dungeness crab permit and a single delivery permit in lieu of a commercial fishing and boat license. However, crab may not be landed more than twice in any one crab season using single delivery permits.

(E) Effective December 1, 2006, the number of crab pots allocated to a permit required under section (A) above will be determined as follows:

(i) The allocation will be based on documented landings of Ocean Dungeness crab into Oregon, Washington (excluding landings from the Puget Sound Fishery), or California, using valid Oregon fish receiving tickets, or equivalent valid documents from the states of Washington or California, from December 1, 1995 through August 14, 2001;

(ii) The crab pot allocation will be the highest number of pots the vessel qualifies for during the six qualifying seasons, December 1 of one year through September 15 of the next year (except through August 14, in 2001);

(iii) A crab pot allocation of 200 shall be assigned to a permit with landings less than 15,020 pounds in the 1995 to 1996 season, and 4,010 pounds in the 1996 to 1997 season, and 5,170 pounds in the 1997 to 1998 season, and 7,083 pounds in the 1998 to 1999 season, and 13,160 pounds in the 1999 to 2000 season, and 8,940 pounds in the 2000 to 2001 season;

(iv) A crab pot allocation of 300 shall be assigned to a permit with minimum landings of 15,020 pounds in the 1995 to 1996 season, or 4,010 pounds in the 1996 to 1997 season, or 5,170 pounds in the 1997 to 1998 season, or 7,083 pounds in the 1998 to 1999 season, or 13,160 pounds in the 1999 to 2000 season, or 8,940 pounds in the 2000 to 2001 season; and

(v) A crab pot allocation of 500 shall be assigned to a permit with minimum landings of 89,020 pounds in the 1995 to 1996 season, or 35,180 pounds in the 1996 to 1997 season, or 39,350 pounds in the 1997 to 1998 season, or 49,450 pounds in the 1998 to 1999 season, or 78,400 pounds in the 1999 to 2000 season, or 37,030 pounds in the 2000 to 2001 season.

(F) If a vessel does not have an Oregon crab permit required under section (A) above, but does have a California Dungeness Crab permit valid to fish off Oregon, the vessel may fish for Dungeness crab outside of three nautical miles off Oregon provided:

(i) A request for an allocation is submitted as specified by Oregon Department of Fish and Wildlife License Services, Salem;

(ii) A crab pot allocation shall be assigned to their vessel as described in (E) above; and

(iii) All crab pots and buoys must be marked as specified by OAR 635-005-0055(6).

(h) Developmental Fisheries: See ORS 506.450 through 506.465 and OAR 635-006-0800 through 635-006-0950.

(i) July 1, 2001 is the control date to establish eligibility criteria for the purpose of future limited entry programs for the commercial groundfish fishery.

(j) Black rockfish / blue rockfish / nearshore fishery — see ORS 508.945.

(k) Brine Shrimp:

(A) It is *unlawful* to take or attempt to take brine shrimp for commercial purposes without first obtaining a brine shrimp fishery permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive brine shrimp taken in the brine shrimp fishery from a person for which the permit required by this rule has not been issued.

(C) The Department may issue no more than three permits required by section (1)(k) of this rule.

(l) Bay clam dive fishery:

(A) It is *unlawful*:

(i) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in any Oregon estuary without first obtaining a coast-wide bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through 635-006-1095;

(ii) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in Oregon estuaries south of Heceta Head without first obtaining a south-coast bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through 635-006-1095;

(iii) For a wholesaler, canner, or buyer to buy or receive bay clams taken in the bay clam dive fishery from a vessel or person not issued the permit required by this rule.

(iv) To take or attempt to take bay clams where more than two divers operating from any one boat were in the water at the same time or where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any boat while harvesting, possessing, or transporting bay clams.

(B) The Department may not issue more than ten coast-wide permits required by section (1)(l)(A)(i) of this rule and five south-coast permits required by (1)(l)(A)(ii) of this rule.

(C) Permits may be issued to individuals or to vessels, designated at the beginning of the year. Designation may not change during the year.

(m) Sardine fishery:

(A) It is *unlawful* for an individual to operate a vessel in the Sardine fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095. The sardine fishery permit is not required for vessels to retain sardines as incidental catch in other fisheries.

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive sardines taken in the Sardine fishery from a vessel for which the permit required by section (1)(m)(A) of this rule has not been issued.

(C) The Department may not issue more than 20 permits required by section (1)(m)(A) of this rule.

(D) The Sardine Advisory Group as defined under OAR 635-006-1065 may advise the Commission on increasing the number of permits, developing criteria for issuing the new permits, and other regulations concerning the sardine fishery.

(E) By January 1, 2008, vessels permitted under section (1)(m)(A) of this rule shall be operated or owned by the permit holder.

(2) The permits required by section (1) of this rule are in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and 508.260.

(3) No vessel may hold more than one vessel permit for a given fishery at any one time.

(4) If permits are issued on an individual basis, no individual may hold more than one permit for a given fishery at any one time.

(5) Unless otherwise provided, permits must be purchased by December 31 of the license year.

(6) No vessel permit may be transferred away from a vessel without the lien holder's written permission.

(7) Applications for permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.119

# ADMINISTRATIVE RULES

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 103-2001, f. & cert. ef. 10-23-01; DFW 95-2002, f. & cert. ef. 8-27-02; 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 45-2006, f. 6-20-06, cert. ef. 12-1-06; DFW 74-2006, f. & cert. ef. 8-7-06; DFW 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07; DFW 97-2006(Temp), f. 9-8-06, cert. ef. 9-9-06 thru 3-7-07

## 635-006-1065 Review of Denials

(1) Except for bay clam dive fishery and sardine fishery permits, an individual whose application for issuance or renewal of a limited entry permit is denied by the Department may request review of the Department's decision by doing so in writing to the Commercial Fishery Permit Board. The procedure for requesting review and the applicable standard of review shall be as follows:

- (a) Gillnet salmon — see ORS 508.796;
- (b) Troll salmon — see ORS 508.825;
- (c) Shrimp — see ORS 508.910;
- (d) Scallop — see ORS 508.867;
- (e) Roe-herring — see ORS 508.765. For the roe-herring fishery, the

Board may waive requirements for permits if the Board finds that:

(A) The individual for personal or economic reasons chose to actively commercially fish the permit vessel in some other ocean fishery during the roe-herring season; or

(B) The Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(f) Sea Urchin — see ORS 508.760. For the sea urchin fishery, the Board may waive requirements for permits if the Board finds that failure to meet the requirements was due to illness, injury or circumstances beyond the control of the permittee;

(g) Ocean Dungeness crab — see ORS 508.941. For the Ocean Dungeness crab fishery, a permit holder may request review of the Department's initial crab pot allocation or the Department's denial of replacement of lost buoy tags by doing so in writing to the Commercial Fishery Permit Board. The Board may adjust the number of crab pots allocated to a permit or approve replacement of lost buoy tags as follows:

(A) The Board may adjust the number of crab pots allocated to a permit:

- (i) Based on additional landings documentation supplied by permit holder according to criteria under OAR 635-006-1015(1)(g)(E); or
- (ii) The crab pot allocation may be increased by one tier as described under OAR 635-006-1015(1)(g)(E) based on circumstances during the qualifying seasons described in OAR 635-006-1015(1)(g)(E) beyond the control of the permit holder which created undue hardship as defined by OAR 635-006-1095(7)(d).

(B) The Board may approve replacement of lost buoy tags due to a catastrophic loss as defined under OAR 635-005-0055(1)(6)(g)(B).

(h) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.960.

(2) The Board may delegate to the Department its authority to waive requirements for renewal of permits in all fisheries in such specific instances as the Board sets forth in a letter of delegation to the Department.

(3) For those fisheries requiring a \$75 application fee for Board review, the fee is nonrefundable. However, if the Board grants the applicant's request, the nonrefundable fee shall apply toward the permit fee.

(4) Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to 183.550.

(5) Bay clam dive fishery permit:

(a) An individual whose application for issuance, renewal or transfer of a bay clam fishery permit is denied by the Department may, within 60 days of receipt of denial, make written request, to the Commission, for a hearing for review of the denial. The request shall identify why the permit should be granted.

(b) In accordance with any applicable provisions of ORS 183.310 to 183.550 for conduct of contested cases, a hearings officer shall review the proposed denial by the Department of an application for issuance, renewal or transfer of a permit.

(c) A party must petition for Commission review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants the proposed order changed. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.

(d) Final Orders shall be issued by the Commission and may be appealed as provided in ORS 183.480 to 183.550.

(6) Sardine fishery permit:

(a) An individual whose application for issuance, renewal or transfer of a sardine fishery permit is denied by the Department may, within 60 days of receipt of denial, make written request, to the Commission, for a hearing for review of the denial. The request shall identify why the permit should be granted.

(b) In accordance with any applicable provisions of ORS 183.310 to 183.550 for conduct of contested cases, a hearings officer shall review the proposed denial by the Department of an application for issuance, renewal or transfer of a permit. The Sardine Advisory Board is designated as a party to the contested case.

(c) A party, including the Department, must petition for Commission review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants to file an exception to the proposed order. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.

(d) The Sardine Advisory Group:

(A) Shall consist of members appointed by the Commission as follows:

- (i) Three members shall be chosen to represent the sardine industry.
- (ii) Two members shall be chosen to represent the public.

(B) Is subject to requirements of OAR 635-006-1200 sections (1) and (2).

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

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 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 45-2006, f. 6-20-06, cert. ef. 12-1-06; DFW 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07; DFW 97-2006(Temp), f. 9-8-06, cert. ef. 9-9-06 thru 3-7-07

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**Rule Caption:** In-season modification to the Knappa Slough Select Area commercial fall salmon fishery.

**Adm. Order No.:** DFW 98-2006(Temp)

**Filed with Sec. of State:** 9-12-2006

**Certified to be Effective:** 9-12-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-042-0160

**Subject:** Amend rule to rescind the fishing period previously scheduled for 7:00 p.m. Tuesday September 12, 2006 through 7:00 a.m. Friday September 15, 2006 (3 nights) in the Knappa Slough select area. The Big Creek Hatchery's efforts to collect female fall chinook broodstock has fallen nearly 1,000 females short of their production needs. Historically, peak collections have occurred around September 12. This closure is necessary to assist in the collection of female broodstock. This revision is consistent with action taken September 11, 2006 by the Columbia River Compact.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-042-0160

### Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes during open fishing periods described as the fall fishery in paragraphs (2)(a), (3)(a) and (3)(b) of this rule in those waters of Blind Slough and Knappa Slough as described in (3) and (4) below.

(2) The open fishing periods established as the fall fishery in Blind Slough only are as follows:

(a) From 7:00 p.m. until 7:00 a.m. nightly (12 hours) commencing: 7:00 p.m. Tuesday Sept. 5, 2006 through 7:00 a.m. Friday Sept. 8, 2006 (3 nights) and 7:00 p.m. Tuesday Sept. 12, 2006 through 7:00 a.m. Friday Sept. 15, 2006 (3 nights)

(3) The open fishing periods established as the fall fishery in Blind Slough and Knappa Slough are as follows:

(a) From 7:00 p.m. until 7:00 a.m. nightly (12 hours) commencing: 7:00 p.m. Monday Sept. 18, 2006 through 7:00 a.m. Friday Sept. 22, 2006 (4 nights); and

(b) From 6:00 p.m. until 8:00 a.m. nightly (14 hours) commencing: 6:00 p.m. Monday Sept. 25, 2006 through 8:00 a.m. Friday Sept. 29, 2006 (4 nights); 6:00 p.m. Monday Oct. 2, 2006 through 8:00 a.m. Friday Oct. 6, 2006 (4 nights); 6:00 p.m. Monday Oct. 9, 2006 through 8:00 a.m. Friday Oct. 13, 2006 (4 nights); 6:00 p.m. Monday Oct. 16, 2006 through 8:00 a.m. Friday Oct. 20, 2006 (4 nights); and 6:00 p.m. Monday Oct. 23, 2006 through 8:00 a.m. Friday Oct. 27, 2006 (4 nights).

(4) Blind Slough fishing area is defined as those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough



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upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(5) Knappa Slough fishing area is defined as all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to the boundary line defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore.

(6) Gear restrictions are as follows: During the fall fishery, outlined in paragraphs (2)(a) and (2)(b) above, gill nets may not exceed 100 fathoms in length with no weight restriction on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Monofilament gill nets are allowed. It is unlawful to use a gill net having a mesh size that is greater than 6 inches;

(7) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (2)(a) and (2)(b) above, the weekly aggregate sturgeon limit applies to possessions and sales in the mainstem Columbia River fishery and all open Select Area fisheries combined. Retention of green sturgeon is prohibited.

(8) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06

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**Rule Caption:** Amendment to hunt number 546 Bighorn Sheep season date.

**Adm. Order No.:** DFW 99-2006(Temp)

**Filed with Sec. of State:** 9-11-2006

**Certified to be Effective:** 9-11-06 thru 9-30-06

**Notice Publication Date:**

**Rules Amended:** 635-067-0030

**Subject:** This rule will allow an extension of seven days to hunt number 546 — Murderers Creek Big Horn Sheep hunt.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-067-0030

### Controlled Bighorn Sheep Hunts

Hunt 546 — Murderers Creek

(1) Bag Limit: One bighorn sheep ram.

(2) Open Season: September 2 through September 24, 2006.

(3) Hunt Area: All of Murderers Creek unit.

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

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

Hist.: FWC 32-1978, f. & ef. 6-30-78; FWC 12-1979, f. & ef. 3-28-79; FWC 29-1979, f. & ef. 8-2-79; FWC 14-1980, f. & ef. 4-8-80; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82, Renumbered from 635-060-0610; FWC 15-1983, f. & ef. 4-19-83; FWC 16-1984, f. 4-6-84, cert. ef. 4-15-84; FWC 21-1985, f. & ef. 5-7-85; FWC 29-1986, f. & ef. 7-23-86; FWC 11-1987, f. & ef. 3-6-87; FWC 14-1988, f. & cert. ef. 3-10-88; FWC 16-1989, f. & cert. ef. 3-28-89; FWC 65-1989, f. & cert. ef. 8-15-89; FWC

25-1990, f. & cert. ef. 3-21-90; FWC 21-1991, f. & cert. ef. 3-12-91; FWC 45-1992, f. & cert. ef. 7-15-92; FWC 61-1992, f. & cert. ef. 7-30-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 6-1995, f. 1-23-95, cert. ef. 4-1-95; FWC 54-1995, f. & cert. ef. 6-20-95; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 99-2006(Temp), f. & cert. ef. 9-11-06 thru 9-30-06

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**Rule Caption:** Mainstem Columbia River closures to retention of sport Chinook salmon.

**Adm. Order No.:** DFW 100-2006(Temp)

**Filed with Sec. of State:** 9-14-2006

**Certified to be Effective:** 9-14-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-023-0130

**Subject:** Amend rule to close the Columbia River to the retention of Chinook salmon from the Tongue Point/Rocky Point line upstream to the Highway 395 Bridge in Pasco, Washington. Revision is consistent with action taken at the September 13, 2006 Joint State Hearing.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 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, 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 11:59 pm Thursday September 14, 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 retention of Chinook salmon (adults and jacks) is prohibited.

(4) Effective 11:59 pm Friday September 15, 2006 retention of Chinook salmon (adults and jacks) is prohibited in the mainstem Columbia River from Bonneville Dam upstream to the Highway 395 Bridge in Pasco, Washington. Non-adipose fin-clipped coho salmon caught downstream of the Hood River Bridge must be released immediately unharmed.

[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; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06

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**Rule Caption:** In-season modification to Tribal Treaty Fall salmon fishery in the Columbia River.

**Adm. Order No.:** DFW 101-2006(Temp)

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 9-18-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-041-0075

**Subject:** Amending this rule extends the Tribal Treaty fall salmon gill net fishery in Zone 6 of the mainstem Columbia River with two additional fishing periods beginning 6:00 a.m. Monday September 18, 2006 through 6:00 p.m. Friday September 22, 2006 (108 hours). Adoption of this rule is consistent with action taken September 14, 2006 by the Columbia River Compact.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

# ADMINISTRATIVE RULES

## 635-041-0075

### Fall Salmon Season

(1) Chinook, coho, steelhead, walleye, carp, and shad may be taken with gill net for commercial purposes in the mainstem Columbia River in all of Zone 6.

(2) The open fishing periods are:

(a) 6:00 a.m. Monday August 21, 2006 through 6:00 p.m. Thursday August 24, 2006 (84 hours);

(b) 6:00 a.m. Monday August 28, 2006 through 6:00 p.m. Friday September 1, 2006 (108 hours);

(c) 6:00 a.m. Tuesday September 5, 2006 through 6:00 p.m. Saturday September 9, 2006 (108 hours);

(d) 6:00 a.m. Monday September 11, 2006 through 6:00 p.m. Friday September 15, 2006 (108 hours);

(e) 6:00 a.m. Monday September 18, 2006 through 6:00 p.m. Friday September 22, 2006 (108 hours);

(f) 6:00 a.m. Monday September 25, 2006 through 6:00 p.m. Friday September 29, 2006 (108 hours).

(3) Through September 1, 2006 there is no mesh size restriction. Beginning September 5, 2006 there is an 8-inch minimum mesh size restriction.

(4) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek which is the larger area described in OAR 635-041-0045(11).

(5) Sturgeon may not be sold. However, sturgeon between 48 inches and 60 inches in length from The Dalles and John Day Pools and sturgeon between 45 inches and 60 inches from the Bonneville Pool may be kept for subsistence use.

(6) Commercial sale of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 12:01 a.m., Tuesday August 1, 2006 until further notice.

(a) Gear is restricted to: hoopnets, dipnets, and rod and reel with hook-and-line.

(b) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be kept for subsistence use but not sold.

(c) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools and sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(d) Fish caught during Yakama Nation's scheduled open tributary fishing periods in the Klickitat and White Salmon rivers may be sold when the sale of platform and hook-and-line fish is allowed.

Stat. Auth.: ORS 183.325, 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. & cert. ef. 9-17-90; FWC 85-1991, f. & cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. & cert. ef. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. & cert. ef. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-17-97; FWC 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. & cert. ef. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-

1998(Temp), f. & cert. ef. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. ef. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. & cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. ef. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. ef. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. & cert. ef. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. & cert. ef. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. & cert. ef. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. ef. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. & cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. & cert. ef. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. & cert. ef. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. & cert. ef. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. & cert. ef. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. & cert. ef. 10-12-04, cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. & cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. & cert. ef. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. & cert. ef. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06

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**Rule Caption:** Implementation of the Late Fall salmon season in the Columbia River.

**Adm. Order No.:** DFW 102-2006(Temp)

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 9-19-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-042-0060

**Subject:** Amend rule to implement the Late Fall commercial gillnet salmon season in the Columbia River mainstem. Adoption of this rule is consistent with action taken September 14, 2006 by the Columbia River Compact.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-042-0060

### Late Fall Salmon Season

(1) Salmon and sturgeon may be taken by gill nets for commercial purposes from the Columbia River in the following areas and during the open fishing periods as identified.

(2) In Zones 1-5, from the mouth of the Columbia River upstream to a line projected from deadline markers on the Oregon and Washington banks, both such deadline markers located approximately five miles downstream from Bonneville Dam, the open fishing periods are:

(a) 8:00 p.m. Tuesday September 19, 2006 to 8:00 a.m. Wednesday September 20, 2006 (12 hours);

(b) The Elokomin-A, Abernathy, Cowlitz, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect.

(c) During the open fishing periods identified in (2)(a) above gear is restricted to gill nets with an 8-inch minimum mesh size.

(3) A maximum of eight white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. Retention of green sturgeon is prohibited. During the fishing periods identified above the weekly aggregate white sturgeon limit applies to possession and sales in the Columbia River mainstem, Youngs Bay, and other open Select Area fisheries.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985(Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986(Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. & cert. ef. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. & cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. &

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cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; DFW 126-2005(Temp), f. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. 9-15-06, cert. ef. 9-19-06 thru 12-31-06

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**Rule Caption:** In-season modification to the sturgeon retention limit in all Select Area commercial salmon fisheries.

**Adm. Order No.:** DFW 103-2006(Temp)

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 9-18-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

**Subject:** Amend rules to increase the maximum number of white sturgeon which may be possessed or sold by a participating vessel from five (5) to eight (8) per calendar week, during open fishing periods, in aggregate in the Columbia River mainstem and Select Area fisheries combined. This revision is consistent with action taken September 14, 2006 by the Columbia River Compact.

**Rules Coordinator:** Casaria Tuttle—(503) 947-6033

## 635-042-0145

### Youngs Bay Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are as follows:

(A) 6:00 a.m. Wednesday August 2, 2006 to 6:00 p.m. Thursday August 3, 2006 (36 hours);

(B) 6:00 a.m. Wednesday August 9, 2006 to 6:00 p.m. Thursday August 10, 2006 (36 hours);

(C) 6:00 a.m. Wednesday August 16, 2006 to 12:00 noon Thursday August 17, 2006 (30 hours);

(D) 6:00 a.m. Wednesday August 23, 2006 to 12:00 noon Thursday August 24, 2006 (30 hours);

(E) 6:00 a.m. Tuesday August 29, 2006 to 6:00 a.m. Friday September 1, 2006 (3 days); and

(F) 7:00 p.m. Tuesday September 5, 2006 to noon Tuesday October 31, 2006 (55 days, 17 hours);

(b) The fishing areas for the fall fishery are identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough; except for those waters southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. Use of additional weights or anchors attached directly to the headline is prohibited in Youngs Bay during fall seasons. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fath-

om intervals must be in color contrast to the corks used in the remainder of the net. Monofilament gillnets are allowed.

(a) It is *unlawful* to use a gill net having a mesh size that is more than 8-inches during the fall season from August 2 through August 24, 2006; and it is unlawful to use a gill net having a mesh size greater than 6-inches after August 24, 2006.

(3) During the open fishing periods identified in (1)(a) above, a maximum of eight white sturgeon may be possessed or sold by each participating vessel, in aggregate, during each calendar week (Sunday through Saturday) in the mainstem Columbia River and Select Area fisheries. Retention of green sturgeon is prohibited.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 54-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06

## 635-042-0160

### Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes during open fishing periods described as the fall fishery in paragraphs (2)(a), (3)(a) and (3)(b) of this rule in those waters of Blind Slough and Knappa Slough as described in (3) and (4) below.

(2) The open fishing periods established as the fall fishery in Blind Slough only are as follows:

(a) From 7:00 p.m. until 7:00 a.m. nightly (12 hours) commencing: 7:00 p.m. Tuesday Sept. 5, 2006 through 7:00 a.m. Friday Sept. 8, 2006 (3 nights) and 7:00 p.m. Thursday Sept. 12, 2006 through 7:00 a.m. Friday Sept. 15, 2006 (3 nights)

(3) The open fishing periods established as the fall fishery in Blind Slough and Knappa Slough are as follows:

(a) From 7:00 p.m. until 7:00 a.m. nightly (12 hours) commencing: 7:00 p.m. Monday Sept. 18, 2006 through 7:00 a.m. Friday Sept. 22, 2006 (4 nights); and

(b) From 6:00 p.m. until 8:00 a.m. nightly (14 hours) commencing: 6:00 p.m. Monday Sept. 25, 2006 through 8:00 a.m. Friday Sept. 29, 2006



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(4 nights); 6:00 p.m. Monday Oct. 2, 2006 through 8:00 a.m. Friday Oct. 6, 2006 (4 nights); 6:00 p.m. Monday Oct. 9, 2006 through 8:00 a.m. Friday Oct. 13, 2006 (4 nights); 6:00 p.m. Monday Oct. 16, 2006 through 8:00 a.m. Friday Oct. 20, 2006 (4 nights); and 6:00 p.m. Monday Oct. 23, 2006 through 8:00 a.m. Friday Oct. 27, 2006 (4 nights).

(4) Blind Slough fishing area is defined as those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(5) Knappa Slough fishing area is defined as all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to the boundary line defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore.

(6) Gear restrictions are as follows: During the fall fishery, outlined in paragraphs (2)(a) and (2)(b) above, gill nets may not exceed 100 fathoms in length with no weight restriction on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Monofilament gill nets are allowed. It is unlawful to use a gill net having a mesh size that is greater than 6 inches;

(7) A maximum of eight white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (2)(a) and (2)(b) above, the weekly aggregate sturgeon limit applies to possessions and sales in the mainstem Columbia River fishery and all open Select Area fisheries combined. Retention of green sturgeon is prohibited.

(8) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06

## 635-042-0170

### Tongue Point Basin and South Channel Select Area Salmon Season

(1) Tongue Point basin fishing area includes all waters bounded by a line from a yellow marker midway between the red US Coast Guard navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) to the flashing green US Coast Guard navigation light #3 at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the north-west tip of Lois Island and a line from a marker on the southwest end of Lois Island due westerly to a marker on the Oregon shore.

(2) South Channel basin includes all waters bounded by a line from a marker on John Day Point through the green US Coast Guard navigation buoy #7 thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red US Coast Guard navigation marker #10 thence northwesterly to a marker on Burnside Island defining the terminus of South Channel.

(3) Salmon and sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are:

(a) From 7:00 p.m. until 7:00 a.m. nightly (12 hours) commencing: 7:00 p.m. Tuesday Sept. 5, 2006 through 7:00 a.m. Friday Sept. 8, 2006 (3 nights); 7:00 p.m. Tuesday Sept. 12, 2006 through 7:00 a.m. Friday Sept. 15, 2006 (3 nights); 7:00 p.m. Monday Sept. 18, 2006 through 7:00 a.m. Friday Sept. 22, 2006 (4 nights); and

(b) From 4:00 p.m. until 8:00 a.m. nightly (16 hours) commencing: 4:00 p.m. Monday Sept. 25, 2006 through 8:00 a.m. Friday Sept. 29, 2006 (4 nights); 4:00 p.m. Monday Oct. 2, 2006 through 8:00 a.m. Friday Oct. 6, 2006 (4 nights); 4:00 p.m. Monday Oct. 9, 2006 through 8:00 a.m. Friday Oct. 13, 2006 (4 nights); 4:00 p.m. Monday Oct. 16, 2006 through 8:00 a.m. Friday Oct. 20, 2006 (4 nights); and 4:00 p.m. Monday Oct. 23, 2006 through 8:00 a.m. Friday Oct. 27, 2006 (4 nights).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is unlawful to use a gill net having a mesh size that is more than 6-inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored onboard boats.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 6-inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored onboard boats.

(5) A maximum of eight white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open. During the fishing periods identified in (3)(a) and (3)(b) above, the weekly sturgeon limit applies to possessions and sales in the mainstem Columbia River fishery and all open Select Area fisheries combined. Retention of green sturgeon is prohibited.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative Correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06

## 635-042-0180

### Deep River Select Area Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes during open fishing periods described as the fall fishery in paragraphs (2)(a) and (2)(b) of this rule in those waters of Deep River described as: downstream of the town of Deep River to the mouth defined by a line from the US Coast Guard navigation marker #16 southwest to a marker on the Washington shore. Concurrent waters extend downstream of the Highway 4 bridge. Washington State waters extend upstream to the Highway 4 Bridge.

(2) The fishing seasons are open:

(a) From 7:00 p.m. until 7:00 a.m. nightly (12 hours) commencing: 7:00 p.m. Monday Sept. 4, 2006 through 7:00 a.m. Friday Sept. 8, 2006 (4 nights); 7:00 p.m. Monday Sept. 11, 2006 through 7:00 a.m. Friday Sept. 15, 2006 (4 nights); 7:00 p.m. Monday Sept. 18, 2006 through 7:00 a.m. Friday Sept. 22, 2006 (4 nights); and

(b) From 4:00 p.m. until 8:00 a.m. nightly (16 hours) commencing: 4:00 p.m. Monday Sept. 25, 2006 through 8:00 a.m. Friday Sept. 29, 2006 (4 nights); 4:00 p.m. Monday Oct. 2, 2006 through 8:00 a.m. Friday Oct. 6, 2006 (4 nights); 4:00 p.m. Monday Oct. 9, 2006 through 8:00 a.m. Friday Oct. 13, 2006 (4 nights); 4:00 p.m. Monday Oct. 16, 2006 through 8:00

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a.m. Friday Oct. 20, 2006 (4 nights); and 4:00 p.m. Monday Oct. 23, 2006 through 8:00 a.m. Friday Oct. 27, 2006 (4 nights).

(3) Gear restrictions are as follows: During the fall fishery, outlined in paragraphs (2)(a) and (2)(b) above, gill nets may not exceed 100 fathoms in length and there is no weight restriction on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Monofilament gill nets are allowed. Nets may not be tied off to stationary structures and may not fully cross navigation channel. It is unlawful to use a gill net having a mesh size that is greater than 6-inches.

(4) A maximum of eight white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (2)(a) and (2)(b) above, the weekly sturgeon limit applies to possessions and sales in the mainstem Columbia River fishery and all other open Select Area fisheries combined. Retention of green sturgeon is prohibited.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. & cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. & cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & cert. ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. & cert. ef. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06

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

**Rule Caption:** Pharmaceutical Rule Revisions for September 1, 2006 (PMPDP and PA rules).

**Adm. Order No.:** OMAP 32-2006

**Filed with Sec. of State:** 8-31-2006

**Certified to be Effective:** 9-1-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 410-121-0030, 410-121-0040

**Rules Repealed:** 410-121-0040(T)

**Subject:** The Pharmaceutical Services Program administrative rules govern Office of Medical Assistance Programs payment for pharmaceutical products and services provided to certain clients. OMAP revised rules as follows:

410-121-0030: The Practitioner Managed Prescription Drug Plan (PMPDP) Plan Drug List (PDL) is updated by adding and deleting certain drugs to the PDL.

410-121-0040: Recently, the Health Services Commission (HSC) determined that Psoriasis will be covered under certain circumstances and updated the Prioritized List of Covered Services accordingly. 410-121-0040, the Office of Medical Assistance Programs' (OMAP) prior authorization rule, is amended to prior authorize psoriasis drugs for conditions that are covered under the Oregon Health Plan (OHP) as determined by the Prioritized List of Covered Services. The prior authorization administrative rule is also amended to add the drug Actiq to the list for patient safety and to ensure that the drug is being prescribed for conditions that are covered by OHP. OMAP repealed the temporary rule.

**Rules Coordinator:** Darlene Nelson—(503) 945-6873

### 410-121-0030

#### Practitioner-Managed Prescription Drug Plan (PMPDP)

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that fee for service clients of the Oregon Health Plan will

have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners (informed by the latest peer reviewed research), make decisions concerning the clinical effectiveness of the prescription drugs;

(b) The licensed health care practitioners also consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Plan Drug List (PDL):

(a) The PDL is the primary tool that the Department of Human Services (DHS) has developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL consists of prescription drugs in selected classes that DHS, in consultation with the Health Resources Commission (HRC), has determined represent effective drug(s) available at the best possible price;

(c) For each selected drug class, the PDL will identify a drug(s) as the benchmark drug that DHS determines to be the most effective drug(s) available for the best possible price;

(d) The PDL will include other drugs in the class that are Medicaid reimbursable and which the Food and Drug Administration (FDA) has determined to be safe and effective if the relative cost is less than the benchmark drug(s). If pharmaceutical manufacturers enter into supplemental discount agreements with DHS that reduce the cost of their drug below that of the benchmark drug for the class, DHS will include their drug in the PDL;

(e) A copy of the current PDL is available on the web at [www.dhs.state.or.us/policy/healthplan/guides/pharmacy/](http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/).

(3) PMPDP PDL Selection Process:

(a) DHS will utilize the recommendations made by the HRC, which result from an evidence-based evaluation process, as the basis for identifying the most effective drug(s) within a selected drug class;

(b) DHS will determine the drug(s) identified in (3)(a) that is (are) available for the best possible price and will consider any input from the HRC about other FDA-approved drug(s) in the same class that are available for a lesser relative price. DHS will determine relative price using the methodology described in subsection (4);

(c) DHS will review drug classes and selected drug(s) for the drug classes periodically:

(A) Review will occur more frequently at the discretion of DHS if new safety information or the release of new drugs in a class or other information makes a review advisable;

(B) DHS will not add new drugs to the PDL until they have been reviewed by the HRC;

(C) DHS will make all changes or revisions to the PDL, using the rulemaking process and will publish the changes on DHS's Pharmaceutical Services provider rules Web page.

(4) Relative cost and best possible price determination:

(a) DHS will determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) DHS may also consider dosing issues, patterns of use and compliance issues. DHS will weigh these factors with any advice provided by the HRC in reaching a final decision;

(c) DHS will determine the benchmark drug based on (4)(b) and on the Estimated Acquisition Cost (EAC) on the first of the month (OAR 410-121-0155) in which DHS reviews that specific drug class;

(d) Once the cost of the benchmark drug is determined, DHS will recalculate the cost of the other FDA-approved drugs in the class using the EAC in effect for retail pharmacies on the first of the month in which DHS reviews that specific drug class less average available rebate. DHS will include drugs with prices under the benchmark drug cost on the PDL.

(5) Regardless of the PDL, pharmacy providers shall dispense prescriptions in the generic form, unless the practitioner requests otherwise, subject to the regulations outlined in OAR 410-121-0155. Table 121-0030-1, PMPDP PDL.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06

# ADMINISTRATIVE RULES

## 410-121-0040

### Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining Prior Authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures required in OAR 410-121-0060.

(2) All drugs and categories of drugs, including but not limited to those drugs and categories of drugs that require PA as described in this rule, are subject to the following requirements for coverage:

(a) Each drug must be prescribed for conditions funded by OHP in a manner consistent with the Prioritized List of Health Services and its corresponding treatment guidelines, included within the client's benefit package of covered services, and not otherwise excluded or limited.

(b) Each drug must also meet other criteria applicable to the drug or category of drug in these Pharmacy Provider rules, including PA requirements imposed in this rule.

(3) The Department of Human Services (DHS) may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480) The drugs and categories of drugs for which DHS requires PA for this purpose are listed in **Table 410-121-0040-1**, with their approval criteria.

(4) DHS may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Drug Use Review (DUR) Board and adopted by the Department in this rule (see OAR 410-121-0100 for a description of the DUR program). The drugs and categories of drugs for which DHS requires PA for this purpose are included in **Table 410-121-0040-2**, with their approval criteria.

(5) PA is required for brand name drugs that have two or more generically equivalent products available. Criteria for approval are:

(a) If criteria established in subsection (3) or (4) of this rule applies, follow that criteria.

(b) If (5)(a) does not apply, the prescribing practitioner must document that the use of the generically equivalent drug is medically contraindicated, and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(6) PA will not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by DHS; or,

(b) For over-the-counter (OTC) covered rugs when prescribed for conditions covered under OHP.

(7) Psychotropic prescriptions for children under the age of six cannot be processed when a default 999999 provider number has been entered. If such a default provider number is used, the drug may not be dispensed until PA has been obtained. The PA process will include providing the correct provider number. **Table 121-0040-1**, Drugs Requiring Prior Authorization for Covered Diagnosis, and **Table 121-004-2**, Drugs Requiring Prior Authorization for Medically Appropriate Use.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06

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**Rule Caption:** Outpatient Services for In-State DRG Hospitals and Supplemental Reimbursement for Public Academic Teaching University Practitioners.

**Adm. Order No.:** OMAP 33-2006

**Filed with Sec. of State:** 8-31-2006

**Certified to be Effective:** 9-1-06

**Notice Publication Date:** 8-1-06

**Rules Adopted:** 410-125-0146

**Subject:** The Hospital Services program and the General Rules govern payments and services for the Office of Medical Assistance Programs' (OMAP) provided to certain clients.

OMAP adopted OAR 410-125-0146 to establish supplemental reimbursement methodology for public academic teaching University medical practitioners. This rule is effective on September 1, 2006, however, implementation for reimbursement is reflected in rule as being November 1, 2005, as stipulated by Centers for Medicare and Medicaid Services. The Hospital Services program Rulebook, including this permanent rule is available on OMAP's website at: <http://www.dhs.state.or.us/policy/healthplan/guides/hospital/main.html>

**Rules Coordinator:** Darlene Nelson—(503) 945-6873

## 410-125-0146

### Supplemental Reimbursement for Public Academic Teaching University Medical Practitioners

(1) Effective for dates of service November 17, 2005, physician and other practitioner services provided by practitioners affiliated with a public academic medical center that meets the following eligibility standards shall be eligible for a supplemental teaching practitioner's payment for these services provided to eligible Medicaid recipients and paid for directly on a fee-for-service basis, subject to subsections (3) and (4) of this rule. This supplemental payment shall be equal to the difference between the Medicare allowable and Medicaid reimbursement received.

(2) Eligible academic medical centers must be:

(a) The hospital must be located within the State of Oregon (border hospitals are excluded); and

(b) The hospital provides a major medical teaching program, defined as a hospital with more than 200 residents or interns.

(3) Payments under this rule shall be made only to the eligible academic medical centers in accordance with the terms of an Intergovernmental Agreement between the eligible academic medical center and OMAP. Such payments may be made quarterly, but shall be at least paid annually, at the end of each federal fiscal year. Calculation of the payment amount will be based on the annual difference between the practitioners' Medicare allowable and the Medicaid allowable payments to eligible practitioners for the Medicaid claims paid during the most recently completed state fiscal year. Services included are physician and other practitioners' services with RVU weights and physician-administered drugs. The RVU rates used for the payment calculation are the OMAP fee established in rule for the date of service payment period.

(4) Allowable Medicaid payments including this supplemental payment remain subject to OAR 410-125-0220(12) and 410-130-0225. For purposes of this rule, the allowable Medicaid payments used to calculate the supplemental payment shall be limited to the services that are billed fee-for-service to OMAP on the electronic 837P or the paper CMS-1500, and as to which the physician or practitioner is receiving no reimbursement from the eligible academic medical center and the cost of their service is not reported as a direct medical education cost on the Medicare and OMAP cost report.

Stat. Auth.: ORS 409

Stats. Implemented: 414.065

Hist.: OMAP 33-2006, f. 8-31-06, cert. ef. 9-1-06

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**Rule Caption:** October 2006 rule updates for the Hospice Services program.

**Adm. Order No.:** OMAP 34-2006

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 10-1-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 410-142-0060, 410-142-0300

**Subject:** The Hospice Services Program administrative rules govern Office of Medical Assistance Programs' (OMAP) payments for services provided to certain clients. OMAP amended and renamed 410-142-0060 to update eligibility and certification requirements. OMAP amended and renamed 410-142-0300 to update hospice payment rates in compliance with federal regulations pursuant to communications received from the Centers for Medicare and Medicaid Services (CMS). Medicaid hospice payment rates are calculated based on the annual hospice rates established by CMS. These rates



# ADMINISTRATIVE RULES

are authorized by section 1814 of the Social Security Act. Billing information and hospice payment rates are removed from rule.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-142-0060

### Certification of Terminal Illness

(1) In order to receive reimbursement from the Office of Medical Assistance Programs (OMAP), the hospice must obtain and retain a physician's written certification of a client's terminal illness in accordance with the following procedures. OMAP will not pay for services provided prior to certification.

(2) The attending physician is a doctor of medicine or osteopathy or a nurse practitioner and is identified by the client at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the client's medical care. A nurse practitioner serving as the attending physician may not certify or re-certify the terminal illness.

(3) Certifications may be completed up to two weeks before hospice care is elected.

(4) The certification of a client who elects hospice is based on the physician's or medical director's clinical judgment regarding the normal course of the client's illness and must include:

(a) The statement that the client's medical prognosis indicates a life expectancy of six months or less if the terminal illness runs its normal course; and

(b) Clinical information and other documentation which support the medical prognosis must accompany the certification and be filed in the medical record with the certification.

(5) A written certification signed by the physician(s) must be on file in the hospice client's record prior to submission of a claim to OMAP for all benefit periods.

(6) For the initial period of hospice coverage, the hospice must obtain, no later than two calendar days after hospice care is initiated (that is, by the end of the third day), oral or written certification of the terminal illness by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the client's attending physician (if the client has an attending physician). If the written certification is not dated, a notarized statement or some other acceptable documentation may be obtained to verify the actual certification date.

(7) For any subsequent periods, the hospice must obtain, no later than two calendar days after the first date of each period, a written certification from the medical director of the hospice or the physician member of the hospice's interdisciplinary group. If the hospice cannot obtain written certification within two calendar days, it must obtain oral certification within two calendar days.

(8) The requirements specified in this rule also apply to clients who had been previously discharged during a benefit period and are again being certified for hospice care.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1994, f. & cert. ef. 2-1-94; HR 28-1997, f. 12-31-97, cert. ef. 1-1-98; OMAP 58-2002, f. & cert. ef. 10-1-02; OMAP 34-2006, f. 9-15-06

## 410-142-0300

### Hospice Reimbursement and Limitations

(1) The Office of Medical Assistance Programs (OMAP) recalculates its hospice rates annually and publishes them in the Supplemental Information for Hospice Services. When billing for hospice services, the provider must bill the usual charge or the rate based upon the geographic location in which the care is furnished (as shown in the Supplemental Information), whichever is lower.

(2) Rates:

(a) OMAP bases its rates on the methodology used in setting Medicare rates, adjusted to disregard cost offsets attributable to Medicare coinsurance amounts;

(b) Under the Medicaid hospice benefit regulations, OMAP cannot impose cost sharing for hospice services rendered to Medicaid recipients;

(c) OMAP sets rates no lower than the rates used under Part A of Title XVIII of the Social Security Act (Medicare);

(d) OMAP uses prospective hospice rates;

(e) OMAP makes no retroactive adjustments other than the optional application of the cap on overall payments and the limitation on payments for inpatient care, if applicable.

(3) With the exception of payment for physician services, OMAP reimburses providers of hospice services for each day of care at one of five

predetermined rates. Rates are based on intensity and type of care, which OMAP defines as:

(a) Routine Home Care. OMAP pays the hospice the Routine Home Care rate for each day that the client is under the care of the hospice and that OMAP does not reimburse at another rate. OMAP pays this rate without regard to the volume or intensity of services provided on any given day;

(b) Continuous Home Care. The Hospice must provide a minimum of eight hours of continuous home care per day to receive the Continuous Home Care rate:

(A) The Continuous Home Care rate is divided by 24 hours in order to arrive at an hourly rate;

(B) OMAP pays the hospice for every hour or part of an hour of continuous care furnished up to a maximum of 24 hours a day.

(c) Inpatient Respite Care. OMAP pays the hospice at the Inpatient Respite Care rate for each day on which the client is in an approved inpatient facility and is receiving respite care:

(A) OMAP pays for Inpatient Respite Care for a maximum of five days at a time, including the date of admission but not counting the date of discharge;

(B) OMAP pays for the sixth and any subsequent days at the Routine Home Care rate.

(d) General Inpatient Care. OMAP pays providers at the general inpatient rate when General Inpatient Care is provided;

(e) In-Home Respite Care. An in-home respite care day is a day on which short-term in-home care is provided to the client only when necessary to relieve the family members or other persons caring for the client at home. Respite care may be provided only on an occasional basis and may not be reimbursed for more than five consecutive days at a time. In-home respite care will be provided at the level necessary to meet the client's need, with a minimum of eight hours of care provided in a 24-hour day, which begins and ends at midnight. Home health aide/CNA or homemaker services or both may be utilized for providing in-home respite care.

(4) On the day of discharge from an inpatient unit, OMAP pays the appropriate home care rate unless the client dies as an inpatient. When the client is discharged deceased, OMAP pays the appropriate inpatient rate (General or Respite) for the discharge date.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1994, f. & cert. ef. 2-1-94; HR 16-1995, f. & cert. ef. 8-1-95; OMAP 47-1998, f. & cert. ef. 12-1-98; OMAP 40-1999, f. & cert. ef. 10-1-99; OMAP 34-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 55-2001(Temp) f. 10-31-01, cert. ef. 11-1-01 thru 4-15-02; OMAP 65-2001, f. 12-28-01, cert. ef. 1-1-02; OMAP 41-2002(Temp), f. & cert. ef. 10-1-02 thru 3-15-03; OMAP 15-2003, f. & cert. ef. 2-28-03; OMAP 80-2003(Temp), f. & cert. ef. 10-10-03 thru 3-15-04; OMAP 86-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 66-2004, f. 9-13-04, cert. ef. 10-1-04; OMAP 79-2004(Temp), f. & cert. ef. 10-1-04 thru 3-15-05; OMAP 90-2004, f. 11-24-04 cert. ef. 12-16-04; OMAP 43-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 34-2006, f. 9-15-06

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**Rule Caption:** October 2006 rule updates for the DMEPOS program.

**Adm. Order No.:** OMAP 35-2006

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 10-1-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 410-122-0055, 410-122-0200, 410-122-0202, 410-122-0205, 410-122-0210, 410-122-0520, 410-122-0540, 410-122-0560, 410-122-0620, 410-122-0625, 410-122-0630, 410-122-0660

**Subject:** The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Program administrative rules govern Office of Medical Assistance Programs' (OMAP) payments for services provided to certain clients. OMAP amended 410-122-0200 (Pulse Oximeter) and 410-122-0520 (Glucose Monitors and Diabetic Supplies) to reflect current evidence-based clinical practice guidelines and coverage criteria. OMAP amended other rules as follows: 410-122-0055: Adds K0462 (temporary replacement for client-owned equipment being repaired, any type) only for equipment specified in this rule; 410-122-0202: Clarifies that prior authorization is required for CPAP and accessories beginning the third date of service; 410-122-0205: Changes respiratory assist device (E0471) to capped rental item; 410-122-0210: Changes respiratory assist device (E0472) to capped rental item; 410-122-0540: Adds A4421 (ostomy supply; misc.) and A5061 (ostomy pouch, drainable; with barrier attached (one piece), each); 410-122-0560: Replaces A4325 with A4349 (male external catheter, with or without adhesive, disposable, each) and removes tape codes (A4450 and A4452); 410-122-0620:

# ADMINISTRATIVE RULES

Moves L8501 (tracheostomy speaking valve) to 410-122-0660; 410-122-0625: Adds A6407 (packing strips, non-impregnated, up to 2 inches in width, per linear yard); 410-122-0630: Deletes Category II (protective underwear since these codes are already included in Category I); 410-122-0660: Adds L8501 (tracheostomy speaking valve) from 410-122-0620.

**Rules Coordinator:** Darlene Nelson—(503) 945-6927

## 410-122-0055

### OHP Standard Benefit Package Limitations

(1) Durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) coverage for the Oregon Health Plan (OHP) Standard benefit package is limited to the codes listed in Table 122-0055. Coverage requirements and limitations as specified in chapter 410, division 122 apply. For more information about the OHP Standard benefit package, see the Office of Medical Assistance Programs (OMAP) General Rules (chapter 410, division 120).

(2) OHP Standard benefit package coverage includes limited home enteral/parenteral nutrition and intravenous services. For more information, see Home Enteral/Parenteral Nutrition and Intravenous Services (chapter 410, division 148).

(3) Table 122-0055.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05;

OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0200

### Pulse Oximeter for Home Use

(1) Indications and Limitations of Coverage and Medical Appropriateness:

(a) The Office of Medical Assistance Programs (OMAP) may cover a tamper-proof pulse oximeter rental for home use when all of the following criteria are met:

(A) The client has frequently fluctuating oxygen saturation levels that are clinically significant;

(B) Measurements are integral in dictating acute therapeutic intervention;

(C) The absence of readily available saturation measurements represents an immediate and demonstrated health risk;

(D) The client has a caregiver trained to provide whatever care is needed to reverse the low oxygen saturation level ordered by the physician;

(b) Some examples of when home pulse oximetry may be covered include the following:

(A) When weaning a client from home oxygen or a ventilator; or

(B) When a change in the client's physical condition requires an adjustment in the liter flow of their home oxygen needs; or

(C) To determine appropriate home oxygen liter flow for ambulation, exercise, or sleep; or

(D) To monitor a client on a ventilator at home; or

(E) To periodically re-assess the need for long-term oxygen in the home; or

(F) In conjunction with infant home apnea monitoring; or

(G) When a client exhibits a certain unstable illness and has compromised or potentially compromised respiratory status; or

(H) When evidence-based clinical practice guidelines support the need;

(c) Home pulse oximetry for indications other than those listed above may be considered medically appropriate upon medical review;

(d) The use of home pulse oximetry for indications considered experimental and investigational, including the following, are not covered:

(A) Asthma management;

(B) When used alone as a screening/testing technique for suspected obstructive sleep apnea;

(C) Routine use (e.g., client with chronic, stable cardiopulmonary condition);

(e) The durable medical equipment prosthetics, orthotics and supplies (DMEPOS) provider is responsible to ensure the following services for home pulse oximetry rental are provided:

(A) Training regarding the use and care of the equipment and care of the client as it relates to the equipment, including progressive intervention and cardiopulmonary resuscitation (CPR) training prior to use of the equipment by the client; and

(B) A follow-up home visit within the first 30 days of equipment setup to ensure a CPR/emergency area has been designated; and

(C) Monthly telephone follow-up and support to ensure caregivers are using the equipment as ordered by the physician; and

(D) 24-hour/7 day a week respiratory therapist on-call availability for troubleshooting, exchanging of malfunctioning equipment, etc.;

(f) OMAP may cover probes for a client-owned covered oximeter:

(A) OMAP will consider the least costly alternative for payment of probes, whether disposable or reusable, which meets the medical need of the client;

(B) Disposable probes (oxisensors) may be used on the same client as long as the adhesive attaches without slippage; or

(C) Probes must be used and replaced based on the manufacturer's recommendations.

(2) Documentation Requirements:

(a) Submit the following documentation for prior authorization (PA) review:

(A) An order from the treating physician that clearly specifies the medical appropriateness for home pulse oximetry testing;

(B) Documentation of signs/symptoms/medical condition exhibited by the client, that require continuous pulse oximetry monitoring as identified by the need for oxygen titration, frequent suctioning or ventilator adjustments, etc.;

(C) Plan of treatment that identifies a trained caregiver available to perform the testing, document the frequency and the results and implement the appropriate therapeutic intervention, when necessary;

(D) For probes for a client-owned oximeter, documentation that probes requested are the least costly alternative;

(E) Other medical records that corroborate conditions for coverage are met as specified in this rule;

(b) An appropriate history and physical exam and progress notes must be available for review by OMAP, upon request;

(c) For an initial request, approval may be given for no longer than the first three months of rental;

(d) Continued approval beyond the initial authorization, is based on ongoing review of above documentation including appropriate and medical oversight as indicated and direction to support the need, including an identified intervention plan by the treating physician.

(3) Procedure Codes:

(a) A4606 — Oxygen probe for use with client-owned oximeter device, replacement:

(A) PA required;

(B) OMAP will purchase;

(b) E0445 — Oximeter device for measuring blood oxygen levels non-invasively, per month:

(A) PA required;

(B) OMAP will rent;

(C) OMAP will repair;

(D) Item considered purchased after seven months of rent;

(E) Quantity (units) is one on a given date of service;

(F) The allowable rental fee includes all equipment, supplies, services, including all probes, routine maintenance and necessary training for the effective use of the pulse oximeter.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 32-1999, f. & cert. ef. 10-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0202

### Continuous Positive Airway Pressure (CPAP) System

(1) Indications and Limitations of Coverage and/or Medical Appropriateness

(a) Initial Coverage:

(A) A single-level continuous positive airway pressure (CPAP) device (E0601) may be covered when the client has a diagnosis of obstructive sleep apnea (OSA) documented by an attended, facility-based polysomnogram and meets either of the following criteria (i or ii):

(i) The apnea-hypopnea index (AHI) is greater than or equal to 15 events per hour; or,

(ii) The AHI is from 5 to 14 events per hour with documented symptoms of:

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(I) Excessive daytime sleepiness, impaired cognition, mood disorders, or insomnia; or,

(II) Hypertension, ischemic heart disease, or history of stroke.

(B) A three-month rental period is required for CPAP prior to purchase.

(b) Continued coverage of an E0601 beyond the first three months of therapy: Ongoing rental beyond the first three months is an option in lieu of purchase if medically appropriate and cost effective;

(c) For a client using a CPAP prior to Medicaid enrollment, and, with recent, supportive documentation from the treating practitioner indicative of effective treatment with a CPAP device, coverage criteria in this rule may be waived;

(d) Payment Authorization: From the initial date of service through the second date of service, CPAP rental and only related accessories necessary for the effective use of the CPAP during this time period and subject to rule limitations may be dispensed without prior authorization. The provider is still responsible to ensure all rule requirements are met. Payment authorization is required prior to submitting claims and will be given once all required documentation has been received and any other applicable rule requirements have been met. Payment authorization is obtained from the same authorizing authority as specified in 410-122-0040. All subsequent services starting with the third date of service require prior authorization;

(e) An order refill does not have to be approved by the ordering physician; however, a client or their caregiver must specifically request ongoing CPAP supplies and accessories, subject to rule limitations and requirements, before they are dispensed. The DMEPOS provider must not automatically dispense a quantity of supplies and accessories on a predetermined regular basis, even if the client has "authorized" this in advance.

## (2) Guidelines:

(a) A continuous positive airway pressure (CPAP) device delivers a constant level of positive air pressure (within a single respiratory cycle) by way of tubing and a noninvasive interface (such as a nasal, oral, or facial mask) to assist spontaneous respiratory efforts and supplement the volume of inspired air into the lungs;

(b) A respiratory cycle is defined as an inspiration, followed by an expiration;

(c) Polysomnography is the continuous and simultaneous monitoring and recording of various physiological and pathophysiological parameters of sleep with physician review, interpretation, and report. It must include sleep staging, which is defined to include a 1-4 lead electroencephalogram (EEG), and electro-oculogram (EOG), and a submental electromyogram (EMG). It must also include at least the following additional parameters of sleep: airflow, respiratory effort, and oxygen saturation by oximetry. It may be performed as either a whole night study for diagnosis only or as a split night study to diagnose and initially evaluate treatment;

(d) For the purpose of this rule, polysomnographic studies must be performed in an attended, facility-based sleep study laboratory, and not in the home or in a mobile facility. These labs must be qualified providers of Medicare services and comply with all applicable state regulatory requirements;

(e) The diagnostic portion of the polysomnogram recording must be a minimum of two hours;

(f) Polysomnographic studies must not be performed by a durable medical equipment (DME) provider;

(g) The apnea-hypopnea index (AHI) is defined as the average number of episodes of apneas and hypopneas per hour and must be based on a minimum of two hours of recording time without the use of a positive airway pressure device, reported by polysomnogram. The AHI may not be extrapolated or projected;

(h) Apnea is defined as the cessation of airflow for at least 10 seconds documented on a polysomnogram;

(i) Hypopnea is defined as an abnormal respiratory event lasting at least 10 seconds with at least a 30% reduction in thoracoabdominal movement or airflow as compared to baseline, and with at least a 4% decrease in oxygen saturation;

(j) The AHI calculation must be based on the sleep time (in hours) within the two hours (or more) of recorded time.

## (3) Documentation Requirements:

(a) Initial Coverage: Prior to the third date of service, submit the following documentation:

(A) A facility-based polysomnogram report that supports a diagnosis of obstructive sleep apnea (OSA); and, if applicable;

(B) Any other medical documentation that supports indications of coverage.

(b) Continued coverage beyond the first three months of therapy: No sooner than the 61st day after initiating therapy and prior to the fourth date of service, submit documentation from the treating physician that indicates the client is continuing to effectively comply (time spent at the effective pressure) with CPAP treatment. This means that the client is continuing to use the CPAP at the effective pressure for at least four hours in a 24-hour continuous period at least 80 percent of the time.

## (4) Accessories:

(a) Accessories used with an E0601 device are covered when the coverage criteria for the device are met;

(b) Accessories are separately reimbursable at the time of initial issue and when replaced;

(c) Either a non-heated (E0561) or heated (E0562) humidifier is covered when ordered by the treating physician for use with a covered E0601 device;

(d) The following represents the usual maximum amount of accessories expected to be medically appropriate:

(A) A7030 — 1 per 6 months;

(B) A7031 — 1 per 6 months;

(C) A7032 — 2 per month;

(D) A7033 — 2 per month;

(E) A7034 — 1 per 3 months;

(F) A7035 — 1 per 6 months;

(G) A7036 — 1 per 6 months;

(H) A7037 — 1 per 1 month;

(I) A7038 — 2 per 1 month;

(J) A7039 — 1 per 6 months.

## (5) Miscellaneous:

(a) It is the provider's responsibility to monitor appropriate and effective use of the device as ordered by the treating physician. When the equipment is not being used as prescribed, the provider must stop billing for the equipment and related accessories and supplies;

(b) For auto-titrating CPAP devices, use HCPCS code E0601;

(c) Products must be coded as published by SADMERC's Product Classification List for CPAP Systems and Respiratory Assist Devices.

## (6) Table 122-0202.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 46-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 76-2004, f. 9-30-04, cert. ef. 10-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0205

### Respiratory Assist Devices

(1) As referenced in this policy, non-invasive positive pressure respiratory assistance (NPPRA) is the administration of positive air pressure, using a nasal and/or oral mask interface which creates a seal, avoiding the use of more invasive airway access (e.g., tracheostomy).

## (2) Indications and Coverage — General:

(a) The "treating prescribing practitioner" must be one who is qualified by virtue of experience and training in non-invasive respiratory assistance, to order and monitor the use of respiratory assist devices (RAD);

(b) For the purpose of this policy, polysomnographic studies must be performed in a sleep study laboratory, and not in the home or in a mobile facility. The sleep study laboratory must comply with all applicable state regulatory requirements;

(c) For the purpose of this policy, arterial blood gas, sleep oximetry and polysomnographic studies may not be performed by a durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) provider. For purposes of this policy's coverage and payment guidelines, a DMEPOS provider is not considered a qualified provider or supplier of these tests;

(d) If there is discontinuation of usage of E0470 or E0471 device at any time, the provider is expected to ascertain this, and stop billing for the equipment and related accessories and supplies.

(3) Coverage criteria for E0470 and E0471 devices – Table 122-0205-1.

## (4) Documentation:

(a) The following documentation must be submitted with the request for prior authorization (PA) and the original kept on file by the provider:

(A) An order for all equipment and accessories including the client's diagnosis, an ICD-9-CM code signed and dated by the treating prescribing practitioner;

(B) Summary of events from the polysomnogram, if required in this rule under the indications and coverage section or Table 122-0205-1;



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(C) Arterial blood gas results, if required under the indications and coverage section or Table 122-0205-1;

(D) Sleep oximetry results, if required under the indications and coverage section or Table 122-0205-1;

(E) Treating prescribing practitioner statement regarding medical symptoms characteristic of sleep-associated hypoventilation, including, but not limited to daytime hypersomnolence, excessive fatigue, morning headache, cognitive dysfunction, and dyspnea;

(F) Other treatments that have been tried and failed. To be submitted in addition to the above at the fourth month review.

(b) A copy of the Evaluation of Respiratory Assist Device (OMAP 2461) completed and signed by the client, family member or caregiver;

(c) Clients currently using BiPapS and BiPap ST are not subject to the new criteria.

(5) Procedure Codes — Table 122-0205-2.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0210

### Ventilators

(1) Indications and limitations of coverage:

(a) Mechanical ventilatory support may be provided to a client for the purpose of life support during therapeutic support of suboptimal cardiopulmonary function, or therapeutic support of chronic ventilatory failure;

(b) A ventilator may be covered for treatment of neuromuscular diseases, thoracic restrictive diseases, and chronic respiratory failure consequent to chronic obstructive pulmonary disease. This includes both positive and negative pressure types.

(2) Primary Ventilators:

(a) A primary ventilator may be covered if supporting documentation indicates:

(A) A client is unable to be weaned from the ventilator or is unable to be weaned from use at night; or

(B) Alternate means of ventilation were used without success; or

(C) A client is ready for discharge and has been on a ventilator more than 10 days.

(b) E0450, E0460, E0461 or E0472 may be covered if:

(A) A client has no respiratory drive either due to paralysis of the diaphragm or a central brain dysfunction; or

(B) A client has a stable, chronic condition with no orders to wean from the ventilator; or

(C) A client has had a trial with blood gases and has no signs or symptoms of shortness of breath or increased work of breathing; or

(D) A client has uncompromised lung disease.

(c) E0463 or E0464 may be covered if supporting documentation indicates:

(A) A client has chronic lung disease where volume ventilation may further damage lung tissue; or

(B) A client has a compromised airway or musculature and has respiratory drive and a desire to breathe; or

(C) A client will eventually be weaned from the ventilator; or

(D) A client has compromised respiratory muscles from muscular dystrophies or increased resistance from airway anomalies or scoliosis conditions.

(3) Backup Ventilators — A backup ventilator may be covered if supporting documentation indicates:

(a) The client is more than 60 minutes from the nearest hospital or a backup ventilator and has no documented spontaneous respirations; or

(b) Documentation supports medical appropriateness; or

(c) The client is transported frequently with a portable ventilator, and the ventilator is not a portable model; or

(d) The primary ventilator is used at maximum performance with high pressure and rate.

(4) Rental fee:

(a) The rental fee for the ventilator is all-inclusive of any equipment, supplies, services, including respiratory therapy (respiratory care) services, routine maintenance and training necessary for the effective use of the ventilator; and

(b) The ventilator provider must provide 24-hour emergency coverage, including an emergency telephone number; and

(c) The client must have a telephone or reasonable access to one.

(5) Payment authorization: Prior authorization (PA) is not required when E0450, E0460, E0461 or E0472 is dispensed as the primary ventilator. The provider is responsible to ensure all rule requirements are met. Payment authorization is required prior to the second date of service and before submitting claims. Payment authorization will be given once all required documentation has been received and any other applicable rules and criteria have been met. Payment authorization is obtained from the same authorizing authority as specified in 410-122-0040.

(6) PA:

(a) PA is required for a backup ventilator; and

(b) Reimbursement for a backup ventilator is paid at 50% of the usual charge, the Office of Medical Assistance Program's maximum allowable rate, or the manufacturer's suggested retail price, whichever is the lowest.

(7) Documentation: For services requiring payment authorization or PA, submit documentation that supports requirements found in this rule Table 122-0210.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 76-2004, f. 9-30-04, cert. ef. 10-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0520

### Glucose Monitors and Diabetic Supplies

(1) Indications and Limitations of Coverage and Medical Appropriateness:

(a) The Office of Medical Assistance Programs (OMAP) may cover medically appropriate diabetic supplies including home blood glucose monitors for clients with diabetes, including gestational diabetes who can better control their blood glucose levels by checking them and contacting their treating practitioner for advice and treatment, as appropriate;

(b) Coverage of home blood glucose monitors is limited to clients meeting all of the following conditions:

(A) The client has diabetes which is being treated by a practitioner; and

(B) The glucose monitor and related accessories and supplies have been ordered by a practitioner who is treating the client's diabetes; and

(C) The client or caregiver has successfully completed training or is scheduled to begin training in the use of the monitor, test strips, and lancing devices; and

(D) The client or caregiver is capable of using the test results to assure the client's appropriate glycemic control; and

(E) The device is designed for home use;

(c) A home blood glucose monitor with special features (E2100 or E2101) may be covered for clients who meet the basic coverage criteria (1)(b)(A)-(E) of this rule; and

(A) For code E2100, the treating practitioner certifies that the client has a severe visual impairment (i.e., best corrected visual acuity of 20/200 or worse) requiring use of this special monitoring system; or

(B) For code E2101, the treating practitioner certifies that the client has an impairment of manual dexterity severe enough to require the use of this special monitoring system. Coverage of E2101 for a client with manual dexterity impairments is not dependent upon a visual impairment;

(d) If a glucose monitor is covered, lancets (A4259), blood glucose test reagent strips (A4253), glucose control solutions (A4256), and spring powered devices for lancets (A4258) may also be covered. Coverage limitations for these supplies is as follows:

(A) A4258 — only one spring powered device every six months;

(B) A4253 and A4259 — The durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider of the test strips and lancets must maintain in its records the order from the treating practitioner. Before providing more test strips and lancets, the client must have nearly exhausted their supply. The amount of test strips and lancets covered are based on the needs of the client according to the following utilization guidelines:

(i) Up to 100 test strips and 100 lancets every three months for clients who are not currently being treated with insulin injections;

(ii) Up to 100 test strips and 100 lancets every month for clients who are currently being treated with insulin injections;

(iii) For amounts that exceed the utilization guidelines, the treating practitioner must have:

(I) Documented in the client's medical record the specific reason for the additional supplies for that particular client; and

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(II) Seen the client and have evaluated their diabetes control within six months prior to ordering quantities that exceed the utilization guidelines; and

(III) Documented in the client's medical record, a specific narrative statement that adequately specifies the frequency at which the client is actually testing or a copy of the client's log; or there must be documentation in the DMEPOS provider's records, (e.g., a copy of the client's log) that the client is actually testing at a frequency that corroborates the quantity of supplies that have been dispensed. If the client is regularly using quantities of supplies that exceed the utilization guidelines, new documentation must be present at least every six months;

(e) DMEPOS providers must not dispense a quantity of supplies exceeding a client's expected utilization. DMEPOS providers should stay attuned to atypical utilization patterns on behalf of their clients and verify with the ordering practitioner that the atypical utilization is, in fact, warranted. Regardless of utilization, a DMEPOS provider must not dispense more than a three month quantity of glucose testing supplies at a time;

(f) Providers may contact the treating practitioner to renew an order; however, the request for renewal may only be made with the client's continued monthly use of testing supplies and only with the client's or caregiver's request to the DMEPOS provider for order renewal;

(g) An order refill does not have to be approved by the ordering practitioner; however, a client or their caregiver must specifically request refills of glucose monitor supplies before they are dispensed. The DMEPOS provider must not automatically dispense a quantity of supplies on a pre-terminated regular basis, even if the client has "authorized" this in advance;

(h) Codes in this rule ordered by the practitioner on an "as needed" basis are not covered; (i) Purchase fee includes normal, low and high-calibrator solution/chips (A4256), a battery (A4233, A4234, A4235 or A4236) and a spring-powered lancet device (A4258).

## (2) Guidelines:

(a) Insulin-treated means that the client is receiving insulin injections to treat their diabetes. Insulin does not exist in an oral form and therefore patients taking oral medication to treat their diabetes are not insulin-treated;

(b) A severe visual impairment is defined as a best corrected visual acuity of 20/200 or worse;

(c) An order renewal is the act of obtaining an order for an additional period of time beyond that previously ordered by the treating practitioner;

(d) An order refill is the act of replenishing quantities of previously ordered items during the time period in which the current order is valid;

(e) A4256 describes control solutions containing high, normal, and low concentrations of glucose that can be applied to test strips to check the integrity of the test strips. This code does not describe the strip or chip which is included in a vial of test strips and which calibrates the glucose monitor to that particular vial of test strips;

(f) For glucose test strips (A4253), 1 unit of service = 50 strips. For lancets (A4259), 1 unit of service = 100 lancets;

(g) Blood glucose test or reagent strips that use a visual reading and are not used in a glucose monitor are not covered. Do not use code A4253 for these items;

(h) DMEPOS providers should contact the Statistical Analysis Durable Medical Equipment Regional Carrier (SADMERC) for guidance on the correct coding of these items.

## (3) Documentation Requirements:

(a) For codes requiring prior authorization (PA), submit documentation which supports coverage criteria as specified in this rule are met;

(b) The order for home blood glucose monitors and/or diabetic testing supplies must include all of the following:

(A) All item(s) to be dispensed;

(B) The specific frequency of testing;

(C) The treating practitioner's signature;

(D) The date of the treating practitioner's signature;

(E) A start date of the order — only required if the start date is different than the signature date;

(c) A new order must be obtained when there is a change in the testing frequency;

(d) For E2100 or E2101 in a client with impaired visual acuity, submit documentation which includes a narrative statement from the practitioner that indicates the client's specific numerical visual acuity (e.g., 20/400) and that this result represents "best corrected" vision;

(e) For E2101 - clients with impaired manual dexterity, submit documentation which includes a narrative statement from the practitioner that indicates an explanation of the client's medical condition necessitating the monitor with special features;

(f) When requesting quantities of supplies which exceed utilization guidelines as specified in (1)(d)(B)(i)-(ii)(e.g., more than 100 blood glucose test strips per month for insulin-dependent diabetes mellitus), submit documentation supporting the medical appropriateness for the higher utilization as specified in (1)(d)(B)(iii)(I)-(III) to the Medical Unit for PA;

(g) Documentation which supports coverage requirements for codes billed in this rule are met, must be kept on file by the DMEPOS provider and made available to OMAP on request;(h) The ICD-9 diagnosis code describing the condition that necessitates glucose testing must be included on each claim for the monitor, accessories and supplies;

(i) If the client is being treated with insulin injections, the KX modifier must be added to the code for the monitor and each related supply on every claim submitted;

(j) If the client is not being treated with insulin injections, the KS modifier must be added to the code for the monitor and each related supply on every claim submitted;(k) DMEPOS providers are not prohibited from creating data collection forms in order to gather medically appropriate information; however, OMAP will not rely solely on those forms to prove the medical appropriateness of services provided.

## (3) Procedure Codes — Table 122-0520.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0540

### Ostomy Supplies: Colostomy, Ileostomy, Ureterostomy

(1) Indications and Coverage: The use of ostomy supplies are covered for clients with a surgically created opening (stoma) to divert urine, feces, or ilial contents to outside of the body.

(2) Documentation: The prescription, and documentation of medical appropriateness which has been reviewed and signed by the prescribing practitioner must be kept on file by the DME provider.

## (3) Procedure Codes: Table 122-0540.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0560

### Urological Services

(1) Indications and Limitations of Coverage and/or Medical Appropriateness:

(a) Urinary catheters and external urinary collection devices are covered when used to drain or collect urine for a client who has permanent urinary incontinence or permanent urinary retention;

(b) Permanent urinary retention is defined as retention that is not expected to be medically or surgically corrected within three months. A determination that there is no possibility that the client's condition may improve sometime in the future is not required. If the medical record, including the judgment of the attending treating physician, indicates the condition is of long and indefinite duration (ordinarily at least three months), the test of permanence is considered met;

(c) For adults, Medicare coverage criteria must be met (see Medicare's website for coverage criteria);

(d) Supplies for intermittent irrigation of indwelling catheters may be covered when they are used on an as needed (non-routine) basis in the presence of acute obstruction of the catheter;

(e) Supplies for continuous irrigation of indwelling catheters may be covered if there is a history of obstruction of the catheter and the patency of the catheter cannot be maintained by intermittent irrigation in conjunction with medically necessary catheter changes;

(f) Reimbursement for more than 200 pairs of non-sterile gloves (A4927) per month is not payable by the Office of Medical Assistance Programs (OMAP).

## (2) Documentation Requirements:

(a) Documentation of medical appropriateness which has been reviewed and signed by the treating physician must be kept on file by the

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durable medical equipment, prosthetics, orthotics and medical supplies (DMEPOS) provider;

(b) Medical appropriateness for use of a greater quantity of supplies than the amounts specified in this policy must be documented in the client's medical record and kept on file by the DMEPOS provider;

(c) Documentation required in this policy must be available to OMAP on request.

(3) Table 122-0560.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0620

### Miscellaneous Supplies

Procedure Codes — Table 122-0620.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 32-1999, f. & cert. ef. 10-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0625

### Surgical Dressing

Procedure Codes — Table 122-0625.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0630

### Incontinent Supplies

(1) Incontinent supplies may be covered for urinary or fecal incontinence as follows:

(a) Category I Incontinent Supplies — For up to 220 units (any code or product combination in this category) per month, unless documentation supports the medical appropriateness for a higher quantity;

(b) Category II Underpads:

(A) Disposable underpads (T4541 and T4542): For up to 100 units (any combination of T4541 and T4542) per month, unless documentation supports the medical appropriateness for a higher quantity, up to a maximum of 150 units per month;

(B) Reusable/washable underpads: (T4537 and T4540) For up to eight units (any combination of T4537 and T4540) in a 12 month period;

(C) Category II Underpads are separately payable only with Category I Incontinent Supplies;

(D) T4541 and T4542 are not separately payable with T4537 and T4540 for the same dates of service or anticipated coverage period. For example, if a provider bills and is paid for eight reusable/washable underpads on a given date of service, a client would not be eligible for disposable underpads for the subsequent 12 months.

(c) Category III Washable Protective Underwear:

(A) For up to 12 units in a 12 month period;

(B) Category III Washable Protective Underwear are not separately payable with Category I Incontinent Supplies for the same dates of service or anticipated coverage period. For example, if a provider bills and is paid for 12 units of T4536 on a given date of service, a client would not be eligible for Category I Incontinent Supplies for the subsequent 12 months.

(2) Incontinent supplies are not covered:

(a) For nocturnal enuresis; or

(b) For children under the age of three.

(3) A provider may only submit A4335 when there is no definitive Healthcare Common Procedure Coding System (HCPCS) code that meets the product description.

(4) Documentation requirements: Submit the following documentation for review:

(a) For all categories, the medical reason and condition causing the incontinence; and

(b) When a client is using urological or ostomy supplies at the same time as codes specified in this rule, information which clearly corroborates the overall quantity of supplies needed to meet bladder and bowel management is medically appropriate.

(5) Quantity specification:

(a) For prior authorization (PA) and reimbursement purposes, a unit count for Category I — III codes is considered as single or individual piece of an item and not as multiple quantity;

(b) If an item quantity is listed as number of boxes, cases or cartons, the total number of individual pieces of that item contained within that respective measurement (box, case or carton) must be specified in the unit column on the PA request. See table 122-0630-2;

(c) For gloves (Category IV Miscellaneous), 100 gloves equal one unit.

(9) Table 122-0630-1.

(10) Table 122-0630-2.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 64-2001, f. 12-28-01, cert. ef. 1-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 76-2003, f. & cert. ef. 10-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

## 410-122-0660

### Orthotics and Prosthetics

(1) Indications and Coverage:

(a) All of the orthotic and prosthetic “L” codes and any temporary “S” or “K” codes have been removed from the rules except for:

(A) OAR 410-122-0470 Supports and Stockings;

(B) OAR 410-122-0255 External Breast Prosthesis, and;

(C) OAR 410-122-0680 Facial Prosthesis.

(b) Use the current HCPCS Level II Guide for current codes and descriptions;

(c) For adults, follow Medicare current guidelines for determining coverage;

(d) For children, the prescribing practitioner must determine and document medical appropriateness.

(2) Prior Authorization is required for the following codes:

(a) L1499;

(b) L2999;

(c) L3649;

(d) L3999;

(e) L5999;

(f) L7499;

(g) L8499;

(h) L9900.

(3) Codes Not Covered — Table 122-0660.

(4) Reimbursement:

(a) The hospital is responsible for reimbursing the provider for orthotics and prosthetics provided on an inpatient basis;

(b) Evaluations, office visits, fittings and materials are included in the service provided;

(c) Evaluations will only be reimbursed as a separate service when the provider travels to a client's residence to evaluate the client's need;

(d) All covered orthotic and prosthetic codes are also covered if client resides in a nursing facility except:

(A) L1500;

(B) L1510; and

(C) L1520.

(e) Use type of service “J” when billing for a tracheostomy speaking valve (L8501). See Division 129, Speech-Language Pathology, Audiology and Hearing Aid Services for rule information.

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

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-



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2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06

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

**Rule Caption:** Inclusion of mumps as a reportable disease.

**Adm. Order No.:** PH 19-2006

**Filed with Sec. of State:** 9-13-2006

**Certified to be Effective:** 9-13-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 333-018-0015

**Subject:** The Oregon Department of Human Services, Public Health Division is permanently amending Oregon Administrative Rule, 333-018-0015, to include mumps as a reportable disease.

**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; 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; *Vibrio* (all species).

(c) Within one Local Public Health Authority working day: *Bordetella pertussis* (pertussis); *Borrelia* (relapsing fever, Lyme disease); *Brucella* (brucellosis); *Campylobacter* (campylobacteriosis); Chlamydophila (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-toxigenic, 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); mumps; *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; CD4 cell count <

200/\_1 (mm3) or CD4 proportion of total lymphocytes < 14%; hemolytic uremic syndrome.

(d) Within 7 days: Suspected Lead Poisoning (for laboratories; this includes all blood lead tests performed on persons with suspected lead poisoning).

Stat. Auth.: ORS 433.004

Stats. Implemented: ORS 433.001, 433.004, 433.006, 433.012, 433.106, 433.110, 433.130, 433.235 - 433.284, 437, 616 & 624

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; PH 13-2006(Temp), f. 6-27-06, cert. ef. 7-1-06 thru 12-27-06; PH 19-2006, f. & cert. ef. 9-13-06

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**Rule Caption:** Wading Pool Compliance.

**Adm. Order No.:** PH 20-2006(Temp)

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 9-15-06 thru 3-13-07

**Notice Publication Date:**

**Rules Amended:** 333-060-0020

**Subject:** The Oregon Department of Human Services, Public Health Division is temporarily amending Oregon Administrative Rule 333-060-0020, relating to wading pool compliance, to correct two errors made during the July 2006 revision of the Public Swimming Pool rules.

**Rules Coordinator:** Christina Hartman—(971) 673-1291

## 333-060-0020

### Compliance

(1) Swimming pools and wading pools which were in public use before May 13, 1959, shall not be required to comply with Structural Stability, OAR 333-060-0050(2); and Dimensions, OAR 333-060-0060(3) and (4), provided such pools are operated in compliance with all other rules of the Division relating to public swimming pools.

(2) All swimming pools and wading pools which were constructed and in use but were not in public use as defined in Definitions, OAR 333-060-0015(19), and were not licensed by the State Board of Health before June 10, 1959, shall before being operated for any public use, have complete and detailed plans submitted to the Division. A license to operate as a public pool shall not be issued until the pool is made to comply with the requirements of these rules.

(3) Any public wading pool constructed before July 1, 2006, but not licensed by the Division or its agent health department before that date, must obtain a license to operate.

(a) Wading pools, other than spray pools, without water recirculation must comply with the requirements of OAR 333-060-0510(1) or must cease operation.

(b) All existing wading pools must provide protection against entrapment, hair entanglement and evisceration in compliance with OAR 333-060-0510(2), or cease operation by December 31, 2008.

(4) Any limited-use swimming pool operated in conjunction with a companion residential housing facility having five or more living units and which was operated and maintained for the use of the occupants thereof and their personal friends only, but which was not required to be licensed prior to February 25, 1971, shall not be required to comply with Structural Stability, OAR 333-060-0050(2); Dimensions, OAR 333-060-0060(3), (4) and (5)(a); Piping, OAR 333-060-0130(1), (2), and (3); and Overflow Systems, OAR 333-060-0115(2)(b), (3) and (4); provided such pools are operated in compliance with all other requirements of these rules.

(5) Public swimming pools built prior to March 1, 1979, are exempt from the following requirements of these rules provided such pools are operated in continuous compliance with the rules in effect at the time such pools were constructed:

- (a) Dimensions, OAR 333-060-0060(2), (5)(a)(B), (5)(b);
- (b) Finishes, Markings and Lifelines, OAR 333-060-0065(3);
- (c) Ladders, Recessed Steps and Stairways, OAR 333-060-0080(7), (8);
- (d) Decks, OAR 333-060-0110(1)(a), (2), (6), (7);
- (e) Overflow Systems, OAR 333-060-0115(3);
- (f) Recirculation Systems, OAR 333-060-0120(2)(c);
- (g) Inlets and Outlets, OAR 333-060-0125(2), (4);
- (h) Piping, OAR 333-060-0130(1), (4);
- (i) Pumps, OAR 333-060-0135(1)(a), (b), (4);
- (j) Filters, OAR 333-060-0140(2)(a)-(d), (6), (7);

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- (k) Heaters, OAR 333-060-0145(1)(c);
- (l) Disinfectant and Chemical Feeders, OAR 333-060-0150(4);
- (m) Equipment Room, OAR 333-060-0160(1);
- (n) Bathroom and Sanitary Facilities, OAR 333-060-0170(3)(a), (b);
- (o) Signs, OAR 333-060-0215(1), (2) and (3).

(6) The exemptions of sections (1), (2), (3), and (4) of this rule apply provided the exemption does not present a health or safety hazard. Exemptions do not apply to any alteration or replacement of affected component part.

Stat. Auth.: ORS 448.011  
Stats. Implemented: ORS 448.005 - 448.100, 448.990  
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79, Renumbered from 333-042-0088; HD 7-1986, f. & ef. 5-1-86; HD 22-1994, f. 8-22-94, cert. ef. 9-1-94; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06; PH 20-2006(Temp), f. & cert. ef. 9-15-06 thru 3-13-07

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## Department of Human Services, Self-Sufficiency Programs Chapter 461

**Rule Caption:** Changing OARs affecting public assistance, medical assistance or food stamp clients.

**Adm. Order No.:** SSP 12-2006(Temp)

**Filed with Sec. of State:** 9-1-2006

**Certified to be Effective:** 9-1-06 thru 12-31-06

**Notice Publication Date:**

**Rules Amended:** 461-115-0651, 461-115-0705, 461-135-0010

**Subject:** OAR 461-115-0651 is being amended to remove a requirement to verify citizenship for initial applicants to the Food Stamp program because routine verification is not required by the federal regulations.

OAR 461-115-0705 about required verification is being amended to add the citizenship verification requirements of the Deficit Reduction Act of 2005 into the verification requirements for Breast and Cervical Cancer Medical (BCCM), Extended Medical (EXT), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Health Plan (OHP), and Substitute Adoptive Care (SAC) programs.

OAR 461-135-0010 about assumed eligibility for medical programs is being amended to add new the citizenship verification requirements of OAR 461-115-0705 into the assumed eligibility requirements for the Medical Assistance Assumed (MAA) and the Substitute Adoptive Care (SAC) programs. These new citizenship verification requirements are from the federal Deficit Reduction Act of 2005

**Rules Coordinator:** Annette Tesch—(503) 945-6067

### 461-115-0651

#### Required Verification and When to Verify; FS

(1) The Department must give households at least 10 days to provide required verification.

(2) All of the following information must be verified when a client initially applies for food stamp benefits:

(a) The identity of the applicant and any authorized representative or alternate payee.

(b) Residency.

(c) Alien status.

(d) Social Security Number (SSN) or application for an SSN.

(e) Countable income.

(f) Medical expenses, if they are used as a deduction.

(g) An order to pay child support and the amount actually paid.

(h) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.

(3) All of the following information must be verified when a client reapplies for food stamp benefits within 30 days of a previous certification:

(a) A change in source of income, or the amount of stable income has changed by more than \$50.

(b) The amount of variable income from any source.

(c) Previously unreported medical expenses, and recurring medical expenses which have changed by more than \$25.

(d) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the client is paying for children that live in a different household group.

(e) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.

(4) For cases using the Change Reporting System (CRS) and the Monthly Reporting System (MRS), the following changes reported during the certification period must be verified:

(a) For CRS, a change in source of income, or the amount of stable income has changed by more than \$50.

(b) For CRS, the amount of variable income from any source.

(c) Changes in reported medical expenses by more than \$25, and previously unreported medical expenses.

(d) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the client is paying for children that live in a different household group.

(e) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.

(5) For cases using the Simplified Reporting System (SRS), each of the following changes reported during the certification period must be verified in accordance with OAR 461-170-0103:

(a) Alien status and SSN or application for an SSN when a new member joins the benefit group.

(b) Countable income.

(c) Medical expenses, if used as a deduction.

(d) An order to pay child support and the amount actually paid, if used as a deduction.

(6) A claimed expense or cost may be used to determine the food stamp benefit only when the client provides the required or requested verification.

(7) In addition to the verification required by sections (2) to (5) of this rule, the income for a client must be verified:

(a) Each month for a client in MRS.

(b) Every six months for a client in SRS.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06

### 461-115-0705

#### Required Verification; BCCM, MAA, MAF, EXT, OHP, SAC

(1) This rule establishes verification requirements for the BCCM, EXT, MAA, MAF, OHP, and SAC programs in addition to the requirements of OAR 461-115-0610.

(2) Except for clients who receive Medicare, clients who are assumed eligible in accordance with OAR 461-135-0010, and clients who are presumptively eligible for BCCM, each client declaring U.S. citizenship must provide *acceptable documentation* of citizenship and identity. For purposes of this rule, *acceptable documentation* consists of any of the documents permitted under section 6036 of the federal Deficit Reduction Act of 2005 (Pub. L. 109-171).

(a) A new applicant must provide *acceptable documentation* as a condition of eligibility.

(b) A current recipient who has not already provided *acceptable documentation* must provide documentation at the next redetermination of eligibility.

(c) A client who has already provided *acceptable documentation* of U.S. citizenship is not required to provide additional evidence during subsequent application for benefits or redeterminations of eligibility.

(3) In the OHP program:

(a) At initial application and at any other time it affects the client, the following must be verified:

(A) The requirement in OAR 461-120-0210 to have or apply for a social security account number.

(B) Alien status for applicants who indicate they are not U.S. citizens.

(C) The premium exemption allowed because a client is:

(i) A member of a federally recognized Indian tribe, band or group;

(ii) An Eskimo, Aleut or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act; or

(iii) A person eligible for benefits through an Indian Health Program.

(D) Income from the past three months and income already received in the budget month. If income cannot be verified, the client's statement is accepted.

(b) At recertification, the following must be verified, except that if income cannot be verified, the client's statement is accepted:

(A) Unearned income if it has changed since the last certification.

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(B) Earned income from the three months prior to the budget month.

(c) A client enrolled *full time* in *higher education* must provide verification, at application and recertification, that the client meets the requirements of OAR 461-135-1110.

(d) The following must be verified when it is first reported or changed:

(A) Pregnancy of the client, which must be verified by a medical practitioner, health department, clinic, or crisis pregnancy center or like facility.

(B) Amount of the premium for cost-effective employer-sponsored health insurance.

(e) A client must provide verification to support a request for waiver of a premium arrearage (*see* OAR 461-135-1130).

(f) A client must provide verification for any eligibility requirement questioned by the Department.

Stat. Auth.: ORS 409.050, 411.060 & 414.042

Stats. Implemented: ORS 411.060, 414.042 & 414.047

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06

## 461-135-0010

### Assumed Eligibility for Medical Programs

(1) This rule sets out when a client is *assumed eligible* for certain medical programs because the client receives or is deemed to receive benefits of another program.

(2) Except for a client disqualified for failure to pursue cost-effective, employer-sponsored health insurance as required by OAR 461-120-0345, a client who does not meet the citizenship and alien status requirements set forth in OAR 461-120-0125, and a client who does not meet a citizenship verification requirement set forth in OAR 461-115-0705, the following people are *assumed eligible* for MAA:

(a) A client receiving or eligible to receive TANF cash benefits.

(b) A client whose TANF cash benefits are being paid as wages through the JOBS Plus program.

(c) A client who receives no TANF cash benefits because of failure by the client to comply with the requirements for a recipient of the JOBS program, or a requirement for evaluation or treatment of substance abuse or mental health (OAR 461-135-0085).

(d) A client in the Assessment Program (*see* OAR 461-135-0475).

(e) A child in a benefit group whose grant is affected by a failure to comply with the requirements of OAR 461-120-0340 regarding paternity or child support.

(3) A pregnant woman who is eligible for and receiving benefits the day the pregnancy ends is *assumed eligible* for EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM or SAC until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.

(4) A pregnant woman who was eligible for and receiving benefits of the EXT, GAM, MAA, MAF, OHP-OPP, OSIPM, or SAC program but becomes ineligible during the pregnancy is *assumed eligible* for Medicaid.

(5) A child born to a mother eligible for and receiving EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM or SAC benefits is *assumed eligible* for medical benefits. A child who is continuously a member of the household group of his or her mother is eligible under this section until the end of the month the child turns one year of age.

(6) Except for a child who does not meet a citizenship verification requirement set forth in OAR 461-115-0705, the following children are *assumed eligible* for SAC:

(a) A child who is the subject of an adoption assistance agreement with another state.

(b) A child in a state-subsidized, adoptive placement, if an adoption assistance agreement is in effect between a public agency of the state of Oregon and the adoptive parents that indicates the child is eligible for Medicaid.

(7) The following persons are *assumed eligible* for OSIPM (except OSIPM-EPD and OSIPM-EPD):

(a) A recipient of SSI benefits.

(b) A person deemed eligible for SSI under sections 1619(a) or (b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)), which cover individuals with disabilities whose impairments have not changed but who have become gainfully employed and have continuing need for OSIPM.

(8) A client who receives both benefits under Part A of Medicare and SSI benefits is *assumed eligible* for the QMB-BAS program.

(9) A client is *assumed eligible* for REFM if:

(a) The client is receiving cash assistance through the REF program; or

(b) The client is ineligible for cash assistance through the REF program only because of income or resources.

Stat. Auth.: ORS 411.060 & 418.100

Stats. Implemented: ORS 411.060, 418.100, 1999 OL ch. 859

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 12-1999(Temp), f. & cert. ef. 10-1-99 thru 1-31-00; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06

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

**Rule Caption:** Amending rules for clarification and consistency across the Department.

**Adm. Order No.:** SPD 26-2006

**Filed with Sec. of State:** 8-22-2006

**Certified to be Effective:** 9-1-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 411-065-0005, 411-065-0015, 411-065-0020, 411-065-0025, 411-065-0030, 411-065-0035, 411-065-0040, 411-065-0045, 411-065-0046, 411-065-0047, 411-065-0048, 411-065-0049, 411-065-0050

**Subject:** These rules are being amended for consistency with other rules under the Department of Human Services, Seniors and People with Disabilities Chapter. These rules are also being amended for grammatical and housekeeping purposes.

**Rules Coordinator:** Lisa Richards—(503) 945-6398

## 411-065-0005

### Definitions

(1) "Activities of Daily Living (ADL)" means activities usually performed in the course of a normal day in an individual's life, such as eating, dressing, bathing and personal hygiene, mobility, bowel and bladder control, and behavior.

(2) "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 people 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.

(3) "Brain Injury" means sudden onset of a neurological disorder secondary to disease or trauma.

(4) "Client or Resident" means an individual for whom payment is made under Oregon's Title XIX.

(5) "Change of Ownership" means a change in the individual or organization responsible for operating the program. Events which change ownership include but are not limited to the following:

(a) The form of the legal organization of the owner is changed (e.g., sole proprietor forms a partnership or corporation; a corporation or partnership dissolves);

(b) The title of the organization is transferred to another party;

(c) The facility which is the site of the specialized services program has its license or its lease terminated; or

(d) The facility which is the site of the specialized services program terminates its contract for specialized services with the provider.

(6) "Cost Effective" means a comparison between service costs to the target group absent the specialized services and the service costs to the target group with the specialized services in relation to the goal of helping the members of the target group attain more independent living. Cost comparisons should include short-term and long-term costs and benefits, and the difference, if any, between local costs and average statewide costs for providing comparable services.

(7) "Department" means the Department of Human Services, Seniors and People with Disabilities (SPD).

(8) "Provider" means an organization or individual who contracts with the Department to coordinate and implement the specialized services.



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(9) "Service Plan" means the observation, assessment, care planning and documentation of the client's physical, cognitive and psycho-social needs, and the supervision, coordination and documentation of the services provided to meet those needs.

(10) "Special Approval" means approval given by the Department and the local AAA to a provider offering specialized services that meet the intent of these rules. The approval is granted only to a specific location and provider and is not transferable.

(11) "Specialized Services" means identifiable services designed to meet the needs of persons in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs. These services will be directed toward helping the residents toward more independent living.

(12) "Target Group" means any group of persons with similar needs based on specific and identified disabilities of brain injury, brain injury quadriplegic, brain injury paraplegic, or quadriplegic, who are eligible for a live-in attendant, and who need restorative care that cannot be provided in existing services in Residential Care Facilities, Adult Foster Homes, or other Community Based Care Settings.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 5-1982, f. 5-12-82, ef. 5-15-82; SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0015

### Approval Procedure

(1) Any person desiring to provide specialized services under the provision of these rules must request approval by submitting the following information in writing to the Department and local AAA:

(a) Name of the provider and address of the facility where services will be provided;

(b) Provider information regarding criminal history and signed Criminal Record Release Authorizations for supervisors and staff;

(c) A description of the target group for whom services will be provided, the age, and number of persons to be served;

(d) Admission criteria consistent with OAR 411-065-0030;

(e) Program plans for providing services, including but not limited to the following:

(A) A description of supervisor and staff qualifications and training for the target group to be served;

(B) Specific staff to client ratios whenever clients are present, consistent with OAR 411-065-0025; and

(C) A description of client care management criteria including designating responsibility for Activities of Daily Living, specific specialized services for the target group.

(f) A description of facility space and equipment will be sufficient to meet the needs of the group served, including adaptations for and absence of barriers for non-ambulatory persons consistent with OAR 411-065-0045;

(g) A written policy implementing documentation and confidentiality requirements contained in OAR 411-065-0020 and 411-065-0040, and client rights requirements of 411-065-0046;

(h) Exit criteria consistent with OAR 411-065-0035;

(i) A statement of need for the specialized living services and how the services will be cost effective within the meaning of OAR 411-065-0005;

(j) Proposed annual budget identifying sources of revenue; and

(k) Any other information about the provider or target groups as the Department may reasonably require that would facilitate the evaluation of the provider's request for approval.

(2) The Department and local AAA will conduct the initial review of the proposal for specialized living services. The AAA will provide the Department with a statement as to the need of such specialized services for that area and whether the services will be cost effective.

(3) Final approval of the proposal will be given by the Contract Administrator of the Department or his or her designee based on demonstrated need for the service, the cost effectiveness of the proposed program and evidence of the provider's ability to comply with these rules. The Department may attach conditions to the approval which limit, restrict, or specify other criteria for operation of the specialized living services program.

(4) The AAA will annually evaluate an approved program. The annual evaluation will re-examine the demonstrated need for the specialized services, the cost-effectiveness of the program and the provider's compliance with these rules, before the Department extends the program approval for another year.

(5) No approval is transferable or applicable to any location or persons other than those specified in the contract. A change of ownership of the provider will require a new request for approval in compliance with section (1) of this rule.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 5-1982, f. 5-12-82, ef. 5-15-82; SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0020

### Compliance and Documentation

(1) Providers must document appropriate qualifications and training or supervisors and staff to provide care and services for the target group.

(2) Providers must maintain documentation that the approved services are in fact being provided to each client consistent with the care management plan of each client as recorded in each client's record.

(3) Authorized Department and AAA representatives must have immediate access to clients and records. "Access" to client records means the right to personally read charts and records in order to document continuing eligibility for payment, quality of care or alleged abuse. Authorized Department and AAA representatives must be able to make and remove copies of charts and records from the program's premises as required to carry out the above responsibilities.

(4) Authorized Department and AAA representatives must have the right to privately interview any client and any program supervisor or staff in carrying out the above responsibilities.

(5) Authorized Department and AAA representatives may, upon proper identification enter and inspect a facility which has a specialized living services approval and contract at any time to secure compliance with, or prevent a violation of provision of these rules.

(6) If authorized Department and AAA representatives are not permitted access consistent with the requirements of the rule, a search warrant may be obtained.

(7) Completed reports in inspections and evaluations except for confidential information, will be available to the public upon request, during business hours.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 5-1982, f. 5-12-82, ef. 5-15-82; SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0025

### Staffing Requirements

(1) The provider must have staff of sufficient number and qualifications to meet the specialized needs of the target group.

(2) The number and quality of staff will be specified by the Department contract at the time of approval of the contract. At least one staff person must be in attendance at all times when a resident is on the premises.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 5-1982, f. 5-12-82, ef. 5-15-82; SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0030

### Admission Criteria

(1) Each provider will develop admission criteria specific to the target group to be served.

(2) Each person must be stabilized in their physical and emotional adjustments to their disability and be able to participate in planning for services to meet their needs.

(3) Each Title XIX eligible person must be screened through the Department's Pre-Admission Screening process to determine suitability for placement based on specific admission criteria.

(4) First priority for any individual needing placement in a specialized living services setting will be a resident of a nursing facility or an acute hospital.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 5-1982, f. 5-12-82, ef. 5-15-82; SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0035

### Exit Criteria

(1) A resident may choose to leave a specialized living services program whenever the program is no longer of benefit. A resident may also be moved if his or her condition deteriorates either mentally or physically to the point that his or her needs can no longer be met by the specialized living services program.

# ADMINISTRATIVE RULES

(2) At the time of termination, the resident will be given assistance in securing other placement and resources as needed.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 5-1982, f. 5-12-82, ef. 5-15-82; SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0040

### Records

(1) The provider must maintain confidential records for each resident that contains the client's service plan, a copy of written client right rules and documentation that the rules have been discussed with the client, and all pertinent medical, social and financial information. Narrative entries describing the client's progress must be made no less often than every 30 days. Disclosure of information from any records must be in accordance with applicable laws and rules.

(2) The provider will keep records, books and documents as may be required by contract by the Department that will be made available for inspection to authorized state or federal personnel or persons authorized on their behalf.

(3) If the provider manages a client's money, a separate account record must be maintained in the client's name. The provider must not consume, borrow from, or pledge any funds of a client.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 5-1982, f. 5-12-82, ef. 5-15-82; SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0045

### Facility Standards

(1) Specialized living services that are provided in a community based setting must meet applicable zoning, building, housing, water, sewer and fire safety codes, rules, and regulations. If an exception or waiver is granted by a regulatory agency, the Department may accept the waiver or exception as long as it does not jeopardize the health, safety or welfare of the residents.

(2) The facility must be constructed in such a way as to be adaptable to meet the physical needs of the resident.

(3) The facility must maintain in good repair and operable conditions all structures, installed equipment, grounds and living units so as to maintain health and safety.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 5-1982, f. 5-12-82, ef. 5-15-82; SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0046

### Client Rights

(1) Each client receiving specialized living services must be assured the same civil and human rights accorded to other citizens.

(2) The provider must document in writing, implement and fully inform each client of policies and procedures that protect clients' rights, including:

(a) Adequate food, housing, clothing, medical and health care and personal services;

(b) Visits to and from family members, friends, advocates, legal and medical professionals;

(c) Confidential communications;

(d) Personal property;

(e) Privacy;

(f) Freedom from involuntary training, treatment, participation in activities and chemical or mechanical restraints;

(g) Religious practices as personally preferred;

(h) Voting;

(i) Access to community resources, including recreation, agency services.

(3) Providers shall not inflict or tolerate to be inflicted, physical, sexual or emotional abuse or punishment, intimidation, threats, exploitation, or neglect of clients.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0047

### Denial, Termination, Nonrenewal or Suspension of Approval

(1) Failure to Comply. The Department may deny, terminate, or refuse to renew provider approvals with providers who fail to comply with OAR 411-065-0000 through 411-065-0050 relating to specialized living services contracts.

(2) Emergency Suspension. When the Department has reason to believe that imminent danger to clients exists, the Department may immediately suspend the provider's approval and take action necessary to protect the health and safety of clients.

(3) Suspension or Termination of Payments. Since valid approval is a condition precedent to payment under a contract for specialized living services, the denial, termination, nonrenewal or suspension of approval provides grounds for suspending or termination payments under a specialized living services contract.

(4) Any denial, termination, nonrenewal or suspension shall be done in accordance with the rules of the division and ORS chapter 183.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0048

### Conditions for Payment

(1) No payment will be made to any person or organization from the Department for specialized living services without first obtaining approval from the Department as prescribed in these rules.

(2) Where specialized living services are provided in a residential care facility, or an adult foster home or independent living unit, the following requirements apply:

(a) Facilities that meet the definition of residential care facility in ORS 443.400 to 443.455 must be licensed and certified pursuant to OAR 411-055-0000 et seq.;

(b) Facilities that meet the definition of an adult foster home in ORS 443.705 to 443.825 must be licensed and certified pursuant to OAR 411-050-0400 et seq.; and

(c) Facilities that meet the definition of independent living units must meet the requirements of OAR chapter 411, division 030.

(3) The provider must sign a written contract with the Department as described in OAR 411-065-0050.

(4) The provider must bill the Department in accordance with established rules and guidelines.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0049

### Reimbursement

(1) The total monthly rate for specialized living services must not exceed the amount approved for each resident in accordance with the terms of the contract signed by the Department.

(2) Any add-on costs for nursing services must not exceed the RN Contract fee rate.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

## 411-065-0050

### Contract

(1) Each specialized living services provider will have a contractual agreement with the Department specifying: type of administrative and direct care staff; terms of payment and procedures; roles and responsibilities of each party; and general provisions. The contract does not guarantee the number of Department clients who will be referred to or maintained in a program.

(2) Specialized living services contracts are effective for one year. In conjunction with the annual program evaluation, the Department will consider the results of the program evaluation prior to making its determination to renew the contract.

(3) The terms of the contract will establish the conditions upon which the contract may be terminated. A provider has no right to continuation of a specialized living services contract beyond the specific year in which a written contract has been executed. Approval of a provider's specialized living services program pursuant to OAR 411-065-0015 does not create an express or implied contract in the absence of a fully executed written contract with the Department.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 5-1982, f. 5-12-82, ef. 5-15-82; SSD 19-1991, f. & cert. ef. 10-10-91; SPD 26-2006, f. 8-22-06, cert. ef. 9-1-06

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

**Rule Caption:** Requirements for Issuance and Retention of

# ADMINISTRATIVE RULES

Hazardous Materials Endorsement.  
**Adm. Order No.:** DMV 8-2006  
**Filed with Sec. of State:** 8-25-2006  
**Certified to be Effective:** 8-25-06  
**Notice Publication Date:** 7-1-06  
**Rules Amended:** 735-062-0190  
**Rules Repealed:** 735-062-0190(T)

**Subject:** OAR 735-062-0190 establishes the requirements for issuance and retention of a hazardous materials endorsement. In accordance with federal law a person must complete and pass a security check at regular intervals to qualify for and retain an endorsement that allows the person to transport hazardous materials. DMV initially implemented this process through rule on January 31, 2005. Federal regulations require a security check every five years which is inconsistent with Oregon's eight year licensing period. This requires an interim security check. For administrative purposes, DMV requires this interim check four years prior to expiration of the CDL. Under OAR 735-062-0190, this may result in cancellation of the CDL when the driver does not pass a TSA security check within this four year time period even though the driver has timely completed the submission requirements for the security check but there is a delay at TSA. DMV has amended OAR 735-062-0190 to avoid cancellation of the CDL if within the required time period the driver submits proof of completion of the submission requirements, including the application, fingerprints, proof of citizenship/lawful immigration status and payment of fees. The amendments also authorize issuance at no charge of a replacement CDL without a hazardous materials endorsement if the person fails to complete or does not pass a security check.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 735-062-0190

### Requirements for Issuance and Retention of a Hazardous Materials Endorsement

(1) To obtain, retain or renew a hazardous materials endorsement on an Oregon commercial driver license (CDL), a person must be qualified. To qualify for a hazardous materials endorsement a person must:

(a) Qualify for commercial driving privileges or have a valid Oregon CDL;

(b) Pass a hazardous materials endorsement knowledge test for an original endorsement or a renewal;

(c) Pass a security threat assessment (security check) from the Transportation Security Administration (TSA) in accordance with 49 CFR Part 1572, including receipt by DMV of a notice from TSA which shows the person does not pose a security threat. A person must pass a TSA security check at the following times:

(A) Before DMV will issue an original hazardous materials endorsement;

(B) Between three and five years prior to the date the CDL with a hazardous materials endorsement expires;

(C) No more than one year prior to expiration of the CDL with a hazardous materials endorsement; and

(D) Any other time required by DMV.

(d) Complete a TSA security check four to five years prior to the date the CDL with a hazardous materials endorsement expires.

(e) Pay all required fees, which include, but may not be limited to, any applicable issuance fee and a hazardous materials knowledge test fee.

(2) To complete a TSA security check, a person must complete a security check application, submit fingerprints, provide proof of citizenship or lawful immigration status, and payment of fees as specified by TSA. To pass a TSA security check, DMV must receive a notice from TSA which shows the person does not pose a security threat.

(3) DMV may issue a CDL without a hazardous materials endorsement to a person waiting to receive the results of the security check from TSA. Upon receipt of a notice from TSA showing the person passed a security check, DMV will issue, at no charge, a replacement CDL with a hazardous materials endorsement. The person must surrender the CDL that was issued pending the security check. A person issued a CDL without a hazardous materials endorsement is not authorized to transport hazardous materials.

(4) A person is no longer qualified for a hazardous materials endorsement if:

(a) DMV receives a notice of threat assessment from TSA requiring immediate cancellation of the hazardous materials endorsement; or

(b) DMV receives notice from TSA indicating the person did not pass the security threat assessment.

(5) If DMV determines a person is no longer qualified for a hazardous materials endorsement, DMV will cancel the person's hazardous materials endorsement. Upon cancellation of the hazardous materials endorsement, the person must immediately surrender to DMV the CDL showing the hazardous materials endorsement. DMV will issue a driver license, at no charge, without a hazardous materials endorsement if the person qualifies for driving privileges.

(6) A person is no longer qualified for commercial driving privileges with a hazardous materials endorsement if when required, the person fails to complete and pass a TSA security check as described in section (2) of this rule. DMV will cancel the person's commercial driving privileges as set forth in OAR 735-070-0000.

(7) If the person does not surrender his or her CDL showing the hazardous materials endorsement within the time required on the notice of cancellation, DMV will cancel the person's commercial driver license pursuant to ORS 809.310(1) and 807.350.

(8) The person may request an administrative review on the cancellation of his or her hazardous materials endorsement. The issues for the administrative review are limited to whether:

(a) When required, the person completed and passed a TSA security check as described in section (2) of this rule; or

(b) DMV received a notice from TSA showing the person does not qualify for a hazardous materials endorsement; and

(c) Whether the person is the same person named on the notice.

(9) When the results of the TSA security check are received, DMV will update the person's driving record to indicate the results of the security check and whether a hazardous materials endorsement was issued or denied.

(10) An applicant for an Oregon CDL with a hazardous materials endorsement who presents a valid CDL with a hazardous materials endorsement issued by another state must still qualify for an original hazardous materials endorsement as set forth in this rule, including but not limited to a TSA security check. DMV will accept a TSA security clearance that has been conducted within one year of issuance of the Oregon CDL.

(11) When DMV cancels a CDL with a hazardous materials endorsement because the person fails to complete or pass a security check, if the applicant passes a security check within one year from the date of the cancellation and otherwise qualifies for the endorsement, DMV will reissue the CDL with a hazardous materials endorsement at no charge. If the cancellation has been in effect for more than one year, the person must reapply for the hazardous materials endorsement as an original endorsement and must take all required tests, pay all required fees and pass the required security check.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.173

Stats. Implemented: ORS 807.170, 807.173, 807.350, 809.310, 49 USC sec. 5103a

Hist.: DMV 3-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 13-2005, f. 5-19-05, cert. ef. 5-31-05; DMV 18-2005(Temp), f. & cert. ef. 8-18-05 thru 2-13-06; DMV 26-2005, f. & cert. ef. 12-14-05; DMV 7-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 1-27-07; DMV 8-2006, f. & cert. ef. 8-25-06

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**Rule Caption:** Acceptable Proofs of Age, Identity and Residence Address for Driver License, Driver Permit, ID Card.

**Adm. Order No.:** DMV 9-2006

**Filed with Sec. of State:** 8-25-2006

**Certified to be Effective:** 8-25-06

**Notice Publication Date:** 7-1-06

**Rules Amended:** 735-062-0020, 735-062-0030

**Subject:** These rules outline acceptable proof of an applicant's identity, age and residence address when applying to DMV for an original, renewal or replacement driver permit, driver license or identification card. Because of the tremendous problem identity theft and use of fraudulently obtained documents present nationwide, and because a driver license or identification card are the primary forms of identification, these rules amendments are intended to provide DMV with the documentation necessary to verify the identity, age and residence address of a person issued a driver permit, driver license or identification card. DMV has amended these two rules several times in the last few years to insure that DMV requires documents that accurately verify a person's identity, age and residence address without limiting the list of acceptable documents so that is



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becomes impossible for some individuals to provide the verification necessary to obtain a driver license, permit or identification card. These rule amendments clarify current document requirements to add documents that meet the DMV criteria for verifying age, identity and residence address.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 735-062-0020

### Proof of Age and Identity Requirements

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will require all applicants for driver permits, driver licenses, and identification cards to present to DMV documentary proof of the applicant's age and identity prior to the issuance of such driver permit, driver license, or identification card.

(2) Applicants for original driver permits, driver licenses, and identification cards must present:

(a) Two of the primary proofs of age and identity listed in section (10) of this rule; or

(b) One of the primary proofs of age and identity listed in section (10) of this rule that contains a date of birth and at least two of the secondary proofs of age and identity listed in section (11) of this rule.

(3) Applicants for renewal of driver permits, driver licenses and identification cards must present:

(a) Two of the primary proofs of age and identity listed in section (10) of this rule;

(b) One of the primary proofs of age and identity listed in section (10) of this rule that contains a date of birth and at least two of the secondary proofs of age and identity listed in section (11) of this rule;

(c) The renewal reminder notice mailed by DMV as required by ORS 807.140 and their current driver permit, driver license or identification card; or

(d) Two of the supplemental proofs of age and identity listed in section (12) of this rule, if:

(A) The applicant can correctly answer one or more questions about the applicant's motor vehicle record; and

(B) DMV verifies the applicant's identity through the duplicate photograph retained by DMV under ORS 807.115.

(4) Applicants for replacement driver permits, driver licenses and identification cards must comply with ORS 807.162 and also present:

(a) Two of the primary proofs of age and identity listed in section (10) of this rule;

(b) One of the primary proofs of age and identity listed in section (10) of this rule that contains a date of birth and at least two of the secondary proofs of age and identity listed in section (11) of this rule; or

(c) Two of the supplemental proofs of age and identity listed in section (12) of this rule if:

(A) The applicant can correctly answer one or more questions about the applicant's driver or motor vehicle record; and

(B) DMV verifies the applicant's identity through the duplicate photograph retained by DMV under ORS 807.115.

(5) Documents must be original or certified copies.

(6) Foreign birth certificates, passports and driver licenses will not be accepted as primary proof of age and identity unless they are either in English or contain an English translation within the same document. No separate translation document(s) will be accepted.

(7) Documents must be of different types and no two documents can be issued by the same government agency, department or consulate. For example, a U.S. birth certificate issued by a state agency and a social security card issued by the Social Security Administration are acceptable. A passport and a consulate card issued by the same consulate will not be accepted.

**EXCEPTION:** The Oregon digital photo on file and an Oregon driver permit, driver license or identification card will serve as two separate primary documents. For example, a person who has a valid Oregon driver permit and applies for an Oregon driver license could present the valid driver permit and the photo on file as sufficient proof of age and identity.

(8) Except as otherwise provided in this rule, DMV will accept the document up to one year after the expiration date shown on the document.

(9) For an original driver license, driver permit or identification card, if the applicant's true name has changed, at least one of the required proofs of age and identity must show the person's current true name. If a transaction includes a name change required under ORS 807.560 or 807.400, one of the required proofs of age and identity must show the applicant's name as shown in the applicant's DMV driving record, and one of the required proofs of age and identity must show the person's new true name.

(10) Primary proofs of age and identity include:

(a) A U.S., Canadian or U.S. Territorial government issued birth certificate. For purposes of this subsection, DMV will not accept a hospital issued birth certificate, hospital card, birth registration or baptismal certificate.

(b) A U.S. Consular Report of Birth Abroad (FS-240).

(c) A Certification of Birth (DS-1350 or FS-545).

(d) U.S. Military documents including:

(A) Military or Armed Forces ID card;

(B) Military Common Access Card;

(C) U.S. Uniform Services ID and Privileges card (DD1173 and DD1173-1); and

(D) Request for Verification of Birth (DD372).

(E) Passport, not expired more than five years from the date of expiration.

(f) U.S. immigration or naturalization documents including:

(A) U.S. Citizen ID card (I-179 and I-197);

(B) Resident Alien card or Permanent Resident card (I-551);

(C) Temporary Resident ID card (I-688);

(D) Employment Authorization Document (I-688A, I-688B and I-766);

(E) Certificate of Citizenship (N560 and N561); or

(F) Certificate of Naturalization (N550, N570 and N578).

(g) Out-of-state, District of Columbia, U.S. Territorial government or Canadian driver license, instruction permit or identification card, that contains the applicant's photograph, not expired more than one year from the date of expiration unless hole-punched or marked as "Not Valid as ID".

(h) Oregon driver license, instruction permit, or identification card that has the applicant's photograph, not expired more than five years from the date of expiration.

(i) The applicant's duplicate photograph retained by DMV under ORS 807.115.

(j) Non-immigrant visa issued by the U.S. Department of State.

(k) Temporary immigrant visa (I-551) issued by the U.S. Department of State

(L) U.S. Department of State driver license or Non-driver ID card.

(m) An Oregon Concealed Weapon Permit/Concealed Handgun License.

(n) A Confederated Tribes of Oregon Tribal ID card if:

(A) DMV determines the procedures used in issuing the card are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The card contains sufficient security features to alleviate alteration or counterfeiting of the card.

(o) Social Security card.

(p) A Consulate ID card if:

(A) DMV determines the procedures used in issuing the card are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The card contains sufficient security features to alleviate alteration or counterfeiting of the card.

(q) A letter verifying identity provided by an Oregon County Community Corrections agency if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(r) A letter verifying identity provided by the U.S. Pretrial Services if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(s) A letter verifying identity provided by the Oregon Youth Authority Agency if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(t) A letter verifying identity provided by a U.S. District Court Probation Office if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

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(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(u) Verified Oregon Department of Correction Release Identification card.

(v) Any other document DMV determines is acceptable.

(11) Secondary proofs of age and identity include:

(a) U.S. military discharge papers.

(b) An Oregon student body identification card, not more than one year old.

(c) An Oregon Job Corps identification card, not more than one year old.

(d) A W-2 or 1099 tax form for the current tax year.

(e) Medicare card.

(f) A court document issued by a court in the United States that shows the applicant is a party to the judicial proceeding and which contains court signatures and seals. Acceptable documents are:

(A) Gender and/or name change;

(B) Adoption, guardianship, custody or child support; and

(C) Judgment of dissolution or annulment of marriage.

(g) U.S. Government issued marriage license or Certificate or Record of Marriage issued by Oregon Vital Records.

(h) A Permit to Reenter the U.S. (I-327).

(i) Border Crossing cards (DSP-150, I-185, I-186 and I-586).

(j) A Refugee Travel Document (I-571).

(k) A birth certificate, driver license, military ID card, passport or voter card issued by a foreign government. A DMV employee may accept a foreign document that does not include English if the employee is able to understand the information in the document that relates to the person's identity and is satisfied the document was validly issued.

(L) Social Security Card transmittal document (stub).

(m) A benefits letter issued by the Social Security Administration, effective for the current, prior or upcoming year.

(n) Veterans' Universal Access Identification Card.

(o) Any other document DMV determines is acceptable.

(12) Supplemental proofs of age and identity include:

(a) Any document on the secondary document list in section (11) of this rule.

(b) Vehicle title or registration document.

(c) Bound checkbook.

(d) Bank or credit card.

(e) A court document issued by a United States Bankruptcy court that shows the applicant is a party to a bankruptcy proceeding.

(f) Medical benefits card.

(g) Law enforcement identification card.

(h) Expired out-of-state driver license, instruction permit, or identification card, not expired more than five years from the date of expiration and not hole-punched or marked as "Not Valid As ID".

(i) Laminated Social Security Card.

(j) A letter issued by the Oregon Health Plan, if dated within the last year.

(k) Merchant Marine identification card.

(L) Checking or savings account statement, if dated within the last year.

(m) Birth registration card or credit card style birth certificate.

(n) Commercial Driver License medical card.

(o) Certified copy of school transcript.

(p) Oregon liquor control service or food handler permit.

(q) Pilot's license.

(r) U.S. Tribal identification card.

(s) Oregon voter registration card.

(t) Any other document DMV determines is acceptable.

(13) DMV will not accept a document as proof of identity or age if DMV has reason to believe the document is not valid. DMV may request an applicant for a driver permit, driver license, or identification card to present additional documentary proof of age or identity if the documents presented do not establish the applicant's age or identity to the satisfaction of DMV.

Stat. Auth.: ORS 184.616, 184.619, 807.050, 807.150 & 807.400

Stats. Implemented: ORS 807.050, 807.062, 807.150, 807.160, 807.220, 807.230 & 807.280  
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; March 1988, Renumbered from 735-031-0016;  
MV 6-1990, f. & cert. ef. 4-2-90; DMV 12-1997, f. & cert. ef. 11-17-97; DMV 7-2001, f. & cert. ef. 3-7-01; DMV 34-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 5-2004, f. & cert. ef. 3-25-04; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 8-2005, f. & cert. ef. 2-16-05; DMV 9-2006, f. & cert. ef. 8-25-06

## 735-062-0030

### Proof of Residence Address

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) requires all applicants for an original driver permit, driver license, or identification card to present to DMV at least one document showing the applicant's name and current residence address. Current residence address is the address where the applicant actually lives, and DMV will include this address on the permit, license, or identification card. Acceptable documents include any of the items listed in section (3) of this rule.

(2) DMV requires all applicants who apply for a renewal or replacement driver permit, driver license, or identification card at a DMV field office to present to DMV at least one document showing the applicant's current residence address if the applicant is changing his or her address. Acceptable documents include any of the items listed in section (3) of this rule.

(3) Proof of residence address includes any of the following documents that show the applicant's current residence address:

(a) Any one of the proofs of identity listed in OAR 735-062-0020(10) or (11).

(b) Mortgage documents.

(c) A statement from the parent, step-parent, or guardian of an applicant attesting to the applicant's residence address. The parent, step-parent or guardian must reside at the same address as the applicant and sign a statement attesting to the applicant's residence address. In addition, the parent, step-parent, or guardian must present one acceptable proof of address document as set forth in this rule that shows the current residence address of the applicant.

(d) A statement of the applicant's spouse. The spouse must reside at the same residence as applicant and sign a statement attesting to the applicant's residence address. In addition, the spouse must present one other acceptable proof of address document as set forth in this rule that shows the current residence address of the applicant.

(e) Utility hook-up order.

(f) Payment booklet.

(g) Mail that is dated within 60 days of the application for the license, permit or identification card. DMV will accept mail from the following sources:

(A) Credit card companies;

(B) U.S. Treasury;

(C) Social Security Administration;

(D) State or Federal Revenue Department;

(E) Government agencies;

(F) Utility companies;

(G) Financial institutions;

(H) Insurance companies; and

(I) Originators of out-of-state clearance letter.

(h) Oregon vehicle title or registration documents.

(i) Oregon manufactured structure ownership document.

(j) Oregon voter registration card.

(k) Selective Service card.

(L) Medical or health benefits card.

(m) Educational institution transcript forms or other school documents showing enrollment for the current school year.

(n) An unexpired professional license issued by an agency in the United States.

(o) Form DS2019, Certificate of Eligibility for Exchange Visitor (J-1) Status.

(p) Letter from a caseworker at a homeless shelter verifying that the applicant resides at the shelter address.

(4) If the applicant does not have a residence address, DMV may accept a descriptive address with a mailing address. DMV may require the applicant to provide proof that no residence address has been assigned to the property. Such proof may include, but is not limited to, a statement from the U.S. Postal Service or from the Assessor's office in the county in which the property is located.

(5) An applicant who is homeless may use a descriptive address of the location where he/she actually resides, e.g., "under the west end of Burnside Bridge." The applicant must prove that he or she is a resident or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the descriptive address, the applicant also must provide a mailing address.

(6) An applicant who travels continuously may use a descriptive address of "continuous traveler." The applicant must prove that he or she is a resident or domiciled in Oregon pursuant to OAR 735-016-0040. In addi-

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tion to the descriptive address, the applicant also must provide a mailing address.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.050, 807.150 & 807.400  
Stats. Implemented: ORS 807.110, 807.160 & 807.400  
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; March 1988, Renumbered from 735-031-0017; DMV 2-1995, f. & cert. ef. 2-10-95; DMV 12-1997, f. & cert. ef. 11-17-97; DMV 34-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 5-2004, f. & cert. ef. 3-25-04; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 8-2005, f. & cert. ef. 2-16-05; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 9-2006, f. & cert. ef. 8-25-06

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**Rule Caption:** Proof that an accident is not reportable and suspensions for uninsured accidents.

**Adm. Order No.:** DMV 10-2006

**Filed with Sec. of State:** 8-25-2006

**Certified to be Effective:** 8-25-06

**Notice Publication Date:** 7-1-06

**Rules Amended:** 735-050-0010, 735-050-0070

**Subject:** OAR 735-050-0010 establishes what proof a party to an accident can provide to DMV to show that an accident is not reportable under ORS 811.720. The amendments align the rule with changes to the accident reporting requirements passed by the 2003 Legislature. No longer are all persons involved in a reportable accident required to report. There are times when only the person whose vehicle sustained damage of a certain level is required to report. The rule amendments outline the proof a party may provide to show the accident is not reportable.

OAR 735-050-0070 establishes when and how DMV will suspend the driving privileges of a person who is driving a vehicle that is uninsured at the time of an accident. DMV is making a couple of wording changes to replace confusing DMV jargon with wording that the general public can more easily understand.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 735-050-0010

### Proof that an Accident is Not Reportable

(1) ORS 811.720 establishes when an accident must be reported to the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV). If one person reports an accident and provides information that another party must report the accident, the second party may dispute the circumstances of the accident and the requirement to report to DMV. DMV must suspend driving privileges if a party involved in an accident fails to file an accident report when required.

(2) If DMV issues a suspension notice resulting from information that a party involved in an accident has failed to file an accident report as required, the party may provide proof to the DMV Accident Reporting Unit that the accident is not reportable. Proof of vehicle damage or injury must apply only to the party's vehicle or its occupants. Acceptable proof includes, but is not limited to, the following:

(a) A repair bill or estimate from an automotive repair business or statement from an insurance company responsible for paying the damage claim, showing damage to the party's vehicle is less than \$1500;

(b) A repair bill or estimate, statement from an insurance company responsible for paying the damage claim or a statement from the owner of the property, showing damage to property other than a vehicle involved in the accident is less than \$1500;

(c) The party's sworn statement that his or her vehicle was not towed from the accident scene. The statement must be notarized; or

(d) The party's sworn statement or a statement from the insurance company responsible for the damage claim that no person in the party's vehicle was injured as a result of the accident. The party's statement must be notarized.

(3) After reviewing the information provided, DMV will send a notice to the party stating whether or not an accident report must be filed with DMV.

(4) If DMV determines that the accident was not reportable for the party, DMV will stop or rescind any proposed suspension of the party's driving privileges.

(5) If DMV determines that the accident was not reportable for any party involved, DMV will remove the accident from the driving record of each party.

(6) For purposes of this rule, "party" means the driver or owner of a vehicle involved in an accident occurring on a highway or upon premises open to the public.

Stat. Auth.: ORS 802.010 & 806.250

Stats. Implemented: ORS 811.720  
Hist.: MV 54, f. 7-2-74, ef. 7-25-74; Administrative Renumbering 3-1988, Renumbered from 735-033-0020; DMV 10-2006, f. & cert. ef. 8-25-06

## 735-050-0070

### Suspensions for Uninsured Accidents

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will suspend the driving privileges of any person if the person is involved in any motor vehicle accident at any time when DMV determines the person has been driving uninsured.

(2) DMV will determine that a person was the driver of a vehicle involved in an accident if DMV receives a report to that effect from the police, an insurance carrier or producer, or any person involved in the accident.

(3) If the accident must be reported to DMV, DMV will determine that a person was involved in an accident while driving uninsured if:

(a) The person does not respond to DMV's request for an accident report;

(b) The person does not respond to DMV's request for both the name of the insurance carrier and the policy number which covered the person's operation of the vehicle at the time of the accident; or

(c) The insurance carrier the person stated he or she was insured with denies coverage for the accident.

(4) DMV will grant a pre-suspension hearing under ORS 809.440(1), upon timely request, to any person whose driving privileges are suspended as described in section (1) of this rule. The suspension will not take effect pending the outcome of the hearing and DMV will impose the suspension if the hearings officer affirms the suspension following the hearing.

(5) Once a suspension described in section (1) of this rule takes effect, DMV will rescind the suspension if the person supplies the name of an insurance carrier and policy number which covered the person's operation of the vehicle at the time of the accident.

(6) DMV will again suspend the driving privileges if the suspension was rescinded under section (5) and the insurance carrier subsequently denies coverage for the accident. The person will be eligible for full reinstatement of driving privileges one year from the new suspension date.

**EXCEPTION:** DMV shall subtract time served under the original uninsured accident suspension from the one-year suspension period.

Stat. Auth.: ORS 184.616, 184.619 & 809.417

Stats. Implemented: ORS 809.417

Hist.: MV 22-1985, f. 12-31-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-033-0065; MV 15-1991, f. 9-18-91, cert. ef. 10-1-91; DMV 20-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 10-2006, f. & cert. ef. 8-25-06

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**Rule Caption:** Acceptable proof of completion of a motorcycle education course.

**Adm. Order No.:** DMV 11-2006(Temp)

**Filed with Sec. of State:** 8-25-2006

**Certified to be Effective:** 8-25-06 thru 2-20-07

**Notice Publication Date:**

**Rules Amended:** 735-062-0080, 735-062-0140

**Subject:** OAR 735-062-0080 establishes when DMV will waive a drive test. Section (5) specifies that DMV will waive a motorcycle skills test if an applicant for a motorcycle endorsement brings a motorcycle education completion card from a department approved course. The rule currently specifies a course name that is different than the currently approved course. The rule also states that the completion card must have been issued on or after October 3, 1989, yet DMV accepts test scores for a period of two years. DMV is amending OAR 735-062-0080 to state that the person must provide a motorcycle education course completion card dated within two years of application. OAR 735-062-0140 establishes what DMV will accept as proof of completion of a motorcycle rider education course — a requirement for applicants for a motorcycle endorsement who are under 21 years of age. The current rule states that the proof must include the instructor's certification number as assigned by the Motorcycle Safety Foundation (MSF). The current card provided by the department approved course does include an instructor's certification number from the currently approved course, but that number is not assigned by MSF. On January 1, 2004 a department developed curriculum was designated as the only approved course for motorcycle endorsement waiver purposes. It is at that time that the certificates given to those who passed the course no longer met the requirement of OAR 735-062-0140. The rule should have been



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changed at that time to address the change in approved course, but DMV neglected to do so. OAR 735-062-0140 is amended to state that the instructor certificate number is assigned by a motorcycle education course approved by the department, to not specify the name of the course in the name of the completion certificate, but to specify that the certificate must include the course name, which will allow the endorsement waiver to apply to any approved course.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 735-062-0080

### Waiving Drive Test Portion of Driver License Examination

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will waive the actual demonstration of a person's ability to drive a Class C vehicle required by ORS 807.070(3) if all of the following apply:

(a) The person surrenders to DMV a driver license issued to the person by another state, the District of Columbia, a United States Territory or a Canadian Province that has not been expired for more than one year, or if the person's driver license issued by another jurisdiction, has been lost or stolen, the person submits a letter of clearance, as required in OAR 735-062-0000;

(b) The surrendered, lost or stolen license authorizes the driving of a vehicle other than a moped or motorcycle;

(c) The surrendered, lost or stolen license includes no restrictions other than a single restriction or a combination of restrictions comparable to restrictions imposed on an Oregon driver license;

(d) The person has no physical disabilities or impairments which may necessitate any restrictions other than:

(A) "With corrective lenses";

(B) "Outside or side-view mirror(s)"; or

(C) The restriction(s) imposed on the person's surrendered, lost or stolen driver license issued by another jurisdiction.

(e) The person has no physical or mental condition that provides DMV with reason to question the person's ability to drive a motor vehicle without endangering the safety of persons or property.

(2) DMV will waive the actual demonstration of a person's ability to drive a Class A, B, or C commercial motor vehicle or any endorsement related to a commercial driver license if the person surrenders to DMV a commercial driver license and satisfies the requirements in subsection (a) or (b) of this section:

(a) The person must meet the qualifications set forth in subsections (1)(a) through (e) of this rule and possess an out-of-state commercial driver license approved by the Federal Motor Carrier Safety Administration that authorizes the driving of a commercial motor vehicle included in the Oregon classification for which the application is made; or

(b) The person submits to DMV a Certificate of Competency, Form 6771, in accordance with OAR 735-060-0130.

(3) DMV will waive the actual demonstration of a person's ability to drive a motorcycle if:

(a) The person surrenders to DMV a motor-cycle-endorsed driver license issued to the person by another state, the District of Columbia, a United States Territory or a Canadian Province, or submits a clearance letter as provided for in subsection (1)(a) of this rule; and

(b) The person meets the qualifications in subsections (1)(c), (d) and (e) of this rule.

(4) In addition to section (3) of this rule, DMV will waive the actual demonstration of a person's ability to drive a motorcycle if:

(a) The person passes a motorcycle skills test given during a motorcycle rider education course established by the Transportation Safety Division under ORS 802.320; and

(b) The motorcycle skills test administered during the motorcycle rider education course meets or exceeds the motorcycle skills test administered by DMV.

(5) Evidence of passing the motorcycle skills test identified in section (4) of this rule is a motorcycle education course completion card as provided for in OAR 735-062-0140. The completion card must have been issued within two years of application to be considered valid for waiver of the skills test.

Stat. Auth.: ORS 184.616, 184.618, 802.010, 807.070, 807.080 & 807.170

Stats. Implemented: ORS 807.070, 807.080 & 807.170

Hist.: MV 61, f. 10-14-75, ef. 11-11-75; MV 15-1986, f. 9-16-86, ef. 10-1-86; MV 15-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0045; MV 26-1988, f. & cert. ef. 11-1-88; MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1990, f. & cert. ef. 8-16-90; MV 1-1991, f. & cert. ef. 3-18-91; MV 16-1991, f. 9-18-91, cert. ef. 9-29-91; MV 6-1992(Temp), f. 5-29-92, cert. ef. 6-1-92; MV 10-1992, f. 8-21-92, cert. ef. 9-1-92; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 4-1995, f. & cert. ef. 3-9-95; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 11-2006(Temp), f. & cert. ef. 8-25-06 thru 2-20-07

## 735-062-0140

### Proof of Completion of a Motorcycle Education Course

For purposes of issuing a motorcycle endorsement to persons under 21 years of age, DMV shall only accept a motorcycle rider education course approved by the Department of Transportation in accordance with ORS 802.320. As proof of completion of a motorcycle education course, DMV shall accept a card, which minimally includes:

(1) The applicant's name;

(2) The name of the course completed;

(3) The date of the course;

(4) Where the course was taken;

(5) The signature of the instructor; and

(6) The instructor's certification number as assigned by the motorcycle education course approved by the department.

Stat. Auth.: ORS 184.616, 184.619 & 807.175

Stats. Implemented: ORS 807.170 & 807.175

Hist.: MV 27-1989, f. & cert. ef. 10-3-89; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 7-1998, f. & cert. ef. 6-19-98; DMV 11-2006(Temp), f. & cert. ef. 8-25-06 thru 2-20-07

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### Department of Transportation, Motor Carrier Transportation Division Chapter 740

**Rule Caption:** Remove civil monetary penalties for certain violations that are not supported by statute.

**Adm. Order No.:** MCTD 4-2006

**Filed with Sec. of State:** 8-28-2006

**Certified to be Effective:** 8-28-06

**Notice Publication Date:** 7-1-06

**Rules Amended:** 740-300-0035

**Subject:** OAR 740-300-0035 provides civil monetary penalties of up to \$500 per violation for certain violations. The statutory authority for the rule (ORS 825.950) authorizes the \$500 penalty only for violations of statute. The rule, when adopted, inadvertently exceeded the statutory authority by applying the civil penalty to violations of rules and orders.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 740-300-0035

### Providing Unauthorized Pack or Load Service or Household Goods Transportation

Except as otherwise ordered by the Department in a particular case, any person who violates ORS 825.245 by providing a pack or load service without valid registration, or who violates ORS 825.100 by providing an unauthorized household goods moving service, is subject to civil monetary penalties in an amount of up to \$500 per violation, in addition to any other penalties authorized by law.

Stat. Auth.: ORS 825.245 & 825.950

Stats. Implemented: ORS 825.100, 825.245 & 825.950

Hist.: MCTD 9-2003(Temp), f. 12-12-03, cert. ef. 1-1-04 thru 6-28-04; MCTD 3-2004, f. 6-24-04, cert. ef. 6-29-04; MCTD 4-2006, f. & cert. ef. 8-28-06

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### Department of Transportation, Rail Division Chapter 741

**Rule Caption:** Inserts English Measurements for Clearance and Walkway Rules; Deletes "Locomotive" from Sanitation Facilities Rules.

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

**Filed with Sec. of State:** 8-28-2006

**Certified to be Effective:** 8-28-06

**Notice Publication Date:** 7-1-06

**Rules Amended:** 741-300-0021, 741-300-0041, 741-305-0010, 741-305-0020, 741-310-0010, 741-310-0020, 741-310-0030, 741-310-0040, 741-310-0050, 741-315-0010, 741-320-0010, 741-320-0020, 741-320-0050, 741-320-0060, 741-320-0080, 741-320-0090, 741-320-0100, 741-320-0110, 741-320-0120, 741-320-0130, 741-320-0150, 741-320-0160, 741-330-0010, 741-330-0020, 741-330-0030, 741-335-0010, 741-335-0020, 741-335-0040, 741-335-0050, 741-335-0070, 741-335-0080, 741-335-0090, 741-335-0110

**Rules Repealed:** 741-335-0060

**Subject:** These rules establish standards for minimum clearances, walkways, signing and sanitation. The amendments change meas-

# ADMINISTRATIVE RULES

urements from metric to English (standard) and remove references to “locomotive” in sanitation rules where Oregon is preempted by Federal laws. Other amendments add definitions and clarify language.

**Rules Coordinator:** Brenda Trump—(503) 945-5278

## 741-300-0021

### Applicability of Rules

(1) The minimum clearance rules apply to construction completed on or after January 1, 1982.

(2) Except as provided in section (3) of this rule, construction completed before January 1, 1982, shall comply with the minimum clearance rules or orders in effect at the time such construction was completed.

(3) Signs conforming to OAR 741-330-0010 shall be installed and maintained in cases where the minimum clearance rules or orders in effect at the completion of construction are less stringent than those currently in effect.

(4) Unless otherwise authorized by the Department, a railroad is prohibited from moving freight cars, locomotives, or other rolling equipment over tracks where the clearances are less than those prescribed in the minimum clearance rules.

(5) The minimum clearance rules apply to each railroad owning and capitalizing railroad trackage, and each person or unit of government owning, leasing or holding a salvage interest in railroad trackage.

(6) No facility shall be constructed or altered in such a manner that it does not comply with the minimum clearance rules unless authorized by order of the Department.

(7) A railroad operating on its own or on another railroad’s property, shall comply with all the rules contained in chapter 741, divisions 300 through 335, and any order issued by the Department or any predecessor agency, for that portion of the railroad facility upon which it is operating.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0005; RS 2-1998, f. & cert. ef. 8-20-98, Renumbered from 741-300-0010; RD 1-2006, f. & cert. ef. 8-28-06

## 741-300-0041

### Applications for Variances and Operation Restrictions

(1) An application for a variance from standard clearances shall contain a statement of the condition(s), the reason(s) for the request, and the estimated cost of bringing the facility involved into full compliance with the clearance standards. Application forms may be obtained from the Department, or online at “www.oregon.gov/odot/rail/railemployeesafety.shtml”. Applications must be filed with the Department within 30 days of the date the Department documents the nonstandard condition(s). Incomplete applications will be returned.

(2) In lieu of requesting a variance from the clearance standards, if railroad employee safety will not be impaired, the owner or lessee of a track on which service is provided to no other businesses may restrict operations over any portion of the track by posting an operation restriction sign, conforming to OAR 741-330-0010(2). Signs shall be located on each side of the track, facing incoming railroad movements, at a point beyond which no railroad employee may go or move equipment. The person posting the signs shall notify the Department and each railroad that provides service over the track of the intent to restrict operations. Notification shall be furnished in writing to the Department and to each railroad at least two weeks in advance of installation of the operation restriction signs.

(3) In lieu of requesting a variance from the clearance standards, if neither railroad service to another rail user nor railroad employee safety will be impaired, the owner or lessee of a track on which service is provided to one or more other businesses may apply to the Department (copy to the affected railroad) for written approval to restrict operations over any portion of the track by use of an operation restriction sign conforming to OAR 741-330-0010(2). Signs shall be located on each side of the track facing incoming railroad movements, at a point beyond which no railroad employee may go or move equipment. Following railroad comment the Department may act upon the application as circumstances warrant. If the application is approved, the person permitted to install such signs shall notify the Department and each affected railroad in writing of the fact of installation at least two weeks in advance of intended operation.

(4) Upon receipt of the foregoing notification of installation, each affected railroad shall immediately instruct its operating employees in writing, by special instruction or timetable bulletin, not to go or move equipment beyond the point at which the operation restriction signs are posted.

(5) An owner or lessee of a track shall not remove an operation restriction sign unless the facility is in full compliance with the clearance rules or unless the Department has approved an application for a variance.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0010; RS 2-1998, f. & cert. ef. 8-20-98, Renumbered from 741-300-0030; RD 1-2006, f. & cert. ef. 8-28-06

## 741-305-0010

### Minimum Overhead Clearance

(1) Except as provided in section (2) of this rule, all overhead clearance shall be at least 20 feet 9 inches above the top of rail.

(2) Minimum clearance may be decreased to the extent defined by a half-circumference of a circle having a radius of 8 feet 6 inches with its center at a point 14 feet above top of rail and directly over centerline of track.

(3) The overhead clearances set forth in these rules are minimum requirements established for employee safety. Nothing in these rules shall prohibit a railroad from requiring greater clearances.

(4) See **Figures 305-1** and **305-3** for a diagram of minimum clearances. For bridges and tunnels see OAR 741-310-0040(2).

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0055; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-305-0020

### Buildings

(1) With the exception of engine houses and car repair shops, when tracks terminate within enclosed buildings, all overhead clearances shall be at least 18 feet above the top of rail. In all cases where clearances of less than 20 feet 9 inches exist in buildings, all cars, locomotives or other equipment shall be brought to a stop before entering. “STOP” signs conforming to OAR 741-330-0010(3) shall be installed.

(2) See **Figure 305-2** for a diagram of minimum clearance inside buildings. For overhead clearances through bridges and tunnels, see OAR 741-310-0040(2).

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-00060; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-310-0010

### In General

(1) Except as otherwise provided, all side clearance shall be at least 8 feet 6 inches, as measured from centerline of track.

(2) The side clearances set forth in these rules are minimum requirements established for employee safety. Nothing in these rules shall prohibit a railroad from requiring greater clearances.

(3) See **Figure 305-1** and **Figure 310-1** for diagrams of the minimum side clearances.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0105; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-310-0020

### Side Clearance for Curved Track

(1) Minimum side clearance for objects adjacent to curved track constructed on or after May 3, 1983, covered by OAR 741-310-0010 through 741-310-0050, shall be increased at the rate of 1/2 inch per degree of curvature above that prescribed for tangent track.

(2) The Department recommends that minimum side clearance for curved tracks, covered by OAR 741-310-0010 through 741-310-0050, be at least 12 inches greater than that prescribed for tangent track.

(3) See **Figure 305-1** and **Figure 310-1** for diagrams of the minimum side clearances.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 6-1983, f. & ef. 6-13-83 (Order No. 83-313); PUC 4-1990, f. & cert. ef. 4-17-90 (Order No. 90-488); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0106; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

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## 741-310-0030

### Platforms

(1) Minimum side clearances for platforms as measured from centerline of track shall be: **Description — Minimum Clearance:**

(a) Platforms constructed 8 inches or less above top of rail at greatest height — 4 feet 8 inches;

(b) Platforms constructed in excess of 8 inches but 4 feet or less above top of rail at greatest height — 7 feet 3 inches;

(c) Platforms constructed prior to January 1, 1982, in excess of 4 feet but 4 feet 6 inches or less above top of rail at greatest height — 8 feet.

(2) All platforms, except as described in subsection (3)(b) of this rule, shall have a continuous regular surface extending out to a point at least 8 feet 6 inches from centerline of track.

(3)(a) See Figure 310-2 for diagrams of the minimum clearances for platforms.

(b) Platforms described in subsection (1)(a) of this rule may be combined with a platform described in subsection (1)(b) or (c) of this rule, provided the lower platform is level from the clear point (4 feet 8 inches from centerline of track) to track side face of the upper platform. See **Figure 305-1** and **Figure 310-3**.

(c) Platforms described in subsection (1)(a) of this rule may create a walkway condition that requires compliance with OAR 741-320-0070(1).

(d) The Department recommends that platforms described in subsection (1)(b) of this rule, which consists of a cantilever dock or otherwise elevated platform, should have the ends facing approaching train movements, painted with fluorescent paint or reflectorized material to warn train crews of the obstruction.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0110; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-310-0040

### Bridges and Tunnels

(1) Except as provided in sections (2) and (3) of this rule, side clearance for bridges and tunnels is 8 feet as measured from centerline of track.

(2) Minimum side clearance in tunnels and through bridges may be decreased, above 14 feet 6 inches, to the extent defined by a half-circumference of a circle having a radius of 8 feet with its center at a point 14 feet 6 inches above top of rail directly over the centerline of track. This rule does not alter the 20 feet 9 inches overhead clearance requirement of OAR 741-305-0010.

(3) Except where walkways are used by employees engaged in switching, the minimum side clearance does not apply to the lower section of a bridge so long as no part of the structure falls inside an encroachment line drawn from a point 5 feet from centerline of track and level with top of rail, diagonally upward to a point 8 feet from centerline of track at a height 4 feet above top of rail.

(4) See Figure 310-3 for a diagram of minimum clearances for tunnels and through bridges. See Figure 310-4 for a diagram of minimum clearances for the lower section of bridges.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0115; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-310-0050

### Miscellaneous Structures

The minimum side clearance for the following structure is:

**Description — Minimum Clearance:**

(1) Cattle guards and cattle chutes — OAR 741-310-0040(3) applies.

(2) Refuge platform — 8 feet (OAR 741-310-0040(3) applies to bracing for platform railing).

(3) Block signals on bridges and trestles — 8 feet.

(4) Handrails on bridges and trestles 44 inches high or less — 7 feet 9 inches.

(5) Interlocking mechanisms including all devices at switches used for the control of signals or protective devices at crossings 4 inches high or less above top of rail — 3 feet from centerline of track or located adjacent to switch stand. Interlocking mechanisms 4 inches high or less above top of rail at power switches and spring switches require no minimum clearance. This section applies only to interlocking mechanisms located at or above top of rail.

(6) Signals, switch stands, and switch housings constructed 3 feet high or less above top of rail — 6 feet. Power switches require no minimum clearance. This section applies only to signals, switch stands and switch housings which are at or above top of rail.

(7) Engine Service Facilities:

(a) Engine house doors — 6 feet 3 inches;

(b) Inside engine houses — 5 feet 5 inches;

(c) Outside engine service facilities — 6 feet 6 inches;

(d) Oil, sand and/or water columns, used exclusively for engine servicing — 8 feet.

(8) See **Figure 310-5** for a diagram of minimum clearances on miscellaneous structures.

(9) Overhead wires, used to transmit electric energy, and the poles that support them, should have a minimum clearance of not less than that specified by the 2002 edition of the *National Electric Safety Code, part 2, "Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines"*, Section 23, "Clearances", approved by the American National Standards Institute.

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

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 6-1983 f. & ef. 6-13-83 (Order No. 83-313); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0120; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-315-0010

### Track Centers

(1) The following track centers are minimum required distances between the centerlines of tangent tracks: **Type of Track — Track Centers:**

(a) Between main tracks or between a main track and a subsidiary track, other than a ladder track — 15 feet;

(b) Between parallel ladder tracks or between ladder tracks and other tracks — 20 feet;

(c) Between tangent tracks not otherwise specified — 14 feet.

(2) Minimum track centers for curved track constructed prior to April 29, 1983, shall be at least 1/2 inch per degree of curvature greater than that prescribed for tangent tracks.

(3) Track centers on tracks for which 14 feet minimum track centers are required on tangent track shall be increased from 14 feet at the rate of 1 1/2 inches per degree of curvature.

(4) Track centers on tracks for which 15 feet minimum track centers are required on tangent track shall be increased from 15 feet at the rate of 1 1/2 inches per degree of curvature in excess of eight degrees.

(5) The track centers set forth in these rules are minimum requirements established for employee safety. Nothing in these rules shall prohibit a railroad from requiring greater distances.

(6) See **Figure 315-1** for a diagram of minimum clearances for track centers.

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

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0155; RS 2-1998, f. & cert. ef. 8-20-98; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0010

### Applicability of Rules

(1) Except as provided in section (2) of this rule, the walkway rules shall apply to each railroad owning and capitalizing railroad trackage, and each person or unit of government owning, leasing or holding a salvage interest in railroad trackage.

(2) OAR 741-320-0060(4) shall apply to those occupying property adjacent to railroad trackage, in addition to those entities or persons set forth in section (1) of this rule.

(3) The Department may order walkways conforming to OAR 741-320-0080 be constructed and maintained along one or both sides of any railroad track, structure, or railway tunnel where not otherwise required by these rules, only after notice to the affected railroad and hearing (in case of dispute).

(4) Except as approved by the Department, no railroad track or structure shall be placed in service until walkways have been provided that are in compliance with the applicable standard and notice is given to the Department.



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(5) Other than for routine maintenance, any structure altered or rebuilt shall be equipped with a walkway on at least one side conforming to standards set forth in OAR 741-320-0130.

(6) A railroad operating on its own or another railroad's property shall comply with all the rules contained in chapter 741, divisions 300 through 335, and any order issued by the Department or any predecessor agency, for that portion of the railroad facility upon which it is operating.

(7) These rules do not apply:

(a) During periods of new track construction, maintenance, repair, renewal, reconstruction, or alteration of a right-of-way, track, or structure, where obstruction or removal of a walkway is unavoidable, provided affected railroad personnel are given prior written notice and provided walkways are returned to standard upon completion of the work. Unless authorized by the Department, non-standard walkways shall not exist for a period exceeding 30 days, unless all reasonable efforts are being made to complete the work as soon as is possible;

(b) During periods of heavy rain or snow, derailments, rock and earth slides, washouts, and like unforeseen conditions, including a reasonable time to permit necessary restorations.

(c) During periods of new construction of industry tracks, not to exceed 15 calendar days from date of first use without written consent of the Department, provided written notice is given to all affected railroad employees and to the Department; or

(d) At locations where the Department or the Public Utility Commission has authorized an impairment of standard clearance for a permanent obstruction, which has been placed or constructed alongside a track in such a location as to block the walkway partially or to prevent construction of the applicable standard walkway, the available space between the impairing obstruction and the track shall meet the applicable walkway standard in every respect except as prevented by the impairment.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 4-1990, f. & cert. ef. 4-17-90 (Order No. 90-488); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0180; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0020

### Definitions

As used in OAR 741-320-0010 through 741-320-0170, 741-325-0010, 741-330-0010 through 741-330-0040 and 741-335-0010 through 741-335-0050, unless the context requires otherwise:

(1) "Structure" is any bridge or trestle on which a railroad track is constructed.

(2) "Walkway" is a pathway located alongside or in the vicinity of a railroad track for the purpose of providing an area for railroad employees to perform their normal trackside duties.

(3) "Inside edge of a walkway" is that edge of a walkway closest to the nearest rail of the track for which the walkway is constructed.

(4) "Yard" is a system of tracks other than main tracks and sidings used for making up trains, storing cars and other purposes including the inspection, repair and cleaning of cars.

(5) "Railroad shop or repair track" is a fixed repair facility or track that is regularly and consistently used to perform major repairs, regardless of whether a mobile repair vehicle is used to conduct the repairs.

(6) "Major repair" means a repair that normally requires greater than four person-hours to accomplish or involves the use of specialized tools and equipment. Major repairs include such activities as coupler replacement, draft gear repair, and repairs requiring the use of an air jack but exclude changing wheels on intermodal loading ramps either with or without an air jack.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0190; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0050

### Applications for Variances and Operation Restriction(s)

(1) An application for a variance from standard walkways shall contain a statement of the condition(s) involved, the reasons for the request, and the estimated cost of bringing the facility involved into full compliance with the walkway standards. Application forms may be obtained from the Department, or online at "[www.oregon.gov/odot/rail/railemployeesafety.shtml](http://www.oregon.gov/odot/rail/railemployeesafety.shtml)". Applications must be filed with the Department within 30 days of the date the Department documents the nonstandard condition(s). Incomplete applications will be returned.

(2) In lieu of requesting a variance from the walkway standards, if railroad employee safety will not be impaired, the owner or lessee of a track on which service is provided to no other businesses may restrict operations over any portion of the track by posting operation restriction signs, conforming to OAR 741-330-0010(2). Signs shall be located on each side of the track, facing incoming railroad movements, to a point beyond which no railroad employee may go or move equipment. The person posting the signs shall provide written notification of the intent to restrict operations, to the Department and each railroad that provides service over the track at least two weeks in advance of installation of the operation restriction signs.

(3) In lieu of requesting a variance from the walkway standards, if neither railroad service to another rail user nor railroad employee safety will be impaired, the owner or lessee of a track on which service is provided to one or more other businesses may apply to the Department (copy to the affected railroad) for written approval to restrict operations over any portion of the track by use of operation restriction signs conforming to OAR 741-330-0010(2). Signs will be located on each side of the track facing incoming railroad movements, at a point beyond which no railroad employee may go or move equipment. Following railroad comment the Department may act upon the application as circumstances warrant. If the application is approved, the person permitted to install such signs shall provide written notification of the intent to restrict operations to the Department and each affected railroad at least two weeks in advance of installation of the operation restriction signs.

(4) Upon receipt of the foregoing notification of installation, each affected railroad shall immediately instruct its operating employees in writing, in special instruction or timetable bulletin, not to go or move equipment beyond the point at which the operation restriction signs are posted.

(5) Before an owner or lessee of a track removes an operation restriction sign, an application for a variance under section (1) of this rule, must be filed with, and approved by, the Department, unless the facility is in full compliance with the walkway rules.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0250; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0060

### Surface

(1) Walkways shall have a reasonably regular surface and shall be maintained in a safe condition, clear of such vegetation, debris, standing water and other obstructions which may constitute a hazard to railroad employees working on the ground.

(2) Except as provided in section (3) of this rule, walkways located along yard tracks and tracks where switching is regularly performed two or more times weekly shall be surfaced with crushed material not to exceed American Railway Engineering and Maintenance-of-way Association (AREMA) standard No. 4; 1 1/2 inches in size, or with asphalt, concrete, planking, grating or similar material.

(3) Walkways located along switching lead tracks, switches in yards, car spotting areas, and railroad shop or repair tracks, shall be surfaced with crushed material not to exceed AREMA standard No. 5; 1 inch in size, or with asphalt, concrete, planking, grating or similar material.

(4) The Department, after investigation, upon its own motion, or upon the petition of any aggrieved person may determine that the safety of railroad employees requires the applicable standard set forth in section (2) or (3) of this rule for any walkway.

(5) No railroad, owner or lessee shall allow debris on walkways.

(6) Walkways not covered by section (2) or (3) of this rule may be surfaced with crushed ballast materials.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0300; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0080

### Walkway Standard No. 1: Between Yards and Switches

(1) Walkway Standard No. 1 shall be a walkway with a minimum width of at least 2 feet, the outside edge of which shall be no closer than 8 feet and no further than 22 feet from the centerline of the track. It shall be constructed and maintained so that the elevation of its surface is not below the base of the ballast section of the roadbed nor above the top of the ties and in compliance with OAR 741-320-0070(1). If required by the Department under OAR 741-320-0010(3), Walkway Standard No. 1 shall

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apply to all trackage, except where Walkway Standard No. 2, No. 3 or No. 4 is applicable.

(2) See **Figure 320-1** for a diagram of the minimum measurements for walkway standard No. 1.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0310; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0090

### Walkway Standard No. 2: Yards, Car Spotting Areas and Regular Crew Change Points

(1) Walkway Standard No. 2 shall be a walkway constructed to a minimum width of 6 feet, as measured from the outside edge of the rail. It shall be constructed and maintained so that the elevation of its surface is approximately level with the tops of the ties, but not above top of rail. Walkway Standard No. 2 shall be located along both sides of all tracks within yards and in advance of, to include all points contiguous to yards where railroad employees normally work on the ground.

(2) In areas where railroad or industry car spotting is performed, walkways conforming to Walkway Standard No. 2 shall be constructed and maintained throughout the area where cars are actually spotted, and in advance of, to include all locations where railroad employees normally work on the ground.

(3) At regular crew change points, a walkway conforming to Walkway Standard No. 2 shall be constructed and maintained on one side of the track throughout the area where employees are getting on and off locomotives or cabooses.

(4) See **Figure 320-2** for a diagram of the minimum measurements for Walkway

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0315; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0100

### Walkway Standard No. 3: Switches

(1) Walkway Standard No. 3 shall be a walkway constructed to a minimum width of 6 feet, as measured from the outside edge of the rail. It shall be constructed and maintained so that the elevation of its surface is approximately level with the top of the ties, but not above top of rail. Except as provided in section (2) of this rule, Walkway Standard No. 3 shall be located along both sides of the track for a minimum distance of 125 feet on each side of every switch stand or other trackside switch-throwing mechanism.

(2) Walkways conforming to this standard shall be continuous and maintained from the switch stand through the switch frog and along the diverging tracks to a point at least 25 feet beyond the 13 feet clearance point of the switch.

(3) An additional 3 feet of walkway width shall extend for a minimum distance of 4 feet in each direction from the switch stand or other trackside switch-throwing mechanism on the side of the track where the mechanism is located. This additional 3 feet of width shall be gradually tapered back to the 6 feet minimum width in a distance of not less than 20 feet.

(4) See **Figure 320-3** for a diagram of the minimum measurements for Walkway Standard No. 3.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 6-1983, f. & ef. 6-13-83 (Order No. 83-313); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0320; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0110

### Walkway Standard No. 4: Derails

(1) Walkway Standard No. 4 shall be a walkway constructed and maintained to conform, in width and elevation, to OAR 741-320-0100 (Standard No. 3). As measured from the derail mechanism, the walkway shall extend for 20 feet toward the switch and 10 feet away from the switch. At derails operated by a switch stand, an additional 3 feet of walkway width shall extend for a minimum distance of 4 feet in each direction from the switchstand, and only on the switchstand side of the track. This additional 3 feet of width shall be gradually tapered back to the 6 feet minimum width

in a distance of not less than 20 feet in the direction toward the switch and not less than 10 feet in the direction away from the switch.

(2) Derails located within 200 feet of a switch throwing mechanism shall have a continuous Standard No. 3 walkway between the two on the same side of the track as the derail or derail switch stand.

(3) See **Figure 320-4** for a diagram of the minimum measurements for Walkway Standard No. 4.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0322; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0120

### Access Walkways

(1) Walkways shall be constructed and maintained to provide access between tracks in yards wherever adjacent tracks are 20 feet or less apart, as measured from centerline to centerline. Such walkways shall be at least 2 feet in width and shall be provided at intervals as necessary to enable railroad employees to walk from one track to another to perform switching or other work about trains.

(2) Adequate access walkways shall be provided at locations where train crew members are regularly dropped off or picked up by a highway vehicle. Walkways of at least 2 feet in width shall be constructed and maintained to allow employees to safely walk between the normal stopping point of the highway vehicle and the track where the locomotive or caboose is located, or where work is to be performed.

(3) Except as provided in sections (1) and (2) of this rule, access walkways with a minimum width of 2 feet shall be constructed and maintained when and where determined necessary by the Department.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0325; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0130

### Walkways on Structures

(1) A walkway on a structure shall have a minimum width of 2 feet, the outside edge of which shall be no closer than 7 feet 9 inches to the centerline of the track. It shall be constructed and maintained in such a manner that its surface is as close as possible to the top of ties. See **Figure 320-5** for a diagram of a walkway on a structure.

(2) At each end of a structure the walkway shall be gradually tapered in accordance with OAR 741-320-0070 (slope) to meet the base of the ballast section or an existing walkway.

(3) Any structure altered or rebuilt, other than for routine maintenance, shall be equipped with a walkway conforming to standards set forth in OAR 741-320-0130.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0330; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0150

### Handrails

Except for walkways between tracks, each walkway on an elevated structure such as a bridge or trestle, shall be equipped with an adequate handrail at a height of 42 inches, plus or minus 3 inches, above the walkway surface. The handrail shall be constructed in such a manner that it shall not sag more than 3 inches from the height of the supporting fixture. The handrail shall be located at the outside edge of the walkway. Effective one year from the last effective date of this rule.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0335; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-320-0160

### Walkways on Curves

Except where OAR 741-320-0080 (Standard No. 1) applies, a walkway located on the inside of a curve exceeding 17 degrees shall have a minimum width of 7 feet as measured from the outside edge of rail. See OAR 741-315-0010(3).

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Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056  
Stats. Implemented: ORS 824.050 & 824.052  
Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0340; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-330-0010

### Impairment/Restriction/Stop Signs

(1) Signs to warn railroad employees of clearance less than those prescribed in these rules shall be at least 16 inches vertically by 20 inches horizontally and located on the same side of the track as the impairment for each direction of approach. Each sign shall bear the words "IMPAIRED SIDE, OVERHEAD OR SIDE AND OVERHEAD CLEARANCE," as appropriate, in black letters, not less than 3 inches in height, against a white reflectorized background. In addition, the letters "PUC" or "ODOT" followed either by the word "RULE" or "ORDER" as appropriate and the number of the applicable rule or order in black letters and numerals not less than 1 inch high. Unless authorized by the Department, these signs shall be illuminated during hours of darkness.

(2) Operation restriction signs shall be at least 16 inches vertically by 20 inches horizontally and shall bear the word "STOP" in black letters not less than 3 inches high and the words "RAILROAD CREWS NOT TO MOVE EQUIPMENT BEYOND THIS POINT" (or equivalent language), and other required wording in black letters not less than 1 1/2 inches high followed by the letters "ODOT" or "PUC" and the word "RULE" or "ORDER" as appropriate, and the number of the applicable rule or order in black letters 1 inch high on a white reflectorized background. These signs shall be illuminated during hours of darkness.

(3) Stop signs shall be at least 16 inches vertically by 2 feet horizontally and shall bear the word "STOP" in white letters at least 8 inches high on a red reflectorized background. These signs shall be illuminated during hours of darkness.

(4) Notes:

- See **Figure 330-1** for a diagram of the impaired clearance signs.
- See **Figure 330-2** for a diagram of the operational restriction sign.
- See **Figure 330-3** for a diagram of the stop sign.
- In cases where clearance impairments do not extend more than 2 feet above top of rail, the Department may order "IMPAIRED WALKWAY" signs as described in OAR 741-330-0020.

[ED. NOTE: Figures referenced are available from the agency.]  
Stat. Auth.: ORS 184.616, 184.619 & 823.011  
Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 6-1983, f. & ef. 6-13-83 (Order No. 83-313); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0364; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-330-0020

### Impaired Walkway/Nonstandard Walkway Warning Signs

(1) Signs to warn railroad employees of walkways different than those prescribed in these rules shall be at least 16 inches vertically by 20 inches horizontally and located on the same side of the track as the impairment or nonstandard condition for each direction of approach. Each sign shall bear the words "IMPAIRED WALKWAY" or "NONSTANDARD WALKWAY", as appropriate, in black letters, not less than 3 inches high, against a white reflectorized background. In addition, the letters "ODOT" or "PUC" followed either by the word "RULE" or "ORDER," as appropriate, and the number of the applicable rule or order in black letters and numerals not less than 1 inch high. Unless authorized by the Department, these signs shall be illuminated during hours of darkness.

(2) See **Figure 330-4** for a diagram of the impaired walkway, and nonstandard walkway, signs.

[ED. NOTE: Figures referenced are available from the agency.]  
Stat. Auth.: ORS 184.616, 184.619 & 823.011  
Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0365; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-330-0030

### Location of Signs

(1) The bottom of a sign mounted on an existing structure, other than a sign post, shall be no less than 4 feet 6 inches, and no more than 8 feet above top of rail to which the sign applies. The bottom of a free standing sign, installed after (date of this order), shall not be less than 7 feet, and no more than 9 feet, above the top of ground.

(2) Signs shall be located at least 8 feet 6 inches and no farther than 15 feet from centerline of track.

(3) Signs, other than a standard operation restriction sign, shall be located in advance of the impairment, but no farther than 50 feet.

Stat. Auth.: ORS 184.616, 184.619 & 823.011  
Stats. Implemented: ORS 824.050 & 824.052  
Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0366; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-335-0010

### Applicability of Rules

OAR 741-335-0020 through 741-335-0200 apply to each railroad operating locomotives and/or cabooses in this state.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068  
Stats. Implemented: ORS 824.068  
Hist.: PUC 2-1981, f. & ef. 4-8-81 (Order No. 81-184); (Order No. 81-243), f. & ef. 4-8-81; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-05007; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-335-0020

### Definitions

As used in OAR 741-335-0010 through 741-335-0200, unless the context requires otherwise:

(1) "Caboose" is any car or coach used on a railroad train to carry a train crew.

(2) "Locomotive" is any railroad vehicle used to propel a railroad train.

(3) "Safe Drinking Water" means water which meets the quality standards in OAR 333-061-0020.

(4) "Sanitary" means free from agents injurious to health.

(5) "Seat Riser" means that structural support extending from the floor to a toilet seat.

(6) "Terminal" means a system of tracks, the boundaries of which are set by a railroad, for the coupling and uncoupling of cars and/or where railroad employees report for or are relieved from duty.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068  
Stats. Implemented: ORS 824.068  
Hist.: PUC 2-1981, f. & ef. 4-8-81 (Order No. 81-184); (Order No. 81-243), f. & ef. 4-8-81; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0505; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-335-0040

### Exempt Equipment

Toilets are not required on cabooses used exclusively in yards or in transfer service where railroad provided and maintained stationary toilet facilities are available to railroad employees and notice of such facilities is provided to employees.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068  
Stats. Implemented: ORS 824.068  
Hist.: PUC 2-1981, f. & ef. 4-8-81 (Order No. 81-184); (Order No. 81-243), f. & ef. 4-8-81; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0525; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-335-0050

### Caboose Sanitation Facilities

Each caboose which employees are required to occupy shall have a toilet in a toilet room. The enclosure of every toilet room shall be of solid construction from floor to ceiling with interior illumination, and have a solid door or a door with nontransparent windows. Doors to toilet rooms shall be latchable from the inside. The walls and ceilings in every toilet room shall be of suitable nonabsorbent material and have a light-colored water repellent finish at least equal to that of a good quality paint or varnish. The finish of the floor of every toilet room and side walls up to a height not less than 6 inches shall be smooth, cleanable and of a nonabsorbent material.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068  
Stats. Implemented: ORS 824.068  
Hist.: PUC 2-1981, f. & ef. 4-8-81 (Order No. 81-184); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0530; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-335-0070

### Toilet Construction

All toilets on cabooses shall be constructed with a flush bowl so as to be easily cleaned and maintained in a sanitary condition, and shall be manufactured of a smooth finished material, impervious to moisture, with a hinged toilet seat and lid with a moisture-resistant finish. All toilets shall be maintained in a safe condition and properly secured.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068  
Stats. Implemented: ORS 824.068  
Hist.: PUC 2-1981, f. & ef. 4-8-81 (Order No. 81-184); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0535; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06



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## 741-335-0080

### Toilet Room Ventilation

Toilet rooms on cabooses shall be ventilated. If not practical to ventilate by windows, ventilation shall be provided by some other means.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81 (Order No. 81-184); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0537; RS 2-1998, f. & cert. ef. 8-20-98; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-335-0090

### Chemical Container Construction

No chemical container shall be installed in a toilet on cabooses unless it will prevent the waste treatment solution therein from splashing upon any portion of the body of the person using the facility during any movement likely to occur in usual train operation, including slack action.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81 (Order No. 81-184); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0539; RS 2-1998, f. & cert. ef. 8-20-98; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

## 741-335-0110

### General Sanitary Maintenance of Toilets and Toilet Rooms

(1) Toilets and toilet rooms in all cabooses shall be maintained in a sanitary condition.

(2) The containers of chemical-type toilets shall be charged with sufficient treatment solution of adequate strength to function properly, and the contents shall be agitated as necessary when in service.

(3) The waste passages connecting the seat riser with the containers of chemical-type toilets shall be cleaned as necessary to maintain them in a sanitary condition.

(4) When the holding tanks of chemical-type toilets are more than two-thirds full, before a tour of duty, the contents shall be removed from cabooses and properly discharged in a sanitary manner.

(5) Self-contained sewage treatment facilities shall be maintained in proper working order.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81 (Order No. 81-184); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0545; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

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## Employment Department, Child Care Division Chapter 414

**Rule Caption:** Amending OAR 414-350-0050, 0100, 0110, 0120 correcting clerical errors and adding Assistant II language to 0110.

**Adm. Order No.:** CCD 5-2006(Temp)

**Filed with Sec. of State:** 8-25-2006

**Certified to be Effective:** 8-25-06 thru 2-21-07

**Notice Publication Date:**

**Rules Amended:** 414-350-0050, 414-350-0100, 414-350-0110, 414-350-0120

**Subject:** OAR 414-350-0050 adding "if applicable" to (1)(E)

OAR 414-350-0100 changing the word "level" to "step" (2)(c)

OAR 414-350-0110 adding "Assistant II" language that was dropped inadvertently

OAR 414-350-0120 adding Child Care website address for reviewing tables referred to in this rule.

**Rules Coordinator:** Lynn M. Nelson—(503) 947-1724

## 414-350-0050

### General Requirements

(1) The following items shall be posted in the certified family child care home where they may be viewed by parents:

- (a) The child care certification document;
- (b) Notification of a communicable disease outbreak at the home;
- (c) The evacuation plan; and
- (d) A notice that the following items are available for parents to review:

- (A) The guidance/discipline policy;
- (B) The current week's menus, with substitutions recorded;
- (C) The description of the general routine;
- (D) Information on how to report a complaint to CCD regarding certification requirements; and

(E) The most recent CCD and sanitation inspection reports and, if applicable, fire life safety self evaluation (or fire marshal inspection report if completed).

(2) The provider shall ensure that a copy of these administrative rules is available in the certified family child care home to all parents and staff.

(3) Caregivers shall report suspected child abuse or neglect immediately, as required by the Child Abuse Reporting Law (ORS 419B.005 through 419B.050) to the Department of Human Services or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

(4) The certified family child care home shall comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans With Disabilities Act (ADA).

(5) Representatives of all agencies involved in certification shall have immediate access to all parts of the home whenever the provider is conducting the child care business:

(a) CCD staff shall have the right to enter and inspect the home, including access to all caregivers, records of children enrolled in the home, and all records and reports related to the child care operation regarding compliance with these rules; and

(b) Representatives of the Department of Human Services and the State Fire Marshal have the right to enter and inspect the home when an inspection has been requested by CCD.

(6) Custodial parents of all children enrolled shall have access to the home during the hours their child(ren) are in care.

(7) The provider shall develop the following information in writing and shall make it available to CCD, to staff, and to parent(s) at the time of enrollment:

(a) Guidance and discipline policy;

(b) Information on transportation, when provided by the provider or other caregiver; and

(c) The plan for handling emergencies and/or evacuations, including, but not limited to, fire, acute illness of a child or staff, natural disasters, power outages, and situations which do not allow reentry to the home after evacuation.

(8) The provider shall comply with the Department of Human Services' administrative rules relating to:

(a) Immunization of children (OAR 333-019-0021 through 333-019-0090);

(b) Reporting communicable diseases (OAR 333-019-0215 through 333-019-0415); and

(c) Child care restrictable diseases (OAR 333-019-0010).

(9) The provider shall report to CCD:

(a) An accident at the home resulting in the death of a child, within 48 hours after the occurrence; and

(b) Injuries to a child at the certified family child care home which require attention from a licensed health care professional, such as a physician, EMT or nurse, within 7 days after the occurrence.

(10) Documentation of meals and snacks provided by the certified family child care home shall be made available to CCD upon request, if the home does not participate in the USDA Child and Adult Care Food Program. Documentation is limited to the three weeks prior to the request.

(11) The provider is responsible for compliance with these requirements (OAR 414-350-0000 through 414-350-0400).

(12) Parental request or permission to waive any of the rules for certified family child care homes does not give the provider permission to do so.

Stat. Auth.: ORS 657A.260

Stats. Implemented: : ORS 657A.260, 657A.280, 657A.290, 657A.300, 657A.390 & 657A.400

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0720; CSD 9-1994, f. & cert. ef. 5-23-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 6-2005(Temp), f. 12-29-05, cert. ef. 1-1-06 thru 6-29-06; CCD 3-2006, f. & cert. ef. 6-13-06; CCD 5-2006(Temp), f. & cert. ef. 8-25-06 thru 2-21-07

## 414-350-0100

### The Provider

(1) The provider shall be:

(a) At least 18 years of age if the facility is certified for 12 children; or at least 21 years of age if the facility is certified for more than 12 children; and

(b) Responsible for the operation of the certified family child care home, including those duties ordinarily considered to be administrative. These include, but are not limited to, financial management, maintaining records, maintenance of the building and grounds, meal planning and

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preparation, compliance with certification requirements, communication with CCD, and correcting deficiencies.

(2) The provider shall have:

(a) At least one year of qualifying teaching experience, as specified in OAR 414-350-0010(25), in the care of a group of children in an ongoing group setting such as a kindergarten, preschool, child care center, certified family child care home, registered family child care home, or Head Start program; or prior to applying to be certified for up to 16 children, completed one year of successful operation as a certified family child care facility for 12 children if the qualifying teaching experience is based on registered family child care; or

(b) Completion of 20 credits (semester system) or 30 credits (quarter system) of training in a college or university in early childhood education or child development; or

(c) Documentation of attaining at least step eight in the Oregon Registry.

(3) The provider shall provide evidence of the following training prior to being certified:

(a) A current certification in infant and child first aid and cardiopulmonary resuscitation;

(b) A current food handler certification pursuant to ORS 624.570; and

(c) Completion of two hours of training on child abuse and neglect issues.

(4) Prior to a facility providing care to more than two children under 24 months of age, the provider shall have at least 30 clock hours of training specific to infant and toddler care. The provider of facilities certified on October 15, 2002, who are providing care for more than two children under 24 months of age must have documentation of 30 hours of prior training in infant and toddler care or a plan, approved by CCD, that shows how the training will be attained.

(5) The provider/operator shall be on-site at least half of the hours of operation that are reflected on the certification. If the facility is certified for more than 12 children, the provider shall be on site at least 2/3 of the hours of operation that are reflected on the certification. The hours shall be calculated on a weekly basis, except for planned vacations and emergency absences.

(6) The provider shall have no other employment, either in or out of the home, during the hours the provider is directly caring for children.

(7) The provider, or a substitute caregiver, shall be present during all the hours the certified family child care business is conducted.

(8) A caregiver substituting for the provider shall:

(a) Be at least 18 years old;

(b) Have current certification in infant and child first aid and cardiopulmonary resuscitation (CPR);

(c) Have current food handler certification pursuant to ORS 624.570, if the substitute will be preparing or serving food;

(d) Be familiar with the provider's policies and procedures and with these requirements (OAR 414-350-0000 through 414-350-0400);

(e) Be authorized and able to correct a deficiency that might be an immediate threat to children; and

(f) Have on file documentation of an orientation and training in these administrative rules and the functions and duties of a provider.

(g) Meet the qualifications in (a)–(f), have completed child abuse and neglect training, and have worked in the facility at least 60 hours when substituting for the provider in a facility certified to care for more than 12 children.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0732; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 6-2005(Temp), f. 12-29-05, cert. ef. 1-1-06 thru 6-29-06; CCD 3-2006, f. & cert. ef. 6-13-06; CCD 5-2006(Temp), f. & cert. ef. 8-25-06 thru 2-21-07

## 414-350-0110

### Assistants

(1) Assistants may be included in the caregiver/child ratio calculation.

(2) An Assistant I shall:

(a) Be at least 15 years of age;

(b) Work under the direct supervision, i.e., within sight and sound of the provider or substitute provider; and

(c) Have on file documentation of an orientation and be familiar with the provider's policies and procedures and these requirements (OAR 414-350-0000 through 414-350-0400).

(3) An Assistant II shall:

(a) Be at least 18 years of age;

(b) Have on file documentation of an orientation and be familiar with the provider's policies and procedures and these requirements (OAR 414-350-0000 through 414-350-0380);

(c) Have worked at least 60 hours at the certified family child care home, in a minimum of 3-4 hour blocks of time;

(d) Have current certification in first aid and CPR; and

(e) With the approval of the provider, may be out of sight and sound of the provider with a group of children.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0734; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 5-2006(Temp), f. & cert. ef. 8-25-06 thru 2-21-07

## 414-350-0120

### Caregiver/Child Ratios and Supervision

(1) The number of caregivers and group size shall be determined by the number and ages of the children in attendance.

(a) All children in the home, including the provider's or other caregivers' own children, shall be counted in determining the caregiver/child ratio and group size.

(b) All children visiting the home on a regular basis will count in capacity. Children attending with a parent do not count as enrolled as long as the parent remains with and is responsible for non-enrolled children.

(c) The required caregiver/child ratios shall be met at all times.

(2) Children shall at all times have the full attention of and be supervised by the required number of caregivers.

(a) Children shall be within sight and/or sound of a caregiver at all times.

(b) A caregiver shall be near enough to children to respond when needed. Children out of direct visual contact shall be monitored regularly and frequently and must be in approved activity areas.

(c) Children may not be on a floor level of the home unless a caregiver is on the same floor level, except as specified in OAR 414-305-0120(2)(d).

(d) When bathroom facilities are not on the same floor level, a written plan for adequate supervision of both bathroom and child care areas shall be developed and implemented.

(3) The number of caregivers is determined by the age and number of the youngest child(ren) in the group. If the provider is certified to care for more than 12 children and plans to care for more than 8 infants and/or toddlers, the provider must develop a plan showing how infants and toddlers will be limited to a group size of not more than eight. The plan must be approved by CCD.

(a) If all children are in the same age group, the following table determines the staff/child ratio. [Table not included. See ED. NOTE.]

(b) If children in care include any infants and/or toddlers, the following table determines the staff/child ratio. [Table not included. See ED. NOTE.]

(c) If children in care include a mix of only preschool and school aged children, the following table determines the staff/child ratio. [Table not included. See ED. NOTE.]

(d) Even though staff/child ratios are specified in (a) and (b) above, a certified family child care provider may care for 10 children ages 6 weeks to school-age if:

(A) No more than 6 children are pre-school age or younger, including the provider's own children and any staff children;

(B) Of the 6, only 2 children are under 24 months of age; and

(C) Four of the children are school-age.

(4) The maximum number of children allowed in a certified family child care home at any one time is 16.

(5) If the home is certified to care for more than 12 children and the age blend is such that group separation is required:

(a) Groups may be joined for: meals, naps, outdoor play, and limited quiet activities such as a video or circle time.

(b) Provider must develop a plan that shows how the groups will be separated without requiring remodeling of the home. The plan must be approved by CCD.

(6) If the facility provides care to more than two children under 24 months of age, the provider shall meet the requirements specified in OAR 414-350-0100(4).

(7) Prior to a facility providing care to more than four children under 24 months of age, at least one caregiver other than the provider shall meet the requirements specified in OAR 414-350-0100(4). In addition, the provider shall have an extra 20 clock hours of training specific to infant and toddler care above and beyond the original requirements. If the facility is certified to care for more than 12 children, there must be someone who

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meets the training requirements of OAR 414-350-0100(4) on site at all times that five or more children under 24 months of age are in care.

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

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 7-1989, f. & cert. ef. 3-17-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0736; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 6-2005(Temp), f. 12-29-05, cert. ef. 1-1-06 thru 6-29-06; CCD 3-2006, f. & cert. ef. 6-13-06; CCD 5-2006(Temp), f. & cert. ef. 8-25-06 thru 2-21-07

## Oregon Health Licensing Agency Chapter 331

**Rule Caption:** Establishing uniform consumer protection standards for the sale of hearing aids.

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

**Filed with Sec. of State:** 8-31-2006

**Certified to be Effective:** 9-1-06

**Notice Publication Date:** 7-1-06

**Rules Adopted:** 331-640-0055, 331-640-0060

**Rules Amended:** 331-640-0010, 331-640-0030, 331-640-0050

**Subject:** OAR 331, Division 640 pertains to "Practice Standards". Amendments to this division and adoption of new rules were extensive in that licensees are required to adhere to uniform standards and to provide full disclosure of information to the consumer relating to the testing, fitting, purchase of a hearing aid, and rescission or cancellation of a sale.

Rules address the following issues, • Safety and Infection Control Requirements; • Statement to Prospective Purchaser — eliminating redundant statutory provisions, expanding consumer protection measures and requiring full disclosure to the consumer and acknowledgment by the consumer; • clarification of the 30-day rescission period for cancellation of a sale; • decreasing the amount of the total purchase price that may be retained by a licensee if the consumer cancels the sale to 10% or \$250 per hearing aid whichever is less; • written documentation to be provided to the consumer at the time of delivery of the hearing aids; • clarification of standards of conduct — recognizing and adopting a Code of Ethics; • identifying and requiring hearing tests to be performed during the initial hearing test or evaluation; • identifying and requiring specific verification tests to be completed within the 30-day rescission period and for a copy of the test results to be provided to the consumer; • requiring a post-delivery follow-up visit with the consumer during the 30-day rescission period; • recognition and adoption of uniform measurement standards for advising consumers on hearing loss; • recognition of an audiologist or physician's use of prevailing professional measurement standards in counseling consumers on the effect of hearing loss; • and adoption of client record requirements, including format and retention period.

**Rules Coordinator:** Patricia C. Allbritton—(503) 378-8667 ext 4322

### 331-640-0010

#### Safety and Infection Control Requirements

(1) Each licensee shall keep areas of their facility for otoscopic examination, earmold impression taking, and audiometric examination clean and sanitary.

(2) Impression tools, otoscopic examination equipment and other devices that come in direct contact with the client must be disinfected prior to use. Licensees shall use an EPA registered high-level disinfectant, following the manufacturer's directions, to disinfect nondisposable equipment and tools.

(3) Disposable or disinfected otoscopic specula must be used when examining each ear.

(4) Licensees must wash or sanitize hands prior to taking an earmold impression.

(5) Licensees must observe the Universal Precautions as defined in Oregon Administrative Rule 437-002-0360(25), and 29 CFR 1910.1030 standards, when providing services to consumers. Universal Precautions describe an approach to infection control that assumes exposure to all human blood and specified human body fluids are infectious for HIV, HBV, and other blood borne pathogens. Precautions to reduce the likelihood of exposure include hand washing, gloving, using personal protective equip-

ment, preventing injury, ensuring proper handling and disposal of needles and other sharp instruments and of products or equipment contaminated with blood and body fluids.

Stat. Auth.: ORS 676.615 & 694.155

Stats. Implemented: ORS 676.615 & 694.155

Hist.: HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0014, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

### 331-640-0030

#### Disclosure Statements to Prospective Purchaser; Delivery Information

(1) The term "purchaser" as used in ORS chapter 694 and OAR chapter 331, division 640, means any person who purchases or proposes to purchase hearing aid(s) and any person on whose behalf hearing aid(s) are purchased or proposed to be purchased. In the case of a client who is a minor child or other person without legal capacity to contract, the person's parent, legal guardian, or legal representative is the "purchaser."

(2) To assist prospective purchasers in making an informed decision regarding the sale of hearing aid(s), licensees must provide prospective purchasers with complete and accurate disclosure of facts regarding licensee services, the hearing aid(s) purchase price, delivery and consummation of sale defined in OAR 331-601-0000, and information about the purchaser's right to rescind or cancel a sale and the procedures for rescinding the sale and returning the hearing aid(s) according to the provisions of ORS 694.042.

(3) The *Statement to Prospective Purchaser (Statement)* is a contract prepared and signed by the licensee and agreed to by the purchaser. This Statement contains required information listed in ORS 694.036 regarding licensee and purchaser information, medical observation criteria and referral to physician if medical conditions are present, specifications and conditions of the hearing aid(s), terms of any warranty or expressed guarantee, and how to file a complaint with the agency.

(4) Licensees are required to provide all information and facts specified in this rule before the consummation of the sale, which is the delivery of the hearing aid(s) to the purchaser and the date that starts the 30-day rescission period.

(5) Statement Content. In addition to the information prescribed by ORS 694.036, the Statement must include the following information and facts about the purchase of hearing aid(s):

(a) Date of sale;

(b) Purchaser name, address and signature;

(c) Licensee name, address, telephone number, license number and signature;

(d) The purchase price, which includes the cost of the hearing aid(s) and all related fees;

(e) An accurate description of the hearing aid as new, demonstration instrument, reconditioned, or used;

(f) Delivery date of hearing aid(s);

(g) Date the 30-day rescission period ends;

(h) The portion of the total purchase price that will be retained by the licensee, not to exceed 10% of the contract purchase amount or \$250 per hearing aid, whichever amount is less, if the purchaser rescinds the sale under provisions of ORS 694.042 within the 30-day rescission period;

(i) Date and place of post-delivery follow-up session agreed upon by the licensee and hearing aid user as stated in subsection (9) of this rule;

(j) A printed or reproduced copy of ORS 694.042 *Right to Rescind A Hearing Aid Purchase* in its entirety, which includes the procedures for returning the hearing aid(s) to the licensee;

(k) The following statement, initialed by the purchaser: "Copies of my audiogram and the results of tests or verification procedures were offered to me by the licensee, and I hereby acknowledge receipt of the records or that I declined the offer.";

(l) The following statement about filing complaints: "Complaints regarding the sale, lease, or attempted sale or lease of hearing aids should be directed in writing to: Oregon Health Licensing Agency, 700 Summer Street NE, Suite 320, Salem, OR 97301-1287. Complaint forms may be obtained by calling 503-378-8667 or at the Agency's Web site: [http://www.oregon.gov/OHLA/Consumer\\_help\\_complaint.shtml](http://www.oregon.gov/OHLA/Consumer_help_complaint.shtml)"; and

(m) A statement acknowledging that the purchaser has read and understands the information contained in the *Statement*, signed by the purchaser and dated;

(6) Statement Format. The Statement must be printed on forms measuring no less than 8 1/2 inches wide by 11 inches long, with a minimum 10-point typeset, and be legibly written.

(7) Licensees must provide the purchaser a new Statement for each hearing aid or set of hearing aids, unless the hearing aid(s) is an exact



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replacement of the device listed in a previous Statement provided to the purchaser.

(8) Refund. Any monies paid by or on behalf of the purchaser toward the hearing aid must be refunded to the payer if the delivery of the hearing aid to the purchaser is cancelled. The purchaser shall incur no additional liability for the cancellation.

(9) Post Delivery Follow-Up.

(a) Licensees will conduct and document a minimum of one post-delivery follow-up session with the hearing aid user before the expiration of the 30-day rescission period. The follow-up session will take place at the original place of the sale or at a predetermined location agreed upon at the time of initial delivery, or at a time and place agreed to within the 30-day rescission period.

(b) The licensee must document in the hearing aid user record any change to the agreed-upon location or date of the post-delivery follow-up session, and, if the licensee is unable to contact or the hearing aid user or to provide the follow-up session, the reason(s) why.

(10) In Home Sales. Sales of hearing aids made at the purchaser's residence and not at the licensee's place of business, require disclosure of federal guidelines related to "in home sales" and the purchaser's right to cancel the transaction and receive a full refund of monies paid to the licensee. The following federal disclosure statement must be completed and affixed to the *Statement to Prospective Purchaser* when a licensee sells a hearing aid(s) at the purchaser's home.

[ED. NOTE: Statemen referenced are available from the agency.]  
Stat. Auth.: ORS 676.605, 676.615, 694.036, 694.042, 694.155 & 694.170  
Stats. Implemented: ORS 676.605, 676.615, 694.036, 694.042, 694.155, 694.170  
Hist.: HD 8-1986, f. & ef. 5-29-86; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0065, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

## 331-640-0050

### Additional Standards of Conduct

(1) Licensees must comply with the requirements of ORS 694.142, and all other applicable statutes and rules.

(2) Licensees must conform to state or federal laws regulating retail contracts or to any affirmation of fact or promise made by the licensee which relates to the hearing aid or fitting and dispensing services and which becomes a part of the basis of the transaction when the purchaser relies on it or is, in part, induced into making purchase by it.

(3) Licensees must not make inaccurate or misleading representations or statements as to the efficacy of a hearing aid(s) for improving hearing.

(4) Licensees may not use a title or abbreviation that is misleading or may convey that the licensee holds a credential that is not related to hearing instrument sciences, without designating the professional field for which the credential was issued. Hearing instrument sciences includes, but is not limited to, core competencies identified in ORS 694.075.

(5) The Council recognizes and adopts the revised International Hearing Society's Code of Ethics, adopted October 1983 and revised October 1996, October 1998, and May 2003, as its professional standards model. A copy of the document is on file at the agency for review, and may be accessed at the following Web site: [http://ihsinfo.org/IhsV2/Resources/020\\_Code\\_Of\\_Ethics.cfm](http://ihsinfo.org/IhsV2/Resources/020_Code_Of_Ethics.cfm)

(6) During the hearing test or evaluation for fitting a client with a hearing aid(s), the following items must be completed. If the case history and tests were completed within the previous six months and there has been no substantial change in the client's hearing, the following tests may be performed at the discretion of the licensee:

(a) Confidential client case history;

(b) Puretone Air Conduction Threshold testing (should include at a minimum, the following frequencies — 250, 500, 1000, 2000, 3000, 4000, and 6000 or 8000 Hz);

(c) Puretone Bone Conduction Threshold testing (should include at a minimum, the following frequencies — 500, 1000, 2000, and 4000 Hz);

(d) Speech Recognition Threshold testing (SRT);

(e) Word Recognition Score (WRS) also known as speech discrimination testing;

(f) Most Comfortable Listening Level (MCL); and

(g) Uncomfortable Listening Level (UCL).

(7) For children who are unable to perform the tests listed in subsection (6) of this rule, an objective measure that meets prevailing professional standards can be used to assess auditory function. The test must be completed by a licensed audiologist or physician.

(8) Licensees must perform one or more of the following verification procedures, within the 30-day rescission period.

(a) Soundfield testing for speech discrimination;

(b) Soundfield testing for puretone thresholds;

(c) Real-ear probe microphone measurements;

(d) Speech mapping; and

(e) Other industry accepted objective measures.

(9) Licensees must post the following statement in public view on the business premises or provide the purchaser with a written notice stating: "Individuals are entitled to a copy of the audiogram used to conduct hearing evaluations and any test results." If copies of the audiogram specified in OAR 331-640-0055, or results of tests or verification procedures conducted under subsections (6) and (8) of this rule are requested, they must be provided to the purchaser.

(10) Licensees who are unable to complete testing for reasons such as a client's medical condition or inability to perform tests or verification procedures are excused from compliance with the relevant parts of subsections (6) and (8) but must document the reasons in the client's record.

(11) Tests listed in subsection (8) of this rule will be used to determine the fitted hearing aid(s) ability to meet current industry standards in reference to ORS 694.042(1)(c), during investigation of complaints filed with the agency.

(12) Licensees must maintain a record of the technical specifications issued by a manufacturer for the hearing aid(s) that have been delivered to or purchased by their clients. The specifications must be available for inspection by the agency's representatives upon request.

Stat. Auth.: ORS 676.605, 676.615, 694.155 & 694.170

Stats. Implemented: ORS 676.605, 676.615, 694.155 & 694.170

Hist. Hist.: HD 23-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 333-025-0012, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

## 331-640-0055

### Uniform Measurement Standards

(1) As of December 1, 2006, the Council recognizes and adopts the following uniform set of hearing loss measurement standards required for use when interpreting audiograms using 0 – 110 for degrees of decibel hearing loss (dB HL) and 125 – 8000 Hz for frequency. This set of uniform measurement standards must be used for advising consumers on peripheral or cochlear hearing loss: [Table not included. See ED. NOTE.]

(2) Hearing loss may have a greater effect on children than adults. The degree of hearing loss does not necessarily reflect the degree of impairment.

(3) Audiologists licensed under ORS 681, and physicians licensed under ORS 677, may use prevailing professional measurement standards when counseling consumers or purchasers on the effect of hearing loss, in conformance with their training, professional license, code of ethics and practice standards.

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

Stat. Auth.: ORS 676.605, 694.036, 694.042, 694.1142, 694.155 & 694.170

Stats. Implemented: ORS 676.605, 676.607, 676.615

Hist.: HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

## 331-640-0060

### Client Record Requirements

For the purpose of clarifying record keeping requirements, the term "client" as used in this rule, means the individual who is a consumer, purchaser, potential purchaser or hearing-aid wearer.

(1) Required Records. Licensees must record, update and maintain documentation for each client relevant to health history, clinical examinations and treatment, and financial data. Documentation shall be written or computerized. Records must include the following information:

(a) Basic client information, including name, address, telephone number and dates of service;

(b) Health history relevant to hearing evaluation or fitting of a hearing aid(s), including referral to a physician or a *Waiver of Medical Opinion* form required by ORS 694.142(6);

(c) Identification of any conditions that would require referral to a physician licensed under ORS Chapter 677, as required in ORS 694.142(1) and OAR 331-640-0040, and a notation that the client was referred;

(d) Audiograms as specified in OAR 331-640-0055 and results of tests or verification procedures as specified in OAR 331-640-0050;

(e) A copy of the *Statement to Prospective Purchaser* required by ORS 694.036 and OAR 331-640-0030, including client's signature and date acknowledging that the client has read and understands the information contained in the purchase agreement;

(f) A copy of the Right to Rescind a Hearing Aid Purchase giving notice of rights under ORS 694.042; and

(g) Date and description of services rendered in the form of "chart notes", including any complications. Chart notes must include the recorder's initials, license number and professional title if multiple practitioners provide service to the client.

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(2) Record Format. Records and documentation must be accurate, complete, and legible, typed or recorded using ink. Legible hand-written or electronic records are acceptable.

(3) Record Identifiers. Client records listed in subsection (1) of the rule must include the licensee's name, license number, professional title or abbreviation, and signature or initials somewhere on the documentation as a means of identifying the person who is providing service to the client. This information may be affixed to the record(s) in the form of a professional stamp or handwritten entry.

(4) Record Retention. All client records and documentation, written or archived electronically by computer, must be stored and maintained for a minimum of seven years after the licensee has last seen the client or past the age of minority, so that the records are safeguarded, readily retrievable, and available for inspection by the Oregon Health Licensing Agency's representative.

Stat. Auth.: ORS 676.605, 694.036, 694.042, 694.1142, 694.155 & 694.170  
Stats. Implemented: ORS 676.605, 676.607, 676.615  
Hist.: HLA 1-2006, f. 8-31-06, cert. ef. 9-1-06

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## Oregon Housing and Community Services Chapter 813

**Rule Caption:** Provides assistance to qualified tenant organizations in purchasing manufactured dwelling parks.

**Adm. Order No.:** OHCS 16-2006

**Filed with Sec. of State:** 8-28-2006

**Certified to be Effective:** 8-28-06

**Notice Publication Date:** 8-1-06

**Rules Adopted:** 813-009-0035

**Rules Amended:** 813-009-0001, 813-009-0005, 813-009-0010, 813-009-0015, 813-009-0020

**Subject:** 813-009-0001 sets forth the purpose for the rules. Clarification is provided to the entities eligible to participate within the Manufactured Dwelling Purchase Program. 813-009-0005 clarifies the common definitions and terms found within the rules. Amendments to 813-009-0010 update the application procedures and requirements for entities to participate in the program. The rule also sets the aggregate amount at \$100,000. Amendments to 813-009-0015 update the review process for applications received for participation in the program. 813-009-0020 defines the loan assistance available and the requirements of applicants prior to formal approval. The amendments also clarify the rights and remedies available under law regarding revocation of the loan funds. 813-000-0030 adds waiver language already provided for by statute.

**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

### 813-009-0001

#### Purpose and Objective

OAR chapter 813, division 009, is promulgated to accomplish the general purpose of ORS 90.800 through 90.840 and 456.579 to 456.581, which authorize the Housing and Community Services Department to provide certain assistance to qualified tenants' associations, tenants' association supported nonprofit organizations, and Facility Purchase Associations in purchasing their Manufactured Dwelling Park. The Manufactured Dwelling Park Purchase Program, established by these rules, is designed to assist Manufactured Dwelling Park residents in gaining control, through joint ownership of their Park, over rising rents and thereby avoid a declining quality of living.

Stat. Auth.: ORS 90.800-90.840, 90.630, 183, 446, 456.515-456.723 & 458.210-458.650  
Stats. Implemented: ORS 456.579-456.581  
Hist.: HSG 15-1990, f. & cert. ef. 12-4-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 4-2006(Temp), f. & cert. ef. 2-10-06 thru 8-8-06; Administrative correction 8-23-06; OHCS 16-2006, f. & cert. ef. 8-28-06

### 813-009-0005

#### Definitions

The meanings of words and terms used in OAR chapter 813, division 009, are consistent with definitions in the Act, in OAR 813-009-0005 and below. As used in chapter 813, division 009, unless the context indicates otherwise:

(1) "Act" means ORS 456.515 through 456.725, and, where applicable, ORS 90.800 through 90.840.

(2) "Facility Purchase Association" means a group of three or more tenants who reside in a Manufactured Dwelling Park and have organized for the purpose of the eventual purchase of the Park.

(3) "Initial Costs" means costs incurred in the purchase of the Park by the residents. Such costs may include, but are not limited to:

- (a) Legal fees;
- (b) Appraisal fees;
- (c) Engineering fees;
- (d) Professional fees associated with Park evaluation and management; and
- (e) Other costs or fees approved by the Department.

(4) "Manufactured Dwelling Park" or "Park" means a facility for the location and use of manufactured housing, as the term "manufactured housing" is used in ORS 456.615, whether the facility is characterized as a "Mobile Home Park" or a "Manufactured Dwelling Park".

(5) "Manufactured Dwelling Park Purchase Program" or "Program" means the process by which the Department makes discretionary loans from the Park Purchase Account pursuant to the Act and these rules.

(6) "Park Purchase Account" means the Mobile Home Parks Purchase Account established under ORS 456.579 for the purpose of providing technical assistance related to, and loans to pay Initial Costs for, purchasing Manufactured Dwelling Parks.

(7) "Qualified Facility Purchase Association" means a Facility Purchase Association that:

- (a) Is established pursuant to ORS 90.815;
- (b) Includes more than 50 percent of the tenants residing in the Park; and

(c) Demonstrates, to the satisfaction of the Department, that the Park purchase by the association is economically feasible.

Stat. Auth.: ORS 90.800-90.840, 90.630, 183 & 446, 456.515-456.723 & 458.210-458.650  
Stats. Implemented: ORS 456.579-456.581  
Hist.: HSG 15-1990, f. & cert. ef. 12-4-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 4-2006(Temp), f. & cert. ef. 2-10-06 thru 8-8-06; Administrative correction 8-23-06; OHCS 16-2006, f. & cert. ef. 8-28-06

### 813-009-0010

#### Application Procedure and Requirements

(1) A Qualified Facility Purchase Association, a tenants' association, or a tenants' association supported nonprofit organization, may submit to the Department an application for a loan for Initial Costs for purchasing the Manufactured Dwelling Park in which its members reside.

(2) The Department may loan funds from the Park Purchase Account to such qualifying entities to cover Initial Costs in the purchase of a Manufactured Dwelling Park subject to factors including, but not limited to:

- (a) Loan limitations established from time to time by the Department;
- (b) Feasibility considerations made by the Department with respect to the proposed purchase;
- (c) Competing requests for Park Purchase Account funds; and
- (d) A maximum aggregate loan limit of \$100,000 to any such entity.

Furthermore, the Department may from time to time elect to restrict or reduce the availability of Park Purchase Account funds for Program loans in order to conserve such funds in any manner that it seems prudent.

(3) All applications for assistance from the Park Purchase Account will be in writing, delivered to the Department, and will contain at a minimum the following information:

- (a) A copy of the relevant articles of incorporation for the applicant;
- (b) The name, address, and telephone number of all officers of the applicant;
- (c) Documentation satisfactory to the Department that any applicant of the Qualified Facility Purchase Association represents at least fifty percent of all facility residents; and
- (d) A detailed projection, satisfactory to the Department, of anticipated expenditures related to the proposed purchase of the facility.

Stat. Auth.: ORS 90.800-90.840, 90.630, 183, 446, 456.515-456.723 & 458.210-458.650  
Stats. Implemented: ORS 456.579-456.581  
Hist.: HSG 15-1990, f. & cert. ef. 12-4-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 4-2006(Temp), f. & cert. ef. 2-10-06 thru 8-8-06; Administrative correction 8-23-06; OHCS 16-2006, f. & cert. ef. 8-28-06

### 813-009-0015

#### Application Review

(1) The Department will reasonably act to acknowledge receipt of the application and to request any additional information concerning the application within 30 calendar days of its receipt of the application.

(2) The Department will reasonably act to advise the applicant in writing of the action taken by the Department with respect to the application within 60 calendar days of the Department's receipt of the application and any additional information requested by the Department.

(3) In reviewing an application for a loan, the Department may consider factors including, but not limited to the following:

# ADMINISTRATIVE RULES

- (a) Factors related to the availability of Park Purchase Account funds and the timing or amount of any loan as referenced in OAR 813-009-0010;
- (b) The accuracy and responsiveness of the application;
- (c) The validity and organizational integrity of the applying entity;
- (d) Whether or not the applying entity is a Qualified Facility Purchase Association and, if so, the percentage of residents in the Park that it represents.
- (e) The availability of other sources of funds or assistance for the purchase of the Park and associated costs. Preference in the evaluation of applications may be given by the Department to Qualified Facility Purchase Associations and, among such associations, to those with the higher level of resident representation.

Stat. Auth.: ORS 90.800–90.840, 90.630, 183, 446, 456.515–456.723 & 458.210–458.650  
Stats. Implemented: ORS 456.579–456.581  
Hist.: HSG 15-1990, f. & cert. ef. 12-4-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 4-2006(Temp), f. & cert. ef. 2-10-06 thru 8-8-06; Administrative correction 8-23-06; OHCS 16-2006, f. & cert. ef. 8-28-06

## 813-009-0020

### Type of Loan Assistance

(1) The Department will confirm in writing to an applicant the amount of assistance, if any, to be provided from the Park Purchase Account. Any assistance will be in the form of a loan made pursuant to a controlling written instrument.

(2) The Department will establish the terms of the loan, including (without limitation) its duration, interest rate and repayment schedule at or prior to its issuance. Without the written approval of the Director, the following loan limitations will apply:

- (a) The initial duration of the loan shall not exceed three years;
- (b) The initial interest rate on the loan shall not exceed the short-term money-market rate at the time of loan funding; and
- (c) The loan installment payment due dates shall not be less than every three months.

(3) Successful applicants will submit vouchers, billings or paid receipts for Initial Costs to the Department, in form and content satisfactory to the Department, for the Department's approval, prior to loan funds disbursement. Approval will be at the sole discretion of the Department. Upon approval by the Department, proceeds of the loan will be disbursed to vendors and/or to the successful applicant as determined by the Department.

(4) In addition to any other rights or remedies available under law, the Department may revoke any approval of the use of Park Purchase Account Funds, terminate all or part of any loan, accelerate all or part of the balance due on any loan and require immediate repayment of any or all of the funds advanced pursuant to a loan if any of the terms or conditions of the loan are not timely and completely satisfied.

Stat. Auth.: ORS 90.800–90.840, 90.630, 183 & 446, 456.515–456.723 & 458.210–458.650  
Stats. Implemented: ORS 456.579–456.581  
Hist.: HSG 15-1990, f. & cert. ef. 12-4-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 4-2006(Temp), f. & cert. ef. 2-10-06 thru 8-8-06; Administrative correction 8-23-06; OHCS 16-2006, f. & cert. ef. 8-28-06

## 813-009-0035

### Waiver

The Director, with the concurrence of the Council, may waive or modify any requirements of OAR 813, division 009, unless such waiver or modification would violate applicable state or federal law.

Stat. Auth.: ORS 90.800–90.840, 90.630, 813, 446, 456.515–456.723 & 458.210–458.650  
Stats. Implemented: ORS 456.579–456.581  
Hist.: OHCS 16-2006, f. & cert. ef. 8-28-06

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**Rule Caption:** Clarify terms, eligibility requirements, lending criteria, application process. Add waiver requirements. Increase maximum financing limit.

**Adm. Order No.:** OHCS 17-2006

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 9-15-06

**Notice Publication Date:** 8-1-06

**Rules Adopted:** 813-140-0120

**Rules Amended:** 813-140-0010, 813-140-0020, 813-140-0030, 813-140-0040, 813-140-0050, 813-140-0060, 813-140-0080, 813-140-0090, 813-140-0110

**Rules Renumbered:** 813-140-0070 to 813-140-0105

**Subject:** 813-140-0010 provides clarification of common terms and definitions within the program.

813-140-0020 defines the intent of the program as a resource to achieve one or more of the Six Budget Proposals.

813-140-0030 provides references to the Program Overview document and application materials.

813-140-0040 defines eligible uses and costs that can be applied against the Fund and stipulates when a grant may be made instead of a loan.

813-140-0050 provides clarification on eligible applicants and projects.

Amendments in 813-140-0060 clarify the criteria for eligible projects and how the agency will address applications when insufficient funds are available.

813-140-0070 is renumbered to 813-140-0105.

813-140-0080(7) is amended to define the terminology 'appropriateness and uniqueness' of the design of a project.

813-140-0090 provides additional clarification on documentation required by an applicant to demonstrate an ability to repay a loan. Additional clarification is provided on eligible predevelopment expenses in 814-140-0090(2)(a).

813-140-0110(1) increases the maximum amount of financing for the Small Community Incentive Fund from \$50,000 to \$80,000.

813-140-0110(4) designates the Regional Economic Revitalization Team to determine the process for evaluating applications.

813-140-0120 adds waiver language already provided for by statute.

**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

## 813-140-0010

### Definitions

All terms used in OAR chapter 813, division 140, unless otherwise specifically defined herein have the meanings given in ORS 458.705 through 458.740. As used in OAR chapter 813, division 140, unless the context indicates otherwise:

(1) "Board" means the Community Development Incentive Advisory Board established pursuant to ORS 458.710.

(2) "Fund" or "Incentive Fund" means the Community Development Incentive Project Fund.

(3) "Gap Financing" means financing provided by the Fund when other state or private financing sources are inadequate or unavailable to finance a development project.

(4) "Six Budget Principals" means those principles stated in Governor Kulongoski's budget document presented in 2004 for the 2005/2007 Legislative Session to grow Oregon's economy and ensure that all Oregon communities — large and small, urban and rural, survive. Those principals are:

(a) Provide our children and adults with the educational opportunities they need to succeed today and in the future;

(b) Take care of our most vulnerable citizens;

(c) Create family-wage jobs for Oregonians;

(d) Maintain the high quality of life we enjoy in Oregon;

(e) Ensure that our citizens are safe in their homes and in their communities, and

(f) Provide for a safe, efficient and accountable state government.

(5) "Economic Revitalization Team" means the program of agency cooperation by the Governor's Office to coordinate and streamline state policies, programs and procedures and provide coordinated state agency assistance to local governments. These agencies are: Economic and Community Development Department, Department of Environmental Quality, Oregon Housing and Community Services Department, Department of Land Conservation and Development, and Oregon Department of Transportation, Department of State Lands, the Department of Agriculture and the Department of Business and Consumer Services. "Regional Economic Revitalization Team" means a regional team comprised of one regional employee with each of the agencies listed in (5) above.

(6) "Program Overview" means a publication available from the Department setting forth general guidelines and information about the program and application process.

(7) "Rural Community" and "Rural Service Center," means an unincorporated community which consists of permanent residential dwellings, and commercial, industrial or (in the case of a Rural Community) public



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uses to the community, the surrounding rural area, or to persons traveling through the area.

(8) "Small Community Incentive Fund" means a program that provides loans and grants of \$80,000 or less for development projects, meet the criteria of the Incentive Fund program.

(9) "Urban Unincorporated Community," means an unincorporated community which has at least 150 permanent residential dwelling units, contains a mixture of land uses, and includes areas served by a community sewer system and water system.

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 11-2002(Temp), f. & cert. ef. 9-5-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02; OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

## 813-140-0020

### Fund Purposes

(1) The primary purpose of the Fund is to provide Gap Financing to help local communities or to use as an incentive to obtain additional funding commitments from other sources.

(2) The Fund is not intended to provide financing to replace other financing from private or public sources that could be available within 12 months of the date of the award to fund a proposed development project. Rather it is intended to be a flexible resource that promotes worthy projects by bridging funding gaps which prevent a project either from moving forward or from moving forward in a manner which achieves one or more of the Six Budget Principles.

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02; OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

## 813-140-0030

### Fund Administration

(1) The Board will develop program guidelines, including specific project criteria and financing mechanisms which can be found in the Program Overview and application materials.

(2) The Department will administer the Fund in accordance with ORS 458.735. The Department's Administration of the Fund is not subject to State Housing Council policy, rules or standards.

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 11-2002(Temp), f. & cert. ef. 9-5-02 thru 11-25-02; OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

## 813-140-0040

### Eligible Uses of the Fund

(1) The Oregon Housing and Community Services Department may make grants and loans for the purpose of financing capitalized project costs (including but not limited to project management or consultant fees that are related to project development) but not for the purpose of financing planning or technical assistance or other administrative or operating costs. It is the policy of Oregon Housing and Community Services Department that, in general, payment from the Fund for hours worked by anyone employed by, and paid through the payroll of the applicant or recipient of the funds is not an eligible cost. Work will be performed by an independent contractor and hours worked or job cost billed will be presented by invoice. Any exception to this policy will be pre-approved in writing by the Director of Oregon Housing and Community Services Department. The requested exception will show that the use of employees provides a clear benefit to the project. Each request will include the applicant's cost allocation methodology and payroll procedures to ensure they have sufficient tools in place to appropriately track employee time. Each request for payment from the Fund for hours worked by employees will include a statement that hours billed are correct and appropriate, and will be documented with time-keeping data. In no circumstance will the Fund pay for staff time associated with the entity's operations.

(2) The Department may make a grant instead of a loan for a project which otherwise complies with the requirements of this OAR chapter 813, division 140 where repayment of the amount disbursed by the Fund for the project is inappropriate or the recipient would have insufficient capacity to repay the amount disbursed based on cash flow projections or documentation submitted with the application.

(3) The costs and expenses of the Department necessary for the administration of the Fund and the grants and loans made from the Fund. These costs and expenses may include the amounts necessary for the administration of the Fund through the Small Community Incentive Fund

or the servicing of loans and grants made by the Fund, pursuant to a contract with the Department.

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 11-2002(Temp), f. & cert. ef. 9-5-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02; OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

## 813-140-0050

### Eligible Applicants and Eligible Projects

(1) Eligible applicants include local governments and nonprofit and for-profit organizations.

(2) To be eligible for funding, a proposed project must meet the following criteria:

(a) The project must be located within the urban growth boundary of an incorporated city in this state, or in an Urban Unincorporated Community, Rural Community, or Rural Service Center that is served by a community sewer system and/or water system.

(b) The project must achieve at least one of the following three main purposes found in ORS 458.725:

(A) Promoting affordable housing near jobs or transit, developments near jobs and transportation;

(B) Revitalizing downtowns and community centers; and

(C) Rebuilding rural and distressed economies.

(c) The project must demonstrate financial feasibility and soundness based on cash flow projections or documentation submitted with the application.

(d) The project must promote achievement of at least one of the Governor's "Six Budget Principles."

(e) The project must comply with local comprehensive plans and land use ordinances or other regional or local plans.

(f) The project sponsor must demonstrate capacity (including capacity provided by outside consultants or developers) to fully implement the project as documented in application materials.

(g) The project must be locally supported and serve to further the community's goals related to livability and growth.

(h) The for-profit developer that is or will be the owner of the project must demonstrate investment or equity in the project.

(3) Eligible projects include but are not limited to:

(a) A development project that has joint public and private sponsorship and/or ownership; and

(b) A project listed on the Oregon Economic and Community Development Department's "Needs and Issues Inventory."

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02; OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

## 813-140-0060

### Funding Preferences

Among proposed projects that meet the requirements of OAR 813-140-0050, preference will be given to projects that meet one or more of the following categories:

(1) Are designed in a manner that maximizes long-term sustainability through use of recycled materials, attention to energy efficiency, and long term economic viability of the project;

(2) Further the economic vitality of the local community;

(3) Address a specific unmet need for affordable housing;

(4) Leverage, to the maximum extent, public and private funding sources (including tax incentives), as demonstrated by local and/or private commitment and investment;

(5) Are designed in a manner to be consistent with or complementary to the character of the surrounding community or neighborhood; and/or

(6) Demonstrate ability to expend Incentive Fund resources within 12 months after award. In the event there are insufficient moneys in the Incentive Fund to meet all otherwise qualified pending applications, the department may provide loans in part or for all of the amount requested based on the number of the categories listed above that a proposed project falls within.

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02; OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

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## 813-140-0080

### Rating Criteria

In addition to evaluation of a proposed project's compliance with the requirements of OAR 813-140-0050 and taking into consideration the preferences set forth in OAR 813-140-0060, the evaluation of a proposed project may include, but is not limited to, consideration of the following:

- (1) Any conditional or firm funding commitments or efforts to work with other funders to leverage all available resources;
- (2) The readiness of the project to proceed once financing has been committed by the Department;
- (3) In comparison with other proposed projects, the greatest impact on communities;
- (4) Demonstration of realistic financial assumptions, including the need for a loan guarantee or grant funds, and the ability to repay loans;
- (5) The strength of the development team as it relates to the scope of the project;
- (6) Community support for the project as demonstrated by funding or fee waivers, resolution of support, or participation of community groups; and
- (7) Appropriateness and uniqueness of the design of the project in relation to fulfilling the goals of the project and matching the context of the community.

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02; OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

## 813-140-0090

### Lending Criteria

(1) The Department's lending criteria allows the Fund to create quality development patterns, produce a sound loan portfolio and create a sustainable loan fund.

(2) The Department shall permit the assumption of an appropriate level of risk, maintain a reserve for losses, and provide for the periodic monitoring of reserve adequacy as follows:

(a) An applicant for a loan shall demonstrate an ability to repay the debt through forma and other documentation submitted with the application. When applicable, the Department may offer a combination of grants and loans as well as a combination of loan products and terms, as it, in its sole discretion, deems appropriate to ensure repayment.

(b) A loan may be for an income-producing project or for a project in an urban renewal district with available tax increment financing.

(c) A loan may be subordinate to other loans both in terms of payment and lien securing repayment.

(3) The Department may make the following types of loans:

(a) Predevelopment loans for projects that are in the early stage. The purpose of these loans is to finance eligible predevelopment expenses such as architectural, engineering, environmental studies, purchase of options or other eligible expenses as determined by the department. A predevelopment loan shall have maximum term of 12 months and shall be 100% secured by collateral acceptable to the Department. The borrower shall pay a loan fee of 1% of the principal amount of the loan for the regular, or "large" Community Incentive Fund. There is no fee for Small Community Incentive Fund pre-development loan borrowers.

(b) Short-term loans having terms not to exceed 5 years. These loans shall accrue interest at the rate of 1% per annum for the "large" program and 3% for the Small Community Incentive Fund program. Both shall require minimum annual interest payments.

(c) The "large" Community Incentive Fund can offer long-term loans having terms exceeding 5 years, but not exceeding 15 years. These loans shall accrue interest at a rate of 3% per annum and shall require minimum annual interest payments. The Small Community Incentive Fund does not offer long-term loans.

(4) A borrower shall execute such agreements, instruments and other documents that are required by the Department and that are in form and substance satisfactory to the Department. These documents may contain terms and provisions regarding required insurance coverage, loss reserve and periodic reporting requirement, financial ratios, escrow payments, late charges, defaults, priority of liens, and such other matters as the Department deems prudent or appropriate.

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02; OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

## 813-140-0105

### Application Process for Large Community Incentive Fund

(1) The application process for obtaining a grant or loan from the Fund may involve, but is not limited to, a competitive review process, a first come-first reviewed process, or such expedited process as is necessary or appropriate to further the goals of the Fund.

(2) An applicant must contact the appropriate Department Regional Advisor to the Director to discuss its proposal (See Program Overview). The Regional Advisor to the Director will provide technical assistance; input on the viability of the project; and will work with the applicant to analyze and project the financial needs to determine the appropriate mix of grants and/or loans.

(3) An applicant must submit its application in a manner satisfactory to the Department. The Regional Economic Revitalization Team which may choose to consult with other regional partnerships in areas where partnerships exist, and Oregon Economic and Community Development Department financial reviewers may review the applicants. This review may include a pre-screening for fatal application flaws that on the face of the application do not meet the requirements of these rules as well as an in-depth review.

(4) The applications that, in the judgment of the Regional Economic Revitalization Team, best meet Fund thresholds and preferences (see Program Overview and application materials), will be submitted to the Department along with comments from the reviewers in the Regional Economic Revitalization Team. The number of applications submitted to the Department may be limited at the discretion of the Director.

(5) The Department will forward a description of the projects, along with comments from the Regional Economic Revitalization Team, to the Board for their consideration. At the same time, a committee of representatives from the Regional Economic Revitalization Teams, in conjunction with the Department's senior management, will develop a funding proposal. A finalized funding proposal will be presented to the Director and the Board for their review and recommendations.

(6) Projects will be selected for financing which, in the judgment of the Board (as evidenced by its recommendations to the Director) and the Director best achieve the purposes of the Incentive Fund based on the criteria outlined in OAR chapter 813, division 140.

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02; Renumbered from 813-140-0070, OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

## 813-140-0110

### Small Community Incentive Fund

(1) The Small Community Incentive Fund may provide loans and grants to eligible projects which require a financial incentive or gap financing. The maximum amount of financing that may be provided by the Small Community Incentive Fund for a project, whether in the form of a grant or loan or a combination of both, is \$80,000.

(2) In order to be eligible for financing by the Small Community Incentive Fund, a project must meet the parameters described in the previous sections of the rule with the following exceptions:

(a) The project must be located within the urban growth boundary of an incorporated Oregon city, or in an Urban Unincorporated Community, Rural Community, or Rural Service Center that is served by a community sewer system and/or a community water system.

(b) The project must achieve at least one of the three objectives of ORS 458.725(1) through (3).

(3) The Department may make the following types of loans:

(a) Predevelopment loans which shall be fully secured with collateral acceptable to the Department and shall:

(A) Not accrue interest and have a term not to exceed 6 months, or

(B) Accrue interest at the rate of 1% per annum and have a term of more than 6 months but not to exceed 12 months.

(b) Short-term 1-5 year loans which shall accrue interest at the rate of 3% per annum, have a term not to exceed five years, and require a minimum annual payment of interest.

(4) The Regional Economic Revitalization Team will determine at the local level the process for evaluating applications, including use of a first-come, first-served or competitive process (see Overview). The Regional Economic Revitalization Team for the region in which a project is located and other experts as appropriate will review the funding requests for projects in its region. The Regional Economic Revitalization Team will determine if other Economic Revitalization Team agency resources are available to fund a project and if so, will direct the applicant to the appropriate agency. The Regional Economic Revitalization Team will, in evalu-

# ADMINISTRATIVE RULES

ating the project, consider factors such as how well a project meets the Fund's threshold criteria, the Fund's preferences, and the financial feasibility of the project. Projects selected by the Regional Economic Revitalization Team will be forwarded to the Department, along with the Regional Economic Revitalization Team's comments and recommended conditions of award. The forwarded projects will be submitted to the Board. The Board will provide comments to the OHCS director before funding approval is made. The Director, or his designee, shall make all final funding determinations and announce conditional awards.

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 11-2002(Temp), f. & cert. ef. 9-5-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02; OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

## 813-140-0120

### Waiver

The Department may waive or modify any requirements of OAR 813, division 140, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 90.800 - 90.840, 90.630, 183, 446, 456.515 - 456.723 & 458.210 - 458.650

Stats. Implemented: ORS 456.579 - 456.581

Hist.: OHCS 5-2006(Temp), f. & cert. ef. 3-29-06 thru 9-24-06; OHCS 17-2006, f. & cert. ef. 9-15-06

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## Oregon Liquor Control Commission Chapter 845

**Rule Caption:** Amend rule to add new grape variety name for use on Oregon wine labels.

**Adm. Order No.:** OLCC 11-2006

**Filed with Sec. of State:** 8-21-2006

**Certified to be Effective:** 9-1-06

**Notice Publication Date:** 6-1-06

**Rules Amended:** 845-010-0915

**Subject:** This rule lists grape variety names approved for use on Oregon Wine labels. A southern Oregon winegrower petitioned the agency to add Gruner Veltliner to the list of approved names.

**Rules Coordinator:** Katie Hilton—(503) 872-5004

## 845-010-0915

### Grape Variety Names

(1) A person may use a single grape variety name as a type designation on a wine brand label only if the wine derives at least 90 percent of its volume from that grape variety.

(2) A person may use the names of two or three grape varieties as the type designation on a wine brand label if:

(a) The wine is made from only the grape varieties named;

(b) The brand label shows the percentage of wine derived from each variety from each county or state if a wine has a multi-county or multi-state appellation of origin.

(3) As an exception to section (1) of this rule, a person may use any of the following type designations for a wine that derives from 75 to 90 percent of its volume from grapes of the named variety, if:

(a) The only other grapes used in its production are those listed in the same section; that is, listed either in section (3)(a)(A) or in section (3)(a)(B):

(A) Cabernet franc, Merlot, Cabernet Sauvignon, Petite Verdot, or Malbec; or

(B) Semillon or Sauvignon blanc; and

(b) The brand label lists all grape varieties used. The listing must be less prominent than the type designation, and arranged in descending order of predominance.

(4) If a grape variety is not used as the type designation but grape variety names appear anywhere on the wine label, the brand label must list all grape varieties used in the wine, arranged in descending order of predominance. This listing must use the same lettering size and style and be less prominent than the class or type designation.

(5) All uses of grape variety names on wine labels other than in type designation must be less prominent than the wine's class or type designation. Only those grape variety names appearing on the brand label of a wine may be mentioned elsewhere on the label.

(6) A person may use only the grape variety names listed in this section on wine labels. The parentheses list acceptable synonyms for the primary name for that grape variety:

(a) Albarino;

(b) Aligote;

(c) Arneis;

(d) Aurora;

(e) Auxerrois;

(f) Bacchus;

(g) Barbera;

(h) Baco noir;

(i) Cabernet franc;

(j) Cabernet Sauvignon;

(k) Carigan Carmenere;

(l) Carmenere;

(m) Carmine;

(n) Carmelan;

(o) Cascade;

(p) Chancellor;

(q) Chardonnay;

(r) Chasselas blanc;

(s) Chasselas dore;

(t) Chasselas rouge;

(u) Chelois;

(v) Chenin blanc;

(w) Colombard;

(x) Dolcetto;

(y) Durif;

(z) Early Muscat;

(aa) Ehrenfelser;

(bb) Flora;

(cc) Folle blanche;

(dd) Furmint;

(ee) Gamay noir;

(ff) Gewurztraminer;

(gg) Grand noir;

(hh) Grenache;

(ii) Grignolino;

(jj) Gruner Veltliner;

(kk) Kerner;

(ll) Lemberger (Limberger);

(mm) Madeleine Angevine;

(nn) Malbec;

(oo) Malvasia bianca;

(pp) Marechal Foch;

(qq) Melon;

(rr) Merlot;

(ss) Morio-Muskat;

(tt) Muller-Thurgau;

(uu) Muscat blanc;

(vv) Muscat of Alexandria;

(ww) Muscat Ottonel;

(xx) Muscadelle;

(yy) Nebbiolo;

(zz) Petit Verdot;

(aaa) Pinot blanc;

(bbb) Pinot gris;

(ccc) Pinot Meunier;

(ddd) Pinot noir;

(eee) Royalty;

(fff) Sangiovese;

(ggg) Sauvignon blanc (Fume blanc);

(hhh) Scheurebe;

(iii) Semillon;

(jjj) Seyval;

(kkk) Siegerrebe;

(lll) Sylvaner (Silvaner);

(mmm) Symphony;

(nnn) Syrah;

(ooo) Tempranillo;

(ppp) Trebbiano;

(qqq) Trousseau gris;

(rrr) Valdiguie;

(sss) Viognier;

(ttt) White Riesling (Riesling);

(uuu) Zinfandel.

(7) The Commission may revise the list in section (6) of this rule.

(8) A person may not use in any manner on a wine label a name that might be mistaken for a grape variety name listed in section (6) of this rule.



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(9) The following limitations apply to the use of certain approved names in section (6) of this rule:

(a) A person may not use the approved name "Gamay noir" for the variety Pinot noir (such as the so-called "Gamay Beaujolais" clones) or for the variety Valdiguié (called "Napa Gamay" in California);

(b) A person may not use the approved name "Pinot blanc" for the variety Melon or "Syrah" for the variety Durif (called "Petit Sirah" in California);

(c) A person may not use the term "Riesling":

(A) As a type designation for a wine unless the wine derives at least 90 percent of its volume from the grape variety, White Riesling; or

(B) In conjunction with any word except "White" to designate a grape variety name. Some examples of prohibited names are: "Emerald Riesling," "Franken Riesling," "Grey or (Gray) Riesling," "Johannisberg Riesling," "Kleinberger Riesling," "Missouri Riesling," "Okanagan Riesling" and "Walshriesling" ("Welshriesling").

(10) As an exception to section (6) and subsection (9)(c) of this rule, a winery may use the term "Johannisberg Riesling" as the type designation of a wine that derives at least 90 percent of its volume from White Riesling grapes, if the winery has used that term on its approved labels since prior to January 1, 1977.

(11) A person may not use the following federally permitted grape variety names: "Early Burgundy," "French Columbard," "Muscadelle de Bordelais," "Pineau (or Pinot) de la Loire," "Pinot Chardonnay," "Pinot Saint George," "White Pinot" "Gamay," "Gamay Beaujolais" and "Napa Gamay".

(12) A person may use the type designation "Claret" on a wine brand label only if the wine derives 100% of its volume from a blend of two or more of the following grape varieties: Cabernet franc, Merlot, Cabernet Sauvignon, Petit Verdot, or Malbec.

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

Stats. Implemented: ORS 471.340, 471.345 & 471.445

Hist.: LCC 59, f. 2-18-77, ef. 3-1-77; LCC 17-1978, f. 12-26-78, ef. 1-1-79; OLCC 26-1987, f. 12-30-87, cert. ef. 1-1-88, Renumbered from 845-010-0292; OLCC 2-1995, f. & cert. ef. 4-4-95; OLCC 8-1995, f. 11-24-95, cert. ef. 12-1-95; OLCC 5-1999, f. 3-18-99, cert. ef. 4-1-99; OLCC 8-2003, f. 5-20-03, cert. ef. 6-1-03; OLCC 14-2004, f. 11-18-04 cert. ef. 12-1-04; OLCC 11-2006, f. 8-21-06, cert. ef. 9-1-06

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**Rule Caption:** Adopt rule requiring that a notice be posted at businesses where liquor license is suspended.

**Adm. Order No.:** OLCC 12-2006

**Filed with Sec. of State:** 8-21-2006

**Certified to be Effective:** 10-1-06

**Notice Publication Date:** 3-1-06

**Rules Adopted:** 845-006-0498

**Subject:** When a liquor license has been suspended due to violation of Oregon liquor law(s), this new rule will require the licensee to post a Commission-supplied notice sign on the doors of the licensed premises. The notice will inform the public, law enforcement, and those delivering alcohol to the premises of the status of the liquor license and the dates of license suspension. The rule lists activities which are allowed and prohibited during a period of license suspension.

**Rules Coordinator:** Katie Hilton—(503) 872-5004

## 845-006-0498

**Suspended Licenses: Posting of Suspension Notice Sign, Activities Allowed During Suspension**

(1) Before 7:00 a.m. on the date a liquor license suspension goes into effect, and until the suspension is completed, Commission staff will ensure that a suspension notice sign is posted on each outside entrance or door to the licensed establishment. The suspension notice sign must be posted in a way that allows any person entering the premises to read it. Licensees must use the suspension notice sign provided by the Commission. The sign will state that the liquor license has been suspended by order of the Commission due to violation(s) of the alcoholic liquor laws (statute or administrative rule) of Oregon. If there are multiple liquor licenses at the location, the sign will specify which license privileges have been suspended.

(2) During the period of license suspension, the licensee is responsible for ensuring:

(a) Compliance with all applicable laws and rules, including compliance with all minor postings assigned to the premises per OAR 845-006-0340;

(b) That the suspension notice sign is not removed, altered, or covered.

(3) During the period of liquor license suspension:

(a) A retail liquor licensee may operate his/her business provided there is no sale, delivery, service, consumption or receipt of alcoholic beverages. No banquet, temporary event or other special occasion function involving the sale, service, delivery or consumption of alcoholic beverages, including under a temporary letter of authority, may be held on the premises during a period of liquor license suspension. No use of any liquor license may take place on the premises during the period of license suspension.

(b) A non-retail licensee may operate his/her business provided there is no sale, delivery, service, consumption or receipt of alcohol during the time of license suspension.

(c) For purposes of this rule, Winery, Grower Sales Privilege and Brewery-Public House licensees are considered to be both retail and non-retail licensees. When a Winery, Grower Sales Privilege or Brewery-Public House license is suspended, any and all locations operating under the underlying license are suspended.

(4) Sanction: A violation of any section of this rule is a Category IV violation.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1), (2)&(5)

Stats. Implemented: ORS 471.315, 471.316, 471.322 & 471.327

Hist.: OLCC 12-2006, f. 8-21-06, cert. ef. 10-1-06

## Oregon State Lottery Chapter 177

**Rule Caption:** Amendment removes language specifying monetary value of a credit when playing a video lottery game.

**Adm. Order No.:** LOTT 7-2006

**Filed with Sec. of State:** 8-30-2006

**Certified to be Effective:** 9-1-06

**Notice Publication Date:** 7-1-06

**Rules Amended:** 177-200-0010

**Rules Repealed:** 177-200-0010(T)

**Subject:** The Oregon Lottery amended this administrative rule to remove language specifying the monetary value of a credit when playing a video lottery game.

**Rules Coordinator:** Mark W. Hohlt—(503) 540-1417

## 177-200-0010

**Game Requirements**

(1) **General:** To play a video lottery game, a player deposits cash into a video lottery terminal that displays the deposit as a number of credits to which the player is entitled. Each credit represents a monetary amount as specified in each video lottery game. The player purchases a game play by wagering one or more credits. A prize for a winning wager shall not exceed \$600. Prizes are paid on the terminal in the form of credits. A player may wager the credits that the player has won on additional game plays or may direct the terminal to issue a cash slip for the remaining credits.

(2) **Bonus Game Plays:** In addition to the prizes paid as credits, and depending on the specific game, bonus game plays may be awarded to a player. A prize awarded on an individual bonus game play is independent of the original game play and may not exceed \$600.

(3) **Odds of Winning:** A close approximation of the odds of winning some prize for each game must be displayed on a video lottery terminal screen. Each game also must display the amount wagered and the amount awarded for each possible winning occurrence based on the number of credits wagered on a game play.

(4) **Payout Tables:** Each game shall provide a method for a player to view payout tables for that game.

(5) **Age Requirement:** A player must be at least 21 years of age.

Stat. Auth.: ORS 461

Stats. Implemented: ORS 461.210

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03; LOTT 6-2006(Temp), f. 6-12-06, cert. ef. 6-26-06 thru 12-8-06; LOTT 7-2006, f. 8-30-06, cert. ef. 9-1-06

## Oregon University System, Portland State University Chapter 577

**Rule Caption:** Tri-annual updates and revisions to the Student Code of Conduct as proscribed by OAR 577-031-0148(2).

**Adm. Order No.:** PSU 4-2006

**Filed with Sec. of State:** 8-22-2006

**Certified to be Effective:** 8-22-06

**Notice Publication Date:** 7-1-06

# ADMINISTRATIVE RULES

**Rules Amended:** 577-031-0125, 577-031-0130, 577-031-0131, 577-031-0132, 577-031-0133, 577-031-0135, 577-031-0136, 577-031-0137, 577-031-0140, 577-031-0141, 577-031-0142, 577-031-0143, 577-031-0145, 577-031-0146, 577-031-0147, 577-031-0148

**Subject:** This amendment provides various updates to the Student Code of Conduct deemed necessary by the appointed SCC Task Force as part of the Code revisions that occur every 3 years. The Student Code of Conduct outlines behavioral guidelines for Students and Student Groups that are consistent with the agencies policies designed to protect individual freedoms and fundamental rights.

**Rules Coordinator:** Jeremy Randall Dalton—(503) 725-3701

## 577-031-0125

### General Policy

(1) Portland State University (“PSU” or “University”) seeks excellence in instruction, research, and public service. The University recognizes the intrinsic value of individual differences and diversity. The University supports the right of all people to live and learn in a safe and respectful environment that promotes the free and vigorous expression of ideas. Policies and procedures are designed to protect these freedoms and the fundamental rights of others. Students are expected to conduct themselves in a manner consistent with these principles.

(2) A student or student organization or group whose conduct is determined incongruent with the standards of the University as described in this Code of Student Conduct and Responsibility (the “Code”) is subject to disciplinary action. The procedures for that action are generally educational in nature and are intended to lead to self-evaluation and accountability.

(3) The Code will be applied without regard to age, ability, ethnicity, gender, race, religious or political affiliation, or sexual orientation.

(4) The procedures of this Code consider each case individually and informal resolution of student conduct complaints will be sought whenever possible.

(5) In addition to the regulations in this Code, all students must follow the academic and professional standards of all applicable academic units, departments, schools, and colleges.

(6) This Code becomes effective on September 25, 2006 and supersedes all other previous student conduct codes.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 1-1994, f. & cert. ef. 1-10-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0130

### Applicability

(1) This Code applies to any student as defined in OAR 577-031-0131(2)

(2) This Code applies to any group or organization as defined in OAR 577-031-0131(3).

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0131

### Definitions

(1) “Code” means this Code of Student Conduct and Responsibility.

(2) A “student” is defined as any person who:

(a) Has submitted an application for admission, financial aid, or any other service provided by the University that requires student status;

(b) Is registered for one or more credit hours;

(c) Is enrolled in a special non-credit program approved by the University; or

(d) Was enrolled as a student organization or registered as a recognized student organization within the last six months.

(3) A “student organization or group” is an assembly of students recognized to be living or acting together, electing officers, assessing dues or fees for their mutual benefit, officially affiliated with an academic unit or department because of common interest and mutual benefit, and/or which has applied for and received recognition from the Student Organization Council, ASPSU, Student Fee Committee of ASPSU, Campus Recreation or Student Activities and Leadership Programs.

(4) “Course Instructor” means any person employed by the University to conduct classroom activities or who has an official instructional function with the University.

(5) “University Official” means any person employed by the University performing assigned administrative or professional responsibilities.

(6) “Member of the University Community” means any person who is a student, faculty, University Official or any other person employed or officially recognized as a University associate.

(7) “University” means Portland State University, or any part, program, department, or division within Portland State University.

(8) “University Premises” means all land, buildings, facilities, and other property owned, in the possession of, used, or controlled by the University.

(9) “University Sponsored Activity” meaning any program or event hosted by a department, program, organization, or individual representing the University. Such activities include, but are not limited to field trips, athletic events, and student organization-hosted programs or events.

(10) An “individual violation” is a violation of University policy committed by an individual student acting alone or in concert with other individual(s) independent of or as part of a group or organization or its activities and events.

(11) An “organization violation” is a violation of University policy and regulations committed by a student organization or group.

(12) “Senior Conduct Officer” refers to the University official charged with the responsibility of administering the Code. Any action required to be performed under this Code by the Senior Conduct Officer may be performed by his or her designee.

(13) “Dean of Students” (Dean) refers to the University official holding this title. Any action required to be performed by the Dean under this Code may be performed by his or her designee.

(14) A “Conduct Record” includes, but is not limited to incident reports, final reports, notification of allegation, disciplinary reports, informal discussion notes, formal hearing records and recommendations, decision statements, appeal records and decision, and related documentation and correspondence that may be covered by OAR 166-475-0110(38).

(15) The term “shall” is used in the imperative sense.

(16) The term “may” is used in the permissive sense.

(17) The term “day” means any business day in which the University is open. It does not include weekends, federal and state holidays or days in which the University is not open for business.

(18) The “Student Conduct Committee” (the “Committee”) is composed of persons appointed by the President of the University to adjudicate violations of the Code. The Committee is a 12-month administrative committee that begins service fall quarter of each academic year. Committee members serve staggered terms of two years from the date of appointment or until a successor is appointed. The Committee consists of four faculty members. Appointment for chairmanship and other nominations for faculty membership are made to the President by the Committee on Committees. Three students are appointed by the President. In addition, two alternate faculty members and two alternate student members will be appointed to serve in the event of vacancy, absence, or other inability to serve. Additional alternates may be appointed as necessary.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 1-2006, f. & cert. ef. 3-10-06; PSU 3-2006, f. & cert. ef. 7-21-06; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0132

### General Statement of Authority

(1) The Senior Conduct Officer shall maintain overall responsibility for developing and implementing policies for the administration of the Code and procedural rules for the conduct of hearings that are consistent with provisions of the Code.

(2) The Senior Conduct Officer may designate a mediator of disputes in cases that are not direct violations of the Code. All parties must agree to mediation and are bound by the decision with no right to appeal.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0133

### Jurisdiction

(1) The provisions of OAR 577-031-0135 and 577-031-0136 apply to all students and activities on University Premises; during any University Sponsored Activity or the activity of a student organization or group, regardless of location; and to off-campus conduct that has a rational nexus to the University and/or the pursuit of its objectives; or when the behavior poses a clear threat to any person on University Premises or at University

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Sponsored Activities. Questions regarding jurisdiction will be resolved by the Senior Conduct Officer.

(2) Students participating in co-admission programs between Portland State University and other institutions will be accountable to conduct standards at Portland State University regardless of the standards applicable at the other institution and whether the other institution is or is not pursuing charges.

(3) Allegations of certain behavior may be adjudicated within the University's administrative conduct program as outlined in this Code as well as within any off-campus criminal justice system. Adjudication of allegations of student misconduct will occur expeditiously without regard to the status of any off-campus adjudication.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0135

### Proscribed Conduct by the State Board of Higher Education

The following constitutes conduct as proscribed by the State Board of Higher Education for which a student or student organization or group is subject to disciplinary action:

(1) Obstruction or disruption of teaching, research, administration, disciplinary procedures or other University activities, including the University's public service functions or other authorized activities on University-owned or controlled property.

(2) Obstruction or disruption interfering with freedom of movement, either pedestrian or vehicular, on University-owned or -controlled property.

(3) Possession or use of firearms, explosives, dangerous chemicals, or other dangerous weapons or instrumentalities on University-owned or -controlled property, unless expressly authorized by law, Board or PSU rules (for purposes of this section, absence of criminal penalties shall not be considered express authorization).

(4) Detention or physical abuse of any person or conduct which is intended to threaten imminent bodily harm or endanger the health of any person on University-owned or controlled property.

(5) Malicious damage, misuse or theft of University property, or the property of any other person where such property is located on University-owned or controlled property, or, regardless of location, is in the care, custody or control of the University.

(6) Refusal by any person while on University property to comply with an order of the President of the University, or appropriate authorized official or officials, to leave such premises because of conduct proscribed by the Code, when such conduct constitutes a danger to personal safety, property, or other appropriate University activities on such premises.

(7) Unauthorized entry to or use of University facilities, including buildings and grounds.

(8) Illegal use, possession or distribution of drugs on University-owned or controlled property.

(9) Inciting others to engage in any of the conduct or to perform any of the acts prohibited in this Code. Inciting means that advocacy of proscribed conduct that calls upon the person or persons addressed for imminent action, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the University, including the safety of persons, and the protection of its property.

(10) Violating the State Board of Higher Education's Policy for Intercollegiate Athletics as described in Section 8 of its Internal Management Directives, specifically including the subsection entitled Code of Ethics.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 1-1994, f. & cert. ef. 1-10-94; PSU 3-1994, f. & cert. ef. 10-26-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0136

### Proscribed Conduct by Portland State University

The following constitutes conduct proscribed by Portland State University for which a student or student organization or group is subject to disciplinary action:

(1) Obstruction or disruption of teaching, research, administration, disciplinary procedures or other University activities, including the University's public service functions or other authorized activities on University Premises, or any other location where teaching, research, administration, disciplinary procedures or other University Sponsored Activities take place.

(2) All forms of academic dishonesty, cheating, and fraud, including but not limited to:

(a) Plagiarism, which includes, but is not limited to, word for word copying, using borrowed words or phrases from original text into new patterns without attribution, or paraphrasing another writer's ideas;

(b) The buying and selling of all or any portion of course assignments and research papers;

(c) Performing academic assignments (including tests and examinations) for other persons;

(d) Unauthorized disclosure and receipt of academic information; and

(e) Falsification of research data.

(3) Illegal or unauthorized use or other misuse of University computer and network facilities which includes any behavior that constitutes a violation of the University Computer and Acceptable Use Policy.

(4) Furnishing false or misleading information to the University, including but not limited to knowingly failing to provide required information to the University or misrepresenting a person's identity to a Course Instructor or University Official.

(5) Forgery, alteration or unauthorized use of University documents, records, identification or resources.

(6) Unauthorized possession or use of keys to University facilities, including buildings, offices, desks, files or equipment, which includes any behavior that constitutes violation of the University's Key Policy.

(7) Behavior that constitutes a clear and present danger to an individual(s) or to one's self on University Premises.

(8) Stalking, defined as repeatedly contacting another person without a legitimate purpose when:

(a) The contacting person knows or should know that the contact is unwanted by the other person; and

(b) It is reasonable for the person in that situation to have been alarmed or coerced by the contact. As used in this subsection, "contacting" includes but is not limited to coming into the visual or physical presence of the other person; following another person; or sending written, electronic or telephonic communication of any form to the other person, personally or through a third party.

(9) Harassment which includes but is not limited to:

(a) Verbal or physical conduct by an individual based on another individual's age, ability, national origin, race, marital status, religion, sex or sexual orientation that interferes or prevents the person from conducting his or her usual affairs, puts the person in fear of his or her safety, or causes the person to suffer physical injury; or

(b) Conduct less than a physical attack or interference with a person, such as hazing or threatening action, which is intended to subject another person to offensive physical contact, physical injury, property damage, or cause physical impact, such as making threatening phone calls, sending or posting (electronically or otherwise) threatening letters, or the vandalism or misappropriation of a person's property.

(10) Sexual harassment, defined as unwanted and unwelcome sexual advances or requests for sexual favors and other verbal or physical conduct of a sexual nature where:

(a) Submission or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a University Sponsored Activity;

(b) Submission to or rejection of such conduct by an individual is used as a basis for academic or employment decisions affecting the individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating an intimidating, hostile or offensive educational or working environment.

(11) Sexual misconduct, defined as:

(a) Unwanted sexual conduct which includes but is not limited to the exposure of one's sexual organs or the display of sexual behavior that would be unreasonably offensive to others; or

(b) Unwanted sexual contact of any kind, or threat of such contact, including vaginal, oral or anal sex, touching the genitalia or causing a person to touch the genitalia of another. Sexual conduct or contact shall be considered "unwanted" if no Effective Consent is given or if the student knew or should have known that the person was incapable of giving Effective Consent by reason of mental or physical impairment, mental disorder, or mental incapacitation:

(A) "Effective Consent" is a voluntary, non-coerced and mutually understandable communication indicating a willingness to participate in a particular act.

(B) "Mental or physical impairment" refers to the victim's inability to understand the situation, understand the consequences of his/her choices, or to express his/her desires. This may include, but is not limited to being



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intoxicated, being under the influence of drugs, being unconscious, or other cognitive impairment.

(C) "Mental Disorder" means that the person has a diagnosable mental disease or disorder that limits the person's ability to make a knowing or voluntary decision.

(D) "Mental Incapacitation" means that a person is rendered incapable of determining his or her own conduct at the time of the alleged offense because of the influence of a controlled or other intoxicating substance.

(12) Tampering with the election of any student, student organization or group.

(13) Hazing, defined as conduct which subjects a person to bodily danger or physical harm or to the likelihood of bodily danger or physical harm, or to require, authorize or permit that the person be subjected to such conduct or act for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a student group or organization.

(14) Illegal use and abuse of alcohol and the use of illegal drugs which includes any behavior that constitutes a violation of the University Alcohol and Other Drugs Policy.

(15) Smoking in unauthorized areas.

(16) Public indecency, defined as exposing the genitals while in a public place or a place visible from a public place on University Premises.

(17) Failure to comply with a University Official's requests. Students and student organizations and groups are expected to comply with and respond appropriately to the lawful requests of University Officials made in the performance of their duties.

(18) Violation, or alleged violation, of any federal or state law or city or local ordinance when such violation interferes with, or is detrimental to, the mission of the University or interferes with other students' legitimate educational activities and interests. University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Code without regard to the pendency of civil or criminal litigation or criminal arrest and prosecution. Determinations made or sanctions imposed under this Code shall not be subject to change because criminal charges arising out of the same facts giving rise to a violation(s) were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

(19) Conviction of a felony or misdemeanor under circumstances where it is reasonable to conclude that the presence of the person at the University would constitute a danger to health, personal safety, or property or where the offense occurred on University Premises or at University Sponsored Activities.

(20) A violation of any sanctions imposed as a result of previous disciplinary proceedings under the Code.

(21) Abuse of the University conduct program as outlined in this Code, including but not limited to:

(a) Falsification, distortion or misrepresentation of information before any conduct body;

(b) Knowingly initiating any conduct proceedings without cause;

(c) Attempting to discourage an individual's participation in, or use of, any conduct system; or

(d) Influencing or attempting to influence another person to commit an abuse of any conduct system.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0137

### Procedures for Complaints Against Student Organizations or Groups

(1) Complaints submitted to the Office of Student Affairs (OSA) against a student organization or group will be referred to the University Official of the unit to which the group is most closely affiliated.

(2) The University Official serves as the Senior Conduct Officer's designee and follows the procedures outlined for Complaints Against Individuals as stated in Section 577-031-0140.

(3) The president, principal officer, contact person(s), or other students designated by the program, organization or group to act as agents on behalf of the program, organization or group shall be given reasonable notice of the charges and shall be afforded all procedural rights in accordance with the provisions of this Code. The president, principal officer, contact person(s), or group agent shall be required to represent the group at all applicable stages of the judicial program. Failure to cooperate or appear and represent the organization or group shall not delay the disposition of the matter.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: PSU 1-1994, f. & cert. ef. 1-10-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0140

### Procedures for Complaints Against Individuals

(1) Any person may submit a written complaint to OSA alleging that a student(s) or student organization or group has engaged in conduct proscribed by this Code. Any charge should be submitted as soon as possible after the event takes place, preferably within fourteen days of the event. The process cannot begin until the written complaint has been received.

(a) A "Complainant" is defined as any person submitting a written complaint to OSA alleging that a student(s), student organization or group has engaged in conduct proscribed by this Code.

(b) A "Respondent" is defined as any student who is alleged to have engaged in conduct proscribed by the Code.

(2) Within a reasonable time from the receipt of a complaint, the Senior Conduct Officer, will send electronic notice to the Respondent(s) (with reference to the specific section of this Code allegedly violated) alleged to have violated the Code. This notice will advise him or her of the allegations and request a meeting to investigate the matter to determine whether there are reasonable grounds to adjudicate the complaint. If the Respondent fails to appear for this investigational meeting, the Senior Conduct Officer will determine whether there are reasonable grounds to adjudicate the complaint in the Respondent's absence. Following this determination, the Senior Conduct Officer will adjudicate the complaint and send the Respondent written notice of the outcome.

(3) If reasonable grounds are not found, the Senior Conduct Officer, in his/her sole discretion, will refer the issue to mediation, dismiss the case, or dismiss the case with administrative counsel when warranted. In the event that the case is dismissed, the Senior Conduct Officer will notify the Complainant and the Respondent of this dismissal.

(4) If reasonable grounds are found, or if the Respondent accepts responsibility for the alleged conduct, the Respondent is informed of the alleged violation and of his or her option to have the complaint heard by the Senior Conduct Officer or the Committee. Once informed of this option, the Respondent has five (5) days to submit a written request for a hearing before the Committee. Failure to file a timely request for a hearing shall result in the loss of this option, and the Senior Conduct Officer will decide the matter in the Respondent's absence.

(5) If the Respondent chooses to have the Senior Conduct Officer hear the case, the Respondent will be given an opportunity to explain the alleged behavior and will be informed of the information supporting the charge. All hearings are closed and information presented in them and supporting documents are confidential except as required by law. The hearing is informal and does not follow administrative contested case or courtroom procedures.

(a) If the Respondent fails to meet with the Senior Conduct Officer, the Senior Conduct Officer will take decide the matter in the Respondent's absence. Failure to cooperate or appear shall not delay the disposition of the matter.

(b) The Respondent may bring a third party advisor of his/her choice to the hearing as long as the availability of the advisor does not interfere with the timeliness of the hearing. The Respondent will be expected to speak for him or her self at all times and may only use the advisor for consultation or support. The Respondent may elect to have an attorney serve as advisor. The University assumes no responsibility for any costs associated with such representation.

(c) The Respondent has the opportunity to offer information on his or her behalf and to review and respond to all information presented.

(d) The Senior Conduct Officer may ask questions of any person present during the hearing. The Senior Conduct Officer may invite questions and comments from advisors or others present.

(e) If the Senior Conduct Officer decides an essential person or piece of information is missing, the Senior Conduct Officer may decide to reconvene the hearing at the earliest practical time that the missing information will be available.

(f) The Senior Conduct Officer will determine, based upon a preponderance of the evidence (using a standard of "more likely than not"), whether a Code violation exists. Once that determination is made, the Senior Conduct Officer will send written notice to the Respondent articulating the determination of responsible or not for the alleged violation, subsequent sanction, if any imposed, and information about the Appeal Process.

(6) If the Respondent chooses to have the Student Conduct Committee (the Committee) hear the case, the Committee Chairperson facilitates the hearing procedures and has voting power in the case of a tie. The Senior Conduct Officer serves as an ex-officio consultant and ensures

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administrative support of the process. All Committee hearings are closed and information presented in them and supporting documents are confidential except as required by law. The hearing is informal and does not follow administrative contested case or courtroom procedures.

(a) If the Respondent fails to appear, the Committee will proceed with the hearing in the Respondent's absence. Failure to cooperate or appear shall not delay the disposition of the matter.

(b) The Respondent may bring a third party advisor of his/her choice to the hearing as long as the availability of the advisor does not interfere with the timeliness of the hearing. The Respondent will be expected to speak for him or her self at all times and may only use the advisor for consultation or support. The Respondent may elect to have an attorney serve as advisor. The University assumes no responsibility for any costs associated with such representation.

(c) The Respondent has the opportunity to offer information on his or her behalf and to review and respond to all information presented. Respondent

(d) Members of the Committee may ask questions of any person present during the hearing. The Chairperson may invite questions and comments from advisors or others present. If the Chairperson decides an essential person or piece of information is missing, the Chairperson may decide to reconvene the hearing at the earliest practical time that the missing information will be available.

(e) After the Chairperson has determined that all the necessary information has been presented and questions answered, the Committee goes into executive session and all persons are excused. The Committee determines, based on a preponderance of evidence (using a standard of "more likely than not"), whether a Code violation exists, and, if so, what sanctions may be appropriate. The Committee communicates the outcome of the hearing to the Respondent.

(7) The hearing process will make an effort to consider the rights and needs of the Complainant, if there is one, in decisions related to sanctions such as restitution.

(8) Pending resolution of a matter, the Respondent is entitled to all rights and privileges of a student in good standing. However, the Dean may suspend the Respondent or take other appropriate action upon a finding by clear and convincing evidence (using a standard of highly probable) that the Respondent's presence at the University constitutes a substantial threat to health, personal safety, or property. In cases where this determination is made, the Dean will notify the Respondent in writing of his/her interim action.

(9) Appeals of the decision of the Senior Conduct Officer or of the Committee shall be made to the Dean. This appeal must be in writing and filed within five (5) days following notification to the Respondent of the hearing's outcome. Sanctions will take effect upon expiration of the time period allocated for appeal. Similarly, notification of the outcome to additional individuals, as required by law and as necessary to implement the decision, will occur at this time.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 4-1987, f. 9-30-87, ef. 10-1-87; PSU 2-1988(Temp), f. & cert. ef. 3-15-88; PSU 4-1988, f. & cert. ef. 6-16-88; PSU 1-1994, f. & cert. ef. 1-10-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0141

### Special Procedures for Matters Involving Allegations of Sexual Assault

Although disciplinary matters are generally confidential, in cases involving sexual misconduct:

(1) The Complainant can be present during the proceedings and may be accompanied by a support person of the Complainant's choosing; and

(2) Both the Complainant and the Respondent shall be informed of the outcome of any conduct proceeding, insofar as the result pertains to the sexual misconduct charges.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0142

### Procedures for Complaints of Academic Dishonesty

(1) Course Instructors have the responsibility and purview to respond to academic dishonesty with students enrolled in their respective courses. Course Instructors may address academic dishonesty as follows: they may issue a zero or a failing grade for the assignment for which the dishonesty was found. Instructors may not remove a student from a course.

(2) Departments, programs, colleges, or schools may also address academic dishonesty in accordance with their respective policies and procedures. These entities are limited to the following academic sanctions:

(a) Issuing a zero or a failing grade for the assignment for which the dishonesty was found;

(b) Suspension from the department, program, college or school per the due process; and

(c) Expulsion from the department, program, college or school per the process proscribed by the respective entity.

(3) Any person may submit a written complaint to OSA alleging that a student(s) has engaged in academic dishonesty. Any charge should be submitted as soon as possible after the activity takes place, preferably within fourteen days of such activity.

(4) If the complaint is submitted by anyone other than the Course Instructor, the complaint is referred to the instructor of the course in which the alleged academic dishonesty occurred.

(5) If the complaint is submitted by the Course Instructor, he or she may indicate whether the complaint is submitted for further investigation or for documentation purposes only. Students will be notified in writing of any complaint submitted for documentation purposes only. This documented allegation does not constitute a finding of responsible for any violation of the Code. If the complaint is submitted for documentation purposes only, a conduct record is established and the Respondent is sent written notification to that effect. If more than one complaint of academic dishonesty is received for a student the procedures outlined in OAR 577-031-0140 (Procedures for Complaints Against Individuals) must be followed.

(6) Faculty submitting a complaint alleging academic dishonesty will be notified of the outcome of this complaint.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0143

### Appeals

(1) The Dean is the final appeals body and responds to any appeal of a decision made by the Senior Conduct Officer or the Committee. All appeals must be in writing and filed within five (5) days following notification to the Respondent of the hearing's outcome. A finding of responsible or not responsible may not be addressed as part of the appeal. If information is presented that indicates substantial rights of the Respondent were impacted due to errors in procedure or new information is available that was not available when the initial hearing occurred, the Dean may determine that the case should be heard again by the Committee or Senior Conduct Officer. The request for an appeal must include at least one of the following:

(a) Specific allegations of improper process that denied the Respondent a fair hearing; or

(b) Rationale for modifying sanctions imposed.

(2) If the Respondent who has submitted the appeal has been properly notified and fails to appear, the Dean will dismiss the appeal.

(3) During the appeal hearing, the student submitting the appeal may be accompanied by an advisor of the student's choice as long as the availability of this advisor does not interfere with the timeliness of the hearing. The student may elect to have an attorney serve as advisor. However, the advisor does not represent the student in the hearing and the student will be expected to speak for him or herself at all times.

(4) The student submitting the appeal has the opportunity to offer information and to review and respond to all information presented.

(5) The Senior Conduct Officer or the Chair of the Committee is present for the hearing and may offer information on behalf of the hearing and may respond to all information presented.

(6) The Dean may ask questions of any person present during the hearing. The Dean may invite questions and comments from advisors or others present. If the Dean decides an essential person or piece of information is missing, the Dean may decide to reconvene the hearing at the earliest practical time that the missing information will be available.

(7) After the Dean has determined that all the necessary information has been presented and questions answered, the appeals hearing will be closed. The Dean will determine, based on a preponderance of evidence, whether or not the appeal is warranted, and, if so, what subsequent actions may be appropriate.

(8) The Dean may dismiss the appeal, mandate that the case be heard again by the Committee/Senior Conduct Officer, or modify the sanction imposed.

(9) The Dean's decision will be in writing to the student with copies to the Senior Conduct Officer and/or Chair of the Committee.

(10) Pending resolution of an appeal, the student is entitled to all rights and privileges of a student in good standing except as provided in OAR 577-031-0140(6).

Stat. Auth.: ORS 351

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Stats. Implemented: ORS 351.070  
Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0145

### Sanctions

Students or student groups and organizations whose behavior violates this Code may be subject to one or more of the following sanctions:

(1) Mediation. Participation in a facilitated discussion with the Complainant.

(2) Assessments. Completion of an evaluation(s) and following the recommendations of a qualified professional for treatment and/or education.

(3) Restitution. Those responsible may be required to make monetary restitution, return any stolen or misappropriated property, or provide services to the University or a Member of the University Community in accordance with the nature of the violation and in an amount not to exceed the actual expenses, damages, or losses incurred.

(4) Educational Assignment. Complete specific assignments or render a designated number of hours of specified service to the University or the community.

(5) Reprimand. Written notice that the conduct in which the student(s) engaged is inconsistent with the requirements of the Code and that the student is reprimanded for that conduct. Such notice will also indicate that future violations of the Code may result in the imposition of additional sanctions.

(6) Disciplinary Probation. Constitutes a period of time during which additional violations of the Code will result in sanctions of increased severity. Upon expiration of the period of probation and fulfillment of other sanctions imposed, if any, the student's disciplinary probation will be lifted.

(7) Loss of Privileges. Denied specific privileges normally associated with student status, such as participation in recognized activities or use of University facilities or services.

(8) No Contact. An order of "no contact" with another student, faculty member, staff or University Official. In this case, students may be required to organize their on-campus activities in order to avoid contact with designated individuals.

(9) Suspension. Loss of the right to be a student at the University for a specific period of time. Suspended students are not eligible for the privileges and services provided to currently enrolled students, including but not limited to residing in University-owned student housing, registering, attending class, or using other University services or facilities. The suspension may be specified for any length of time.

(a) If a student is suspended, fees will be refunded in accordance with the refund schedule adopted by the Oregon State Board of Higher Education.

(b) The conditions of suspension take effect immediately after the student has been informed of the decision and the time limit for an appeal has expired. If an appeal is filed, the imposition of the suspension will be stayed until the conclusion of the appeal process. The pending conduct hearing or appeal may result in suspension, award of the academic degree sought will be postponed pending the outcome of the hearing.

(c) Upon expiration of the period of suspension the student must submit in writing to the Senior Conduct Officer a request for the suspension to be lifted. The request should include a description of the student's activities since the suspension went into effect. If the Senior Conduct Officer certifies that all the terms of the suspension have been met and the suspension lifted, the student may register for courses through the regular process. The student's registration at this time shall be contingent on the completion and/or satisfaction of all sanctions and satisfaction of general admission and registration requirements.

(d) A notation of "Disciplinary Suspension" is entered on the student's transcript for the duration of the suspension. After the suspension period is complete and all other conditions, if any, have been satisfied, the Senior Conduct Officer will notify the Registrar's Office to lift the Registration Hold, and the notation will be removed from the transcript.

(10) Negative Notation on Transcript. Entry of information onto the student's permanent academic record regarding his or her violation of the Code and subsequent sanction. The entry may be permanent or temporary. If the notation is temporary, after the expiration of the period of time specified, the notation will be removed upon written request by the student to OSA. If the notation is permanent, "Permanent Negative Notation" on transcript will remain on the Respondent's transcript indefinitely.

(11) Expulsion. Permanent suspension from the University. (See Section (8) of this Rule). A permanent notation is entered on the transcript: "Permanently expelled for effective".

(12) Degree Revocation. A former student may have his/her degree revoked if the student is found to have engaged in academic dishonesty in courses taken leading to a degree that, if known at the time the degree was awarded, would have made the student unqualified for the degree.

(13) Registration Hold. Students who do not complete assigned sanctions within the time provided will be prevented from registering for classes until completion of those sanctions.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 4-1987, f. 9-30-87, ef. 10-1-87; PSU 1-1994, f. & cert. ef. 1-10-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0146

### Types of Sanctions for Student Organization or Group Conduct

A student organization or group is subject to the appropriate disciplinary sanctions outlined in OAR 577-031-0145, including the temporary or permanent suspension of the organization's or group's official University recognition.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0147

### Records

(1) All complaints involve the creation of a conduct record for the student or organization or group alleged to have violated the Code. These records are confidential and accessible only to the Respondent and appropriate University Officials and other entities as required by law.

(2) A Suspension or Expulsion will be permanently noted in a student's general academic record maintained by the Office of Admissions, Records and Registration by means of a notation, which indicates the reason for the action. The student may include in the record a response to the action taken by the University.

(3) A copy of conduct records for cases in which the sanction is Expulsion, Degree Revocation, or permanent Negative Notation on the Transcript are retained indefinitely. A copy of conduct records for cases involving suspension are retained for ten (10) years. A copy of cases in which a lesser sanction is issued are retained for seven (7) years as required by applicable law.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

## 577-031-0148

### Interpretation and Revision

(1) Any question of interpretation regarding the Code shall be referred to the Vice Provost for Student Affairs or his/her designee for final determination.

(2) The Code should be reviewed every three years or as needed.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06

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**Rule Caption:** Minor adjustment to the 06-07 Schedule of Fines and Fees.

**Adm. Order No.:** PSU 5-2006(Temp)

**Filed with Sec. of State:** 8-30-2006

**Certified to be Effective:** 8-30-06 thru 1-31-07

**Notice Publication Date:**

**Rules Amended:** 577-060-0020

**Subject:** The proposed amendment adjusts the Schedule of Fines and Fees for the 06-07 academic year to reflect policy changes and PSU initiatives such as that which was produced by the PSU Sustainability Paper Task Force. This revised Schedule of Fines and Fees is hereby adopted by reference by Portland State University. A copy of the Schedule is available from the Business Affairs Office at Portland State University.

**Rules Coordinator:** Jeremy Randall Dalton—(503) 725-3701

## 577-060-0020

### Schedule of Fees for General Services and Other Charges

The Schedule of Fees for General Services and Other Charges for the 2006-2007 Fiscal Year are hereby adopted by reference by Portland State University.

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

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360



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Hist.: PSU 16(Temp), f. 8-24-77, ef. 9-1-77; PSU 18, f. & ef. 10-4-77; PSU 19(Temp), f. & ef. 10-11-77; PSU 20, f. & ef. 11-18-77; PSU 3-1978(Temp), f. 6-19-78, ef. 7-1-78; PSU 7-1978, f. & ef. 9-5-78; PSU 1-1979, f. & ef. 9-17-79; PSU 3-1980, f. & ef. 9-4-80; PSU 2-1981, f. & ef. 9-10-81; PSU 3-1982, f. & ef. 9-3-82; PSU 1-1983, f. & ef. 2-8-83; PSU 2-1983, f. 6-22-83, ef. 7-1-83; PSU 1-1984, f. 6-8-84, ef. 7-1-84; PSU 1-1985, f. 6-26-85, f. 7-1-85; PSU 1-1986, f. 6-25-86, ef. 7-1-86; PSU 1-1987, f. 6-19-87, ef. 7-1-87; PSU 3-1987(Temp), f. & ef. 8-11-87; PSU 5-1987, f. & ef. 10-27-87; PSU 5-1988, f. & cert. ef. 7-18-88; PSU 7-1988(Temp), f. & cert. ef. 11-29-88; PSU 3-1989, f. & cert. ef. 7-26-89; PSU 5-1990, f. & cert. ef. 7-5-90; PSU 2-1991(Temp), f. & cert. ef. 6-28-91; PSU 3-1991, f. & cert. ef. 8-7-91; PSU 4-1991(Temp), f. & cert. ef. 12-4-91; PSU 1-1992, f. & cert. ef. 1-17-92; PSU 2-1992, f. & cert. ef. 6-16-92 (and corrected 6-19-92); PSU 1-1993, f. & cert. ef. 6-11-93; PSU 2-1993(Temp), f. & cert. ef. 7-13-93; PSU 3-1993(Temp), f. & cert. ef. 7-30-93; PSU 4-1994, f. & cert. ef. 11-3-94; PSU 1-1995, f. & cert. ef. 8-9-95; PSU 1-1996(Temp), f. 1-18-96, cert. ef. 3-1-96; PSU 3-1996, f. & cert. ef. 6-27-96; PSU 1-1997, f. & cert. ef. 8-1-97; PSU 4-1998, f. & cert. ef. 9-17-98; PSU 4-1999, f. & cert. ef. 8-11-99; PSU 2-2000, f. & cert. ef. 8-1-00; PSU 1-2001, f. & cert. ef. 8-14-01; PSU 2-2003, f. 6-27-03, cert. ef. 7-1-03; PSU 4-2003(Temp), f. & cert. ef. 11-18-03 thru 5-14-04; PSU 1-2004, f. & cert. ef. 8-20-04; PSU 1-2005(Temp), f. & cert. ef. 7-15-05 thru 12-28-05; PSU 3-2005, f. & cert. ef. 12-13-05; PSU 2-2006, f. & cert. ef. 6-30-06; PSU 5-2006(Temp), f. & cert. ef. 8-30-06 thru 1-31-07

## Oregon University System, University of Oregon Chapter 571

**Rule Caption:** Updates the immunization policy at the recommendations of the Center for Disease Control and Prevention.

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

**Filed with Sec. of State:** 8-29-2006

**Certified to be Effective:** 9-1-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 571-004-0016

**Subject:** The University of Oregon requires that all entering students eligible for services at the University Health Center demonstrate evidence of immunity to measles and mumps. This amendment will require entering students to have documentation of two doses of MMR (Measles/Mumps/Rubella) vaccine.

**Rules Coordinator:** Connie Tapp—(541) 346-3082

### 571-004-0016

#### Required Immunization

(1) All individuals born after December 31, 1956 and who enter the University of Oregon after this rule is promulgated, must show proof of two measles and mumps vaccinations:

(a) Students will not be permitted to register for a second term without proof of measles and mumps immunization, consistent with the requirements of this rule, on record at the Student Health Center;

(b) After the beginning of a term, registered students may be vaccinated at the Student Health Center for a charge.

(2) Acceptable evidence of immunity to measles and mumps shall consist of one of the following for each disease:

(a) Documentation of two doses of MMR (Measles/Mumps/Rubella) vaccine with the first dose on or after their first birthday and the second dose no less than 28 days following the first. Documentation of immunization must consist of an official immunization record or be signed by a health care provider to meet this requirement;

(b) Physician-documented measles and mumps infection. A letter or other documentation signed by a health care provider is required to meet this requirement;

(c) Documented laboratory evidence of immunity to measles and mumps; or

(d) Birth prior to January 1, 1957.

(3) Notwithstanding any other provision of this rule, beginning September 1, 2007, for students who are attending the University of Oregon pursuant to a non-immigrant visa, documentation of measles and mumps vaccination must be provided prior to the student attending classes. If the student's first dose of measles and mumps vaccine was received less than 30 days prior to attendance, the student has until the beginning of the second term or semester to provide documentation of the second dose.

(4) Students seeking exemption from this requirement because of age, medical condition, or sincerely held religious belief shall complete and present to the designated Student Health Center official an exemption form. Forms are available at no cost upon request at the Student Health Center main desk. Forms also will be available during registration.

(5) Students without evidence of immunity to measles or mumps may be excluded from classes and other university activities in the event of an outbreak of measles or mumps involving University of Oregon students and/or staff.

Stat. Auth.: ORS 351 & 352  
Stats. Implemented: ORS 351.070

Hist.: UOO 2-1991, f. & cert. ef. 1-30-91; UO 2-2006, f. 8-29-06, cert. ef. 9-1-06

## 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.

**Adm. Order No.:** PRD 5-2006

**Filed with Sec. of State:** 9-15-2006

**Certified to be Effective:** 10-1-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 736-018-0045

**Subject:** 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, the OPRD Director is adopting a master plan for Thompson's Mills State Heritage Site. The master plan is titled "Thompson's Mills State Heritage Site Master Plan." 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, recreation user groups, and affected state and federal agencies and local governments.

**Rules Coordinator:** Pamela Berger—(503) 986-0719

### 736-018-0045

#### Adopted State Park Master Plan Documents

(1) The following state park master plan documents have been adopted and incorporated by reference into this division:

(a) Fort Stevens State Park Master Plan, as amended in 2001;

(b) Cape Lookout State Park;

(c) Cape Kiwanda State Park, renamed as Cape Kiwanda State Natural Area;

(d) Nestucca Spit State Park, renamed as Robert Straub State Park;

(e) Jessie M. Honeyman State Park;

(f) Columbia Gorge Management Unit Master Plan, including: Rocky Butte State Scenic Corridor, Lewis and Clark State Recreation Site, Dabney State Recreation Area, Portland Womens' Forum State Scenic Viewpoint, Crown Point State Scenic Corridor, Guy W. Talbot State Park, George W. Joseph State Natural Area, Rooster Rock State Park, Shepperd's Dell State Natural Area, Bridal Veil Falls State Scenic Viewpoint, Dalton Point State Recreation Site, Benson State Recreation Area, Ainsworth State Park, McLoughlin State Natural Area, John B. Yeon State Scenic Corridor, Bonneville State Scenic Corridor, Sheridan State Scenic Corridor, Lang Forest State Scenic Corridor, Lindsey Creek State Scenic Corridor, Starvation Creek State Park, Viento State Park, Wycant State Natural Area, Vinzenz Lausman Memorial State Natural Area, Seneca Fouts Memorial State Natural Area, Koberg Beach State Recreation Site, Memaloose State Park, and Mayer State Park;

(g) Molalla River State Park;

(h) Champoeg State Park;

(i) Willamette Mission State Park;

(j) Cascadia State Park;

(k) Willamette River Middle Fork State Parks Master Plan, 2006, including: Elijah Bristow State Park; Jasper State Recreation Site; Pengra Access; Dexter State Recreation Site; Lowell State Recreation Site; and the parks that comprise the Fall Creek State Recreation Area, including Winberry Park, North Shore Park, Sky Camp, Cascara Campground, Fisherman's Point Group Camp, Free Meadow, Lakeside 1 and Lakeside 2;

(l) Cove Palisades State Park Master Plan, as amended in 2002;

(m) Silver Falls State Park Master Plan, as amended in 1999;

(n) Curry County State Parks Master Plan, including: Floras Lake State Park, renamed as Floras Lake State Natural Area; Cape Blanco State Park; Paradise Point Ocean Wayside, renamed as Paradise Point State Recreation Site; Port Orford Heads Wayside, renamed as Port Orford Heads State Park; Humbug Mountain State Park; Otter Point Wayside, renamed as Otter Point State Recreation Site; Cape Sebastian State Park, renamed as Cape Sebastian State Scenic Corridor; Otter Point Wayside; Port Orford Cedar Forest Wayside, renamed as Port Orford Cedar Forest State Scenic Corridor; and Buena Vista Ocean Wayside; Pistol River State Scenic

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Winberry Park, North Shore Park, Sky Camp, Cascara Campground, Fisherman's Point Group Camp, Free Meadow, Lakeside 1 and Lakeside 2;

(l) Cove Palisades State Park Master Plan, as amended in 2002;

(m) Silver Falls State Park Master Plan, as amended in 1999;

(n) Curry County State Parks Master Plan, including: Floras Lake State Park, renamed as Floras Lake State Natural Area; Cape Blanco State Park; Paradise Point Ocean Wayside, renamed as Paradise Point State Recreation Site; Port Orford Heads Wayside, renamed as Port Orford Heads State Park; Humbug Mountain State Park; Otter Point Wayside, renamed as Otter Point State Recreation Site; Cape Sebastian State Park, renamed as Cape Sebastian State Scenic Corridor; Otter Point Wayside; Port Orford Cedar Forest Wayside, renamed as Port Orford Cedar Forest State Scenic Corridor; and Buena Vista Ocean Wayside; Pistol River State Scenic Viewpoint; Samuel H. Boardman State Scenic Corridor; Harris Beach State Recreation Area; McVay State Recreation Site; Winchuck State Recreation Site; Crissey Field State Recreation Site; Alfred A. Loeb State Park;

(o) Hat Rock State Park Master Plan, renamed as Hat Rock State Recreation Area;

(p) Deschutes County State Parks, including: La Pine and Tumalo State Parks; Cline Falls, renamed as Cline Falls State Scenic Viewpoint; and Pilot Butte, renamed as Pilot Butte State Scenic Viewpoint;

(q) Sunset Bay District Parks, including: Umpqua Lighthouse State Park (this chapter was replaced by the Umpqua Lighthouse State Park Master Plan, 2004); William M. Tugman State Park; Yoakam Point State Park, renamed as Yoakam Point State Natural Site; Sunset Bay State Park; Shore Acres State Park; and Cape Arago State Park;

(r) Bullards Beach District Parks, including: Seven Devils State Wayside, renamed as Seven Devils State Recreation Site; Bullards Beach State Park; Bandon Ocean Wayside, renamed as Face Rock State Scenic Viewpoint; and Bandon State Park, renamed as Bandon State Natural Area;

(s) Tillamook County Coastal State Parks, including: Oswald West State Park; Nehalem Bay State Park; Cape Meares State Park, renamed as Cape Meares State Scenic Viewpoint; Neahkanie-Manzanita State Wayside, renamed as Neahkanie-Manzanita State Recreation Site; Manhattan Beach State Wayside, renamed as Manhattan Beach State Recreation Site; Rockaway Beach State Wayside, renamed as Rockaway Beach State Recreation Site; Twin Rocks State Wayside, renamed as Twin Rocks State Natural Site; Oceanside Beach State Wayside, renamed as Oceanside Beach State Recreation Site; and Neskowin Beach State Wayside, renamed as Neskowin Beach State Recreation Site;

(t) Beverly Beach District Parks South, including: Boiler Bay State Park, renamed as Boiler Bay State Scenic Viewpoint; Rocky Creek State Wayside, renamed as Rocky Creek State Scenic Viewpoint; Otter Crest State Wayside, renamed as Otter Crest State Scenic Viewpoint; Devil's Punchbowl State Park, renamed as Devil's Punchbowl State Natural Area; Beverly Beach State Park; Agate Beach State Wayside, renamed as Agate Beach State Recreation Site; and Ellmaker State Park, renamed as Ellmaker State Wayside;

(u) Smith Rock State Park;

(v) Collier District Parks, including: Booth State Wayside, renamed as Booth State Scenic Corridor; Chandler State Wayside; Collier Memorial State Park; Goose Lake State Recreation Area; Jackson F. Kimball State Park, renamed as Jackson F. Kimball State Recreation Site; and Klamath Falls-Lakeview Forest Wayside, renamed as Klamath Falls-Lakeview Forest State Scenic Corridor;

(w) Banks-Vernonia State Park, renamed as Banks-Vernonia State Trail;

(x) Sumpter Valley Dredge State Park, renamed as Sumpter Valley Dredge State Heritage Area;

(y) Illinois River Forks State Park;

(z) Wallowa County State Parks Master Plan, 2000;

(aa) L.L. "Stub" Stewart Memorial State Park Master Plan, 2005;

(bb) Master Plan for Clay Myers State Natural Area at Whalen Island, 2003;

(cc) South Beach State Park Master Plan, 2003;

(dd) Prineville Reservoir Resource Management Plan/Master Plan, 2003;

(ee) Detroit Lake State Park Master Plan, 2002;

(ff) Umpqua Lighthouse State Park Master Plan, 2004; and

(gg) Fort Yamhill State Heritage Area Master Plan, 2004;

(hh) Thompson's Mills State Heritage Site Master Plan, 2006.

(2) The master plan documents which have been incorporated by reference into this division are available from the State Parks and Recreation Department, 725 Summer Street NE, Suite C, Salem OR 97301.

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

Stat. Auth.: ORS 390.180(1)(c)

Stats. Implemented: ORS 390.180(1)(c)

Hist.: PRD 9-1998, f. 7-29-98, cert. ef. 7-31-98; PRD 4-1999, f. & cert. ef. 5-14-99; PRD 9-2000, f. 6-14-00, cert. ef. 7-1-00; PRD 1-2001, f. & cert. ef. 2-1-01; PRD 5-2001, f. & cert. ef. 6-29-01; PRD 6-2001, f. & cert. ef. 9-6-01; PRD 3-2002, f. & cert. ef. 3-22-02; PRD 2-2003, f. & cert. ef. 2-27-03; PRD 3-2003, f. & cert. ef. 2-27-03; PRD 5-2003, f. & cert. ef. 7-8-03; PRD 9-2003, f. & cert. ef. 10-13-03; PRD 11-2003, f. & cert. ef. 11-7-03; PRD 7-2004, f. & cert. ef. 5-14-04; PRD 9-2004, f. & cert. ef. 6-14-04; PRD 1-2005, f. & cert. ef. 2-4-05; PRD 3-2005, f. & cert. ef. 5-4-05; PRD 4-2006, f. 7-14-06, cert. ef. 7-14-06; PRD 5-2006, f. 9-15-06, cert. ef. 10-1-06

## \*\*\*\*\* Racing Commission Chapter 462

**Rule Caption:** Provides rule for new type of wager.

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

**Filed with Sec. of State:** 8-24-2006

**Certified to be Effective:** 8-24-06

**Notice Publication Date:** 7-1-06

**Rules Adopted:** 462-200-0650

**Subject:** The Choose (n) is a form of pari-mutuel wagering in which each person placing the wager attempts to select the winner of (n) races but chooses the races at his/her own discretion from a group of races established by the licensee instead of having the races designed for him/her by the licensee.

**Rules Coordinator:** Carol N. Morgan—(971) 673-0208

### 462-200-0650

#### Choose (n) Rules

(1) The Choose (n) is a form of pari-mutuel wagering. Each bettor attempts to select the winner of (n) races but chooses the races at his own discretion from a group of races established by the licensee instead of having the races designated for him by the licensee. The races need not be consecutive and the ticket's first race may begin at any time provided that there are an equal number of races left within the designated group to meet the necessary number of races for the wager. The licensee must obtain written approval from the Commission concerning the scheduling of Choose (n) contests and the amount of any cap to be set on the carryover. Any changes to the approved Choose (n) format require prior approval from the Commission.

(2) The Choose (n) pool shall be held separately from all other pools and is in no way part of a daily double, exacta, trifecta or any other wagering pool. The Choose (n) is a pool wherein the bettor is required to select any (n) winning horses from that particular group of races and is not a parlay.

(3) Choose (n) tickets shall be sold in denominations as determined by the licensee. No less than or no more than the (n) races will comprise a Choose (n) ticket.

(4) Races in which Choose (n) wagering is permitted shall be approved by the Commission. Some races may be closed to Choose (n) wagering at the discretion of the licensee. The Choose (n) pool shall close after each race but shall reopen with respect to subsequent races that have not yet been run provided that there are at least as many races remaining as required to be selected on a winning Choose (n) ticket.

(5) The design of the Choose (n) tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(6) Those horses constituting an entry or field, as defined within the rules and regulations of the Commission, shall race in any Choose (n) race as a single wagering interest for purposes of the Choose (n) pool calculations. A scratch after wagering has begun of any part of the entry or field selection in a race shall be of no effect with respect to the status of such entry and/or field as a viable wagering interest.

(7) At any time after wagering begins on the Choose (n), should a horse, entire betting entry or field be scratched or declared a non-starter in any Choose (n) race, no further tickets selecting such horses, entry or field shall be issued, and wagers upon such horse, entry or field for purposes of the Choose (n) shall be deemed wagers upon the horse, entry or field on which the most money has been wagered in the win pool at the close of win betting for such race. In the event of a tie, the horse, entry or field with the lowest program number shall be designated.

(8) In the event of a dead heat for win between two or more horses in any of the Choose (n) races, all such horses shall be considered as the winning horse for the purpose of distributing the Choose (n) pool.

(9) The Choose (n) pool shall be calculated as follows:

(a) 100% of the net amount in the Choose (n) pool subject to distribution among winning ticket holders shall be distributed among holders of

# ADMINISTRATIVE RULES

Choose (n) tickets which have correctly selected the winner of the (n) races comprising the Choose (n).

(b) In the event there is no Choose (n) ticket which correctly designates the winner of the (n) winners that make up the Choose (n), 25% of that racing date's net amount available for distribution shall be distributed among the holders of Choose (n) tickets correctly designating the most winning selections of the races that comprise the Choose (n), and the remaining 75% of said pool shall be carried over and added to the pool on the next day that the wager is conducted.

(c) If, on the last day on which the Choose (n) is conducted at a horse race meeting, no one selects the winning horse in (n) races, the total amount of the Choose (n) pool which exists on that day shall be paid to the bettor or bettors selecting the largest number of winning horses in those races. In no event shall any part of the pool be carried over to the next year's race meeting.

(10) When the condition of the turf course warrants a change of racing surface in any of the races open to Choose (n) wagering, and such change has not been made known to the betting public prior to the close of wagering for the first Choose (n) race, the Stewards shall declare the changed races a "no contest" for Choose (n) wagering purposes and the pool shall be distributed in accordance with subsection (11). Following the designation of a race as a "no contest", no tickets shall be sold selecting a horse in such "no contest" race.

(11) If, for any reason, one or more races are cancelled or declared a "no contest", the Choose (n) pool shall be paid using the following formula, or an alternative formula developed by the licensee and made available to the public (the following formula assumes a Choose 6 pool):

(a) Any race that has been cancelled or declared a "no contest" shall not be considered a contested race for Choose 6 purposes.

(b) Any ticket, regardless of its starting point, that has not completed at least four contested legs will be refunded.

(c) In the event that only 4 Choose 6 races have been contested: 100% of that day's net pool (not including any carryover), after refunds (the "Daily Pool"), shall be paid to tickets with 4 wins.

(d) In the event that only 5 Choose 6 races have been contested: 75% of the Daily Pool shall be paid to tickets with 5 wins and 25% of the Daily Pool shall be paid to tickets with 4 wins, no losses, and selections in two non-contested races.

(e) In the event that at least 6 races have been contested for the Choose 6 and two or more races have not been contested: 75% of the Daily Pool plus any carryover shall be paid to tickets with 6 wins, 18.75% of the Daily Pool to tickets with 5 wins and a selection in a non-contested race, and 6.25% of the Daily Pool to tickets with 4 wins and selections in two non-contested races. If no ticket has 6 wins, 50% of the Daily Pool shall be paid to tickets with 5 wins and a selection in a non-contested race, 25% of the Daily Pool to tickets with 4 wins and selections in two non-contested races, and 25% of the Daily Pool to tickets with 5 wins and 1 loss.

(f) In the event that at least 6 races have been contested for the Choose 6 and one race has not been contested: 75% of the Daily Pool plus any carryover shall be paid to tickets with 6 wins and 25% of the Daily Pool to tickets with 5 wins and a selection in the non-contested race. If no ticket has 6 wins, 75% of the Daily Pool shall be paid to tickets with 5 wins and a selection in the non-contested race and 25% of the Daily Pool to tickets with 5 wins and 1 loss.

(g) In the event that there is no payable ticket in a category within any of these subsections, that portion of the Daily Pool will be divided equally between the other categories within that subsection. In the event that there is no payable ticket within a subsection, the entire Daily Pool shall be carried over and added to the pool on the next day that wagering is conducted.

(12) The Choose (n) carryover may be capped at a designated level approved by the Commission so that if, at the close of any day of designated races, the amount in the Choose (n) carryover equals or exceeds the designated cap, the Choose (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the Choose (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Choose (n) carryover, shall be distributed to those whose selection finished first in the greatest number of Choose (n) contests for that day of designated races.

(13) A written request for permission to distribute the Choose (n) carryover on a specific day of designated races may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and day of designated races for the distribution.

(14) Should the Choose (n) carryover be designated for distribution on a specified date and day of designated races in which there are no wagers

with (n) wins, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Choose (n) contests. The Choose (n) carryover shall be designated for distribution on a specified date and day of designated races only under the following circumstances:

(a) Upon written approval from the Commission as provided in subsection (n) of this rule.

(b) Upon written approval from the Commission when there is a change in the carryover cap, a change from one type of Choose (n) wagering to another, or when the Choose (n) is discontinued.

(c) On the closing day of the designated races.

(15) If, for any reason, the Choose (n) carryover must be held over to the corresponding Choose (n) pool of a future group of designated races, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Choose (n) carryover plus accrued interest shall then be added to the net Choose (n) pool of the day's group of designated races so designated by the Commission.

(16) With the written approval of the Commission, the association may contribute to the Choose (n) carryover a sum of money up to the amount of any designated cap.

(17) Providing information to any an individual regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data. The licensee shall be permitted to provide information regarding number of tickets sold and number of live tickets remaining to the wagering public.

(18) The licensee may suspend previously approved Choose (n) wagering with the prior approval of the Commission. Any carryover shall be held until the suspended Choose (n) wagering is reinstated. A licensee may request approval of a Choose (n) wager or separate wagering pool for specific performances.

(19) Should circumstances occur which are not addressed by these rules, questions arising thereby shall be resolved in accordance with general pari-mutuel practice. Decisions regarding distribution of the Choose (n) pool made by the Executive Director or his/her designee shall be final.

Stat. Auth.: ORS 462.270(3)  
Stats. Implemented: ORS 462.270(3)  
Hist.: RC 1-2006, f. & cert. ef. 8-24-06

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**Real Estate Agency**  
**Chapter 863**

**Rule Caption:** Property management recordkeeping; storage of records; production of records.

**Adm. Order No.:** REA 2-2006(Temp)

**Filed with Sec. of State:** 9-11-2006

**Certified to be Effective:** 9-15-06 thru 3-12-07

**Notice Publication Date:**

**Rules Adopted:** 863-025-0080

**Rules Amended:** 863-025-0005, 863-025-0025, 863-025-0035, 863-025-0040, 863-025-0045

**Subject:** This rulemaking minimizes the current significant fiscal impact of printing and storing records; reflects the current use of electronic transactions and recordkeeping; allows for off-site storage of records; eliminates specific methods of recordkeeping; places the burden of producing all required records in a timely manner on the property manager; and provides the Real Estate Agency the ability to perform efficient audits in a timely manner. The property management rules affect approximately 6,750 property management clients' trust accounts.

**Rules Coordinator:** Laurie Skillman—(503) 378-4170 x 237

**863-025-0005**

**Application and Purpose**

(1) OAR 863-025-0010 to 863-025-0080 apply to the activities of a real estate property manager in the management of rental real estate.

(2) The purposes of OAR 863-025-0010 to 863-025-0080 are:

(a) To specify requirements for the management of rental real estate as defined in ORS 696.010(9);

(b) To protect owners and tenants of rental real estate; and

(c) To make the real estate property manager responsible for establishing a system of recordkeeping that



# ADMINISTRATIVE RULES

(A) Provides the Agency with access to the records of the real estate property manager, and

(B) Complies with OAR 863-025-0010 to 863-025-0080 and ORS chapter 696.

(3) The goal of the Agency is to encourage real estate property managers to comply with the applicable statutes and rules through education and, if necessary, through the use of progressive discipline as defined in OAR 863-015-0230.

(4) Section (3) of this rule does not limit the Agency's authority to reprimand, suspend or revoke a real estate property manager license under ORS 696.301.

Stat. Auth.: ORS 183.335 & 696.385

Stats. Implemented: ORS 696.361

Hist.: REA 3-1987, f. 12-3-87, ef. 1-1-88; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02,

Renumbered from 863-010-0207; REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07

## 863-025-0025

### Property Management Client Trust Account Requirements

(1) A property manager shall open and maintain at least one clients' trust account under ORS 696.241 for the deposit of funds received on behalf of owners of property managed under property management agreements. This account shall be labeled "Clients' Trust Account." A property manager, at his or her discretion, may include additional identifying language. All funds accepted by any property manager by or on behalf of tenants under a property management agreement shall be placed in a clients' trust account. A property manager shall be an authorized signer on each client's trust account utilized in the manager's licensed activity and shall control the receipts and disbursements on each account. Preprinted checks used to disburse funds from a clients' trust account shall be pre-numbered and bear the words "Clients' Trust Account" upon the face of the checks. Checks generated or filled in by a computer in use by the property manager shall be printed on prenumbered check blanks or shall be numbered consecutively as they are generated or filled in by the computer. A property manager shall account for all checks, including but not limited to voided checks, as part of the records maintained by the property manager.

(2) A property manager accepting security deposits on behalf of an owner shall establish a separate clients' trust account labeled "Clients' Trust Account — Security Deposits." A property manager, at its discretion, may include additional identifying language. When the Property Management Agreement and the applicable lease or rental agreement provide that the security deposit shall be transferred to the owner, the funds may be deposited in the Clients' Trust Account for the property (instead of the Clients' Trust Account — Security Deposits), and then disbursed to the owner in the accounting period in which they are received upon availability of funds.

(3) Financial dealings by a property manager under a property management agreement shall comply with the following:

(a) A property manager shall not execute or issue a check from the clients' trust account prior to the existence of a sufficient credit balance to cover the check in the owner's ledger or tenant's ledger account against which the check is executed or issued.

(b) When the computer fills in or generates checks and check copies, all check stock and check copies must be consecutively pre-numbered or, if unnumbered check stock is used, the computer must continually and consecutively number the checks as generated. The account number shall appear in the magnetic coding on the check face to identify the account number for reading by the bank's computerized accounting system.

(c) A property manager may transfer funds between the owners' ledger account of two or more different owners only with a prior written and dated agreement signed by the affected owners who are authorizing the transfer. The agreement shall be separate from the property management agreements of the owners and include the terms of repayment and collection and any interest to be paid by the borrowing owner. The property manager shall have a separate agreement for each transfer between owners. The transfer shall be accomplished by the writing of billings and receipts as evidence of the charging and crediting of the appropriate owners' ledger accounts. The property manager shall give to each owner a separate monthly accounting on the transfer or include the accounting in the regular monthly report to the owner. At the time of the transfer the property manager must enter the transfer information on each affected owners' ledger account, including but not limited to the amount of the transfer, date of the transfer and the source of the transferred funds;

(d) A property manager may only transfer funds between two or more ledger accounts maintained for the same owner with the prior written approval of the owner. The owner's prior approval may be granted as a part of the property management agreement. At the time of the transfer the property manager shall enter the transfer information in each affected owners'

ledger account, including but not limited to the amount of the transfer, date of the transfer and the source of the transferred funds;

(e) A property manager shall not withdraw, pay or transfer funds for payment of generally authorized expenses from an owners' ledger account in excess of the actual credit balance of the account. This credit balance shall not include the amount of the tenant's conditionally refundable deposits being held at the time of the withdrawal, payment or transfer of funds.

(f) If sufficient funds are available, a property manager shall withdraw earned management fees from the appropriate client's trust account at least once each month, unless otherwise provided in the owner's property management agreement. The records journal or register and ledger entries for payment of fees from the client trust account shall include the date, the amount of the management fees withdrawn, the check number, the owner's ledger account number or identifying owner code. Property management fees are considered earned and may be withdrawn when the monthly or other periodic cycle represented by the fees being withdrawn has been completed. The monthly cycle can begin and end on a stipulated date every month, as long as the date is consistent from month to month.

(g) No disbursement from a clients' trust account shall be made by a property manager based upon a wire or electronic transfer deposited into the clients' trust account, until the deposit has been verified by the property manager. The property manager shall arrange with the account depository and other entities for written verification of when funds are received or disbursed by wire or electronic transfer. A property manager shall post receipt and disbursement of funds by wire or electronic transfer in the same manner as other receipts and disbursements;

(h) Upon request by the Commissioner or an authorized representative of the Commissioner, a property manager shall demonstrate that a sufficient credit balance existed in an owner's ledger account at the time of executing or issuing a check on behalf of the owner by producing financial records showing that the disbursement of these funds did not involve the use of any other client's trust funds deposited into a clients' trust account and credited to any other owner's ledger account.

(i) A property manager shall not utilize any form of debit card issued by financial institutions on Client Trust Accounts.

(4) If a property manager maintains a separate clients' trust account for a property management agreement involving one owner only, the property manager may maintain either a receipts and disbursement journal or an owner's ledger, rather than both such journal and ledger.

(5) **Reconciliation — Property Management.** A property manager shall prepare and reconcile all property management clients' trust accounts at least once each month. Property Managers with more than one property management Client Trust Account may reconcile property management Client Trust Accounts on different days if the reconciliations maintain an adequate audit trail. The property manager shall preserve the bank statements and monthly reconciliations and file the bank statements and monthly reconciliations in monthly sequence. The total of the balances of the individual owners' ledgers shall equal the balance as shown in the check register or record of receipts and disbursements and shall also equal the reconciled bank balance of the property management client trust account. The property manager must date and sign the reconciliation upon its completion.

(6) **Reconciliation — Security Deposits.** A property manager shall reconcile all tenant security deposit client trust accounts at least once each month. Property Managers with more than one tenant security deposit Client Trust Account shall reconcile all of the tenant security deposit Client Trust Accounts as of the same day. The property manager shall preserve the bank statements and monthly reconciliations and file the bank statements and monthly reconciliations in monthly sequence. The total of the balances of the individual tenant security deposit liabilities shall equal the balance as shown in the check register or record of receipts and disbursements and shall also equal the reconciled bank balance of the security deposit client trust account. The property manager must date and sign the reconciliation upon its completion.

(7) **Reconciliation — Authority.** A property manager or principal real estate broker may authorize, in writing, another person to review and approve the reconciliation of the Clients' Trust Account and to sign checks authorizing disbursements from the Clients' Trust Account. In case of such authorization, the property manager or principal real estate broker remains responsible for the Clients' Trust Account. The property manager or principal real estate broker shall produce the written authorization at the request of the Commissioner or the Commissioner's authorized representative.

(8) **Interest Bearing Accounts.** Funds received by a property manager may be placed by the property manager in a federally insured interest-bearing client trust bank account, designated as a Client Trust Account, but

# ADMINISTRATIVE RULES

only with the prior written approval of all parties having an interest in the trust funds. The earnings of such interest-bearing account shall not inure to the benefit of the property manager, unless expressly approved in writing by all parties having an interest in the trust funds before deposit of the trust funds. The written approval necessary to establish an interest-bearing account shall specify to whom and under what circumstances the interest earnings from the account will accrue and be paid. The property manager's interest in or receipt of any of the interest earnings is not a commingling of trust funds with a licensee's personal funds under ORS 696.301(10). Use of interest-bearing Clients' Trust Accounts for the deposit of funds received under a property management agreement is subject to ORS 696.241(5).

(9) Checks used to disburse funds from a Clients' Trust Account shall comply with OAR 863-025-0025(3)(b) and bear the words "Clients' Trust Account" upon the face thereof. A property manager shall account for all checks, including voided checks, as a part of the records maintained by the property manager.

(10) A property manager shall record the transfer of any funds from a clients trust account by a Clients' Trust Account check or by written proof of transmittal or receipt retained in the property manager's records. The property manager shall record the transfer of other documents by written proof of transmittal or receipt retained in the property manager's records. With the written consent of an owner, a property manager may transfer funds electronically via the Internet or Automated Clearing House (ACH) software from a client's trust account to a bank account maintained by the owner and a property manager may make payments electronically to a vendor's account for expenses relating to the owner's property. If the software program used for the transfer does not automatically update the owner's ledger, the property manager shall manually record the transfer in the owner's ledger. At the time the transfer is made, the property manager shall print and preserve a hard copy of the electronic record of the transfer.

(11) With the written consent of an owner, a property manager may use a bank lockbox process in which the bank collects payments from tenants, creates an electronic record of the transaction and deposits the payments into the appropriate account following the instructions of the property manager. The property manager is responsible for determining that the lockbox process and lockbox software program provide controls adequate to ensure the security of the funds and to provide an accurate accounting for them. For the purposes of this section, the bank will be considered an agent of the property manager. The software program for the lockbox process must permit monthly reconciliations of the accounts into which the deposits are made and printing of daily deposit records for the period of time required for retention of other records.

Stat. Auth.: ORS 183.335 & 696.385  
Stats. Implemented: ORS 696.241, 696.280 & 696.361  
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07

## 863-025-0035

### Records; Required Records; Maintenance; Production

(1) Records of property management activity will be considered complete and adequate if they contain, at least, the following:

(a) A legible copy of the executed property management agreement, and legible copies of all subsequently executed documents pertaining to that agreement, for each owner that complies with all provisions of OAR 863-025-0020;

(b) Client Trust Account records maintained for all funds handled by a property manager on behalf of an owner or owners that complies with ORS 696.241, OAR 863-025-0010, 863-025-0025 and 863-025-0030;

(c) An owner's ledger maintained for each property management agreement that complies with OAR 863-025-0055;

(d) A record of receipts and disbursements maintained for each property management agreement that complies with OAR 863-025-0040;

(e) A legible copy of tenant agreements maintained for each property management agreement that complies with OAR 863-025-0045;

(f) A tenant's ledger maintained for each tenant of real property managed by the property manager that complies with all provisions of OAR 863-025-0050;

(g) A record of cash receipts that complies with OAR 863-025-0060;

(h) Records of the reconciliation of each client's trust account that complies with OAR 863-025-0025. A property manager shall maintain cancelled checks with the bank statements to which the checks pertain; and

(i) A record of deposits that complies with OAR 863-025-0065.

(2) When a property manager uses a computerized system for the production and maintenance of records and reports required in the property manager's licensed activity:

(a) At least once each month, the property manager shall back up any data that is stored in the computerized system; and

(b) Posting of owner ledgers, record of receipts and disbursements, tenant ledgers and manipulation of information and documents shall be maintained in a format that will readily enable tracing and reconciliation.

(3) A property manager shall maintain all records of property management activity required under section (1) of this rule for a period of six years following the date on which such agreement or document is superseded, terminated, has expired or otherwise ceased to be used in property management activities.

(4) A property manager may maintain all records under section (1) of this rule within this state at a location other than the property manager's licensed business location, if the property manager first:

(a) Notifies the Commissioner in writing of the intended removal of such records from the property manager's licensed business location and states the address of the location and the date the records will be relocated; and

(b) Provides written authorization to the Commissioner to inspect such records at the new location that includes the name and telephone number of any necessary contact person and the means of gaining access to the records.

(5) A property manager may maintain records required under section (1) of this rule outside this state if the property manager first executes an agreement, in a form approved by the Commissioner:

(a) Affirming that the Agency retains jurisdiction over the records;

(b) Stating that the property manager intends to remove such records from the property manager's licensed business location to a location outside this state;

(c) States the address of the new location and the date the records will be relocated; and

(d) Authorizes the Commissioner to inspect such records at the location and states the name and telephone number of any necessary contact person and the means of gaining access to the records.

(6) A property manager shall produce required records of property management activity for inspection by the Agency as follows:

(a) When the Agency makes a request for production of property management records, the property manager shall provide such records within no less than five business days; and

(b) If the Agency has reasonable ground to believe that funds of an owner or tenant may be missing or misappropriated or that the property manager is engaging in fraudulent activity, any records demanded or requested by the Agency must be provided to the Agency immediately; and

(c) Failure to produce such records within the timelines stated in subsection (a) or (b) of this rule is a violation of ORS 696.301.

Stat. Auth.: ORS 183.335 & 696.385  
Stats. Implemented: ORS 696.280 & 696.361

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07

## 863-025-0040

### Record of Receipts and Disbursements

(1) A property manager shall prepare and maintain, at least monthly, a record of receipts and disbursements or a check register for each client's trust account in which the manager must record each receipt of funds and each disbursement of client trust account funds made by the manager under a property management agreement. If a property manager maintains a separate client's trust account for a property management agreement involving only one owner, the property manager may maintain either a Record of Receipts and Disbursements or an Owner's Ledger.

(2) When there is more than one property in a client trust account, each entry for a receipt or a disbursement shall be identified with the applicable owner's identifying code assigned by the property manager to the corresponding property management agreement with the owner and shall set forth the following information:

(a) Date of deposit;

(b) Amount of deposit and identify from whom deposit received;

(c) Date of each related disbursement;

(d) Check number of each related disbursement;

(e) Amount and identity of payee for each related disbursement;

(f) If applicable, the dates and amounts of interest earned and credited to the account; and

(g) A record of the daily balance shall be made available to the Commissioner or to the Commissioner's authorized representatives.

(3) Upon any activity, the property manager shall post the record of receipts and disbursements or the check register and each owner's ledger account showing all receipts and disbursements made by the property

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manager in accordance with the property management agreement for an owner since the last posting of the record, register or account.

(4) In maintaining a balance for each record of receipts and disbursements, the property manager may aggregate receipts and disbursements affecting the balance of the record on a daily basis. The property manager may adjust the balance in the record reflecting the change in the balance from the aggregated individual receipts and disbursements. If the property manager posts the record using an aggregated total of receipts and disbursements, the property manager shall maintain account detail in another report showing the nature and amount of each receipt and disbursement as otherwise required, and make such detail available to the Commissioner or the Commissioner's authorized representatives upon request. The property manager shall preserve the record detail as required records of the property manager's licensed activity.

(5) Notwithstanding OAR 863-025-0025, a negative balance in a Client Trust Account may occur during the course of the day if, except in the case of a check returned for insufficient funds, the account is not negative at the close of the day.

(6) A property manager shall retain all paid bills and receipts explaining the amount of and purpose for the receipt or disbursement entered in the record of receipts and disbursements.

(7) A property manager may engage in electronic banking transactions, including the use of the Internet or by telephone, if a record of the transaction, sufficient to establish an audit trail, is created and maintained by:

(a) Printing a copy of the Internet transaction that includes the date, time, and nature of the transaction; or

(b) Making a written notation of the telephone transaction including the date, time, and nature of the transaction; or

(c) Creating an electronic document that readily relates to the transaction containing the information in (a) or (b) of this section.

Stat. Auth.: ORS 183.335 & 696.385

Stats. Implemented: ORS 696.280 & 696.361

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07

## 863-025-0045

### Tenant Agreements

(1) Residential. The property manager shall file and maintain legible copies of all tenant's rental or lease agreements for the time period required by these rules. Each tenant rental or lease agreement prepared by a property manager for residential real estate shall contain, in addition to and not in lieu of, any applicable requirements of the Residential Landlord and Tenant Act the following:

(a) The licensed name and business address of the property manager and the name and address of the tenant. If a real estate licensee executes the rental or lease agreement on behalf of the licensee's principal real estate broker, the name of the real estate licensee acting for the principal real estate broker in executing the agreement;

(b) The mailing address or unit number of property being rented or leased, the amount and payment conditions of the rental or lease, and the rental or lease term; and

(c) The amount of and the reason for all funds paid by the tenant to the property manager including, but not limited to, funds for rent, conditionally refundable security deposits, and any fees or other charges.

(2) Residential and Non-Residential. The property manager shall file and maintain legible copies of all tenant's rental or lease agreements for the time period required by these rules. A property manager shall review each tenant's rental or lease agreement generated by the property manager; however, a property manager may authorize in writing another individual who is licensed to or employed by the property manager to review and approve and accept tenants' rental and lease agreements on behalf of the property manager. In case of such authorization, the property manager remains responsible for each tenant's rental and lease agreement approved or accepted by such real estate licensee or employee. The property manager must produce the written authorization at the request of the Commissioner or the Commissioner's authorized representative.

Stat. Auth.: ORS 183.335 & 696.385

Stats. Implemented: ORS 696.280 & 696.361

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07

## 863-025-0080

### Audits and Compliance Reviews

(1) Unless the Agency has reasonable grounds to believe that the funds of an owner or tenant are missing or have been misappropriated, the Agency shall provide a property manager with at least five business days'

written notice before the agency conducts a compliance review and audit of the property manager.

(2) After a compliance review and audit of a property manager under section (1) of this rule, if the Agency determines that a property manager is not in compliance with ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870, or OAR chapter 863, the Agency shall allow the property manager at least 30 days to cure the noncompliance without sanction unless the Agency has reasonable grounds to believe that the funds of an owner or tenant are missing or have been misappropriated.

Stat. Auth.: ORS 183.335 & 696.385

Stats. Implemented: ORS 696.280 & 696.361

Hist.: REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07

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### Secretary of State, Archives Division Chapter 166

**Rule Caption:** Amendments to 166-150-0015 to update and clarify retention periods.

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

**Filed with Sec. of State:** 8-30-2006

**Certified to be Effective:** 8-30-06

**Notice Publication Date:** 8-1-06

**Rules Amended:** 166-150-0015

**Subject:** Rule OAR 166-150-0015 amended to update and clarify retention periods found in this rule.

**Rules Coordinator:** Julie Yamaka—(503) 378-5199

## 166-150-0015

### Assessment and Taxation Records

(1) **Additional Tax Due and Valuation Notices** Used to notify property owners of disqualification of specially assessed property or errors made in the valuation process. Types of disqualifications include farm, forest, historical, residential or commercial zone, and others. Types of valuation changes include omitted property, clerical error, and others. Records notifying property owners of adjudicated notices may include name, address, value, tax assessed, tax year, and reason for disqualification or change. (Minimum retention: 3 years after entered on tax roll)

(2) **Annual Tax Certification Records** Record of certified levies to be collected for each taxing district which was placed on the tax roll and is filed with the County Clerk. Summarizes taxes levied by property type and levy type. May include the following information by district: levies, value, offsets, tax rates, tax losses, add taxes, and percentage of distribution. (Minimum retention: 6 years)

(3) **Appraisal Records** Record of land and building appraisals including all elements used to determine the value of the property. May include property identification number and legal description, owner name and address, diagram cards, appraisal activity log, current value, remarks, sales and building permit history, roll value history, sketch notes, appeal history, construction detail, improvement valuation, land valuation, and special use valuation. Also may include records documenting valuation by year. (Minimum retention: 12 years)

(4) **Assessment and Tax Roll** Official record of assessments, tax levied, and changes to the tax roll on all properties. May include name, address, assessed value, real market value, taxes levied, legal description, sites address, code area, property class, and any changes made since previous tax roll. May also include additional tax rolls previously maintained for deferred homesteads, yield tax, reforestation, additional tax on timber, and others. (Minimum retention: (a) Years through 1905: Permanent (b) Fiscal Years ending in 0 and 5 after 1905: Permanent (c) Fiscal Years 1906 and later (except years ending in 0 and 5): 50 years)

(5) **Assessment Appeal Records** Notification to the Assessor that a property owner disagrees with the assessed value of the property. May include Board of Property Tax Appeals, Department of Revenue, or tax magistrate petitions and orders. May also include correspondence relating to the appeal. Original petition, evidence, and order are filed with the County Clerk or the Department of Revenue. (Minimum retention: 2 years)

(6) **Assessment Rolls** Compilation of real and personal property values as established by May 1 of each calendar year. Used to generate taxes in the following tax year. These records were created prior to the legislative change combining the assessment and tax rolls. May include name, address, location, account numbers, legal description, and valuation. (Minimum retention: If Tax Rolls do not exist for the below-specified time periods, or if the tax and appraisal function is documented in one record for a particular time period, use the following: (a) Years through 1905:



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Permanent (b) Fiscal Years ending in 0 and 5 after 1905: Permanent (c) Fiscal Years 1906 and later (except years ending in 0 and 5): 50 years (d) If separate Tax Rolls exist for the above specified time periods: 6 years)

(7) **Assessor's Maps** Cartographic records produced and maintained by the Assessor outlining the boundaries of each land parcel subject to separate assessment within the county, with the parcel's tax lot or account number shown on the parcel. May include code area boundaries and the assigned code area numbers. (Minimum retention: Retain until superseded or obsolete)

(8) **Bankruptcy Records** Monitors the actions of U.S. Bankruptcy Courts as it pertains to the assessing and collecting of property taxes. May include notification from the court, request for relief of automatic stay, reorganization and payment plans, discharges, and related correspondence. (Minimum retention: 2 years after case closed)

(9) **Department of Motor Vehicles Form 113** Used to certify that taxes have been paid on manufactured structures so that they can be moved, sold, or dismantled. Information may include owner name and address, property location, appraised value, taxes due and taxes paid. This program moved to Department of Business and Consumer Services Building Codes Division in May 2005 which issues trip permits in lieu of DMV Form 113's. (Minimum retention: (a) Tax Collector information: 1 year (b) Assessor information: Life of the structure)

(10) **Disqualified Tax Payments** Used to document the collection of taxes for properties that have been disqualified as having a special assessment. Information may include property owner name and address, tax year, market or non special assessment value, farm use value, tax rate, number of years for rate, total additional tax per year, total tax due, reason for disqualification, and disqualification value. (Minimum retention: 7 years)

(11) **Exemption Claims** Applications by war veterans or veteran's widows and qualifying exempt organizations for total or partial property tax exemption. May include applications, marriage licenses, death certificates, military service discharge records, by-laws, rental agreements, and other records. (Minimum retention: 2 years after superseded or exemption disqualified)

(12) **Foreclosure Records** Documents the actions of the Tax Collector during foreclosure and redemption of real property. May include declarations of delinquency, notifications to property owner and lien holders, official publication lists, applications for final judgment and decree, final judgment and decree, record of lien holders, redemption certificates, deeds of foreclosed property, and related correspondence. (Minimum retention: 6 years after property deeded to county or redeemed by recorded interest holder)

(13) **Homeowner's Property Tax Relief Records** Applications for property tax reduction based on legislatively mandated amounts distributed through the Department of Revenue. May include applications, adjustment, fund transfer, denial, and disqualification records. (Minimum retention: 2 years)

(14) **Journal Vouchers-Roll Changes** Assessor's copy of request to Tax Collector to change or correct the tax roll in counties where separate records are maintained. May indicate value, tax code, exemptions and other changes. May include vouchers, opinion and order from Department of Revenue, Board of Property Tax Appeals orders, and tax court and supreme court orders. (Minimum retention: 6 years, or until real property tax rolls of the year affected by the voucher have been foreclosed and the foreclosed property deeded to the agency)

(15) **Partition Plats and Subdivision Plats** Used to document that taxes have been paid on properties prior to the partition/subdivision development. Information may include parcel description, name of partition or subdivision, tax lot information, number of parcels and acres, and amount of taxes paid. (Minimum retention: 2 years)

(16) **Personal Property Delinquent Tax Records** Notification by individual correspondence or official publication to property owner of intent to issue a judgment lien on personal property for non-payment of taxes. Also used to record or release lien against owner of property on tax roll. Lien is recorded and retained by the County Clerk. Includes owner name, type of personal property, account number, years and amounts delinquent, and authorizing signature. (Minimum retention: 2 years after the associated liens are issued)

(17) **Personal Property Returns** Documents the value all business machinery and equipment within the county to determine the valuation of personal property for taxing purposes. May include name of taxpayer/business, address, location, signatures, and purchase price and date purchased of business machinery. (Minimum retention: 6 years)

(18) **Ratio Studies** Used to update appraisal values between reappraisals of property. May include sales data cards, sales verifications, sales

ratio report, and supporting documents. Information on report may include property sales by neighborhood or reappraisal areas, ratio of sales to property values, previous study statistics, and individual sales listings. (Minimum retention: 6 years)

(19) **Refund Records** Used to record the overpayment of taxes and then to document that notification was to over payers requesting information on who the refund should be issued to. Information may include account name and number, property location, tax lot number, amount of overage, cause of overage, and deadline for response. (Minimum retention: 6 years)

(20) **Revenue (Department of) Reports** Reports sent to the Department of Revenue summarizing information placed on the tax roll and providing detail of expenditures supporting reimbursement for operational expenses. Reports may include Summary of Assessments and Levies (SAL) Report, Property Tax Program Grant Document Detail Report, and Tax Collection Year-End Report. (Minimum retention: 6 years)

(21) **Senior and Disabled Citizens Tax Deferral Applications** Applications by senior citizens to defer property taxes or special assessments. Disqualification occurs with death of applicant, property sale, or exceeding income limit. Taxes are paid by the state with lien attached to property. Applications may include name, address, location, account number, legal description, deed references, and authorizing signatures. This series may also include applications for delay of foreclosure. (Minimum retention: 2 years after disqualified or lien satisfied)

(22) **Special Valuation Applications** Requests for special assessment of properties on the basis of special use. Uses include forest land, farmland, historic properties, enterprise zones, and single family residence in commercial zones. Applications and worksheets may include name, address, account number, number of acres in use, farm income documentation, historic designation, year assessed, and real market value (RMV) of property. (Minimum retention: 6 years after disqualified)

(23) **Tax Collection and Distribution Records** Records summary of taxes collected and distributed. May include date of collection and distribution, amount distributed, percentage of collection and distribution, year of tax, and adjustments. (Minimum retention: (a) Percentage Distribution Schedule: 25 years (b) All other records: 3 years)

(24) **Tax Lot Cards** Records contain official descriptions of real property and are used to track land ownership and lot size and also may serve as a deed reference. Records include tax lot number; the location of the land in reference to township, range, and section; and a description and record of changes to the property, acreage, and land owner. (Minimum retention: Permanent)

(25) **Tax Payment Records** Records individual payments made by taxpayers on an account. May include county name, fiscal year for which taxes entered, address, code area, date paid, amount, and property for which taxes paid. (Minimum retention: 7 years)

(26) **Tax Statement Requests** Authorization for lender to pay property taxes on individual properties. Provides lender information on assessed values and levied taxes on individual properties. May include account number, lender name and loan number. (Minimum retention: 2 years)

(27) **Tax Turnover Records** Documents amounts paid to each taxing district based on the Tax Collection and Distribution schedule calculated by the Tax Collector. Includes date of distribution, district name, and amount distributed. May also include percentage of collection and distribution, year of tax, and adjustments. (Minimum retention: 6 years)

(28) **Taxing District Records** Notification to the Assessor from city, fire, school, and other special districts to levy taxes. Includes records received from districts such as notifications to levy taxes, categorizations of levies, resolutions from governing body to levy taxes, detail budgets, and public notices. Also may include tax rate computation sheets and other records used or created by the Assessor in calculating the tax rates. (Minimum retention: (a) Notice of Property Tax Levy and Certification of Categorization: 6 years (b) All other records: 2 years)

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Hist.: OSA 4-2004, f. & cert. ef. 9-1-04; OSA 3-2006, f. & cert. ef. 8-30-06

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## Secretary of State, Corporation Division Chapter 160

**Rule Caption:** Repealing rule regarding Business Registry mailing list.

**Adm. Order No.:** CORP 5-2006

**Filed with Sec. of State:** 8-24-2006

**Certified to be Effective:** 8-24-06

# ADMINISTRATIVE RULES

**Notice Publication Date:** 11-1-05

**Rules Repealed:** 160-010-0300

**Subject:** This rule is being deleted because the Corporation Division has discontinued the practice it outlines. The rule was not effective in addressing the problem.

**Rules Coordinator:** Kristine Hume Bustos—(503) 986-2356

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**Rule Caption:** Disposition of notarial records upon termination of notarial commission.

**Adm. Order No.:** CORP 6-2006(Temp)

**Filed with Sec. of State:** 8-24-2006

**Certified to be Effective:** 8-24-06 thru 12-1-06

**Notice Publication Date:**

**Rules Adopted:** 160-100-0305

**Subject:** This rule addresses the responsibilities a notary public has regarding their notarial records upon commission termination or commission expiration.

This rule was inadvertently repealed (formally rule 160-100-0300). This adoption is to correct the repeal.

**Rules Coordinator:** Kristine Hume Bustos—(503) 986-2356

## 160-100-0305

**Termination of Commission Due to Expiration — No Application for New Commission — ORS 194.154**

(1) A notary public whose commission was terminated because of expiration, and who has not applied for a new commission within 30 days after the date of termination shall arrange for the storage of his/her notarial records, except records of protests of commercial paper (see OAR 160-100-0350), in any form and at any location. The records or any reproduction of the records must be readable and the notary public must be able to obtain possession of such records within 15 days of receipt of a request for such records.

(2) A notary public shall file a statement with the Secretary of State within ten days after the date the notary public stored such records. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., expiration;

(e) The date the notary public stored such notarial records;

(f) The street address and exact location at such address where such records are stored and any subsequent relocation of such records.

(3) A notary public shall store such records for a period of seven years after the date of commission expiration. After the seven-year period, the notary public may destroy such records.

(4) A notary public shall destroy the official seal and/or official seal embosser immediately upon expiration of the commission.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.154

Hist.: CORP 6-2006(Temp), f. & cert. ef. 8-24-06 thru 12-1-06

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## Secretary of State, Elections Division Chapter 165

**Rule Caption:** Filing Deadlines for Vacancy in Nonpartisan Office.

**Adm. Order No.:** ELECT 11-2006(Temp)

**Filed with Sec. of State:** 8-23-2006

**Certified to be Effective:** 8-23-06 thru 11-7-06

**Notice Publication Date:**

**Rules Adopted:** 165-010-1000

**Subject:** This rule sets forth the deadlines for candidates to fill the vacancy in the office of Judge of the Circuit Court, 4th District, Position 28.

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

## 165-010-1000

**Filing Deadlines For Vacancy in Nonpartisan Office**

(1) The purpose of this rule is to establish a timeline for candidates to file for the nonpartisan office of Judge of the Circuit Court, 4th District, Position 28 and to file candidates' statements for the state voters' pamphlet. This office must be filled at the November 7, 2006 General Election.

(2) The last day for a candidate for the office of Judge of the Circuit Court, 4th District, Position 28 to file a declaration of candidacy or a completed nominating petition is no later than August 29, 2006.

(3) The last day for a candidate for the office of Judge of the Circuit Court, 4th District, Position 28 to file a candidate's statement for State Voters' Pamphlet is no later than August 29, 2006.

Stat. Auth.: ORS 246.150, 249.205

Stats. Implemented: ORS 249.205

Hist.: ELECT 11-2006(Temp), f. & cert. ef. 8-23-06 thru 11-7-06

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**Rule Caption:** Schedule and Fees for Providing Statewide and less than Statewide Voter Lists.

**Adm. Order No.:** ELECT 12-2006

**Filed with Sec. of State:** 8-23-2006

**Certified to be Effective:** 8-23-06

**Notice Publication Date:** 6-1-06

**Rules Adopted:** 165-002-0020

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

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

## 165-002-0020

**Schedule and Fees for Providing Statewide and Less Than Statewide Voter List**

(1) Any person may obtain an electronic copy of a statewide or less than statewide voter list from the Office of the Secretary of State, Elections Division, or any county elections official. The following fees for providing a list electronically will apply:

(a) \$25.00 fee for staff and processing time, and media used;

(b) \$.025 per 100 voters;

(c) The maximum charge excluding the fee assessed under paragraph 2 of this rule will be \$500.00.

(2) A one-time fee of \$100.00 will be assessed for any special formatting requests.

(3) A request for a hardcopy of a less than statewide voter list, labels, or other non-electronic formats must be made with the county elections official of each county in which voters to be listed reside.

(4) In accordance with ORS 192.440(3)(a) a county may establish fees reasonably calculated to reimburse the county for the actual cost of making the list available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the person's request.

(5) All requests for a statewide or less than statewide voter list will be accompanied by a completed SEL 510, Customer Request Form for Statewide or Less Than Statewide Voter List.

(6) The voter list must not be used for commercial purposes. Under ORS 247.955 a person will not be considered to use the voter list for commercial purposes if the person obtains the list of electors for the purpose of resale to candidates or political committees for political purposes only.

Stat. Auth.: ORS 192.440, 246.150

Stats. Implemented: ORS 192.440

Hist.: ELECT 12-2006, f. & cert. ef. 8-23-06

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## Teacher Standards and Practices Commission Chapter 584

**Rule Caption:** Amends Div. 42 rules regarding PTE licenses and repeals outdated rules. Adopts rules for CAPs and Program Completion.

**Adm. Order No.:** TSPC 11-2006

**Filed with Sec. of State:** 8-17-2006

**Certified to be Effective:** 8-17-06

**Notice Publication Date:** 3-1-06, 6-1-06

**Rules Adopted:** 584-036-0081, 584-042-0002

**Rules Amended:** 584-005-0005, 584-042-0006, 584-042-0008, 584-042-0009, 584-050-0030

**Rules Repealed:** 584-042-0005, 584-042-0007, 584-060-0081, 584-080-0081

**Subject:** 584-036-0081 *Conditional Assignment Permits*: Expanded from the former version and moved from Division 60 to reflect

## ADMINISTRATIVE RULES

its application to all licensure areas (teachers, administrators, school counselors, school psychologists).

584-042-0002 *Definitions*: New rule with definitions for Division 42.

584-005-0005 *Definitions*: Definitions apply to Divisions 001–100. Deletes obsolete definitions and renumbers remaining paragraphs.

584-042-0006 *Requirements for a Three-year Professional Technical Teaching License*: Clarifies the requirements for a Three-year PTE License and renumbers paragraphs.

584-042-0008 *Five-year Professional Technical Teaching License*: Clarifies the requirements for a Five-year PTE License and renumbers paragraphs.

584-042-0009 *Adding Professional-Technical Endorsements*: Clarifies the requirements to add Professional-Technical Endorsements and changes the number format.

584-050-0030 *Serving without Proper Licensure*: Clarifies Commission's intention to deny a license if a person has served in violation of licensure assignment or administrators who assign a licensed person in violation of license assignment rules. Renumbers rule paragraphs.

584-042-0005 *Requirements for a Three-year Professional Technical Teaching License—REPEAL*

584-042-0007 *Five-year Professional Technical Teaching License—REPEAL*

584-060-0081 *Conditional Assignment Permits—REPEAL*

584-080-0081 *Conditional Assignments in Administration—REPEAL*

**Rules Coordinator:** Victoria Chamberlain—(503) 378-6813

### 584-005-0005

#### Definitions

These definitions apply to Divisions 001-100 unless otherwise indicated by the context:

(1) "Administrators:" Superintendents, assistant superintendents, principals, vice principals, and such other personnel, regardless of title, whose positions require them to evaluate other licensed personnel.

(2) "Alternative Assessment:" Procedures established by the Commission for candidates seeking licensure who fail to achieve a passing score on required matter or specialty area licensure tests for endorsement or authorization.

(3) "Alternative Education Program or School:" A private alternative education program or school registered with the Oregon Department of Education or a public alternative education program or school operated by a school district, education service district, or community college, which is established to serve students identified under ORS 339.250(6) and other students whose academic or professional technical interests and needs are best served through participation in such programs. (See OAR 584-036-0015(2)(i).)

(4) "Application:" A request for an Oregon license authorizing service in public schools or a request for reinstatement or renewal of such license. As used in these rules, "application" includes the Application Form, C-1, the fee, and all supporting documents necessary for the evaluation for the license.

(5) "Appropriately Assigned:" Assignments for administrator, teacher, supervisor, school counselor, school psychologist, or school nurse duties for which the person involved holds the proper license, endorsements and authorizations. (See OAR 584-060-0081.)

(6) "Approved Institution:" A U.S. regionally accredited institution of higher education approved to prepare licensed personnel by a U.S. governmental jurisdiction in which the institution is located. See definition of "Regional Accrediting Associations" at OAR 584-005-0005(54).

(7) "Approved Program:" An Oregon program of educator preparation approved by TSPC and offered by a regionally accredited Oregon institution. As it applies to out-of-state programs, a program approved by the licensure body of any U.S. governmental jurisdiction authorized to approve educator preparation programs.

(8) "Assistant Superintendent:" A superintendent's immediate subordinate who evaluates licensed personnel. May also be designated Deputy or Associate Superintendent.

(9) "Athletic Coaches:" Licensed personnel employed full time or part time for purposes of participation in interscholastic athletics and whose

duties include instruction of students, preprimary through grade twelve. A student teacher or intern may serve as an assistant coach without licensure if assigned for a full-time practicum in the school in which he or she is coaching. (See OAR 584-036-0015(2)(e).)

(10) "Authorization Level:" The grade levels in which a person may teach, i.e., early childhood, elementary, middle level and high school as defined in OAR 584-060-0051.

(11) "Commission:" Teacher Standards and Practices Commission (TSPC).

(12) "Competencies:" Ability to apply knowledge and skills appropriately and effectively in achieving the expected outcomes.

(13) "Completion of Approved Program:" The applicant has met the institution's academic requirements and any additional state or federal requirements and has obtained the institution's recommendation for licensure.

(14) "Conditional Assignment:" (Formerly "Missassignment") Assignment of a licensed educator to a position for which he or she does not hold the subject or specialty area endorsement or authorization level required by the rules for licensure. (See OAR 584-060-0081.)

(15) "Consortium:" An advisory body to the institution in reviewing, evaluating, and making recommendations on the design, implementation, evaluation, and modification of the program.

(16) "Continuing Professional Development Advisor:" A person selected by an educator and approved by the educator's supervisor, such as a college or university advisor, a peer coach, or a qualified member of an agency or professional organization.

(17) "Distance Learning Teacher:" A teacher who meets the criteria in OAR 584-036-0017 and provides live interactive instruction transmitted from a remote location or who delivers online education either from within Oregon or from another state and who is employed by one or more Oregon public school districts to teach public school students.

(18) "Domain:" An area of professional competency under which a teacher may select coursework or other approved activities for continuing professional development. (See OAR 584-090-0010.)

(19) "Education Service District (ESD):" A district created under ORS 334.010 that provides regional educational services to component school districts.

(20) "Educator:" Any person who is authorized to be employed in the instructional program of the public schools, public charter schools and ESDs, and holds a license to teach, administer, supervise, counsel or provide school psychology services.

(21) "Emergency License:" Issued by TSPC when a school district demonstrates extenuating circumstances that merits the issuance of the license in order to protect the district's programs or students.

(22) "Endorsement:" The subject matter or specialty education field or grade authorization in which the individual is licensed to teach.

(23) "Executive Director:" The Executive Director of the Commission. (See ORS 342.410.)

(24) "Expired License:" A license for which an application for renewal was not received by TSPC prior to the date of expiration stated on the license.

(25) "Field Experience:" Learning activities designed to develop professional competence through observing, assisting, or teaching in a public or approved non-public school.

(26) "Instructional Assistant:" A non-licensed position of employment in a school district assigned to assist a licensed teacher in a supportive role in the classroom working directly with students.

(27) "Instructional Faculty:" Full-time and part-time faculty who teach professional courses and/or supervise field-centered activities and student teachers.

(28) "Intern:" A student of an approved institution who serves as a teacher, personnel specialist, or administrator under the supervision of the institution and of the school district in order to acquire practical experience in lieu of student teaching or supervised practica. Interns may receive both academic credit from the institution and financial compensation from the school district. Interns may serve as assistant coaches.

(29) "Joint Application:" Submitted by the school district in cooperation with the applicant.

(30) "Liaison Officer:" The person designated by the unit to submit all program modifications for TSPC approval, issue all recommendations for licensure under the approved program, authorize all waivers of professional courses for students enrolled in the program, and handle all correspondence between TSPC and the unit.

(31) "Major Modifications:" Changes of program philosophy, curricula, practica, resources, personnel, or performance standards.



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(32) "Major Traffic Violation:" Includes driving while under the influence of intoxicants (ORS 487.540); reckless driving (ORS 487.550); fleeing or attempting to elude a police officer (ORS 487.555); driving while license is suspended or revoked or beyond license restrictions (ORS 487.560); or failure to perform the duties of a driver or witness at an accident (ORS 483.602).

(33) "Mentor:" Educators who have demonstrated the appropriate subject matter knowledge and teaching and/or administrative skills, which when assisting beginning educators, should substantially improve the induction and professional growth of beginning educators in this state.

(34) "Misassignment:" See definition of "Conditional Assignment" above.

(35) "National Board For Professional Teaching Standards (NBPTS):" A professional board established to award a National Teaching Certificate to qualified educators.

(36) "Oregon Schools:" Includes public school districts, education service districts, registered private schools preprimary through grade twelve, state and federal schools, special state-supported schools, and public charter schools in Oregon serving students ages three through twenty-one, private schools accredited by the Northwest Commission on College and Universities, and private proprietary career schools registered by the Oregon Department of Education.

(37) "Out of State Licenses or Certificates:" A certificate or license valid for full-time employment, at least equivalent to the Oregon license being requested, issued by one of the United States, a U.S. jurisdiction (American Samoa, Commonwealth of Northern Marianas, District of Columbia, Guam, Puerto Rico, and Virgin Islands), or the U.S. Department of Defense.

(38) "Personal Qualifications:" Personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator.

(39) "Personnel Service:" A type of license issued to counselors, supervisors, and school psychologists.

(40) "Practicum or Practica:" All supervised field experiences other than student teaching or internships. A practicum may be part of the field experience necessary to add an endorsement.

(41) "PRAXIS:" A series of professional assessments for beginning educators produced and administered by Educational Testing Service (ETS) and adopted by TSPC as licensure examinations.

(42) "Principal:" The administrator of each school building or buildings as designated by the school district board.

(43) "Private Schools:" A private school, preprimary through grade twelve, registered with the Oregon Department of Education in compliance with provisions of ORS 345.525 and 345.535 or approved or registered by another U.S. jurisdiction or government.

(44) "Professional Development Plan:" A plan for personal professional growth during the next licensure renewal cycle.

(45) "Professional Development Units (PDU):" A unit of domain-related activity that equals one clock hour of professional development and contributes to completion of an educator's professional development plan. (See OAR 584-090-001 et seq.)

(46) "Program Administrator:" Managers of school programs and coordinators of district-wide programs that are accountable at the building level.

(47) "Program Review Committee:" Committee appointed by the Commission to conduct an on-site review for purposes of approval of an educator preparation program.

(48) "Public Funds:" All monies expended by public school districts and for which the school board has responsibility, including funds from local, state, federal, and private sources. (See ORS 342.120(9).)

(49) "Public Schools:" Public school districts, education service districts and public charter school created under ORS Ch. 338, which are supported by local and state public funds and for which the school board has responsibility, for the program of instruction carried out in that school.

(50) "Recent Experience:" An application for a license submitted to TSPC either within three years following completion of an approved program or during the effective period of a comparable license and within three years of the last year of experience on such license. If more than three years have elapsed since completion of the program or since the last year of public school or regionally accredited private school experience, recency may be met by completion of nine quarter hours of additional preparation from an approved institution germane to the license and endorsement requested. The additional credits must be completed during the three-year period prior to application and must help the applicant keep abreast of current needs of

public schools. If the comparable license expired prior to application, a Preparation for Teaching Report, Form C-2, must be submitted.

(51) "Regional Accrediting Associations:" Colleges and universities approved for teacher education must be accredited by the appropriate regional association at the time the degree or program is completed. The regional associations are: New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, The Higher Learning Commission; Northwest Commission on Colleges and Universities; Middle States Association of Colleges and Schools, Commission on Higher Education; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.

(52) "Reinstatement:" Restoration of the validity of a license which has expired, been suspended, or been revoked. (See OAR 584-050-0015.)

(53) "Renewal:" Extension of validity of a current license. An application for renewal must be submitted prior to the expiration date stated on the license. (See OAR 584 Div 48.)

(54) "School:" A single school building or combination of buildings which the school board designates as a school.

(55) "School Administrator:" The principal, vice principals and assistant principals at each school.

(56) "School Board:" The board of directors of a local school district or an education service district, the governing board of a public charter school, a registered private school, or the directors of a state, federal, or special state-supported school.

(57) "School Counselor:" A licensed employee of the district assigned to assist students to: develop decision-making skills, obtain information about themselves, understand opportunities and alternatives available in educational programs, set tentative career and educational goals, accept increasing responsibilities for their own actions, develop skills in interpersonal relations, and utilize school and community resources.

(58) "School District:" Includes administrative school districts; common school districts; joint school districts; union high school districts; county units; education service districts; registered private schools; and state, federal, and special state-supported schools. May also include school districts from other states.

(59) "School Nurse:" A registered nurse who is licensed by the Teacher Standards and Practices Commission as qualified to conduct and coordinate the health service programs of a school. (See OAR 584 Div 21.)

(60) "School Psychologist:" A licensed employee of the district assigned to: assessment of students' mental aptitude, emotional development, motor skills, or educational progress; designing educational programs for students and conferring with licensed personnel regarding such programs; and consulting with parents and students regarding interpretation of assessments and the design of educational programs. (See OAR 584 Div 44 and Div 70.)

(61) "School Supervisor:" Educators who assist, supervise, and evaluate students enrolled in the field-centered activities, including but not limited to, practica, internships and student teaching. (See OAR 584 Div 17.)

(62) "Self-Contained Classroom:" An assignment for teaching in grades preprimary through nine in which the teacher has primary responsibility for the curriculum.

(63) "Skills:" Ability to use knowledge effectively in the performance of specific tasks typical of those required in an educational position.

(64) "State Board:" The Oregon State Board of Education.

(65) "Student Teacher:" A student of an approved teacher education institution who is assigned to a public or approved private school for professional practica under the supervision of qualified personnel. Student teachers may provide instruction or may serve as assistant coaches.

(66) "Successful Experience:" If the educator was permitted to fulfill the contract with the district, the experience is deemed successful.

(67) "Superintendent:" The district's chief administrator who reports directly to the school board.

(68) "Supervisor of Licensed Personnel:" A person assigned to a position which includes the on-the-job supervision or evaluation of licensed personnel. Should not be confused with "School Supervisor" at OAR 584-050-0005(64) above.

(69) "Teacher:" Includes all licensed employees in the public schools or employed by an education service district who have direct responsibility for instruction, coordination of educational programs or supervision or evaluation of teachers and who are compensated for their services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455.

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(70) "Teacher Education Programs:" Programs preparing teachers, personnel service specialists, or administrators. Oregon Revised Statutes use the term "teacher education" to refer to all programs preparing educational personnel for public elementary and secondary schools, not exclusive to those for classroom teachers.

(71) "Transcripts:" An institution-sealed official record of academic preparation which bears the signature of the registrar and the seal of the institution. Photocopies are not acceptable.

(72) "TSPC:" Teacher Standards and Practices Commission.

(73) "Unit:" The institution, college, school, department, or other administrative body with the responsibility for managing or coordinating all programs offered for the initial and continuing preparation of teachers and other school personnel, regardless of where these programs are administratively housed.

(74) "Vice Principal:" A principal's immediate subordinate assigned to coordination of instruction, discipline, student activities, or supervision or evaluation of staff.

(75) "Violation of Licensure:" Employment by a public school of a teacher or school nurse without a valid license or Conditional Assignment Permit. See definition of Conditional Assignment at 584-005-0005(15).

(76) "Work Samples:" A designed and implemented unit of study that demonstrates capacity to foster student learning.

(77) "Year of Experience:" A period of at least eight consecutive months of full-time work or two consecutive years of one-half time or more while holding a license valid for the assignment.

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

Stat. Auth.: ORS 342

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

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 5-2000, f. & cert. ef. 9-20-00; TSPC 4-2001, f. & cert. ef. 9-21-01; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 2-2002, f. & cert. ef. 3-15-02; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 3-2003, f. & cert. ef. 5-15-03; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 11-2006, f. & cert. ef. 8-17-06

## 584-036-0081

### Conditional Assignment Permits

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a district may request a conditional assignment permit for any educator holding a Initial, Continuing, Basic, Standard or Five-year License.

(2) The Conditional Assignment Permit is not a license, but only conditional approval to teach out-of-field for a period not to exceed three years.

(3) A district applying for a permit is assumed to have informed the educator for which the conditional assignment permit is being requested. Failure to inform the educator may result in an invalid conditional assignment permit upon a finding by the Commission that the educator did not grant the district permission to add the CAP to the educator's license.

(4) Licenses not eligible for a Conditional Assignment Permit include but are not limited to the following provisional licenses:

- (a) Transitional;
- (b) Restricted Transitional;
- (c) Limited Teaching License;
- (d) American Indian Language;
- (e) Teaching Associate License;
- (f) Professional Technical License;
- (g) Preliminary Teaching License;
- (h) NCLB Alternative Route License;
- (i) Substitute Teaching License; or
- (j) Restricted Substitute Teaching License.

(5) This temporary supplemental permit is issued for three years and is not renewable and is not eligible for a 120 day extension beyond its expiration date. The CAP is valid for teaching at one or more designated grade authorization levels not included on the applicant's license, or in one or more designated subject-matter endorsement areas not included on the applicant's license, or both only if the approval has been granted by the Commission.

(6) Conditional Assignment Permits will not be backdated to cover improper teaching assignments. Districts and educators who violate the provisions of this rule may be subject to forfeiture of state school funds pursuant to ORS 342.173 and OAR 584-050-0060 to 584-050-0070.

(7) A Conditional Assignment Permit is required for:

- (a) Any assignment for any amount of time at an unauthorized grade level;
- (b) For teaching assignment for more than 10 hours weekly without appropriate subject-matter endorsement;
- (c) For teaching in more than one unendorsed subject-matter endorsement area;

(d) For administration; school counseling; or school psychology if do not already hold the respective license in that field pursuant to subsection (1) of this rule;

(8) The permit is restricted to use within a district that has applied for it. However, a new district may request the same type of conditional assignment so long as three years has not elapsed since the date the CAP was first issued.

(9) A Conditional Assignment Permit for teaching may be issued to an educator holding a Initial, Continuing, Basic, Standard or Five-Year license in teaching, school counseling, school psychology, or administration.

(10) (a) The district must apply for a Conditional Assignment Permit by October 31 for the fall term or otherwise within six weeks after the assignment has begun.

(b) The district must agree to provide professional assistance specific to the assignment for the educator during the first year of the conditional assignment.

(11) Conditional Assignment Permits submitted in error by the district may be removed upon contacting TSPC and indicating the nature of the error.

(12) A Conditional Assignment Permit cannot be renewed or later reissued for the same authorization level or specialty endorsement approved.

(13) After a Conditional Assignment Permit has expired, the educator must have completed all requirements necessary to add the appropriate endorsement, grade-level authorization or new licensure program in order to continue to teach the Commission-approved subject out-of field.

(14) Districts and co-applicant educators may jointly petition the Executive Director for a hardship extension for one year under the following conditions:

(a) The district and educator must explain hardship and the exact circumstances that have prevented the educator from obtaining the endorsement, authorization level or license needed to remain in the conditional assignment; and

(b) The educator has made progress toward completing the requirements which includes but is not limited to:

(A) Having taken any applicable subject-matter tests at least two times; or

(B) Has completed at least half of the coursework for any program required to continue to teach the subject; and

(c) The educator and the district have a plan for completing the requirements for the assignment in the next year.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - 342.232

Hist.: TSPC 11-2006, f. & cert. ef. 8-17-06

## 584-042-0002

### Definitions

(1) "Approved Professional Technical Education Program:" A professional technical program, normally at grades nine through twelve, approved by the Oregon Department of Education.

(2) "Instructor Appraisal Committee:" A seven-member committee approved by the district superintendent on behalf of the school board to evaluate applicants and make recommendations to the Commission and the employing superintendent relative to their licensure and assignment as professional technical teachers.

(a) Five members of the committee must be employers or employees who are currently engaged in an occupation related to the professional technical program area. One of these five members may be a community college instructor in a professional technical program area related to the endorsement of the applicant.

(b) These five public members must all possess current and substantial knowledge of the technical, environmental, and attitudinal requirements of the occupational field.

(A) At least one of the five should also represent the school district's occupational advisory committee for the instructional program to be offered.

(B) One of the two remaining committee members shall be an ODE recognized Regional Coordinator of Professional Technical Education or an appropriate Oregon Department of Education program area specialist.

(C) The seventh member shall be a district administrator or a director of professional technical education.

(D) Ex officio members may also be appointed.

(c) A facilitator must be chosen and trained in operating an instructor appraisal committee. An ODE recognized Regional Coordinator of Professional Technical Education or an appropriate Oregon Department of Education program area specialist may serve as the facilitator.

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(d) Reports of evaluations that are satisfactorily completed shall be verified by the signatures of the chair of the applicant's Instructor Appraisal Committee and the Regional Coordinator of Professional Technical Education.

(3) Professional Technical endorsements include:

- (a) Communication Journalism;
- (b) Communications Technologies;
- (c) Design & Applied Arts;
- (d) Administrative Services;
- (e) Financial Services;
- (f) Hospitality & Tourism;
- (g) Marketing/Management;
- (h) Health Sciences;
- (i) Leisure & Fitness;
- (j) Education;
- (k) Family/Consumer Sciences;
- (l) Personal Services;
- (m) Legal & Protective Services;
- (n) Social Services;
- (o) Computer Technology;
- (p) Construction;
- (q) Engineering Technology;
- (r) Mechanical Systems;
- (s) Manufacturing Technology;
- (t) Agricultural Science & Technology;
- (u) Forestry/Natural Resources;
- (v) Integrated Environmental Technology.

(4) "Professional Technical Mentor:" A teacher holding a Five-Year Teaching License, Standard Teaching License, Initial Teaching License or Continuing Teaching License or unrestricted Transitional Teaching License who guides and supports a beginning professional technical teacher on a Three-Year Professional Technical License with instructional planning and preparation, delivery of classroom instruction, classroom management, assessment of student performance, and professional development.

(5) "Professional Technical Education (PTE) Professional Development Plan:" A plan for personal professional growth during the life of the professional technical license. A three-year PTE professional development plan is required for the Three-Year Professional Technical Teaching License.

(a) The employing school district will keep a signed copy of the three-year PTE professional development plan agreement between the teacher and the district. (See OAR 584-042-0006(4)(c).)

(b) The plan must include assurances that the district has assigned an appropriate administrator to monitor the progress and timely completion of the signed PTE professional development plan.

(c) For applicants holding an unrestricted teaching license prior to applying for the Three-Year Professional Technical License, the scope of the plan shall include activities that address relevant PTE professional development needs identified by the Instructional Appraisal Committee.

(d) For applicants who have not previously held an unrestricted teaching license, the three-year PTE professional development plan must outline how the applicant will acquire fifteen (15) quarter hours or ten (10) semester hours or the equivalent of teacher preparation required for eligibility for a Five-Year Professional Technical Teaching License. (See, OAR 584-042-0008)

(6) "Work Experience:"

(a) Structured work experience is employment that is planned and coordinated to increase specific occupational competence as prescribed by the district's Instructor Appraisal Committee.

(b) Non-structured work experience is documented employment as a qualified worker, completed within the five years prior to application that is related to the instructional area.

(c) One hour of structured work experience related to the program area equals three hours of non-structured work experience.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TSPC 11-2006, f. & cert. ef. 8-17-06

## 584-042-0006

### Requirements for a Three-Year Professional Technical Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, an applicant may be granted a Three-Year Professional Technical License for one or more Professional Technical endorsements below.

(a) The Three-Year Professional Technical License is valid to teach in ODE approved Professional Technical programs for which the educator is specifically licensed. The license is not eligible for any other district assignment.

(2) A person may not work in a Professional Technical Program unless properly licensed regardless if the educator is licensed in another area.

(a) If an educator holding a Basic, Standard, Initial or Continuing Teaching License is not immediately eligible for a Three-Year Professional Technical License; the educator may be eligible for an Emergency Teaching License in the Professional Technical Endorsement area if the educator meets the requirements as it related to criminal background checks;

(b) Applicants who are not yet licensed by TSPC may be eligible for employment only upon obtaining an Emergency Teaching License prior to employment while the application for the Three-Year Professional Technical License is pending. [See OAR 584-060-0210 for Emergency Teaching License.]

(3) The application shall be a joint application from the applicant and the school district who seeks to employ the applicant. The application must be directly submitted by the applicant only. TSPC will not accept application submitted by third parties.

(4) The application must provide documentation of the following to TSPC:

(a) Evidence the requesting school district has an Oregon Department of Education approved program in the requested professional technical endorsement area.

(b) The applicant has passed the district's Instructor Appraisal Committee examination and the Instructor Appraisal Committee's approval is submitted on the required form; (See, 584-042-0002(2) for definition of Instructor Appraisal Committee.)

(c) The district has a signed agreement outlining the three-year Professional Technical Professional Development Plan on file; a copy of which is submitted with the application; (See OAR 584-042-0002(5) for details regarding the plan.)

(d) The district has provided a professional technical mentor in the professional technical education program area an such mentor is identified in the application materials; and

(e) Evidence the applicant meets the provisions of subsection (5) or (6) below or provides a recommendation from the Oregon Department of Education for a waiver. This evidence must include:

(A) Evidence that the structured or non-structured work experience has been completed and verified as having been completed in the past five years; or

(B) Transcripts documenting completion of an associate's degree; or

(C) The ODE waiver must be signed and dated within 90 days from the date of the application and submitted with the application materials; or

(D) A copy of the industry certification or licensure.

(5) For an applicant holding a teaching license, the work experience must have been performed in the last five years and must include:

(a) Non-structured related work of at least 1920 hours as defined in 584-042-0002(6)(b); or

(b) At least 640 hours of structured related work experience as defined in 584-042-0002(6)(a); or

(c) The equivalent combination of structured and non-structured related work at a technical skill level within the last five years. One hour of structured work experience related to the program area equals three hours of non-structured work experience; or

(d) Industry certification or licensure.

(6) For an applicant who does not hold a teaching license, the applicant must hold an associate's degree or obtain recommendation from the Oregon Department of Education for a waiver of the associate's degree; and

(a) Provide verification that the related work experience includes a minimum of 4,000 hours of non-structured related experience at a technical skill level within the last five years; or

(b) Provide industry certification or licensure; and

(c) Provide documentation that the school district has provided an assigned Professional Technical Mentor as defined in 584-042-0002(4).

(7) The Three-Year Professional Technical Teaching License is transferable to another Oregon school district if the new instructional assignment is comparable and in an Oregon Department of Education-approved professional technical program. The receiving school district superintendent must ensure that the instructor's three-year improvement plan is successfully completed.

(8) The Three-Year Professional Technical Teaching License is not renewable or eligible for extensions.



# ADMINISTRATIVE RULES

(9) If the application and fee for the Five-Year Professional Technical Teaching License is received prior to the expiration of the Three-Year Professional Technical Teaching License, the license will remain valid for another 120 days following the expiration of the license. The applicant and co-applicant district must provide documentation that the requirements for the Five Year Professional Technical Teaching License have been met prior to the expiration of the 120 days after the Three-Year Professional Teaching License has expired to remain continuously licensed in this area.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 - 342.200 & 342.400  
Hist.: TSPC 3-2002, f. 3-15-02, cert. ef. 1-15-03; TSPC 11-2006, f. & cert. ef. 8-17-06

## 584-042-0008

### Five-Year Professional Technical Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, an applicant may be granted a Five-Year Professional Technical Teaching License, valid for five years of teaching in an approved professional technical education program, may be issued.

(a) The Five-Year Professional Technical License is valid to teach in ODE approved Professional Technical programs for which the educator is specifically licensed. The license is not eligible for any other district assignment.

(2) The application shall be a joint application from the applicant and the school district who seeks to employ the applicant. The application must be directly submitted by the applicant only. TSPC will not accept application submitted by third parties.

(3) The application must provide documentation that the applicant:

(a) Meets all the requirements for the Three Year Professional Technical Teaching License as set forth in OAR 584-042-0006, and

(b) Has one year of professional technical teaching experience while holding a professional technical license as verified on a Professional Educational Experience Report Form (PEER); and

(c) Has attained a passing score as currently specified by the commission on a test of basic verbal and computational skills, unless the applicant held an Oregon educator license before 1985 or has a regionally accredited doctor's degree; and

(d) Has attained a passing score on a test of knowledge of U.S. and Oregon civil rights laws at the conclusion of a course or workshop approved by the commission; and

(e) Has completed 15 quarter hours of teaching methodology and/or structured work experience as advised by the Instructor Appraisal Committee. The applicant must submit transcripts or other credible evidence that provisions of this subsection have been met.

(4) Preparation for the Five-Year Professional Technical Teaching License may be completed at an approved teacher education institution; a community college; or through inservice instruction approved by the employing school district.

(a) If formal credit is not granted by a college or university, 30 clock hours of inservice shall be equivalent to one quarter hour of credit.

(5) The Five-Year Professional Technical Teaching License may be transferred to another Oregon school district if the new instructional assignment is comparable and in a professional technical program approved by the Oregon Department of Education.

(6) The Five-Year Professional Technical Teaching License is renewable upon joint application of the employing school board or school superintendent and the instructor under the following conditions:

(a) Completion of 125 clock hours or the equivalent of continuing professional development (CPD);

(A) CPD includes, but is not limited to:

(i) College and university coursework;

(ii) Community college course; or

(iii) Established workshops or planned experiences in business and industry.

(B) One quarter hour of college credit shall be equivalent to 20 clock hours of CPD; and 1 semester hour of college credit shall be equivalent to 30 clock hours of CPD. (See also OAR 584-090-0005 et seq for additional details.)

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 - 342.200 & 342.400  
Hist.: TSPC 3-2002, f. 3-15-02, cert. ef. 1-15-03; TSPC 11-2006, f. & cert. ef. 8-17-06

## 584-042-0009

### Adding Professional-Technical Endorsements

Professional technical endorsements may be added to initial, continuing, basic, standard, and five-year teaching licenses. Eligibility for the endorsement is determined under one the following conditions:

(1) Recommendation by an approved teacher education institution in one or more of the professional technical areas in one of the following endorsements:

(a) Agricultural Science and Technology;

(b) General Business Education;

(c) Family and Consumer Sciences;

(d) Marketing; or

(e) Technology Education.

(2) Verification the applicant holds a current professional technical teaching license issued by another state in the area of the endorsement seeking to be added; or

(3) Verification of one year of professional technical teaching experience while holding a Three-Year Professional Technical Teaching License and verification by the district's superintendent that the three-year improvement plan designed by the Instructor Appraisal Committee has been completed. (See, OAR 584-042-0006(4)).

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 - 342.200  
Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 11-2006, f. & cert. ef. 8-17-06

## 584-050-0030

### Serving Without Proper Licensure

(1) TSPC may deny a license if a person has served in violation of licensure assignment. Such denial shall extend either for one year from the date of application for licensure or for a period equal to the time served without licensure, whichever is less. A notice intent to deny the license and of opportunity for a hearing will be mailed to the educator.

(2) Licensed persons must be assigned in accordance with the authorizations and endorsement(s) they hold or under provisions of OAR 584-036-0081, Conditional Assignment Permits.

(3) Persons who serve in violation of licensure assignment rules and administrators who assign licensed persons in violation of licensure assignment rules may have such action considered as evidence of gross neglect of duty under ORS 342.175 and OAR 548-020-0040.

(4) TSPC may revoke or deny any license upon evidence that the holder or applicant knowingly made false statements to a prospective employing school district concerning the individual's licensure status or qualifications for assignment. (See also, OAR 584-020-0040.)

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.175 - 342.190  
Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 1-1982, f. & ef. 1-5-82; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 11-2006, f. & cert. ef. 8-17-06

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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

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137-049-0670	1-1-06	Amend	2-1-06	137-055-3490(T)	1-3-06	Repeal	2-1-06
137-049-0680	1-1-06	Amend	2-1-06	137-055-3500(T)	1-3-06	Repeal	2-1-06
137-049-0690	1-1-06	Amend	2-1-06	137-055-3640	1-3-06	Amend	2-1-06
137-049-0815	1-1-06	Adopt	2-1-06	137-055-3660	1-3-06	Amend	2-1-06
137-049-0820	1-1-06	Amend	2-1-06	137-055-4060	1-3-06	Amend	2-1-06
137-049-0860	1-1-06	Amend	2-1-06	137-055-4080	1-3-06	Amend	2-1-06
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137-055-1020	1-3-06	Amend	2-1-06	137-055-4120(T)	1-3-06	Repeal	2-1-06
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137-055-1060	1-3-06	Amend	2-1-06	137-055-4300	1-3-06	Amend	2-1-06
137-055-1070	1-3-06	Amend	2-1-06	137-055-4320	1-3-06	Amend	2-1-06
137-055-1070(T)	1-3-06	Repeal	2-1-06	137-055-4420	1-3-06	Amend	2-1-06
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137-055-1120	1-3-06	Amend	2-1-06	137-055-4540	1-3-06	Amend	2-1-06
137-055-1120(T)	1-3-06	Repeal	2-1-06	137-055-4540(T)	1-3-06	Repeal	2-1-06
137-055-1140	1-3-06	Amend	2-1-06	137-055-4560	1-3-06	Amend	2-1-06
137-055-1140	7-3-06	Amend	8-1-06	137-055-5020	1-3-06	Amend	2-1-06
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137-055-1145	1-3-06	Amend	2-1-06	137-055-5025	1-3-06	Amend	2-1-06
137-055-1145	7-3-06	Amend	8-1-06	137-055-5110	1-3-06	Amend	2-1-06
137-055-1160	1-3-06	Amend	2-1-06	137-055-5110	7-3-06	Amend	8-1-06
137-055-1160(T)	1-3-06	Repeal	2-1-06	137-055-5110(T)	1-3-06	Repeal	2-1-06
137-055-1180	1-3-06	Amend	2-1-06	137-055-5120	1-3-06	Amend	2-1-06
137-055-1180(T)	1-3-06	Repeal	2-1-06	137-055-5120	7-3-06	Amend	8-1-06
137-055-1600	1-3-06	Amend	2-1-06	137-055-5120(T)	1-3-06	Repeal	2-1-06
137-055-2045	1-3-06	Adopt	2-1-06	137-055-5125	1-3-06	Repeal	2-1-06
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137-055-2160	7-3-06	Amend	8-1-06	137-055-5400	1-3-06	Amend	2-1-06
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137-055-3140	7-3-06	Amend	8-1-06	137-055-6021	1-3-06	Adopt	2-1-06
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137-087-0025	1-1-06	Adopt	1-1-06	141-089-0230	1-3-06	Amend	2-1-06
137-087-0030	1-1-06	Adopt	1-1-06	141-089-0240	1-3-06	Amend	2-1-06
137-087-0035	1-1-06	Adopt	1-1-06	141-089-0250	1-3-06	Amend	2-1-06
137-087-0040	1-1-06	Adopt	1-1-06	141-089-0255	1-3-06	Amend	2-1-06
137-087-0045	1-1-06	Adopt	1-1-06	141-089-0265	1-3-06	Amend	2-1-06
137-087-0050	1-1-06	Adopt	1-1-06	141-089-0275	1-3-06	Amend	2-1-06
137-087-0055	1-1-06	Adopt	1-1-06	141-089-0295	1-3-06	Amend	2-1-06
137-087-0060	1-1-06	Adopt	1-1-06	141-089-0300	1-3-06	Amend	2-1-06
137-087-0065	1-1-06	Adopt	1-1-06	141-089-0310	1-3-06	Amend	2-1-06
137-087-0070	1-1-06	Adopt	1-1-06	141-089-0415	1-3-06	Amend	2-1-06
137-087-0075	1-1-06	Adopt	1-1-06	141-089-0420	1-3-06	Amend	2-1-06
137-087-0080	1-1-06	Adopt	1-1-06	141-089-0430	1-3-06	Amend	2-1-06
137-087-0085	1-1-06	Adopt	1-1-06	141-089-0520	1-3-06	Amend	2-1-06
137-087-0090	1-1-06	Adopt	1-1-06	141-089-0530	1-3-06	Amend	2-1-06
137-087-0095	1-1-06	Adopt	1-1-06	141-089-0555	1-3-06	Amend	2-1-06
137-087-0100	1-1-06	Adopt	1-1-06	141-089-0560	1-3-06	Amend	2-1-06
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141-085-0421	3-27-06	Amend	5-1-06	150-18.902(6)	7-31-06	Renumber	9-1-06
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141-089-0120	1-3-06	Amend	2-1-06	150-305.145(3)	1-1-06	Adopt	2-1-06
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141-089-0145	1-3-06	Amend	2-1-06	150-305.145(3)-(D)	1-1-06	Repeal	2-1-06
141-089-0150	1-3-06	Amend	2-1-06	150-305.145(3)-(E)	1-1-06	Repeal	2-1-06
141-089-0155	1-3-06	Amend	2-1-06	150-305.145(3)-(F)	1-1-06	Repeal	2-1-06
141-089-0165	1-3-06	Amend	2-1-06	150-305.145(3)-(G)	1-1-06	Repeal	2-1-06
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150-305.230(2)	1-1-06	Repeal	2-1-06	160-010-0013	6-26-06	Adopt	8-1-06
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150-314.280-(N)	7-31-06	Amend	9-1-06	160-100-1050	6-19-06	Adopt	8-1-06
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220-030-0035	5-15-06	Repeal	6-1-06	257-050-0080	11-18-05	Repeal	1-1-06
220-040-0015	12-30-05	Amend(T)	2-1-06	257-050-0090	11-18-05	Amend	1-1-06
220-040-0015	5-15-06	Repeal	6-1-06	257-050-0090	3-31-06	Amend	5-1-06
220-040-0025	12-30-05	Suspend	2-1-06	257-050-0095	3-31-06	Adopt	5-1-06
220-040-0025	5-15-06	Repeal	6-1-06	257-050-0100	3-31-06	Amend	5-1-06
220-040-0035	12-30-05	Amend(T)	2-1-06	257-050-0110	3-31-06	Amend	5-1-06
220-040-0035	5-15-06	Repeal	6-1-06	257-050-0120	11-18-05	Repeal	1-1-06
220-040-0045	12-30-05	Amend(T)	2-1-06	257-050-0125	11-18-05	Adopt	1-1-06
220-040-0045	5-15-06	Repeal	6-1-06	257-050-0125	3-31-06	Amend	5-1-06
220-040-0050	12-30-05	Amend(T)	2-1-06	257-050-0140	11-18-05	Amend	1-1-06
220-040-0050	5-15-06	Repeal	6-1-06	257-050-0140	3-31-06	Amend	5-1-06
220-050-0105	12-30-05	Suspend	2-1-06	257-050-0145	11-18-05	Adopt	1-1-06
220-050-0105	5-15-06	Repeal	6-1-06	257-050-0145	3-31-06	Amend	5-1-06
220-050-0110	12-30-05	Amend(T)	2-1-06	257-050-0150	11-18-05	Amend	1-1-06
220-050-0110	5-15-06	Repeal	6-1-06	257-050-0150	3-31-06	Amend	5-1-06
220-050-0140	12-30-05	Amend(T)	2-1-06	257-050-0155	3-31-06	Adopt	5-1-06
220-050-0140	5-15-06	Repeal	6-1-06	257-050-0157	11-18-05	Adopt	1-1-06
220-050-0150	12-30-05	Suspend	2-1-06	257-050-0157	3-31-06	Amend	5-1-06
220-050-0150	5-15-06	Repeal	6-1-06	257-050-0160	11-18-05	Repeal	1-1-06
220-050-0300	12-30-05	Amend(T)	2-1-06	257-050-0170	11-18-05	Adopt	1-1-06
220-050-0300	5-15-06	Repeal	6-1-06	257-050-0170	3-31-06	Amend	5-1-06
250-010-0055	7-3-06	Amend	8-1-06	257-050-0180	3-31-06	Adopt	5-1-06
250-016-0012	1-1-06	Adopt	2-1-06	257-050-0200	11-18-05	Adopt	1-1-06
250-020-0013	7-3-06	Amend	8-1-06	257-050-0200	3-31-06	Amend	5-1-06
250-020-0102	3-28-06	Amend	5-1-06	259-008-0010	2-28-06	Amend	4-1-06
250-020-0102	9-5-06	Amend(T)	9-1-06	259-008-0045	2-28-06	Amend	4-1-06
250-020-0161	7-3-06	Amend	8-1-06	259-008-0065	8-15-06	Amend(T)	9-1-06
250-020-0266	3-28-06	Amend	5-1-06	259-008-0070	7-6-06	Amend	8-1-06
250-020-0350	3-28-06	Amend	5-1-06	259-008-0076	12-7-05	Adopt	1-1-06
255-015-0003	4-5-06	Amend	5-1-06	259-009-0005	1-24-06	Amend	3-1-06

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259-009-0005	7-7-06	Amend	8-1-06	259-061-0200	5-15-06	Adopt	6-1-06
259-009-0059	1-23-06	Adopt(T)	3-1-06	259-061-0210	5-15-06	Adopt	6-1-06
259-009-0059	5-3-06	Adopt	6-1-06	259-061-0220	5-15-06	Adopt	6-1-06
259-009-0059(T)	5-3-06	Repeal	6-1-06	259-061-0230	5-15-06	Adopt	6-1-06
259-009-0062	1-24-06	Amend	3-1-06	259-061-0240	5-15-06	Adopt	6-1-06
259-009-0062	7-7-06	Amend	8-1-06	259-061-0250	5-15-06	Adopt	6-1-06
259-009-0065	1-24-06	Amend	3-1-06	259-061-0260	5-15-06	Adopt	6-1-06
259-012-0005	6-9-06	Amend	7-1-06	274-001-0005	6-27-06	Amend	8-1-06
259-012-0010	6-9-06	Amend	7-1-06	274-005-0060	7-27-06	Amend	9-1-06
259-012-0015	6-9-06	Amend	7-1-06	274-010-0100	1-27-06	Amend	3-1-06
259-012-0035	6-9-06	Amend	7-1-06	274-010-0115	1-27-06	Amend	3-1-06
259-060-0005	5-15-06	Amend	6-1-06	274-010-0120	1-27-06	Amend	3-1-06
259-060-0010	5-15-06	Amend	6-1-06	274-010-0135	1-27-06	Amend	3-1-06
259-060-0015	5-15-06	Amend	6-1-06	274-010-0140	1-27-06	Repeal	3-1-06
259-060-0020	5-15-06	Amend	6-1-06	274-010-0145	1-27-06	Amend	3-1-06
259-060-0060	5-15-06	Amend	6-1-06	274-010-0150	1-27-06	Repeal	3-1-06
259-060-0065	5-15-06	Amend	6-1-06	274-010-0155	1-27-06	Amend	3-1-06
259-060-0070	5-15-06	Amend	6-1-06	274-010-0160	1-27-06	Amend	3-1-06
259-060-0075	5-15-06	Amend	6-1-06	274-010-0170	1-27-06	Amend	3-1-06
259-060-0080	5-15-06	Amend	6-1-06	274-010-0175	1-27-06	Amend	3-1-06
259-060-0085	5-15-06	Amend	6-1-06	274-012-0001	2-23-06	Adopt(T)	4-1-06
259-060-0090	5-15-06	Amend	6-1-06	274-012-0001	4-25-06	Adopt	6-1-06
259-060-0095	5-15-06	Amend	6-1-06	274-012-0001(T)	4-25-06	Repeal	6-1-06
259-060-0115	5-15-06	Amend	6-1-06	274-012-0100	2-23-06	Adopt(T)	4-1-06
259-060-0120	5-15-06	Amend	6-1-06	274-012-0100	4-25-06	Adopt	6-1-06
259-060-0130	5-15-06	Amend	6-1-06	274-012-0100(T)	4-25-06	Repeal	6-1-06
259-060-0135	5-15-06	Amend	6-1-06	274-012-0105	2-23-06	Adopt(T)	4-1-06
259-060-0150	5-15-06	Amend	6-1-06	274-012-0105	4-25-06	Adopt	6-1-06
259-060-0300	5-15-06	Amend	6-1-06	274-012-0105(T)	4-25-06	Repeal	6-1-06
259-060-0305	5-15-06	Amend	6-1-06	274-012-0110	2-23-06	Adopt(T)	4-1-06
259-060-0405	5-15-06	Amend	6-1-06	274-012-0110	4-25-06	Adopt	6-1-06
259-060-0500	5-15-06	Amend	6-1-06	274-012-0110(T)	4-25-06	Repeal	6-1-06
259-060-0600	5-15-06	Amend	6-1-06	274-012-0115	2-23-06	Adopt(T)	4-1-06
259-061-0005	5-15-06	Adopt	6-1-06	274-012-0115	4-25-06	Adopt	6-1-06
259-061-0010	5-15-06	Adopt	6-1-06	274-012-0115(T)	4-25-06	Repeal	6-1-06
259-061-0015	5-15-06	Adopt	6-1-06	274-012-0120	2-23-06	Adopt(T)	4-1-06
259-061-0020	5-15-06	Adopt	6-1-06	274-012-0120	4-25-06	Adopt	6-1-06
259-061-0030	5-15-06	Adopt	6-1-06	274-012-0120(T)	4-25-06	Repeal	6-1-06
259-061-0040	5-15-06	Adopt	6-1-06	274-012-0125	2-23-06	Adopt(T)	4-1-06
259-061-0050	5-15-06	Adopt	6-1-06	274-012-0125	4-25-06	Adopt	6-1-06
259-061-0055	5-15-06	Adopt	6-1-06	274-012-0125(T)	4-25-06	Repeal	6-1-06
259-061-0060	5-15-06	Adopt	6-1-06	274-012-0130	2-23-06	Adopt(T)	4-1-06
259-061-0070	5-15-06	Adopt	6-1-06	274-012-0130	4-25-06	Adopt	6-1-06
259-061-0080	5-15-06	Adopt	6-1-06	274-012-0130(T)	4-25-06	Repeal	6-1-06
259-061-0090	5-15-06	Adopt	6-1-06	274-012-0131	2-23-06	Adopt(T)	4-1-06
259-061-0095	5-15-06	Adopt	6-1-06	274-012-0131	4-25-06	Adopt	6-1-06
259-061-0100	5-15-06	Adopt	6-1-06	274-012-0131(T)	4-25-06	Repeal	6-1-06
259-061-0110	5-15-06	Adopt	6-1-06	274-020-0340	12-27-05	Amend	2-1-06
259-061-0120	5-15-06	Adopt	6-1-06	274-030-0600	12-23-05	Adopt(T)	2-1-06
259-061-0130	5-15-06	Adopt	6-1-06	274-030-0600	6-16-06	Adopt	8-1-06
259-061-0140	5-15-06	Adopt	6-1-06	274-030-0600(T)	6-16-06	Repeal	8-1-06
259-061-0150	5-15-06	Adopt	6-1-06	274-030-0605	12-23-05	Adopt(T)	2-1-06
259-061-0160	5-15-06	Adopt	6-1-06	274-030-0605	6-16-06	Adopt	8-1-06
259-061-0170	5-15-06	Adopt	6-1-06	274-030-0605(T)	6-16-06	Repeal	8-1-06
259-061-0180	5-15-06	Adopt	6-1-06	274-030-0610	12-23-05	Adopt(T)	2-1-06
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274-030-0610(T)	6-16-06	Repeal	8-1-06	291-063-0010	1-1-06	Amend	2-1-06
274-030-0615	12-23-05	Adopt(T)	2-1-06	291-063-0016	1-1-06	Amend	2-1-06
274-030-0615	6-16-06	Adopt	8-1-06	291-063-0030	1-1-06	Amend	2-1-06
274-030-0615(T)	6-16-06	Repeal	8-1-06	291-063-0050	1-1-06	Amend	2-1-06
274-030-0620	12-23-05	Adopt(T)	2-1-06	291-065-0005	7-24-06	Amend	9-1-06
274-030-0620	6-16-06	Adopt	8-1-06	291-065-0006	7-24-06	Amend	9-1-06
274-030-0620(T)	6-16-06	Repeal	8-1-06	291-065-0007	7-24-06	Amend	9-1-06
274-030-0621	12-23-05	Adopt(T)	2-1-06	291-065-0010	7-24-06	Repeal	9-1-06
274-030-0621	6-16-06	Adopt	8-1-06	291-077-0020	2-15-06	Amend	3-1-06
274-030-0621(T)	6-16-06	Repeal	8-1-06	291-077-0030	2-15-06	Amend	3-1-06
274-030-0630	12-23-05	Adopt(T)	2-1-06	291-077-0033	2-15-06	Amend	3-1-06
274-030-0630	6-16-06	Adopt	8-1-06	291-077-0035	2-15-06	Amend	3-1-06
274-030-0630(T)	6-16-06	Repeal	8-1-06	291-100-0008	8-7-06	Amend(T)	9-1-06
274-030-0640	12-23-05	Adopt(T)	2-1-06	291-100-0130	8-7-06	Amend(T)	9-1-06
274-030-0640	6-16-06	Adopt	8-1-06	291-104-0005	6-1-06	Amend	7-1-06
274-030-0640(T)	6-16-06	Repeal	8-1-06	291-104-0010	12-7-05	Amend	1-1-06
274-040-0015	7-27-06	Amend	9-1-06	291-104-0010	6-1-06	Amend	7-1-06
274-040-0030	3-31-06	Amend(T)	5-1-06	291-104-0015	12-7-05	Amend	1-1-06
274-040-0030	5-30-06	Amend	7-1-06	291-104-0030	12-7-05	Amend	1-1-06
274-040-0030	7-27-06	Amend	9-1-06	291-104-0035	12-7-05	Amend	1-1-06
274-040-0030(T)	5-30-06	Repeal	7-1-06	291-104-0111	6-1-06	Adopt	7-1-06
274-040-0031	7-27-06	Adopt	9-1-06	291-104-0116	6-1-06	Adopt	7-1-06
274-040-0032	7-27-06	Adopt	9-1-06	291-104-0125	6-1-06	Adopt	7-1-06
274-040-0033	7-27-06	Adopt	9-1-06	291-104-0130	6-1-06	Adopt	7-1-06
274-045-0060	12-27-05	Amend	2-1-06	291-104-0135	6-1-06	Adopt	7-1-06
291-001-0100	6-1-06	Adopt(T)	7-1-06	291-130-0006	3-13-06	Amend	4-1-06
291-014-0100	7-24-06	Adopt	9-1-06	291-130-0010	3-13-06	Repeal	4-1-06
291-014-0110	7-24-06	Adopt	9-1-06	291-130-0011	3-13-06	Adopt	4-1-06
291-014-0120	7-24-06	Adopt	9-1-06	291-130-0016	3-13-06	Am. & Ren.	4-1-06
291-014-0130	7-24-06	Adopt	9-1-06	291-130-0020	3-13-06	Amend	4-1-06
291-028-0100	7-24-06	Adopt	9-1-06	291-130-0021	3-13-06	Adopt	4-1-06
291-028-0105	7-24-06	Adopt	9-1-06	291-130-0030	3-13-06	Amend	4-1-06
291-028-0110	7-24-06	Adopt	9-1-06	291-130-0050	3-13-06	Amend	4-1-06
291-028-0115	7-24-06	Adopt	9-1-06	291-130-0060	3-13-06	Amend	4-1-06
291-047-0005	1-1-06	Amend	2-1-06	291-130-0070	3-13-06	Repeal	4-1-06
291-047-0010	1-1-06	Amend	2-1-06	291-130-0080	3-13-06	Adopt	4-1-06
291-047-0020	1-1-06	Repeal	2-1-06	291-204-0010	8-1-06	Adopt	9-1-06
291-047-0021	1-1-06	Adopt	2-1-06	291-204-0020	8-1-06	Adopt	9-1-06
291-047-0025	1-1-06	Repeal	2-1-06	291-204-0030	8-1-06	Adopt	9-1-06
291-047-0061	1-1-06	Adopt	2-1-06	291-204-0040	8-1-06	Adopt	9-1-06
291-047-0065	1-1-06	Adopt	2-1-06	291-204-0050	8-1-06	Adopt	9-1-06
291-047-0070	1-1-06	Adopt	2-1-06	291-204-0060	8-1-06	Adopt	9-1-06
291-047-0075	1-1-06	Adopt	2-1-06	291-204-0070	8-1-06	Adopt	9-1-06
291-047-0080	1-1-06	Adopt	2-1-06	291-204-0080	8-1-06	Adopt	9-1-06
291-047-0085	1-1-06	Adopt	2-1-06	309-012-0000	6-1-06	Repeal	6-1-06
291-047-0090	1-1-06	Adopt	2-1-06	309-012-0005	6-1-06	Repeal	6-1-06
291-047-0095	1-1-06	Adopt	2-1-06	309-041-1220	7-1-06	Amend	8-1-06
291-047-0100	1-1-06	Adopt	2-1-06	309-120-0000(T)	1-1-06	Repeal	2-1-06
291-047-0105	1-1-06	Adopt	2-1-06	309-120-0005(T)	1-1-06	Repeal	2-1-06
291-047-0110	1-1-06	Adopt	2-1-06	309-120-0015	1-1-06	Repeal	2-1-06
291-047-0115	1-1-06	Am. & Ren.	2-1-06	309-120-0020	1-1-06	Repeal	2-1-06
291-047-0120	1-1-06	Am. & Ren.	2-1-06	309-120-0021(T)	1-1-06	Repeal	2-1-06
291-047-0125	1-1-06	Am. & Ren.	2-1-06	309-120-0070	1-1-06	Adopt	2-1-06
291-047-0130	1-1-06	Am. & Ren.	2-1-06	309-120-0070(T)	1-1-06	Repeal	2-1-06
291-047-0135	1-1-06	Am. & Ren.	2-1-06	309-120-0075	1-1-06	Adopt	2-1-06
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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	331-640-0010	9-1-06	Amend	10-1-06
309-120-0280	1-1-06	Am. & Ren.	2-1-06	331-640-0030	9-1-06	Amend	10-1-06
309-120-0285	1-1-06	Am. & Ren.	2-1-06	331-640-0050	9-1-06	Amend	10-1-06
309-120-0290	1-1-06	Am. & Ren.	2-1-06	331-640-0055	9-1-06	Adopt	10-1-06
309-120-0295	1-1-06	Am. & Ren.	2-1-06	331-640-0060	9-1-06	Adopt	10-1-06
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325-010-0001	2-6-06	Adopt	3-1-06	333-001-0005	6-1-06	Repeal	6-1-06
325-010-0005	2-6-06	Adopt	3-1-06	333-002-0000	8-2-06	Adopt	9-1-06
325-010-0010	2-6-06	Adopt	3-1-06	333-002-0010	8-2-06	Adopt	9-1-06
325-010-0015	2-6-06	Adopt	3-1-06	333-002-0020	8-2-06	Adopt	9-1-06
325-010-0020	2-6-06	Adopt	3-1-06	333-002-0030	8-2-06	Adopt	9-1-06
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325-010-0030	2-6-06	Adopt	3-1-06	333-002-0040	8-2-06	Adopt	9-1-06
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330-070-0089	1-1-06	Amend	2-1-06	333-008-0030	1-1-06	Amend	2-1-06
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333-008-0070	1-1-06	Amend	2-1-06	333-060-0035	7-1-06	Amend	8-1-06
333-008-0080	1-1-06	Amend	2-1-06	333-060-0045	7-1-06	Amend	8-1-06
333-008-0090	1-1-06	Amend	2-1-06	333-060-0050	7-1-06	Amend	8-1-06
333-008-0110	1-1-06	Adopt	2-1-06	333-060-0060	7-1-06	Amend	8-1-06
333-008-0120	1-1-06	Adopt	2-1-06	333-060-0065	7-1-06	Amend	8-1-06
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333-012-0061	7-1-06	Amend	8-1-06	333-060-0110	7-1-06	Amend	8-1-06
333-012-0070	7-1-06	Amend	8-1-06	333-060-0120	7-1-06	Amend	8-1-06
333-012-0260	4-17-06	Amend	6-1-06	333-060-0150	7-1-06	Amend	8-1-06
333-012-0265	1-1-06	Amend(T)	2-1-06	333-060-0160	7-1-06	Amend	8-1-06
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333-018-0015	7-1-06	Amend	8-1-06	333-060-0510	7-1-06	Adopt	8-1-06
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333-018-0030	4-17-06	Amend	6-1-06	333-061-0030	1-31-06	Amend	3-1-06
333-018-0030(T)	4-17-06	Repeal	6-1-06	333-061-0032	1-31-06	Amend	3-1-06
333-019-0031	4-17-06	Amend	6-1-06	333-061-0036	1-31-06	Amend	3-1-06
333-019-0036	1-1-06	Amend	2-1-06	333-061-0040	1-31-06	Amend	3-1-06
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333-025-0105	1-1-06	Amend	2-1-06	333-061-0043	1-31-06	Amend	3-1-06
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333-025-0120	1-1-06	Amend	2-1-06	333-061-0070	1-31-06	Amend	3-1-06
333-025-0135	1-1-06	Amend	2-1-06	333-061-0071	1-31-06	Amend	3-1-06
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333-050-0100	1-27-06	Amend	3-1-06	333-061-0265	1-31-06	Amend	3-1-06
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333-076-0710	6-27-06	Amend	8-1-06	333-102-0297	6-16-06	Amend	8-1-06
333-100-0005	6-16-06	Amend	8-1-06	333-102-0305	6-16-06	Amend	8-1-06
333-100-0045	6-16-06	Amend	8-1-06	333-102-0310	6-16-06	Amend	8-1-06
333-100-0055	6-16-06	Amend	8-1-06	333-102-0320	6-16-06	Amend	8-1-06
333-100-0057	6-16-06	Amend	8-1-06	333-102-0327	6-16-06	Amend	8-1-06
333-100-0060	6-16-06	Amend	8-1-06	333-102-0330	6-16-06	Amend	8-1-06
333-100-0065	6-16-06	Amend	8-1-06	333-102-0345	6-16-06	Amend	8-1-06
333-100-0070	6-16-06	Amend	8-1-06	333-102-0350	6-16-06	Amend	8-1-06
333-101-0005	6-16-06	Amend	8-1-06	333-102-0355	6-16-06	Amend	8-1-06
333-101-0007	6-16-06	Amend	8-1-06	333-102-0365	6-16-06	Amend	8-1-06
333-101-0010	6-16-06	Amend	8-1-06	333-102-0900	6-16-06	Amend	8-1-06
333-101-0015	6-16-06	Amend	8-1-06	333-102-0910	6-16-06	Amend	8-1-06
333-101-0020	6-16-06	Amend	8-1-06	333-103-0001	6-16-06	Amend	8-1-06
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333-101-0025	6-16-06	Amend	8-1-06	333-103-0010	6-16-06	Amend	8-1-06
333-101-0035	6-16-06	Amend	8-1-06	333-103-0015	6-16-06	Amend	8-1-06
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333-101-0230	6-16-06	Amend	8-1-06	333-105-0420	6-16-06	Amend	8-1-06
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333-102-0005	6-16-06	Amend	8-1-06	333-105-0500	6-16-06	Amend	8-1-06
333-102-0015	6-16-06	Amend	8-1-06	333-105-0510	6-16-06	Amend	8-1-06
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333-106-0480	6-16-06	Repeal	8-1-06	333-113-0140	6-16-06	Amend	8-1-06
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333-106-0515	6-16-06	Repeal	8-1-06	333-113-0310	6-16-06	Amend	8-1-06
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333-116-0057	6-16-06	Amend	8-1-06	333-116-0495	6-16-06	Amend	8-1-06
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333-116-0105	6-16-06	Amend	8-1-06	333-116-0540	6-16-06	Amend	8-1-06
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333-120-0215	6-16-06	Amend	8-1-06	333-122-0050	6-16-06	Adopt	8-1-06
333-120-0220	6-16-06	Amend	8-1-06	333-122-0075	6-16-06	Adopt	8-1-06
333-120-0230	6-16-06	Amend	8-1-06	333-122-0100	6-16-06	Adopt	8-1-06
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333-162-0510	7-1-06	Repeal	8-1-06	333-175-0051	7-1-06	Amend	8-1-06
333-162-0520	7-1-06	Repeal	8-1-06	333-175-0061	7-1-06	Amend	8-1-06
333-162-0530	7-1-06	Repeal	8-1-06	333-175-0071	7-1-06	Amend	8-1-06
333-162-0540	7-1-06	Repeal	8-1-06	333-175-0081	7-1-06	Amend	8-1-06
333-162-0552	7-1-06	Repeal	8-1-06	333-175-0091	7-1-06	Amend	8-1-06
333-162-0560	7-1-06	Repeal	8-1-06	333-175-0101	7-1-06	Amend	8-1-06
333-162-0570	7-1-06	Repeal	8-1-06	333-510-0045	1-1-06	Amend(T)	2-1-06
333-162-0580	7-1-06	Repeal	8-1-06	333-670-0000	4-17-06	Suspend	6-1-06
333-162-0590	7-1-06	Repeal	8-1-06	333-670-0010	4-17-06	Suspend	6-1-06
333-162-0600	7-1-06	Repeal	8-1-06	333-670-0020	4-17-06	Suspend	6-1-06
333-162-0610	7-1-06	Repeal	8-1-06	333-670-0030	4-17-06	Suspend	6-1-06
333-162-0620	7-1-06	Repeal	8-1-06	333-670-0040	4-17-06	Suspend	6-1-06
333-162-0630	7-1-06	Repeal	8-1-06	333-670-0050	4-17-06	Suspend	6-1-06
333-162-0640	7-1-06	Repeal	8-1-06	333-670-0060	4-17-06	Suspend	6-1-06
333-162-0650	7-1-06	Repeal	8-1-06	333-670-0070	4-17-06	Suspend	6-1-06
333-162-0660	7-1-06	Repeal	8-1-06	333-670-0080	4-17-06	Suspend	6-1-06

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333-670-0090	4-17-06	Suspend	6-1-06	340-012-0097	3-31-06	Amend	5-1-06
333-670-0100	4-17-06	Suspend	6-1-06	340-012-0125	6-29-06	Amend	8-1-06
333-670-0110	4-17-06	Suspend	6-1-06	340-012-0130	3-31-06	Amend	5-1-06
333-670-0120	4-17-06	Suspend	6-1-06	340-012-0135	3-31-06	Amend	5-1-06
333-670-0130	4-17-06	Suspend	6-1-06	340-012-0135	6-29-06	Amend	8-1-06
333-670-0140	4-17-06	Suspend	6-1-06	340-012-0140	3-31-06	Amend	5-1-06
333-670-0150	4-17-06	Suspend	6-1-06	340-012-0140	6-29-06	Amend	8-1-06
333-670-0160	4-17-06	Suspend	6-1-06	340-012-0155	3-31-06	Amend	5-1-06
333-670-0170	4-17-06	Suspend	6-1-06	340-045-0033	12-28-05	Amend	2-1-06
333-670-0180	4-17-06	Suspend	6-1-06	340-045-0033	9-1-06	Amend	9-1-06
333-670-0190	4-17-06	Suspend	6-1-06	340-045-0070	8-15-06	Amend	9-1-06
333-670-0200	4-17-06	Suspend	6-1-06	340-045-0075	8-15-06	Amend	9-1-06
333-670-0210	4-17-06	Suspend	6-1-06	340-110-0001	3-15-06	Amend	4-1-06
333-670-0220	4-17-06	Suspend	6-1-06	340-110-0020	3-15-06	Amend	4-1-06
333-670-0230	4-17-06	Suspend	6-1-06	340-110-0061	3-15-06	Amend	4-1-06
333-670-0240	4-17-06	Suspend	6-1-06	340-122-0040	3-17-06	Amend	5-1-06
333-670-0250	4-17-06	Suspend	6-1-06	340-122-0045	3-17-06	Repeal	5-1-06
333-670-0260	4-17-06	Suspend	6-1-06	340-122-0115	3-17-06	Amend	5-1-06
333-670-0270	4-17-06	Suspend	6-1-06	340-135-0000	8-15-06	Amend	9-1-06
333-670-0280	4-17-06	Suspend	6-1-06	340-135-0010	8-15-06	Amend	9-1-06
334-010-0010	1-5-06	Amend	2-1-06	340-135-0020	8-15-06	Amend	9-1-06
334-010-0015	1-5-06	Amend	2-1-06	340-135-0030	8-15-06	Amend	9-1-06
334-010-0015	2-16-06	Amend(T)	4-1-06	340-135-0040	8-15-06	Amend	9-1-06
334-010-0017	1-5-06	Amend	2-1-06	340-135-0042	8-15-06	Repeal	9-1-06
334-010-0033	1-5-06	Amend	2-1-06	340-135-0044	8-15-06	Repeal	9-1-06
334-010-0050	1-5-06	Amend	2-1-06	340-135-0046	8-15-06	Repeal	9-1-06
335-005-0025	5-8-06	Amend	6-1-06	340-135-0050	8-15-06	Amend	9-1-06
335-005-0030	5-8-06	Adopt	6-1-06	340-135-0055	8-15-06	Adopt	9-1-06
335-005-0035	5-8-06	Adopt	6-1-06	340-135-0070	8-15-06	Repeal	9-1-06
335-070-0040	5-8-06	Amend	6-1-06	340-135-0080	8-15-06	Repeal	9-1-06
335-070-0060	5-8-06	Amend	6-1-06	340-135-0090	8-15-06	Amend	9-1-06
335-070-0065	5-8-06	Amend	6-1-06	340-135-0100	8-15-06	Repeal	9-1-06
335-080-0005	5-8-06	Amend	6-1-06	340-135-0105	8-15-06	Adopt	9-1-06
335-095-0010	5-8-06	Amend	6-1-06	340-135-0110	8-15-06	Amend	9-1-06
335-095-0030	5-8-06	Amend	6-1-06	340-200-0020	3-14-06	Amend	4-1-06
335-095-0055	5-8-06	Amend	6-1-06	340-200-0040	3-14-06	Amend	4-1-06
337-010-0030	2-6-06	Amend	3-1-06	340-200-0040	3-31-06	Amend	5-1-06
340-011-0605	5-12-06	Adopt	6-1-06	340-216-0060	3-14-06	Amend	4-1-06
340-012-0027	3-31-06	Amend	5-1-06	340-220-0030	6-30-06	Amend	8-1-06
340-012-0053	3-31-06	Amend	5-1-06	340-220-0040	6-30-06	Amend	8-1-06
340-012-0054	3-31-06	Amend	5-1-06	340-220-0050	6-30-06	Amend	8-1-06
340-012-0054	6-29-06	Amend	8-1-06	340-238-0040	3-14-06	Amend	4-1-06
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340-012-0060	3-31-06	Amend	5-1-06	340-238-0060	3-14-06	Amend	4-1-06
340-012-0065	3-31-06	Amend	5-1-06	340-244-0030	3-14-06	Amend	4-1-06
340-012-0066	3-31-06	Amend	5-1-06	340-244-0040	3-14-06	Amend	4-1-06
340-012-0067	3-31-06	Amend	5-1-06	340-244-0220	3-14-06	Amend	4-1-06
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340-012-0072	3-31-06	Amend	5-1-06	340-256-0300	7-5-06	Amend(T)	8-1-06
340-012-0073	3-31-06	Amend	5-1-06	340-257-0010	1-1-06	Adopt(T)	2-1-06
340-012-0074	3-31-06	Amend	5-1-06	340-257-0010	6-29-06	Adopt	8-1-06
340-012-0079	3-31-06	Amend	5-1-06	340-257-0010(T)	6-29-06	Repeal	8-1-06
340-012-0081	3-31-06	Amend	5-1-06	340-257-0020	1-1-06	Adopt(T)	2-1-06
340-012-0082	3-31-06	Amend	5-1-06	340-257-0020	6-29-06	Adopt	8-1-06
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340-257-0030	6-29-06	Adopt	8-1-06	350-050-0090	5-1-06	Amend	5-1-06
340-257-0030(T)	6-29-06	Repeal	8-1-06	350-050-0100	5-1-06	Amend	5-1-06
340-257-0040	1-1-06	Adopt(T)	2-1-06	350-050-0110	5-1-06	Repeal	5-1-06
340-257-0040	6-29-06	Adopt	8-1-06	350-081-0108	8-1-06	Amend	8-1-06
340-257-0040(T)	6-29-06	Repeal	8-1-06	350-081-0114	8-1-06	Adopt	8-1-06
340-257-0050	1-1-06	Adopt(T)	2-1-06	350-081-0190	8-1-06	Amend	8-1-06
340-257-0050	6-29-06	Adopt	8-1-06	350-081-0270	8-1-06	Amend	8-1-06
340-257-0050(T)	6-29-06	Repeal	8-1-06	350-081-0370	8-1-06	Amend	8-1-06
340-257-0060	1-1-06	Adopt(T)	2-1-06	350-081-0450	8-1-06	Amend	8-1-06
340-257-0060	6-29-06	Adopt	8-1-06	350-081-0490	8-1-06	Amend	8-1-06
340-257-0060(T)	6-29-06	Repeal	8-1-06	407-001-0000	6-1-06	Adopt	6-1-06
340-257-0070	1-1-06	Adopt(T)	2-1-06	407-001-0005	6-1-06	Adopt	6-1-06
340-257-0070	6-29-06	Adopt	8-1-06	407-001-0010	6-1-06	Adopt	6-1-06
340-257-0070(T)	6-29-06	Repeal	8-1-06	407-005-0000	3-1-06	Adopt	4-1-06
340-257-0080	1-1-06	Adopt(T)	2-1-06	407-005-0005	3-1-06	Adopt	4-1-06
340-257-0080	6-29-06	Adopt	8-1-06	407-005-0010	3-1-06	Adopt	4-1-06
340-257-0080(T)	6-29-06	Repeal	8-1-06	407-005-0015	3-1-06	Adopt	4-1-06
340-257-0090	1-1-06	Adopt(T)	2-1-06	407-005-0020	3-1-06	Adopt	4-1-06
340-257-0090	6-29-06	Adopt	8-1-06	407-005-0025	3-1-06	Adopt	4-1-06
340-257-0090(T)	6-29-06	Repeal	8-1-06	407-005-0030	3-1-06	Adopt	4-1-06
340-257-0100	1-1-06	Adopt(T)	2-1-06	407-010-0001	3-1-06	Adopt	4-1-06
340-257-0100	6-29-06	Adopt	8-1-06	407-045-0000	6-1-06	Adopt	7-1-06
340-257-0100(T)	6-29-06	Repeal	8-1-06	407-045-0010	6-1-06	Adopt	7-1-06
340-257-0110	1-1-06	Adopt(T)	2-1-06	407-045-0020	6-1-06	Adopt	7-1-06
340-257-0110	6-29-06	Adopt	8-1-06	407-045-0030	6-1-06	Adopt	7-1-06
340-257-0110(T)	6-29-06	Repeal	8-1-06	407-045-0040	6-1-06	Adopt	7-1-06
340-257-0120	1-1-06	Adopt(T)	2-1-06	407-045-0050	6-1-06	Adopt	7-1-06
340-257-0120	6-29-06	Adopt	8-1-06	407-045-0060	6-1-06	Adopt	7-1-06
340-257-0120(T)	6-29-06	Repeal	8-1-06	407-045-0070	6-1-06	Adopt	7-1-06
340-257-0130	1-1-06	Adopt(T)	2-1-06	407-045-0080	6-1-06	Adopt	7-1-06
340-257-0130	6-29-06	Adopt	8-1-06	407-045-0090	6-1-06	Adopt	7-1-06
340-257-0130(T)	6-29-06	Repeal	8-1-06	407-045-0100	6-1-06	Adopt	7-1-06
340-257-0140	6-29-06	Adopt	8-1-06	407-045-0110	6-1-06	Adopt	7-1-06
340-257-0150	1-1-06	Adopt(T)	2-1-06	407-050-0000	11-28-05	Adopt(T)	1-1-06
340-257-0150	6-29-06	Adopt	8-1-06	407-050-0000	5-26-06	Adopt	7-1-06
340-257-0150(T)	6-29-06	Repeal	8-1-06	407-050-0005	11-28-05	Adopt(T)	1-1-06
340-257-0160	1-1-06	Adopt(T)	2-1-06	407-050-0005	5-26-06	Adopt	7-1-06
340-257-0160	6-29-06	Adopt	8-1-06	407-050-0010	11-28-05	Adopt(T)	1-1-06
340-257-0160(T)	6-29-06	Repeal	8-1-06	407-050-0010	5-26-06	Adopt	7-1-06
350-011-0004	5-1-06	Amend	5-1-06	409-030-0060	7-25-06	Adopt(T)	9-1-06
350-012-0006	5-1-06	Amend	5-1-06	410-001-0000	6-1-06	Amend	6-1-06
350-012-0007	5-1-06	Amend	5-1-06	410-001-0005	6-1-06	Amend	6-1-06
350-012-0008	5-1-06	Amend	5-1-06	410-001-0010	6-1-06	Repeal	6-1-06
350-012-0009	5-1-06	Adopt	5-1-06	410-001-0020	6-1-06	Amend	6-1-06
350-013-0001	5-1-06	Amend	5-1-06	410-001-0030	6-1-06	Repeal	6-1-06
350-016-0004	5-1-06	Amend	5-1-06	410-002-0000	6-1-06	Repeal	6-1-06
350-050-0030	5-1-06	Amend	5-1-06	410-011-0000	1-1-06	Am. & Ren.	1-1-06
350-050-0035	5-1-06	Adopt	5-1-06	410-011-0010	1-1-06	Am. & Ren.	1-1-06
350-050-0040	5-1-06	Amend	5-1-06	410-011-0020	1-1-06	Am. & Ren.	1-1-06
350-050-0045	5-1-06	Adopt	5-1-06	410-011-0030	1-1-06	Am. & Ren.	1-1-06
350-050-0050	5-1-06	Amend	5-1-06	410-011-0040	1-1-06	Am. & Ren.	1-1-06
350-050-0060	5-1-06	Amend	5-1-06	410-011-0050	1-1-06	Am. & Ren.	1-1-06
350-050-0070	5-1-06	Amend	5-1-06	410-011-0060	1-1-06	Am. & Ren.	1-1-06
350-050-0075	5-1-06	Repeal	5-1-06	410-011-0070	1-1-06	Am. & Ren.	1-1-06
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410-011-0100	1-1-06	Am. & Ren.	1-1-06	410-121-0320	1-1-06	Amend	2-1-06
410-011-0110	1-1-06	Am. & Ren.	1-1-06	410-122-0010	7-1-06	Amend	7-1-06
410-011-0120	1-1-06	Am. & Ren.	1-1-06	410-122-0040	7-1-06	Amend	7-1-06
410-015-0000	7-14-06	Renumber	8-1-06	410-122-0055	10-1-06	Amend	10-1-06
410-015-0010	7-14-06	Renumber	8-1-06	410-122-0080	7-1-06	Amend	7-1-06
410-015-0020	7-14-06	Renumber	8-1-06	410-122-0180	7-1-06	Amend	7-1-06
410-015-0030	7-14-06	Renumber	8-1-06	410-122-0190	12-1-05	Amend	1-1-06
410-015-0040	7-14-06	Renumber	8-1-06	410-122-0200	10-1-06	Amend	10-1-06
410-050-0431	8-7-06	Amend(T)	9-1-06	410-122-0202	10-1-06	Amend	10-1-06
410-050-0861	7-1-06	Amend	7-1-06	410-122-0204	7-1-06	Amend	7-1-06
410-120-0000	1-1-06	Amend	1-1-06	410-122-0205	10-1-06	Amend	10-1-06
410-120-0000	7-1-06	Amend	7-1-06	410-122-0210	10-1-06	Amend	10-1-06
410-120-0250	1-1-06	Amend	2-1-06	410-122-0240	7-1-06	Amend	7-1-06
410-120-1180	7-1-06	Amend	7-1-06	410-122-0300	7-1-06	Amend	7-1-06
410-120-1200	1-1-06	Amend	1-1-06	410-122-0320	7-1-06	Amend	7-1-06
410-120-1200	7-1-06	Amend	7-1-06	410-122-0325	7-1-06	Amend	7-1-06
410-120-1210	1-1-06	Amend	1-1-06	410-122-0330	7-1-06	Amend	7-1-06
410-120-1210	7-1-06	Amend	7-1-06	410-122-0340	7-1-06	Amend	7-1-06
410-120-1230	7-1-06	Amend	7-1-06	410-122-0400	7-1-06	Amend	7-1-06
410-120-1260	7-1-06	Amend	7-1-06	410-122-0510	7-1-06	Amend	7-1-06
410-120-1280	1-1-06	Amend	2-1-06	410-122-0515	7-1-06	Adopt	7-1-06
410-120-1280	7-1-06	Amend	7-1-06	410-122-0520	10-1-06	Amend	10-1-06
410-120-1295	1-1-06	Amend	1-1-06	410-122-0525	7-1-06	Amend	7-1-06
410-120-1295	1-1-06	Amend(T)	1-1-06	410-122-0540	10-1-06	Amend	10-1-06
410-120-1295	1-1-06	Amend(T)	2-1-06	410-122-0560	10-1-06	Amend	10-1-06
410-120-1295	6-23-06	Amend	8-1-06	410-122-0620	10-1-06	Amend	10-1-06
410-120-1295(T)	1-1-06	Repeal	1-1-06	410-122-0625	10-1-06	Amend	10-1-06
410-120-1295(T)	6-23-06	Repeal	8-1-06	410-122-0630	10-1-06	Amend	10-1-06
410-120-1340	7-1-06	Amend	7-1-06	410-122-0660	10-1-06	Amend	10-1-06
410-120-1400	7-1-06	Amend	7-1-06	410-122-0700	7-1-06	Amend	7-1-06
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410-120-1560	7-1-06	Amend	7-1-06	410-125-0141	1-1-06	Amend	2-1-06
410-120-1855	7-1-06	Amend	7-1-06	410-125-0141	7-1-06	Amend	7-1-06
410-120-1960	7-1-06	Amend	7-1-06	410-125-0142	7-1-06	Amend	7-1-06
410-121-0030	7-1-06	Amend	7-1-06	410-125-0146	9-1-06	Adopt	10-1-06
410-121-0030	9-1-06	Amend	10-1-06	410-125-0155	7-1-06	Amend	7-1-06
410-121-0040	3-15-06	Amend(T)	4-1-06	410-125-0181	1-1-06	Amend	2-1-06
410-121-0040	9-1-06	Amend	10-1-06	410-125-0181	7-1-06	Amend	7-1-06
410-121-0040(T)	9-1-06	Repeal	10-1-06	410-125-0190	1-1-06	Amend	2-1-06
410-121-0060	7-1-06	Amend	7-1-06	410-125-0190	7-1-06	Amend	7-1-06
410-121-0100	7-1-06	Amend	7-1-06	410-125-0195	1-1-06	Amend	2-1-06
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410-121-0147	1-1-06	Amend	1-1-06	410-125-0201	1-1-06	Amend	2-1-06
410-121-0147	7-1-06	Amend	7-1-06	410-125-0210	1-1-06	Amend	2-1-06
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410-121-0149	6-29-06	Adopt	8-1-06	410-125-0221	7-1-06	Amend	7-1-06
410-121-0150	7-1-06	Amend	7-1-06	410-125-0600	7-1-06	Amend	7-1-06
410-121-0155	7-1-06	Amend	7-1-06	410-125-0720	7-1-06	Amend	7-1-06
410-121-0157	4-1-06	Amend	5-1-06	410-125-1020	1-1-06	Amend	2-1-06
410-121-0157	4-1-06	Amend(T)	5-1-06	410-125-1060	1-1-06	Amend	2-1-06
410-121-0157	6-1-06	Amend	7-1-06	410-125-2080	7-1-06	Amend	7-1-06
410-121-0160	7-1-06	Amend	7-1-06	410-129-0200	7-1-06	Amend	7-1-06
410-121-0190	12-1-05	Amend	1-1-06	410-129-0240	7-1-06	Amend	7-1-06
410-121-0300	1-1-06	Amend	2-1-06	410-129-0260	7-1-06	Amend	7-1-06
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410-130-0200	7-1-06	Amend	7-1-06	410-141-0070	1-1-06	Amend	1-1-06
410-130-0220	7-1-06	Amend	7-1-06	410-141-0070	7-1-06	Amend	7-1-06
410-130-0225	7-1-06	Amend	7-1-06	410-141-0080	1-1-06	Amend	1-1-06
410-130-0240	7-1-06	Amend	7-1-06	410-141-0085	7-1-06	Amend	7-1-06
410-130-0255	7-1-06	Amend	7-1-06	410-141-0115	7-1-06	Amend	7-1-06
410-130-0580	7-1-06	Amend	7-1-06	410-141-0120	1-1-06	Amend	1-1-06
410-130-0585	7-1-06	Amend	7-1-06	410-141-0160	1-1-06	Amend	1-1-06
410-130-0587	7-1-06	Amend	7-1-06	410-141-0180	7-1-06	Amend	7-1-06
410-130-0595	7-1-06	Amend	7-1-06	410-141-0220	1-1-06	Amend	1-1-06
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410-131-0280	7-1-06	Amend	7-1-06	410-141-0405	7-1-06	Amend	7-1-06
410-132-0140	12-1-05	Repeal	1-1-06	410-141-0410	7-1-06	Amend	7-1-06
410-136-0320	7-1-06	Amend	7-1-06	410-141-0420	7-1-06	Amend	7-1-06
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410-136-0350	7-1-06	Amend	7-1-06	410-141-0520	12-1-05	Amend	1-1-06
410-136-0360	7-1-06	Amend	7-1-06	410-141-0520	1-1-06	Amend	2-1-06
410-136-0420	12-1-05	Amend	1-1-06	410-141-0520	4-1-06	Amend	5-1-06
410-136-0420	7-1-06	Amend	7-1-06	410-141-0860	7-1-06	Amend	7-1-06
410-138-0600	2-7-06	Adopt(T)	3-1-06	410-142-0060	10-1-06	Amend	10-1-06
410-138-0600	7-1-06	Adopt	7-1-06	410-142-0300	10-1-06	Amend	10-1-06
410-138-0610	2-7-06	Adopt(T)	3-1-06	410-146-0100	12-1-05	Amend	1-1-06
410-138-0610	7-1-06	Adopt	7-1-06	410-147-0020	7-1-06	Amend	7-1-06
410-138-0620	2-7-06	Adopt(T)	3-1-06	410-147-0040	7-1-06	Amend	7-1-06
410-138-0620	7-1-06	Adopt	7-1-06	410-147-0060	7-1-06	Amend	7-1-06
410-138-0640	2-7-06	Adopt(T)	3-1-06	410-147-0080	7-1-06	Amend	7-1-06
410-138-0640	7-1-06	Adopt	7-1-06	410-147-0085	7-1-06	Amend	7-1-06
410-138-0660	2-7-06	Adopt(T)	3-1-06	410-147-0120	7-1-06	Amend	7-1-06
410-138-0660	7-1-06	Adopt	7-1-06	410-147-0125	7-1-06	Amend	7-1-06
410-138-0680	2-7-06	Adopt(T)	3-1-06	410-147-0140	7-1-06	Amend	7-1-06
410-138-0680	7-1-06	Adopt	7-1-06	410-147-0160	7-1-06	Amend	7-1-06
410-138-0700	2-7-06	Adopt(T)	3-1-06	410-147-0180	7-1-06	Amend	7-1-06
410-138-0700	7-1-06	Adopt	7-1-06	410-147-0200	7-1-06	Amend	7-1-06
410-138-0710	2-7-06	Adopt(T)	3-1-06	410-147-0220	7-1-06	Amend	7-1-06
410-138-0710	7-1-06	Adopt	7-1-06	410-147-0240	7-1-06	Amend	7-1-06
410-138-0720	2-7-06	Adopt(T)	3-1-06	410-147-0280	7-1-06	Amend	7-1-06
410-138-0720	7-1-06	Adopt	7-1-06	410-147-0320	7-1-06	Amend	7-1-06
410-138-0740	2-7-06	Adopt(T)	3-1-06	410-147-0360	7-1-06	Amend	7-1-06
410-138-0740	7-1-06	Adopt	7-1-06	410-147-0365	1-1-06	Amend	1-1-06
410-138-0760	2-7-06	Adopt(T)	3-1-06	410-147-0400	7-1-06	Amend	7-1-06
410-138-0760	7-1-06	Adopt	7-1-06	410-147-0460	7-1-06	Amend	7-1-06
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411-005-0030	7-1-06	Repeal	8-1-06	411-031-0050(T)	5-1-06	Repeal	6-1-06
411-005-0035	7-1-06	Amend	8-1-06	411-055-0003	2-1-06	Amend	3-1-06
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411-005-0050	7-1-06	Repeal	8-1-06	411-055-0190	7-1-06	Amend	8-1-06
411-005-0055	7-1-06	Repeal	8-1-06	411-055-0190(T)	7-1-06	Repeal	8-1-06
411-005-0060	7-1-06	Repeal	8-1-06	411-056-0007	2-1-06	Amend	3-1-06
411-005-0065	7-1-06	Repeal	8-1-06	411-056-0007(T)	2-1-06	Repeal	3-1-06
411-005-0100	7-1-06	Adopt	8-1-06	411-056-0020	1-18-06	Amend(T)	3-1-06
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411-015-0010	6-1-06	Amend	7-1-06	411-065-0030	9-1-06	Amend	10-1-06
411-015-0015	2-1-06	Amend	3-1-06	411-065-0035	9-1-06	Amend	10-1-06
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411-018-0000	12-12-05	Amend	1-1-06	411-065-0047	9-1-06	Amend	10-1-06
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411-018-0020	12-12-05	Amend	1-1-06	411-065-0049	9-1-06	Amend	10-1-06
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411-020-0030	4-1-06	Amend	5-1-06	411-070-0020	2-1-06	Amend	3-1-06
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411-030-0050	6-1-06	Amend	7-1-06	411-070-0110	2-1-06	Amend	3-1-06
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411-030-0055	6-1-06	Adopt	7-1-06	411-070-0120	2-1-06	Amend	3-1-06
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411-070-0350	2-1-06	Amend	3-1-06	411-320-0070(T)	2-1-06	Repeal	3-1-06
411-070-0359	2-1-06	Amend	3-1-06	411-320-0080	11-23-05	Amend(T)	1-1-06
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411-070-0370	2-1-06	Amend	3-1-06	411-320-0080(T)	2-1-06	Repeal	3-1-06
411-070-0375	2-1-06	Amend	3-1-06	411-320-0090	11-23-05	Amend(T)	1-1-06
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411-070-0400	2-1-06	Amend	3-1-06	411-320-0090(T)	2-1-06	Repeal	3-1-06
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411-070-0425	2-1-06	Amend	3-1-06	411-320-0100(T)	2-1-06	Repeal	3-1-06
411-070-0428	2-1-06	Amend	3-1-06	411-320-0110	11-23-05	Amend(T)	1-1-06
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411-070-0435	2-1-06	Amend	3-1-06	411-320-0110(T)	2-1-06	Repeal	3-1-06
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411-070-0458	2-1-06	Repeal	3-1-06	411-320-0120	2-1-06	Amend	3-1-06
411-070-0462	2-1-06	Amend	3-1-06	411-320-0120(T)	2-1-06	Repeal	3-1-06
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437-001-0940	9-15-06	Repeal	10-1-06	441-910-0093	1-1-06	Adopt	1-1-06
437-002-0005	12-14-05	Amend	1-1-06	441-910-0095	1-1-06	Amend	1-1-06
437-002-0080	7-24-06	Amend	9-1-06	441-910-0110	1-1-06	Amend	1-1-06
437-002-0100	12-14-05	Amend	1-1-06	441-910-0120	1-1-06	Amend	1-1-06
437-002-0100	7-24-06	Amend	9-1-06	441-910-0130	1-1-06	Repeal	1-1-06
437-002-0120	7-24-06	Amend	9-1-06	441-930-0010	2-22-06	Amend	4-1-06
437-002-0220	7-24-06	Amend	9-1-06	441-930-0020	2-22-06	Repeal	4-1-06
437-002-0260	12-14-05	Amend	1-1-06	441-930-0030	2-22-06	Amend	4-1-06
437-002-0280	12-14-05	Amend	1-1-06	441-930-0040	2-22-06	Repeal	4-1-06
437-002-0300	12-14-05	Amend	1-1-06	441-930-0050	2-22-06	Repeal	4-1-06
437-002-0340	7-24-06	Amend	9-1-06	441-930-0060	2-22-06	Repeal	4-1-06
437-002-0360	7-24-06	Amend	9-1-06	441-930-0070	2-22-06	Amend	4-1-06
437-002-0360	8-30-06	Amend	10-1-06	441-930-0080	2-22-06	Adopt	4-1-06
437-002-0382	8-30-06	Amend	10-1-06	441-930-0200	2-22-06	Repeal	4-1-06
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437-003-0001	7-24-06	Amend	9-1-06	441-930-0220	2-22-06	Amend	4-1-06
437-003-0001	8-30-06	Amend	10-1-06	441-930-0230	2-22-06	Amend	4-1-06
437-003-0001	1-1-07	Amend	9-1-06	441-930-0240	2-22-06	Amend	4-1-06
437-003-1000	8-30-06	Amend	10-1-06	441-930-0250	2-22-06	Amend	4-1-06
437-004-1040	3-1-07	Repeal	7-1-06	441-930-0260	2-22-06	Amend	4-1-06
437-004-1041	3-1-07	Adopt	7-1-06	441-930-0270	2-22-06	Amend	4-1-06
437-004-9000	8-30-06	Amend	10-1-06	441-930-0280	2-22-06	Amend	4-1-06
437-005-0001	7-24-06	Amend	9-1-06	441-930-0290	2-22-06	Amend	4-1-06
437-005-0001	8-30-06	Amend	10-1-06	441-930-0300	2-22-06	Amend	4-1-06
437-005-0002	8-30-06	Amend	10-1-06	441-930-0310	2-22-06	Amend	4-1-06
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440-001-0000	5-9-06	Amend	6-1-06	441-930-0330	2-22-06	Amend	4-1-06
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441-001-0005	5-17-06	Amend	7-1-06	441-930-0350	2-22-06	Amend	4-1-06
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441-750-0010	1-9-06	Repeal	2-1-06	441-950-0020	1-9-06	Repeal	2-1-06
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441-750-0040	1-9-06	Repeal	2-1-06	441-950-0050	1-9-06	Repeal	2-1-06
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442-004-0150	1-17-06	Amend(T)	3-1-06	445-050-0135	12-29-05	Amend(T)	2-1-06
442-004-0150	6-1-06	Repeal	7-1-06	445-050-0135	6-15-06	Amend	7-1-06
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442-004-0160	6-1-06	Repeal	7-1-06	459-001-0035	6-26-06	Amend	8-1-06
442-004-0170	1-17-06	Amend(T)	3-1-06	459-001-0040	6-26-06	Amend	8-1-06
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442-005-0030	6-1-06	Adopt	7-1-06	459-007-0003	2-1-06	Amend	3-1-06
442-005-0040	6-1-06	Adopt	7-1-06	459-007-0003(T)	2-1-06	Repeal	3-1-06
442-005-0050	6-1-06	Adopt	7-1-06	459-007-0005	2-1-06	Amend	3-1-06
442-005-0060	6-1-06	Adopt	7-1-06	459-007-0005(T)	2-1-06	Repeal	3-1-06
442-005-0070	6-1-06	Adopt	7-1-06	459-007-0015	12-7-05	Amend	1-1-06
442-005-0080	6-1-06	Adopt	7-1-06	459-007-0090	2-1-06	Amend	3-1-06
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442-005-0100	6-1-06	Adopt	7-1-06	459-007-0095	2-1-06	Repeal	3-1-06
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442-005-0200	6-1-06	Adopt	7-1-06	459-070-0001	1-1-06	Amend	2-1-06
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442-005-0220	6-1-06	Adopt	7-1-06	459-075-0010	4-5-06	Amend	5-1-06
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442-005-0280	6-1-06	Adopt	7-1-06	461-025-0315	7-1-06	Amend	8-1-06
442-005-0290	6-1-06	Adopt	7-1-06	461-101-0010	1-1-06	Amend	2-1-06
442-005-0300	6-1-06	Adopt	7-1-06	461-101-0010	6-1-06	Amend	7-1-06
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461-165-0180	4-1-06	Amend	5-1-06	471-030-0125	3-12-06	Amend	4-1-06
461-165-0410	4-1-06	Amend	5-1-06	471-030-0150	12-15-05	Amend	1-1-06
461-165-0420	4-1-06	Amend	5-1-06	471-030-0174	12-25-05	Amend	2-1-06
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461-170-0020	12-1-05	Amend	1-1-06	471-031-0090	1-1-06	Repeal	2-1-06
461-170-0025	7-1-06	Amend	8-1-06	471-031-0139	2-5-06	Adopt	3-1-06
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571-040-0251	9-1-06	Am. & Ren.	9-1-06	577-001-0120	12-15-05	Amend	1-1-06
571-040-0253	9-1-06	Repeal	9-1-06	577-031-0125	8-22-06	Amend	10-1-06
571-040-0261	9-1-06	Am. & Ren.	9-1-06	577-031-0130	8-22-06	Amend	10-1-06
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571-040-0420	9-1-06	Am. & Ren.	9-1-06	577-031-0136	8-22-06	Amend	10-1-06
571-040-0430	9-1-06	Am. & Ren.	9-1-06	577-031-0137	8-22-06	Amend	10-1-06
571-040-0440	9-1-06	Am. & Ren.	9-1-06	577-031-0140	8-22-06	Amend	10-1-06
571-040-0450	9-1-06	Am. & Ren.	9-1-06	577-031-0141	8-22-06	Amend	10-1-06
571-040-0450	9-1-06	Am. & Ren.	9-1-06	577-031-0142	8-22-06	Amend	10-1-06
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571-040-0460	9-1-06	Am. & Ren.	9-1-06	577-031-0145	8-22-06	Amend	10-1-06
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584-100-0038	6-1-06	Adopt	6-1-06	603-052-0349	1-13-06	Repeal	2-1-06
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635-006-1035	1-1-06	Amend	1-1-06	635-018-0090	1-1-07	Amend	9-1-06
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635-006-1065	1-1-06	Amend	1-1-06	635-019-0090	1-1-06	Amend	1-1-06
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635-006-1085	1-1-06	Amend	1-1-06	635-021-0090	1-1-07	Amend	9-1-06
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660-025-0085	5-15-06	Adopt	6-1-06	690-240-0055	6-20-06	Amend	8-1-06
660-025-0090	5-15-06	Amend	6-1-06	690-240-0060	6-20-06	Amend	8-1-06
660-025-0100	5-15-06	Amend	6-1-06	690-240-0065	6-20-06	Amend	8-1-06
660-025-0110	5-15-06	Amend	6-1-06	690-240-0070	6-20-06	Amend	8-1-06
660-025-0120	5-15-06	Repeal	6-1-06	690-240-0220	6-20-06	Amend	8-1-06
660-025-0130	5-15-06	Amend	6-1-06	690-240-0280	6-20-06	Amend	8-1-06
660-025-0140	5-15-06	Amend	6-1-06	690-240-0320	6-20-06	Amend	8-1-06
660-025-0150	5-15-06	Amend	6-1-06	690-240-0330	6-20-06	Amend	8-1-06
660-025-0160	5-15-06	Amend	6-1-06	690-240-0340	6-20-06	Amend	8-1-06
660-025-0170	5-15-06	Amend	6-1-06	690-240-0355	6-20-06	Amend	8-1-06
660-025-0175	5-15-06	Amend	6-1-06	690-240-0375	6-20-06	Amend	8-1-06
660-025-0180	5-15-06	Amend	6-1-06	690-240-0395	6-20-06	Amend	8-1-06
660-025-0210	5-15-06	Amend	6-1-06	690-240-0485	6-20-06	Amend	8-1-06
660-025-0220	5-15-06	Amend	6-1-06	690-240-0500	6-20-06	Amend	8-1-06
660-025-0230	5-15-06	Amend	6-1-06	690-240-0510	6-20-06	Amend	8-1-06
660-025-0250	5-15-06	Adopt	6-1-06	690-240-0560	6-20-06	Amend	8-1-06
660-033-0120	2-15-06	Amend	3-1-06	690-240-0580	6-20-06	Amend	8-1-06
660-033-0130	2-15-06	Amend	3-1-06	690-240-0610	6-20-06	Amend	8-1-06
660-034-0000	4-14-06	Amend	5-1-06	690-240-0640	6-20-06	Amend	8-1-06
660-034-0010	4-14-06	Amend	5-1-06	690-315-0010	11-22-05	Amend	1-1-06
660-034-0015	4-14-06	Amend	5-1-06	690-315-0020	11-22-05	Amend	1-1-06
660-034-0020	4-14-06	Amend	5-1-06	690-315-0030	11-22-05	Amend	1-1-06
660-034-0025	4-14-06	Amend	5-1-06	690-315-0040	11-22-05	Amend	1-1-06
660-034-0030	4-14-06	Amend	5-1-06	690-315-0060	11-22-05	Amend	1-1-06
660-034-0035	4-14-06	Amend	5-1-06	690-315-0070	11-22-05	Amend	1-1-06
660-034-0040	4-14-06	Amend	5-1-06	690-315-0080	11-22-05	Amend	1-1-06
678-010-0010	1-27-06	Amend	3-1-06	690-315-0090	11-22-05	Amend	1-1-06
678-010-0020	1-27-06	Amend	3-1-06	695-005-0100	7-25-06	Adopt(T)	9-1-06
678-010-0030	1-27-06	Amend	3-1-06	731-001-0005	1-24-06	Amend	3-1-06
678-010-0040	1-27-06	Amend	3-1-06	731-001-0025	1-24-06	Amend	3-1-06
678-010-0050	1-27-06	Amend	3-1-06	731-005-0470	2-16-06	Amend	4-1-06
690-030-0085	1-30-06	Amend	3-1-06	731-005-0600	8-1-06	Amend(T)	9-1-06
690-200-0050	6-20-06	Amend	8-1-06	731-007-0335	11-17-05	Adopt(T)	1-1-06
690-205-0005	6-20-06	Amend	8-1-06	731-007-0335	2-16-06	Adopt	4-1-06
690-205-0010	6-20-06	Amend	8-1-06	731-007-0335(T)	2-16-06	Repeal	4-1-06
690-205-0020	6-20-06	Amend	8-1-06	731-035-0010	11-21-05	Adopt(T)	1-1-06
690-205-0025	6-20-06	Amend	8-1-06	731-035-0010	1-24-06	Adopt	3-1-06
690-205-0055	6-20-06	Amend	8-1-06	731-035-0010(T)	1-24-06	Repeal	3-1-06
690-205-0120	6-20-06	Amend	8-1-06	731-035-0020	11-21-05	Adopt(T)	1-1-06
690-205-0145	6-20-06	Amend	8-1-06	731-035-0020	1-24-06	Adopt	3-1-06
690-205-0155	6-20-06	Amend	8-1-06	731-035-0020(T)	1-24-06	Repeal	3-1-06
690-205-0175	6-20-06	Amend	8-1-06	731-035-0030	11-21-05	Adopt(T)	1-1-06
690-205-0185	6-20-06	Amend	8-1-06	731-035-0030	1-24-06	Adopt	3-1-06
690-205-0200	6-20-06	Amend	8-1-06	731-035-0030(T)	1-24-06	Repeal	3-1-06
690-205-0210	6-20-06	Amend	8-1-06	731-035-0040	11-21-05	Adopt(T)	1-1-06
690-217-0020	6-20-06	Amend	8-1-06	731-035-0040	1-24-06	Adopt	3-1-06
690-220-0030	6-20-06	Amend	8-1-06	731-035-0040(T)	1-24-06	Repeal	3-1-06
690-220-0095	6-20-06	Amend	8-1-06	731-035-0050	11-21-05	Adopt(T)	1-1-06
690-225-0020	6-20-06	Amend	8-1-06	731-035-0050	1-24-06	Adopt	3-1-06
690-225-0030	6-20-06	Amend	8-1-06	731-035-0050(T)	1-24-06	Repeal	3-1-06
690-225-0060	6-20-06	Amend	8-1-06	731-035-0060	11-21-05	Adopt(T)	1-1-06
690-225-0110	6-20-06	Amend	8-1-06	731-035-0060	1-24-06	Adopt	3-1-06
690-240-0005	6-20-06	Amend	8-1-06	731-035-0060(T)	1-24-06	Repeal	3-1-06
690-240-0010	6-20-06	Amend	8-1-06	731-035-0070	11-21-05	Adopt(T)	1-1-06
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731-035-0080	11-21-05	Adopt(T)	1-1-06	735-024-0080	1-1-06	Amend(T)	1-1-06
731-035-0080	1-24-06	Adopt	3-1-06	735-024-0080	5-25-06	Amend	7-1-06
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731-146-0010	5-25-06	Amend	7-1-06	735-024-0120	1-1-06	Amend(T)	1-1-06
731-147-0010	5-25-06	Amend	7-1-06	735-024-0120	5-25-06	Amend	7-1-06
731-148-0010	5-25-06	Amend	7-1-06	735-024-0120(T)	5-25-06	Repeal	7-1-06
731-149-0010	5-25-06	Amend	7-1-06	735-024-0130	1-1-06	Amend(T)	1-1-06
733-030-0021	6-21-06	Amend	8-1-06	735-024-0130	5-25-06	Amend	7-1-06
733-030-0036	6-21-06	Amend	8-1-06	735-024-0130(T)	5-25-06	Repeal	7-1-06
733-030-0041	6-21-06	Repeal	8-1-06	735-024-0170	1-1-06	Amend(T)	1-1-06
733-030-0045	6-21-06	Amend	8-1-06	735-024-0170	5-25-06	Amend	7-1-06
733-030-0065	3-2-06	Amend	4-1-06	735-024-0170(T)	5-25-06	Repeal	7-1-06
733-030-0080	6-21-06	Amend	8-1-06	735-028-0010	1-1-06	Amend(T)	1-1-06
734-020-0005	12-14-05	Amend(T)	1-1-06	735-028-0010	5-25-06	Amend	7-1-06
734-020-0005	5-26-06	Amend	7-1-06	735-028-0010(T)	5-25-06	Repeal	7-1-06
734-020-0005(T)	5-26-06	Repeal	7-1-06	735-028-0090	1-1-06	Amend(T)	1-1-06
734-030-0010	1-24-06	Amend	3-1-06	735-028-0090	5-25-06	Amend	7-1-06
734-030-0025	1-24-06	Amend	3-1-06	735-028-0090(T)	5-25-06	Repeal	7-1-06
734-073-0051	12-14-05	Amend	1-1-06	735-028-0110	1-1-06	Amend(T)	1-1-06
734-073-0130	12-14-05	Amend	1-1-06	735-028-0110	5-25-06	Amend	7-1-06
734-074-0010	4-28-06	Amend	6-1-06	735-028-0110(T)	5-25-06	Repeal	7-1-06
734-079-0005	12-14-05	Amend	1-1-06	735-032-0020	1-1-06	Amend(T)	1-1-06
734-079-0015	12-14-05	Amend	1-1-06	735-032-0020	5-25-06	Amend	7-1-06
734-082-0021	5-24-06	Amend	7-1-06	735-032-0020(T)	5-25-06	Repeal	7-1-06
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735-001-0040	5-25-06	Amend	7-1-06	735-042-0020	5-25-06	Amend	7-1-06
735-001-0040(T)	5-25-06	Repeal	7-1-06	735-046-0080	1-1-06	Suspend	1-1-06
735-001-0100	5-25-06	Adopt	7-1-06	735-046-0080	5-25-06	Repeal	7-1-06
735-010-0008	1-1-06	Amend	1-1-06	735-050-0010	8-25-06	Amend	10-1-06
735-010-0210	1-1-06	Amend	1-1-06	735-050-0070	8-25-06	Amend	10-1-06
735-010-0215	1-1-06	Adopt	1-1-06	735-060-0000	12-14-05	Amend	1-1-06
735-010-0240	1-1-06	Adopt	1-1-06	735-060-0030	12-14-05	Amend	1-1-06
735-020-0010	1-1-06	Amend(T)	1-1-06	735-060-0040	12-14-05	Amend	1-1-06
735-020-0010	5-25-06	Amend	7-1-06	735-060-0050	12-14-05	Amend	1-1-06
735-020-0010(T)	5-25-06	Repeal	7-1-06	735-060-0055	12-14-05	Amend	1-1-06
735-020-0070	1-1-06	Amend(T)	1-1-06	735-060-0057	12-14-05	Amend	1-1-06
735-020-0070	5-25-06	Amend	7-1-06	735-060-0060	12-14-05	Amend	1-1-06
735-020-0070(T)	5-25-06	Repeal	7-1-06	735-060-0105	12-14-05	Amend	1-1-06
735-022-0000	1-1-06	Amend(T)	1-1-06	735-060-0110	12-14-05	Amend	1-1-06
735-022-0000	5-25-06	Amend	7-1-06	735-060-0110	4-15-06	Amend	5-1-06
735-022-0000(T)	5-25-06	Repeal	7-1-06	735-060-0120	12-14-05	Amend	1-1-06
735-024-0015	1-1-06	Amend(T)	1-1-06	735-060-0120	4-15-06	Amend	5-1-06
735-024-0015	5-25-06	Amend	7-1-06	735-060-0130	12-14-05	Amend	1-1-06
735-024-0015(T)	5-25-06	Repeal	7-1-06	735-062-0000	1-1-06	Amend	1-1-06
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735-024-0075	5-25-06	Amend	7-1-06	735-062-0105	11-18-05	Amend	1-1-06
735-024-0075(T)	5-25-06	Repeal	7-1-06	735-062-0105(T)	11-18-05	Repeal	1-1-06
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735-062-0120	11-18-05	Amend	1-1-06	735-076-0052	5-25-06	Adopt	7-1-06
735-062-0120(T)	11-18-05	Repeal	1-1-06	735-150-0005	1-1-06	Amend(T)	1-1-06
735-062-0130	1-1-06	Amend(T)	1-1-06	735-150-0005	5-25-06	Amend	7-1-06
735-062-0130	2-15-06	Amend	3-1-06	735-150-0005(T)	5-25-06	Repeal	7-1-06
735-062-0130(T)	2-15-06	Repeal	3-1-06	735-150-0010	1-1-06	Amend	1-1-06
735-062-0135	11-18-05	Amend	1-1-06	735-150-0010	1-1-06	Amend(T)	1-1-06
735-062-0135(T)	11-18-05	Repeal	1-1-06	735-150-0010	5-25-06	Amend	7-1-06
735-062-0140	8-25-06	Amend(T)	10-1-06	735-150-0010(T)	5-25-06	Repeal	7-1-06
735-062-0190	12-14-05	Amend	1-1-06	735-150-0033	1-1-06	Adopt	1-1-06
735-062-0190	8-1-06	Amend(T)	9-1-06	735-150-0040	1-1-06	Amend	1-1-06
735-062-0190	8-25-06	Amend	10-1-06	735-150-0050	1-1-06	Amend	1-1-06
735-062-0190(T)	12-14-05	Repeal	1-1-06	735-150-0055	1-1-06	Amend	1-1-06
735-062-0190(T)	8-25-06	Repeal	10-1-06	735-150-0110	1-1-06	Amend	1-1-06
735-062-0320	12-14-05	Amend	1-1-06	735-150-0120	1-1-06	Amend	1-1-06
735-064-0005	2-15-06	Amend	3-1-06	735-150-0130	1-1-06	Amend	1-1-06
735-064-0040	2-15-06	Amend	3-1-06	735-150-0140	1-1-06	Amend	1-1-06
735-064-0090	2-15-06	Amend	3-1-06	735-152-0000	1-1-06	Amend(T)	1-1-06
735-064-0100	2-15-06	Amend	3-1-06	735-152-0000	5-25-06	Amend	7-1-06
735-064-0110	2-15-06	Amend	3-1-06	735-152-0000(T)	5-25-06	Repeal	7-1-06
735-064-0220	12-14-05	Amend	1-1-06	735-152-0005	1-1-06	Amend(T)	1-1-06
735-064-0220(T)	12-14-05	Repeal	1-1-06	735-152-0005	5-25-06	Amend	7-1-06
735-064-0235	12-14-05	Amend	1-1-06	735-152-0005(T)	5-25-06	Repeal	7-1-06
735-070-0010	11-18-05	Amend	1-1-06	735-152-0010	1-1-06	Amend(T)	1-1-06
735-070-0010	1-1-06	Amend	1-1-06	735-152-0010	5-25-06	Amend	7-1-06
735-070-0010(T)	11-18-05	Repeal	1-1-06	735-152-0010(T)	5-25-06	Repeal	7-1-06
735-070-0020	12-14-05	Amend	1-1-06	735-152-0020	1-1-06	Amend(T)	1-1-06
735-070-0020(T)	12-14-05	Repeal	1-1-06	735-152-0020	5-25-06	Amend	7-1-06
735-070-0030	12-14-05	Amend	1-1-06	735-152-0020(T)	5-25-06	Repeal	7-1-06
735-070-0037	12-14-05	Amend	1-1-06	735-152-0025	1-1-06	Adopt(T)	1-1-06
735-070-0054	12-14-05	Amend	1-1-06	735-152-0025	5-25-06	Adopt	7-1-06
735-070-0180	12-14-05	Repeal	1-1-06	735-152-0025(T)	5-25-06	Repeal	7-1-06
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735-074-0060	5-25-06	Amend	7-1-06	735-152-0030	5-25-06	Repeal	7-1-06
735-074-0080	5-25-06	Amend	7-1-06	735-152-0031	1-1-06	Adopt(T)	1-1-06
735-074-0110	5-25-06	Amend	7-1-06	735-152-0031	5-25-06	Adopt	7-1-06
735-074-0120	5-25-06	Amend	7-1-06	735-152-0031(T)	5-25-06	Repeal	7-1-06
735-074-0140	5-25-06	Amend	7-1-06	735-152-0034	1-1-06	Adopt(T)	1-1-06
735-074-0150	5-25-06	Repeal	7-1-06	735-152-0034	5-25-06	Adopt	7-1-06
735-074-0180	5-25-06	Amend	7-1-06	735-152-0034(T)	5-25-06	Repeal	7-1-06
735-074-0200	5-25-06	Amend	7-1-06	735-152-0037	1-1-06	Adopt(T)	1-1-06
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735-074-0212	5-25-06	Adopt	7-1-06	735-152-0037(T)	5-25-06	Repeal	7-1-06
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735-076-0005	5-25-06	Amend	7-1-06	735-152-0040(T)	5-25-06	Repeal	7-1-06
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735-076-0007	5-25-06	Am. & Ren.	7-1-06	735-152-0045	5-25-06	Adopt	7-1-06
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735-076-0018	5-25-06	Am. & Ren.	7-1-06	735-152-0060	1-1-06	Adopt(T)	1-1-06
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735-152-0070	5-25-06	Adopt	7-1-06	740-110-0010	4-1-06	Amend	5-1-06
735-152-0070(T)	5-25-06	Repeal	7-1-06	740-200-0045	2-16-06	Adopt	4-1-06
735-152-0080	1-1-06	Adopt(T)	1-1-06	740-300-0035	8-28-06	Amend	10-1-06
735-152-0080	5-25-06	Adopt	7-1-06	741-300-0021	8-28-06	Amend	10-1-06
735-152-0080(T)	5-25-06	Repeal	7-1-06	741-300-0041	8-28-06	Amend	10-1-06
735-152-0090	1-1-06	Adopt(T)	1-1-06	741-305-0010	8-28-06	Amend	10-1-06
735-152-0090	5-25-06	Adopt	7-1-06	741-305-0020	8-28-06	Amend	10-1-06
735-152-0090(T)	5-25-06	Repeal	7-1-06	741-310-0010	8-28-06	Amend	10-1-06
735-154-0010	5-25-06	Amend	7-1-06	741-310-0020	8-28-06	Amend	10-1-06
735-154-0020	5-25-06	Repeal	7-1-06	741-310-0030	8-28-06	Amend	10-1-06
735-154-0030	5-25-06	Repeal	7-1-06	741-310-0040	8-28-06	Amend	10-1-06
735-160-0003	1-1-06	Adopt	1-1-06	741-310-0050	8-28-06	Amend	10-1-06
736-015-0035	2-14-06	Amend	3-1-06	741-315-0010	8-28-06	Amend	10-1-06
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736-018-0045	7-14-06	Amend	8-1-06	741-320-0020	8-28-06	Amend	10-1-06
736-018-0045	10-1-06	Amend	10-1-06	741-320-0050	8-28-06	Amend	10-1-06
736-050-0105	5-8-06	Amend	6-1-06	741-320-0060	8-28-06	Amend	10-1-06
736-050-0110	5-8-06	Amend	6-1-06	741-320-0080	8-28-06	Amend	10-1-06
736-050-0115	5-8-06	Amend	6-1-06	741-320-0090	8-28-06	Amend	10-1-06
736-050-0120	5-8-06	Amend	6-1-06	741-320-0100	8-28-06	Amend	10-1-06
736-050-0125	5-8-06	Amend	6-1-06	741-320-0110	8-28-06	Amend	10-1-06
736-050-0130	5-8-06	Amend	6-1-06	741-320-0120	8-28-06	Amend	10-1-06
736-050-0135	5-8-06	Amend	6-1-06	741-320-0130	8-28-06	Amend	10-1-06
736-050-0140	5-8-06	Amend	6-1-06	741-320-0150	8-28-06	Amend	10-1-06
736-050-0150	5-8-06	Amend	6-1-06	741-320-0160	8-28-06	Amend	10-1-06
736-053-0100	2-27-06	Amend	4-1-06	741-330-0010	8-28-06	Amend	10-1-06
736-053-0105	2-27-06	Amend	4-1-06	741-330-0020	8-28-06	Amend	10-1-06
736-053-0110	2-27-06	Amend	4-1-06	741-330-0030	8-28-06	Amend	10-1-06
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736-053-0125	2-27-06	Amend	4-1-06	741-335-0040	8-28-06	Amend	10-1-06
736-053-0130	2-27-06	Amend	4-1-06	741-335-0050	8-28-06	Amend	10-1-06
736-053-0135	2-27-06	Adopt	4-1-06	741-335-0060	8-28-06	Repeal	10-1-06
736-053-0140	2-27-06	Adopt	4-1-06	741-335-0070	8-28-06	Amend	10-1-06
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738-014-0020	7-1-06	Adopt	8-1-06	741-335-0090	8-28-06	Amend	10-1-06
738-014-0030	7-1-06	Adopt	8-1-06	741-335-0110	8-28-06	Amend	10-1-06
738-014-0035	7-1-06	Adopt	8-1-06	800-025-0040	9-5-06	Amend	10-1-06
738-014-0040	7-1-06	Adopt	8-1-06	801-001-0035	1-1-06	Amend	1-1-06
738-014-0050	7-1-06	Adopt	8-1-06	801-001-0055	1-1-06	Adopt	1-1-06
738-014-0060	7-1-06	Adopt	8-1-06	801-005-0010	1-1-06	Amend	1-1-06
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738-015-0075	1-27-06	Amend	3-1-06	801-010-0080	1-1-06	Amend	1-1-06
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740-055-0300	12-14-05	Repeal	1-1-06	801-040-0010	1-1-06	Amend	1-1-06
740-055-0320	12-14-05	Amend	1-1-06	801-040-0070	1-1-06	Amend	1-1-06
740-100-0010	4-1-06	Amend	5-1-06	801-040-0090	1-1-06	Amend	1-1-06
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740-100-0060	4-1-06	Amend	5-1-06	801-050-0010	12-15-05	Amend	1-1-06
740-100-0070	4-1-06	Amend	5-1-06	801-050-0020	12-15-05	Amend	1-1-06
740-100-0080	4-1-06	Amend	5-1-06	801-050-0030	12-15-05	Amend	1-1-06
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801-050-0060	12-15-05	Amend	1-1-06	808-002-0885	1-1-06	Adopt	2-1-06
801-050-0065	12-15-05	Adopt	1-1-06	808-003-0010	1-1-06	Amend	2-1-06
801-050-0070	12-15-05	Amend	1-1-06	808-003-0015	1-1-06	Amend	2-1-06
801-050-0080	12-15-05	Amend	1-1-06	808-003-0018	10-2-06	Amend	9-1-06
804-001-0005	8-14-06	Amend	9-1-06	808-003-0035	1-1-06	Amend	2-1-06
804-001-0014	8-14-06	Amend	9-1-06	808-003-0040	1-1-06	Amend	2-1-06
804-003-0000	8-14-06	Amend	9-1-06	808-003-0045	1-1-06	Amend	2-1-06
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804-035-0020	6-26-06	Am. & Ren.	8-1-06	808-003-0130	1-1-06	Amend	2-1-06
804-035-0030	6-26-06	Am. & Ren.	8-1-06	808-003-0225	1-1-06	Adopt	2-1-06
804-035-0035	6-26-06	Adopt	8-1-06	808-003-0230	1-1-06	Adopt	2-1-06
804-035-0040	6-26-06	Adopt	8-1-06	808-003-0235	1-1-06	Adopt	2-1-06
804-040-0000	3-17-06	Amend	5-1-06	808-003-0240	1-1-06	Adopt	2-1-06
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806-001-0005	3-15-06	Amend	4-1-06	808-003-0250	1-1-06	Adopt	2-1-06
806-010-0015	12-13-05	Amend	1-1-06	808-003-0255	1-1-06	Adopt	2-1-06
806-010-0033	6-7-06	Adopt	7-1-06	808-003-0260	1-1-06	Adopt	2-1-06
806-010-0037	12-13-05	Amend	1-1-06	808-004-0120	8-2-06	Amend	9-1-06
806-010-0037	3-10-06	Amend	4-1-06	808-004-0240	8-2-06	Amend	9-1-06
806-010-0075	3-10-06	Amend	4-1-06	808-004-0250	8-2-06	Amend	9-1-06
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806-020-0020	12-13-05	Amend	1-1-06	808-004-0520	8-2-06	Amend	9-1-06
808-001-0005	8-2-06	Amend	9-1-06	808-004-0540	8-2-06	Amend	9-1-06
808-001-0008	4-1-06	Amend	5-1-06	808-004-0550	8-2-06	Amend	9-1-06
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808-002-0200	1-1-06	Amend	2-1-06	808-004-0600	8-2-06	Amend	9-1-06
808-002-0250	1-1-06	Amend	2-1-06	808-005-0020	1-1-06	Amend	2-1-06
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808-002-0328	1-1-06	Adopt	2-1-06	809-015-0000	12-14-05	Amend	1-1-06
808-002-0328	8-2-06	Amend	9-1-06	809-015-0005	12-14-05	Amend	1-1-06
808-002-0330	1-1-06	Adopt	2-1-06	809-030-0025	3-17-06	Amend	5-1-06
808-002-0338	1-1-06	Adopt	2-1-06	809-050-0000	6-26-06	Amend	8-1-06
808-002-0340	1-1-06	Amend	2-1-06	811-010-0084	2-9-06	Adopt(T)	3-1-06
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808-002-0495	1-1-06	Adopt	2-1-06	811-015-0005	2-9-06	Amend	3-1-06
808-002-0500	1-1-06	Amend	2-1-06	811-021-0005	2-9-06	Amend	3-1-06
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808-002-0600	1-1-06	Repeal	2-1-06	812-001-0100	1-1-06	Am. & Ren.	1-1-06
808-002-0650	1-1-06	Adopt	2-1-06	812-001-0110	1-1-06	Am. & Ren.	1-1-06
808-002-0680	8-2-06	Amend	9-1-06	812-001-0120	1-1-06	Am. & Ren.	1-1-06
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808-002-0730	1-1-06	Amend	2-1-06	812-001-0130	1-1-06	Am. & Ren.	1-1-06
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812-001-0200	1-11-06	Amend(T)	2-1-06	812-003-0440	9-5-06	Adopt	10-1-06
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812-001-0300	1-1-06	Am. & Ren.	1-1-06	812-004-0240	1-1-06	Amend	1-1-06
812-001-0305	1-1-06	Am. & Ren.	1-1-06	812-004-0250	1-1-06	Amend	1-1-06
812-001-0310	1-1-06	Am. & Ren.	1-1-06	812-004-0260	1-1-06	Amend	1-1-06
812-001-0500	1-1-06	Am. & Ren.	1-1-06	812-004-0300	1-1-06	Amend	1-1-06
812-001-0510	1-1-06	Am. & Ren.	1-1-06	812-004-0320	1-1-06	Amend	1-1-06
812-002-0040	1-1-06	Amend	1-1-06	812-004-0325	1-1-06	Repeal	1-1-06
812-002-0060	1-1-06	Amend	1-1-06	812-004-0340	1-1-06	Amend	1-1-06
812-002-0100	1-1-06	Amend	1-1-06	812-004-0360	1-1-06	Amend	1-1-06
812-002-0160	1-1-06	Amend	1-1-06	812-004-0420	1-1-06	Amend	1-1-06
812-002-0190	1-1-06	Amend	1-1-06	812-004-0440	1-1-06	Amend	1-1-06
812-002-0260	1-1-06	Amend	1-1-06	812-004-0450	1-1-06	Amend	1-1-06
812-002-0260	6-1-06	Amend	7-1-06	812-004-0460	1-1-06	Amend	1-1-06
812-002-0325	1-1-06	Amend	1-1-06	812-004-0470	1-1-06	Amend	1-1-06
812-002-0340	1-1-06	Repeal	1-1-06	812-004-0480	1-1-06	Amend	1-1-06
812-002-0345	10-1-06	Adopt	10-1-06	812-004-0500	1-1-06	Amend	1-1-06
812-002-0350	1-1-06	Adopt	1-1-06	812-004-0530	1-1-06	Amend	1-1-06
812-002-0360	1-1-06	Amend	1-1-06	812-004-0590	1-1-06	Amend	1-1-06
812-002-0420	1-1-06	Amend	1-1-06	812-005-0100	1-1-06	Am. & Ren.	1-1-06
812-002-0430	1-1-06	Amend	1-1-06	812-005-0110	1-1-06	Am. & Ren.	1-1-06
812-002-0443	1-1-06	Amend	1-1-06	812-005-0120	1-1-06	Am. & Ren.	1-1-06
812-002-0520	1-1-06	Amend	1-1-06	812-005-0130	1-1-06	Am. & Ren.	1-1-06
812-002-0533	1-1-06	Adopt	1-1-06	812-005-0140	1-1-06	Am. & Ren.	1-1-06
812-002-0533	6-1-06	Amend	7-1-06	812-005-0150	1-1-06	Am. & Ren.	1-1-06
812-002-0537	1-1-06	Adopt	1-1-06	812-005-0160	1-1-06	Am. & Ren.	1-1-06
812-002-0537	6-23-06	Amend	8-1-06	812-005-0170	1-1-06	Am. & Ren.	1-1-06
812-002-0540	1-1-06	Amend	1-1-06	812-005-0180	1-1-06	Am. & Ren.	1-1-06
812-002-0555	1-1-06	Repeal	1-1-06	812-005-0200	1-1-06	Am. & Ren.	1-1-06
812-002-0640	1-1-06	Amend	1-1-06	812-005-0210	1-1-06	Am. & Ren.	1-1-06
812-002-0670	1-1-06	Amend	1-1-06	812-005-0210	9-5-06	Amend	10-1-06
812-002-0675	1-1-06	Amend	1-1-06	812-005-0250	9-5-06	Adopt	10-1-06
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812-002-0720	1-1-06	Amend	1-1-06	812-005-0800	1-1-06	Am. & Ren.	1-1-06
812-002-0740	1-1-06	Amend	1-1-06	812-005-0800	1-26-06	Amend	3-1-06
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812-003-0175	9-5-06	Adopt	10-1-06	812-006-0012	1-1-06	Amend	1-1-06
812-003-0175(T)	9-5-06	Repeal	10-1-06	812-006-0012	6-23-06	Amend	8-1-06
812-003-0180	6-1-06	Amend	7-1-06	812-006-0015	1-1-06	Adopt	1-1-06
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812-003-0240	1-1-06	Amend	1-1-06	812-006-0030	1-1-06	Amend	1-1-06
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812-003-0250	6-1-06	Amend	7-1-06	812-006-0150	10-1-06	Adopt	10-1-06
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918-690-0350	1-1-06	Repeal	2-1-06	918-695-0390	7-1-06	Suspend	8-1-06
918-695-0040	7-1-06	Amend	8-1-06	918-695-0400	4-1-06	Amend	5-1-06
918-695-0200	7-1-06	Suspend	8-1-06	918-780-0035	4-4-06	Amend	5-1-06
918-695-0300	7-1-06	Suspend	8-1-06	918-780-0040	10-1-06	Amend	7-1-06
918-695-0310	7-1-06	Suspend	8-1-06				