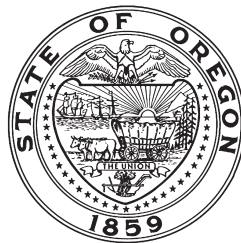


OREGON BULLETIN

Supplements the 2006 *Oregon Administrative Rules Compilation*

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Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

EXECUTIVE ORDER NO. 06-10

PROCLAMATION OF STATE OF EMERGENCY DUE TO IMMINENT THREAT OF WILDFIRE

Pursuant to ORS 401.055, I find that the State of Oregon is in a critical fire danger situation. The state is experiencing record high heat and record low humidity and the current weather forecast calls for dry lightning in many parts of the state. These weather conditions, combined with the existing shortage of statewide resources to fight fires, require a concerted and coordinated state response. Therefore, I hereby declare a statewide **State of Emergency** due to the imminent threat of significant wildfires.

These findings were made at 1:35 p.m. on July 21, 2006, and I now confirm them with this Executive Order.

NOW THEREFORE IT IS HEREBY ORDERED AND DIRECTED:

1. The Department of State Police, through the Office of Homeland Security (which includes the Office of the State Fire Marshal and the Office of Emergency Management), is authorized to coordinate the use of personnel and equipment from all state agencies to perform any activity designed to prevent or mitigate loss of life or property due to wildfires in Oregon. This includes, but is not limited to, use of the resources of the Oregon Military Department.
2. This emergency is statewide, but this declaration is limited to the use of state and National Guard resources for fire management required by the emergency. Requests for state resources from local governments must be submitted through county governing bodies to the Office of Emergency Management in the same manner as required for other emergencies.
3. This Order shall remain in effect until the threat is significantly relieved, the fire season ends, or I expressly rescind this Order.

This order was made by verbal proclamation at 1:35 p.m. on the 21st day of July, 2006 and signed this 21st day of July, 2006, in Salem, Oregon.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 06-11

INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR MCLEAN CREEK FIRE IN BAKER COUNTY

Pursuant to my authority as Governor of the State of Oregon, I find that:

A fire known as the "McLean Creek Fire" is burning in Baker County.

The resources necessary for protection of life and property from the McLean Creek Fire are beyond local capabilities. Assistance with life, safety, and structural fire protection was requested by the Baker County Commission Chair with the advice and consent of the Baker County Fire Defense Chief. The State Fire Marshal concurs with that request.

In accordance with ORS 476.510–476.610, I have determined that a threat to life, safety, and property exists due to the fire known as the McLean Creek Fire in Baker County and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made at 8:10 p.m. on July 24, 2006 and I now confirm them with this Executive Order.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon Office of Homeland Security and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire.
2. This emergency is declared only for the McLean Creek Fire in Baker County.
3. This order was made by verbal proclamation at 8:10 p.m. on the 24th day of July, 2006 and signed this twenty-fifth day of July, 2006, in Salem, Oregon.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 06-12

INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR BLACK CRATER FIRE IN DESCHUTES COUNTY

Pursuant to my authority as Governor of the State of Oregon, I find that:

A fire known as the "Black Crater Fire" is burning in Deschutes County.

The resources necessary for protection of life and property from the Black Crater Fire are beyond local capabilities. Assistance with life, safety, and structural fire protection was requested by the Deschutes County Fire Defense Chief. The State Fire Marshal concurs with that request.

In accordance with ORS 476.510–476.610, I have determined that a threat to life, safety, and property exists due to the fire known as the Black Crater Fire in Deschutes County and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made at 3:45 p.m. on July 27, 2006 and I now confirm them with this Executive Order.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon Office of Homeland Security and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire.

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2. This emergency is declared only for the Black Crater Fire in Deschutes County.

3. This order was made by verbal proclamation at 3:45 p.m. on the 27th day of July, 2006 and signed this 28th day of July, 2006, in Salem, Oregon.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

OTHER NOTICES

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

COMMENTS DUE: October 2, 2006

PROJECT LOCATION: 9870 North Bradford Street, 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 Port of Portland (Port) with respect to the former Mar Com facility at 8970 North Bradford Street, Portland, Oregon (the "Property").

HIGHLIGHTS: The Port of Portland seeks to acquire the former Mar Com facility, which was largely used to store equipment and materials associated with sawmill and shipbuilding operations on an adjacent property. Investigations on the Property revealed piles of spent sandblast grit and a small area of soil contamination. DEQ issued a ROD for the facility in May 2004. DEQ's selected remedial action calls for removal of the grit piles and soil contamination.

The Consent Judgment will require the Port to perform the actions described in the ROD, and remove abandoned drums discovered at the facility subsequent to issuance of the ROD. This work will be performed under DEQ oversight. The Consent Judgment also requires the Port to provide access to the Property for any additional investigation and removal or remedial actions required on the Property or on adjacent properties.

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 Port with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.900 relating to historical releases of hazardous substances at the Property. The proposed Consent Judgment will also provide the Port with protection from potential contribution actions by third parties for recovery of remedial action costs associated with historical releases at 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 2, 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 Mike Romero at (503) 229-5563.

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.

CHANCE TO COMMENT ON... RECOMMENDED NO FURTHER ACTION FOR THE SOUTH COLUMBIA STREET PARTITION SHERWOOD, OREGON

COMMENTS DUE: October 1, 2006

PROJECT LOCATION: South Columbia Street, Sherwood, OR

PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on a proposed "No Further Action" cleanup decision for the South Columbia Street Partition Site in Sherwood, Oregon.

HIGHLIGHTS: DEQ has completed an evaluation of the investigation and cleanup conducted at the South Columbia Street Partition site, an undeveloped residentially zoned property in south Sherwood, Oregon. The work was completed by the site owners, Robert (Jim) and Susan Claus and reviewed under an agreement with DEQ for reimbursement of cleanup oversight costs through the Independent Cleanup Program (ICP). The site contained old metal foundry slag and casting sands that had been placed on the site as fill sometime in the early-to-mid 1980s. Approximately 3,627 tons of the fill material were removed from the site in April of 2006 and disposed of in a solid waste landfill. The objective of the removal action was to remove an area of soil that contained a concentration of arsenic that was above applicable risk-based screening concentrations and to address City of Sherwood site stability concerns prior to development.

The site owners submitted a Phase I Environmental Site Assessment, a Soil Removal Action and a soil confirmation sampling report to DEQ in June and July of 2006, so that DEQ could evaluate potential soil contamination at the site. Based on our evaluation of the submitted reports, DEQ has concluded that there is no significant risk to human health or the environment from the site based on the measured metals concentrations in the foundry fill material and post-removal soil arsenic concentrations in soil as compared to DEQ risk-based concentrations.

The South Columbia Street Partition site achieved a degree of cleanup that is protective of public health and the environment, and requires no further action under the Oregon Environmental Cleanup Law, ORS 465.200 et seq., unless new or previously undisclosed information becomes available.

HOW TO COMMENT: DEQ's project file information is available for public review (by appointment) at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201. To schedule a file review appointment, call: 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471. Please send written comments to Chuck Harman, Project Manager, at the address listed above or via email at harman.charles@deq.state.or.us by 5 p.m., October 1, 2006. DEQ will hold a public meeting to receive verbal comments if requested by ten or more people or by a group with 10 or more members.

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

THE NEXT STEP: DEQ will consider all public comments received by the October 1, 2006 deadline and the Regional Administrator will make a final decision after consideration of these public comments.

NOTICE FOR COMMENT ON PROPOSED CLEANUP H2O BOAT BARN SITE

COMMENTS DUE: October 2, 2006

PROJECT LOCATION: 9015 SE Powell Boulevard, Portland, OR

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the proposed no further action determination for contaminated soil and groundwater at this site.

HIGHLIGHTS: Tank cleanup and soil removal actions have taken place at the site and recent sampling indicates that risk-based cleanup levels have been achieved. DEQ is recommending a no further action (NFA) determination for this site.

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The three primary areas of environmental concern resulting from historical activities identified are seven underground storage tanks (USTs), dry wells and a disposal area.

Seven underground storage tanks were formerly located in a complex in the northwest portion of the site. The USTs and 21 tons of associated contaminated soil were removed in 1994. Subsequent investigations indicate decreasing concentrations of shallow petroleum contamination with distance and depth and residual levels are below risk-based screening levels.

Several semivolatile contaminants (e.g., trimethyl benzene, naphthalene, and polynuclear aromatic hydrocarbons (PAHs) and pesticides (DDD, DDE, and heptachlor epoxide) were detected in groundwater samples collected in the vicinity of two former dry wells. However, these samples were reported as fairly turbid and contaminants were likely associated with soil particles suspended in the groundwater. Detected contaminants have low mobility and soil sampling does not indicate significant movement away from the dry well.

Apparent dumping of contaminated soil occurred in one area of the site. Impacted soil was removed in 2001. Soil sampling conducted in 2006 did not detect petroleum hydrocarbons or associated constituents (PAHs and volatile organic compounds) in soil collected from shallow soils in this area.

HOW TO COMMENT: The No Further Action recommendation memo and complete Administrative Record for the project is available for public review at DEQ's Northwest Region Office in Portland. To schedule an appointment to review files in call (503) 229-6729. The DEQ Project Manager is Jennifer Sutter, (503) 229-6148. Written comments should be sent to the Project Manager at the DEQ, Northwest Region, 2020 SW 4th Ave., Portland, OR 97201 or sutter.jennifer@deq.state.or.us by October 2, 2006.

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

PROPOSED APPROVAL OF CLEANUP AT LANPHERE ENTERPRISES

COMMENTS DUE: July 25, 2006

PROJECT LOCATION: Lanphere Enterprises, 10655 SW Greenburg Road, Tigard, Oregon.

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

HIGHLIGHTS: Underground automotive hoists at this facility released petroleum contamination into the subsurface. In January 2005 the hydraulic hoists were removed and fourteen cubic yards of contaminated soils were excavated and disposed of at Hillsboro Landfill. Investigative activities revealed that in addition to petroleum hydrocarbons, low levels of other organic contaminants (methyl isobutyl ketone, n-butylbenzene, hexachlorobutadiene, naphthalene, 1,2,4-trichlorobenzene, cis-1,1-dichloroethene and vinyl chloride) were present in soil and groundwater. The source of these contaminants could not be determined, but are suspected to be from small quantity containers of automotive maintenance materials (brake cleaner, etc.). Confirmation soil sampling and a site-specific risk evaluation has demonstrated that residual contamination of petroleum hydrocarbons and these other contaminants is below cleanup levels developed for Occupational exposure standards. The surrounding area is commercially zoned and there is no known local groundwater usage. 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 Sep-

tember 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/>

PUBLIC NOTICE PROPOSED REMEDIAL ACTION FORMER CHEVRON SERVICE STATION 9-4783 ONTARIO, OREGON

COMMENTS DUE: October 2, 2006

PROJECT LOCATION: 676 SW Fourth Avenue, Ontario

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to approve a remedial action for the former Chevron Service Station 9-4783 located at 676 SW Fourth Avenue in Ontario, Oregon.

HIGHLIGHTS: The DEQ Voluntary Cleanup Program has reviewed the information gathered during the site investigation, interim removal action measures (IRAMs), and groundwater monitoring activities performed at the site. The former petroleum service station was operational from 1966 to 1983. A release was initially reported at the site in February 1989 when gasoline vapors were reported in the building located directly east of the service station property. Remedial action objectives identified for the site are 1) prevent migration of petroleum hydrocarbons as light non-aqueous phase liquid resulting in unacceptable risk; 2) prevent exposure for excavation worker to groundwater; and 3) prevent exposure to occupational workers through vapor intrusion into indoor air.

Monitored natural attenuation was selected for the site in addition to on-going source reduction through the operation of the soil vapor extraction (SVE) system. Groundwater monitoring will continue to be performed to monitor the degradation and reduction of the groundwater contamination. As part of this alternative a Hazard Communication and Soil/Groundwater Management Plan will be prepared and submitted to property owners impacted by the release to provide information on the residual contamination in relation to any future subsurface work as well as how to contact the responsible party.

The SVE system currently active at the site is specifically focused on the building located at 387 SW 4th Avenue and is required to remain active until such time Chevron can demonstrate indoor air concentrations are less than generic risk based concentrations for inhalation. The site will remain listed on the Confirmed Release List and Inventory of Hazardous Substances.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be sent by October 2, 2006 to Katie Robertson at the address listed above.

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

PROPOSED REMEDIAL ACTION ALKALI LAKE CHEMICAL WASTE DISPOSAL SITE LAKE COUNTY, OREGON

COMMENTS DUE: October 2, 2006

PROJECT LOCATION: 60 miles north of Lakeview on highway 395, Lake County, Oregon

PROPOSAL: The Department of Environmental Quality is proposing a remedial action for the Alkali Lake Chemical Waste Disposal site. This action involves continued groundwater monitoring

OTHER NOTICES

and maintenance of fencing and warning signs around the waste disposal area. Public notification is required by ORS 465.320.

HIGHLIGHTS: The Alkali Lake Chemical Waste Disposal site is just west of Alkali Lake in Lake County. The key feature of the site is a 10-acre chemical waste disposal area (CWDA). Between 1969 and 1971, about 25,000 drums containing waste from the production of herbicides were transported to the Site. In 1976, the drums were crushed and buried in 12 trenches in the CWDA.

DEQ has been monitoring environmental conditions at the site since the 1970s. Primary contaminants are herbicides and phenolic compounds. Groundwater is highly contaminated near the CWDA. Detectable contamination extends about 2,000 feet from this disposal cell. A risk assessment conducted in 2005 concluded that acceptable risk levels are not exceeded, provided current safeguards are maintained. This assessment takes into account reasonably likely exposure by people and animals to this contamination.

The CWDA is enclosed by a barbed-wire fence. In addition, a four-mile fence was installed in the 1990s to discourage entry within the vicinity of the CWDA and the area of the groundwater contaminant plume. Based on the results of the risk assessment, DEQ proposes to continue groundwater monitoring, and to maintain fences and signs warning trespassers of the presence of hazardous substances.

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

Bob Schwarz, Project Manager

Phone: 541-298-7255, ext. 30

Fax: 541-298-7330

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

To schedule an appointment or to obtain a copy of the staff report, please contact Mr. Schwarz. Written comments should be sent by Monday, October 2, 2006.

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

PROPOSED REMEDIAL ACTION AMENDMENT FOR JACKSON OIL BULK PLANT CANYON CITY, OR

COMMENTS DUE: October 2, 2006

PROJECT LOCATION: 131 North Washington, Canyon City
PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.320, the Oregon Department of Environmental Quality (DEQ) is issuing this notice regarding the proposed remedial action amendment for the Jackson Oil Bulk Plant located at 131 North Washington in Canyon City, Oregon.

The proposed remedial action amendment is documented in the report entitled *Amendment to the Risk-Based Corrective Action Plan for the Jackson Oil Bulk Storage Facility*, dated July 26, 2006. This report amends the initial Risk-Based Corrective Action Plan dated February 19, 2004. The operation of a groundwater pump and treat system along with indoor monitoring on the adjacent property was the initial remedial action selected. The pump and treat system treated about four million gallons of water prior to being shut down in April 2005. The soil vapor extraction system was also shut down in April 2005. Based on the results of groundwater monitoring and indoor air sample, the corrective action plan (CAP) was updated to reflect current conditions. The amended CAP proposes to implement a deed restriction on the site and adjacent property to prohibit residential and groundwater use as well as groundwater monitoring. If implemented as proposed this risk-based corrective action plan will achieve protective conditions at the site as defined in OAR 340-122-0040.

COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-

4620. Written comments should be sent by October 2, 2006 to Katie Robertson at the address listed above.

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

NOTICE OF PROPOSED NO FURTHER ACTION CHEVRON SERVICE STATION 9-0794 (FORMER) 9065 SW CANYON RD, PORTLAND, OREGON

PROJECT LOCATION: 9065 SW Canyon Rd, Portland, Oregon. Pursuant to Oregon Revised Statute (ORS) 465.320, the Oregon Department of Environmental Quality (DEQ) is issuing this notice regarding the proposed No Further Action (NFA) for the former Chevron Service Station 9-0794 located at 9065 SW Canyon Road in Portland.

The initial petroleum release was reported in December 1986. The service station closed and all facilities were removed in August 1990. The site is currently a paved lot incorporated into the adjacent car dealership property. Multiple remedial actions have been performed to address soil and groundwater contamination including soil excavation, groundwater pump and treat, and groundwater monitoring. A risk based evaluation according to DEQ's "Risk-Based Decision Making for the Remediation of Petroleum-Contaminated Sites" guidance was performed. Residual contamination remains on portions of the site, the adjacent car dealership property, and SW Canyon Road. Based on the evaluation, the site is proposed for a risk-based closure and issuance of a NFA determination. All of the potential exposure concerns were addressed through their elimination during development of the site-specific conceptual site model. The proposed NFA is documented in the "NFA Recommendation" memo dated August 8, 2006. DEQ will consider all public comments received before issuing the NFA determination.

INFORMATION: The decision document and documentation of remedial actions performed at the site are available for public review by appointment at DEQ's Northwest Region Office. To schedule an appointment call (503) 229-6729. For additional information, contact DEQ Project Manager, Katie Robertson at (541) 278-4620 or by email at robertson.katie@deq.state.or.us. Interested persons should send comments by 5 p.m. October 2, 2006 to the DEQ project manager 700 SE Emigrant, Suite 330, Pendleton, OR 97801.

PROPOSED NO FURTHER ACTION AT THE FORMER ROSEBURG FOREST PRODUCTS WINCHESTER MILL SITE IN WINCHESTER

COMMENTS DUE: September 30, 2006

PROJECT LOCATION: Former Roseburg Forest Products Winchester Mill Site, 425 Del Rio Road, Winchester

PROPOSAL: DEQ is recommending no further cleanup action at the Former Roseburg Forest Products Winchester Mill Site. This notification is required by ORS 465.320.

HIGHLIGHTS: The site is a former softwood plywood mill. During July 2006, approximately 15 cubic yards of soil was removed from the former Wigwam burner location and disposed of offsite. During the site investigation, arsenic was detected above industrial standards near the former wigwam burner area. Groundwater solvent contamination is above human health levels on site. However no one is drinking the water, drinking water for the site is available from a public water district, and a deed restriction will be placed on the property prohibiting installation of drinking water wells in the future. A worst case scenario model was applied to determine the extent of potential groundwater contamination off site, and no residences downgradient of the site would be impacted. There is no unacceptable human health residual risk for this site, as arsenic contaminated soils have been removed and disposed of and groundwater contamination is not impacting residences off site. DEQ recommends no

OTHER NOTICES

further action at the site. A copy of the staff report will be available for review at DEQ's Eugene office during the public comment period.

HOW TO COMMENT: The staff report and project files Project documents are available for review at DEQ's Eugene Office. The Eugene office is located at 1102 Lincoln Street, Suite 210 in Eugene, Oregon. A copy of the staff report will also be available at the Douglas County Library, located at 1409 Northeast Diamond Lake Boulevard in Roseburg. Comments should be directed to Mindi English at 1102 Lincoln Street, Suite 210, Eugene, Oregon 97401 or (800)844-8467 extension 7763 by September 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 comments received before taking final action on this matter.

PROPOSED NO FURTHER ACTION WALLOWA MEMORIAL HOSPITAL WALLOWA COUNTY, OREGON

COMMENTS DUE: October 2, 2006

PROJECT LOCATION: 601 Medical Parkway, Enterprise, Oregon

PROPOSAL: The Department of Environmental Quality is proposing to issue a "No Further Action" determination based on soil

excavation actions performed at the Wallowa Memorial Hospital site located at 601 Medical Parkway in Enterprise, Oregon.

HIGHLIGHTS: In mid-March 2006, a release of an unspecified volume of diesel fuel occurred at the construction site of the new hospital. The diesel release occurred during the refueling of a portable boiler located on-site. The spill was reportedly cleaned up at the time of the release but diesel fumes were noted during trenching activities in mid-April 2006. Approximately 70 cubic yards of petroleum contaminated soil (PCS) was excavated and stockpiled on-site. The PCS was later transported to the Wallowa County asphalt plant and blended into an asphalt mix used to repair county roads. Seven confirmation soil samples were collected from the floor of the excavation and analyzed for diesel. All confirmation soil samples were non-detect.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be received by October 2, 2006 and sent to Katie Robertson, Project Manager, at the address listed above.

THE NEXT STEP: DEQ will consider all public comments received before making a final decision regarding the "No Further Action" determination.

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.*

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Board of Architect Examiners
Chapter 806

Rule Caption: Truthful Statements/Advertising.

Date: 9-25-06 **Time:** 9 a.m. **Location:** OBAE Conference Room
205 Liberty St. NE, #A
Salem, OR 97301

Hearing Officer: Bill Seider

Stat. Auth.: ORS 671.125

Stats. Implemented: 671.090, 671.125

Proposed Amendments: 806-020-0010, 806-020-0080

Last Date for Comment: 9-21-06, 4:30 p.m.

Summary: The purpose of this rule amendment is to clarify what constitutes truthful statements when taking credit for work performed on architectural projects. In addition, this rule makes very minor grammatical changes.

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 Speech-Language Pathology and Audiology
Chapter 335

Rule Caption: Clarifies professional development requirements, defines use of delinquent fee, and standardizes recordkeeping rules throughout.

Date: 10-13-06 **Time:** 10:30-11 a.m. **Location:** Hilton Conf. Center
301 W. 6th St.
Vancouver, WA

Hearing Officer: Nancy Dunn

Stat. Auth.: ORS 681

Stats. Implemented: ORS 681

Proposed Adoptions: 335-070-0055

Proposed Amendments: 335-010-0060, 335-010-0070, 335-060-0005, 335-070-0020, 335-070-0030, 335-070-0040, 335-070-0050, 335-095-0050, 335-095-0060

Last Date for Comment: 10-6-06, 5 p.m.

Summary: Professional development requirements in division 70 had not been reviewed extensively since implementation in 1998. Revisions attempt to better communicate the Board's desire for professional development that directly relates to the practice of speech-language pathology and audiology but at the same time recognizes the various work settings.

In the past the only means for the Board to assess a penalty for late response to audits and non-compliance with the professional development requirement was to go through the formal disciplinary process usually resulting in a permanent disciplinary action on the licensee's record. The revision to the delinquent fee definition allows the Board and the licensee to avoid this and pay a small fee.

Recordkeeping requirements will be more practical and consistent throughout with the revisions in these rules.

Rules Coordinator: Brenda Felber

Address: Board of Examiners for Speech-Language Pathology and Audiology, 800 NE Oregon St. - Suite 407, Portland, OR 97232-2162

Telephone: (971) 673-0220

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Rule Caption: Allows audiologists to design one statement to hearing aid purchasers that conforms to all rules.

Date: 10-13-06 **Time:** 10:30-11 a.m. **Location:** Hilton Conf. Center
301 W. 6th St
Vancouver, WA

Hearing Officer: Nancy Dunn

Stat. Auth.: ORS 681

Stats. Implemented: ORS 681

Proposed Amendments: 335-001-0000, 335-001-0005, 335-005-0030

Last Date for Comment: 10-6-06, 5 p.m.

Summary: The rule in division 5 is modified so that requirements for Audiology licensees under this chapter do not conflict with requirements for licensees also licensed under ORS 694 as a hearing aid specialist.

Revisions to division 1 corrects the title of the Oregon Hearing Society and adopts the Attorney General's Model Rules, OAR Chapter 137, division one and division four.

Rules Coordinator: Brenda Felber

Address: Board of Examiners for Speech-Language Pathology and Audiology, 800 NE Oregon St. - Suite 407, Portland, OR 97232-2162

Telephone: (971) 673-0220

.....
Board of Medical Examiners
Chapter 847

Rule Caption: Office-based surgery or procedures.

Date: 9-20-06 **Time:** 9 a.m. **Location:** 1500 SW 1st Ave., Ste. 620
Portland, OR 97201

Hearing Officer: John Stiger, DO

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

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

Last Date for Comment: 9-20-06

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

Rules Coordinator: Diana M. Dolstra

NOTICES OF PROPOSED RULEMAKING

Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201
Telephone: (971) 673-2713

Rule Caption: Waive reactivation registration process and fee for active-military or public health.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.172, 677.265
Proposed Amendments: 847-008-0055
Last Date for Comment: 9-21-06

Summary: The proposed rule change specifies the registration process and fee for reactivation shall be waived for licensees practicing in Oregon whose status was changed to active-military or public health because they were called up to active duty, deployed/reassigned, or received change of duty orders to serve out-of-state or out-of-country in a branch of the armed forces.

Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201
Telephone: (971) 673-2713

Rule Caption: Expand EMT-Paramedic scope of practice to include surgical cricothyrotomy.

Stat. Auth.: ORS 682.245
Stats. Implemented: ORS 682.245
Proposed Amendments: 847-035-0030
Last Date for Comment: 9-21-06

Summary: The proposed rule change removes "percutaneous" as a modifier of "cricothyrotomy" under the EMT-Paramedic scope of practice, thereby expanding the scope to include surgical cricothyrotomy.

Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201
Telephone: (971) 673-2713

Board of Naturopathic Examiners Chapter 850

Rule Caption: Clarifies the continuing education requirements.

Stat. Auth.: ORS 685.125
Stats. Implemented: ORS 685.102
Proposed Amendments: 850-040-0210
Last Date for Comment: 9-25-06

Summary: Clarifies the continuing education requirements. There are no new changes, just reorganization for clarity. Draft text changes can be found at www.obne.state.or.us

Rules Coordinator: Anne Walsh
Address: Board of Naturopathic Examiners, 800 NE Oregon St. - Suite 407, Portland, OR 97232
Telephone: (971) 673-0193

Rule Caption: New rule to clarify CE approval requests submitted by Licensees.

Stat. Auth.: ORS 685.125
Stats. Implemented: ORS 685.102
Proposed Adoptions: 850-040-0230
Last Date for Comment: 9-25-06

Summary: Clarifies the process to licensees for submitting CE requests. Draft text changes can be found at www.obne.state.or.us

Rules Coordinator: Anne Walsh
Address: Board of Naturopathic Examiners, 800 NE Oregon St. - Suite 407, Portland, OR 97232
Telephone: (971) 673-0193

Rule Caption: Clarifies the process for approval of CE by professional education sources.

Stat. Auth.: ORS 685.125
Stats. Implemented: ORS 685.102
Proposed Adoptions: 850-040-0240
Last Date for Comment: 9-25-06

Summary: Clarifies the process for approval of CE by professional education sources. Draft text changes can be found at www.obne.state.or.us

Rules Coordinator: Anne Walsh
Address: Board of Naturopathic Examiners, 800 NE Oregon St. - Suite 407, Portland, OR 97232
Telephone: (971) 673-0193

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.

Stat. Auth.: Ch. 163 (1999 OL), ORS 144.050, 144.140, 181.585, 181.586

Other Auth.: V.L.Y. v. Board of Parole and Post-Prison Supervision 338 Or 44 (2005)

Stats. Implemented:
Proposed Adoptions: 255-060-0016
Last Date for Comment: 9-21-06

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

Department of Administrative Services Chapter 125

Rule Caption: Rules implement ORS 182.122 by establishing a unified framework for information security across the executive department.

Date:	Time:	Location:
9-28-06	1-3 p.m.	Halfway Conference Rm. General Services Bldg. Salem, OR

Hearing Officer: Scott Riordan
Stat. Auth.: ORS 182.122 & 291.038

Stats. Implemented: ORS 182.122
Proposed Adoptions: OAR 125-800-0005, 125-800-0010, 125-800-0020

Last Date for Comment: 10-1-06, 5 pm
Summary: These rules describe the purpose of the states information security efforts and provide common definitions. These rules also describe the actions and explicit accountabilities required to enable a successful enterprise-level approach to information security in the areas of: leadership; planning; policy development and implementation; government-wide coordination; security assessments; incident response; systems management; security awareness and training; enterprise-level reporting; performance management; compliance and oversight; financial management; procurement; agency evaluations; agency responsibilities; approval of agency security plans; security assessments and mitigation of disclosed vulnerabilities; interagency and intergovernmental collaboration; and a state incident response capability. These rules authorize the position and prescribe duties for the position of State Chief Information Security Officer.

Rules Coordinator: Kristin Keith
Address: 155 Cottage Street NE, U90, Salem OR 97301
Telephone: (503) 378-2349, ext. 325

NOTICES OF PROPOSED RULEMAKING

Department of Agriculture Chapter 603

Rule Caption: Increase fees for Inspection and Certification of Agricultural Products.

Date: 10-11-06
Time: 10 a.m.
Location: 635 Capitol St. NE
Salem, OR

Hearing Officer: Ron McKay

Stat. Auth.: ORS 561.190, 632.940, 632.945

Stats. Implemented: ORS 632.940, 932.945

Proposed Amendments: 603-053-0200

Last Date for Comment: 10-18-06

Summary: The Proposed Rule increases fees in the Shipping Point Inspection Program allowing the Program to maintain a sufficient fund balance to provide continued service to the industry, as per statutory Authority ORS 561.190, 632.940 and 632.945.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4552

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

Rule Caption: Changes boiler and pressure vessel inspection requirements.

Date: 9-19-06
Time: 9:30 a.m.
Location: 1535 NW Edgewater St.
Salem, OR 97304

Hearing Officer: Casey Hoyer

Stat. Auth.: ORS 480.545, 480.550, 480.560

Stats. Implemented: ORS 480.545, 480.550, 480.560

Proposed Amendments: 918-225-0570

Last Date for Comment: 9-22-06, 5 p.m.

Summary: This rule changes the boiler and pressure vessel inspection requirements. The rule will prioritize inspections while preserving public safety.

Rules Coordinator: Dodie Wagner

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

Telephone: (503) 373-7438

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

Rule Caption: 2007 Workers' Compensation Premium Assessment Rates.

Date: 10-9-06
Time: 10 a.m.
Location: Labor & Industries Bldg.
350 Winter Street NE,
Conference Rm. F
Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 705.135, 656.726, 656.612

Stats. Implemented: ORS 656.612, 656.614

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

Last Date for Comment: 10-13-06, 5 p.m.

Summary: The Director adopts by rule the percentage amount based on workers' compensation premiums to be levied on insurers, self-insured employers, and self-insured employer groups to meet the expenses of the department in carrying out its duties under ORS 656, 654, and the Insurance Code. The assessment amount will be in effect from January 1, 2007 to December 31, 2007. All self-insured employers, as well as self-insured employer groups, shall be assessed an additional percentage amount to fund the Self-Insured Employers Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve. The actual amounts proposed will be announced on or before October 6, 2006.

Text of the proposed rule as well as the other rulemaking documents can be found at: <http://www.oregon.gov/DCBS/DIR/rules.shtml>

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

Rules Coordinator: Myrna Curzon

Address: Department of Consumer and Business Services, Director's Office, 350 Winter St. NE, PO Box 14480, Salem, OR 97301-0405

Telephone: (503) 947-7866

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

Rule Caption: Revised requirements affecting managed care organizations' treatment guidelines, standards, and protocols.

Date: 9-21-06
Time: 10 a.m.
Location: Rm. F (basement)
Labor & Industries Bldg.
350 Winter St. NE
Salem, OR 97301-3879

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.260, Enrolled Senate Bill 670, OL 2005 Ch. 364

Proposed Amendments: 436-015-0005, 436-015-0030, 436-015-0040

Last Date for Comment: 9-27-06

Summary: The agency proposes to amend OAR ch. 436-015. These proposed rules:

- Define treatment guidelines, treatment standards, and treatment protocols;
- Clarify that protocols and guidelines may be made available to the director online under specified condition;
- Require that the managed care organization plan include a summary of the process used by the managed care organization to develop and review treatment guidelines, standards, and protocols; and
- Require that the managed care organization include with its annual report to the director, copies of any new or revised treatment protocols and guidelines developed or used by the managed care organization during the previous calendar year, or a written statement that no new or revised treatment protocols or guidelines were developed or used during the calendar year

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

Proposed rules are available on the Worker's Compensation Division's Web site: <http://wcd.oregon.gov/policy/rules/rules.html#proprules> or from WCD Publications, 503-947-7627, fax 503-947-7630.

Rules Coordinator: Fred Bruyns

Address: Department of Consumer and Business Services, Workers' Compensation Division, 350 Winter St. NE, PO Box 14480, Salem, OR 97309-0405

Telephone: (503) 947-7717

Department of Corrections Chapter 291

Rule Caption: Computation of Inoperative time for Transitional Leave Violators or Inmates on Escape Status.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030, 423.075

Proposed Amendments: 291-100-0008, 291-100-0130

Last Date for Comment: 10-15-06

Summary: These rules amendments are necessary to address calculation of inoperative time as it relates to short-term transitional

NOTICES OF PROPOSED RULEMAKING

leave suspensions. When determining how inoperative time should be calculated for inmates whose short-term transitional is suspended, it was necessary to bring consistency between short-term transitional leave suspensions and escapes. The rules were also amended to change how inoperative time is calculated for escapes.

Rules Coordinator: Janet R. Worley
Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667
Telephone: (503) 945-0933

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Amendments to the Ken Denman, Elkhorn and Phillip W. Schneider Wildlife Area management plans.

Date:	Time:	Location:
10-6-06	8 a.m.	3406 Cherry Ave NE Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.992
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.992
Proposed Amendments: Rles in 635-008
Last Date for Comment: 10-6-06

Summary: Amendments to Oregon Administrative Rules for the Ken Denman, Elkhorn, and Phillip W. Schneider Wildlife Area Long Range Management Plans, amendments will guide management activities for the next 10 years.

Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6035

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Rule Caption: Establish 2007 regulations for Big Game Mammals.

Date:	Time:	Location:
10-6-06	8 a.m.	3406 Cherry Ave NE Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Proposed Amendments: Rules in 635-008, 043, 044, 045, 060, 065, 066, 067, 068, 069, 070, 071, 072, 073, 075, 078, 080
Last Date for Comment: 10-6-06

Summary: Establish 2007 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas, and other rules including general hunting and controlled hunt regulations. Specific rule changes include: changes to the cougar quotas; and set 2007 spring bear controlled tag numbers.

Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6035

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Rule Caption: Adopt rules to license and regulate businesses conducting nuisance, damage or public health risk animal control operations.

Date:	Time:	Location:
10-6-06	8 a.m.	3406 Cherry Ave NE Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Proposed Adoptions: Rules in 635-435
Last Date for Comment: 10-6-06

Summary: Adopt Oregon Administrative Rule to license and regulate businesses conducting nuisance, damage or public health risk animal control operations. Specific rules include: permits required to capture and hold wildlife, humane euthanasia and discarding of wildlife carcasses, relocation of nuisance wildlife, transportation of

wildlife, equipment inspection, record keeping and reporting requirements.

Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6035

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Department of Human Services,
Public Health
Chapter 333

Rule Caption: Amendment of ambulatory surgical center rules to implement HB 2800 (2005 Legislative Session).

Date:	Time:	Location:
9-22-06	1:30 p.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 125 Portland, Oregon

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 441.030, 441.057, 441.160-441.192, 442
Other Auth.: 2005 OL, Ch. 665
Stats. Implemented: ORS 441.130 441.057, 441.160, 678.362
Proposed Amendments: 333-076-0101, 333-076-0125, 333-076-0130, 333-076-0135

Last Date for Comment: 9-22-06, 5 p.m.
Summary: The Oregon Department of Human Services, Public Health Division (Division) is proposing to amend rules related to ambulatory surgical centers, in order to implement HB 2800 (2005 Legislative Session).

The Division is proposing to amend: 333-076-0101 to correct references contained in the rule; 333-076-0125 to reflect current regulations regarding communicable diseases and tuberculosis; 333-076-0130 to correct rule references; and 333-076-0135 to implement HB 2800 (2005 Legislative Session).

The Division temporarily amended 333-076-0101, 333-076-0125, 333-076-0130 and 333-076-0135 in March 2006 to implement HB 2800 (2005 Legislative Session). The Division is now proposing to permanently amend these rules.

Rules Coordinator: Christina Hartman
Address: Department of Human Services, Public Health, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (971) 673-1291

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Rule Caption: Reconsideration process for Certificate of Need decisions.

Date:	Time:	Location:
9-22-06	10 a.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 612 Portland, OR

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 442.315
Other Auth.: ORS 183.630, 137-003-0501(2)
Stats. Implemented: ORS 442.315
Proposed Adoptions: 333-670-0145
Proposed Amendments: 333-670-0140

Proposed Repeals: 333-670-0000, 333-670-0010, 333-670-0020, 333-670-0030, 333-670-0040, 333-670-0050, 333-670-0060, 333-670-0070, 333-670-0080, 333-670-0090, 333-670-0100, 333-670-0110, 333-670-0120, 333-670-0130, 333-670-0150, 333-670-0160, 333-670-0170, 333-670-0180, 333-670-0190, 333-670-0200, 333-670-0210, 333-670-0220, 333-670-0230, 333-670-0240, 333-670-0250, 333-670-0260, 333-670-0270, 333-670-0280, 333-670-0140(T)

Last Date for Comment: 9-22-06, 5 p.m.
Summary: The Oregon Department of Human Services (DHS), Public Health Division (Division) is proposing to permanently adopt, amend and repeal Oregon Administrative Rules (OAR's) related to the reconsideration process for appealing a final order on a Certificate of Need application.

Rules Coordinator: Christina Hartman

NOTICES OF PROPOSED RULEMAKING

Address: Department of Human Services, Public Health, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (971) 673-1291

Rule Caption: Amendment of the Oregon Death with Dignity Act administrative rules.

Stat. Auth.: ORS 127.865

Other Auth.: 1999 OL Ch. 423

Stats. Implemented: ORS 127.800 - 127.995

Proposed Amendments: 333-009-0000 – 333-009-0030

Last Date for Comment: 9-29-06, 5 p.m.

Summary: The Oregon Department of Human Services, Public Health Division (Division) is proposing to revise the current Death with Dignity Oregon Administrative Rules to update and correct references and to provide more specific timelines and directions for filing report forms with the Division.

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 Oregon State Police, Office of State Fire Marshal Chapter 837

Rule Caption: Adoption of the 2006 International Fire Code.

Date:	Time:	Location:
9-15-06	9:30 a.m.	4760 Portland Rd. NE Salem, OR 97305

Hearing Officer: John Caul

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476.030

Proposed Amendments: 837-040-0010, 837-040-0020, 837-040-0140

Last Date for Comment: 9-15-06, 5 p.m.

Summary: The adoption of the 2006 International Fire Code as amended by the Office Of State Fire Marshal to be known as the Oregon Fire Code, 2007 edition. The proposed amendments can be found on the Office Of State Fire Marshal website at <http://egov.oregon.gov/OOHS/SFM/> or for copies, contact Pat Carroll at 503-373-1540, ext. 276 or John Caul at 503-373-1540, ext. 269.

Rules Coordinator: Pat Carroll

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

Telephone: (503) 390-0422

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Rescind Adoption of agency forms in administrative rules.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Proposed Amendments: 259-060-0600

Last Date for Comment: 9-22-06, 5 p.m.

Summary: Agency is revising administrative rule language to eliminate the reference which adopts the forms by rule.

Rules Coordinator: Bonnie Salle

Address: 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

Rule Caption: Eliminate Bridging process for Juvenile Fire Setter Intervention Specialist.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Proposed Amendments: 259-009-0062

Last Date for Comment: 9-22-06, 5 p.m.

Summary: Agency is eliminating administrative rule language which references an outdated bridging process for a Juvenile Fire Setter Intervention Specialist.

Rules Coordinator: Bonnie Salle

Address: 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

Rule Caption: Police Maintenance Training Requirements for officers returning from leave or whose certification has lapsed.

Stat. Auth.: ORS 181.640, 181.653

Stats. Implemented: ORS 181.640, 181.653

Proposed Amendments: 259-008-0065

Last Date for Comment: 9-22-06, 5 p.m.

Summary: Establishes minimum maintenance training requirements for police officers who have been on a leave of absence and return to work.

Rules Coordinator: Bonnie Salle

Address: 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

Rule Caption: Define "Recall" and Clarify Time for Submitting Employment Related Fingerprints.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Proposed Amendments: 259-008-0005, 259-008-0010

Last Date for Comment: 9-25-06, 5 pm

Summary: Establishes rule defining the administrative action the Department will take when a police officer's mandatory maintenance training requirements are deficient.

Amends rule relating to the date a public safety professional must submit employment related fingerprints.

Rules Coordinator: Bonnie Salle

Address: 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

Department of Transportation, Board of Maritime Pilots Chapter 856

Rule Caption: Amends and updates pilot training requirements for the Coos Bay and Yaquina Bay bar pilotage grounds.

Date:	Time:	Location:
9-27-06	10 a.m.	800 N.E. Oregon St., Rm. 140 Portland, OR 97232

Hearing Officer: Board of Maritime Pilots

Stat. Auth.: ORS 776.115(7)

Stats. Implemented: ORS 776.115(4)

Proposed Amendments: 856-010-0010

Last Date for Comment: 9-27-06

Summary: Amends and updates requirements for trainee pilots on the Coos Bay and Yaquina Bay bar pilotage grounds to address traffic reductions, night time training and minimum trip requirements and certification of trainee readiness.

Rules Coordinator: Susan Johnson

Address: Department of Transportation, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232

Telephone: (503) 731-4044

Rule Caption: Provides a blanket exemption from pilotage requirements for certain classes of small vessels.

Stat. Auth.: ORS 776.115(7)

Stats. Implemented: ORS 776-405(1)(C)

Proposed Adoptions: 856-010-0060

Last Date for Comment: 9-27-06

Summary: Provides for certain classes of small vessels a blanket exemption from compulsory pilotage requirements.

Rules Coordinator: Susan Johnson

NOTICES OF PROPOSED RULEMAKING

Address: Department of Transportation, Board of Maritime Pilots,
800 NE Oregon St., Suite 507, Portland, OR 97232
Telephone: (503) 731-4044

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

Rule Caption: Requirements for reinstatement after 10 years of disqualification of Commercial Driver License.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.404

Stats. Implemented: ORS 809.404

Proposed Adoptions: 735-070-0200

Last Date for Comment: 9-21-06

Summary: ORS 809.404, passed by the 2005 Legislature, establishes offenses that disqualify a person from holding a commercial driver license (CDL) if the person has multiple offenses. ORS 809-404(4) allows a person to apply for reinstatement of the CDL after 10 years if the person meets all requirements for a CDL, the department finds the person has shown good cause for reinstatement and the person has voluntarily entered and successfully completed rehabilitation as approved by the department. DMV is proposing the adoption of this rule to establish when a person would be eligible to reapply for commercial driving privileges after disqualification. The proposed rule lists the requirements for reinstatement, the convictions or suspensions which prohibit reinstatement and the National Safety Council courses the DMV approves as rehabilitation.

Text of proposed and recently adopted ODOT rules can be found at web site <http://wcd.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: Amendment of rules regarding warning flag size and weight table definitions.

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

Stats. Implemented: ORS 815.275, 816.290, 818.170, 818.200, 818.220 & 818.225

Proposed Amendments: 734-075-0045, 734-076-0135, 734-078-0030, 734-082-0005, 734-082-0037

Last Date for Comment: 9-21-06, 5 p.m.

Summary: ORS 815.275 requires warning flags for loads extending beyond the rear of the vehicle to be at least 12 inches square. Federal regulations (49 CFR 393.87) require warning flags for projecting loads to be at least 18 inches square. It is confusing for motor carriers to comply with differing regulations. Since federal and most other states require at least 18 inch square warning flags, it is reasonable for Oregon to amend its rules to coincide.

Weight tables describe maximum allowable weight for an axle or group of axles. Weight tables 3, 4 & 5 are established by a "wheelbase formula" and are used to ensure weight does not exceed allowable limits. Maintaining legal weight limits enhances protection of Oregon's highways and bridges. The changes to Weight Table 4 and Weight Table 5 are necessary to facilitate a motor carrier's ability to calculate axle weights and to obtain an overweight variance permit via Trucking Online, MCTD's internet based business application. The revised Weight Table 3 only includes formatting changes. The proposed amendments do not create any new wheelbase formulas; rather they rearrange existing formulas to reflect current variance permitting practice.

Other non-substantive changes are proposed for housekeeping purposes and clarification.

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: 1905 Lana Avenue NE, Salem, OR 97314

Telephone: (503) 945-5278

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**Economic and Community Development Department
Chapter 123**

Rule Caption: Provides guidance for awarding and funding of loans and grants for non-Federal Marine Navigation Improvement Fund projects.

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

Stats. Implemented: ORS 777.262 - 777.267

Proposed Amendments: 123-027-0166

Last Date for Comment: 9-21-06

Summary: In 2003, the Oregon Ports, with Oregon Economic and Community Development Department support, were successful in securing about \$3.5 million in lottery bond funding for marine navigation (primarily dredging) projects in the state. The funding is provided through the Marine Navigation Improvement Fund (MNIF) as a new classification of project; the 'non-federal' projects. These are the projects that do not qualify for federal funding, which is the first priority of projects in the MNIF. The revised rules further clarify and improve administration of this 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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**Land Conservation and Development Department
Chapter 660**

Rule Caption: Amends a requirement for zoning of exception areas.

Date:
10-5-06

Time:
9 a.m.

Location:
Deschutes County Bldg.
Barnes Rm., 1300 NW Wall St.
Bend, OR 97701

Hearing Officer: LCDC

Stat. Auth.: ORS 183 & 197.040

Stats. Implemented: ORS 197.732

Proposed Amendments: 660-004-0018

Last Date for Comment: 10-4-06, 4 p.m.

Summary: Amends the rule requiring a single numeric minimum lot size in zoning of exception areas to make it clear the requirement does not apply to non-residential designations.

Rules Coordinator: Shelia Preston

Address: Land Conservation and Development Department, 635 Capitol St. NE - Suite 150, Salem, OR 97301-2540

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

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**Oregon Department of Education
Chapter 581**

Rule Caption: Specifies rules for public education providers of online learning when using the Oregon Virtual School District resources.

Date:
9-26-06

Time:
1 p.m.

Location:
Oregon Dept of Education
2nd Fl. 251A
Salem, OR

Hearing Officer: Randy Harnisch

Stat. Auth.: ORS 329.840, 326.051

Stats. Implemented: ORS 329.840

Proposed Adoptions: 581-020-0500, 581-020-0505, 581-020-0510, 581-020-0515, 581-020-0520

Last Date for Comment: 9-26-06, 5 p.m.

Summary: Chapter 834 Oregon Laws 2005, requires that rules be established for the Oregon Virtual School District in the following areas:

(a) The procedure and criteria to be used for the selection of online courses to be offered through the Oregon Virtual School District.

NOTICES OF PROPOSED RULEMAKING

(b) The qualifications of students who may access online courses through the Oregon Virtual School District.

(c) The number of credits for which students may access online courses through the Oregon Virtual School District.

(d) The student-to-teacher ratio for online courses offered through the Oregon Virtual School.

Rules Coordinator: Paula Merritt

Address: 255 Capitol St. N.E., Salem, OR 97310

Telephone: (503) 947-5746

Oregon Housing and Community Services

Chapter 813

Rule Caption: Provides clarification language and amends the limitation on the size of the fund advance.

Date:	Time:	Location:
9-26-06	9 a.m.	725 Summer Street NE, Rm. 124B Salem, OR 97301-1266

Hearing Officer: Shelly Cullin

Stat. Auth.: ORS 90.800 - 90.840, 92.886, Ch. 183, 456.515 - 456.723 & 458.210 - 458.650

Stats. Implemented: ORS 456.550, 456.559, 456.574 & 456.710
Proposed Amendments: 813-040-0005, 813-040-0010, 813-040-0015, 813-040-0020, 813-040-0025, 813-040-0030, 813-040-0035, 813-040-0040, 813-040-0045

Last Date for Comment: 10-2-06, 5 p.m.

Summary: 813-040-0005 sets forth the purpose for the rules and establishes that the department provides non-interest bearing and interest bearing advances to housing sponsors to stimulate the production of housing for persons and families of lower income in the State of Oregon. Clarifies that advances are to be used for predevelopment costs.

813-040-0010 clarifies the common definitions and terms found within the rules.

Amendments in 813-040-0015 clarifies that prospective nonprofit borrowers or other borrowers as must demonstrate a need for an advance for pre-development costs and must satisfy the financial requirements of the Department.

813-040-0020 sets forth the fund limit for each request.

813-040-0025 clarifies the application process and adds an application fee of \$200 for market study funding.

813-040-0030 sets forth the documentation required upon approval and closing.

813-040-0035 identifies the process for distribution of funds once security has been received. It also stipulates that the security requirement may be waived for market study requests.

813-040-0040 increases the time limit for repayment of the Seed Money Advance and the processing fee from six months to two years from the date of initial fund disbursement. The rule further identifies repayment shall be made at the time of land acquisition or from the initial draw against the construction loan, but no later than permanent loan closing.

Rules Coordinator: Sandy McDonnell

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

Telephone: (503) 986-2012

Oregon Public Employees Retirement System

Chapter 459

Rule Caption: Stipulates how employee contributions, being made up under USERRA, are to be remitted to PERS.

Date:	Time:	Location:
9-26-06	2 p.m.	Boardroom PERS Headquarters 11410 SW 68th Parkway Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650, 238.156, 238A.450 & 238A.415

Stats. Implemented: ORS 238.156 & 238A.415

Proposed Amendments: 459-011-0100, 459-080-0100

Last Date for Comment: 10-27-06

Summary: Rule is necessary to clarify payment methods of employee contributions under USERRA.

Copies of proposed rules are available to any person upon request. The rules are also available at <http://www.oregon.gov/PERS>

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Clarify administration of unit benefits for P & F members of the PERS Chapter 238 Program.

Date:	Time:	Location:
9-26-06	2 p.m.	Boardroom PERS Headquarters 11410 SW 68th Parkway Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.440

Proposed Amendments: 459-016-0100

Last Date for Comment: 10-27-06

Summary: OAR 459-016-0100 is being amended to clarify the administration of unit benefits for police officer and firefighter members of the PERS Chapter 238 Program.

Copies of proposed rules are available to any person upon request. The rules are also available at <http://www.oregon.gov/PERS>

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Clarifies withdrawal from programs, effect of "Break in Service" on redeposit, and treatment of retroactive payments.

Date:	Time:	Location:
9-26-06	2 p.m.	Boardroom PERS Headquarters 11410 SW 68th Parkway Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650 & 238A.450

Stats. Implemented: ORS 238.005, 238.105, 238.265, 238A.120 & 238A.375

Proposed Adoptions: 459-075-0020, 459-080-0020

Proposed Amendments: 459-010-0042, 459-010-0055, 459-011-0050

Last Date for Comment: 10-27-06

Summary: 459-010-0042: Modifications to this rule will update statutory citations and clarify procedures for the allocation and submission of contributions for retroactive payments. The rule will clarify the types of retroactive payments and preclude contributions or allocation of contributions for payments made to a withdrawn former member.

459-010-0055: Modifications to this rule will establish that a request to withdraw from the PERS Chapter 238 Program will also be considered a request to withdraw from the OPSRP Pension Program and Individual Account Program.

459-011-0050: Modifications to this rule will clarify the impact of a "Break in Service" upon the restoration of service rights under this rule. A "Break in Service" prior to redeposit will permit restoration of the service forfeited by withdrawal but will preclude revival of the PERS Chapter 238 Program membership.

NOTICES OF PROPOSED RULEMAKING

459-075-0020: Withdrawal — This new rule will clarify requirements for withdrawal from the OPSRP Pension Program under ORS 238A.120. This rule will establish that a request to withdraw from the OPSRP Pension Program will also be considered a request to withdraw from the PERS Chapter 238 Program and the OPSRP Individual Account Program.

459-080-0020: Withdrawal — This new rule will clarify requirements for withdrawal from the OPSRP Individual Account Program under ORS 238A.375.

Copies of proposed rules are available to any person upon request. The rules are also available at <http://www.oregon.gov/PERS>

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Amend lump-sum payment rules and adopt non-UAL lump-sum rule.

Date:	Time:	Location:
9-26-06	2 p.m.	Boardroom PERS Headquarters 11410 SW 68th Parkway Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.225

Proposed Adoptions: 459-009-0090

Proposed Amendments: 459-009-0084, 459-009-0085

Last Date for Comment: 10-27-06

Summary: OAR 459-009-0084 and 459-009-0085, which provide a procedure for a lump-sum payment by an employer with an unfunded actuarial liability (UAL), currently require that the employer and PERS enter into an intergovernmental agreement (IGA) under which the employer prepays the PERS actuary for the cost of the required UAL calculation. These IGAs are not standing contracts but rather are limited to a single requested calculation, and the provisions they contain are included in the rule language and/or in statute. The IGAs are therefore an unnecessary administrative burden and the requirement is being eliminated.

ORS 238.225 allows a participating employer to make a voluntary lump-sum payment against its PERS liabilities. Current rules allow for such a payment by an employer with an unfunded actuarial liability, but do not provide a procedure for such a payment by an employer that is fully funded. OAR 459-009-0090 adopts a procedure whereby a fully funded employer may make a lump-sum payment, including establishing a procedure and timeline for making a request and calculating the employer's liability; minimum and maximum payment amounts; and treatment of the payment upon receipt. Different minimum payment thresholds are established based upon the employer's total PERS liability, to ensure that small employers have the same opportunity to make surplus payments as large employers.

Copies of proposed rules are available to any person upon request. The rules are also available at <http://www.oregon.gov/PERS>

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

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

Rule Caption: Establishes a hearing process for persons using unaccredited degrees.

Date:	Time:	Location:
10-20-06	1 p.m.	1500 Valley River Dr., Ste. 100 Eugene, OR 97401

Hearing Officer: Dean Wendle, Chair

Stat. Auth.: ORS 348.609

Other Auth.: Advice of agency legal counsel

Stats. Implemented: ORS 348.609

Proposed Amendments: 583-050-0026

Last Date for Comment: 10-19-06, 4 p.m.

Summary: ODA needs to add a hearing process for people who are found to be using unaccredited degrees in violation of ORS 348.609, before the commission imposes any penalties on the user. This process will be added to OAR 583-050-0026, the enforcement section of agency rules, and will resemble processes used by other state agencies.

Rules Coordinator: Peggy D. Cooksey

Address: 1500 Valley River Dr., Ste. 100, Eugene, OR 97401

Telephone: (541) 687-7443

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

Rule Caption: Revise and update the student conduct code because it is outdated and does not represent best practices for responding to student conduct matters.

Date:	Time:	Location:
9-21-06	3 p.m.	Erb Memorial Union Alesa & Coquille Rms. University of Oregon Eugene, OR

Hearing Officer: Connie Tapp

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 351.070

Proposed Adoptions: 571-021-0100, 571-021-0105, 571-021-0110, 571-021-0115, 571-021-0120, 571-021-0125, 571-021-0130, 571-021-0140, 571-021-0150, 571-021-0160, 571-021-0165, 571-021-0200, 571-021-0205, 571-021-0210, 571-021-0220, 571-021-0230, 571-021-0240, 571-021-0250

Proposed Repeals: 571-021-0005, 571-021-0009, 571-021-0015, 571-021-0019, 571-021-0024, 571-021-0029, 571-021-0030, 571-021-0035, 571-021-0038, 571-021-0040, 571-021-0045, 571-021-0050, 571-021-0055, 571-021-0056, 571-021-0057, 571-021-0060, 571-021-0064, 571-021-0068, 571-021-0070, 571-021-0072, 571-021-0073

Last Date for Comment: 9-22-06, 12 p.m.

Summary: Revise and update the student conduct code because it is outdated and does not represent best practices for responding to student conduct matters.

Rules Coordinator: Connie Tapp

Address: Oregon University System, University of Oregon, 1226 University of Oregon, Eugene, OR 97403

Telephone: (541) 346-3082

**Parks and Recreation Department
Chapter 736**

Rule Caption: ATV Rule Changes as Required by Senate Bill 68.

Date:	Time:	Location:
9-18-06	6-8 p.m.	OPRD HQ Office 725 Summer St. NE, Suite C Salem, OR 97301
9-19-06	6-8 p.m.	Bend Senior Center 1600 SE Reed Market Rd. Bend, OR 97702

Hearing Officer: Wayne Rawlins

Stat. Auth.: ORS 183 & 390.124

Stats. Implemented: ORS 390.124(1)

Proposed Adoptions: Rules in 736-004

Proposed Amendments: Rules in 736-004

Proposed Repeals: Rules in 736-004

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 9-29-06

Summary: (1) The proposed rules will codify procedures necessary to implement Senate Bill 68 (SB68) which prohibits the operation of Class 1 All-Terrain Vehicles (also called ATVs or quads) on the ocean shore unless issued a permit from OPRD. SB68 states that OPRD may issue permits, without charge, for individuals with disabilities, emergency aid workers, biologists, wildlife monitors or other natural resources workers. (2) The ATV Account Allocation Committee recommends an administrative rule change that will allow the ATV Grant Program to provide grants of up to 100% of the value of real property acquisition projects for ATV riding areas. Current rules provide for grant awards of up to 80% of the project costs, leaving a 20% funding requirement for grantees to cover. (3) Current OPRD rules that relate to the ATV Program (Chapter 736, Division 4) are in need of some "clean up" work to make them easier to read and use.

Rules Coordinator: Pamela Berger

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

Telephone: (503) 986-0730

Rule Caption: New Administrative Rules to implement House Bill 2739.

Date:	Time:	Location:
9-25-06	6-8 p.m.	OPRD HQ Office 725 Summer St. NE, Suite C Salem, OR 97301

Hearing Officer: Wayne Rawlins

Stat. Auth.: ORS 183 & 390.124

Stats. Implemented: ORS 390.124(1)

Proposed Adoptions: Rules in 736

Last Date for Comment: 9-29-06

Summary: House Bill 2739 gave authority to Oregon Parks and Recreation Department (OPRD) to make funding assistance available to nonprofit veterans' organizations for the construction and restoration of memorials honoring veterans and war memorials located on public property. The legislation directed OPRD to adopt rules to carry out the program. The proposed rules create a separate grant program for veteran/war memorials consistent with other grant programs OPRD administers. The Local Government Grant Advisory Committee, augmented with representatives or veterans' organizations, will review and recommend grants for funding. Under the proposed rules, the Oregon Parks and Recreation Commission will approve all grants awarded under this new program.

Rules Coordinator: Pamela Berger

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

Telephone: (503) 986-0730

Public Utility Commission Chapter 860

Rule Caption: Amend intrastate toll service provider blockage rule — OAR 860-023-0054(3)(b)(B).

Stat. Auth.: ORS 183, 756 & 759

Stats. Implemented: ORS 756.040, 758.020, 759.030, 759.050 & 759.450

Proposed Amendments: 860-023-0054

Last Date for Comment: 9-22-06

Summary: This rule amendment corrects an inadvertent omission of the word "not" in OAR 860-023-0054 previously adopted by the Commission on December 15, 2005, in its Order 05-1259 and filed with the Secretary of State on December 23, 2005. It was intended that the first sentence of paragraph B of OAR 860-023-0054(3)(b) read, "An intrastate toll service provider must maintain its network operation so that 99 percent of its calls do not experience blockage during any normal busy hour." This rulemaking addresses that correction.

Rules Coordinator: Diane Davis

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

Telephone: (503) 378-4372

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Adopt, amend and repeal rules regarding issuance, renewal and reinstatement of educator's licenses.

Date:	Time:	Location:
9-26-06	1-5 p.m.	TSPC Office 465 Commercial St. NE Salem, OR 97301

Hearing Officer: Victoria Chamberlain

Stat. Auth.: ORS 181, 342

Stats. Implemented: ORS 181.525, 342.120-342.200, 342.223-232 & 342-342.400

Proposed Adoptions: 584-050-0016, 584-050-0018, 584-050-0019, 584-050-0043, 584-080-0002, 584-080-0012, 584-080-0022

Proposed Amendments: 584-017-0120, 584-038-0290, 584-038-0295, 584-038-0310, 584-038-0320, 584-038-0330, 584-038-0335, 584-038-0336, 584-040-0260, 584-040-0265, 584-040-0280, 584-040-0290, 584-040-0310, 584-040-0315, 584-048-0006, 584-048-0010, 584-048-0015, 584-048-0020, 584-048-0025, 584-048-0030, 584-048-0032, 584-048-0035, 584-048-0040, 584-048-0065, 584-048-0067, 584-048-0070, 584-048-0085, 584-048-0090, 584-048-0095, 584-048-0105, 584-048-0110, 584-048-0115, 584-048-0120, 584-050-0004, 584-050-0005, 584-050-0006, 584-050-0009, 584-050-0012, 584-050-0015, 584-050-0020, 584-050-0022, 584-050-0027, 584-050-0035, 584-050-0040, 584-050-0042, 584-060-0022, 584-060-0051, 584-060-0071, 584-080-0001, 584-080-0031, 584-100-0006

Proposed Repeals: 584-048-0042, 584-050-0007, 584-050-0008, 584-050-0025, 584-080-0011, 584-080-0021

Last Date for Comment: 9-26-06, 5 p.m.

Summary: 584-017-0120—*Elementary Authorization:* Expands special education elementary authorization to allow special ed teachers to be properly assigned in middle and junior high school.

584-038-0290—*Basic Exceptional Learner I:* Changes "Handicapped" term to "Exceptional Learner."

584-038-0295—*Basic Exceptional Learner II:* Changes "Handicapped" term to "Exceptional Learner."

584-038-0310—*Basic Severe Exceptional Needs Learner I:* Changes terminology from "Severely Handicapped" to "Learners with Severe Disabilities."

584-038-0320—*Basic Speech Impaired:* Changes terminology to "Learners with Speech Impairments" and corrects numbering format.

584-038-0330—*Basic Visually Impaired:* Changes terminology to "Learners with Visual Impairments."

584-038-0335—*Basic Early Intervention and Special Education I:* Numbering format change and clarification.

584-038-0336—*Basic Early Intervention and Special Education II:* Numbering format change and clarification.

584-040-0260—*Standard Exceptional Learner I:* Changes "Handicapped" to "Exceptional Learner."

584-040-0265—*Standard Exceptional Learner II:* Changes "Handicapped" to "Exceptional Learner."

584-040-0280—*Standard Severe Exceptional Needs Learner:* Changes "Severely Handicapped" to "Learners with Severe Disabilities."

584-040-0290—*Standard Speech Impaired:* Clarification of OAR that is referenced in (3).

584-040-0310—*Standard Early Intervention and Special Education:* Clarifies purpose of license and numbering format.

584-040-0315—*Standard Early Intervention and Special Education II:* Clarifies purpose of license and numbering format.

584-048-0006—*Renewal of Pre-21st Century Educator Licenses:* Revision of outdated rule.

NOTICES OF PROPOSED RULEMAKING

584-048-0010—*Renewal of Licenses Based Upon Continuous Licensed Employment*: Revision of outdated rule.

584-048-0015—*Experience Acceptable for Renewal of Licenses*: Clarification of rule requirements and change in number format.

584-048-0020—*Renewal of Teaching Licenses—Special Provisions*: Update of rule to include Initial, Standard or Continuing Licenses, corrects reference to current OARs and updates number format.

584-048-0025—*Ongoing Renewal of Basic Teaching Licenses for Use in Elementary, Middle, and Junior High Schools Only*: Clarifies experience and CPD requirements as well as number format changes

584-048-0030—*Renewal of Basic Licenses for Use in Special Education in Preprimary through Grade Twelve*: Clarifies experience and CPD requirements and changes number format

584-048-0032—*Renewal of Basic Licenses for Use in Grades Five through Twelve or in Preprimary through Grade Twelve*: Number format changes and clarifies requirement for 16 semester hours toward standard licensure for renewal.

584-048-0035—*Standard Teaching License Renewal*: Clarifies requirements for Standard Teaching License renewal.

584-048-0040—*Professional Technical Teaching License Renewal*: Upon expiration of the Three-year Professional Technical License the applicant must qualify for the Five-year Professional Technical License.

584-048-0065—*Basic Personnel Service License Renewal*: Changes number format and clarifies nine quarter or six semester hours of academic requirements leading to a Standard Personnel Service License.

584-048-0067—*Renewal of Personnel Service Licenses—Special Provisions*: Clarifies requirements for renewal of Personnel Service Licenses-Special Provisions and changes number format.

584-048-0070—*Standard Personnel Service License Renewal*: Updates rule regarding requirements for renewal of Standard Personnel Service License.

584-048-0085—*Renewal of a Basic Administrative License*: Clarifies experience or CPD requirements for renewal of a Basic Administrator License and changes number format.

584-048-0090—*Renewal of Administrative License—Special Provisions*: Clarifies experience or CPD requirements for renewal of an Administrator License—Special Provisions and change in number format.

584-048-0095—*Standard Administrative License Renewal*: Clarifies experience or CPD requirements for renewal of a Standard Administrative License.

584-048-0105—*Five-Year Teaching License Renewal*: Clarifies experience or CPD requirements for renewal of the Five-year Teaching License originally issued prior to October 15, 1965.

584-048-0110—*Administrative License Renewal*: Clarifies experience or CPD requirements for renewal of the Administrative License originally issued prior to October 15, 1965.

584-048-0115—*Reinstatement of Expired Licenses*: Number format change.

584-048-0120—*Special Provisions for a One-Year Extension to Basic and Standard Licenses*: Clarifies rule and adds language to include 12 quarter hours or 8 semester hours.

584-050-0004—*Procedure for Incomplete Application*: Clarifies procedures for incomplete application.

584-050-0005—*Criteria for Granting Licenses*: Clarifies procedures for granting a license when a conviction has occurred and numbering format changes.

584-050-0006—*Criteria for Denying Issuance or Reinstatement of Licenses*: Clarifies language for denying issuance or reinstatement of licenses. Number format change.

584-050-0009—*Procedures for Disciplinary Action in Certain Cases*: Clarifies the rule to include the Commission.—

584-050-0012—*Criteria for Denial of Licensure Based on Conviction for Crimes*: Clarifies requirement for denial of licensure based on a conviction and sites applicable OAR.

584-050-0015—*Reinstatement Of Suspended, Revoked, or Surrendered License or Registration*: Clarifies requirements for reinstatement of suspended, revoked or surrendered license. Adds language requiring a reinstatement fee in addition to the application fee. Removes provisions in the rule and creates rules 584-050-0016, 584-050-0018 & 584-050-0019.

584-050-0016—*Reinstatement of Suspended License, Registration, or Right to Apply for a License or Registration*: New rule stating requirements for reinstatement of suspended license, registration or right to apply for a license.

584-050-0018—*Reinstatement of Revoked License, Registration, or Right to Apply for a License or Registration*: New rule stating requirements for reinstatement of revoked license, registration or right to apply for a license.

584-050-0019—*Termination of Probation*: New rule requiring educator submit request for termination of probation with supporting documents.

584-050-0020—*Suspension for Resignation in Violation of Contract*: Cites OAR governing the reinstatement fee based on suspension for resignation in violation of contract and change in number format.

584-050-0022—*Suspension for Failure to Obtain Valid First Aid Card*: Clarifies rules regarding suspension for failure to obtain a valid first aid card per ORS 342.126.

584-050-0027—*Surrender of License or Registration*: Clarification of educators voluntarily surrendering their Oregon teaching license prior to its expiration if the Commission finds it in the best interest of the public.

584-050-0035—*Must be Licensed to Begin Employment*: Clarifies rule to state pursuant to ORS, Chapter 342, any person hired to fill a position in a SD or ESD must hold a valid license appropriate for the assignment on the date employment begins.

584-050-0040—*Expiration of Licenses and Continued Use of Expired Licenses*: Clarifies rule regarding license expiration.

584-050-0042—*Addresses and Uses of Addresses*: Clarifies requirement for license holder to report changes of address within 90 days of such change. Adds language stating TSPC will use the last know address on file with no responsibility if the educator has failed to notify TSPC of any new address.

584-050-0043—*Name Changes*: New rule stating requirements for notification of new married or assumed name change.

584-060-0022—*Continuing Teacher License Requirements*: Amends rule to accept the Washington Professional Certificate in lieu of a CTL program as partial Completion of the CTL requirements.

584-060-0051—*Teaching Authorization Levels*: Clarifies ECE, ELEM, and ML authorization levels with a multiple subject endorsement is not valid without the specialty endorsement. ELEM authorization in special ed is valid for assignments in grades three through eight in elementary, middle or junior high school

584-060-0071—*Endorsements Requiring Multiple Authorization Levels*: Clarifies that passage of the MSE may be necessary for new teachers with a special ed or an ESOL endorsement to meet the definition of Highly Qualified.

584-080-0001—*Purpose*: Rule establishes an administrator licensure program designed to strengthen Oregon education leadership. Numbering format change.

584-080-0002—*Definitions for Division 80*: Contains definitions for Division 80.

584-080-0012—*Initial Administrator License (IAL)*: New rule that replaces 584-080-0011 for Initial Administrator License.

584-080-0022—*Continuing Administrator License (CAL)*: New rule that replaces 584-080-0021 for Continuing Administrator License

584-080-0031—*Continuing Superintendent License*: Amends the current language to recognize work above and beyond the Continuing Administrator License.

584-100-0006—*Definitions*: Changes required credit hours for “Undergraduate Major or Coursework Equivalent to a Major.”

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584-048-0042—*Renewal of Supervisory Professional-Technical Licenses* – REPEAL.

584-050-0007—*Criteria and Procedures for Denying Renewal of a License* - REPEAL.

584-050-0008—*Procedures for Consideration of Other Cases* - REPEAL.

584-050-0025—*Revocations and Suspensions for Other Than Violation of Contract or Failure to Obtain Card* - REPEAL.

584-080-0011—*Initial Administrator License* - REPEAL.

584-080-0021—*Continuing Administrator License* - REPEAL.

Rules Coordinator: Victoria Chamberlain

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

Telephone: (503) 378-6813

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Water Resources Department
Chapter 690

Rule Caption: Amends Mid Coast Basin Program Rules.

Date:	Time:	Location:
10-4-06	12–2 p.m.	North Lincoln Co. Historical Museum 4907 SW Hwy 101 Lincoln City, OR

Hearing Officer: Jay Rasmussen

Stat. Auth.: ORS 536.025, 536.027, 536.300

Stats. Implemented: ORS 536.310, 537.356

Proposed Amendments: 690-518-0020

Last Date for Comment: 10-18-06, 5 p.m.

Summary: The Water Resources Department is proposing to amend rules related to the Mid-Coast Basin Program (OAR Chapter 690, Division 518). The Department previously filed notice of this rulemaking in the Oregon Bulletin published by the Secretary of State on July 1, 2006. The Department canceled the rulemaking hearing scheduled for August 2, 2006 and has rescheduled the hearing for October 4, 2006 from noon until 2:00 p.m. The public comment period is extended to October 18, 2006

On September 20, 2005, the Oregon Water Resources Department (OWRD) received a request by Lincoln City for three reservations of unappropriated water for multipurpose storage for future economic development on two waterways tributary to Devils Lake and a tributary of the Salmon River north of Lincoln City.

Reservation requests are processed as Basin Program amendments through the rulemaking process. Reservations of water for multipurpose storage for future economic development are allowed by ORS 537.356. Any local government, local watershed council, or state agency or any other individual cooperating jointly with a local government, local watershed council, or state agency may request the Water Resources Commission (Commission) to reserve unappropriated water for multipurpose storage for future economic development. If adopted, the priority date for a reservation is the date the Commission takes action to initiate the rulemaking process (ORS 537.356(3)). Reservations are reflected in OWRD's water availability model and future water right applications to appropriate reserved water may only request to use such water for multipurpose storage for future economic development. ORS 537.356(1).

Approval of a reservation does not mean that any water right application will be approved or that a reservoir may be constructed. Rather, a reservation merely sets aside water for a certain use with a specific priority date. If a water user wishes to appropriate reserved water, they must submit a water right application to OWRD. OWRD would then review that water right application based on the applicable public interest review standards.

Lincoln City's reservation request including the following:

- A reservation of 374 acre-feet of unappropriated water in Rock Creek, tributary to Devil's Lake, for multipurpose storage for future economic development.

- A reservation of 1,350 acre-feet of unappropriated water from an unnamed stream (locally referred to as "Side Creek"), tributary to

Devil's Lake, for multipurpose storage for future economic development for future application exclusively by the City of Lincoln City.

- A reservation of 1,250 acre-feet of unappropriated water from Treat River, tributary to Salmon River, for multipurpose storage for future economic development.

On May 5, 2006, the Commission approved initiation of rulemaking in response to Lincoln City's request. The Commission is likely to take action at its November 16 and 17, 2006 meeting. The Commission may choose to receive additional oral public comment and written testimony on the proposed rules as part of an agenda item at any future Commission meeting. Written testimony presented to the Commission after the public comment period has closed will be limited to specific language suggestions related to changes made by the Department from the public hearing draft rules to the final proposed rules.

Rules Coordinator: Debbie Colbert

Address: Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301

Telephone: (503) 986-0878

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Rule Caption: Expedited review of certain stored water applications; repeal of water use registration process.

Date:	Time:	Location:
9-18-06	11 a.m.–1 p.m.	OWRD Conference Rm. 124a & b 725 Summer St. NE Salem, OR

Hearing Officer: Cory Engel

Stat. Auth.: ORS 536.025 & 536.027

Stats. Implemented: ORS 537.140 - 536.211, 537.145 - 537.230, 537.400 (ch. 37, 2005 Oregon Water Laws), ch. 14 2005 Oregon Water Laws (repealing ORS 537.015–537-032)

Proposed Adoptions: 690-340-0060

Proposed Amendments: 690-310-0040, 690-310-0280

Proposed Repeals: 690-340-0050

Last Date for Comment: 10-2-06, 5 p.m.

Summary: The proposed adoption of OAR 690-340-0060 and amendment of OAR 690-310-0040 implement House Bill 2178 (Chapter 37, 2005 Oregon Water Laws). HB 2178 established an expedited process for applications for permits to use stored water exclusively. Prior to the adoption of HB 2178, water right permitting statutes did not make a distinction between a proposed use of stored water and other types of water uses. All permit application required the development of several review documents, notices, and public comment opportunities. However, HB 2178 provided a streamlined process for such applications recognizing that the use of water already legally stored has a low likelihood of harm to existing users and the State's water resources. This reduces regulatory burden on water users without compromising protection of the State's water resources or existing water right holders. This expedited process allows the Oregon Water Resources Department to issue a permit following a public comment period, if no public interest issues are raised. The proposed adoption of OAR 690-340-0060 establishes the process, while the proposed amendment of OAR 690-310-0040 specifies minimum application requirements for applications to use stored water.

The proposed repeal of OAR 690-340-0050 implements HB 2083 (Chapter 14, 2005 Oregon Water Laws). In the period leading up to the early 1990s, statutes governing water use permits provided no statutory time limits for processing permit applications. A backlog of applications—including applications for wetland, stream, and riparian restoration and storm water management—grew to a point that extended periods of time were required to process them. HB 2107 (1993) provided a means to register proposed uses of water for these environmentally beneficial purposes, thereby allowing the use of water while the application was pending before the Department. In 1995, SB 674 modified the standard permitting process, imposed statutory time limits for application processing, and increased application fees. These provisions allowed the Department to decrease its

NOTICES OF PROPOSED RULEMAKING

workload to manageable levels, and the amount of time required to process all applications was dramatically reduced. This process improvement—as well as the provision of new statutory methods of expedited water use authorization such as limited licenses (ORS 537.143) and the alternate reservoir application process (ORS 537.409)—made the water use registration process obsolete. HB 2083 repealed the obsolete statutes.

The proposed rulemaking also addresses minor housekeeping issues such as removing a clerical error at OAR 690-310-0280.

Rules Coordinator: Debbie Colbert

Address: Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301

Telephone: (503) 986-0878

ADMINISTRATIVE RULES

Appraiser Certification and Licensure Board Chapter 161

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

Adm. Order No.: ACLB 2-2006

Filed with Sec. of State: 7-26-2006

Certified to be Effective: 7-26-06

Notice Publication Date: 6-01-06

Rules Adopted: 161-010-0085

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

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

Rules Coordinator: Karen Turnbow—(503) 485-2555

161-001-0005

Model Rules of Procedure

(1) The Model Rules of Procedure, OAR 137-003-0501 to 137-003-0700, as promulgated by the Attorney General of the State of Oregon, apply to all contested case hearings conducted by a hearing officer from the Hearing Officer Panel on behalf of the Board.

(2) The Board adopts the current edition of the Model Rules of Procedure, OAR chapter 137, division 001, as promulgated by the Attorney General of the State of Oregon and effective January 1, 2006.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure are available from the office of the Attorney General or the Appraiser Certification and Licensure Board.]
Stat. Auth.: ORS 674.305 & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 6-1991, f. & cert. ef. 12-4-91; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2006, f. & cert. ef. 7-26-06

161-002-0000

Definitions

As used in OAR 161-01-005 to 161-50-050, the following terms (whether capitalized or not) shall have the following meanings:

(1) "**Administrator**" means the administrator of the Board appointed by the Board.

(2) "**Affiliate**" means a business organization sharing with a financial institution or insurance company some aspect of common ownership and control.

(3) "**Appraisal**" or "Real Estate Appraisal" means "appraisal" as defined in USPAP.

(4) "**Appraisal Foundation**" means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(5) "**Appraisal Report**" means "report" as defined in USPAP.

(6) "**Appraiser Assistant**" or "AA" means a person who is not licensed or certified as an appraiser, but is registered as an appraiser assistant under ORS 674.310, and who assists with real estate appraisal activity under the direct supervision of a certified or licensed appraiser.

(7) "**Appraisal Subcommittee**" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) established pursuant to the Federal Act.

(8) "**Board**" or "**ACLB**" means the Appraiser Certification and Licensure Board established under ORS chapter 674.

(9) "**Certificate**" means the document issued by the Board indicating that the person named thereon has satisfied the requirements for certification as a state certified residential or state certified general appraiser.

(10) "**Classroom hour**" as used in reference to qualifying and continuing education means 50 minutes out of each 60 minute segment.

(11) "**Completion**" means interpreting, analyzing and reconciling data or compiled data, including reviewing and adopting another person's interpretations and reconciliations as one's own.

(12) "**Complex one-to-four family residential property appraisal**" means an appraisal in which the property to be appraised, market conditions, or form of ownership is atypical. For example, atypical factors may include, but are not limited to:

- (a) Architectural style;
- (b) Age of improvements;
- (c) Size of improvements;
- (d) Size of lot;
- (e) Neighborhood land use;
- (f) Potential environmental hazard liability;
- (g) Property interests;
- (h) Limited readily available comparable sales data; or
- (i) Other unusual factors.

(13) "**Continuing Education**" means education that is creditable toward the education requirements that must be satisfied to renew a license, certificate or appraiser assistant registration.

(14) "**Direct Supervision**" of an appraiser assistant means:

(a) Disclosing in the appraisal report that the supervising appraiser has inspected the subject property both inside and out, and has made an exterior inspection of all comparables relied upon in the appraisal or disclose that the supervising appraiser did not inspect the subject property both inside and out, and did not inspect the exterior of comparables relied upon in the appraisal; and

(b) Reviewing the appraiser assistant's appraisal report(s) to ensure research of general and specific data has been adequately conducted and properly reported, application of appraisal principles and methodologies has been properly applied, that any analysis is sound and adequately reported, and that any analysis, opinions, or conclusions are adequately developed and reported so that the appraisal report is not misleading; and

(c) Reviewing the appraiser assistant's work product and discussing with the appraiser assistant any edits, corrections or modifications that need to be made to that work product to satisfy OAR 161-002-0000(14)(b); and

(d) Accepting sole and total responsibility for the appraisal report by signing the appraisal report and certifying that the appraisal report has been prepared in compliance with the current edition of the Uniform Standards of Professional Appraisal Practice.

(15) "**Federal Act**" means Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C 3310 et seq.).

(16) "**Federal Financial Institution Regulatory Agency**" means:

- (a) The Board of Governors of the Federal Reserve System;
- (b) The Federal Deposit Insurance Corporation;
- (c) The Office of the Comptroller of the Currency;
- (d) The Office of Thrift Supervision; or
- (e) The National Credit Union Administration.

(17) "**Financial Institution**" means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(18) "**Good Standing**" means the status of a person whose license, certificate or registration is not currently suspended or been revoked.

(19) "**Issuance**" means the act of communicating the opinion of value either in writing or orally.

(20) "**License**" means the document issued by the Board indicating that the person named thereon has satisfied all requirements for licensure as a state licensed appraiser.

(21) "**Licensee**" means any person who holds an active or inactive Oregon appraiser license, certified residential appraiser certificate, or certified general appraiser certificate.

(22) "**Mortgage banker**" has the meaning defined in ORS 59.840.

(23) "**Non-residential**" appraising means to render a value on real property other than one-to-four family residential properties.

(24) "**One-to-four family residential property**" means a property that includes one to four residential units and is residential in character, i.e., zoning, land use.

(25) "**Preparation**" means compiling data, including reviewing and adopting such compiled data as one's own.

(26) "**Prerequisite education**" means the initial qualifying educational requirements to become licensed or certified with the Board.

(27) "**Professional real estate activity**" has the meaning defined in ORS 696.010.

ADMINISTRATIVE RULES

(28) “**Qualifying Education**” means education that is creditable toward the education requirements for initial licensure or certification under one or more of the three real estate appraiser classifications.

(29) “**Real estate appraisal activity**” has the meaning defined in ORS 674.100.

(30) “**Real Estate**” or “**Real Property**” means an identified parcel or tract of land, together with any improvements, that includes easements, rights-of-way, undivided or future interests or similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights or similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

(31) “**State Certified General Appraiser**” or “**SCGA**” means an individual who has been certified as a state certified general appraiser by the Board.

(32) “**State Certified Residential Appraiser**” or “**SCRA**” means an individual who has been certified as a state certified residential appraiser by the Board.

(33) “**State Licensed Appraiser**” or “**SLA**” means an individual who has been licensed as a state licensed appraiser by the Board.

(34) “**Supervising Appraiser**” means a licensee who is directly supervising appraiser assistants pursuant to OAR 161-025-0025.

(35) “**Supervising Appraiser Endorsement**” means the document issued by the Board indicating that the licensee named thereon has satisfied all requirements of OAR 161-010-0085 to be a Supervising Appraiser.

(36) “**Transaction Value**” means:

(a) For loans or other extensions of credit, the amount of the loan or extension of credit; and

(b) For sales, leases, purchases and investments in or exchange of real property, the market value of the real property interest involved; and

(c) For the pooling of loans or interest in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

(d) For determinations of the transaction value of real property or interests in real property in circumstances other than described in the proceeding (a) to (c) of this section, the market value of the real property interest involved.

(e) In condemnation or partial taking actions, the transaction value is deemed to be the value of the larger parcel before the taking.

(37) “**Uniform Standards of Professional Appraisal Practice**” or “**USPAP**” means the standards adopted and published by the Appraisal Standards Board of the Appraisal Foundation dated April 27, 1987, as amended July 1, 2006.

(38) “**Workfile**” means “**workfile**” as defined in USPAP.

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

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-010-0000; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 2-2004, f. 5-25-04, cert. ef. 6-1-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(TEMP), f. 6-29-06, cert. ef. 7-1-06 thru 12-28-06; ACLB 2-2006, f. & cert. ef. 7-26-06

161-010-0010

Appraisers in Oregon and Renewal Procedures

(1) There are three categories of appraisers in Oregon; state licensed appraiser, state certified residential appraiser, and state certified general appraiser.

(2) Unlicensed/Uncertified individuals may assist in the preparation of an appraisal, but are not allowed to sign the appraisal report.

(3) Appraisers in Oregon must demonstrate competency by meeting prerequisite and continuing education, testing, and experience requirements established by the Board.

(4) All licenses and certificates are subject to renewal every two years on or before the last day of the license or certificate holder’s birth month.

(5) Each license or certificate may be renewed upon receipt of the renewal fee specified in OAR 161-003-0020, a complete renewal application that includes a current, recognizable, passport style photograph of the applicant, and evidence of the completion of continuing education requirements as provided in OAR 161-020-0150. The completed application, fee, and evidence of continuing education requirements must be received in the Board office on or before the expiration date of the license to be considered

timely. If the expiration date falls on a weekend or legal holiday, the renewal application must be received no later than 5:00 p.m. on the next business day following the date of expiration.

(6) Renewal applications received after the expiration date and within one (1) year of the date of expiration shall be assessed a late fee in addition to the renewal fee. It is unlawful for any appraiser to engage in, carry on, advertise or purport to engage in or carry on real estate appraisal activity within this state after a license or certificate has expired and prior to properly renewing the expired license or certificate.

(7) If an appraiser fails to renew their license or certificate within one year from the date of expiration, the status of the license or certificate becomes terminated and they must reapply for licensure or certification pursuant to OAR 161-010-0020 through 161-010-0055.

(8) Licensees on active duty with the United States Armed Forces at the time of renewal may, upon written request to the Board, be provided a military deferral allowing for their otherwise complete application, including fee and evidence of continuing education, to be considered timely if received by the Board within 180 days of release from active duty.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 2-2006, f. & cert. ef. 7-26-06

161-010-0080

Appraiser Assistant Registration — Application and Renewal Requirements

(1) A person desiring to participate in an appraiser training program must register with the Board and work under the direct supervision of one or more licensees who are in good standing with the Board, and have been licensed or certified with the Board for a minimum of 24 months. Experience gained prior to registration will be not accepted.

(2) Prior to registering with the Board, an Appraiser Assistant applicant must:

(a) Complete 75 hours of qualifying education in the following categories and successfully pass the applicable final examinations:

(A) 15-hour Appraisal Foundation’s National USPAP course, or its equivalent, within two (2) years preceding the date of application; and

(B) 60 hours of other qualifying education as set forth in OAR 161-020-0110 within five (5) years preceding the date of application. The five-year requirement does not apply to licensees that register as an Appraiser Assistant to upgrade their license or certificate; and

(b) make arrangements with one or more licensees who agree to directly supervise their real estate appraisal activities.

(c) effective January 1, 2007, in addition to completing 75 hours of qualifying education as outlined in paragraph (2)(a) above, the applicant must attend a four hour Board approved Supervising Appraiser/Appraiser Assistant Training Course and successfully pass the final exam.

(3) The applicant must submit an Appraiser Assistant Registration Application that meets the requirements of OAR 161-015-0010(1) through (5) and includes a non-refundable application fee as described on the application form.

(4) The Appraiser Assistant Registration must be renewed on an annual basis. The renewal application must be submitted on the prescribed form and include the following:

(a) Verification of successful completion of the Appraisal Foundation’s National USPAP Update course or its equivalent, if applicable (required on first renewal and every other year thereafter);

(b) For applicants who have been registered two years or more, verification of successful completion of no less than fourteen hours of qualifying or continuing education. The fourteen education hours may include the USPAP Update course and must be obtained after the date their last registration was issued.

(5) During the period beginning on the day following the expiration date of the registration, and ending on the date of the renewal of the registration, an Appraiser Assistant may not receive experience credit for any experience accrued during the lapse in registration. If the Appraiser Assistant fails to renew the registration within one year from the expiration date, the registration is terminated and a new application must be submitted pursuant to ORS 161-010-0080.

(6) Appraiser Assistants on active duty with the United States Armed Forces at the time of renewal may, upon written request to the Board, be provided a military deferral allowing for their otherwise complete application, including fee and evidence of continuing education, to be considered timely if received by the Board within 180 days of release from active duty.

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Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1998, f. & cert. ef. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 2-2004, f. 5-25-04, cert., ef. 6-1-04; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2006, f. & cert. ef. 7-26-06

161-010-0085

Pre-Requisite Experience and Education for Supervising Appraiser Endorsement

Effective January 1, 2007, any licensee wishing to supervise a new appraiser assistant, must first apply for and receive a Supervising Appraiser Endorsement. In order to receive a Supervising Appraiser Endorsement, the applicant must:

(1) Be licensed or certified with the Board for a minimum of 24 months, be in good standing, and not be otherwise prohibited from supervising appraiser assistants,

(2) Attend a Board approved Supervising Appraiser/Appraiser Assistant Training Course prior to making application.

(3) Submit a completed Supervising Appraiser Endorsement application that includes the following:

(a) Non-refundable application fee as described on the application form; and

(b) Supervising Appraiser/Appraiser Assistant Training Course completion certificate.

(4) Upon application approval, the Board will issue the applicant a Supervising Appraiser Endorsement that authorizes the applicant to act as a Supervising Appraiser pursuant to OAR 161-025-0025. The endorsement is valid from the date of issuance .

(5) A Supervising Appraiser Endorsement may be suspended or revoked if the Board determines that the applicant has failed to directly supervise an Appraiser Assistant as required by OAR 161-025-0025.

(6) The Board may also conduct assessments of appraisal work product after the Supervising Appraiser Endorsement is issued.

(7) Any applicant may submit a written request to withdraw their application at any time prior to an official action being taken by the Board.

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

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

Hist.: ACLB 2-2006, f. & cert. ef. 7-26-06

161-015-0090

Re-examination

An applicant may take the exam up to three times within six months of the date of approval. Any applicant who has taken and failed three examinations shall be required to furnish the ACLB Administrator with evidence of additional study as determined by the Administrator before submitting a new application and being approved for subsequent examinations.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2006, f. & cert. ef. 7-26-06

161-020-0055

Criteria for Approval of Course as Continuing Education

In order to be approved as continuing education, the course must satisfy all criteria described in this rule.

(1) Current Classroom Offering — The course shall be a current offering of the course owner/affiliated entity that is presented by traditional classroom methods. Courses presented by correspondence, videotape or remote television are eligible for approval only as provided in OAR 161-020-0140.

(2) Course Length and Content — The course shall involve a minimum of two classroom hours with the “Continuing Education Course Content Guidelines” in these rules.

(3) Course Description — The course materials or syllabus shall include a course description which clearly describes the content of the course.

(4) Summary Outline — If more than one major topic is to be covered in the course, the course materials or syllabus shall include a summary outline of major topics to be covered and the number of classroom hours devoted to each major topic.

(5) Learning Objectives — The course materials or syllabus shall include specific learning objectives which:

(a) Are appropriate for a continuing education course;

(b) Clearly state the specific knowledge and/or skills students are expected to acquire by completing the course;

(c) Are consistent with the course description;

(d) Are consistent with the instructional materials; and

(e) Are reasonably achievable within the number of classroom hours allotted for the course.

(6) Instructional Materials — Instructional materials for students shall be provided unless the applicant demonstrates to the satisfaction of the Administrator that such materials are not needed to accomplish the stated course learning objectives. Any such instructional materials shall:

(a) Be appropriate in view of the stated course learning objectives;

(b) Reflect current knowledge and practice;

(c) Contain no significant errors;

(d) Reflect correct grammatical usage and spelling;

(e) Effectively communicate and explain the information presented;

(f) Be suitable in layout and format; and

(g) Be suitably bound or packaged, and be produced in a quality manner.

(7) Instructor Qualification — Course provider shall keep written records documenting that their instructors meet the Board qualifications as set forth below:

(a) Three years of experience directly related to the subject matter to be taught; or

(b) A baccalaureate or higher degree in a field directly related to the subject matter to be taught; or

(c) Three years of experience teaching the subject matter to be taught;

or

(d) A combination of education and experience equivalent to (a), (b) or (c) of this section

(e) For those instructing the Appraisal Foundation’s National USPAP Course, and/or the seven-hour Appraisal Foundation’s National USPAP Update Course:

(A) At least one instructor must be a certified residential or certified general appraiser and;

(B) The instructor must be an AQB certified USPAP instructor.

(f) For those instructing courses equivalent to either the Appraisal Foundation’s National USPAP Course or the seven-hour Appraisal Foundation’s National USPAP Update course:

(A) At least one instructor must be a certified residential or certified general appraiser.

(g) For those instructing the Supervising Appraiser/Appraiser Assistant Course:

(A) The instructor must be a certified residential or certified general appraiser; and

(B) The instructor must have completed a Board sponsored Supervising Appraiser/Appraiser Assistant Course and passed the final exam.

(8) Attendance Policy — The course owner/affiliated entity shall have a written attendance policy that requires student attendance to be verified. Policy must:

(a) Stipulate as to a percentage of attendance required by the student;

(b) Include on the attendance records form the Instructor(s) name and the criteria under which they qualified;

(c) Provide that non-members of the association or organization may apply for the course without membership in the association;

(d) Provide for retention of attendance records for a minimum of five years.

(9) Course Scheduling Policy — If the course involves more than eight classroom hours, the course owner/affiliated entity shall have an established policy on course scheduling that provides for a maximum of eight (8) classroom hours of instruction in any given day and for appropriate breaks during each class session.

(10) Course Completion Certificate Policy — The course owner/affiliated entity shall have an established policy assuring prompt issuance of course completion certificates to attendees which should include information regarding the number of classroom hours, and whether there was successful passage of the course examination (if applicable).

(11) Audit Policy — The course owner/affiliated entity shall permit the Administrator or the Administrator’s representative to audit the course and course materials at no cost to the Administrator or the Administrator’s representative in order to evaluate the instruction. The course owner/affiliated entity shall permit the Administrator or the Administrator’s representative to review their records appropriate to selected course offerings.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674.310

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Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 3-1992(Temp), f. & cert. ef. 11-25-92; ACLB 4-1992(Temp), f. & cert. ef. 12-2-92; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-020-0020 and 161-020-0060; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 4-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 2-2006, f. & cert. ef. 7-26-06

161-020-0110

Qualifying Education Course Content Guidelines

(1) General Guidelines:

(a) The course must be a real estate appraisal course that involves a minimum of fifteen classroom hours of instruction (including examination time) on acceptable topics;

(b) The course must generally be broad in scope and must cover various principles, concepts, standards, practices and/or methods that are applicable generally to the performance of a wide range of appraisal assignments that will commonly be encountered by licensed or certified appraisers. The course must be intended to provide the student with a broad-based foundation of knowledge and skills in real estate appraising;

(c) Coverage in a course of additional specific topics not listed as typical specific topics under the categories of acceptable courses will not exclude that course from consideration provided that:

(A) The principal focus of the course is not on such additional topics;

(B) The additional topics covered are appropriate (consistent with course learning objectives); and

(C) The course contains not less than fifteen classroom hours of instruction on acceptable topics. However, the course must still be consistent with the parameters described in these rules.

(d) The section titled "Unacceptable Courses" in these rules describes specifically the categories of courses that are not acceptable as qualifying education under these rules;

(e) Courses will be evaluated based on their content without regard to the course title;

(f) The following factors shall be used to convert university, college, junior college and community college course credits into classroom hours:

(A) One (1) semester credit equals fifteen (15) classroom hours

(B) One (1) quarter credit equals ten (10) classroom hours.

(2) Qualifying Education Requirements for Licensing and/or Certification:

(a) Only courses approved by the Administrator will be credited toward the education requirements. Approved courses have been assigned to curricula as follows:

(A) Basic Appraisal Principles and Practices;

(B) Applied Residential Appraisal Case Studies;

(C) Income Property Appraisal Principles and Methodology;

(D) Advanced Residential Form and Narrative Report Writing

(E) Applied Income Property Appraisal or Income Property Appraisal Case Studies;

(F) The Appraisal Foundation's National USPAP Course or its equivalent;

(G) Elective courses;

(H) Basic Appraisal Principles;

(I) Basic Appraisal Procedures;

(J) Residential Market Analysis and Highest and Best Use;

(K) Residential Appraiser Site Valuation and Cost Approach;

(L) Residential Sales Comparison and Income Approaches;

(M) Residential Report Writing and Case Studies;

(N) Statistics, Modeling and Finance;

(O) Advanced Residential Applications and Case Studies;

(P) General Appraiser Market Analysis and Highest and Best Use;

(Q) General Appraiser Sales Comparison Approach;

(R) General Appraiser Site Valuation and Cost Approach;

(S) General Appraiser Income Approach;

(T) General Appraiser Report Writing and Case Studies.

(b) For state licensed appraisers, courses in the following categories and credit hours must be completed with the successful passage of an examination, as specified in these rules:

(A) Course(s) on Basic Appraisal Principles and Practices (30 hours in not less than 15 hour increments);

(B) Course(s) on Applied Residential Appraisal or Residential Appraisal Case Studies (30 hours in not less than 15 hour increments);

(C) Course(s) on Income Property Appraisal Principles and Methodology (30 hours in not less than 15 hour increments);

(D) The Appraisal Foundation's National USPAP Course or its equivalent.

(E) For all applications filed on or after January 1, 2008, courses in the following categories and credit hours must be completed, with the successful passage of an examination, as specified in these rules:

(i) Course(s) on Basic Appraisal Principles (30 hours in not less than 15 hour increments);

(ii) Course(s) on Basic Appraisal Procedures (30 hours in not less than 15 hour increments);

(iii) Course(s) on Residential Market Analysis and Highest and Best Use (15 hours);

(iv) Course(s) on Residential Appraiser Site Valuation and Cost Approach (15 hours);

(v) Course(s) on Residential Sales Comparison and Income Approaches (30 hours in no less than 15 hour increments);

(vi) Course(s) on Residential Report Writing and Case Studies (15 hours)

(vii) The Appraisal Foundation's National USPAP Course or its equivalent (15 hours).

(F) For applications received prior to January 1, 2008, courses noted in paragraph (E)(i) through (vi) above may be substituted for the courses required in paragraphs (A) through (C) above, provided that the applicant does not duplicate courses or types of courses, and successfully completes not less than 105 classroom hours of courses.

(c) For state certified residential appraisers, courses in the following categories and credit hours must be completed with the successful passage of an examination, as specified in these rules:

(A) Course(s) on Basic Appraisal Principles and Practices (30 hours in not less than 15 hour increments);

(B) Course(s) on Applied Residential Appraisal or Residential Appraisal Case Studies (30 hours in not less than 15 hour increments);

(C) Course on Advanced Residential Form and Narrative Report Writing (15 hours);

(D) Course on Income Property Appraisal Principles and Methodology (30 hours in not less than 15 hour increments);

(E) The Appraisal Foundation's National USPAP Course or its equivalent.

(F) For applications filed on or after January 1, 2008, courses in the following categories and credit hours must be completed, with the successful passage of an examination, as specified in these rules:

(i) Course(s) on Basic Appraisal Principles (30 hours in not less than 15 hour increments);

(ii) Course(s) on Basic Appraisal Procedures (30 hours in not less than 15 hour increments);

(iii) Course(s) on Residential Market Analysis and Highest and Best Use (15 hours);

(iv) Course(s) on Residential Appraiser Site Valuation and Cost Approach (15 hours);

(v) Course(s) on Residential Sales Comparison and Income Approaches (30 hours in no less than 15 hour increments);

(vi) Course(s) on Residential Report Writing and Case Studies (15 hours);

(vii) Course(s) on Statistics, Modeling and Finance (15 hours);

(viii) Course(s) on Advanced Residential Applications and Case Studies (15 hours);

(ix) Electives (20 hours);

(x) The Appraisal Foundation's National USPAP Course or its equivalent (15 hours).

(G) For applications received prior to January 1, 2008, courses noted in paragraph (F)(i) through (ix) above may be substituted for the courses required in paragraphs (A) through (D) above, provided that the applicant does not duplicate courses or types of courses, and successfully completes not less than 120 classroom hours of courses.

(d) For state certified general appraisers, courses in the following categories and credit hours must be completed with the successful passage of an examination, as specified in these rules:

(A) Course(s) on Basic Appraisal Principles and Practices (30 hours in not less than 15 hour increments);

(B) Course(s) on Applied Residential Appraisal or Residential Appraisal Case Studies (30 hours in not less than 15 hour increments);

(C) Course(s) on Income Property Appraisal Principles and Methodology (30 hours in not less than 15 hour increments);

(D) Course(s) on Applied Income Property Appraisal or Income Property Appraisal Case Studies (30 hours in not less than 15 hour increments);

(E) Course(s) eligible for approval as elective courses (45 hours in not less than 15 hour increments);

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(F) The Appraisal Foundation's National USPAP Course or its equivalent.

(G) For all applications filed on or after January 1, 2008, courses in the following categories and credit hours must be completed, with the successful passage of an examination, as specified in these rules:

(i) Course(s) on Basic Appraisal Principles (30 hours in not less than 15 hour increments);

(ii) Course(s) on Basic Appraisal Procedures (30 hours in not less than 15 hour increments);

(iii) Course(s) on General Appraiser Market Analysis and Highest and Best Use (30 hours in not less than 15 hour increments);

(iv) Course(s) on Statistics, Modeling and Finance (15 hours);

(v) Course(s) on General Appraiser Sales Comparison Approach (30 hours in not less than 15 hour increments);

(vi) Course(s) on General Appraiser Site Valuation and Cost Approach (30 hours in not less than 15 hour increments);

(vii) Course(s) on General Appraiser Income Approach (60 hours in not less than 15 hour increments);

(viii) Course(s) on General Appraiser Report Writing and Case Studies (30 hours in not less than 15 hour increments);

(ix) Electives (30 hours in not less than 15 hour increments);

(x) The Appraisal Foundation's National USPAP Course or its equivalent (15 hours).

(H) For applications received prior to January 1, 2008, courses noted in paragraph (G)(i) through (ix) above may be substituted for the courses required in paragraphs (A) through (E) above, provided that the applicant does not duplicate courses or types of courses, and successfully completes not less than 180 classroom hours of courses.

(3) Acceptable Courses. Listed below are the categories of courses that are acceptable under these rules:

(a) Courses on Basic Real Estate Appraisal Principles and Practices:

(A) A course(s) in this category must be broad in scope and focus on basic real estate appraisal concepts, principles, and methods that are applicable generally to the appraisal of most types of real estate. Basic Real Estate Appraisal Principles and Practices courses would substantially include the following specific topics:

(i) Basic Concepts of Value (types of value, forces & factors influencing value and economic principles of value);

(ii) Legal Considerations in Real Estate Appraisal;

(iii) Characteristics and Analysis of Real Estate Markets;

(iv) Money/Capital Markets and Real Estate Financing;

(v) The Valuation Process;

(vi) Neighborhood/Area Analysis;

(vii) Collecting Property Data and Property Description;

(viii) Basic Building Construction, Design and Function;

(ix) Basic Statistical Concepts Used in Appraising;

(x) Highest and Best Use Analysis;

(xi) Sales Comparison Approach;

(xii) Site Valuation;

(xiii) Cost Approach;

(xiv) Income Approach;

(xv) Reconciliation;

(xvi) Valuation of Partial Interests.

(B) This category also includes basic real estate appraisal principles and practices courses which are oriented toward the appraisal of residential 1-4 unit properties. Courses that fall within this category may have a variety of titles. Although courses will be judged based on their content rather than their title, listed below are a few examples of course titles that acceptable courses might carry:

(i) Introduction to Real Estate Appraisal;

(ii) Fundamentals of Real Estate Appraisal;

(iii) Real Estate Appraisal Principles;

(iv) Residential Real Estate Appraisal Principles;

(v) Introduction to Residential Appraising;

(vi) Real Estate Appraisal Practices;

(vii) Basic Valuation Procedures;

(viii) Residential Appraisal Practices.

(b) Courses on Applied Residential Appraisal or Residential Appraisal Case Studies: A course(s) in this category will focus on the application of various basic real estate appraisal principles and methodology associated with the valuation process to practical problems encountered in appraising various types of residential 1-4 unit properties. Applied Residential Appraisal or Residential Appraisal Case Studies courses would substantially include the following specific topics:

(A) Practice Problems Related to Appraising Various Residential 1-4 Unit Properties (Problems might relate to data collection, market analysis, highest and best use analysis, site valuation, cash equivalency, paired sales analysis, estimating building costs and depreciation, gross rent multiplier analysis, reconciliation, etc.);

(B) Case Studies of Appraisals of Various Residential 1-4 Unit Properties;

(C) URAR Form Preparation;

(D) Preparation of Narrative Residential Appraisal Report.

(c) Courses on Advanced Residential Form and Narrative Report Writing: A course(s) in this category is a communication course focusing on residential appraisal reports. The emphasis must be on how to successfully communicate the support data in the report and not on "how to fill out a report form". Advanced Residential Form and Narrative Report writing course would substantially include the following specific topics:

(A) Preparation and presentation of the URAR form, ERC Form, etc.;

(B) Preparation and presentation of narrative comments to form reports;

(C) Preparation and presentation of the Small Residential Income-Producing Report Form;

(D) Narrative writing assignments and critiques, including writing style and grammar;

(E) Case Studies of appraisals using the forms and narrative format;

(F) Lectures on editing, proofreading and checking the final draft;

(d) Courses on Income Properties Appraisal Principles and Methodology:

(A) This category includes courses that are broad in scope and that focus on real estate appraisal concepts, principles and methodology that are applicable generally to the appraisal of most types of income property. Income Properties Appraisal Principles and Methodology course would substantially include the following specific topics:

(i) The Valuation Process (review from perspective of appraising income properties);

(ii) Market Analysis (from perspective of appraising income properties);

(iii) Basic Income Property Valuation Concepts (market value and investment value, types of income, rates of return, capitalization concept);

(iv) Compound Interest and Discount Factors (concepts and applications);

(v) Estimating Gross Income, Expenses and Net Operating Income;

(vi) Operating Statement Ratios and Analysis;

(vii) Using Income Multipliers;

(viii) Direct Capitalization:

(I) Using Overall Capitalization Rate Extracted from Market;

(II) Using Overall Capitalization Rate Derived by Band of Investment Method.

(ix) Using Residual Techniques;

(x) Discounted Cash Flow Analysis (yield capitalization considerations);

(xi) Forecasting Cash Flows and Reversion (including lease considerations);

(xii) Valuation with Basic DCF Formula Using Overall Yield;

(xiii) Discount Rate;

(xiv) Valuation Using Various Yield Capitalization Formulas;

(xv) Mortgage and Equity Interests (concepts and effect of valuation);

(xvi) Investment Measures for the Equity Investor;

(xvii) Valuation Using Equity Capitalization Rate;

(xviii) Mortgage-Equity Analysis Using Ellwood Formula and Akerson Method;

(xix) DCF Analysis Using Equity Yield Rate;

(xx) Deriving Yield Rates by Extraction and Buildup Method;

(xxi) Site Valuation;

(xxii) Sales Comparison Approach (applied to income property appraising);

(xxiii) Cost Approach (applied to income property appraising);

(xxiv) Reconciliation.

(B) In addition to "introductory-level" income property appraisal courses which focus on the general subject areas of "Basic Income Capitalization Concepts" and "Direct Capitalization", this category also includes "advanced" or "second-level" income property appraisal courses which have an introductory-level income property appraisal course as a prerequisite and which focus on the general subject area of "Yield Capitalization (discounted cash flow analysis) Concepts and Methodology". Courses that fall within this category have a variety of titles. Although courses will be judged based on their content rather than

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their title, listed below are a few examples of course titles that acceptable courses might carry:

- (i) Introduction to Income Property Appraising;
- (ii) Principles of Income Property Appraisal;
- (iii) Appraising Income Property;
- (iv) Basic Income Capitalization Theory and Techniques;
- (v) Advanced Income Capitalization Theory and Techniques.
- (e) Courses on Applied Income Property Appraisal or Income

Property Appraisal Case Studies:

(A) This category includes courses that focus on the application of various general real estate appraisal principles and methodology, particularly income capitalization concepts and methods, to practical problems encountered in appraising various types of income properties. Applied Income Property Appraisal or Income Property Appraisal Case Studies courses would substantially include the following specific topics:

(i) Practice Problems Related to Appraising Various Income Properties (problems might relate to market analysis, cash flow forecasting, collecting/analyzing data, subdivision development analysis, extracting/deriving yield rates, applying various discounted cash flow analysis techniques, highest and best use analysis, etc.);

- (ii) Case Studies of Appraisals of Various Income Properties;
- (iii) Preparation of Narrative Income Property Appraisal Report;
- (iv) UCIAR Form Preparation.

(B) Courses which cover report preparation but which emphasize instruction on application of income property appraisal principles and methodology, or which include one or more comprehensive case studies of income property appraisals, are also acceptable under this category. Courses that focus only on the mechanical aspects of report preparation are not acceptable.

(f) Courses on the Uniform Standards of Professional Appraisal Practice (USPAP):

(A) The Appraisal Foundation's National USPAP Course or its equivalent are the only acceptable courses for this category.

(g) Courses eligible for approval as elective courses for Qualifying Education. These courses are considered more appropriate for Continuing Education than for Qualifying Education under these rules, but can qualify as elective if they are at least 15 hours in duration and an exam is required. Courses must focus primarily on advanced concepts/methods, a specialized aspect of real estate appraising, or appraising one specific type of property. Examples of course topics may include, but are not limited to the following:

- (A) Real Estate Investment Analysis;
- (B) Feasibility Analysis;
- (C) Condemnation Appraising/Right of Way Appraising;
- (D) Review Appraising;
- (E) Mass Appraisal;
- (F) Subdivision Analysis;
- (G) Litigation/Testifying as Expert Witness;
- (H) Appraising Condominiums;
- (I) Appraising Manufactured Housing;
- (J) Appraising Multi-Family Housing;
- (K) Appraising Office Buildings;
- (L) Appraising Farms;
- (M) Appraising Land;
- (N) Appraising Machinery and Equipment.

(h) Courses on Basic Appraisal Principles (30 hours). A course(s) in this category must be broad in scope and focus on basic real estate appraisal concepts, principles, and methods that are applicable generally to the appraisal of most types of real estate. Basic Appraisal Principles courses would substantially include the following specific topics:

- (A) Real Property Concepts and Characteristics:
 - (i) Basic Real Property Concepts;
 - (ii) Real Property Characteristics;
 - (iii) Legal Description.
- (B) Legal Consideration:
 - (i) Forms of Ownership;
 - (ii) Public and Private Controls;
 - (iii) Real Estate Contracts;
 - (iv) Leases.
- (C) Influences on Real Estate Values:
 - (i) Governmental;
 - (ii) Economic;
 - (iii) Social;
 - (iv) Environmental, Geographic and Physical.
- (D) Types of Value:

- (i) Market Value;
- (ii) Other Value Types.
- (E) Economic Principles:
 - (i) Classical Economic Principles;
 - (ii) Application and Illustrations of the Economic Principles.
- (F) Overview of Real Estate Markets and Analysis:
 - (i) Market Fundamentals, Characteristics, and Definitions;
 - (ii) Supply Side Analysis;
 - (iii) Demand Analysis;
 - (iv) Use of Market Analysis;
 - (G) Ethics and How They Apply in Appraisal Theory and Practice

(i) Courses on Basic Appraisal Procedures (30 hours). A course(s) in this category must be broad in scope and focus on basic real estate appraisal procedures that are applicable generally to the appraisal of most types of real estate. Basic Appraisal Procedures courses would substantially include the following specific topics:

- (A) Overview of Approaches to Value;
- (B) Valuation Procedures:
 - (i) Defining the Problem;
 - (ii) Collecting and Selecting Data;
 - (iii) Analyzing;
 - (iv) Reconciling and Final Value Opinion;
 - (v) Communicating the Appraisal.
- (C) Property Description:
 - (i) Geographic Characteristics of the Land/Site;
 - (ii) Geologic Characteristics of the Land/Site;
 - (iii) Location and Neighborhood Characteristics;
 - (iv) Land/Site Considerations for Highest and Best Use;
 - (v) Improvements — Architectural Styles and Types of Construction.
- (D) Residential Applications
 - (j) The 15-Hour National USPAP Course, or its equivalent (15 hours).
 - (k) Courses on Residential Market Analysis and Highest and Best Use (15 hours). Residential Market Analysis and Highest and Best Use courses

would substantially include the following specific topics:

- (A) Residential Markets and Analysis:
 - (i) Market Fundamentals, Characteristics and Definitions;
 - (ii) Supply Side Analysis;
 - (iii) Demand Analysis;
 - (iv) Use of Market Analysis.
- (B) Highest and Best Use:
 - (i) Test Constraints;
 - (ii) Application of Highest and Best Use;
 - (iii) Special Considerations;
 - (iv) Market Analysis;
 - (v) Case Studies.

(l) Courses on Residential Appraiser Site Valuation and Cost Approach (15 hours) that would substantially include the following specific topics:

- (A) Site Valuation:
 - (i) Methods;
 - (ii) Case Studies.
- (B) Cost Approach:
 - (i) Concepts and Definitions;
 - (ii) Replacement/Reproduction Cost New;
 - (iii) Accrued Depreciation;
 - (iv) Methods of Estimating Accrued Depreciation;
 - (v) Case Studies.

(m) Courses on Residential Sales Comparison and Income Approaches (30 hours) that would substantially include the following specific topics:

- (A) Valuation Principles & Procedures — Sales Comparison Approach;
- (B) Valuation Principles & Procedures — Income Approach;
- (C) Finance and Cash Equivalency;
- (D) Financial Calculator Introduction;
- (E) Identification, Derivation and Measurement of Adjustments;
- (F) Gross Rent Multipliers;
- (G) Partial Interests;
- (H) Reconciliation;
- (I) Case Studies and Applications.
- (n) Courses on Residential Reporting Writing and Case Studies (15 hours) that would substantially include the following specific topics:
 - (A) Writing and Reasoning Skills;
 - (B) Common Writing Problems;
 - (C) Form Reports;

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(D) Report Options and USPAP Compliance;
(E) Case Studies.
(o) Courses on Statistics, Modeling and Finance (15 hours) that would include the following specific topics:

- (A) Statistics;
- (B) Valuation Models (AVM's and Mass Appraisal);
- (C) Real Estate Finance.
- (p) Courses on Advanced Residential Applications and Case Studies

(15 hours) that would substantially include the following specific topics:

- (A) Complex Property, Ownership and Market Conditions;
- (B) Deriving and Supporting Adjustments;
- (C) Residential Market Analysis;
- (D) Advanced Case Studies.

(q) Courses on General Appraiser Market Analysis and Highest and Best Use (30 hours) that would substantially include the following specific topics:

- (A) Real Estate Markets and Analysis:
 - (i) Market Fundamentals, Characteristics and Definitions;
 - (ii) Supply Side Analysis;
 - (iii) Demand Analysis;
 - (iv) Use of Market Analysis.
- (B) Highest and Best Use
 - (i) Test Constraints;
 - (ii) Application of Highest and Best Use;
 - (iii) Special Considerations;
 - (iv) Market Analysis;
 - (v) Case Studies.

(r) Courses on General Appraiser Sales Comparison Approach (30 hours) that would substantially include the following specific topics:

- (A) Value Principles;
- (B) Procedures;
- (C) Identification and Measurement of Adjustments;
- (D) Reconciliation;
- (E) Case Studies.

(s) Courses on General Appraiser Site Valuation and Coast Approach (30 hours) that would substantially include the following specific topics:

- (A) Site Valuation:
 - (i) Methods;
 - (ii) Case Studies.
- (B) Cost Approach:
 - (i) Concepts and Definitions;
 - (ii) Replacement/Reproduction Cost New;
 - (iii) Accrued Depreciation;
 - (iv) Methods of Estimating Accrued Depreciation;
 - (v) Case Studies.

(t) Courses on General Appraiser Income Approach (60 hours) that would substantially include the following specific topics:

- (A) Overview;
- (B) Compound Interest;
- (C) Lease Analysis;
- (D) Income Analysis;
- (E) Vacancy and Collection Loss;
- (F) Estimating Operating Expenses and Reserves;
- (G) Reconstructed Income and Expense Statement;
- (H) Stabilized Net Operating Income Estimate;
- (I) Direct Capitalization;
- (J) Discounted Cash Flow;
- (K) Yield Capitalization;
- (L) Partial Interests;
- (M) Case Studies.

(u) Courses on General Appraiser Report Writing and Case Studies (30 hours) that would substantially include the following specific topics:

- (A) Writing and Reasoning Skills;
- (B) Common Writing Problems;
- (C) Report Options and USPAP Compliance;
- (D) Case Studies.

(4) Courses not eligible for approval as Qualifying Education. These types of courses are considered more appropriate for Continuing Education than for Qualifying Education under these rules. Courses which focus all or a vast majority of their instruction on only one comparatively narrow aspect of real estate appraising and which examine that one aspect in depth. These types of courses focus on the following topics:

- (a) Estimating Building Costs;
- (b) Estimating Accrued Depreciation;
- (c) Cash Equivalency;

- (d) Ellwood Mortgage-Equity Analysis;
- (e) Use of Financial Calculators in Appraising;
- (f) Valuation of Partial Interests.

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

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ALCB 2-1994(Temp), f. & cert. ef. 5-2-94; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 2-2006, f. & cert. ef. 7-26-06

161-020-0150

Time Requirements for Qualifying Education and Continuing Education

(1) Qualifying Education:

(a) If approved by the Administrator as meeting the requirements of these rules, audio educational offerings taken prior to July 1, 1990, shall be acceptable to meet the Qualifying Education requirements for certification and licensure;

(b) There is no time limit regarding when qualifying education credit must be obtained, with the following exceptions:

(A) The 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, must be obtained within two (2) years preceding the date of application; and

(B) All other qualifying education for applicants applying to be a registered appraiser assistant must be obtained within five (5) years preceding the date of application, with the exception of licensed or certified appraisers registering as an appraiser assistant to upgrade their license.

(c) The Administrator may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and provided further that the Administrator is satisfied with the quality of the challenge examination that was administered by the course provider.

(2) Continuing Education:

(a) Continuing education hours shall be reported as part of the renewal application process. Reporting shall be on a form prescribed by the Board which includes the name of the educational provider, course subject matter, location, number of hours, course name, date of course and appraiser's name. The appraiser shall also submit a copy of the certificate of completion, URCEC form or grade report issued by the course provider;

(b) "Carry over" of hours from past to future years will not be allowed;

(c) The same or like course can not be repeated for use as continuing education within a two year period, with the exception of USPAP;

(d) Extension of time to satisfy continuing education hour requirements will not be permitted;

(e) USPAP:

(A) The Appraisal Foundation's National USPAP Update Course, or its equivalent, is required for renewal of all licensed and certified appraisers every two year license cycle.

(B) Registered Appraiser Assistants must successfully complete the Appraisal Foundation's National USPAP Update Course, or its equivalent, at a minimum of every two years.

(f) Fourteen hours of classroom instruction for each year preceding the license or certification renewal is required. Continuing education hours may be obtained any time during the term. Credit towards the classroom hour requirements shall be granted only where the length of the educational offering is at least two hours.

(g) Appraisers may receive up to eight (8) hours of continuing education credit for course instruction of a Board approved course per two year license cycle. However, the appraiser cannot receive credit for course instruction of the same course in consecutive license cycles.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 2-2006, f. & cert. ef. 7-26-06

161-025-0025

Supervising Appraiser (SA)

(1) Only a licensee who has been actively licensed or certified for at least 24 months, is in good standing with the Board may directly supervise Appraiser Assistants.

(2) Effective January 1, 2007, in addition to the requirements set forth in paragraph (1) above, the licensee must hold a valid Supervising Appraiser Endorsement.

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(3) A State Licensed Appraiser may have no more than one registered appraiser assistant at a time. However, a State Licensed Appraiser supervising more than one appraiser assistant as of June 1, 2004, may continue to supervise the same appraiser assistants until June 1, 2006, but may not supervise any additional or alternative appraiser assistants unless those currently registered with the SLA do not renew their appraiser assistant registrations.

(4) A State Licensed Appraiser who, as of June 1, 2004, has not been actively licensed for at least 24 months and who is supervising any appraiser assistants may continue to supervise the same appraiser assistants but may not supervise any additional or alternative appraiser assistants until the State Licensed Appraiser has been actively licensed for at least 24 months.

(5) The supervising appraiser must directly supervise the registered appraiser assistant in each assignment to ensure that the results of each assignment comply with USPAP and all applicable appraisal laws and rules. To do so, the supervising appraiser must:

(a) Ensure that the appraiser assistant gains sufficient knowledge, skills and abilities that will enable them to do all of the following:

(A) Define the appraisal problem.

(i) Identify and locate the real estate;

(ii) Identify the property rights to be valued;

(iii) Identify the use of the appraisal

(iv) Define value(s) to be estimated;

(v) Establish date(s) of value estimate(s);

(vi) Identify and describe the scope of the appraisal; and

(vii) Identify and describe limiting conditions or limitations.

(B) Conduct preliminary analysis, select and collect applicable data.

(i) Identify general data (regional, city and neighborhood) – social, economic, governmental and environmental factors;

(ii) Identify specific data (subject and comparables) – site and improvement, cost and depreciation, income/expense and capitalization rate, history of ownership and use of property; and

(iii) Identify competitive supply and demand (the subject market) – inventory of competitive properties, sales and listings, vacancies and offerings, absorption rates, demand studies.

(C) Conduct an analysis of the subject property which includes:

(i) Site/improvements;

(ii) Size;

(iii) Costs;

(iv) Elements of comparison; and

(v) Units of comparison.

(D) Conduct highest and best use analysis (specified in terms of use, time and market participants).

(i) land as if vacant and available; and

(ii) property as improved (existing or proposed).

(E) Estimate land value, including on-site improvements.

(F) Estimate value of the property using each of the three approaches to value — cost, sales comparison and income capitalization.

(G) Reconcile each value indication and reconcile the final value estimate.

(H) Report estimate(s) of value(s) as defined.

(b) Review each appraisal report the appraiser assistant prepares to ensure accuracy and reliability;

(c) Ensure that the appraisal report includes proper disclosure regarding the inspection of the subject and the comparable sales as required by OAR 161-025-0060(3).

(d) Make a clear and prominent disclosure of real estate appraisal assistance in each appraisal report by identifying each individual category of experience that the appraiser assistant provided as outlined in OAR 161-025-0025(5)(a)(A through H); and

(e) Accept responsibility for the appraisal report by signing and certifying that the report has been prepared in compliance with USPAP.

(f) Ensure that the appraiser assistant will be granted experience credit by doing the following:

(A) Verifying that the appraiser assistant is currently registered with the Board. Experience gained prior to registration or after a registration has lapsed will not be credited toward the experience hours required to become licensed/certified.

(B) verifying that all appraisal experience is properly documented on the Appraiser Assistant Experience Log on an ongoing basis.

(i) Make entries when each assignment is completed to ensure that the log is complete and accurate.

(ii) Maintain a separate experience log for each supervising appraiser.

(C) Reviewing documentation on a monthly basis – reviewing the log, approve all entries or edit as required, sign the log, have the appraiser assistant sign the log, and have the appraiser assistant maintain the ongoing log for any future application.

(D) Allowing the appraiser assistant to obtain copies of any appraisal reports on which they provided assistance.

(6) Any licensee who has been disciplined by the Board for violation(s) of ORS chapter 674 and/or OAR chapter 161 pursuant to a final order of the Board issued after June 1, 2004, may not supervise appraiser assistants as provided by the following presumptive guidelines unless substantial and compelling reasons exist to depart from these guidelines as determined by the Administrator or the Board:

(a) First Board Action: No restriction unless the first board action results in suspension or revocation or the final order in the action otherwise restricts the licensee's eligibility to act as a supervising appraiser.

(b) Second Board Action: Restricted from acting as a supervising appraiser for 24 months immediately following the date of the final order except as otherwise provided in the order.

(c) Third Board Action or any Board action resulting in suspension or revocation: Permanently restricted from acting as a supervising appraiser immediately following the date of the final order except as otherwise provided in the order.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2006, f. & cert. ef. 7-26-06

161-025-0060

Appraisal Standards and USPAP

(1) All licensees must develop and communicate each appraisal assignment in compliance with these administrative rules and USPAP.

(2) A licensee employed by a group or organization that conducts itself in a manner that does not conform to USPAP Standards must take steps that are appropriate under the circumstances to ensure compliance with the Standards.

(3) All licensees must certify to what extent they personally inspected the property that is the subject of the appraisal assignment. Each report must clearly state that the subject property was: inspected both inside and out; inspected from the exterior only; or was not personally inspected by the licensee.

(4) In addition to certifying as to the extent of the subject's inspection, all licensees must also certify to what extent each of the comparable sales relied upon in the appraisal were personally inspected.

(5) All licensees testifying or presenting evidence in an administrative or judicial proceeding, must base their testimony or evidence only upon a written report on the appraisal or on an appraisal report that was prepared and documented in compliance with USPAP and ORS 674.410.

(6) The "Uniform Standards of Professional Appraisal Practice", 2006 Edition, approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, dated April 27, 1987, as amended on July 1, 2006, are incorporated into the Administrative Rules of the Appraiser Certification and Licensure Board as the standards of professional conduct which shall guide the behavior of licensed and certified appraisers in the State of Oregon. Copies of the Uniform Standards of Professional Appraisal Practice may be obtained from the Appraisal Foundation.

(7) All licensees must list their certificate or license number in each appraisal report.

(8) All licensees must comply with USPAP in all valuation activity, unless such valuation activity qualifies as an exclusion to real estate appraisal activity under ORS 674.100(2)(h).

(9) Notwithstanding any other provision of these rules, a licensee acting in one of the following capacities is not subject to the requirements of Standard 3 of USPAP when examining an appraisal report and workfile as part of an official investigation being conducted by the Board:

(a) Board member;

(b) Employee; or

(c) Volunteer serving at the request of the Board.

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

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-1994; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-89; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 3-2000(Temp), f. 11-9-00, cert. ef. 11-9-00 thru 5-8-01; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004,

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f. & cert. ef. 2-3-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(Temp), f. 6-29-06, cert. ef. 7-1-06; ACLB 2-2006, f. & cert. ef. 7-26-06

161-030-0000

Criminal Background

(1) The Board may require fingerprints for the purpose of conducting a state or nationwide criminal records check.

(2) The Administrator, with the written consent of the person about whom information is being requested, may request the Department of State Police to furnish to the Administrator, information that the Department of State Police may have in its possession from its central bureau of criminal identification, including, but not limited to, manual or computerized information concerning any applicant or person regulated under ORS Chapter 674 and these rules. The Administrator may also request the Department of State Police to conduct nationwide criminal checks, including fingerprint identification, through the Federal Bureau of Investigation, of any applicant or person regulated under ORS Chapter 674 and Board Administrative Rules.

(3) Any applicant for a license, certificate, or registration under ORS Chapter 674 or any applicant for renewal of a license, certificate, or registration under ORS Chapter 674, shall be deemed, upon signing such application, to have given the written consent necessary for the Administrator to make inquiries described in this section.

(4) The information received by the Administrator, pursuant to this section, shall be disseminated only by Court Order and shall be exempt from disclosure to the public to the extent permitted by Oregon law.

(5) The applicant for a license, certificate, or registration or renewal of a license, certificate, or registration will be charged a fee for the criminal background check as set forth in OAR 161-003-0020.

Stat. Auth.: ORS 674.170, 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2006, f. & cert. ef. 7-26-06

161-050-0030

Display of Certificate or License

Each licensee, and each appraiser assistant registered in this state (other than those of inactive status), shall display prominently, his or her license or certificate or registration in their principal place of business.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674.310

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 2-2006, f. & cert. ef. 7-26-06

Board of Chiropractic Examiners Chapter 811

Rule Caption: Implements national criminal background checks and fee.

Adm. Order No.: BCE 4-2006

Filed with Sec. of State: 8-2-2006

Certified to be Effective: 8-2-06

Notice Publication Date: 7-1-06

Rules Adopted: 811-010-0084

Rules Repealed: 811-010-0084(T)

Subject: OAR 811-010-0084 Fitness Determination for Licensure. State and Nationwide Criminal Background Checks. This is a new rule that implements the HB 2157 requirements for state and national criminal background checks for all chiropractic applicants.

Rules Coordinator: Dave McTeague—(503) 378-5816

811-010-0084

Fitness Determinations for Licensure; State and Nationwide Criminal Background Checks

(1) Purpose. The purpose of this rule is to provide for the reasonable screening of subject individuals in order to determine if they have a history of criminal behavior such that they are not fit to be granted a license or certificate, registration, permit in occupations, or professions covered by Oregon Laws 2005, ch. 730.

(2) These rules are to be applied when evaluating the criminal history of a subject individual and conducting fitness determinations based upon such history. The fact that a subject individual is approved does not guarantee the granting of a license, certification, registration, or permit.

(3) "Subject individual" means a person from whom the Board may require fingerprints for the purpose of enabling the Board of Chiropractic Examiners to request a state or nationwide criminal records check. Under this chapter, subject individual means applicants for doctor of chiropractic license and any licensee under investigation as ordered by the Board.

(4) The Board may request that the Department of State Police conduct a Criminal History Check and a National Criminal History Check, using fingerprint identification, of subject individuals. The Board may conduct criminal records checks on subject individuals and any licensee/certificate holder under investigation through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police. Criminal history information obtained from the Law Enforcement Data System must be handled in accordance with applicable Oregon State Police requirements in ORS Chapter. 181 and OAR 257-015.

(5) Additional Information Required. In order to conduct an Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the subject individual 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.

(6) The Board shall determine whether an applicant is fit to be granted a license or certification, based on the criminal records background check, on any false statements made by the individual regarding the criminal history of the individual, on 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 a subject individual is determined to be unfit, then the individual may not be granted a license or certification. The Board may make a fitness determination conditional upon applicant's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(7) Except as otherwise provided in section 6 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 subject individual's present or proposed position, services, employment, license, certification or registration; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit. Intervening circumstances include but are not limited to:

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

(B) The age of the subject individual 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.

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

(9) Criminal offender information is confidential. Dissemination of information received under ORS (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, licensee and certificate holder and as such is confidential pursuant to ORS 676.175(1). All original fingerprint cards will be destroyed per ORS (HB 2157)

(10) The Board will permit the subject 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.

(11) The Board may consider any felony or misdemeanor conviction involving moral turpitude.

(12) If an applicant, licensee or certificate holder is determined not to be fit for a license and/or certificate, they are entitled to a contested case process pursuant to ORS 183.413-470. Challenges to the accuracy or completeness of information provided by the Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process pursuant to ORS 183.

(13) Request for Re-Evaluation Following Correction. If the subject individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the Federal Bureau of Investigation or other agency reporting information to the Board, the Board

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will conduct a new criminal history check and re-evaluate the criminal history upon submission of a new criminal history request form.

(14) If the subject individual discontinues the application or fails to cooperate with the criminal history check process then the application is considered incomplete.

Stat. Auth.: ORS 684, 684.100, 183, (HB2157), OL 2005, ch. 730
Stats. Implemented: ORS 684.100, 183, (HB2157), OL 2005, ch. 730
Hist.: BCE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-1-06; BCE 4-2006, f. & cert. ef. 8-2-06

Board of Medical Examiners
Chapter 847

Rule Caption: Amend procedural rules.

Adm. Order No.: BME 14-2006

Filed with Sec. of State: 7-25-2006

Certified to be Effective: 7-25-06

Notice Publication Date: 6-01-06

Rules Amended: 847-001-0000, 847-001-0005, 847-001-0015, 847-001-0020, 847-001-0025

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

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-001-0000

Notice of Proposed Rule

Prior to adoption, amendment or repeal of any permanent rule, the Board of Medical Examiners shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the intended action.

(2) Mail a copy of the notice to persons on the Board of Medical Examiners' mailing list established pursuant to ORS 183.335 (8) at least 28 days before the effective date of the rule;

(3) In regard to rules adopted on or after January 1, 2006, at least 49 days before the effective date of the rule, the Board shall provide notice to the persons specified in ORS 183.335(15); and

(4) Mail or furnish a copy of the notice to:

(a) The Associated Press; and

(b) The Capitol Press Room.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: ME 1-1988, f. & cert. ef. 1-29-88; ME 20-1994, f. & cert. ef. 10-26-94; BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06

847-001-0005

Model Rules for Contested Cases

The Board of Medical Examiners adopts the Model Rules for Contested Cases of the Attorney General in effect on January 1, 2006, and all amendments thereto are hereby adopted by reference as rules of the Board of Medical Examiners.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Medical Examiners.]

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: ME 4, f. 11-3-71, ef. 11-15-71; ME 26, f. 3-15-72, ef. 4-1-72; ME 27, f. 3-27-72, ef. 4-15-72; ME 30, f. 3-5-74, ef. 3-25-74; ME 32, f. & ef. 5-11-76; Renumbered from 847-060-0005; ME 2-1978, f. & ef. 7-31-78; ME 3-1980, f. & ef. 5-14-80; ME 6-1980, f. & ef. 8-13-80; ME 1-1982, f. & ef. 1-28-82; ME 5-1983, f. & ef. 11-3-83; ME 2-1986, f. & ef. 4-23-86; ME 14-1987, f. & ef. 8-3-87; ME 1-1988, f. & cert. ef. 1-29-88; ME 13-1988, f. & cert. ef. 10-20-88; ME 13-1988, f. & cert. ef. 10-20-88; ME 10-1990, f. & cert. ef. 8-7-90; ME 13-1990, f. & cert. ef. 8-16-90; ME 2-1992, f. & cert. ef. 4-17-92; ME 20-1994, f. & cert. ef. 10-26-94; BME 13-2000, f. & cert. ef. 10-30-00; BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06

847-001-0015

Delegation of Authority

(1) The Board of Medical Examiners (Board) has delegated to the Executive Director the authority to make certain procedural determinations on its behalf on matters arising under the Attorney General's Model Rules for Contested Cases in OAR 137-003-0001 to 137-003-0700. The procedural functions include, but are not limited to:

(a) For discovery requests before the Board, to authorize or deny requested discovery in a contested case, to include specifying the methods, timing and extent of discovery;

(b) Whether a request for hearing filed after the prescribed time shall be accepted, based upon a finding that the cause for failure to timely file a request for hearing was beyond the reasonable control of the party. In making this determination, the Executive Director may require the request to be supported by an affidavit or other writing to explain why the request is late and may conduct such further inquiry as deemed appropriate. The Executive Director may authorize a hearing on whether the late filing should be accepted. If any party disputes the facts contained in the explanation as to why the request was late or the accuracy of the reason that the request was late, the requestor has a right to a hearing before an Administrative Law Judge (ALJ) on the reasons for that factual dispute;

(c) Whether the late filing of a document may be accepted based upon a finding of good cause;

(d) Whether to issue a subpoena for the attendance of witnesses or to produce documents at the hearing;

(e) Prior to the issuance of a proposed order issued by an ALJ, whether the Board will consider taking notice of judicially cognizable facts or of general, technical or scientific facts in writing which are within the specialized knowledge of the Board;

(f) The Executive Director may decide whether to submit to the Board prior to an ALJ's proposed final order the following issues:

(A) The Board's interpretation of its rules and applicable statutes;

(B) Which rules or statutes are applicable to a proceeding;

(C) Whether the Board will answer a question transmitted to it by the ALJ.

(g) In regard to a proposed order issued by an ALJ, whether the Board's legal representative will file exceptions and present argument to the Board;

(h) Before issuance of a proposed order, whether a party may obtain an immediate review from the Board on any of the following:

(A) A ruling on a motion to quash a subpoena under OAR 137-003-0585;

(B) A ruling refusing to consider as evidence judicially or officially noticed facts presented by the Board under OAR 137-003-0615 that is not rebutted by a party;

(C) A ruling on the admission or exclusion of evidence based on a claim of the existence or non-existence of a privilege.

(2) All actions taken under this delegation shall be reported to the Board at the regularly scheduled meeting in which the Board deliberates on the proposed order in the case.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: BME 13-2000, f. & cert. ef. 10-30-00; BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06

847-001-0020

Discovery

(1) An order issued by an ALJ requiring discovery between a respondent and the Board shall be limited to a list of witnesses, to include their full name, academic degrees, and work address, to be called by the parties in their case in chief and the documents that the parties intend to introduce as exhibits at the contested case hearing during the presentation of their case in chief.

(2) Requests for admission and written interrogatories shall not be required, unless authorized by the Board.

(3) Parties shall provide the list of witnesses and documents no later than ten working days prior to the beginning of the contested case hearing.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06

847-001-0025

Motions for Summary Judgment

Motions for summary judgment are not available for contested cases.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06

Rule Caption: Eliminate six licensing fees.

Adm. Order No.: BME 15-2006

Filed with Sec. of State: 7-25-2006

Certified to be Effective: 7-25-06

Notice Publication Date: 6-01-06

Rules Amended: 847-005-0005

ADMINISTRATIVE RULES

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

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-005-0005

Fees

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

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

(b) MD/DO Registration: Active, Active — Military/Public Health, Active — Teleradiology, Inactive, Locum Tenens, and Telemedicine — \$210/year**

(c) Limited License, Institutional Practice, Public Health, SPEX, Visiting Professor, Fellow, Medical Faculty, Postgraduate, Special — \$175

(d) Acupuncture Initial License Application — \$230

(e) Acupuncture Registration: Active, Inactive, and Locum Tenens — \$135/year**

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

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

(h) Physician Assistant Registration: Active, Inactive, and Locum Tenens — \$160/year**

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

(j) Podiatrist Initial Application — \$320

(k) Podiatrist Registration: Active, Inactive, and Locum Tenens — \$210/year**

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

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

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

(b) MD/DO Registration: Active, Active — Military/Public Health, and Active — Teleradiology, Inactive, Locum Tenens, and Telemedicine — \$219/year**

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

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

(e) Acupuncture Initial License Application — \$245

(f) Acupuncture Registration: Active, Inactive, and Locum Tenens — \$140/year**

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

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

(i) Physician Assistant Registration: Active, Inactive, and Locum Tenens — \$165/year**

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

(k) Podiatrist Initial Application — \$340

(l) Podiatrist Registration: Active, Inactive, and Locum Tenens — \$219/year**

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

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

(o) Miscellaneous: All Fines and Late Fees:

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

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

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

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

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

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

(r) Affidavit Processing Fee for Reactivation — \$50

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

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

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

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

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

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

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

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

(A) Clerical — \$20 per hour*

(B) Administrative — \$30 per hour*

(C) Executive — \$50 per hour*

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

(v) Data Processing Labels:

(A) Oregon only — \$300

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

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

(w) Data Processing Lists:

(A) Oregon only — \$150

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

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

(x) Data Order:

(A) Standard Data License Order — \$300

(B) Custom Data License Order — \$400

(C) Address Label Disk — \$100

(y) Quarterly Lists:

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

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

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

(z) Physician Handbook — \$15

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

*Plus photocopying charge above, if applicable.

**Collected biennially except where noted in the Administrative Rules. All active registration fees include annual assessments of \$33.00 for the Diversion Program for Health Professionals and all active MD/DO registration fees include \$10.00 for the Oregon Health and Sciences University Library, and are collected biennially.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 7-1984, f. & ef. 1-26-84; ME 17-1984, f. & ef. 11-5-84; ME 6-1985, f. & ef. 7-30-85; ME 3-1986(Temp), f. & ef. 4-23-86; ME 4-1986, f. & ef. 4-23-86; ME 9-1986, f. & ef. 7-31-86; ME 2-1987, f. & ef. 1-10-87; ME 7-1987(Temp), f. & ef. 1-26-87; ME 9-1987, f. & ef. 4-28-87; ME 25-1987, f. & ef. 11-5-87; ME 9-1988, f. & cert. ef. 8-5-88; ME 14-1988, f. & cert. ef. 10-20-88; ME 1-1989, f. & cert. ef. 1-25-89; ME 5-1989 (Temp), f. & cert. ef. 2-16-89; ME 6-1989, f. & cert. ef. 4-27-89; ME 9-1989(Temp), f. & cert. ef. 8-1-89; ME 17-1989, f. & cert. ef. 10-20-89; ME 4-1990, f. & cert. ef. 4-25-90; ME 9-1990, f. & cert. ef. 8-2-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1991(Temp), f. & cert. ef. 10-21-91; ME 6-1992, f. & cert. ef. 5-26-92; ME 1-1993, f. & cert. ef. 1-29-93; ME 13-1993, f. & cert. ef. 11-1-93; ME 14-1993(Temp), f. & cert. ef. 11-1-93; ME 1-1994, f. & cert. ef. 1-24-94; ME 6-1995, f. & cert. ef. 7-28-95; ME 7-1996, f. & cert. ef. 10-29-96; ME 3-1997, f. & cert. ef. 11-3-97; BME 7-1998, f. & cert. ef. 7-22-98; BME 7-1999, f. & cert. ef. 4-22-99; BME 10-1999, f. & cert. ef. 8-3-99; BME 14-1999, f. & cert. ef. 10-28-99; BME 4-2000, f. & cert. ef. 2-22-00; BME 6-2001(Temp), f. & cert. ef. 7-18-01 thru 11-30-01; BME 10-2001, f. & cert. ef. 10-30-01; BME 8-2003, f. & cert. ef. 4-24-03; BME 16-2003, f. & cert. ef. 10-23-03; BME 17-2004, f. & cert. ef. 9-9-04; BME 6-2005, f. & cert. ef. 7-20-05; BME 15-2006, f. & cert. ef. 7-25-06

Rule Caption: Describe licensure process for physicians who request a license to volunteer in health clinics.

Adm. Order No.: BME 16-2006

Filed with Sec. of State: 7-25-2006

Certified to be Effective: 7-25-06

Notice Publication Date: 3-01-06

Rules Adopted: 847-023-0000, 847-023-0005

Subject: The adopted rules describe the licensure process for physicians who request a license to volunteer (Emeritus status) in health clinics.

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-023-0000

Definitions

(1) "Health clinic" means a public health clinic or a health clinic operated by a charitable corporation that mainly provides primary physical health, dental or mental health services to low-income patients without charge or using a sliding fee scale based on the income of the patient.

(2) "Emeritus registration" means a licensee who has retired from active practice, but does only volunteer, non-remunerative practice and receives no direct monetary compensation, may register and pay an annual emeritus registration fee.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.120, 677.265

Hist.: BME 16-2006, f. & cert. ef. 7-25-06

ADMINISTRATIVE RULES

847-023-0005

Qualifications

(1) The Board of Medical Examiners may issue a license, with emeritus registration, to a physician who volunteers at a health clinic provided that the physician:

(a) Has a current license to practice medicine in another state or territory of the United States or the District of Columbia; and

(b) Has obtained certification by the National Board of Medical Examiners (NBME), the National Board of Osteopathic Medical Examiners (NBOME), the Federation Licensing Examination (FLEX), or the United States Medical Licensing Examination (USMLE).

(2) A physician applying for a license to volunteer in health clinics who has not practiced medicine for more than twenty-four (24) months immediately prior to filing the application for licensure with the Board, may be required to take and pass the Special Purpose Examination (SPEX). This requirement may be waived if the applicant has:

(a) Within ten years of filing an application with the Board, completed an accredited one year residency, or an accredited or Board approved one year clinical fellowship;

(b) Within ten years of filing an application with the Board, been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(c) Obtained continuing medical education to the Board's satisfaction.

(3) The Limited License, SPEX may be granted for a period of 6 months and permits the licensee to practice medicine only until the grade results of the Special Purpose Examination are available and the applicant completes the initial registration process. The Limited License, SPEX would become invalid should the applicant fail the SPEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.120, 677.265
Hist.: BME 16-2006, f. & cert. ef. 7-25-06

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

Adm. Order No.: BME 17-2006

Filed with Sec. of State: 7-25-2006

Certified to be Effective: 7-25-06

Notice Publication Date: 6-01-06

Rules Adopted: 847-065-0000

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

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-065-0000

Diversion Program Supervisory Council

(1) There is established a Diversion Program Supervisory Council (Council) consisting of five members, one of whom is a public member, appointed by the Board of Medical Examiners (Board) for the purpose of developing and implementing a diversion program for chemically dependent licensees regulated under ORS 677.615-665. No current Board members or staff shall serve on the Council.

(2) The term of office of each member is two years, but a member serves at the pleasure of the board. Before the expiration of the term of a member, the Board shall appoint a successor whose term begins July 1. A member is eligible for reappointment. If there is a vacancy for any cause, the Board shall make an appointment to become immediately effective for the unexpired term.

(3) The members of the Council must be citizens of this state who are familiar with the recognition, intervention, assessment and treatment of chemically dependent persons. The public member shall represent health consumers.

(4) A member of the Council is entitled to compensation and expenses as provided in ORS 292.495, except that the compensation for the time spent in performance of official duties shall be the same as the compensation received by members of the Board.

(5) The Council shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the Council determines.

(6) A majority of the members of the Council constitutes a quorum for the transaction of business.

Stat. Auth.: ORS 677.677
Stats. Implemented: ORS 292.495, 677.615
Hist.: BME 17-2006, f. & cert. ef. 7-25-06

Rule Caption: Amend scope of practice for EMTs.

Adm. Order No.: BME 18-2006

Filed with Sec. of State: 7-25-2006

Certified to be Effective: 7-25-06

Notice Publication Date: 6-01-06

Rules Amended: 847-035-0030

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

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-035-0030

Scope of Practice

(1) The Board of Medical Examiners has established a scope of practice for emergency and nonemergency care for First Responders and EMTs. First Responders and EMTs may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001(5).

(2) The scope of practice for First Responders and EMTs is not intended as statewide standing orders or protocols. The scope of practice is the maximum functions which may be assigned to a First Responder or EMT by a Board-approved supervising physician.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

(4) Standing orders for an individual EMT may be requested by the Board or Section and shall be furnished upon request.

(5) No EMT may function without assigned standing orders issued by Board-approved supervising physician.

(6) An Oregon-certified First Responder or EMT, acting through standing orders, shall respect the patient's wishes including life-sustaining treatments. Physician supervised First Responders and EMTs shall request and honor life-sustaining treatment orders executed by a physician or a nurse practitioner, if available. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) The scope of practice for emergency and nonemergency care established by the Board for First Responders is intended as authorization for performance of procedures by First Responders without direction from a Board-approved supervising physician, except as limited by subsection (2) of this rule. A First Responder may perform the following emergency care procedures without having signed standing orders from a supervising physician:

- (a) Conduct primary and secondary patient examinations;
- (b) Take and record vital signs;
- (c) Utilize noninvasive diagnostic devices in accordance with manufacturer's recommendation;
- (d) Open and maintain an airway by positioning the patient's head;
- (e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;
- (f) Provide care for soft tissue injuries;
- (g) Provide care for suspected fractures;
- (h) Assist with prehospital childbirth; and
- (i) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior EMT with the transporting ambulance.

(8) A First Responder may perform the following procedures only when the First Responder is providing emergency care as part of an agency which has a Board-approved supervising physician who has issued written standing orders to that First Responder authorizing the following:

- (a) Administration of medical oxygen;
- (b) Open and maintain an airway through the use of a nasopharyngeal and a noncuffed oropharyngeal and pharyngeal suctioning devices;
- (c) Operate a bag mask ventilation device with reservoir;
- (d) Provision of care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia; and
- (e) Administer epinephrine by automatic injection device for anaphylaxis;

ADMINISTRATIVE RULES

(f) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the First Responder:

(A) Has successfully completed a Section-approved course of instruction in the use of the automatic or semi-automatic defibrillator; and

(B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Section.

(9) An Oregon-certified EMT-Basic may perform emergency and nonemergency procedures. Emergency care procedures shall be limited to the following basic life support procedures:

(a) Perform all procedures that an Oregon-certified First Responder can perform;

(b) Ventilate with a non-invasive positive pressure delivery device;

(c) Insert a cuffed pharyngeal airway device in the practice of airway maintenance. A cuffed pharyngeal airway device is:

(A) A single lumen airway device designed for blind insertion into the esophagus providing airway protection where the cuffed tube prevents gastric contents from entering the pharyngeal space; or

(B) A multi-lumen airway device designed to function either as the single lumen device when placed in the esophagus, or by insertion into the trachea where the distal cuff creates an endotracheal seal around the ventilatory tube preventing aspiration of gastric contents.

(d) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(e) Provide care for suspected shock, including the use of the pneumatic anti-shock garment;

(f) Provide care for suspected medical emergencies, including:

(A) Obtaining a capillary blood specimen for blood glucose monitoring;

(B) Administer epinephrine by subcutaneous injection or automatic injection device for anaphylaxis;

(C) Administer activated charcoal for poisonings; and

(D) Administer aspirin for suspected myocardial infarction.

(g) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;

(h) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;

(i) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician;

(j) Complete a clear and accurate prehospital emergency care report form on all patient contacts;

(k) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously prescribed by that patient's personal physician and that are in the possession of the patient at the time the EMT-Basic is summoned to assist that patient; and

(l) In the event of a release of military chemical warfare agents from the Umatilla Army Depot, the EMT-Basic who is a member or employee of an EMS agency serving the DOD-designated Immediate Response Zone who has completed a Section-approved training program may administer atropine sulfate and pralidoxime chloride from a Section-approved pre-loaded auto-injector device, and perform endotracheal intubation, using protocols promulgated by the Section and adopted by the supervising physician. 100% of EMT-Basic actions taken pursuant to this section shall be reported to the Section via a copy of the prehospital emergency care report and shall be reviewed for appropriateness by Section staff and the Subcommittee on EMT Certification, Education and Discipline.

(m) In the event of a release of chemical agents the EMT-Basic, who has completed Section-approved training, may administer atropine sulfate and pralidoxime chloride, using protocols approved by the Section and adopted by the supervising physician, if:

(A) The supervising physician provides the EMT-Basic with a direct, verbal order through radio or telephone contact, or

(B) The EMT-Basic is under the direction of an EMT-Paramedic who is on the scene.

(10) An Oregon-certified EMT-Intermediate may perform emergency and nonemergency care procedures. The emergency care procedures shall be limited to the following:

(a) Perform all procedures that an Oregon-certified EMT-Basic can perform;

(b) Initiate and maintain peripheral intravenous (I.V.) lines;

(c) Initiate and maintain an intraosseous infusion;

(d) Initiate saline or similar locks;

(e) Draw peripheral blood specimens;

(f) Administer the following medications under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician:

(A) Physiologic isotonic crystalloid solution.

(B) Vasoconstrictors:

(i) Epinephrine

(ii) Vasopressin;

(C) Antiarrhythmics:

(i) Atropine sulfate,

(ii) Lidocaine,

(iii) Amiodarone;

(D) Antidotes:

(i) Naloxone hydrochloride;

(E) Antihypoglycemics:

(i) Hypertonic glucose,

(ii) Glucagon;

(F) Vasodilators:

(i) Nitroglycerine;

(G) Nebulized bronchodilators:

(i) Albuterol,

(ii) Ipratropium bromide;

(H) Analgesics:

(i) Morphine,

(ii) Nalbuphine Hydrochloride,

(iii) Ketorolac tromethamine;

(I) Antihistamine:

(i) Diphenhydramine;

(J) Diuretic:

(i) Furosemide;

(g) Insert an orogastric tube;

(h) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, and if clear and understandable written and verbal instructions for such maintenance have been provided by the physician, nurse practitioner or physician assistant at the sending medical facility;

(i) Initiate electrocardiographic monitoring and interpret presenting rhythm;

(j) Perform cardiac defibrillation with a manual defibrillator.

(11) An Oregon-certified EMT-Paramedic may perform emergency and nonemergency care procedures. The emergency care procedures shall be limited to:

(a) Perform all procedures that an Oregon-certified EMT-Intermediate can perform;

(b) Initiate the following airway management techniques:

(A) Endotracheal intubation;

(B) Tracheal suctioning techniques;

(C) Percutaneous cricothyrotomy; and

(D) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway.

(c) Initiate a nasogastric tube;

(d) Provide advanced life support in the resuscitation of patients in cardiac arrest;

(e) Perform emergency cardioversion in the compromised patient;

(f) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;

(g) Initiate needle thoracocentesis for tension pneumothorax in a pre-hospital setting;

(h) Initiate placement of a femoral intravenous line when a peripheral line cannot be placed;

(i) Initiate placement of a urinary catheter for trauma patients in a pre-hospital setting who have received diuretics and where the transport time is greater than thirty minutes; and

(j) Initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

(12) The Board has delegated to the Section the following responsibilities for ensuring that these rules are adhered to:

(a) Designing the supervising physician and agent application;

(b) Approving a supervising physician or agent; and

(c) Investigating and disciplining any EMT or First Responder who violates their scope of practice.

(d) The Section shall provide copies of any supervising physician or agent applications and any EMT or First Responder disciplinary action reports to the Board upon their request.

ADMINISTRATIVE RULES

(13) The Section shall immediately notify the Board when questions arise regarding the qualifications or responsibilities of the supervising physician or agent of the supervising physician.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93; ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 11-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03; BME 12-2003, f. & cert. ef. 7-15-03; BME 4-2004, f. & cert. ef. 1-27-04; BME 11-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 12-2004(Temp), f. & cert. ef. 6-11-04 thru 12-8-04; BME 21-2004(Temp), f. & cert. ef. 11-15-04 thru 4-15-05; BME 2-2005, f. & cert. ef. 1-27-05; BME 5-2005, f. & cert. ef. 4-21-05; BME 9-2005, f. & cert. ef. 7-20-05; BME 18-2006, f. & cert. ef. 7-25-06

Rule Caption: Specify requirements regarding podiatry national licensing examination taken on or after January 1, 1987.

Adm. Order No.: BME 19-2006

Filed with Sec. of State: 7-25-2006

Certified to be Effective: 7-25-06

Notice Publication Date: 3-1-06

Rules Amended: 847-080-0010, 847-080-0017, 847-080-0018

Subject: The adopted rules specify requirements regarding the National Board of Podiatric Medical Examiners (NBPME) examination Part III for applicants for licensure who took the examination on or after January 1, 1987. These requirements were previously established in the rule, but it is now being clarified that the requirements only apply to applicants who took the NBPME examination on or after January 1, 1987. These applicants must submit an official grade certification of Part III, pass all three Parts of the NBPME within a seven-year period, and pass the NBPME examination Part III within three attempts, or complete one additional year of post-graduate training in the United States prior to readmission to the examination for a fourth and final attempt.

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-080-0010

Requirements for Licensure

(1) The applicant for licensure shall be required to:

(a) Have graduated from a school or college of podiatric medicine accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(b) Successfully pass the National Board of Podiatric Medical Examiners (NBPME) examination Part I and Part II. Effective July 15, 2004, the applicant for licensure who took the NBPME examination on or after January 1, 1987 must also pass the NBPME examination Part III.

(c) Have satisfactorily completed one year of post-graduate training served in a hospital that is approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, or

(d) Have received a certificate of completion for one year of post-graduate training in a hospital residency program that was not approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association; and

(e) Have been certified by the American Board of Podiatric Orthopedics and Primary Podiatric Medicine, the American Board of Podiatric Surgery, or the American Board of Podiatric Public Health.

(f) Have satisfactorily met the requirements of ORS 677.825.

(2) No application will be accepted on the basis of reciprocity or written examination, other than the National Board of Podiatric Medical Examiners.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.820

Hist.: ME 4-1982, f. & ef. 4-23-82; ME 7-1982, f. & ef. 10-27-82; Suspended by ME 3-1983(Temp), f. & ef. 10-3-83 to 10-7-83; Suspended by ME 2-1984(Temp), f. & ef. 1-20-84; ME 11-1985, f. & ef. 8-6-85; ME 6-1986, f. & ef. 4-23-86; ME 8-1994, f. & cert. ef. 4-29-94; BME 16-2004, f. & cert. ef. 7-13-04; BME 13-2005, f. & cert. ef. 10-12-05; BME 19-2006, f. & cert. ef. 7-25-06

847-080-0017

Letters and Official Grade Certifications to Be Submitted for Licensure

The applicant must request official letters directly from:

(1) The Dean of the School of Podiatry: This letter is required in addition to the certification on the application form. A copy of the Dean's Letter of Recommendation which shall include a statement concerning the applicant's moral and ethical character and overall performance as a podiatric student.

(2) The Director of Podiatric Education, Chairman or other official of the residency hospital in U.S. and foreign countries: A currently dated original letter (a copy is not acceptable), sent directly from the hospitals in which any post-graduate training was served, which shall include an evaluation of overall performance and specific beginning and ending dates of training.

(3) The Director or other official for practice and employment in hospitals, clinics, etc. in the U.S. and foreign countries: A currently dated original letter (a copy is not acceptable), sent directly from the hospital/clinic which shall include an evaluation of overall performance and specific beginning and ending dates of practice and employment.

(4) The Executive Secretary of all State Boards in the United States where the applicant has ever been licensed; regardless of status, i.e., current, lapsed, never practiced there: The currently dated original letter (a copy is not acceptable), sent directly from the boards, shall show license number, date issued and status.

(5) Official National Board Certification: An official grade certification of the National Board of Podiatric Medical Examiners (NBPME) examination Part I and II is required directly from the National Board of Podiatry Examiners. For applicants who took the NBPME examination on or after January 1, 1987, an official grade certification of the NBPME examination Part III is required directly from the Federation of State Medical Boards.

Stat. Auth.: ORS 183 & 677

Stats. Implemented: ORS 677.825

Hist.: ME 4-1982, f. & ef. 4-23-82; ME 6-1986, f. & ef. 4-23-86; ME 17-1987, f. & ef. 8-3-87; BME 20-2004, f. & cert. ef. 10-20-04; BME 19-2006, f. & cert. ef. 7-25-06

847-080-0018

Endorsement, Oral Examination, Competency Examination and Personal Interview

(1) The applicant shall base an application upon certification by the National Board of Podiatric Medical Examiners.

(a) For applicants who took the NBPME examination on or after January 1, 1987, all three Parts of the NBPME examination must be passed within a seven-year period which begins when the first Part, either Part I or Part II, is passed. The score achieved on each Part must equal or exceed the figure established by the National Board of Podiatric Medical Examiners as a recommended passing score.

(b) An applicant who took the NBPME examination on or after January 1, 1987 and who has not passed all three Parts within the seven-year period may request an exception to the seven-year requirement if he/she suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's podiatric study.

(c) Effective July 25, 2005, to be eligible for licensure, the applicant who took the NBPME examination on or after January 1, 1987 must have passed NBPME Part III within three attempts whether for Oregon or for any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States prior to readmission to the examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed Part III on their fourth and final attempt. If the fourth attempt of Part III is failed, the applicant is not eligible for Oregon licensure. If the applicant did not complete a year of training approved by the Board between the third and fourth attempt to pass Part III, the applicant is not eligible for licensure.

(2) The applicant may also be required to pass a competency examination in podiatry. The competency examination may be waived if, within ten years of filing the application with the Board, the applicant has:

(a) Passed the examination administered by the National Board of Podiatric Medical Examiners, or

(b) Been certified or recertified by the American Board of Podiatry Surgery, or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine, or

(c) Completed an approved one-year residency, and

(d) Has not ceased the practice of podiatry for a period of 12 or more consecutive months.

(3) After the applicant has met all requirements for licensure, the applicant may be required to appear before the Board for a personal inter-

ADMINISTRATIVE RULES

view regarding information received during the processing of the application. The interview or oral examination shall be conducted during a regular meeting of a committee of the Board or the Board. An applicant who fails to cancel a scheduled interview at least one week prior to such interview, or who confirms and does not appear, shall pay a rescheduling fee prior to the next filing deadline date. Rescheduling of the interview is contingent upon receipt of the above fee. (Refer to OAR 847-005-0005 for fees.)

(4) Licensure shall not be granted until all requirements of OAR 847-080-0002 through 847-080-0020 are completed satisfactorily.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.175

Hist.: ME 6-1986, f. & ef. 4-23-86; ME 17-1987, f. & ef. 8-3-87; ME 23-1989(Temp), f. & cert. ef. 10-20-89; ME 3-1990, f. & cert. ef. 1-29-90; ME 13-1992, f. & cert. ef. 10-22-92; ME 8-1994, f. & cert. ef. 4-29-94; ME 11-1996, f. & cert. ef. 10-29-96; BME 2-1999, f. & cert. ef. 1-26-99; BME 4-1999, f. & cert. ef. 2-17-99; BME 10-2005, f. & cert. ef. 7-20-05; BME 19-2006, f. & cert. ef. 7-25-06

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Board of Optometry
Chapter 852

Rule Caption: Amend rules regarding CPR requirements for Nontopical Pharmaceutical Agent Certification.

Adm. Order No.: OPT 4-2006

Filed with Sec. of State: 8-2-2006

Certified to be Effective: 8-2-06

Notice Publication Date: 7-1-06

Rules Amended: 852-080-0040

Subject: 852-080-0042(2)(i); (3)(e); (4)(i); (5)(e)—Removes reference to the American Heart Association in requirements for renewal of CPR certification.

Rules Coordinator: David W. Plunkett—(503) 399-0662 ext. 23

852-080-0040

Certification to Use Pharmaceutical Agents

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

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

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

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

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

(a) Meet Topical TPA Certification,

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

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

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

(e) Acquire and maintain CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This CPR course shall be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification.

(A) After the initial CPR certification, the Board will accept a BLS Healthcare Providers Online Renewal course. A CPR certification card with an expiration date must be received from the CPR provider. A hands-on component is not required for renewal CPR certification. An online CPR course that is not equivalent will not be approved by the Board.

(B) The Board shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

(C) The Board, as a courtesy, will send a reminder to licensee's last address of record, 60 days prior to their CPR expiration, indicating that current CPR certification is required to maintain their Nontopical TPA certification. Failure to maintain current CPR certification will result in immediate automatic loss of Nontopical TPA certification. The Nontopical TPA

certification will not be reinstated until the CPR certification deficiency has been corrected.

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

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

(a) Meet all criteria for Topical TPA Certification in OAR 852-080-0040(1),

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

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

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

(e) Acquire CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This CPR course shall be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification. A CPR certification card with an expiration date must be received from the CPR provider. The Board shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

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

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

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

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

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

(e) Acquire and maintain CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This CPR course shall be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification.

(A) After the initial CPR certification, the Board will accept a BLS Healthcare Providers Online Renewal course. A CPR certification card with an expiration date must be received from the CPR provider. A hands-on component is not required for renewal CPR certification. An online CPR course that is not equivalent will not be approved by the Board.

(B) The Board shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

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

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

(f) Effective April 1, 2006, all doctors of optometry that have been certified by the board as meeting the requirements for Nontopical TPA Certification and met the original certification requirements which included the injections workshop, will automatically have their licensure and certification changed to Nontopical TPA Certification with Injections.

(5) Nontopical TPA Certification with Injections (ATI) for inactive status licensee -Prior to using nontopical therapeutic pharmaceutical agents

ADMINISTRATIVE RULES

with injections as listed in this rule, any doctor of optometry licensed in Oregon in inactive status must:

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

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

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

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

(e) Acquire CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This CPR course shall be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification. A CPR certification card with an expiration date must be received from the CPR provider. The Board shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

(f) Effective April 1, 2006, all doctors of optometry that have been certified by the board as meeting the requirements for Nontopical TPA Certification and met the original certification requirements which included the injections workshop, will automatically have their licensure and certification changed to Nontopical TPA Certification with Injections.

Stat. Auth.: ORS 683 & 182
Stats. Implemented: ORS 683.270 & 182.466
Hist.: OP 1-1994, f. 5-4-94, cert. ef. 5-9-94; OPT 2-1999, f.12-29-99, cert. ef.1-1-00; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 3-2003, f. 9-15-03, cert. ef. 10-1-03; OPT 3-2004, f. 9-24-04, cert. ef. 10-1-04; OPT 2-2005, f. & cert. ef. 4-8-05; OPT 2-2006, f. 3-20-06, cert. ef. 4-1-06; OPT 4-2006, f. & cert. ef. 8-2-06

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 7-2006(Temp)

Filed with Sec. of State: 8-7-2006

Certified to be Effective: 8-7-06 thru 2-2-07

Notice Publication Date:

Rules Adopted: 255-060-0016

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-1) 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.

Stat. Auth.: 1999 OL ch. 163, ORS 144.050, 144.140, 181.585, 181.586.

Stats. Implemented:

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

ADMINISTRATIVE RULES

Bureau of Labor and Industries Chapter 839

Rule Caption: Amends and Extends Residential Rates for Specified Residential Projects.

Adm. Order No.: BLI 27-2006

Filed with Sec. of State: 7-17-2006

Certified to be Effective: 7-18-06

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.

(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

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Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2006.

Adm. Order No.: BLI 28-2006

Filed with Sec. of State: 7-21-2006

Certified to be Effective: 7-24-06

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning July 1, 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 the 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 the federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 14, 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 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

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Rule Caption: Amendment to July 1, 2006 State PWR/Davis-Bacon Wage Rates Publication.

Adm. Order No.: BLI 29-2006

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

Certified to be Effective: 8-9-06

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 August 9, 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 publica-

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tions 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).

(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 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

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

Rule Caption: Oregon Prescription Drug Program adopts public contracting rules.

Adm. Order No.: OHP 1-2006(Temp)

Filed with Sec. of State: 7-25-2006

Certified to be Effective: 7-25-06 thru 1-1-07

Notice Publication Date:

Rules Adopted: 409-030-0060

Subject: Temporary rule for OPDP Administrator to delegate procurement authority to the Chief Procurement Officer of the Department of Administrative Services for goods and services for OPDP.

Rules Coordinator: Kristin Keith—(503) 378-2349, ext. 325

409-030-0060

Contracted Services

The Administrator of the Oregon Prescription Drug Program (OPDP) has procurement authority for goods and services to implement and administer ORS 414.312 to 414.318. The Administrator recognizes the benefits of statewide consistency and expertise when certain procurements under

OPDP authority are instead procured for OPDP by the Department of Administrative Services. Therefore:

(1) OPDP adopts the public contracting rules in OAR Chapter 125 division 246 (General Provisions Related to Public Contracting) and division 247 (Public Procurements of Supplies and Services) (effective May 31, 2006) as the contracting rules that will apply to its procurements, except as otherwise provided in section (4) of this rule. The terms used in this rule will have the meaning set forth in the OAR 125 divisions 246 and 247.

(2) The Administrator of OPDP delegates procurement authority to the Chief Procurement Officer of the Department of Administrative Services for goods and services for OPDP, except as otherwise provided in section (4) of this rule. Procurements under this delegation shall be processed in accordance with OAR ch. 125, divisions 246 and 247.

(3) The Administrator of OPDP shall act as the agency's representative for each Contract. The Administrator may delegate in writing the representative's responsibilities to a designee. The agency's representative may participate with the Designated Procurement Officer assigned by the Chief Procurement Officer in all aspects of procurement.

(4) OPDP's mechanism for and administration of the enrollment of participating pharmacy providers or Participating Groups do not constitute procurements subject to this rule. The Administrator of OPDP may delegate to DAS on a case-by-case basis, by written agreement, procurement authority for such matters. Procurements under such a delegation shall be processed in accordance with OAR divisions 246 and 247.

Stat. Auth.: ORS 414.312-414.318

Stats. Implemented: ORS

Hist.: OHP 1-2006(Temp), f. & cert. ef. 7-25-06 thru 1-1-07

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Rulemaking Relating to Coordination of Health Insurance Policy Benefits.

Adm. Order No.: ID 14-2006

Filed with Sec. of State: 7-20-2006

Certified to be Effective: 7-20-06

Notice Publication Date: 05-01-06

Rules Adopted: 836-020-0770, 836-020-0775, 836-020-0780, 836-020-0785, 836-020-0791, 836-020-0796, 836-020-0801, 836-020-0806

Rules Repealed: 836-020-0700, 836-020-0705, 836-020-0710, 836-020-0715, 836-020-0720, 836-020-0725, 836-020-0730, 836-020-0735, 836-020-0740, 836-020-0745, 836-020-0750, 836-020-0755, 836-020-0760, 836-020-0765

Subject: This rulemaking adopts rules governing coordination of health insurance policy benefits and repeals existing rules governing that topic. Requires insurers to make their policies compliant not later than July 1, 2007

Rules Coordinator: Sue Munson—(503) 947-7272

836-020-0770

Authority, Purpose and Effective Date of OAR 836-020-0770 to 836-020-0805

(1) OAR 836-020-0770 to 836-020-0805 are adopted by the Director of the Department of Consumer and Business Services pursuant to the authority of ORS 731.244 and 743.552, for the purpose of implementing ORS 743.549 and 743.552.

(2) The purpose of OAR 836-020-0770 to 836-020-0805 is to:

(a) Establish a uniform order of benefit determination under which plans pay claims;

(b) Reduce duplication of benefits by permitting a reduction of the benefits to be paid by plans that, as provided in OAR 836-020-0770 to 836-020-0805, do not have to pay their benefits first; and

(c) Provide greater efficiency in the processing of claims when a person is covered under more than one plan.

(3) Insurers must make their plans compliant with OAR 836-020-0770 to 836-020-0805 not later than July 1, 2007. Until the date on which an insurer makes a plan of the insurer compliant, the plan shall continue to be subject to the prior rules, OAR 836-020-0700 to 836-020-0765. In the event a question of order of benefit determination arises between a plan operating under OAR 836-020-0770 to 836-020-0805 and a plan operating under the prior rules, OAR 836-020-0700 to 836-020-0765, the order of benefit determination shall be governed by the prior rules.

Stat. Auth.: ORS 731.244, 743.552

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Stats. Implemented: 743.549, 743.552
Hist.: ID 14-2006, f. & cert. ef. 7-20-06

836-020-0775

Definitions

As used in OAR 836-020-0770 to 836-020-0805:

(1) "Allowable expense," except as otherwise provided in this rule or as otherwise used in a statute, is defined and its use is governed by the following:

(a) The term means any health care expense, including coinsurance or copayments and without reduction for any applicable deductible, that is covered in full or in part by any of the plans covering the person.

(b) If a plan is advised by a covered person that all plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established in accordance with Section 223 of the Internal Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that may not be subject to the deductible as described in section 223(c)(2)(C) of the Internal Revenue Code of 1986.

(c) An expense or a portion of an expense that is not covered by any of the plans is not an allowable expense.

(d) Any expense that a provider by law or in accordance with a contractual agreement is prohibited from charging a covered person is not an allowable expense.

(e) The following are examples of expenses that are not allowable expenses:

(A) If a person is confined in a private hospital room, the difference between the cost of a semi-private room in the hospital and the private room is not an allowable expense, unless one of the plans provides coverage for private hospital room expenses.

(B) If a person is covered by two or more plans that compute their benefit payments on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement methodology, any amount charged by the provider in excess of the highest reimbursement amount for a specified benefit is not an allowable expense.

(C) If a person is covered by two or more plans that provide benefits or services on the basis of negotiated fees, any amount in excess of the highest of the negotiated fees is not an allowable expense.

(D) If a person is covered by one plan that calculates its benefits or services on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement methodology and another plan that provides its benefits or services on the basis of negotiated fees, the primary plan's payment arrangement shall be the allowable expense for all plans. However, if the provider has contracted with the secondary plan to provide the benefit or service for a specific negotiated fee or payment amount that is different than the primary plan's payment arrangement and if the provider's contract permits, that negotiated fee or payment shall be the allowable expense used by the secondary plan to determine its benefits.

(e) The definition of "allowable expense" may exclude certain types of coverage or benefits such as dental care, vision care, prescription drug or hearing aids. A plan that limits the application of COB to certain coverages or benefits may limit the definition of allowable expense in its contract to expenses that are similar to the expenses that it provides. When COB is restricted to specific coverages or benefits in a contract, the definition of allowable expense shall include similar expenses to which COB applies.

(f) When a plan provides benefits in the form of services, the reasonable cash value of each service is considered an allowable expense and a benefit paid.

(g) The amount of the reduction may be excluded from allowable expense when a covered person's benefits are reduced under a primary plan:

(A) Because the covered person does not comply with the plan provisions concerning second surgical opinions or precertification of admissions or services; or

(B) Because the covered person has a lower benefit for the reason that the covered person did not use a preferred provider.

(2) "Birthday" refers only to month and day in a calendar year and does not include the year in which the individual is born.

(3) "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:

(a) Services, including supplies;

(b) Payment for all or a portion of the expenses incurred;

(c) A combination of subsections (a) and (b) of this section; or

(d) An indemnification.

(4) "Closed panel plan" means a plan that provides health benefits to covered persons primarily in the form of services through a panel of

providers that have contracted with or are employed by the plan, and that excludes benefits for services provided by other providers, except in cases of emergency or referral by a panel member.

(5) "Consolidated Omnibus Budget Reconciliation Act of 1985" or "COBRA" means coverage provided under a right of continuation pursuant to federal law.

(6) "Coordination of benefits" or "COB" means a provision establishing an order in which plans pay their claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses.

(7) "Custodial parent" means:

(a) The parent awarded custody of a child by a court decree; or

(b) In the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation.

(8) "Group-type contract:"

(a) Means a contract that is not available to the general public and is obtained and maintained only because of membership in or a connection with a particular organization or group, including blanket coverage; and.

(b) Does not include an individually underwritten and issued guaranteed renewable policy even if the policy is purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer.

(9) "High-deductible health plan" has the meaning given the term under section 223 of the Internal Revenue Code of 1986, as amended by the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

(10) "Hospital indemnity benefits:"

(a) Means benefits not related to expenses incurred; and

(b) "Hospital indemnity benefits" does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

(11) "Plan" is defined and its use is governed by the following:

(a) The term means a form of coverage with which coordination is allowed. Separate parts of a plan for members of a group that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan.

(b) If a plan coordinates benefits, its contract shall state the types of coverage that will be considered in applying the COB provision of that contract. Whether the contract uses the term "plan" or some other term such as "program," the contractual definition may be no broader than the definition of "plan" in this subsection. The definition of "plan" in the model COB provision in **Appendix A** (Exhibit 1 to OAR 836-020-0780) is an example.

(c) "Plan" includes:

(A) Group insurance contracts and subscriber contracts;

(B) Uninsured arrangements of group or group-type coverage;

(C) Group coverage through closed panel plans;

(D) Group-type contracts;

(E) The medical care components of group long-term care contracts, such as skilled nursing care; and

(F) Medicare or other governmental benefits, as permitted by law, except as provided in subsection (d)(H) of this section. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program.

(d) "Plan" does not include:

(A) Hospital indemnity coverage benefits or other fixed indemnity coverage;

(B) Accident only coverage;

(C) Specified disease or specified accident coverage;

(D) School accident-type coverages that cover students for accidents only, including athletic injuries, either on a twenty-four-hour basis or on a "to and from school" basis;

(E) Benefits provided in group long-term care insurance policies for non-medical services, including for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;

(F) Medicare supplement policies;

(G) A state plan under Medicaid; or

(H) A governmental plan, that by law provides benefits that are in excess of those of any private insurance plan or other non-governmental plan.

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(12) "Primary plan" means a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. A plan is a primary plan if:

(a) The plan has no order of benefit determination rules or its rules differ from those permitted by OAR 836-020-0770 to 836-020-0805; or

(b) All plans that cover the person use the order of benefit determination rules required by OAR 836-020-0770 to 836-020-0805, and under those rules the plan determines its benefits first.

(13) "Secondary plan" means a plan that is not a primary plan.

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

Stat. Auth: ORS 731.244, 743.552

Stats. Implemented: 743.549, 743.552

Hist.: ID 14-2006, f. & cert. ef. 7-20-06

836-020-0780

Use of Model COB Contract Provision

(1) **Appendix A** (Exhibit 1 to this rule) contains a model COB provision for use in contracts. The use of this model COB provision is subject to OAR 836-020-0785(1), (2) and (3).

(2) **Appendix B** (Exhibit 2 to this rule) is a plain language description of the COB process that explains to the covered person how health plans will implement coordination of benefits. It is not intended to replace or change the provisions that are set forth in the contract. Its purpose is to explain the process by which the two or more plans will pay for or provide benefits.

(3) The COB provision contained in Appendix A and the plain language explanation in **Appendix B** do not have to use the specific words and format shown in **Appendix A** or **Appendix B**. Changes may be made to fit the language and style of the rest of the contract or to reflect differences among plans that provide services, that pay benefits for expenses incurred and that indemnify. No substantive changes are permitted.

(4) A COB provision may not be used that permits a plan to reduce its benefits on the basis that:

(a) Another plan exists and the covered person did not enroll in that plan;

(b) A person is or could have been covered under another plan, except with respect to Part B of Medicare; or

(c) A person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.

(5) A plan may not contain a provision that its benefits are "always excess" or "always secondary" except in accordance with the rules permitted by OAR 836-020-0770 to 836-020-0805.

(6) Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider. In most instances, COB does not occur if a covered person is enrolled in two or more closed panel plans and obtains services from a provider in one of the closed panel plans because the other closed panel plan (the one whose providers were not used) has no liability. However, COB may occur during the plan year when the covered person receives emergency services that would have been covered by both plans. Then the secondary plan shall use OAR 836-020-0790 to determine the amount it should pay for the benefit.

(7) A plan may not use a COB provision, or any other provision that allows it to reduce its benefits with respect to any other coverage its insured may have, that does not meet the definition of plan in OAR 836-020-0775.

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

Stat. Auth: ORS 731.244, 743.552

Stats. Implemented: 743.549, 743.552

Hist.: ID 14-2006, f. & cert. ef. 7-20-06

836-020-0785

Rules for Coordination of Benefits

When a person is covered by two or more plans, the rules for determining the order of benefit payments are as follows:

(1)(a) The primary plan shall pay or provide its benefits as if the secondary plan or plans did not exist.

(b) If the primary plan is a closed panel plan and the secondary plan is not a closed panel plan, the secondary plan shall pay or provide benefits as if it were the primary plan when a covered person uses a non-panel provider, except for emergency services or authorized referrals that are paid or provided by the primary plan.

(c) When multiple contracts providing coordinated coverage are treated as a single plan under OAR 836-020-0770 to 836-020-0805, this rule applies only to the plan as a whole, and coordination among the component contracts is governed by the terms of the contracts. If more than one carrier pays or provides benefits under the plan, the carrier designated as primary within the plan shall be responsible for the plan's compliance with OAR 836-020-0770 to 836-020-0805.

(d) If a person is covered by more than one secondary plan, the order of benefit determination rules of OAR 836-020-0770 to 836-020-0805 decide the order in which secondary plans benefits are determined in relation to each other. Each secondary plan shall take into consideration the benefits of the primary plan or plans and the benefits of any other plan that, under the rules of OAR 836-020-0770 to 836-020-0805, has its benefits determined before those of that secondary plan.

(2)(a) Except as provided in subsection (b) of this section, a plan that does not contain order of benefit determination provisions that are consistent with OAR 836-020-0770 to 836-020-0805 is always the primary plan unless the provisions of both plans, regardless of the provisions of this subsection, state that the complying plan is primary.

(b) Coverage that is obtained by virtue of membership in a group and designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder. Examples of these types of situations are major medical coverages that are superimposed over base plan hospital and surgical benefits, and insurance type coverages that are written in connection with a closed panel plan to provide out-of-network benefits.

(3) A plan may take into consideration the benefits paid or provided by another plan only when, under the rules of OAR 836-020-0770 to 836-020-0805, it is secondary to that other plan.

(4) Order of benefit determination: Each plan must determine its order of benefits using the first of the following rules that applies:

(a) Rule regarding non-dependent or dependent:

(A) Subject to paragraph (B) of this subsection, the plan that covers the person other than as a dependent, for example as an employee, member, subscriber or retiree, is the primary plan and the plan that covers the person as a dependent is the secondary plan.

(B)(i) If the person is a Medicare beneficiary, and, as a result of the provisions of Title XVIII of the Social Security Act and implementing regulations, Medicare is:

(I) Secondary to the plan covering the person as a dependent; and

(II) Primary to the plan covering the person as other than a dependent (e.g. a retired employee),

(C) Then the order of benefits is reversed so that the plan covering the person as an employee, member, subscriber or retiree is the secondary plan and the other plan covering the person as a dependent is the primary plan.

(b) Rule regarding dependent child covered under more than one plan.

Unless there is a court decree stating otherwise, plans covering a dependent child shall determine the order of benefits as follows:

(A) For a dependent child whose parents are married or are living together, whether or not they have ever been married:

(i) The plan of the parent whose birthday falls earlier in the calendar year is the primary plan; or

(ii) If both parents have the same birthday, the plan that has covered the parent longest is the primary plan.

(B) For a dependent child whose parents are divorced or separated or are not living together, whether or not they have ever been married:

(i) If a court decree states that one of the parents is responsible for the dependent child's health care expenses or health care coverage and the plan of that parent has actual knowledge of those terms, that plan is primary. If the parent with responsibility has no health care coverage for the dependent child's health care expenses, but that parent's spouse does, that parent's spouse's plan is the primary plan. This subparagraph does not apply with respect to any plan year during which benefits are paid or provided before the entity has actual knowledge of the court decree provision;

(ii) If a court decree states that both parents are responsible for the dependent child's health care expenses or health care coverage, the provisions of paragraph (A) of this subsection determines the order of benefits;

(iii) If a court decree states that the parents have joint custody without specifying that one parent has responsibility for the health care expenses or health care coverage of the dependent child, the provisions of paragraph (A) of this subsection determines the order of benefits; or

(iv) If there is no court decree allocating responsibility for the child's health care expenses or health care coverage, the order of benefits for the child are as follows:

(I) The plan covering the custodial parent;

(II) The plan covering the custodial parent's spouse;

(III) The plan covering the non-custodial parent; and then

(IV) The plan covering the non-custodial parent's spouse.

(C) For a dependent child covered under more than one plan of individuals who are not the parents of the child, the order of benefits shall be determined, as applicable, under paragraph (A) or (B) of this subsection as if those individuals were parents of the child.

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(c) Rule regarding active employee or retired or laid-off employee:

(A) The plan that covers a person as an active employee that is, an employee who is neither laid off nor retired or as a dependent of an active employee is the primary plan. The plan covering that same person as a retired or laid-off employee or as a dependent of a retired or laid-off employee is the secondary plan.

(B) If the other plan does not have this rule, and as a result, the plans do not agree on the order of benefits, this rule is ignored.

(C) This rule does not apply if the rule in subsection (a) of this section can determine the order of benefits.

(d) Rule regarding COBRA or state continuation coverage:

(A) If a person whose coverage is provided pursuant to COBRA or under a right of continuation pursuant to state or other federal law is covered under another plan, the plan covering the person as an employee, member, subscriber or retiree or covering the person as a dependent of an employee, member, subscriber or retiree is the primary plan and the plan covering that same person pursuant to COBRA or under a right of continuation pursuant to state or other federal law is the secondary plan.

(B) If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

(C) This rule does not apply if the rule in subsection (a) of this section can determine the order of benefits

(e) Rule regarding longer or shorter length of coverage:

(A) If the preceding rules in this section do not determine the order of benefits, the plan that covered the person for the longer period of time is the primary plan and the plan that covered the person for the shorter period of time is the secondary plan.

(B) To determine the length of time a person has been covered under a plan, two successive plans shall be treated as one if the covered person was eligible under the second plan within 24 hours after coverage under the first plan ended.

(C) The start of a new plan does not include:

(i) A change in the amount or scope of a plan's benefits;

(ii) A change in the entity that pays, provides or administers the plan's benefits; or

(iii) A change from one type of plan to another, such as from a single employer plan to a multiple employer plan.

(D) The person's length of time covered under a plan is measured from the person's first date of coverage under that plan. If that date is not readily available for a group plan, the date the person first became a member of the group shall be used as the date from which to determine the length of time the person's coverage under the present plan has been in force.

(f) If none of the preceding rules of this section determines the order of benefits, the allowable expenses shall be shared equally between the plans.

Stat. Auth: ORS 731.244, 743.552
Stats. Implemented: 743.549, 743.552
Hist.: ID 14-2006, f. & cert. ef. 7-20-06

836-020-0791

Procedure to be Followed by Secondary Plan to Calculate Benefits and Pay a Claim

(1) In determining the amount to be paid by the secondary plan on a claim, should the plan wish to coordinate benefits, the secondary plan shall calculate the benefits it would have paid on the claim in the absence of other health care coverage and apply that calculated amount to any allowable expense under its plan that is unpaid by the primary plan.

(2) The secondary plan may reduce its payment by the amount so that, when combined with the amount paid by the primary plan, the total benefits paid or provided by all plans for the claim do not exceed 100 percent of the total allowable expense for that claim.

(3) In addition, the secondary plan shall credit to its plan deductible any amounts it would have credited to its deductible in the absence of other health care coverage.

Stat. Auth: ORS 731.244, 743.552
Stats. Implemented: 743.549, 743.552
Hist.: ID 14-2006, f. & cert. ef. 7-20-06

836-020-0796

Notice to Covered Persons

A plan shall, in its explanation of benefits provided to covered persons, include the following language: "If you are covered by more than one health benefit plan, you should file all your claims with each plan."

Stat. Auth: ORS 731.244, 743.552
Stats. Implemented: 743.549, 743.552
Hist.: ID 14-2006, f. & cert. ef. 7-20-06

836-020-0801

Miscellaneous Provisions

(1) A secondary plan that provides benefits in the form of services may recover the reasonable cash value of the services from the primary plan to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this section may be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan that provides benefits in the form of services.

(2)(a) A plan with order of benefit determination rules that comply with OAR 836-020-0770 to 836-020-0805 (complying plan) may coordinate its benefits with a plan that is "excess" or "always secondary" or that uses order of benefit determination rules that are inconsistent with those contained in OAR 836-020-0770 to 836-020-0805 (non-complying plan) on the following basis:

(A) If the complying plan is the primary plan, it shall pay or provide its benefits first;

(B) If the complying plan is the secondary plan, it shall pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the complying plan were the secondary plan. In such a situation, the payment shall be the limit of the complying plan's liability; and

(C) If the non-complying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall assume that the benefits of the non-complying plan are identical to its own, and shall pay its benefits accordingly. If, within two years of payment, the complying plan receives information as to the actual benefits of the non-complying plan, it shall adjust payments accordingly.

(b) If the non-complying plan reduces its benefits so that the covered person receives less in benefits than the covered person would have received had the complying plan paid or provided its benefits as the secondary plan and the non-complying plan paid or provided its benefits as the primary plan, and governing state law allows the right of subrogation set forth in subsection (c) of this section, then the complying plan shall advance to the covered person or on behalf of the covered person an amount equal to the difference.

(c) The complying plan may not advance more than the complying plan would have paid had it been the primary plan less any amount it previously paid for the same expense or service. In consideration of the advance, the complying plan shall be subrogated to all rights of the covered person against the non-complying plan. The advance by the complying plan shall also be without prejudice to any claim it may have against a non-complying plan in the absence of subrogation.

(3) COB differs from subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

(4) If the plans cannot agree on the order of benefits within 30 calendar days after the plans have received all of the information needed to pay the claim, the plans shall immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan shall be required to pay more than it would have paid had it been the primary plan.

Stat. Auth: ORS 731.244, 743.552
Stats. Implemented: 743.549, 743.552
Hist.: ID 14-2006, f. & cert. ef. 7-20-06

836-020-0806

Effective Date for Existing Contracts

(1) A contract that provides health care benefits and that was issued before the effective date of OAR 836-020-0770 to 836-020-0805 must comply with 836-020-0770 to 836-020-0805 by:

(a) The later of:

(A) The next anniversary date or renewal date of the contract; or

(B) 12 months following the effective date of OAR 836-020-0770 to 836-020-0805; or

(b) The expiration of any applicable collectively bargained contract pursuant to which it was written.

(2) For the transition period between the adoption of OAR 836-020-0770 to 836-020-0805 and the timeframe for which plans are to be in compliance pursuant to section (1) of this rule, a plan that is subject to the prior COB requirements is not a non-complying plan by a plan subject to the new COB requirements and if there is a conflict between the prior COB requirements under OAR 836-020-0700 to 836-020-0765 as those rules applied on the date preceding the effective date of OAR 836-020-0770 to 836-020-0805 and the new COB requirements under OAR 836-020-0770 to 836-020-0805, the prior COB requirements apply.

Stat. Auth: ORS 731.244, 743.552

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Stats. Implemented: 743.549, 743.552
Hist.: ID 14-2006, f. & cert. ef. 7-20-06

Rule Caption: Rules Governing Life Settlement Contracts and Assumption Reinsurance; Correction of Statutory Citations.

Adm. Order No.: ID 15-2006

Filed with Sec. of State: 7-27-2006

Certified to be Effective: 7-27-06

Notice Publication Date:

Rules Amended: 836-014-0200, 836-014-0210, 836-014-0220, 836-014-0230, 836-014-0240, 836-014-0250, 836-014-0260, 836-014-0265, 836-014-0270, 836-014-0280, 836-014-0290, 836-014-0300, 836-014-0310, 836-014-0320, 836-050-0000, 836-050-0010, 836-050-0020

Subject: This rulemaking without notice or hearing, as authorized by ORS 183.335(7), replaces citations to 1995 session laws with the corresponding citations to the Oregon Revised Statutes, in rules governing life settlements and assumption reinsurance.

Rules Coordinator: Sue Munson—(503) 947-7272

836-014-0200

Statutory Authority and Implementation

(1) OAR 836-014-0200 to 836-014-0330 are adopted under the authority of ORS 731.244, 731.804, 744.331, 744.348, 744.358 and 746.240 for the purpose of implementing ORS 744.326, 744.328, 744.331, 744.341, 744.348 and 744.358.

(2) OAR 836-014-0210 and 836-014-0220 are operative on and after the date that OAR 836-014-0200 to 836-014-0330 are filed with the Secretary of State. OAR 836-014-0200 and 836-014-0230 to 836-014-0330 are operative on or after March 1, 1996.

Stat. Auth.: ORS 731.244, 744.331, 744.348, 744.358.

Stats. Implemented: ORS 744.326, 744.328, 744.331, 744.341, 744.348, 744.358

Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0210

License Fees

(1) The fee for filing an application for a license to transact business as a life settlement provider is \$400.

(2) The fee for annual renewal of a license to transact business as a life settlement provider is \$200.

(3) The fee for filing an application for a license to transact business as a life settlement broker is \$60.

(4) The fee for biennial renewal of a license to transact business as a life settlement broker is \$60.

Stat. Auth.: ORS 731.244, 731.804, 744.331, 744.358

Stats. Implemented: ORS 744.326, 744.328

Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0220

Life Settlement Provider License Requirements

(1) For an applicant to qualify for authority to transact business as a life settlement provider:

(a) The applicant's assets must exceed its liabilities by an amount of not less than \$150,000;

(b) The applicant must file with the State Treasurer, as is authorized by the Insurance Code, a surety bond in the sum of \$100,000; or

(c) The applicant must deposit with the State Treasurer, as is authorized by the Insurance Code, cash or securities in the sum of \$100,000.

(2) As a condition of maintaining a license to act as a life settlement provider, a life settlement provider must do one of the following:

(a) At all times maintain assets that exceed its liabilities by an amount of not less than \$150,000; or

(b) At all times maintain with the State Treasurer a surety bond or the deposit of cash or securities. The surety bond, cash or securities must be as authorized by the Insurance Code and must be in the sum of \$100,000.

(3) A bond filed or deposit made in this state under this rule shall be held for the faithful performance by the life settlement provider of all transactions of the provider subject to ORS 744.319 to 744.358.

Stat. Auth.: ORS 731.244, 744.358

Stats. Implemented: ORS 744.328

Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 6-1996(Temp), f. & cert. ef. 5-8-96; ID 14-1996, f. & cert. ef. 11-1-96; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0230

Renewal Requirements

(1) A licensee applying for renewal must do the following, as applicable:

(a) Submit a completed renewal application, on a form provided by the Director; and

(b) Submit the renewal fee.

(2) If a renewal application is submitted by mail, the renewal application must be postmarked by the United States Postal Service not later than the license expiration date.

(3) The Director may allow a licensee not more than 30 days to submit missing information on the renewal application form, if the fee has been submitted on or before the expiration date.

(4) The Director may request on the renewal application any information requested on the original application for a license.

Stat. Auth.: ORS 744.331

Stats. Implemented: ORS 744.331

Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0240

Filing Requirements, Life Settlement Contracts

(1) An applicant for a license as a life settlement provider must file with the Director a copy of each life settlement contract form that the applicant intends to use in business under the license.

(2) A life settlement provider must file with the Director, prior to use in this state, any amendment to a previously-filed life settlement contract form and any new life settlement contract form.

(3) Contract forms and amendments thereto are subject to approval prior to use in this state, as provided in ORS 744.341.

(4) Each form of life settlement contract filed with the Director must contain all of the following:

(a) A life settlement contract, completed in John Doe fashion;

(b) A copy of a policyholder's or certificate holder's application, completed in John Doe fashion; and

(c) A copy of any written disclosure material that will be provided to a policyholder certificate holder as required by ORS 744.348 and 836-014-0280.

(5) A life settlement contract form is subject to disapproval by the Director:

(a) If the Director finds it does not comply with the law;

(b) If the Director finds it contains any provision or has any description of its contents, title, heading or other indication of its provisions, that is unintelligible, uncertain, ambiguous or abstruse, or likely to mislead a person to whom the contract is offered or with whom the contract is made;

(c) If, in the Director's judgment, its use would be prejudicial to the interest of the persons with whom the life settlement provider contracts; or

(d) If the Director finds it contains provisions that are unjust, unfair or inequitable.

Stat. Auth.: ORS 744.358

Stats. Implemented: ORS 744.326, 744.341

Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0250

Contents of Life Settlement Contracts

(1) In addition to the requirements of ORS 744.341, each life settlement contract must be in writing, in a type size of not less than 12 points, and written in clear, understandable and straightforward wording.

(2) A life settlement contract may not contain any limitation or restriction on the use of the proceeds by the policyholder or certificate holder.

(3) Each life settlement contract shall specify any effect that entering into the contract will have upon the continuation or continued availability of supplemental benefits or riders that are or may be attached to the life insurance policy that is the subject of the life settlement contract, including assignment of the responsibility for the continued payment of premiums. The contract must require the provider to pay the premium on supplemental benefits and riders added to the policy before the life settlement contract was entered, when so elected according to OAR 836-014-0260, and must require the provider to notify the former policyholder or certificate holder of any option that may arise to select any supplemental benefits or riders. The benefits and riders considered shall include, but need not be limited to, the following:

(a) Guaranteed insurability options;

(b) Accidental death benefits, or accidental death and dismemberment benefits;

(c) Disability income or loss of income protection; and

(d) Family, spousal or children's riders or benefits.

(4) The life settlement contract must provide for rescission by the policyholder or certificate holder entering the life settlement contract as set forth in ORS 744.341. The rescission provision must appear on the first page of the contract. The rescission period specified in ORS 744.341 may not be less than 30 days after the date on which the contract is executed by

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all parties or less than 15 days after the date on which the policyholder or certificate holder receives the life settlement proceeds, whichever is the lesser period. The rescission provision must also provide that if the insured dies during the period of time for rescission:

(a) The contract is rescinded effective on the date of application; and

(b) The provider will return the amount by which the insurance proceeds according to the terms of the policy exceed the compensation paid by the provider pursuant to the life settlement contract and any premiums paid by the provider on the policy so that all parties, including any beneficiaries, are returned to their original positions under the insurance policy.

(5) A life settlement contract must provide a method for giving notice of rescission, including but not limited to the address or addresses to which the rescission notice must be sent, and a telephone number that the insured may call for information.

Stat. Auth.: ORS 744.358

Stats. Implemented: ORS 744.341

Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 14-1997, f. & cert. ef. 10-17-97; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0260

Rights and Duties of Parties to Life Settlement Contract

(1) A policyholder or certificate holder who has entered a life settlement contract has the right to retain additional benefits or optional riders that were part of the life insurance policy, including but not limited to disability income, accidental death and dismemberment and spouse, children and family riders, but not including term riders. Any premiums payable on the insurance policy or certificate that is the subject of the life settlement contract, including premiums payable for additional benefits retained at the option of the policyholder or certificate holder, shall be paid by the life settlement provider when due, for the remaining duration of the life that is the subject of the life settlement contract.

(2) Except as provided in this section (2), any additional benefit or optional rider that the policyholder or certificate holder elects not to continue must be terminated when the life settlement takes place. A waiver of premium provision may be continued by the life settlement provider.

(3) The life settlement provider does not have the right to any cash surrender value unless all additional benefits retained by the policyholder or certificate holder, whether by rider or endorsement, are in a paid-up status and will be unaffected by any change in cash surrender value.

(4) The life settlement provider shall make the payment of proceeds of a life settlement as required in ORS 744.356 by means of wire transfer or by cashier's check.

(5) Not later than the date on which the life settlement proceeds are paid to the policyholder or certificate holder, the life settlement provider must give the policyholder or certificate holder a written statement of the date on which the rescission period expires. The statement must include a notice to the policyholder or certificate holder that a rescission is not complete until the full payment, including any premiums paid by the life settlement provider, is returned to the life settlement provider and that the full payment must be returned not later than the 30th day after the date specified for expiration of the rescission period.

(6) If the statement required in section (5) of this rule is given by mail, it shall be considered to be given when deposited in the United States mail, first class postage prepaid.

(7) If notice of rescission is given by mail, it shall be considered to be given when deposited in the United States mail, first class postage prepaid.

Stat. Auth.: ORS 744.358

Stats. Implemented: ORS 744.341, 744.356

Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 14-1997, f. & cert. ef. 10-17-97; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0265

Response by Insurer

(1) An insurer shall provide information requested by a life settlement provider on the status of the life insurance policy or certificate of a policyholder or certificate holder not later than the 20th day after the insurer has received the later of the following documents or as soon as reasonably possible thereafter:

(a) A request in writing from the life settlement provider to release specified information regarding the policy or certificate to the life settlement provider or to a life settlement broker designated by the provider; and

(b) An instruction executed by the policyholder or certificate holder requiring the insurer to release the specified information referred to in subsection (a) of this section to the life settlement provider or to the life settlement broker designated by the provider.

(2) A life settlement provider who submits a request for information under section (1) of this rule must state in the request that it is licensed as a life settlement provider in this state and must disclose its license number.

(3) Nothing in this rule prohibits a certificate holder from assigning rights or benefits under the certificate to a licensed life settlement provider if assignment is allowed in the group policy, or from converting the coverage to an individual life insurance policy as provided by law and any applicable terms of the group policy.

Stat. Auth.: ORS 731.244, 744.358

Stats. Implemented: ORS 744.358

Hist.: ID 14-1997, f. & cert. ef. 10-17-97; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0270

Standards for Evaluation of Reasonable Payments; Definition of "Terminal Illness or Condition"

(1) Payments under life settlement contracts must be fair and equitable and may not in any event be less than the following: Insured's Life Expectancy — Minimum Percentage of Face Value Less Outstanding Loans Received by Policyholder or Certificate Holder

(a) Less than six months — 85 percent;

(b) At least six but less than 12 months — 80 percent;

(c) At least 12 but less than 18 months — 75 percent;

(d) At least 18 but less than 24 months — 70 percent;

(e) At least 24 but less than 36 months — 60 percent;

(f) 36 months or more — 50 percent.

(2) A payment may be reduced by the minimum premium required to keep the contract in force for the duration of the remaining life expectancy of the life that is the subject of the life settlement contract. The minimum premium includes any premiums payable for additional benefits retained at the option of the policyholder or certificate holder. Other than this allowable reduction in payment, there shall be no other retention for expenses or broker's fees that would reduce payments below the minimum levels established in this rule.

(3) The estimated life expectancy of an insured person must be determined according to sound actuarial principles.

(4) For the purpose of entering into a life settlement contract, a terminal illness or condition of an insured person is one or more of the following:

(a) A medical condition that will result in a drastically limited life span not exceeding 24 months.

(b) A medical condition that has required or requires extraordinary medical intervention, such as a major organ transplant or continuous artificial life support, without which the insured person would die.

(c) Any condition that usually requires continuous confinement in a nursing home, convalescent center or other care facility, if the insured person is expected to remain there for the rest of the insured person's life.

(d) A medical condition that in the absence of extensive or extraordinary medical treatment will result in a drastically limited life span. Such medical conditions include but are not limited to the following:

(A) Coronary artery disease resulting in an acute infarction or requiring surgery;

(B) Permanent neurological deficit resulting from cerebral vascular accident;

(C) End-stage renal failure; or

(D) Acquired Immune Deficiency Syndrome.

Stat. Auth.: ORS 744.358

Stats. Implemented: ORS 744.358

Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 14-1997, f. & cert. ef. 10-17-97; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0280

Disclosure Required

(1) A life settlement provider shall disclose the information specified in ORS 744.348 in the form of the disclosure statement in Attachment 1 to this rule or in a disclosure statement in a form approved by the Director as sufficiently similar to the statement in Attachment 1. A provider may also distribute the first two pages of Attachment 1 as general information apart from a specific transaction. The statement must be in not less than 12 point type. The Director may update names, telephone numbers and similar information in Attachment 1 from time to time as necessary.

(2) For each life settlement contract entered into by a life settlement provider, the provider must keep a copy of the disclosure statement in the provider's file on the contract, along with an affidavit signed by the provider showing the date the statement was delivered to the policyholder or certificate holder and attesting to the provider's belief that the policyholder or certificate holder had an opportunity to read and understand the

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statement. The provider must also send a copy of the statement and the signed affidavit to the life settlement broker.

(3) Upon receipt of an application from a policyholder or certificate holder, the life settlement broker shall furnish to the applicant a disclosure statement described in this section. The disclosure statement shall be the disclosure statement in Attachment 2 to this rule or a disclosure statement approved by the director as sufficiently similar to the statement in Attachment 2. The broker shall obtain the signature of the person on a copy of the disclosure statement for purposes of records in section (4) of this rule. The statement must be in not less than 12 point type. The Director may update names, telephone numbers and similar information in Attachment 2 from time to time as necessary.

(4) A life settlement broker shall retain a copy of a disclosure statement given to a person under section (3) of this rule, that is signed by the person, in the broker's files.

(5) A life settlement broker to whom a copy of a disclosure statement and signed affidavit is sent by the life settlement provider must retain the copies in the broker's files on the contract.

(6) A life settlement provider shall not enter a life settlement contract affecting a life insurance policy issued by an insurer with which the life settlement provider is affiliated or of which the life settlement provider is a subsidiary, unless the relationship between the insurer and the life settlement provider is fully disclosed, in writing, to the policyholder or certificate holder.

Stat. Auth.: ORS 744.358
Stats. Implemented: ORS 744.348
Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 14-1997, f. & cert. ef. 10-17-97; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0290

Contacts by Life Settlement Provider or Broker

(1) After a life settlement provider has entered into a life settlement contract, neither the life settlement provider nor the life settlement broker may make contact with the policyholder or certificate holder:

(a) More frequently than once every three months if the policyholder or certificate holder has a life expectancy of more than one year; and

(b) More frequently than once each month if the policyholder or certificate holder has a life expectancy of one year or less.

(2) The life settlement provider shall explain the procedure for contacts authorized in section (1) of this rule to the policyholder or certificate holder when the life settlement contract is entered into.

(3) The limitation in this rule on contacts by a life settlement provider or life settlement broker does not apply to contacts initiated by the policyholder or certificate holder or to contacts required for keeping the life insurance policy in force.

Stat. Auth.: ORS 744.358
Stats. Implemented: ORS 744.358
Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 14-1997, f. & cert. ef. 10-17-97; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0300

Advertising Standards

(1) Advertising must be truthful and not misleading by fact or implication.

(2) If a life settlement provider or broker mentions the speed with which the life settlement will occur, the advertising must disclose the average time from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the policyholder or certificate holder during the past six months.

(3) If advertising of a life settlement contract mentions the dollar amounts available to policyholders and certificate holders, the advertising must disclose the average purchase price with regard to a particular life expectancy as a percent of face value paid to policyholders and certificate holders contracting with the life settlement provider or broker during the past six months and must disclose factors that go into determining the specific amounts charged.

Stat. Auth.: ORS 744.358
Stats. Implemented: ORS 744.358
Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0310

Reporting Requirements

The report required by ORS 744.343 to be filed for the preceding calendar year with the Director must contain at least the following information:

(1) For each policy for which a life settlement contract has been entered into during the preceding calendar year or that was entered into

prior to the preceding calendar year and for which deaths had not yet been reported as of the beginning of the preceding year:

(a) The date the life settlement contract was entered into;

(b) The life expectancy of the policyholder or certificate holder at the time of the contract;

(c) The face amount of the policy.

(d) The amount paid by the life settlement provider for purposes of making a life settlement on the policy and the percentage that amount represents of the face amount;

(e) If the policyholder or certificate holder has died:

(A) The date of death; and

(B) The total insurance premiums paid by the life settlement provider to maintain the policy in force; and

(f) The amount of commission paid by the life settlement provider to the life settlement broker.

(2) A breakdown, by disease category, of applications, received, accepted and rejected during the preceding calendar year.

Stat. Auth.: ORS 744.342, 744.358
Stats. Implemented: ORS 744.342
Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 15-2006, f. & cert. ef. 7-27-06

836-014-0320

Requirements for Brokers

(1) A life settlement broker may not seek or obtain any compensation from the policyholder or certificate holder without the written agreement of the policyholder or certificate holder obtained before the broker performs any services in connection with the life settlement.

(2) In the absence of a written agreement making a life settlement broker the agent of a policyholder or certificate holder, the life settlement broker is presumed to be an agent of the life settlement provider.

(3) A life settlement broker may not transact business under the license unless appointed as a life settlement broker by each life settlement provider represented. Each appointment must be filed with the Insurance Division.

Stat. Auth.: ORS 744.358
Stats. Implemented: ORS 744.358
Hist.: ID 3-1996, f. & cert. ef. 2-26-96; ID 15-2006, f. & cert. ef. 7-27-06

836-050-0000

Purpose, Statutory Authority and Implementation

OAR 836-050-0000 to 836-050-0020 are adopted under the authority of ORS 731.244, 742.156 and 742.158, for the purpose of implementing ORS 742.156 and 742.158, relating to assumption reinsurance.

Stat. Auth.: ORS 731.244, 742.156, 742.158
Stats. Implemented: ORS 742.156, 742.158
Hist.: ID 4-1996, f. & cert. ef. 2-28-96; ID 15-2006, f. & cert. ef. 7-27-06

836-050-0010

Notice of Transfer

(1) An insurer transferring obligations or risks through an assumption reinsurance agreement subject to ORS 742.150, shall provide or cause to be provided to each policyholder or certificate holder a notice of transfer by first-class mail, addressed to the last-known address of the policyholder or certificate holder or to the address to which premium notices or other policy documents are sent. For insurance business on which premiums are collected on a weekly or monthly basis by an insurance producer of the insurer, the notice of transfer must be sent by personal delivery with acknowledged receipt. Notice of transfer must also be sent to the transferring insurer's insurance producer or brokers of record on the affected policies.

(2) The notice of transfer must state or provide:

(a) The date the transfer and novation of the policyholder's policy or certificate holder's certificate are proposed to take place;

(b) The names, addresses and telephone numbers of the assuming insurer and the transferring insurer;

(c) That the policyholder or certificate holder may either consent to or reject the transfer and novation;

(d) The procedures and time limit for consenting to or rejecting the transfer and novation;

(e) A summary of any effect that consenting to or rejecting the transfer and novation will have on the policyholder's or certificate holder's rights;

(f) A statement that the assuming insurer is authorized to transact the type of insurance being assumed in the state in which the policyholder or certificate holder resides, or is otherwise authorized under ORS 742.150 to 742.162 to assume such insurance;

(g) The name and address of the representative of the transferring insurer to whom the policyholder or certificate holder should send its written statement of acceptance or rejection of the transfer and novation;

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(h) The address and phone number of the insurance regulatory office of the state in which the policyholder or certificate holder resides so that the policyholder or certificate holder may write or call the office for further information regarding the financial information of the assuming insurer;

(i) A statement that the insurer will furnish to the policyholder or certificate holder, upon request, financial data for both insurers, including at a minimum the data described in section (3) of this rule; and

(j) An explanation of the reason for the transfer.

(3) The transferring insurer shall promptly furnish the following financial data for both insurers in response to a request for financial data by a policyholder or certificate holder or by an agent or broker of record of the transferring insurer with respect to the affected policies:

(a) Ratings for the previous year from two nationally recognized insurance rating services acceptable to the Director, including the rating service's explanation of the meaning of the ratings, and if ratings are unavailable for the year, the insurer shall so disclose;

(b) If the rating of either insurer furnished under subsection (a) of this section changed during the previous year, ratings for the year preceding from two nationally recognized insurance rating services acceptable to the Director, including the rating service's explanation of the meaning of the ratings, and if ratings are unavailable for the year preceding, the insurer shall so disclose;

(c) A balance sheet as of December 31 for the previous year if available and as of the date of the most recent quarterly statement; and

(d) A copy of the Management's Discussion and Analysis that was filed as a supplement to the previous year's annual statement.

(4) Notice in the form identical or substantially similar to **Exhibit 1** to this rule is considered to comply with the requirements of section (2) of this rule.

(5) The notice of transfer shall include a pre-addressed, postage-paid response card that a policyholder or certificate holder may return as its written statement of acceptance or rejection of the transfer and novation.

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

Stat. Auth.: ORS 731.244 & Sec. 5 & 6, Ch. 30, OL 1995

Stats. Implemented: ORS 742.156, 742.158

Hist.: ID 4-1996, f. & cert. ef. 2-28-96; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 15-2006, f. & cert. ef. 7-27-06

836-050-0020

Notice of Rejection

A policyholder or certificate holder who elects to reject the transfer and novation of the policy under an assumption reinsurance agreement to which ORS 742.150 applied must give notice indicating rejection to the transferring insurer on a pre-addressed, postage-paid response card provided by the transferring insurer in the notice of transfer as required in OAR 836-050-0010 and **Exhibit 1** to that rule, or in another written notice by the policyholder or certificate holder.

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

Stat. Auth.: ORS 731.244, 742.156, 742.158

Stats. Implemented: ORS 742.156, 742.158

Hist.: ID 4-1996, f. & cert. ef. 2-28-96; ID 15-2006, f. & cert. ef. 7-27-06

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

Adm. Order No.: ID 16-2006

Filed with Sec. of State: 8-7-2006

Certified to be Effective: 8-7-06

Notice Publication Date: 6-1-06

Rules Adopted: 836-024-0004, 836-024-0008, 836-024-0033, 836-024-0038, 836-024-0039, 836-024-0100, 836-024-0105, 836-024-0110, 836-024-0115, 836-024-0120, 836-024-0125, 836-024-0130, 836-024-0135, 836-024-0140, 836-024-0145, 836-024-0150, 836-024-0155, 836-024-0160, 836-024-0165, 836-024-0170, 836-024-0175, 836-024-0180, 836-024-0185, 836-024-0190, 836-024-0200, 836-024-0205, 836-024-0210, 836-024-0215, 836-024-0220

Rules Amended: 836-024-0003, 836-024-0006, 836-024-0026, 836-024-0031, 836-024-0036, 836-024-0041, 836-024-0046, 836-024-0051, 836-024-0053, 836-024-0054, 836-024-0055

Rules Repealed: 836-024-0011, 836-024-0013, 836-024-0016, 836-024-0052

Subject: This rulemaking adopts rules that implement Oregon statutes governing insider trading of equity securities of domestic stock insurers (ORS 732.420 to 732.455). Regulation of insider trading protects share-issuing insurers and their shareholders by enabling an insurer to recover profits obtained by an insider because

of unfair use of information gained by reason of being an insider. This rulemaking also proposes to amend Insurance Division rules governing proxies, consents and authorization relating to domestic insurers.

Rules Coordinator: Sue Munson—(503) 947-7272

836-024-0003

Statutory Authority; Purpose

OAR 836-024-0003 to 836-024-0055 are authorized by ORS 732.415(4). These rules are adopted to carry out the purposes of ORS 732.415, to prevent fraud or deception in connection with the solicitation of proxies, consents, and other authorizations, and to protect the insurance-buying public in accordance with the purpose of the Insurance Code.

Stat. Auth.: ORS 731 & 732

Stats. Implemented: ORS 732.415(4)

Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0004

Application of OAR 836-024-0003 to 836-024-0055

(1) A domestic stock insurer that has a class of equity securities held of record by 300 or more persons, or any director, officer or employee of that insurer, or any other person, may not solicit or permit the use of the name of a holder of any of the equity securities to solicit, by mail or otherwise, any proxy, consent or authorization in respect to any class of equity securities contrary to any provision of OAR 836-024-0003 to 836-024-0055 or Schedules A and B. OAR 836-024-0003 to 836-024-0055 do not apply, however, to:

(a) A domestic stock insurer if 95 percent or more of its equity securities is owned or controlled by a parent or an affiliated insurer and the remaining securities are held of record by fewer than 500 persons; or

(b) A domestic stock insurer, with respect to a class of securities, if the insurer files with the federal Securities and Exchange Commission forms of the Securities and Exchange Act of 1934, as amended, and its applicable regulations, with respect to that class of securities.

(2) If proxies, consents or authorizations relating to a class of equity securities of a domestic stock insurer subject to section (1) of this rule are not solicited by or on behalf of the management of the insurer from the holders of record of the securities according to OAR 836-024-0003 to 836-024-0055 and its schedules, the insurer shall:

(a) File with the Director a written information statement containing the information specified in Schedule C; and

(b) Transmit the written information statement referred to in subsection (a) of this section to every security holder who is entitled to vote on a matter to be acted upon at any meeting of the security holders, and from whom a proxy is not solicited.

(3) **Exhibits A, B and C** are incorporated into this rule as **Exhibits 1, 2 and 3**.

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

Stat. Auth.: ORS 731.244, 732.415

Stats. Implemented: ORS 732.415(4)

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0006

Definitions

As used in OAR 836-024-0003 to 836-024-0055, unless the context otherwise requires:

(1) An "affiliate" of, or a person affiliated with, a specified person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) "Associate," when used to indicate a relationship with any person, means:

(a) A corporation or organization of which the person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities, but does not include the issuer or a majority-owned subsidiary of the issuer;

(b) A trust or other estate in which the person has a substantial beneficial interest or as to which the person served as trustee or in a similar fiduciary capacity; and

(c) A relative or spouse of that person, or any relative of the spouse, who has the same home as the person or who is a director or officer of the issuer or any of its parents or subsidiaries.

(3) "Beneficial owner" includes a person who, directly or indirectly, through a contract, arrangement, understanding, relationship or otherwise, has or shares:

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(a) Voting power, including the power to vote, or the power to direct voting of, a security; or

(b) Investment power that includes the power to dispose of, or to direct the disposition of, the new security.

(4) "Control," and including the terms "controlling," "controlled by" and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by ORS 732.568 that control does not exist in fact. The Director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(5) "Issuer" means the issuer of the securities regarding which a proxy is solicited.

(6) "Last fiscal year" of the issuer means the last fiscal year of the issuer ending prior to the date of the meeting for which proxies are to be solicited.

(7) "Officer" means the president, secretary, treasurer, any vice president in charge of a principal business function, such as sales, administration or finance, and any other person who performs similar policy-making functions for the issuer.

(8) A "parent" of a specified person is an affiliate controlling the person directly or indirectly through one or more intermediaries.

(9) A "person" includes a government or a political subdivision thereof, and applies to a trust only when the interest or interests of the beneficiary or beneficiaries are evidenced by a security.

(10) "Proxy statement" means the statement required by OAR 836-024-0026, regardless of whether the statement is contained in a single document.

(11) "Schedule A" means the schedule incorporated in **Exhibit 1**, OAR 836-024-0004.

(12) "Schedule B" means the schedule incorporated in **Exhibit 2**, OAR 836-024-0004.

(13) "Schedule C" means the schedule incorporated in **Exhibit 3**, OAR 836-024-0004.

(14) "Solicit" and "Solicitation" include:

(a) A request for a proxy, whether or not accompanied by or included in a form of proxy;

(b) A request to execute or not to execute, or to revoke, a proxy; and

(c) The furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy.

(15) "Solicit" and "Solicitation" do not apply to the security holder, the performance by the issuer of acts required by OAR 836-024-0038 or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

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

Stat. Auth.: ORS 731 & 732

Stats. Implemented: ORS 732.415(4)

Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0008

Solicitations to which OAR 836-024-0003 to 836-024-0055 Apply

OAR 836-024-0041 applies to every solicitation that is subject to 836-024-0004. 836-024-0006 to 836-024-0039 and 836-024-0046 apply to every solicitation that is subject to 836-024-0004 except the following:

(1) A solicitation not made on behalf of the issuer, when the total number of persons solicited is not more than ten.

(2) A solicitation by a person regarding securities carried in the name of the person or in the name of the person's nominee other than as voting trustee, or held in the person's custody, if the person does all of the following:

(a) Receives no commission or remuneration for the solicitation, directly or indirectly, other than reimbursement of reasonable expenses.

(b) Furnishes promptly to the solicited person a copy of all soliciting material relating to the same subject matter or meeting that is received from all persons. The persons who furnish the soliciting material shall furnish copies of that soliciting material for distribution to the solicited persons and shall, upon request, pay the reasonable expenses incurred in forwarding the material.

(c) Does no more than:

(A) Impartially instruct the solicited person to forward a proxy to the person, if any, to whom the solicited person desires to give a proxy; or

(B) Impartially request instructions from the solicited person regarding the authority to be conferred by the proxy and state that a proxy will be given if no instructions are received by a certain date.

(3) A solicitation by a person relating to securities of which the person is the beneficial owner.

(4) A solicitation through a newspaper advertisement that informs security holders of a source from which they may obtain copies of a proxy statement, form of proxy and any other soliciting material, and does no more than:

(a) Name the issuer;

(b) State the reason for the advertisement; and

(c) Identify the proposal or proposals to be acted upon by security holders.

(5) Any solicitation that the Director finds for good cause should be exempted from all or part of OAR 836-024-0003 to 836-024-0055.

Stat. Auth.: ORS 731.244, 732.415

Stats. Implemented: ORS 732.415(4)

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0026

Information to Be Furnished to Security Holders

(1) A solicitation subject to OAR 836-024-0003 to 836-024-0055 may not be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Schedule A.

(2) If the solicitation is made on behalf of the issuer and relates to an annual meeting of security holders at which directors are to be elected, each proxy statement furnished pursuant to section (1) of this rule shall be accompanied or preceded by an annual report to security holders that is subject to the following:

(a) The report must contain financial statements for the last two fiscal years, in comparative columnar form and prepared on a consistent basis, that in the opinion of the management will adequately reflect the financial position of the issuer at the end of each year and the results of its operations for each year. Consolidated financial statements of the issuer and its subsidiaries must be included in the report if they are necessary to reflect the financial position and results of operations of the issuer and its subsidiaries, but in that case the individual statements of the issuer may be omitted. The Director may permit the omission of financial statements for the earlier of the two fiscal years, upon the request of the issuer, upon a showing of good cause.

(b) The financial statements for the last two fiscal years required by subsection (a) of this section must be prepared in a manner acceptable to the Director.

(c) The report must include a summary of the issuer's operations, or the operations of the issuer and its subsidiaries consolidated, or both as appropriate, in comparative columnar form, for each of the last five fiscal years of the issuer (or the life of the issuer and its predecessors, if less than five years).

(d) The report must contain a brief description of the business or businesses done by the issuer and its subsidiaries during the most recent fiscal year that, in the opinion of management, will indicate the general nature and scope of the business of the issuer and its subsidiaries.

(e) The report must identify each of the issuer's directors and officers and must indicate the principal occupation or employment of each person and the name and principal business of any organization by which the person is so employed.

(f) The report must identify the principal market in which securities of any class entitled to vote at the meeting are traded, stating the range of bid and asked quotations for each quarterly period during the issuer's two most recent fiscal years, and must set forth each dividend paid during the two-year period.

(g) Subject to the requirements of this section:

(A) The report may be in any form that management considers to be suitable; and

(B) The information required by subsections (c) to (f) of this section may be presented in an appendix or other separate section of the report, but only if the attention of security holders is called to the presentation.

(h) Solicitations made on behalf of the management before the financial statements are available are not subject to this section if solicitation is being made at the time in opposition to the management and if the management's proxy statement includes an undertaking in bold face type to furnish the annual report, at least 20 days before the date of the meeting, to all persons being solicited.

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(3) Two copies of each report sent to the security holders pursuant to this rule shall be mailed to the Director not later than the date on which the report is first sent or given to security holders, or the date on which preliminary copies of solicitation material are filed with the Director pursuant to OAR 836-024-0036(1), whichever date is later.

(4) If the issuer knows that consents or authorizations, or securities of any class entitled to vote at a meeting with respect to which the issuer intends to solicit proxies, are held of record by a broker, dealer, bank or voting trustee, or their nominees, the issuer shall inquire of the record holder at least ten days prior to the record date for the meeting of security holders whether other persons are the beneficial owners of the securities. If other persons are beneficial owners, the issuer shall also inquire of the record holder the number of copies of the proxy and other soliciting material and, in the case of an annual meeting at which directors are to be elected, the number of copies of the annual report to security holders, needed for supplying these materials to beneficial owners.

(5) The issuer shall supply the record holder in a timely manner with the additional copies of the annual report determined to be needed in section (4) of this rule, and assembled in a form and at a place reasonably requested by the record holder, in order to address and send one copy to each beneficial owner of the securities and shall pay the record holder's reasonable mailing expenses upon request.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0031

Requirements as to Proxy

(1) The form of proxy shall:

(a) Indicate in bold-face type whether the proxy is solicited on behalf of the issuer's board of directors, and if not, by whom it is solicited;

(b) Provide a specifically designed blank space for dating the proxy; and

(c) Identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the issuer or by security holders.

(2) The form of proxy need not refer to proposals as to which discretionary authority is conferred pursuant to section (5) of this rule.

(3) A proxy must provide means for the person solicited to specify by ballot a choice between approval or disapproval of, or abstention with respect to, each matter or group of related matters referred to in the proxy, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified if the form of proxy states in bold-face type how it is intended to vote the shares represented by the proxy in each case.

(4) A form of proxy that provides both for elections to office and for action on other specified matters must clearly provide means, by a box or otherwise, by which the security holder may withhold authority to vote for elections to office. A form of proxy that is executed by the security holder in a manner that does not withhold authority to vote for elections to office shall be considered a grant of such authority, if the form of proxy so states in boldface type.

(5) A proxy may confer discretionary authority to vote with respect to any of the following matters:

(a) Matters that, within a reasonable time before the solicitation, the persons making the solicitation do not know are to be presented at the meeting, if a specific statement to that effect is made in the proxy statement or form of proxy;

(b) Approval of the minutes of the prior meeting if the approval does not amount to ratification of the action taken at that meeting;

(c) The election of any person to any office for which a bona fide nominee is named in the proxy statement and the nominee is unable to serve or for good cause will not serve;

(d) Any proposal omitted from the proxy statement and the form of proxy pursuant to OAR 836-024-0039 and 836-024-0041; and

(e) Matters incident to the conduct of the meeting.

(6) A proxy may not confer authority to vote in either of the following instances:

(a) For the election of any person to any office for which a bona fide nominee is not named in the proxy statement. A person is not a bona fide nominee and may not be named as such unless the person has consented to being named in the proxy statement and to serve if elected.

(b) At any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders.

(7) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions:

(a) That the securities represented by the proxy will be voted; and

(b) That when the person solicited has specified a choice, by means of ballot provided pursuant to section (3) of this rule, with respect to any matter to be acted upon, the vote will be in accordance with specifications so made.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0033

Presentation of Information in Proxy Statement

(1) The information included in the proxy statement shall be clearly presented. The statements made must be divided into groups according to subject matter. The various groups of statements must be preceded by appropriate headings.

(2) All proxy statements shall disclose, under an appropriate caption, the date by which proposals of security holders intended to be presented at the next annual meeting must be received by the issuer for inclusion in the issuer's proxy statement and form of proxy relating to that meeting. The date must be calculated according to OAR 836-024-0039(2). If the date of the next annual meeting is subsequently advanced by more than 30 calendar days or delayed by more than 90 calendar days from the date of the annual meeting to which the proxy statement relates, the issuer in a timely manner shall inform security holders of the change and the date by which proposals of security holders must be received, by any means reasonably calculated to inform the security holders.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0036

Material Required to Be Filed

(1) Two preliminary copies of the proxy statement and form of proxy, and any other soliciting material to be furnished to security holders with the proxy, or the information pursuant to Schedule C, shall be filed with the Director at least ten days prior to the date final copies of the material are first sent or given to security holders, or a shorter period prior to that date that the Director authorizes upon a showing of good cause.

(2) Two preliminary copies of any additional soliciting material relating to the same meeting or subject matter to be furnished to security holders after the proxy statements shall be filed with the Director at least two days (exclusive of Saturdays, Sundays, or holidays) prior to the date copies of the material are first sent or given to security holders, or a shorter period prior to that date that the Director authorizes upon a showing of good cause.

(3) Two definitive copies of the proxy statement, form of proxy and all other soliciting material, or the information statement, in the form in which the material is furnished to security holders, shall be filed with, or mailed for filing to, the Director not later than the date the material is first sent or given to a security holder.

(4) Copies of replies to inquiries from security holders requesting further information and copies of communications that do no more than request that the proxy form previously solicited be signed and returned need not be filed pursuant to this rule.

(5) Notwithstanding the provisions of sections (1) and (2) of this rule and of OAR 836-024-0055(1), copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the Director prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the Director as required by section (3) of this rule not later than the date the material is used or published. Sections (1) and (2) of this rule and OAR 836-024-0055(1) apply, however, to any reprints or reproductions of all or any part of such material.

(6) If a proxy statement, form of proxy or other material filed pursuant to this rule is amended or revised, one of the copies of the amendment or revision shall be marked to clearly show the changes.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0038

Mailing Communications for Security Holders

(1) If the management of the issuer has made or intends to make any solicitation subject to OAR 836-024-0003 to 836-024-0055, the issuer shall perform any act described in this rule that is requested in writing with respect to the same subject matter or meeting by any security holder who is, or by security holders who are, entitled to vote at least one percent of the

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votes entitled to be voted on the matter. The requesting security holder or security holders shall pay the reasonable expenses incurred by the issuer in performing the act or acts requested.

(2) The issuer shall mail or otherwise furnish to a security holder, as promptly as practicable after the receipt of the request:

(a) A statement of the approximate number of record owners and, to the extent known to the issuer, the approximate number of beneficial owners of any class of securities, any of whom have been or are to be solicited on behalf of the management, or any group of whom that is designated by the security holder; and

(b) An estimate of the cost of mailing a specified proxy statement, form of proxy or other communication to the owners.

(3) The issuer shall mail copies of any proxy statement, form of proxy or other communication furnished by the security holder to the security owners specified in section (2) of this rule and designated by the security holder. The issuer shall mail the material furnished by the security holder with reasonable promptness after receiving the material to be mailed, envelopes or other containers therefor, and postage or payment for postage. The issuer need not, however, mail any material before the first day that solicitation is made on behalf of the issuer. The issuer is not responsible for the proxy statement, form of proxy or other communication.

(4) Instead of performing the acts specified in section (3) of this rule, the issuer may furnish promptly to a security holder a reasonably current list of the names and addresses of the record owners and, to the extent known to the issuer, the beneficial owners designated by the security holder and a schedule of the handling and mailing costs if the schedule has been supplied to the issuer.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.:ID 16-2006, f. & cert. ef. 8-7-06

836-024-0039

Proposals of Security Holders

(1) As used in this rule, "proponent" means a holder or holders of an issuer's securities.

(2) An issuer shall set forth a proposal for action in its proxy statement if the proponent notifies the issuer as provided in this section and if the proponent is entitled at the time of the notice to vote at least one percent of the votes entitled to be voted on the proposal. The proponent must notify the issuer in writing not less than 90 days before the issuer's annual meeting of the proponent's intention to present a proposal for action at an upcoming meeting of the issuer's security holders. The issuer shall identify the proposal in the issuer's form of proxy and provide for specifying approval or disapproval of the proposal. The proxy statement shall also include the name and address of the proponent.

(3) If the issuer opposes a proposal received from a proponent, the issuer shall also include in its proxy statement, at the request of the proponent, a statement of the proponent not exceeding 200 words in support of the proposal.

(4) The issuer may omit a proposal and any supporting statement from its proxy statement and form of proxy under any of the following circumstances:

(a) The proponent has submitted more than one proposal in connection with a particular meeting.

(b) The proposal is more than 300 words in length.

(c) The proposal or the supporting statement is contrary to any provision of OAR 836-024-0003 to 836-024-0055.

(d) The proposal relates to the enforcement of a personal claim or the redress of a personal grievance against the issuer, its management or any other person.

(e) The proposal deals with a matter not significantly related to the issuer's business, a matter beyond the issuer's power to effectuate, a matter relating to the conduct of the ordinary business operations of the issuer or an election to office.

(f) The proposal is counter to a proposal to be submitted by the issuer at the meeting, the proposal has been rendered moot or the proposal relates to specific amounts of cash or stock dividends.

(g) The proposal is substantially duplicative of a proposal that was previously submitted to the issuer by another proponent and will be included in the management's proxy material for the meeting.

(h) Substantially the same proposal has previously been submitted to security holders in the issuer's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding five years and received less than five percent of the total number of votes cast at the time of the proposal's most recent submission.

(5) If the issuer intends to omit a proposal from its proxy statement or forms of proxy or both, the issuer shall notify the proponent in writing of its intention at least ten days before the issuer's preliminary proxy material is filed pursuant to OAR 836-024-0036.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.:ID 16-2006, f. & cert. ef. 8-7-06

836-024-0041

False or Misleading Statements

A proxy statement, form of proxy, notice of meeting, information statement, and any other communication, written or oral, that is subject to OAR 836-024-0003 to 836-024-0055 may not contain any statement that:

(1) At the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact; or

(2) Omits any material fact that is necessary in order to make the statements in the communication not false or misleading, or that is necessary to correct any statement in an earlier communication with respect to the same meeting or subject matter that has become false or misleading.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0046

Prohibition of Certain Solicitations

A person making a solicitation may not solicit any undated or postdated proxy, or any proxy that provides it will be considered to be dated as of any date subsequent to the date on which it is signed by the security holder.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0051

Special Provisions Applicable to Election Contests; Definition

OAR 836-024-0051 to 836-024-0055 apply to a solicitation by any person or group for the purpose of opposing a solicitation by another person or group regarding the election or removal of directors at an annual or special meeting of security holders. As used in OAR 836-024-0051 to 836-024-0055, unless the context requires otherwise:

(1) "Participant" and "participant in a solicitation" include:

(a) The issuer;

(b) A director of the issuer, and a nominee for whose election as a director proxies are solicited; and

(c) Any other person, acting alone or with one or more other persons, committees or groups, in organizing, directing, or financing the solicitation.

(2) "Participant" and "participant in a solicitation" do not include:

(a) A bank, broker, or dealer who, in the ordinary course of business, lends money or executes orders for the purchase or sale of securities and who is not otherwise a participant;

(b) A person or organization retained or employed by a participant to solicit security holders, or a person who merely transmits proxy-soliciting material or performs ministerial or clerical duties;

(c) A person employed in the capacity of attorney or accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of duties in the course of such employment;

(d) A person regularly employed as an officer or employee of the issuer or any of its subsidiaries or affiliates, who is not otherwise a participant; or

(e) An officer or director of, or a person regularly employed by, any other participant, if the officer, director, or employee is not otherwise a participant.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0053

Filings Required in an Election Contest

(1) A solicitation may not be made by a person other than the issuer unless a statement in duplicate containing the information specified by Schedule B and a copy of any material proposed to be distributed to security holders in furtherance of the solicitation is filed with the Director by or on behalf of each participant in the solicitation. The statement and material must be filed with the Director at least five business days prior to the solicitation or a shorter period authorized by the Director upon a showing of good cause.

(2) Within five business days after a solicitation subject to this rule is made by the issuer, or within a longer period that the Director authorizes on a showing of good cause, a statement in duplicate containing the information specified by Schedule B shall be filed with the Director by or on behalf

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of each participant in the solicitation, other than the issuer, and by or on behalf of each management nominee for director.

(3) If a solicitation on behalf of the issuer or another person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this rule in opposition, a statement in duplicate containing the information specified in Schedule B shall be filed with the Director, by or on behalf of each participant in the prior solicitation, other than the issuer, as soon as it is reasonably practicable after the commencement of the solicitation in opposition.

(4) If, subsequent to the filing of the statements required by sections (1) to (3) of this rule, additional persons become participants in a solicitation subject to this rule, a statement in duplicate containing the information specified by Schedule B shall be filed with the Director by or on behalf of each such person within three business days after the person becomes a participant, or within a longer period that the Director authorizes upon a showing of good cause.

(5) If any material change occurs in the facts reported in a statement filed by or on behalf of a participant, an appropriate amendment to the statement shall be filed promptly with the Director.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0054

Counter Solicitations Prior to Furnishing Required Written Proxy Statement

Notwithstanding the provisions of OAR 836-024-0026(1), a solicitation subject to OAR 836-024-0051 to 836-024-0055 may be made prior to furnishing security holders with a written proxy statement containing the information specified in Schedule A with respect to the solicitation, if:

(1) The statements required by OAR 836-024-0053 are filed by or on behalf of each participant in the solicitation.

(2) A form of proxy is not furnished to security holders prior to the time the proxy statement required by OAR 836-024-0026(1) is furnished to such persons. This section does not apply, however, if a proxy statement meeting the requirements of Schedule A has been furnished to security holders.

(3) Statements containing at least the information specified by OAR 836-024-0053(2) and (3), or an appropriate summary of the information, are included in each communication sent or given to security holders in connection with the solicitation.

(4) A written proxy statement containing the information specified in Schedule A with respect to a solicitation is sent or given to security holders at the earliest practicable date.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0055

Filing Requirements for Preliminary Solicitation Material

(1) Two copies of any soliciting material proposed to be sent or given to security holders prior to the furnishing of the proxy statement required by OAR 836-024-0026(1) shall be filed with the Director in preliminary form at least five business days prior to the date definitive copies of the material are first sent or given to the persons unless on a showing of good cause the Director reduces the five-day period.

(2) Notwithstanding the provisions of OAR 836-024-0026(2) and (3), two copies of any portion of the annual report referred to in OAR 836-024-0026(2) that comments upon or refers to a solicitation subject to OAR 836-024-0051 to 836-024-0055, or to a participant in a solicitation, other than the solicitation by the management, shall be filed with the Director as proxy material subject to OAR 836-024-0051 to 836-024-0055. The annual report portion to which this section applies must be filed with the Director, in preliminary form, at least five business days prior to the date copies of the report are first sent or given to security holders.

Stat. Auth.: ORS 731 & 732
Stats. Implemented: ORS 732.415(4)
Hist.: IC 68, f. & ef. 6-22-76; ID 16-2006, f. & cert. ef. 8-7-06

836-024-0100

Statutory authority; purpose

(1) OAR 836-024-0100 to 836-024-0220 are adopted under the authority of ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450 and 732.455, for the purpose of implementing ORS 732.420 to 732.455.

(2) OAR 836-024-0100 to 836-024-0220 apply to domestic stock insurers.

Stat. Auth.: ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450, 732.455
Stats. Implemented: ORS 732.420 - 732.455
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0105

Definitions

As used in OAR 836-024-0100 to 836-024-0220:

(1) "Class" means all securities of an insurer that are of substantially similar character and in which the holders enjoy substantially similar rights and privileges.

(2) "Equity security" as defined in ORS 732.420 also includes any voting trust certificate or certificate of deposit for an equity security.

(3) "Officer" means a president, vice president, treasurer, actuary, secretary, controller and any other person who performs functions for the insurer corresponding to functions performed by those officers.

Stat. Auth.: ORS 731.244, 732.420, 732.455
Stats. Implemented: ORS 732.420, 732.425, 732.430, 732.435, 732.440
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0110

Securities "Held of Record" for Purpose of ORS 732.425

(1) To determine for the purpose of ORS 732.425 whether the equity securities of an insurer are held of record by 100 or more persons, securities are considered to be "held of record" by each person who is identified as the owner of the securities on records of security holders maintained by or on behalf of the insurer, subject to the following:

(a) If the records of security holders have not been maintained in accordance with accepted practice, any additional person who would be identified as an owner on the records if the records had been maintained in accordance with accepted practice shall be included as a holder of record.

(b) Securities identified as held of record by a corporation, a partnership, a trust (regardless of whether the trustees are named) or other organization shall be included as held of record by one person.

(c) Securities identified as held of record by one or more persons as trustees, executors, guardians, custodians or other fiduciary with respect to a single trust, estate or account shall be included as held of record by one person.

(d) Securities held by two or more persons as co-owners shall be included as held by one person.

(e) Each outstanding unrecorded or bearer certificate shall be included as held of record by a separate person, except to the extent that the insurer can establish that, if the securities were recorded, they would be held of record under this rule by a lesser number of persons.

(f) Securities recorded in substantially similar names may be included as held of record by one person when the insurer has reason to believe that, because of the address or other indication, the names represent the same person.

(2) Section (1) of this rule does not apply in either of the following circumstances. Instead:

(a) Securities that, to the knowledge of the insurer, are held subject to a voting trust, deposit agreement or similar arrangement shall be included as held of record by the record holders of the voting trust certificates, certificates of deposit, receipts or similar evidences of interest in the securities, except that the insurer may rely in good faith on information received in response to its request from a nonaffiliated issuer of the certificates or evidences of interest.

(b) If the insurer knows or has reason to know that the form of holding securities of record is used primarily to circumvent ORS 732.420 to 732.455, the insurer shall consider the beneficial owners of the securities to be the record owners.

Stat. Auth.: ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450, 732.455
Stats. Implemented: ORS 732.420 - 732.455
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0115

Filing of Statements

(1) A person who is required by ORS 732.430 to file a statement of beneficial ownership of equity securities shall file the initial statement on Form 3, which is prescribed in **Exhibit 1** to this rule. A person who is required by ORS 732.430 to file a statement of change in beneficial ownership shall file the statement of change on Form 4, which is prescribed in **Exhibit 2** to this rule.

(2) A director or officer who is required to file a statement of change on Form 4 shall include in the first statement of change the information required by Form 4 with respect to all changes in the beneficial ownership of equity securities of the insurer that occurred within six months prior to the date of the changes that required the filing of the statement, when a change occurs in the director's or officer's beneficial ownership of equity securities:

(a) Within six months after the director or officer became a director or officer of the insurer; or

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(b) Within six months after a statement relating to the equity securities of the insurer has been filed with the Director, pursuant to ORS 732.430.

(3) A person who has ceased to be a director or officer of an insurer that has equity securities for which a statement is filed under ORS 732.430, or who is a director or officer of an insurer when the insurer ceased to have any equity securities for which a statement is filed under ORS 732.430, shall file a statement on Form 4 with respect to any change in the person's beneficial ownership of equity securities of the insurer if the change occurs:

(a) On or after the date on which the person ceased to be a director or officer or the date on which the insurer ceased to have any such equity securities, as the case may be; and

(b) Within six months after any change in the beneficial ownership of the securities prior to the date in subsection (a) of this section.

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

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0120

Ownership of more than 10 percent of an equity security

(1) When it is to be determined for the purpose of ORS 732.430 whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of any equity security, the class of the equity security consists of the total amount of the class outstanding, except for any securities of the class held by or for the account of the insurer or subsidiary of the insurer. To determine the percentage ownership of voting trust certificates or certificates of deposit for equity securities, however, the class of voting trust certificates or certificates of deposit consists of the amount of voting trust certificates or certificates of deposit issuable with respect to the total amount of outstanding equity securities of the class that may be deposited under the voting trust agreement or deposit agreement in question, regardless of whether all of the outstanding securities have been so deposited. For the purpose of this rule, a person acting in good faith may rely on the information contained in the latest Annual Statement filed with the Director of the Department of Consumer and Business Services with respect to the amount of securities of a class outstanding or in the case of voting trust certificates or certificates of deposit the amount issuable.

(2) When it is to be determined for the purpose of ORS 732.430 whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of equity securities, the person is considered to be the beneficial owner of securities of any class that the person has a right to acquire through the exercise of presently exercisable options, warrants or rights or through the conversion of presently convertible securities. A security that is subject to such an option, warrant, right or conversion privilege held by a person is considered to be outstanding for the purpose of computing, in accordance with section (1) of this rule, the percentage of outstanding securities of the class owned by the person. The security, however, is not considered to be outstanding for the purpose of computing the percentage of the class owned by another person.

(3) Section (2) of this rule does not relieve any person of a duty to comply with ORS 732.430 with respect to any equity securities consisting of options, warrants, rights or convertible securities that are otherwise subject as a class under ORS 732.430.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0125

Disclaimer of Beneficial Ownership

A person who files a statement may declare expressly in the statement that the filing may not be construed as an admission that the person is the beneficial owner for the purpose of ORS 732.420 to 732.455 of any equity securities covered by the statement.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0130

Exemptions from ORS 732.430 and 732.435

(1) Securities held by the following persons are exempt from ORS 732.430 and 732.435 for 12 months following the date of the person's appointment and qualification:

(a) An executor or administrator of the estate of a decedent;

(b) A guardian or committee for an incompetent; and

(c) A receiver, trustee in bankruptcy, assignor for the benefit of creditors, conservator, liquidating agent or other similar person authorized by law to administer the estate or assets of other persons.

(2) After the 12-month period following the appointment of a person to whom section (1) of this rule applies:

(a) The person shall file a statement under ORS 732.430 with respect to the securities held by the estates that the person administers; and

(b) The person is liable for profits realized from trading in the securities pursuant to ORS 732.435 only when the estate being administered is a beneficial owner of more than ten percent of any class of equity security of an insurer subject to ORS 732.430 and 732.435.

(3) Securities reacquired by or for the account of an insurer and held by it for its account are exempt from ORS 732.430 and 732.435 while they are held by the insurer.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0135

Exemptions from ORS 732.420 to 732.455 of Securities Purchased or Sold by Odd-lot Dealers

Securities purchased or sold by an odd-lot dealer are exempt from ORS 732.420 to 732.455 with respect to participation by the odd-lot dealer when the securities are purchased or sold:

(1) In odd lots that are reasonably necessary to carry on odd-lot transactions; or

(2) In round lots to offset odd-lot transactions previously or simultaneously executed or reasonably anticipated in the usual course of business.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0140

Certain Transactions Subject to ORS 732.430

Acquisition or disposition of the privilege of a transferable option, put, call, spread or straddle is a change in the beneficial ownership of the security to which the privilege relates. A person who acquires or disposes of such a privilege shall file a statement relating to the acquisition or disposition. This rule does not exempt a person, however, from filing the statements required when the option, put, call, spread or straddle is exercised.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0145

Ownership of Securities Held in Trust

(1) Beneficial ownership of a security for the purpose of ORS 732.430 includes any of the following:

(a) Ownership of securities as a trustee when either the trustee or members of the immediate family of the trustee have a vested interest in the income or corpus of the trust;

(b) Ownership of a vested beneficial interest in a trust; and

(c) Ownership of securities as a settlor of a trust in which the settlor has the power to revoke the trust without obtaining the consent of all the beneficiaries.

(2) Except as provided in section (4) of this rule, the following are exempt from the filing requirement in ORS 732.430:

(a) A person who has beneficial ownership of securities solely as a settlor or beneficiary of a trust, when less than 20 percent in market value of the securities having a readily ascertainable market value held by the trust, determined as of the end of the preceding fiscal year of the trust, consists of equity securities for which reports would otherwise be required.

(b) A person who has an obligation that would otherwise be imposed solely by reason of ownership as settlor or beneficiary of securities held in trust, when the ownership, acquisition or disposition of the securities by the trust is made without prior approval by the settlor or beneficiary.

(3) An exemption under section (2) of this rule is not acquired or lost solely because of changes in the value of the trust assets during a fiscal year or during any time that there is no transaction by the trust in the securities otherwise subject to the reporting requirements of ORS 732.430.

(4) If ten percent of a class of an equity security of an insurer is held in trust, the trust and its trustee are considered to be a person that must file reports required by ORS 732.430.

(5) A trust is not required to file more than one report of holdings or of a transaction in securities held by a trust, regardless of the number of officers, directors or 10 percent stockholders that are trustees, settlors or beneficiaries of a trust, if the filed report discloses the name of all trustees, settlors and beneficiaries who are officers, directors or ten percent stockholders. A person having an interest only as a beneficiary of a trust is not required to file a report as long as the person relies in good faith upon an

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understanding that the trustee of the trust will file whatever reports might otherwise be required of the beneficiary.

(6) As used in this rule, the "immediate family" of a trustee means:

- (a) A son or daughter of the trustee, or a descendant of either;
- (b) A stepson or stepdaughter of the trustee;
- (c) The father or mother of the trustee, or an ancestor of either;
- (d) A stepfather or stepmother of the trustee; or
- (e) A spouse of the trustee.

(7) For the purpose of determining whether any of the relations described in section (6) of this rule exists, a legally adopted child of a person is considered to be a child of the person by blood.

(8) For the purpose of determining under ORS 732.430 whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of any equity security, the interest of that person in the remainder of a trust shall be excluded from the computation.

(9) A person is not required to file a report under ORS 732.430 with respect to the person's indirect interest in portfolio securities held by either of the following, regardless of whether the person is otherwise subject to the requirement of filing reports under ORS 732.430:

(a) A pension or retirement plan holding securities of an insurer whose employees generally are the beneficiaries of the plan.

(b) A business trust with more than 25 beneficiaries.

(10) This rule does not impose any duties or liabilities relating to the reporting of a transaction or holding prior to the effective date of the transaction or holding.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0150

Exemption for Small Transactions

(1) An acquisition of securities is exempt from ORS 732.430 when the person effecting the acquisition:

(a) Does not effect any disposition of securities of the same class, other than by gift, within six months of the acquisition; and

(b) Does not participate in acquisitions or in dispositions of securities of the same class having a total market value in excess of \$3,000 for any six-month period during which the acquisition occurs.

(2) An acquisition or disposition of securities by way of gift, when the total amount of the gifts does not exceed \$3,000 in market value for any six-month period, is exempt from ORS 732.430 and may be excluded from the computations under section (1)(b) of this rule.

(3) A person effecting a transaction exempted by section (1) or (2) of this rule shall include in the first report filed after the transaction a statement showing acquisitions and dispositions of the person for each six-month period or portion thereof that has elapsed since the last filing.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0155

Exemption from ORS 732.435 That Need not be Reported Under ORS 732.430

A transaction that has been or is exempted from the requirements of ORS 732.430 is also exempted from ORS 732.435 to the extent that the transaction would otherwise be subject to ORS 732.435.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0160

Exemption from ORS 732.435 of Certain Transactions Effected in Connection with a Distribution

(1) If the following conditions apply, a transaction of purchase and sale, or sale and purchase, of a security that is effected in connection with the distribution of a substantial block of securities is exempt from ORS 732.435 because the transaction is not included within the purpose of ORS 732.435:

(a) The person effecting the transaction is engaged in the business of distributing securities and is participating in good faith, in the ordinary course of business, in distribution of the block of securities;

(b) The security involved in the transaction is:

(A) A part of a block of securities and is acquired by the person effecting the transaction, with a view to its distribution, from the insurer or other person on whose behalf the securities are distributed or from a person who participates in good faith in the distribution of the block of securities; or

(B) A security purchased in good faith by or for the account of the person effecting the transaction for the purpose of stabilizing the market price

of securities of the class being distributed or to cover an over-allotment or other short position created in connection with the distribution; and

(c) Other persons who are not subject to ORS 732.435 participate in the distribution of the block of securities on terms at least as favorable as those on which the person is participating and to an extent at least equal to the aggregate participation of all persons exempted from ORS 732.435 by this rule. The performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing the functions, however, does not preclude an exemption that would otherwise apply under this rule.

(2) Exemption of a transaction under this rule with respect to participation in the transaction by one person does not render the transaction exempt with respect to participation by any other person unless the other person also meets the conditions of this rule.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0165

Exemption from ORS 732.435 of Acquisitions of Shares of Stock and Stock Options under Certain Stock Bonus, Stock Option or Similar Plans

When a director or officer of an insurer issuing stock or a stock option acquires shares of the insurer's stock pursuant to a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan, other than stock acquired upon the exercise of an option, warrant or right, or acquires a qualified or restricted stock option through an employee stock purchase plan, the acquisition is exempt from ORS 732.435 if the plan meets the following conditions:

(1) The plan has been approved, directly or indirectly, by the affirmative votes of the holders of a majority of the securities of the insurer present, or represented, and entitled to vote at a meeting held according to Oregon law or by the written consent of the holders of a majority of the securities of the insurer entitled to vote. For the purpose of this section, "insurer" includes a predecessor corporation if the plan or obligations to participate in the plan were assumed by the insurer in connection with the succession. If, however, the vote or written consent was not solicited substantially in accordance with OAR 836-024-0003 to 836-024-0055 at the time of the vote or written consent, the following shall apply:

(a) The insurer shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan that would be required by OAR 836-024-0003 to 836-024-0055 at the time the information is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of the date on which ORS 732.420 to 732.455 first applies to the insurer, or the date of the acquisition of an equity security for which an exemption is claimed.

(b) The written information required in subsection (a) of this section may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of mailing. Four copies of the written information must be filed with or mailed for filing to the Director of the Department of Consumer and Business Services not later than the date on which it is first sent or given to security holders of the insurer.

(2) If a person is authorized to exercise discretion in the selection of any director or officer of the insurer to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan, or in the determination of the number or maximum number of shares of stock that may be allocated to a director or officer or that may be covered by qualified, restricted or employee stock purchase plan stock options granted to the director or officer, the discretion may be exercised only as follows:

(a) With respect to the participation of directors:

(A) By the board of directors of the insurer, but a majority of the members of the board and a majority of the directors acting in the matter must be disinterested persons;

(B) By, or only in accordance with the recommendations of, a committee of three or more persons who have full authority to act in the matter, but only if all of the members of the committee are disinterested persons; or

(C) Otherwise in accordance with the plan, if the plan:

(i) Specifies the number or maximum number of shares of stock that directors may acquire or that may be subject to qualified, restricted or employee stock purchase plan stock options granted to directors and the terms upon which, and the times at which, or the periods within which the stock may be acquired or the options may be acquired and exercised; or

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(ii) Sets forth, by formula or otherwise, effective and determinable limitations with respect to acquisition or purchase based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages of shares outstanding from time to time, or similar factors.

(b) With respect to the participation of officers who are not directors:

(A) By the board of directors of the insurer or a committee of three or more directors; or

(B) By, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, but only if all of the members of the committee are disinterested persons.

(c) For the purpose of this section, a director or committee member is a disinterested person only if the person, at the time discretion is exercised, is not eligible and has not at any time within one year prior to the exercise of discretion been eligible for selection as a person:

(A) To whom stock may be allocated; or

(B) To whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan or any other plan of the insurer or any of its affiliates entitling the participants to acquire stock or qualified, restricted or employee stock purchase plan stock options of the insurer or any of its affiliates.

(d) This section does not apply with respect to any option granted, or other equity security acquired, prior to the date that ORS 732.430, 732.435 and 732.440 first become applicable with respect to any class of equity securities of any insurer.

(3) As to each participant or as to all participants, the plan effectively limits the aggregate dollar amount or the aggregate number of shares of stock that may be allocated, or that may be subject to qualified, restricted or employee stock purchase plan stock options granted pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date, and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earning of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors that will result in an effective and determinable limitation. The limitations may be subject to any provision for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

(4) All terms used in this rule have the same meaning as the terms have in ORS 732.420 to 732.455 and in OAR 836-024-0105. In addition, the following definitions apply to this rule:

(a) The term "plan" includes any plan, whether or not set forth in any formal written document or documents and whether or not approved in its entirety at one time.

(b) The definitions of the terms "qualified stock option" and "employee stock purchase plan" that are set forth in sections 422 and 423 of the Internal Revenue Code of 1954, as amended, apply to those terms as they are used in this rule. For the purpose of this rule, however, an option that meets all of the conditions of sections 422 and 423 of the Internal Revenue Code of 1954, as amended, other than the date of issuance, shall be considered to be a "restricted stock option."

(c) The term "exercise of an option, warrant or right" does not include:

(A) The making of any election to receive under any plan an award of compensation in the form of stock or credits for stock, except that an election must be made prior to the making of the award and the election must be irrevocable until at least six months after termination of employment;

(B) The subsequent crediting of the stock;

(C) The making of any election as to a time for delivery of the stock after termination of employment, but only if the election is made at least six months prior to delivery.

(D) The fulfillment of any condition to the absolute right to receive stock; or

(E) The acceptance of certificates for shares of stock.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0170

Exemption from ORS 732.435 of Certain Transactions in Which Securities are Received by Redeeming other Securities

An acquisition of an equity security, other than a convertible security or right to purchase a security, by a director or officer of the insurer issuing the security, is exempt from ORS 732.435 if all of the following conditions are met:

(1) The equity security is acquired by way of redemption of another security of an insurer, substantially all of whose assets other than cash or government bonds consist of securities of the insurer issuing the equity security, and the equity security:

(a) Represented substantially and in practical effect a stated or readily ascertainable amount of equity security;

(b) Had a value that was substantially determined by the value of the equity security; and

(c) Conferred upon the holder the right to receive the equity security without the payment of any consideration other than the security redeemed.

(2) The director or officer did not acquire any security of the same class as the security redeemed within six months prior to the redemption or does not acquire any such security within six months after the redemption.

(3) The insurer issuing the equity security acquired has recognized the applicability of section (1) of this rule by appropriate corporate action.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0175

Exemption of long Term Profits Incident to Sales Within Six Months of the Exercise of an Option

(1) As provided in section (2) of this rule, the Director exempts as not comprehended within the purposes of ORS 732.435 any transaction or transactions involving the purchase and sale, or sale and purchase, of any equity security in which the purchase is made pursuant to the exercise of an option or similar right that was:

(a) Acquired more than six months before its exercise; or

(b) Acquired pursuant to the terms of an employment contract entered into more than six months before its exercise.

(2) Regarding any transaction described in section (1) of this rule, the profits inuring to the insurer may not exceed the difference between the proceeds of sale and the lowest market price of any security of the same class within six months before or after the date of sale. Nothing in this rule may be considered to enlarge the amount of profit that would inure to the insurer in the absence of this rule.

(3) The Director exempts as not comprehended within the purposes of ORS 732.435 the disposition of a security purchased in a transaction specified in section (1) of this rule pursuant to a plan or agreement described in this section when the terms of the plan or agreement are binding upon all stockholders of the insurer, except to the extent that dissenting stockholders may be entitled, under statutory provisions or provisions contained in the certificate of incorporation, to receive the appraised or fair value of their holdings. This section applies to a plan or agreement:

(a) For merger or consolidation or reclassification of the insurer's securities; or

(b) For the exchange of the insurer's securities for the securities of another person that has acquired its assets, or that is in control, as defined in section 368(c) of the Internal Revenue Code of 1954, of a person that has acquired its assets.

(4) The exemptions under this rule do not apply to any transaction made unlawful by ORS 732.440 or rules adopted under that statute.

(5) The person claiming an exemption under this section bears the burden of establishing market price of the security.

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

Stats. Implemented: ORS 732.420 - 732.455

Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0180

Exemption from ORS 732.435 of Certain Acquisitions and Dispositions of Securities Pursuant to Merger or Consolidation

(1) The Director exempts as not comprehended within the purposes of ORS 732.435 the following transactions:

(a) The acquisition of a security of an insurer pursuant to a merger or consolidation in exchange for a security of a company that, prior to the merger or consolidation:

(A) Owned 85 percent or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company; or

(B) Held more than 85 percent of the combined assets of the companies undergoing merger or consolidation, computed according to their book values prior to the merger or consolidation as determined by reference to their most available financial statements for a 12-month period prior to the merger or consolidation.

(b) The disposition of a security of an insurer, pursuant to a merger or consolidation of an insurer that, prior to the merger or consolidation:

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(A) Owned 85 percent or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company; or

(B) Held over 85 percent of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to merger or consolidation as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

(2) A merger for the purpose of this rule includes the sale or purchase of substantially all the assets of one insurer by another in exchange for stock that is then distributed to the security holders of the insurer that sold its assets.

(3) Notwithstanding sections (1) and (2) of this rule, except for a purchase or sale exempted by this rule, the exemption under this rule is unavailable to an officer, director or stockholder to the extent of the purchase and sale if the officer, director or stockholder purchases a security in a company involved in the merger or consolidation or sells a security in another company involved in the merger or consolidation within a period of less than six months during which the merger or consolidation took place.

Stat. Auth: ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450, 732.455
Stats. Implemented: ORS 732.420 - 732.455
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0185

Exemption from ORS 732.435 of Transactions Involving the Deposit or Withdrawal of Equity Securities Under a Voting Trust or Deposit Agreement

(1) If substantially all of the assets held under a voting trust or deposit agreement immediately after the deposit of a security under the voting trust or deposit agreement or immediately prior to the withdrawal of a security under the voting trust or deposit agreement consisted of equity securities of the same class as the security deposited or withdrawn, the following transactions are exempt from ORS 732.435:

(a) The acquisition or disposition of an equity security involved in the deposit of the security under the voting trust or deposit agreement, and the acquisition or disposition of the certificate representing the equity security; and

(b) The acquisition or disposition of an equity security involved in the withdrawal of an equity security from the voting trust or deposit agreement, and the acquisition or disposition of the certificate representing the equity security.

(2) Unless a purchase or sale of an equity security described in this section is included in a transaction involved in a deposit or withdrawal that is exempt either under section (1) of this rule or under another provision of OAR 836-024-0100 to 836-024-0220 that implements ORS 732.435, the exemption in section (1) of this rule does not apply to the extent that the purchase or sale has occurred within a period of less than six months before or after a transaction described in section (1) of this rule, including the date of the transaction itself. This section applies to the following:

(a) A purchase of an equity security of the class deposited and a sale of any certificate representing an equity security of such class; or

(b) A sale of an equity security of the class deposited and a purchase of any certificate representing an equity security of the class.

Stat. Auth: ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450, 732.455
Stats. Implemented: ORS 732.420 - 732.455
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0190

Exemption from ORS 732.435 of Certain Transactions Involving the Conversion of Equity Securities

(1) An acquisition or disposition of an equity security involved in the conversion of an equity security is exempt from ORS 732.435 if the converted equity security, either immediately or after a stated period of time, is convertible by its terms or pursuant to the terms of the insurer's articles of incorporation or other governing instrument into another equity security of the same insurer.

(2) Unless an acquisition or disposition described in section (1) of this rule is included in a transaction involved in the conversion or in a transaction exempted by any other provision of OAR 836-024-0100 to 836-024-0220 that implements ORS 732.435, the exemption established in subsection (1) of this rule does not apply if either of the following has occurred within a period of less than six months before or after the conversion, including the date of the conversion. This section applies to the following:

(a) A purchase of any equity security of the class convertible, including any acquisition of or change in a conversion privilege and a sale of any equity security of the class issuable upon conversion; or

(b) A sale of any equity security of the class convertible and any purchase of any equity security issuable upon conversion.

(3) For the purpose of this rule:

(a) An equity security is not considered to be acquired or disposed of upon conversion of an equity security if the terms of the converted equity security require the payment or entail the receipt of cash or other property in connection with the conversion, other than equity securities involved in the conversion, equal in value at the time of conversion to more than 15 percent of the value of the equity security issued upon conversion.

(b) An equity security is considered to be convertible if it is convertible at the option of the holder or of some other person or by operation of the terms of the security or the governing instruments.

Stat. Auth: ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450, 732.455
Stats. Implemented: ORS 732.420 - 732.455
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0200

Exemption from ORS 732.435 of Certain Transactions Involving the Sale of Subscription Rights

(1) Any sale of a subscription right to acquire any subject security of the same insurer is exempt from ORS 732.435, as provided in this rule, as not comprehended within the purpose of that statute, if:

(a) The subscription right is acquired, directly or indirectly, from the insurer without the payment of consideration;

(b) The subscription right by its terms expires within 45 days after issuance of the subscription;

(c) The subscription right by its terms is issued on a pro rata basis to all holders of the beneficiary security of the insurer; and

(d) A registration statement under the securities Act of 1933 is in effect as to each subject security, or the applicable terms of any exemption from registration have been met with respect to each subject security.

(2) As used in this rule:

(a) "Beneficiary security" means a security registered pursuant to section 12 of the federal Securities Exchange Act, to the holders of which a subscription right is granted.

(b) "Subject security" means a security that is the subject of a subscription right.

(c) "Subscription right" means any warrant or certificate evidencing a right to subscribe to or otherwise acquire an equity security.

(3) If a person purchases subscription rights for cash or other consideration, then a sale by the person of subscription rights otherwise exempted by this rule is not exempted to the extent of the purchases within the six-month period preceding or following the sale.

Stat. Auth: ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450, 732.455
Stats. Implemented: ORS 732.420 - 732.455
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0205

Exemption of Certain Securities from ORS 732.440

A security is exempt from ORS 732.440 to the extent necessary to render lawful under that statute the broker's execution of an order for an account in which the broker has no direct or indirect interest.

Stat. Auth: ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450, 732.455
Stats. Implemented: ORS 732.420 - 732.455
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0210

Exemption from ORS 732.440 of Certain Transactions Effected in Connection with a Distribution

A security is exempt from the operation of ORS 732.440 to the extent necessary to render lawful under that section any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of securities, if the following conditions are met:

(1) The sale is represented by an over-allotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on the dealer's behalf intends in good faith to offset the sale with a security to be acquired by or on behalf of the dealer as a participant in an underwriting, selling or soliciting dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to a prior offering to existing security holders or some other class of persons; and

(2) Other persons to whom ORS 732.440 does not apply participate in the distribution of the block of securities on terms at least as favorable as those under which the dealer is participating and to an extent at least equal to the aggregate participation of persons exempted from ORS 732.440 by this rule. The performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing the functions

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does not preclude an exemption that would otherwise be available under this rule.

Stat. Auth.: ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450, 732.455
Stats. Implemented: ORS 732.420 - 732.455
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0215

Exemption from ORS 732.440 of Sales of Securities to be Acquired

(1) When a person is entitled, as an incident to ownership of an issued security and without the payment of consideration, to receive another security "when issued" or "when distributed," the security to be acquired is exempt from ORS 732.440 if:

(a) The sale is made subject to the same conditions as those attaching to the right of acquisition;

(b) The person exercises reasonable diligence to deliver the security to the purchaser promptly after the person's right of acquisition matures; and

(c) The person reports the sale on the appropriate form for reporting transactions by persons subject to ORS 732.430.

(2) This rule does not exempt transactions involving both a sale of a security "when issued" or "when distributed" and a sale of the security by virtue of which the seller expects to receive the "when issued" or "when distributed" security, if the two transactions combined result in a sale of more units than the aggregate of those owned by the seller plus those to be received by the seller pursuant to the right of acquisition.

Stat. Auth.: ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450, 732.455
Stats. Implemented: ORS 732.420 - 732.455
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

836-024-0220

Arbitrage Transactions under ORS 732.450

A director or officer of an insurer may not effect any foreign or domestic arbitrage transaction in any equity security of the insurer unless the director or officer includes the transaction in the statements required by ORS 732.430 and accounts to the insurer for the profits arising from the transaction as provided by ORS 732.435. ORS 732.440 does not apply to such an arbitrage transaction. ORS 732.420 to 732.455 do not apply to any bona fide foreign or domestic arbitrage transaction insofar as it is effected by any person other than a director or officer of the insurer.

Stat. Auth.: ORS 731.244, 732.420, 732.430, 732.435, 732.445, 732.450, 732.455
Stats. Implemented: ORS 732.420 - 732.455
Hist.: ID 16-2006, f. & cert. ef. 8-7-06

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Rule Caption: Relating to Notice Required to be Posted by Auto Rental Agencies Offering Collision Damage Waivers.

Adm. Order No.: ID 17-2006

Filed with Sec. of State: 8-11-2006

Certified to be Effective: 8-11-06

Notice Publication Date: 7-1-06

Rules Ren. & Amend: 440-010-0001 to 836-200-0100

Subject: This rulemaking rennumbers a rule that is currently located in OAR chapter 440, the rules governing DCBS generally, in order to place the rule in OAR chapter 836, the rules governing the Insurance Division. This rulemaking also updates the statutory citation in the rule. The rule implements ORS 646.859, which requires every auto rental company that offers collision damage waivers to post a sign, approved by the Department of Consumer and Business Services, relating to the topic.

Rules Coordinator: Sue Munson—(503) 947-7272

836-200-0100

Notice, Collision Damage Waivers

For purposes of ORS 646.859, which provides that an auto rental agency offering collision damage waivers shall post a sign approved by the Department, the Department shall consider a sign approved if the sign meets the following requirements:

(1) The sign must state the following in bold type that is at least 1.25 inches high:

OUR CONTRACTS OFFER OPTIONAL COLLISION DAMAGE WAIVERS AT AN ADDITIONAL COST.

(2) The sign must be posted in the place of business of the auto rental agency in a location that is conspicuous to the public.

Stat. Auth.: ORS 705.135
Stats. Implemented: ORS 646.859
Hist.: IF 8-1989, f. 11-6-89, cert. ef. 12-11-89; Renumbered from 440-010-0001, ID 17-2006, f. & cert. ef. 8-11-06

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

Rule Caption: Adoption of Federal OSHA corrections and technical amendments to General Industry, Construction, and Maritime.

Adm. Order No.: OSHA 4-2006

Filed with Sec. of State: 7-24-2006

Certified to be Effective: 7-24-06

Notice Publication Date: 6-01-06

Rules Amended: 437-002-0080, 437-002-0100, 437-002-0120, 437-002-0220, 437-002-0340, 437-002-0360, 437-003-0001, 437-005-0001

Subject: Oregon OSHA adopted Federal OSHA changes as they appear in the April 3, 2006 Federal Register. These revisions include updating references and removing obsolete effective dates and start-up dates from existing rules in General Industry, Construction, and Maritime Activities. Two changes Federal OSHA made that we do not include in this rulemaking are to remove effective dates in 1910.266 and 1926.1092, neither of which OR-OSHA had adopted before.

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-002-0080

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 7/1/02, and any subsequent amendments published in the Federal Register as listed below:

(1) 29 CFR 1910.94 Ventilation, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 5/28/75, FR vol. 40, p. 24522; 6/9/75, FR vol. 40, p. 24522; 10/24/78, FR vol. 43, p. 49746; 2/10/84, FR vol. 49, p. 5322; 8/6/90, FR vol. 55, no. 151, p. 32015; 6/30/93, FR vol. 58, no. 124, p. 35308; 3/7/96, FR vol. 61, no. 46, p. 9236; 1/8/98, FR vol. 63, no. 5, p. 1269; 3/23/99, FR vol. 64, no. 55, p. 13909; amended with AO 3-2003, removed (c), and Oregon note added, f. and ef. 4/21/03.

(2) 29 CFR 1910.95 Occupational Noise Exposure, published 6/27/74, Federal Register, vol. 30, p. 23502; amended 1/16/81, FR vol. 46, p. 4161; 12/29/81, FR vol. 46, p. 62845; 3/8/83, FR vol. 48, p. 9776; 6/28/83, FR vol. 48, p. 29687; 6/7/89, FR vol. 54, p. 24333; 3/7/96, FR vol. 61, no. 46, p. 9236; 4/3/06, FR vol. 71, no. 63, p. 16669.

NOTE: 29 CFR 1910.96 Ionizing radiation, has been redesignated to 29 CFR 1910.1096.

(3) 29 CFR 1910.97 Nonionizing radiation, published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, FR vol. 61, no. 46, p. 9236.

(4) 29 CFR 1910.98 Effective dates, published 6/27/74, Federal Register, vol. 39, p. 23502.

(5) 29 CFR 1910.99 Sources of standards, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 5/28/75, FR vol. 40, p. 23073; 6/11/82, FR vol. 47, p. 25323; 3/7/96, FR vol. 61, no. 46, p. 9236.

(6) 29 CFR 1910.100 Standards organization, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 4/18/75, FR vol. 40, p. 18426; 6/30/93, FR vol. 58, no. 124, p. 35309; 3/7/96, FR vol. 61, no. 46, p. 9236.

NOTE: These standards are on file with the 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.: OSHA 2-1992, f. 2-6-92, cert. ef. 5-1-92; OSHA 4-1993, f. 4-1-93, cert. ef. 5-1-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 8-1999, f. & cert. ef. 8-6-99; OSHA 3-2003, f. & cert. ef. 4-21-03; OSHA 4-2006, f. & cert. ef. 7-24-06

437-002-0100

Adoption by Reference

In addition to and not in lieu of any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/02, and any subsequent amendments published in the Federal Register as listed below:

(1) 29 CFR 1910.101 Compressed gases (General requirements), published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, FR vol. 61, no. 46, p. 9236.

(2) 29 CFR 1910.102 Acetylene, published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, FR vol. 61, no. 46, p. 9236.

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(3) 29 CFR 1910.103 Hydrogen, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49746; 4/12/88, FR vol. 53, p. 12121; 8/6/90, FR vol. 55, no. 151, p. 32015; 6/30/93, FR vol. 58, no. 124, p. 35309; 3/7/96, FR vol. 61, no. 46, p. 9236.

(4) 29 CFR 1910.104 Oxygen, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49746; 3/7/96, FR vol. 61, no. 46, p. 9237.

(5) 29 CFR 1910.105 Nitrous oxide, published 6/27/74, Federal Register, vol. 39, p. 23502; 3/7/96, FR vol. 61, no. 46, p. 9237.

(6) 29 CFR 1910.106 Flammable and combustible liquids, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 1/27/75, FR vol. 40, p. 3982; 6/2/75, FR vol. 40, p. 23743; 10/24/78, FR vol. 43, p. 49746; 11/7/78, FR vol. 43, p. 51759; 9/7/82, FR vol. 47, p. 39164; 9/12/86, FR vol. 51, p. 34560; 4/12/88, FR vol. 53, p. 12121; 8/6/90, FR vol. 55, no. 151, p. 32015; 3/7/96, FR vol. 61, no. 46, p. 9237; 9/13/05, FR vol. 70, no. 176, p. 53925.

(7) 29 CFR 1910.107 Spray finishing using flammable and combustible materials, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 9/12/80, FR vol. 45, p. 60704; 2/10/84, FR vol. 49, p. 5322; 4/12/88, FR vol. 53, p. 12121; 3/7/96, FR vol. 61, no. 46, p. 9237; amended with AO 3-2003, removed 1910.107, and Oregon note added, f. and ef. 4/21/03.

(8) 29 CFR 1910.108 Reserved. Published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(9) 29 CFR 1910.109 Explosives and blasting agents, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49747; 9/12/80, FR vol. 45, p. 60704; 4/12/88, FR vol. 53, p. 12122; 2/24/92, FR vol. 57, no. 36, p. 6403; 3/29/93, FR vol. 58, no. 58, p. 16496; 6/30/93, FR vol. 58, no. 124, p. 35309; 3/7/96, FR vol. 61, no. 46, p. 9237; 6/18/98, FR vol. 63, no. 117, p. 33466.

(10) 29 CFR 1910.110 Storage and handling of liquefied petroleum gases, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49747; 2/10/84, FR vol. 49, p. 5322; 4/12/88, FR vol. 53, p. 12122; 6/20/90, FR vol. 55, p. 25094; 8/6/90, FR vol. 55, no. 151, p. 32015; 3/19/93, FR vol. 58, no. 52, p. 15089; 6/30/93, FR vol. 58, no. 124, p. 35309; 3/7/96, FR vol. 61, no. 46, p. 9237; 6/18/98, FR vol. 63, no. 117, p. 33466.

(11) 29 CFR 1910.111 Storage and handling of anhydrous ammonia, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49748; 2/10/84, FR vol. 49, p. 5322; 4/12/88, FR vol. 53, p. 12122; 3/7/96, FR vol. 61, no. 46, p. 9238; 1/8/98, FR vol. 63, no. 5, p. 1269; 6/18/98, FR vol. 63, no. 117, p. 33466; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(12) Reserved for 29 CFR 1910.112 (Reserved)

(13) Reserved for 29 CFR 1910.113 (Reserved)

(14) 29 CFR 1910.114 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(15) 29 CFR 1910.115 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(16) 29 CFR 1910.116 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(17) 29 CFR 1910.119 Process safety management of highly hazardous chemicals, published 2/24/92, Federal Register, vol. 57, no. 36, pp. 6403-6417; amended 3/4/92, FR vol. 57, no. 43, p. 7847; 6/1/92, FR vol. 57, no. 105, pp. 23060-1. (NOTE: Excepted rules adopted by reference by OR-OSHA by Admin. Order 6-1994 on 9/30/94.) Amended 3/7/96, FR vol. 61, no. 46, p. 9238; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(18) 29 CFR 1910.120 Hazardous waste operations and emergency response, Interim Final Rules, published 12/19/86, Federal Register, vol. 51, no. 244, pp. 45663-45675; and amended 5/5/87, FR vol. 52, no. 85, pp. 16241-16243. Final Rules were published 3/6/89, FR vol. 54, no. 42, pp. 9294-9335; amended 4/13/90, FR vol. 55, no. 72, pp. 14072-14075; 4/18/91, FR vol. 56, no. 75, pp. 15832-15833; amended 8/22/94, FR vol. 59, no. 161, pp. 43270-43275; 3/7/96, FR vol. 61, no. 46, p. 9238; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01; 4/3/06, FR vol. 71, no. 63, p. 16669.

(19) 29 CFR 1910.121 Reserved. Published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(20) 29 CFR 1910.122 Table of contents, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(21) 29 CFR 1910.123 Dipping and coating operations: Coverage and definitions, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(22) 29 CFR 1910.124 General requirements for dipping and coating operations, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909;

amended with AO 4-2002, repeal (g)(2), and Oregon note added, f. and ef. 5/30/02.

(23) 29 CFR 1910.125 Additional requirements for dipping and coating operations that use flammable or combustible liquids, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13910.

(24) 29 CFR 1910.126 Additional requirements for special dipping and coating applications, published 3/23/99, Federal Register, vol. 64, no. 55, p. 13911.

NOTE: These standards are on file with the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the **United States Government Printing Office**.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 19-1988, f. & ef. 11-17-88; APD 12-1989, f. & ef. 7-14-89; OSHA 22-1990, f. 9-28-90, cert. ef. 10-1-90; OSHA 3-1992, f. & cert. ef. 2-6-92; OSHA 3-1993, f. & cert. ef. 2-23-93; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 8-1999, f. & cert. ef. 8-6-99; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 4-2002, f. & cert. ef. 5-30-02; OSHA 3-2003, f. & cert. ef. 4-21-03; OSHA 4-2004, f. & cert. ef. 9-15-04; OSHA 4-2005, f. & cert. ef. 12-14-05; OSHA 4-2006, f. & cert. ef. 7-24-06

437-002-0120

Adoption by Reference

In addition to and not in lieu of any other health and safety codes contained in OAR Chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/03, and any subsequent amendments published in the Federal Register and listed below:

(1) 29 CFR 1910.132 General requirements, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 6/30/93, FR vol. 58, no. 124, p. 35306; 4/6/94, FR vol. 59, no. 66, p. 16360; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(2) 29 CFR 1910.133 Eye and face protection, published 6/27/74, Federal Register, vol. 39, p. 23502; 4/6/94, FR vol. 59, no. 66, p. 16360; 3/7/96, FR vol. 61, no. 46, p. 9236; 5/2/96, FR vol. 61, p. 19547.

(3) 29 CFR 1910.134 Respiratory protection, published 1/8/98, Federal Register, vol. 63, no. 5, p. 1270; 4/23/98, FR vol. 63, no. 78, p. 20098; 8/4/04, FR vol. 69, p. 46986; 4/3/06, FR vol. 71, no. 63, p. 16669.

(4) 29 CFR 1910.135 Occupational head protection, published 4/6/94, Federal Register, vol. 59, no. 66, p. 16362; 3/7/96, FR vol. 61, no. 46, p. 9238; 5/2/96, FR vol. 61, p. 19547.

(5) 29 CFR 1910.136 Occupational foot protection, published 4/6/94, Federal Register, vol. 59, no. 66, p. 16362; 3/7/96, FR vol. 61, no. 46, p. 9238; 5/2/96, FR vol. 61, p. 19547; 5/9/96, FR vol. 61, p. 21228.

(6) 29 CFR 1910.137 Electrical protective equipment, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 1/31/94, FR vol. 59, no. 20, pp. 4435-7.

(7) 29 CFR 1910.138 Hand Protection, published 4/6/94, Federal Register, vol. 59, no. 66, p. 16362.

(8) 29 CFR 1910.139 Respiratory protection for M. tuberculosis, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 10/24/78, FR vol. 43, p. 49748; 2/10/84, FR vol. 49, p. 5322; 4/30/84, FR vol. 49, p. 18295; 6/30/93, FR vol. 58, no. 124, p. 35309; 1/8/98, FR vol. 63, no. 5, p. 1270. Removed, 12/3/03, FR vol. 68, p. 75776-75780 (OR-OSHA Admin. Order 1-2004, f. 3/26/04, ef. 7/1/04).

(9) Appendices. **Appendix A** – References for further information (nonmandatory). **Appendix B** – Nonmandatory compliance guidelines for hazard assessment and personal protective equipment selection.

NOTE: These standards are available from the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services; and the **United States Government Printing Office**.

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

[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 9-1993, f. 7-29-93, cert. ef. 9-15-93; OSHA 3-1994, f. & cert. ef. 8-1-94; OSHA 3-1997, f. & cert. ef. 3-28-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 1-2004, f. 3-26-04, cert. ef. 7-1-04; OSHA 5-2004, f. & cert. ef. 11-19-04; OSHA 4-2006, f. & cert. ef. 7-24-06

437-002-0220

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/03, and any subsequent amendments published in the Federal Register as listed below:

(1) 29 CFR 1910.176 Handling materials — general, published 6/27/74, Federal Register, vol. 39, p. 23052; amended 10/24/78, FR vol. 43, p. 49749.

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(2) 29 CFR 1910.177 Servicing of multi-piece and single piece rim wheels; published 1/29/80, Federal Register, vol. 45, no. 20, pp. 6713-6716; amended 2/3/84, FR vol. 49, no. 24, pp. 4350-5352; amended 9/8/88, FR vol. 53, no. 174, pg. 34737; amended 3/7/96, FR vol. 61, no. 46, p. 9239; amended by AO 12-2001, reference change in Appendix B, f. and ef. 10/26/01.

(3) 29 CFR 1910.178 Powered industrial trucks, published 6/27/74, Federal Register, vol. 39, p. 23052; amended 5/28/75, FR vol. 40, p. 23073; 10/24/78, FR vol. 43, p. 49749; 2/10/84, FR vol. 49, p. 5322; 4/12/88, FR vol. 53, p. 12122; 8/6/90, FR vol. 55, p. 32015; 3/7/96, FR vol. 61, no. 46, p. 9239; 12/1/98, FR vol. 63, no. 230, p. 66270; amended by AO 12-2001, Oregon note added, f. and ef. 10/26/01; 6/2/03, FR vol. 68, no. 105, pg. 32637; 4/3/06, FR vol. 71, no. 63, p. 16669.

(4) 29 CFR 1910.179 Overhead and gantry cranes, published 10/18/72, Federal Register, vol. 37, p. 22102; amended 6/1/73, FR vol. 38, p. 14373; 10/24/78, FR vol. 43, p. 49750; 2/10/84, FR vol. 49, p. 5323; 9/29/86, FR vol. 51, p. 34561; 4/12/88, FR vol. 53, p. 12122; 8/6/90, FR vol. 55, p. 32015; 3/7/96, FR vol. 61, no. 46, p. 9239.

(5) 29 CFR 1910.180 Crawler, locomotive and truck cranes, published 4/27/74, Federal Register, vol. 39, p. 23502; amended 2/10/84, FR vol. 49, p. 5323; 9/29/86, FR vol. 51, p. 35561; 4/12/88, FR vol. 53, p. 12122; 8/6/90, FR vol. 55, p. 32015; 3/7/96, FR vol. 61, no. 46, p. 9239.

(6) 29 CFR 1910.181 Derricks, published 10/18/72, Federal Register, vol. 37, p. 22120; amended 6/1/73, FR vol. 38, p. 14373; 10/24/78, FR vol. 43, p. 49750; 2/10/84, FR vol. 49, p. 5323; 9/29/86, FR vol. 51, p. 34561; 4/12/88, FR vol. 53, p. 12122; 8/6/90, FR vol. 55, p. 32015; 3/7/96, FR vol. 61, no. 46, p. 9240.

(7) 29 CFR 1910.182 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9240.

(8) 29 CFR 1910.183 Helicopters, published 6/27/75, Federal Register, vol. 40, p. 27369; amended 7/28/75, FR vol. 40, p. 31598; 3/30/76, FR vol. 41, p. 13353; 6/18/98, FR vol. 63, no. 117, p. 33467.

(9) 29 CFR 1910.184 Slings, published 6/27/75, Federal Register, vol. 40, p. 27369; amended 7/28/75, FR vol. 40, p. 31598; 3/30/76, FR vol. 41, p. 13353; 6/30/93, FR vol. 58, no. 124, p. 35309; 3/7/96, FR vol. 61, no. 46, p. 9240.

(10) 29 CFR 1910.189 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9240.

(11) 29 CFR 1910.190 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9240.

NOTE: These rules are on file at the Oregon Occupational Safety and Health Division, 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.: OSHA 13-1993, f. 8-20-93, cert. ef. 11-1-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 7-2003, f. & cert. ef. 12-5-03; OSHA 4-2006, f. & cert. ef. 7-24-06

437-002-0340

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/03, and any subsequent amendments published in the Federal Register as listed below:

(1) 29 CFR 1910.401 Scope and application, published 7/22/77, Federal Register, vol. 42, p. 37668; amended 11/26/82, FR vol. 47, p. 53365; amended 2/17/04, FR vol. 69, p. 7351.

(2) 29 CFR 1910.402 Definitions, published 7/22/77, Federal Register, vol. 42, p. 37668; amended 11/26/82, FR vol. 47, p. 53365; amended 2/17/04, FR vol. 69, p. 7351.

(3) 29 CFR 1910.410 Qualification of dive team, published 7/22/77, Federal Register, vol. 42, p. 37668.

(4) 29 CFR 1910.420 Safe practices manual, published 7/22/77, Federal Register, vol. 42, p. 37668; amended 4/30/84, FR vol. 49, p. 18295.

(5) 29 CFR 1910.421 Pre-dive procedures, published 7/22/77, Federal Register, vol. 42, p. 37668; amended 4/6/82, FR vol. 47, p. 14706; 6/7/89, FR vol. 54, p. 24334.

(6) 29 CFR 1910.422 Procedures during dive, published 7/22/77, Federal Register, vol. 42, p. 37668.

(7) 29 CFR 1910.423 Post-dive procedures, published 7/22/77, Federal Register, vol. 42, p. 37668; amended 4/30/84, FR vol. 49, p. 18295.

(8) 29 CFR 1910.424 SCUBA diving, published 7/22/77, Federal Register, vol. 42, p. 37668.

(9) 29 CFR 1910.425 Surface-supplied air diving, published 7/22/77, Federal Register, vol. 42, p. 37668.

(10) 29 CFR 1910.426 Mixed-gas diving, published 7/22/77, Federal Register, vol. 42, p. 37668.

(11) 29 CFR 1910.427 Liveboating, published 7/22/77, Federal Register, vol. 42, p. 37668.

(12) 29 CFR 1910.430 Equipment, published 6/27/74, Federal Register, vol. 39, p. 23502; amended 4/30/84, FR vol. 49, p. 18295; 9/18/88, FR vol. 51, p. 33033.

(13) 29 CFR 1910.440 Recordkeeping requirements, published 7/22/77, Federal Register, vol. 42, p. 37668; amended 5/23/80, FR vol. 45, p. 35281; 4/6/82, FR vol. 47, p. 14706; 9/29/86, FR vol. 51, p. 34562; 3/7/96, FR vol. 61, no. 46, p. 9242; 4/3/06, FR vol. 71, no. 63, p. 16669.

(14) 29 CFR 1910.441 Effective date, published 7/22/77, Federal Register, vol. 42, p. 37668; 4/3/06, FR vol. 71, no. 63, p. 16669.

(15) 29 CFR 1910, Appendix A to Subdivision T, Examples of conditions which may restrict or limit exposures to hyperbaric conditions, published 7/22/77, Federal Register, vol. 42, p. 37668.

(16) 29 CFR 1910, Appendix B to Subdivision T, Guidelines for scientific diving, published 1/9/85, Federal Register, vol. 50, p. 1050.

(17) 29 CFR 1910, Appendix C to Subdivision T, Alternative Conditions under sec.1910.401(a)(3) for Recreational Diving Instructors and Diving Guides (Mandatory), published 2/17/04, Federal Register, vol. 69, p. 7351.

NOTE: These standards are on file 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.: OSHA 5-1993, f. 5-3-93, cert. ef. 6-1-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 2-2004, f& cert. ef. 5-20-04; OSHA 4-2006, f. & cert. ef. 7-24-06

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 sec.1910.1003, 13 Carcinogens.

(6) Reserved for 29 CFR 1910.1005.

(7) 29 CFR 1910.1006 See sec.1910.1003, 13 Carcinogens.

(8) 29 CFR 1910.1007 See sec.1910.1003, 13 Carcinogens.

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- (9) 29 CFR 1910.1008 See sec.1910.1003, 13 Carcinogens.
- (10) 29 CFR 1910.1009 See sec.1910.1003, 13 Carcinogens.
- (11) 29 CFR 1910.1010 See sec.1910.1003, 13 Carcinogens.
- (12) 29 CFR 1910.1011 See sec.1910.1003, 13 Carcinogens.
- (13) 29 CFR 1910.1012 See sec.1910.1003, 13 Carcinogens.
- (14) 29 CFR 1910.1013 See sec.1910.1003, 13 Carcinogens.
- (15) 29 CFR 1910.1014 See sec.1910.1003, 13 Carcinogens.
- (16) 29 CFR 1910.1015 See sec.1910.1003, 13 Carcinogens.
- (17) 29 CFR 1910.1016 See sec.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 1910.1027 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.
- (23) 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.
- (24) 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.
- (25) 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.
- (26) 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.
- (27) 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.
- (28) 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.
- (29) 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.
- (30) 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.
- (31) 29 CFR 1910.1050 Methylenedianiline (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.
- (32) 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.
- (33) 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.
- (34) 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.
- (35) 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.
- (36) 29 CFR 1910.1201 Retention of DOT Markings, Placards and Labels, published 7/19/94, Federal Register, vol. 59, p. 36700.
- (37) 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.
- (38) 29 CFR 1910.1499 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9245.
- (39) 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. & cert. ef. 4-25-91; OSHA 13-1991, f. & cert. ef. 10-10-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 1-1992, f. & cert. ef. 1-22-92; OSHA 4-1992, f. & cert. ef. 4-16-92; OSHA 5-1992, f. 4-24-92, cert. ef. 7-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 9-1992(Temp), f. & cert. ef. 9-24-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 12-1992, f. & cert. ef. 10-13-92; OSHA 14-1992, f. & cert. ef. 12-7-92; OSHA 15-1992, f. & cert. ef. 12-30-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 6-1993(Temp), f. & cert. ef. 5-17-93; OSHA 12-1993, f. 8-20-93, cert. ef. 11-1-93; OSHA 17-1993, f. & cert. ef. 11-15-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA

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5-1995, f. & cert. ef. 4-6-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 4-1996, f. & cert. ef. 9-13-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 8-1997, f. & cert. ef. 11-14-97; OSHA 1-1998, f. & cert. ef. 2-13-98; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 1-1999, f. & cert. ef. 3-22-99; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-2001, f. & cert. ef. 5-15-01; OSHA 10-2001, f. 9-14-01, cert. ef. 10-18-01; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 4-2006, f. & cert. ef. 7-24-06

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.

(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, sec.1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as sec.1926.1101, Asbestos, and sec.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 sec.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.

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(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.

(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;

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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.

(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 sec.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 sec.1926.757(a)(10) and sec.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 sec.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;

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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 sec.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 sec.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 sec.1926.502: Nonmandatory Guidelines for Complying with sec.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 sec.1926.756(c)(1), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(19) Subdivision S — UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR

(a) 29 CFR 1926.800 Tunnels and shafts, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940. Underground Construction, published 6/2/89, FR vol. 54, no. 105, p. 23824; 1/8/98, FR vol. 63, no. 5, p. 1297.

(b) 29 CFR 1926.801 Caissons, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.802 Cofferdams, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.803 Compressed air, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.

(e) 29 CFR 1926.804 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) Appendix A to Subpart S Decompression Tables, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(20) Subdivision T — DEMOLITION:

(a) 29 CFR 1926.850 Preparatory operations, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.852 Chutes, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.853 Removal of materials through floor openings, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.855 Manual removal of floors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.857 Storage, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.858 Removal of steel construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.859 Mechanical demolition, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.860 Selective demolition by explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(21) Subdivision U — BLASTING AND USE OF EXPLOSIVES

(a) 29 CFR 1926.900 General provisions, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.901 Blaster qualifications, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.902 Surface transportation of explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35311.

(d) 29 CFR 1926.903 Underground transportation of explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35311.

(f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35184.

(g) 29 CFR 1926.906 Initiation of explosive charges – electric blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469.

(h) 29 CFR 1926.907 Use of safety fuse, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.908 Use of detonating cord, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.909 Firing the blast, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.910 Inspection after blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(l) 29 CFR 1926.911 Misfires, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(m) 29 CFR 1926.912 Underwater blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(o) 29 CFR 1926.914 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.

(22) Subdivision V — POWER TRANSMISSION AND DISTRIBUTION

(a) 29 CFR 1926.950 General requirements, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.951 Tools and protective equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.952 Mechanical equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.953 Material handling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.954 Grounding for protection of employees, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.955 Overhead lines, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.956 Underground lines, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.957 Construction in energized substations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.958 External load helicopters, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.959 Lineman's body belts, safety straps, and lanyards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.960 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(23) Subdivision W — ROLLOVER PROTECTIVE STRUCTURES: OVERHEAD PROTECTION

(a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.

(d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.

(24) Subdivision X — STAIRWAYS AND LADDERS

(a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 11/14/90, Federal Register, vol. 55, no. 220, p. 47687; amended 1/23/91, FR vol. 56, no. 15, p. 2585; 6/30/93, FR vol. 58, no. 124, p. 35184.

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(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 1926.1127 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.

(c) 29 CFR 1926.1152 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619; 10/20/97, FR vol. 62, p. 54382; 12/18/97, FR vol. 62, no. 243, p. 66275.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the **United States Government Printing Office**.

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

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 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. 7-24-06

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.

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(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.

(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:

(a) 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;

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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-Nitrophenyl, 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.

(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 1915.1027. 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.

(w) 29 CFR 1915.1028. Benzene, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(x) 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.

(y) 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.

(z) 29 CFR 1915.1045. Acrylonitrile, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(aa) 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.

(bb) 29 CFR 1915.1048. Formaldehyde, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(cc) 29 CFR 1915.1050. Methylenedianiline, published 7/1/93, FR vol. 58, no. 125, p. 35514; 6/20/96, FR vol. 61, p. 31427.

(dd) 29 CFR 1915.1052 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619.

(ee) 29 CFR 1915.1120 Access to employee exposure and medical records has been redesignated to sec.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.

(ff) 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.

(gg) 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. 7-24-06

Rule Caption: Adoption of Federal OSHA changes to Roll-Over Protective Structures (ROPS) in Construction.

Adm. Order No.: OSHA 5-2006

Filed with Sec. of State: 8-7-2006

Certified to be Effective: 1-1-07

Notice Publication Date: 6-1-06

Rules Amended: 437-003-0001

Subject: Oregon OSHA adopted Federal OSHA amendments to Roll-Over Protective Structures (ROPS) in Construction as they appear in the Federal Registers dated December 29, 2005, February 28, 2006, and July 20, 2006 (minor corrections and technical amendments). This rulemaking reinstates the original construction standards that had been replaced in 1996 with references to national consensus standards for testing ROPS. This is in Oregon's Division 3/W, effecting 1926.1002, 1926.1003, and adds a new Appendix A that contains the graphics.

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

There is a delayed effect date in Oregon of January 1, 2007.

Please visit OR-OSHA's web site at www.orsosha.org

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-003-0001

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR chapter 437, the Department adopts by reference the following federal rules as printed in the Code of Federal Regulations, 29 CFR 1926, revised as of 7/1/99, 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.

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(d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(2) Subdivision B — GENERAL INTERPRETATIONS

(a) 29 CFR 1926.10 Scope of subpart, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.13 Interpretation of statutory terms, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.16 Rules of construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(3) Subdivision C — GENERAL SAFETY AND HEALTH PROVISIONS

(a) 29 CFR 1926.20 General safety and health provisions, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.21 Safety training and education, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved).

(d) 29 CFR 1926.23 First aid and medical attention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.24 Fire protection and prevention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.25 Housekeeping, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.26 Illumination, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.27 Sanitation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.28 Personal protective equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.29 Acceptable certifications, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9249.

(l) 29 CFR 1926.31 Incorporation by reference, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9249; 6/18/98, FR vol. 63, no. 117, p. 33468.

(m) 29 CFR 1926.32 Definitions, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35078.

(n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.

(o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.

(4) Subdivision D — OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS

(a) 29 CFR 1926.50 Medical services and first aid, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469.

(b) 29 CFR 1926.51 Sanitation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35084.

(c) 29 CFR 1926.52 Occupational noise exposure, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.53 Ionizing radiation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.54 Nonionizing radiation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/17/86, FR vol. 51, p. 37007; 12/4/87, FR vol. 52, p. 46312; 11/4/96, FR vol. 61, no. 214, p. 56856; 1/10/97, FR vol. 62, no. 7, p. 1619.

(g) 29 CFR 1926.56 Illumination, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.57 Ventilation, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35099; 3/7/96, FR vol. 61, no. 46, p. 9250; 1/8/98, FR vol. 63, no. 5, p. 1295.

(i) 29 CFR 1926.58 Reserved, sec. 1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as sec. 1926.1101, Asbestos, and sec. 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, p. 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 sec. 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.

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(c) 29 CFR 1926.202 Barricades, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(d) 29 CFR 1926.203 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(8) Subdivision H — MATERIALS HANDLING, STORAGE, USE AND DISPOSAL

(a) 29 CFR 1926.250 General requirements for storage, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40729; 6/30/93, FR vol. 58, no. 124, p. 35173.

(b) 29 CFR 1926.251 Rigging equipment for material handling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35173.

(c) 29 CFR 1926.252 Disposal of waste materials, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(9) Subdivision I — TOOLS — HAND AND POWER

(a) 29 CFR 1926.300 General requirements, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35076; 3/7/96, FR vol. 61, no. 46, p. 9250.

(b) 29 CFR 1926.301 Hand tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.302 Power operated hand tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35175.

(d) 29 CFR 1926.303 Abrasive wheels and tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35175.

(e) 29 CFR 1926.304 Woodworking tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251.

(f) 29 CFR 1926.305 Jacks — lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.

(10) Subdivision J — WELDING AND CUTTING

(a) 29 CFR 1926.350 Gas welding and cutting, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35179.

(b) 29 CFR 1926.351 Arc welding and cutting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.352 Fire prevention, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35179.

(e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(11) Subdivision K — ELECTRICAL

(a) 29 CFR 1926.400 Introduction, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(b) 29 CFR 1926.401 (Reserved)

(c) 29 CFR 1926.402 Applicability, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(d) 29 CFR 1926.403 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(e) 29 CFR 1926.404 Wiring design and protection, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.

(f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(g) 29 CFR 1926.406 Specific purpose equipment and installations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(h) 29 CFR 1926.407 Hazardous (classified) locations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(i) 29 CFR 1926.408 Special systems, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(j) 29 CFR 1926.409 (Reserved)

(k) 29 CFR 1926.415 (Reserved)

(l) 29 CFR 1926.416 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335; 6/30/93, FR vol. 58, no. 124, p. 35179; 3/7/96, FR vol. 61, no. 46, p. 9251; 8/12/96, FR vol. 61, no. 156, p. 41738.

(m) 29 CFR 1926.417 Lockout and tagging of circuits, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335; 6/30/93, FR vol. 58, no. 124, p. 35181; 3/7/96, FR vol. 61, no. 46, p. 9251; 8/12/96, FR vol. 61, no. 156, p. 41739.

(n) 29 CFR 1926.418 (Reserved)

(o) 29 CFR 1926.430 (Reserved)

(p) 29 CFR 1926.431 Maintenance of equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(q) 29 CFR 1926.432 Environmental deterioration of equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(r) 29 CFR 1926.433–29 CFR 1926.440 (Reserved)

(s) 29 CFR 1926.441 Battery locations and battery charging, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(t) 29 CFR 1926.442–29 CFR 1926.448 (Reserved)

(u) 29 CFR 1926.449 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(12) Subdivision L — SCAFFOLDING

(a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/30/96, FR vol. 61, no. 170, p. 46104.

(b) 29 CFR 1926.451 General requirements, published 8/30/96, FR vol. 61, no. 170, p. 46107; 11/25/96, FR vol. 61, no. 228, p. 59831.

(c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.

(d) 29 CFR 1926.453 Aerial lifts, published 8/30/96, FR vol. 61, no. 170, p. 46116; 11/25/96, FR vol. 61, no. 228, p. 59832.

(e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.

(f) Appendix A to Subpart L Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.

(g) Appendix B to Subpart L Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.

(h) Appendix C to Subpart L List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.

(i) Appendix D to Subpart L List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.

(j) Appendix E to Subpart L Drawing and illustrations, published 8/30/96, FR vol. 61, no. 170, p. 46122; 11/25/96, FR vol. 61, no. 228, p. 59832.

(13) Subdivision M — FALL PROTECTION

(a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart. Amended 8/9/94, FR vol. 59, no. 152, p. 40730-40731; 1/18/01, FR vol. 66, no. 12, p. 5265; 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02.

(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, pp. 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, pp. 40743–40746.

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(h) Appendix D to Subpart M Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.

(14) Subdivision N — CRANES, DERRICKS, HOISTS, ELEVATORS, AND CONVEYORS

(a) 29 CFR 1926.550 Cranes and derricks, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 4/6/82, FR vol. 47, p. 14706; 8/2/88, FR vol. 53, p. 29139; 4/18/89, FR vol. 54, no. 73, p. 15405; 8/9/94, FR vol. 59, no. 152, p. 40730; 6/30/93, FR vol. 58, no. 124, p. 35183.

(b) 29 CFR 1926.551 Helicopters, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.553 Base-mounted drum hoist, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.554 Overhead hoists, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.555 Conveyors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(15) Subdivision O — MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS

(a) 29 CFR 1926.600 Equipment, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35183.

(b) 29 CFR 1926.601 Motor vehicles, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.602 Material handling equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35183; 12/1/98, FR vol. 63, no. 230, p. 66274; amended by AO 7-2003, f. 12/5/03, ef. 12/5/03.

(d) 29 CFR 1926.603 Pile driving equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.604 Site clearing, published 6/24/74, FR vol. 39, p. 22801; amended 7/22/77, FR vol. 42, p. 37674.

(f) 29 CFR 1926.605 Marine operations and equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.606 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(16) Subdivision P — EXCAVATIONS

(a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45959–45961.

(b) 29 CFR 1926.651 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45960–45961; 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.652 Requirements for protective systems, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 10/31/89, FR vol. 54, no. 209, pp. 45961–45962.

(d) Appendices A-F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962–45991.

(17) Subdivision Q — CONCRETE AND MASONRY CONSTRUCTION

(a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612; 10/18/90, FR vol. 55, no. 202, p. 42326.

(b) 29 CFR 1926.701 General requirements, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612; 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.702 Requirements for equipment and tools, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/16/88, FR vol. 53, p. 22612.

(d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.

(e) 29 CFR 1926.704 Requirements for precast concrete, published 6/16/88, FR vol. 53, p. 22612; amended 10/5/89, FR vol. 54, no. 192, p. 41088.

(f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 6/16/88, FR vol. 53, p. 22612; amended 10/18/90, FR vol. 55, no. 202, p. 42326.

(g) Appendix A to 1926.705 Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.

(18) Subdivision R — STEEL ERECTION

(a) 29 CFR 1926.750 Scope, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(b) 29 CFR 1926.751 Definitions, published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, 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 sec. 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 sec. 1926.757(a)(10) and sec. 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 sec. 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 sec. 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 sec. 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 sec. 1926.502: Nonmandatory Guidelines for Complying with Complying with sec. 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

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Guidelines for Complying with Complying with sec. 1926.756(c)(1), published 1/18/01, Federal Register, vol. 66, no. 12, p. 5265; amended 7/17/01, FR vol. 66, no. 137, p. 37137.

(19) Subdivision S — UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR

(a) 29 CFR 1926.800 Tunnels and shafts, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940. Underground Construction, published 6/2/89, FR vol. 54, no. 105, p. 23824; 1/8/98, FR vol. 63, no. 5, p. 1297.

(b) 29 CFR 1926.801 Caissons, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.802 Cofferdams, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.803 Compressed air, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 7/11/86, FR vol. 51, p. 25318.

(e) 29 CFR 1926.804 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) Appendix A to Subpart S Decompression Tables, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(20) Subdivision T — DEMOLITION

(a) 29 CFR 1926.850 Preparatory operations, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.852 Chutes, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.853 Removal of materials through floor openings, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.855 Manual removal of floors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.857 Storage, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.858 Removal of steel construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.859 Mechanical demolition, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.860 Selective demolition by explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(21) Subdivision U — BLASTING AND USE OF EXPLOSIVES

(a) 29 CFR 1926.900 General provisions, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.901 Blaster qualifications, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.902 Surface transportation of explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35311.

(d) 29 CFR 1926.903 Underground transportation of explosives, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35311.

(f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35184.

(g) 29 CFR 1926.906 Initiation of explosive charges—electric blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/18/98, FR vol. 63, no. 117, p. 33469.

(h) 29 CFR 1926.907 Use of safety fuse, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.908 Use of detonating cord, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.909 Firing the blast, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.910 Inspection after blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(l) 29 CFR 1926.911 Misfires, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(m) 29 CFR 1926.912 Underwater blasting, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(o) 29 CFR 1926.914 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.

(22) Subdivision V — POWER TRANSMISSION AND DISTRIBUTION

(a) 29 CFR 1926.950 General requirements, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.951 Tools and protective equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.952 Mechanical equipment, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.953 Material handling, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.954 Grounding for protection of employees, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.955 Overhead lines, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.956 Underground lines, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.957 Construction in energized substations, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.958 External load helicopters, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.959 Lineman's body belts, safety straps, and lanyards, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.960 Definitions applicable to this subpart, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(23) Subdivision W — ROLLOVER PROTECTIVE STRUCTURES: OVERHEAD PROTECTION

(a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 2/9/79, Federal Register, vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 2/9/79, FR vol. 44, p. 8577; amended 4/6/79, FR vol. 44, p. 20940; 3/7/96, FR vol. 61, no. 46, p. 9251; 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.

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(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. 4113–62; 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 1926.1127 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.

(c) 29 CFR 1926.1152 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619; 10/20/97, FR vol. 62, p. 54382; 12/18/97, FR vol. 62, no. 243, p. 66275.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001–654.295

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 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

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

Rule Caption: Promulgation of temporary disability standards to address the impairment of individual injured workers.

Adm. Order No.: WCD 6-2006(Temp)

Filed with Sec. of State: 7-17-2006

Certified to be Effective: 7-17-06 thru 1-12-07

Notice Publication Date:

Rules Amended: 436-035-0500

Subject: Promulgation of temporary disability standards to address the impairment of an individual injured worker in WCD files AAP-4748 and H99-0974.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-035-0500

Temporary Rules Promulgation for Individual Claims

(1) This rule applies to the rating of permanent disability under Chapter 656 in individual cases under ORS 656.726(4)(f) which requires the director to stay the reconsideration proceeding and adopt temporary rules in cases where the director finds that the worker's impairment is not addressed in the disability standards.

(2) Temporary rules promulgated under ORS 656.726(4)(f) will be incorporated by reference to the Workers' Compensation Division claim file number and will be applicable solely to the rating of that claim. The temporary rule will be effective upon filing with the Secretary of State and elapse 180 days thereafter under ORS 183.335(6)(a).

(3) Notice of adoption of temporary rules will be given by mailing a copy of the temporary rule to the affected parties and to others as provided

in OAR 436-001-0000(3). AAP-4748 As a result of the accepted vaginal prolapse the worker experiences a loss of function due to permanent damage to the vaginal wall and work restrictions which necessitate a reduction in the strength/lifting category of the job at the time of injury. The standards do not address this loss of function in the vaginal wall. The Director finds this loss of function similar to the loss experienced with permanent damage to the abdominal wall and resulting work restrictions which necessitate a reduction in the strength/lifting category of the job at the time of injury and assigns an impairment value of 5% of the genitourinary system. See OAR 436-035-0375. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. AAP-4748.H99-0974 As a result of the accepted right radius fracture, right hand laceration and right ulna fracture the worker has a loss of grip strength due to permanent damage to the muscles in the right hand/forearm which impair the workers ability to flex the fingers and thumb. These muscles are innervated by the median, ulnar and radial nerves located in the right hand/forearm. The Director assigns an impairment value of 12% of the right hand/forearm for this loss of grip strength. See OAR 436-035-0110(8). This value shall be combined with any other applicable impairment values for the involved right hand/forearm. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H99-0974.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.005, 656.214, 656.268 & 656.726

Hist.: WCD 16-1992(Temp), Case #A58-7576 & Case #D60-5352, f. & ef. 12-31-92 - 6-29-93; WCD 2-1993(Temp), Case #A58-2159, B59-4533, E61-4228, & 159-2031, f. & ef. 4-28-93 - 10-25-93; WCD 4-1993, f. & cert. ef. 6-29-93; WCD 5-1993(Temp), Case #164-3064, f. & cert. ef. 9-2-93 - 3-2-94; WCD 6-1993(Temp), Case #164-3064, f. & cert. ef. 10-22-93 - 4-19-94; WCD 4-1994(Temp), f. & cert. ef. 5-26-94; WCD 6-1994(Temp), f. & cert. ef. 7-15-94; WCD 8-1994(Temp), f. & cert. ef. 8-31-94; WCD 11-1994(Temp), f. & cert. ef. 11-10-94; WCD 1-1995(Temp), f. & cert. ef. 1-26-95; WCD 2-1995(Temp), f. & cert. ef. 3-2-95; WCD 3-1995(Temp), f. & cert. ef. 4-13-95; WCD 4-1995(Temp), f. & cert. ef. 5-31-95; WCD 5-1995(Temp), f. & cert. ef. 7-11-95; WCD 14-1995(Temp), f. & cert. ef. 10-5-95; WCD 16-1995(Temp), f. & cert. ef. 11-2-95; WCD 19-1995(Temp), f. & cert. ef. 12-7-95; WCD 4-1996(Temp), f. & cert. ef. 2-1-96; WCD 11-1996(Temp), f. & cert. ef. 3-20-96; WCD 15-1996(Temp), f. & cert. ef. 7-3-96; WCD 18-1996, f. 8-6-96, cert. ef. 8-7-96; WCD 22-1996(Temp), f. & cert. ef. 10-31-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 2-1997(Temp), f. & cert. ef. 1-15-97; WCD 3-1997(Temp), f. 3-12-97, cert. ef. 3-13-97; WCD 6-1997(Temp), f. & cert. ef. 5-14-97; WCD 12-1997(Temp), f. & cert. ef. 9-9-97; WCD 4-1998(Temp), f. & cert. ef. 3-31-98 thru 9-26-98; WCD 7-1998(Temp), f. 7-13-98, cert. ef. 7-15-98 thru 1-11-99; WCD 9-1998(Temp), f. & cert. ef. 10-15-98 thru 4-12-99; WCD 1-1999(Temp), f. 1-12-99, cert. ef. 1-15-99 thru 7-13-99; WCD 5-1999(Temp), f. & cert. ef. 4-15-99 thru 10-12-99; WCD 10-1999(Temp), f. & cert. ef. 7-15-99 thru 1-10-2000; WCD 12-1999(Temp), f. 10-14-99, cert. ef. 10-15-99 thru 4-12-00; WCD 1-2000(Temp), f. 1-12-00, cert. ef. 1-14-00 thru 7-12-00; WCD 5-2000(Temp), f. 4-13-00, cert. ef. 4-14-00 thru 10-10-00; WCD 7-2000(Temp), f. 7-14-00, cert. ef. 7-14-00 thru 1-9-01; WCD 8-2000(Temp), f. & cert. ef. 10-13-00 thru 4-10-01; WCD 1-2001(Temp), f. & cert. ef. 1-12-01 thru 7-10-01; WCD 3-2001(Temp), f. & cert. ef. 4-13-01 thru 10-9-01; WCD 6-2001(Temp), f. & cert. ef. 7-13-01 thru 1-8-02; WCD 9-2001(Temp), f. & cert. ef. 10-12-01 thru 4-9-02; WCD 1-2002(Temp), f. & cert. ef. 1-15-02 thru 7-13-02; WCD 5-2002(Temp), f. 4-12-02, cert. ef. 4-10-02 thru 10-11-02; WCD 8-2002(Temp), f. 7-12-02 cert. ef. 7-15-02 thru 1-10-03; WCD 11-2002(Temp), f. 10-11-02, cert. ef. 10-15-02 thru 4-12-03; WCD 1-2003(Temp), f. & cert. ef. 1-15-03 thru 7-13-03; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 4-2003(Temp), f. 4-14-03, cert. ef. 4-15-03 thru 10-11-03; WCD 7-2003(Temp), f. & cert. ef. 7-15-03 thru 1-10-04; WCD 1-2004(Temp), f. & cert. ef. 1-21-04 thru 7-18-04; WCD 5-2004(Temp), f. & cert. ef. 4-19-04 thru 10-15-04; WCD 7-2004(Temp), f. & cert. ef. 7-15-04 thru 1-10-05; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 3-2005(Temp), f. & cert. ef. 5-13-05 thru 11-8-05; Administrative correction 11-18-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 6-2006(Temp), f. & cert. ef. 7-17-06 thru 1-12-07

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**Department of Corrections
Chapter 291**

Rule Caption: Apprehension, Arrest and Transport of Offenders by State Parole and Probation Officers.

Adm. Order No.: DOC 5-2006

Filed with Sec. of State: 7-24-2006

Certified to be Effective: 7-24-06

Notice Publication Date: 4-1-06

Rules Adopted: 291-014-0100, 291-014-0110, 291-014-0120, 291-014-0130

Subject: Some counties have turned operation of community corrections back to the Oregon Department of Corrections. These rule amendments are necessary to establish policies for the apprehension and arrest of offenders by state parole and probation officers.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-014-0100

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: Provide community protection by the apprehension and arrest of offenders who engage in violation behavior or are subject to an

ADMINISTRATIVE RULES

arrest warrant. Arrest shall be made in the appropriate manner as prescribed by law (ORS 137.550; 144.331; 144.334, 144.350, 144.360, 144.610 and 144.613) and this rule.

Stat. Auth.: ORS 137.545, 144.350, 144.360, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.545, 144.331; 144.334, 144.350, 144.360, 144.610, 144.613, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 5-2006, f. & cert. ef. 7-24-06

291-014-0110

Definitions

(1) Arrest: To place an offender under actual or constructive restraint or to take a person into custody.

(2) Offender: Any person under supervision who is on parole, post-prison supervision, transitional leave, local control or probation status.

(3) Officer: Any state parole and probation officer certified as such by the Department of Public Safety Standards and Training (DPSST).

(4) Reasonable Grounds: Exists when facts and circumstances within the officer's knowledge are sufficient to justify a belief that a violation has occurred.

(5) Warrant: A written order made on behalf of the releasing authority, or the court, which commands the officer to arrest the offender.

Stat. Auth.: ORS 137.545, 144.350, 144.360, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.545, 144.331; 144.334, 144.350, 144.360, 144.610, 144.613, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 5-2006, f. & cert. ef. 7-24-06

291-014-0120

Arrest

(1) Any parole/probation officer who is trained annually in DPSST arrest procedures, use of restraints, less than lethal force options, and defensive tactics may make an arrest. Other specific arrest training may be substituted with approval of the local state director.

(2) When a warrant has been issued for an offender by the releasing authority or the Court, based on a violation of a release condition, the supervising officer shall cause the execution of any arrest warrant.

(3) In all other arrest cases, at least one of the following criteria must be met:

(a) Reasonable grounds that a violation(s) has occurred and is serious enough to warrant a recommendation of incarceration;

(b) The offender's behavior constitutes a real threat or danger to the community or to himself/herself.

Stat. Auth.: ORS 137.545, 144.350, 144.360, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.545, 144.331; 144.334, 144.350, 144.360, 144.610, 144.613, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 5-2006, f. & cert. ef. 7-24-06

291-014-0130

Transport

(1) Transporting officer(s) will use Department of Corrections approved vehicles.

(2) Whenever possible, transports should be conducted in caged vehicles.

(3) When transporting an offender, refer to attachment A for recommended positioning of offender(s) and officer(s).

[ED. NOTE: Attachment referenced are available from the agency.]
Stat. Auth.: ORS 137.545, 144.350, 144.360, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.545, 144.331; 144.334, 144.350, 144.360, 144.610, 144.613, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 5-2006, f. & cert. ef. 7-24-06

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Rule Caption: Parole and Probation Officer Duties.

Adm. Order No.: DOC 6-2006

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Notice Publication Date: 2-1-06

Rules Amended: 291-065-0005, 291-065-0006, 291-065-0007

Rules Repealed: 291-065-0010

Subject: The Community Corrections Act gives counties the option to directly operate community corrections rather than the Department of Corrections. Recently some counties have opted to turn operation of community corrections back to the Department of Corrections. These rule amendments are necessary to update the duties for state parole and probation officers.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-065-0005

Authority and Purpose

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.610, 137.630, 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to specify the duties of parole and probation officers of Department of Corrections, as required by ORS 137.630

Stat. Auth.: ORS 137.610, 137.630, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.610, 137.630, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 3-1982, f. & cert. ef. 1-15-82; CD 18-1985, f. & cert. ef. 8-2-85; DOC 6-2006, f. & cert. ef. 7-24-06

291-065-0006

Definitions

(1) Offender: Any person under the supervision of the Department of Corrections or a local community corrections office who is on parole, probation or post-prison supervision status.

(2) Parole and Probation Officer: An employee of the Department of Corrections whose duties and responsibilities include the supervision of offenders.

Stat. Auth.: ORS 137.610, 137.630, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.610, 137.630, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 18-1985, f. & cert. ef. 8-2-85; DOC 6-2006, f. & cert. ef. 7-24-06

291-065-0007

Duties and Assignments

(1) Among the duties of the Department of Corrections parole and probation officers articulated by statute are:

(a) To make investigation in relation to granting, revoking or modifying parole, post-prison supervision, transitional leave, local control, probation or conditional release as required by the Board of Parole and Post-Prison Supervision, courts or Department of Corrections;

(b) To provide supervisory services and interventions to persons released on parole, post-prison supervision, transitional leave, local control or probation residing in this state with the goal of reducing the probability of continued criminal behavior;

(c) To keep informed concerning conduct and conditions of such persons by visiting, requiring reports, and making collateral contacts;

(d) To make reports to the Board of Parole and Post-Prison Supervision, courts or Department of Corrections as required;

(e) Cause the execution of any arrest warrant on a person who is under supervision on parole, post-prison supervision, transitional leave, local control or probation status; and

(f) To perform such additional duties as the local state director or Department of Corrections Chief of Community Corrections may direct.

(2) The priority of duties and assignments shall be determined by the parole and probation officer's supervisor.

Stat. Auth.: ORS 137.610, 137.630, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.610, 137.630, 179.040, 423.020, 423.030 & 423.075
Hist.: CD 18-1985, f. & cert. ef. 8-2-85; DOC 6-2006, f. & cert. ef. 7-24-06

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Rule Caption: Establishing Rules for State Parole and Probation Officers to Conduct Searches.

Adm. Order No.: DOC 7-2006

Filed with Sec. of State: 7-24-2006

Certified to be Effective: 7-24-06

Notice Publication Date: 3-1-06

Rules Adopted: 291-028-0100, 291-028-0105, 291-028-0110, 291-028-0115

Subject: The Community Corrections Act gives counties the option to directly operate community corrections rather than the Department of Corrections. Recently some counties have opted to turn operation of community corrections back to the Department of Corrections. These rules are necessary to establish a uniform process for state parole and probation officer to conduct searches as authorized for protection of the public, officer and reformation of the offender.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-028-0100

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 144.404, 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to establish a safe and uniform process for conducting searches whenever a parole and probation officer

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reasonably believes such search will disclose evidence of a violation of the conditions imposed by the releasing authority.

Stat. Auth.: ORS 144.404, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 144.404 – 144.409, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 7-2006, f. & cert. ef. 7-24-06

291-028-0105

Definitions

(1) Cohabitant: Joint owner, roommate, spouse or any other party who shares a residence or any other type of property with the offender.

(2) Common Dwelling Area: The area inside a shared residence which the offender would normally be expected to use on a daily basis; e.g., bathroom, living room, kitchen. This does not include areas which are under the exclusive control of a cohabitant.

(3) Consent: Obtaining permission from an offender or a cohabitant to allow a search. The offender or cohabitant may give consent verbally, or by conduct which clearly indicates consent.

(4) Contraband: Any item or material which is prohibited by law, or by an order of the releasing authority.

(5) Lead Officer: The lead parole and probation officer designated as being in charge of the search.

(6) Offender: Any person under supervision who is on parole, post-prison supervision, transitional leave, local control and/or probation status.

(7) Officer: Any state parole or probation officer certified as such by the Department Public Safety Standards and Training (DPSST).

(8) Reasonable Grounds: Exists when facts and circumstances within the officer's knowledge are sufficient to justify a belief that a violation has occurred.

(9) Releasing Authority: The Department of Corrections, the Board of Parole and Post-Prison Supervision, local supervisory authority or the court.

(10) Search: A comprehensive inspection of the person premises, possessions and vehicles of an offender with consent from the offender or the cohabitant possessing control over the premises.

(1) Seizure: To take control and custody of an item or material.
Stat. Auth.: ORS 144.404, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 144.404 – 144.409, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 7-2006, f. & cert. ef. 7-24-06

291-028-0110

General Guidelines

(1) Searches of offenders may be conducted only in the reasonable pursuit of correctional objectives for the purposes of officer safety, protection of the public, and reformation of the offender.

(2) An offender shall be given notice at the time of review of his/her conditions of supervision that failure to give consent to a search based upon reasonable grounds may result in arrest and/or revocation.

(3) Consent to search must be given at the time of the search by the offender or cohabitant. Neither the cohabitant nor offender may consent to search property under the exclusive control of the other.

(4) The offender or cohabitant has the right to limit the areas to be searched or to withdraw their consent to search at any time during the search. If that occurs, the scope of the search shall be limited or immediately discontinued. If the offender substantially limits or withdraws consent, he/she may be arrested for violation of the search condition.

(5) A search may be conducted by a parole and probation officer or by a representative of the officer who is assisting at the officer's request.

(6) Additional consent to search vehicles or any unattached buildings must be obtained from the consenting party.

(7) Unless consent is given by the cohabitant, any search of the cohabitant's personal living quarters or vehicle shall be done by a law enforcement officer pursuant to a warrant or an exception to the warrant requirement.

(8) An officer shall direct the offender(s) to remain in an area of limited access while the search is in progress in order to preserve evidence, for the protection of search personnel, and in the event that consent to search is subsequently limited or withdrawn.

(9) Property defined as contraband, things otherwise criminally possessed or possessed in violation of supervision conditions, unclaimed goods or property taken for safekeeping may be seized during the search. Offenders shall be provided with a receipt detailing any property seized pursuant to this rule.

(10) Photographic documentation of a violation may be used as evidence.

(11) The lead officer has authority over the planning, directing and controlling of the search until such time as law enforcement action is warranted.

(12) Contraband observed in plain view during the course of a contact or prior to requesting permission to search, may be seized.

Stat. Auth.: ORS 144.404, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 144.404 – 144.409, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 7-2006, f. & cert. ef. 7-24-06

291-028-0115

Handling and Disposition of Seized Property

The handling, seizure, and disposition of property shall be done in accordance with ORS 144.404 – 144.409.

Stat. Auth.: ORS 144.404, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 144.404 – 144.409, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 7-2006, f. & cert. ef. 7-24-06

Rule Caption: Access to Department Facilities by Media Representatives.

Adm. Order No.: DOC 8-2006

Filed with Sec. of State: 8-1-2006

Certified to be Effective: 8-1-06

Notice Publication Date: 3-1-06

Rules Adopted: 291-204-0010, 291-204-0020, 291-204-0030, 291-204-0040, 291-204-0050, 291-204-0060, 291-204-0070, 291-204-0080

Subject: The department relies on a number of different rules to be permissive to allow access of media representatives to its facilities, inmates and staff. These rules establish specific policies and procedures for granting such access to media representatives and will expedite the approval process while maintaining safety and security for facilities.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-204-0010

Authority, Purpose, and Policy

(1) The authority for these rules is granted to the Director of the Oregon Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: This purpose of these rules is to establish Department policies and procedures governing access by media representatives to Department of Corrections facilities, programs, staff and inmates.

(3) Policy:

(a) The Department acknowledges the public's concern and interest in the Department's public safety role.

(b) In recognition of the media's role in reporting matters of public interest, and within the inherent limitations of resources and the need for facility security, safety and inmate rehabilitation, it is the policy of the Department to permit and facilitate access by media representatives to Department facilities, programs, inmates and staff for the purposes stated above.

(c) Interviews with designated Department inmates may be permitted with their consent. When authorized, an interview with a designated inmate is permitted neither as a matter of right nor as a privilege of the inmate or the media; rather, an interview may be approved when it is consistent with the Department's mission and goals and the safe, secure and orderly management and operation of the facility, and is not inconsistent with the inmate's correctional planning and rehabilitation.

(d) There are inherent risks associated with entering a prison. Consequently, media representatives enter Department of Corrections facilities at their own risk, and are required to comply with all security and control measures of the facility and the directions of Department staff.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
Hist.: DOC 8-2006, f. & cert. ef. 8-1-06

291-204-0020

Definitions

Definitions for OAR 291-204-0010–291-204-0080:

(1) Accredited Media Organization:

(a) A newspaper that qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of "general circulation" if it circulates among the general public and if it publishes news of a general character of general interest to the public such as news of political, religious, commercial or social affairs. A key test to determine whether a newspaper qualifies as a "general circulation" newspaper is to determine whether the paper qualifies for the purpose of publishing legal notices in the community in which it is located or the area to which it distributes.

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(b) A magazine that has a national circulation and is sold by newsstands and by mail subscription to the general public.

(c) A national or international wire service.

(d) A radio or television program whose primary purpose is to report news, of a station holding a Federal Communications Commission license.

(e) A corrections trade publication that reports on industry practices.

(f) An Internet Web site affiliated with the organizations described in sections (a)–(e) above.

(2) Credentials: Identification of an individual and his/her media affiliation.

(3) Department of Corrections (DOC) Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, an Assistant Director or an Administrator and has responsibility for the delivery of program services or coordination of program operations. In a correctional facility, the functional unit manager is the superintendent.

(5) Identifiable Inmates: With relation to photography, an inmate who is a focal or primary subject of a photograph/video. An inmate is not considered an identifiable inmate if he or she is incidental to the photo or part of a group shot.

(6) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(7) Unaffiliated persons: Freelance writers, independent filmmakers, producers, and other persons who do not meet the definition of “media representatives” in subsection (12) below.

(8) Offenders: Any person under the supervision of the Department of Corrections who is on parole, post-prison supervision, or probation status.

(9) Oregon Accountability Model: A plan that is designed to strengthen the department’s ability to hold inmates and offenders accountable for their actions and Department staff accountable for achieving the mission and vision of the Department.

(10) Public Information Officer (PIO): The person designated as the official spokesperson for a DOC facility.

(11) Media Representatives:

(a) Persons whose principal employment is with an accredited media organization;

(b) Unaffiliated persons who produce credentials or other written documentation from an accredited media organization evidencing that the media organization has contracted with the person to purchase his/her completed work or project;

(c) Unaffiliated persons who are affiliated with a Department contractor or volunteer in connection with a Department program or service; or

(d) Authors of books who produce credentials or other written documentation that a commercial publisher has contracted to purchase their completed work/project.

(12) Special Housing: Areas of facilities where inmates with special needs or custody concerns may be housed (e.g., intake, Administrative Segregation Unit, Disciplinary Segregation Unit, Special Management Unit (psychiatric), Death Row, infirmary and Intensive Management Unit). For the purposes of these rules, inmates pending assignment to special housing are considered the same as inmates already assigned to special housing.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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

291-204-0030

General Provisions Governing Media Access

(1) Media Access to Facilities and Programs: Consistent with the Department’s policy, media representatives are encouraged to visit and tour facilities and programs for the purpose of professional enhancement, observation and reporting.

(2) Media Access to Designated Inmates: Media representatives who desire contact with a designated inmate may seek to do so through correspondence, telephone or visiting. Media representatives may request a special visit to interview the inmate consistent with the provisions set forth in Media Access to Designated Inmates (OAR 291-204-0060).

(3) Media Access to Staff: Media representatives who desire access to a DOC facility to interview a staff member will generally be accommodated if the staff member and the functional unit manager consent.

(4) Media Access in the Event of an Emergency: Media may be restricted from access to facilities for security purposes, during emergencies or when access would be a disruption of operational activities. In

accordance with the Department’s rules on Release of Public Information (OAR 291-039), the Department may designate a news media center.

(5) Media Coverage of Executions: Media access to DOC facilities and staff in connection with media coverage of an execution is set forth in the Department’s rules on Capital Punishment (Death by Lethal Injection) (OAR 291-024).

(6) Media Coverage to Board of Parole and Post-Prison Supervision Hearings: Media access to Board hearings is set forth in the Department’s rules on Access to Board of Parole and Post-Prison Supervision Hearings (OAR 291-153) and the Board’s rule on Who May Appear at a Board of Parole and Post-Prison Supervision Hearing (OAR 255-030-0026).

(7) Media Access Regarding Matters that are the Subject of Pending or Anticipated Litigation: Media access for the purpose of reporting about matters that are the subject of pending or anticipated litigation is not permitted, except under OAR 291-204-0040.

(8) The Department has a responsibility to:

(a) Provide accurate and timely answers to questions that may be raised during a tour or a visit;

(b) Understand the deadline pressures of the media;

(c) Be accommodating and cooperative; and

(d) Inform media representatives of facility access safety and security procedures to ensure that visits proceed smoothly.

(9) When appropriate, the PIO may make available to the media representative(s) a staff member knowledgeable on the subject matter at hand who can provide additional background information.

(10) Upon request, the PIO will identify an appropriate inmate(s) to be interviewed if the interview is consistent with the provisions of these rules.

(11) Notwithstanding these provisions, the Department may initiate contact and provide access to media representatives or unaffiliated persons to report on its activities that further its mission, goals and the Oregon Accountability Model.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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

291-204-0040

Writing, Telephoning and Visiting an Inmate

(1) Media representatives may contact an inmate by mail. All mail must comply with the Department’s rules on Mail (Inmate) (OAR 291-131).

(2) Inmates may request that media representatives be placed on their personal call list. Phone calls may be collect. All phone calls must comply with the Department’s rules on Telephones (Inmate) (OAR 291-130).

(3) Inmates may request that media representatives be placed on their approved visiting list. Visits must comply with the Department’s rules on Visiting (Inmate) (OAR 291-127).

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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

291-204-0050

Requesting Access to Facilities and Programs

(1) The Department will accommodate requests by media representatives for access to Department facilities and programs if the access is consistent with the Department’s policies and procedures set forth in these rules. The decision whether to approve a request for media access is committed to the sole discretion of the functional unit manager.

(2) Generally, the Department requires at least 24-hour advance notice to accommodate requests for access.

(3) The Department will accommodate requests for access only during normal business hours. When a program or newsworthy event occurs outside normal business hours, access will be dependent on availability of a PIO or staff escort designed by the functional unit manager.

(4) Media representatives may arrange for tours of Department prisons in accordance with the Department’s rules on Tours (OAR 291-009).

(5) Requests for media access that, in the judgment of the functional unit manager, may jeopardize the safety and security of the facility, staff, visitors or inmates will be denied.

(6) Process to Request Access: Media representatives who desire to access a DOC facility shall contact the appropriate PIO or Public Affairs Manager. The media representative will be provided with a “Media Access Request” form (CD 204) to complete.

(7) If a request for access is authorized, the media representative(s) must submit the following information for a security check:

(a) Full name;

(b) Date of birth;

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(c) Driver license number; and

(d) List of cities and states lived in over the past five years.

(8) Once approved, the PIO will discuss with the media representative the appropriate date, time, clothing and equipment allowed in facilities and any other pertinent information.

(9) Entering the Facility: Media representatives must bring credentials and valid photo identification to be temporarily surrendered at the facility visiting desk in exchange for Department identification.

(10) Media representatives are subject to the same facility security screening policies and procedures (e.g., metal detectors) as are visitors, as set forth in the Department's rule on Visiting Security Screening and Visiting Room Protocol (OAR 291-127-0290).

(11) Media equipment is subject to Tools of the Trade (OAR 291-204-0070) and the Department's rules on Facility Access (OAR 291-016).

(12) The PIO or other designated staff will escort media representatives through the facility and be present at all times during the visit or tour.

(13) If, at any time before or during a media visit or tour, the Department determines that a potential threat to safety or security exists, the visit or tour will be suspended and the media representative(s) must comply with direction of their staff escort.

(14) Access to special housing units or sensitive areas generally will not be permitted. Exceptions may be made by the functional unit manager, in his or her sole discretion, in extraordinary circumstances.

(15) Photographs or other recordings made in a DOC facility or on other Department property requires prior authorization. Taking photographs or video of control centers or electronic security equipment is strictly prohibited.

(a) Identifiable inmates who consent to appearing in a photograph or other recordings will be required to sign a media consent form CD 297 prior to the taking of the photograph or video.

(b) Children participating in a program may be interviewed or photographed only with appropriate written consent of a parent or legal guardian.

(16) Impromptu, unscheduled interviews, video and audio recordings, or photographs of staff, inmates and others may be permitted if the individuals consent and the functional unit manager or facility PIO determine that the interview or photo opportunity would not:

(a) Unduly delay a tour;

(b) Be overly disruptive of facility or program operations;

(c) Compromise inmates' correctional plans or rehabilitation; and

(d) Would not present safety or security concerns.

(17) Any attempt by a media representative to disregard the conditions for access or directions of staff may result in immediate termination of access to the facility.

(18) Access is limited to one media outlet at a time unless the functional unit manager determines otherwise. In the event of news of great public interest, the Department encourages media to pursue pool arrangements.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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

291-204-0060

Media Access to Designated Inmates

(1) Interviews with designated Department inmates requested by the media may be approved by the functional unit manager, with the inmate's consent, if in the judgment of the functional unit manager the interview is consistent with the Department's mission and goals and the safe, secure and orderly management and operation of the facility, and is not inconsistent with the inmate's correctional planning and rehabilitation.

(2) Media interviews of designated Department inmates will be treated as special visits in accordance with the Department's rule on Special Visits (OAR 291-127-280).

(3) Interviews of Special Status Inmates:

(a) Media interviews with the following inmates generally will not be permitted:

(A) Inmates who are assigned to special housing units;

(B) Inmates who are the subject of an internal or external investigation;

(C) Inmates who are on intake status;

(D) Inmates who are on basic visiting status; and

(E) Inmates under 18 years of age.

(b) Exceptions may be made by the functional unit manager, in his or her sole discretion, in extraordinary circumstances.

(c) Media requests to interview a designated inmate who is assigned to a Special Management Unit or an Infirmary may be approved by the

functional unit manager only if the interview is also approved by the Department's attending physician, facility Correctional Treatment Services Manager or facility Health Services Manager. If approved, the interview will be conducted in a manner that protects the privacy interests of the designated inmate and other inmate patients.

(4) Interstate Compact boarders are subject generally to the media access rules, policies and directives of the sending state.

(5) Department inmates in the physical custody of the Oregon Youth Authority are subject to the media access rules, policies and directives of the Oregon Youth Authority.

(6) A media representative who desires to interview a designated Department inmate must submit an interview request in the same manner provided for requesting access to Department facilities set forth in OAR 291-204-0050 (Requesting Access to Facilities and Programs).

(7) Before an approved interview of a designated inmate is permitted to take place, the inmate must sign a media consent form (CD 297).

(8) Conduct of the Interview:

(a) The interview will take place in a designated area unless other arrangements are made in advance.

(b) The PIO may set reasonable limits for the length of the interview.

(c) Requests for interviews to be broadcast live will not be permitted.

(d) Requests for inmates to take part in a taped audience participation show generally will not be permitted. Exceptions may be made by the functional unit manager, in his or her sole discretion, in extraordinary circumstances.

(e) Other facility, program or staff access that is separate from the interview may be granted with prior approval of the PIO.

(9) Inmates may not accept compensation or remuneration for agreeing to an interview or participating in a media-related activity.

(10) Inmates may not use the media or enter into agreements with the media to pass along messages or otherwise communicate with their families, victims, coconspirators or any person other than a general reading/viewing/listening audience.

(11) Media representatives may not accompany an inmate visitor, an attorney or others on an inmate visit. Exceptions may be made by the functional unit manager, in his or her sole discretion, in extraordinary circumstances.

(12) Media representatives may not attend depositions of Department inmates conducted in a DOC facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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

291-204-0070

Tools of the Trade

(1) Media representatives granted access to a DOC facility generally will be permitted to use "tools of the trade" with the exception of privileged and basic visiting. However, the Department may limit the number and type of tools of the trade that media representatives may bring into a facility to make still and video pictures and audio recordings.

(a) All approved equipment will be searched and inventoried prior to accessing the facility. Inventories of all media equipment taken into a facility will be completed prior to access.

(b) Notebooks and writing implements will be allowed. They may be provided by the facility.

(2) Use of Electronic Communication Devices: Media representatives will not be allowed to bring into a DOC correctional facility a cell phone, pager, personal data assistant or other electronic communication device.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

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

291-204-0080

Access by Unaffiliated Persons

(1) Unaffiliated persons may request a tour of a facility in accordance with the Department's rules on Tours (OAR 291-009).

(2) Requests to interview designated inmates made by unaffiliated persons will not be permitted. Unaffiliated persons may contact an inmate by mail, receive telephone calls from an inmate, or be placed on the inmate's visiting list as provided in Writing, Telephoning and Visiting an Inmate (OAR 291-204-0040).

(3) In extraordinary circumstances the Department may, in its sole discretion, grant unaffiliated persons access to DOC facilities and programs for a specific project when, in the judgment of the Department, the requested access will substantially further the interests of the State of Oregon or the Department's mission and goals; is consistent with the safe, secure and

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orderly management and operation of the facility; and is not inconsistent with inmates' correctional planning and rehabilitation.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
Hist.: DOC 8-2006, f. & cert. ef. 8-1-06

Rule Caption: Computation of Inoperative Time for Transitional Leave Violators or Inmates on Escape Status.

Adm. Order No.: DOC 9-2006(Temp)

Filed with Sec. of State: 8-7-2006

Certified to be Effective: 8-7-06 thru 2-3-07

Notice Publication Date:

Rules Amended: 291-100-0008, 291-100-0130

Subject: These rules amendments are necessary to address calculation of inoperative time as it relates to short-term transitional leave suspensions. When determining how inoperative time should be calculated for inmates whose short-term transitional is suspended, it was necessary to bring consistency between short-term transitional leave suspensions and escapes. The rules were also amended to change how inoperative time is calculated for escapes.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-100-0008

Definitions

(1) Abscond: Unauthorized absence from parole or post-prison supervision.

(2) Commitments: A sentence of incarceration to the legal and physical custody of the Department of Corrections.

(3) Concurrent/Consecutive Ghosts: Inmates with Oregon Department of Corrections sentences who are housed in a federal or another state's jurisdiction (not physically housed in an Oregon Department of Corrections facility) and their Oregon sentence is ordered to be served either concurrently or consecutively to a sentence from the federal or other state's jurisdiction.

(4) Custodial Authority: The authority holding physical custody of the inmate, who is responsible for certifying time served while in their custody.

(5) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(6) Earned Time Credits: Sentence reduction credits that can be earned by an inmate sentenced under Sentencing Guidelines, pursuant to ORS 421.121 and the department's rule on Prison Term Modification, OAR 291-097.

(7) Escape: Unauthorized departure of an inmate from the physical or legal custody of the Department of Corrections. Escape includes "constructive escape" where an inmate has any unserved felony sentence(s) in excess of 12 months and, by no effort of the inmate, is voluntarily absent from the Department of Corrections (for example, where an inmate is released from custody after serving a local supervisory sentence despite the inmate having any unserved felony sentence(s) in excess of 12 months).

(8) Extra Good Time Credits: Sentence reduction credits that can be earned by an inmate sentenced for crimes committed prior to November 1, 1989, (Non-Sentencing Guidelines), pursuant to ORS 421.120(1)(c), (d) and (e) and 421.122, and the department's rule on Prison Term Modification, OAR 291-097.

(9) Face Sheet: Document that shows a summary of sentences for which an inmate is incarcerated by the Department of Corrections.

(10) Good Time Date: An indeterminate sentence release date calculated for inmates serving a sentence(s) for crime(s) committed prior to November 1, 1989, (Non-Sentencing Guidelines), achieved through reduction in the sentence due to granting of statutory good time and extra good time credits.

(11) Inmate: A person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(12) Inoperative Time: Time spent on abscond, escape, or unauthorized departure from custody, transitional leave, or parole or post-prison supervision, which does not count toward service of the sentence.

(13) Intake Facility: A Department of Corrections facility designated by the department to receive inmates upon commitment to the legal and physical custody of the department, and to conduct intake evaluation of the inmate, including custody classification, needs assessment and some program assessments.

(14) Jail Good Time/Work Time Credits: Time credits for good behavior and work performed as allowed for inmates in a county local correctional facility pursuant to ORS 169.110 and 169.120, which are included as time thus served toward a probation revocation sentence if certified as part of the probationary sentence.

(15) Judgment: Document issued by the court that commits an inmate to the legal and physical custody of the Department of Corrections, and reflects the inmate's sentence length, any applicable statutes, term of post-prison supervision (for crimes committed on or after November 1, 1989), and court-ordered supervision conditions, if any.

(16) Maximum Sentence Expiration Date: The very latest date that a person can be held or supervised by the department on a particular sentence.

(17) Offender: Any person under the supervision of the Department of Corrections, local supervisory authority or community corrections who is on probation, parole, or post-prison supervision status.

(18) ORS 137.635 Sentence: A determinate sentence resulting from a conviction of one or more of ten listed felony crimes (i.e., Murder, including any aggravated form of Murder, Manslaughter I, Assault I, Kidnapping I, Rape I, Sodomy I, Sexual Penetration With a Foreign Object I, Burglary I, Arson I and Robbery I), if the inmate also has a prior conviction for one or more of those ten listed felony crimes.

(19) Parole Release Date: The date on which an inmate is ordered to be released from an indeterminate prison sentence(s) to parole by the Board of Parole and Post-Prison Supervision. Parole release may be to the community, detainer or to another Department of Corrections sentence.

(20) Parole Suspension: Issuance of an arrest and detain warrant by the Board of Parole and Post-Prison Supervision which ceases the running of an inmate's parole.

(21) Parole Violator: Any person whose parole has been revoked by the Board of Parole and Post-Prison Supervision.

(22) Post-Prison Supervision: A period of community supervision ordered by the sentencing judge for offenders convicted of a crime(s) committed on or after November 1, 1989.

(23) Post-Prison Supervision Violator: Any person whose post-prison supervision has been revoked by the Board of Parole and Post-Prison Supervision.

(24) Predicate Crime: A crime listed in ORS 137.635(2) that serves as a previous conviction in designating an inmate as an ORS 137.635 felon.

(25) Pre-sentencing Guidelines Sentences: Sentences imposed for crimes committed on or after October 4, 1977 and prior to November 1, 1989. Also may be referred to as "Matrix" sentences.

(26) Prison Term:

(a) Sentencing Guidelines Sentences: The length of incarceration time within a Department of Corrections facility as established by the court in the judgment.

(b) Pre-Sentencing Guidelines Sentences: The length of required incarceration time within a Department of Corrections facility as established by the order of the Board of Parole and Post-Prison Supervision setting of a parole release date.

(27) Projected Release Date: A release date calculated for inmates serving a sentence(s) for crimes committed on or after November 1, 1989 (Sentencing Guidelines), based on earned time sentence reduction credits earned through the last review period and a projected full compliance of earned time sentence reduction credits on the remaining sentence to be served.

(28) Qualifying ORS 137.635 Conviction: Conviction of a crime listed in ORS 137.635 that was committed following a predicate conviction of any of the ten crimes listed in ORS 137.635.

(29) Release Date Adjustment Form (CD 1417): A standardized form used by the Department of Corrections for documentation of the request and approval/disapproval for early release as authorized by the Department of Corrections.

(30) Revocation Sanction: A term of incarceration or confinement designated by the Board of Parole and Post-Prison Supervision (or its designee) for violation of conditions of parole and post-prison supervision.

(31) Sentence: The punishment given to a person who has been convicted (i.e. found to be guilty) of a crime.

(a) Sentencing Guidelines Sentences: For purposes of these rules and Department of Corrections sentence computation, "sentence" means the length of incarceration time within a Department of Corrections facility, as established by the court in the judgment.

(b) Pre-Sentencing Guidelines Sentences: The length of time an inmate is ordered to the legal and physical custody of the Department of Corrections, up to the maximum indeterminate amount authorized by

ADMINISTRATIVE RULES

Oregon law, as established by the court in the judgment and reduced by statutory and extra good time credits.

(32) Sentencing Guidelines Sentences: Sentences imposed for crimes committed on or after November 1, 1989.

(33) Statutory Good Time Credits: Prison term reduction credits granted to an inmate sentenced for crimes committed prior to November 1, 1989, (Non-Sentencing Guidelines), pursuant to ORS 421.120(1)(a) and (1)(b), and these rules.

(34) Time Served Certification: A signed statement by a sheriff of the number of days an inmate was imprisoned prior to delivery of the inmate to a Department of Corrections facility.

(35) Time Served Credits: Pre-sentence time an inmate is confined in a county jail prior to sentencing, as certified in accordance with this rule. Time served credits also include time confined in jail between sentencing and arrival at a Department of Corrections intake facility.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075
Hist.: CD 23-1983, f. & ef. 5-2-83; CD 51-1985, f. & ef. 8-16-85; CD 45-1986, f. & ef. 10-21-86; CD 7-1989, f. & cert. ef. 5-25-89; CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05; DOC 9-2006(Temp), f. & cert. ef. 8-7-06 thru 2-3-07

291-100-0130

Computation of "Inoperative Time"

(1) Pursuant to 137.370(2), time on escape or on "suspend" status from transitional leave outside a Department of Corrections or other assigned facility status will not be credited toward service of a department sentence.

(2) An inmate's service of a department sentence ceases on the date that the inmate escapes from a Department of Corrections or other assigned facility or on the date that transitional leave is suspended. A full day of credit will be given for the day of escape or for the day transitional leave is suspended. The inmate's sentence commences to run again on the date the inmate is incarcerated in an Oregon county jail with a full day of credit given for the day of incarceration in an Oregon county jail, with earned time calculated in accordance with OAR 291-097-0020(8). If Oregon county jail incarceration information cannot be obtained or verified by the department, the inmate's sentence commences to run again on the date the inmate is incarcerated in a Department of Corrections facility.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075
Hist.: CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05; DOC 9-2006(Temp), f. & cert. ef. 8-7-06 thru 2-3-07

Department of Environmental Quality Chapter 340

Rule Caption: Toxics Use and Hazardous Waste Reduction program rules alignment.

Adm. Order No.: DEQ 9-2006

Filed with Sec. of State: 8-15-2006

Certified to be Effective: 8-15-06

Notice Publication Date: 5-1-06

Rules Adopted: 340-135-0055, 340-135-0105

Rules Amended: 340-135-0000, 340-135-0010, 340-135-0020, 340-135-0030, 340-135-0040, 340-135-0050, 340-135-0090, 340-135-0110

Rules Repealed: 340-135-0042, 340-135-0044, 340-135-0046, 340-135-0070, 340-135-0080, 340-135-0100

Subject: These adopted changes will align the rules with the Toxics Use Reduction and Hazardous Waste Reduction statute. These rules only apply to Oregon businesses that report under the federal Toxics Release Inventory program and that generate large quantity generator and small quantity generator amounts of hazardous waste.

Rules Coordinator: Larry McAllister—(503) 229-6412

340-135-0000

Purpose

The purpose of these rules is to reference the Oregon statute that describes the planning and reporting requirements for toxic use reduction and hazardous waste reduction. The rules are adopted pursuant to the authority of and are to be used in conjunction with ORS 465.003 through 465.037. Other federal, state and local programs may contain additional requirements.

Stat. Auth.: ORS 465.003 - 465.037
Stats. Implemented: ORS 465.003 - 465.037
Hist.: DEQ 35-1990, f. & cert. ef. 8-21-90; DEQ 13-1998, f. 6-30-98, cert. ef. 7-1-98; DEQ 9-2006, f. & cert. ef. 8-15-06

340-135-0010

Policies

(1) The State places a high priority on reducing toxic substances use and hazardous waste whenever technically and economically practicable as described in ORS 465.006.

(2) The Department will attempt to coordinate with universities and other state and federal toxics use and hazardous waste programs, emphasizing data and information exchange, training programs, and technology transfer.

Stat. Auth.: ORS 465.003 - 465.037, 466
Stats. Implemented: ORS 465.006, 465.012
Hist.: DEQ 35-1990, f. & cert. ef. 8-21-90; DEQ 9-2006, f. & cert. ef. 8-15-06

340-135-0020

Definitions

(1) Definitions in ORS 465.003(1) through 465.003(13) apply to OAR 340-135-0000 through 340-135-0110.

(2) "Department" means the Department of Environmental Quality.
Stat. Auth.: ORS 465.003, 466.005, 466.015 & 468
Stats. Implemented: ORS 465.003
Hist.: DEQ 35, 1990, f. & cert. ef. 8-21-90; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 13-1998, f. 6-30-98, cert. ef. 7-1-98; DEQ 9-2006, f. & cert. ef. 8-15-06

340-135-0030

Applicability

(1) OAR 340-135 applies to toxics users as defined in ORS 465.003, which include:

(a) Facilities required to submit a uniform toxic chemical release form under the federal Toxics Release Inventory (TRI) program, defined as large users in ORS 465.003(6);

(b) Large quantity generators of hazardous waste; and

(c) Small quantity generators of hazardous waste.

(2) OAR 340-135 does not apply to:

(a) Conditionally exempt generators. If you are a conditionally exempt generator and you are not also a large user;

(b) Toxics users. If you are a toxics user solely because you use or generate one or more of the following materials:

(A) Toxic substances used as a pesticide in routine commercial agricultural applications;

(B) A raw material that contains a naturally occurring toxic substance and that is used in a process for which there is no substitute, such as logs that contain naturally-occurring lead;

(C) Toxic substances that the Environmental Quality Commission removes by rule as defined in ORS 465.009.

(D) Hazardous waste generated from remedial or removal actions as defined in ORS 465.200, including, but not limited to, a spill or cleanup activity; and

(E) Hazardous waste generated from a one-time event, including, but not limited to, the cleaning out of a storage closet.

Stat. Auth.: ORS 465.003 - 465.037, 466.075
Stats. Implemented: ORS 465.003, 465.009 & 465.034
Hist.: DEQ 35-1990, f. & cert. ef. 8-21-90; DEQ 13-1998, f. 6-30-98, cert. ef. 7-1-98; DEQ 9-2006, f. & cert. ef. 8-15-06

340-135-0040

Toxic Substances and Hazardous Wastes Identification

(1) Toxic substances as defined in ORS 465.003(9) and hazardous wastes as defined in ORS 465.003(5) are subject to the planning and reporting requirements set forth in this rule, except those materials listed in 340-135-0030(2)(b) of this rule.

(2) The Environmental Quality Commission may add or delete toxic substances and hazardous wastes or modify the definition of large user as provided by ORS 465.009. The Commission will consider, at a minimum, the following conditions when adding, modifying, or deleting from the lists:

(a) Proportionate volume of toxic substance or hazardous waste unique to Oregon; or

(b) Amount of regional solid waste or hazardous waste off-site disposal or treatment capacity; or

(c) Impact on state-wide or regional air quality, surface water quality, groundwater quality, or other environmental qualities.

Stat. Auth.: ORS 192, 465.009, 466.015, 466.020, 466.075, 466.090, 468.020 & 646
Stats. Implemented: ORS 465.003, 465.009
Hist.: DEQ 35-1990, f. & cert. ef. 8-21-90; DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 13-1998, f. 6-30-98, cert. ef. 7-1-98; DEQ 9-2006, f. & cert. ef. 8-15-06

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340-135-0050

Planning and Notification

Toxics users must:

(1) Develop and implement a reduction plan or an environmental management system according to ORS 465.015 that includes the toxic substances and hazardous wastes specified in ORS 465.015(4). Toxics users that have already met the requirements in this subsection must also meet the requirements in subsections (2), (3) and (4).

(2) Notify the Department after completing a reduction plan or environmental management system following ORS 465.015(1) and 465.018(1);

(3) Maintain the reduction plan or environmental management system on site as provided in ORS 465.015(6); and

(4) Update the reduction plan or environmental management system to ensure it meets the requirements in ORS 465.015(4), 465.015(5) and 465.015(7).

Stat. Auth.: ORS 465.003 - 465.037

Stats. Implemented: ORS 465.015 & 465.018

Hist.: DEQ 35-1990, f. & cert. ef. 8-21-90; DEQ 13-1998, f. 6-30-98, cert. ef. 7-1-98; DEQ 9-2006, f. & cert. ef. 8-15-06

340-135-0055

Implementation Summary

(1) Toxics users that were in compliance with the Toxics Use Reduction and Hazardous Waste Reduction law and rules before June 9, 2005 must complete one implementation summary as provided in ORS 465.018 and 465.032.

(2) Toxics users that were not in compliance with the Toxics Use and Hazardous Waste Reduction law and rules before June 9, 2005 as defined in ORS 465.018 or are new toxics users after June 9, 2005 must complete two implementation summaries according to ORS 465.018(2), 465.018(3) and 465.032.

(3) Using a Web-based system provided by the Department, toxics users must submit an implementation summary that meets the four minimum requirements described in ORS 465.032.

Stat. Auth.: ORS 465.003 - 465.037, 466

Stats. Implemented: ORS 465.018 & 465.032

Hist.: DEQ 9-2006, f. & cert. ef. 8-15-06

340-135-0090

Information Access

(1) Toxics users must keep the reduction plan and environmental management system on site in accordance with ORS 465.015(6), and available for review by the Department in accordance with ORS 465.018(4).

(2) Reduction plans and environmental management systems are confidential, except as provided for in (1) of this section and by ORS 465.015(6).

(3) The Department will make implementation summaries available to the public by placing them on the World Wide Web in accordance with ORS 465.018(5).

Stat. Auth.: ORS 192.501, ORS 192.502, 65.003 - 465.037, 466

Stats. Implemented: ORS 465.015 & 465.018

Hist.: DEQ 35-1990, f. & cert. ef. 8-21-90; DEQ 9-2006, f. & cert. ef. 8-15-06

340-135-0105

Technical Assistance and Restrictions on Enforcement

(1) According to ORS 465.012, the Department will provide toxics users, including conditionally exempt generators as defined by ORS 465.003(1), with technical assistance.

(2) The Department will coordinate its technical assistance efforts with industry trade associations, local colleges and universities, and local agencies in accordance with ORS 465.012(3) and 465.027.

(3) In accordance with ORS 465.012, technical assistance services provided by the Department will not result in compliance inspections or other enforcement actions, unless there is reasonable cause to believe there exists a clear and immediate danger to the public health and safety or to the environment:

(a) For the purpose of initiating enforcement, the term "clear" means plain, evident, free from doubt, and the term "immediate danger" means a situation where there is substantial likelihood that serious harm may be experienced within the time frame necessary for the Department to pursue an enforcement action (e.g., observation of a leaking drum).

(b) In the case of a "clear and immediate danger", the Department may initiate a compliance and enforcement action immediately.

Stat. Auth.: ORS 183.745 & 465.003 - 465.037

Stats. Implemented: ORS 465.003, 465.012 & 465.027

Hist.: DEQ 9-2006, f. & cert. ef. 8-15-06

340-135-0110

Compliance and Enforcement Procedures

(1) The Department may review and determine the adequacy of a plan, environmental management system or implementation summary during compliance inspections in accordance with ORS 465.021(1) and 465.021(5).

(2) If a toxics user fails to complete an adequate plan, environmental management system, or implementation summary, the Department may notify and work with the toxics user to achieve compliance as provided in ORS 465.021(2), 465.021(3) and 465.021(5).

(3) If after receiving notice of specified deficiencies described in ORS 465.021(2) and 465.021(3) that provided at least 90 days for a toxics user to achieve compliance, the Department may assess a civil penalty in an amount not to exceed \$500 for each day a toxics user fails to develop an adequate plan or environmental management system and an implementation summary as provided in ORS 465.021(4).

Stat. Auth.: ORS 183.745, 465.003 - 465.037 & 466.090

Stats. Implemented: ORS 465.015, 465.021 & 465.032

Hist.: DEQ 35-1990, f. & cert. ef. 8-21-90; DEQ 9-2006, f. & cert. ef. 8-15-06

Rule Caption: Renewal of three (3) general industrial stormwater permits that regulate discharges to surface waters.

Adm. Order No.: DEQ 10-2006

Filed with Sec. of State: 8-15-2006

Certified to be Effective: 9-1-06

Notice Publication Date: 3-1-06

Rules Amended: 340-045-0033

Subject: • Rule renews the following industrial stormwater general permits: NPDES 1200-A (sand and gravel mining), NPDES 1200-Z (statewide multi-sector industrial), and NPDES 1200-COLS (industrial discharges to the Columbia Slough) and eliminates the NPDES 1300-J (oily wastewater and stormwater from bulk petroleum storage facilities).

• The general permit rule has been amended to state that general permits can be issued through a department order or through rule, consistent with legislation adopted by the 2005 Legislature.

Rules Coordinator: Larry McAllister—(503) 229-6412

340-045-0033

General Permits

(1) General permits may be adopted by a rule of the Environmental Quality Commission or by order issued by the Director.

(2) General permits may be developed for certain categories of minor discharge sources or minor activities where individual NPDES or WPCF permits are not necessary to adequately protect the environment. Before the Director can issue a general permit, the following conditions must be met:

(a) There must be several minor sources or activities that involve the same or substantially similar types of operations.

(b) The sources or activities must have the potential to discharge or dispose of the same or similar types of wastes.

(c) The general permit must require the same or similar monitoring requirements, effluent limitations and operating conditions for the categories.

(d) The category of sources or activities would be more appropriately controlled under a general permit than an individual permit.

(3) General permits issued after the effective date of this rule will specify the following:

(a) The requirements to obtain coverage under a general permit, including application requirements and application submittal deadlines. The Department may determine that submittal of an application is not necessary after evaluating the type of discharge, potential for toxic and conventional pollutants in the discharge, expected discharge volume, availability of other means to identify dischargers, and estimated number of dischargers to be covered by the permit. The Department's evaluation must be provided in the public notice for the general permit.

(b) The process used by the Department to notify a person that coverage under a general permit has been obtained and the discharge or activity is authorized.

(4) Although general permits may include activities throughout the state, they may also be restricted to more limited geographical areas.

(5) Prior to issuing a general permit, the Department will follow the public notice and participation procedures outlined in OAR 340-045-0027 and 340-045-0035(3). If the general permit is to be adopted into rule, the Department will also follow ORS 183.325 to 183.410. In addition the Department will make a reasonable effort to mail notices of pending actions

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to those persons known by the Department who are likely to be covered by the general permit.

(6) Any person operating a discharge source or conducting an activity described in a general permit must apply for coverage under the general permit, unless the general permit does not require submission of an application pursuant to subsection (3)(a) of this rule or the source or activity is specifically covered by an individual NPDES or WPCF permit. Any person seeking coverage under a general permit must submit an application as required under the terms of the applicable NPDES or WPCF general permit. If application requirements are not specified in the general permit, procedures in OAR 340-045-0030 or 340-071-0162, whichever is applicable, must be followed. A person who fails to submit application in accordance with the terms of the general permit, OAR 340-045-0030 or 340-071-0162, whichever is applicable, is not authorized to conduct the activity described in the permit.

(7) Any person required to have coverage under a general permit must pay permit fees as required in OAR 340-045-0070 to 340-045-0075 or 340-071-0140 to obtain and maintain coverage under that permit.

(8) Any permittee covered by an individual NPDES or WPCF permit may request that the individual permit be canceled or allowed to expire, and that it be covered by a general permit if its discharge or activity may be covered by an existing general permit. As long as the permittee is covered by an individual NPDES or WPCF permit, the conditions and limitations of the individual permit govern until such time as it is canceled or expires.

(9) Any person not wishing to be covered by a general permit may make application for an individual permit in accordance with OAR 340-045-0030 or 340-071-0162, whichever is applicable.

(10) The Director may refuse to authorize or renew coverage or may revoke existing coverage under a general permit as it applies to any person and require such person to apply for and obtain an individual NPDES or WPCF permit.

(a) The procedures for denial of a permit in OAR 340-045-0050 and for permit revocation in OAR 340-045-0060 apply.

(b) Any interested person may petition the Director to take action under this section.

(c) The grounds for requiring an individual permit include the following:

(A) The discharge or activity is a significant contributor of pollution or creates other environmental problems;

(B) The permittee failed to comply or is not currently in compliance with the terms and conditions of the general permit, submitted false information, or the permittee is in violation of any applicable law;

(C) A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants being discharged;

(D) For NPDES general permits, effluent limitation guidelines are promulgated for point sources covered by a general permit and the guidelines are not already in the general permit;

(E) Circumstances have changed so that the discharge or activity is no longer appropriately controlled under a general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary; or

(F) Any other relevant factors.

(11) The following general permits are adopted by reference in this rule and available for review at the Department:

(a) NPDES 200-J, Filter backwash (issued August 29, 1997);

(b) NPDES 500-J, Boiler blowdown (issued August 29, 1997);

(c) WPCF 600, Offstream placer mining (issued April 9, 1997);

(d) NPDES 700-PM, Suction dredges (issued July 5, 2005);

(e) WPCF 800, Confined animal feeding operations (issued August 8, 1990);

(f) NPDES 900-J, Seafood processing (issued June 7, 1999);

(g) WPCF 1000, Gravel mining (issued July 26, 2002);

(h) NPDES 1200-A, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from sand, gravel & non-metallic quarrying and mining in Standard Industrial Classification (SIC) 14, asphalt mix batch plants and concrete batch plants. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 26, 2002);

(i) NPDES 1200-A, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from sand, gravel & non-metallic quarrying and mining in SIC 14, asphalt mix batch plants and concrete batch plants. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial

activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 1, 2007);

(j) NPDES 1200-C, Storm water runoff from construction activities, including clearing, grading, and excavation, and stockpiling that disturbs one or more acres, and may discharge to surface waters or conveyance systems leading to surface waters. Also included are activities that will disturb less than one acre if such activities are part of a larger common plan of development that will disturb one or more acres over time (issued December, 2005)

(k) NPDES 1200-CA, Government agencies responsible for storm water runoff from construction activities that disturbs five or more acres; effective December 1, 2002, construction activities that disturb one or more acres are covered (issued February 20, 2001);

(l) NPDES 1200-COLS, Storm water runoff that may discharge to surface waters in the Columbia Slough watershed or conveyance systems leading to surface waters in the Columbia Slough watershed from industrial activities; see Sources Covered section of the permit for list of specific activities. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued September, 1, 2006);

(m) NPDES 1200-Z, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from industrial activities; see Sources Covered section of permit for a specific list of activities. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 26, 2002);

(n) NPDES 1200-Z, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from industrial activities; see Sources Covered section of permit for a specific list of activities covered. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 1, 2007);

(o) WPCF 1400-A, Seasonal food processing & wineries, less than 25,000 gallons/day (issued August 22, 2000);

(p) WPCF 1400-B, Other food processing, less than 25,000 gallons/day (issued August 22, 2000);

(q) NPDES 1500-A, Petroleum hydrocarbon cleanups discharged to surface waters (issued August 22, 2000);

(r) WPCF 1500-B, Petroleum hydrocarbon cleanups (issued August 22, 2000);

(s) NPDES 1700-A, Vehicle and equipment wash water discharged to surface waters (issued March 5, 1998);

(t) WPCF 1700-B, Vehicle and equipment wash water (issued March 5, 1998);

(u) NPDES 1900-J, Non-contact geothermal heat exchange (issued September 11, 1997);

(v) NPDES 01, Confined animal feeding operations (issued October 1, 2003).

Stat. Auth.: ORS 468.020, 468B.020 & 468B.035

Stats. Implemented: ORS 468.065, 468B.015, 468B.035 & 468B.050

Hist.: DEQ 28-1980, f. & ef. 10-27-80; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 13-2001, f. & cert. ef. 10-16-01; DEQ 8-2002, f. & cert. ef. 8-9-02; DEQ 14-2002, f. & cert. ef. 10-16-02; DEQ 12-2003, f. & cert. ef. 9-2-03; DEQ 5-2005, f. & cert. ef. 7-1-05; DEQ 11-2005, f. & cert. ef. 12-28-05; DEQ 10-2006, f. 8-15-06, cert. ef. 9-1-06

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Rule Caption: Water Quality Permitting Fee Changes.

Adm. Order No.: DEQ 11-2006

Filed with Sec. of State: 8-15-2006

Certified to be Effective: 8-15-06

Notice Publication Date: 3-1-06

Rules Amended: 340-045-0070, 340-045-0075

Subject: The Oregon Department of Environmental Quality (DEQ) has amended its rules to increase fee revenue for the state's wastewater permitting program. The fee revisions are based on recommendations made by the Blue Ribbon Committee (BRC) in July 2004. The BRC was convened by DEQ in 2002 to review and make recommendations to improve the wastewater permitting program. In 2005, the Oregon Legislature considered the Committee's recommendations and approved an 11 percent overall increase in wastewater permitting revenue for DEQ.

Rules Coordinator: Larry McAllister—(503) 229-6412

ADMINISTRATIVE RULES

340-045-0070

Permit Fees

(1) Except for a person assigned to the 700-PM general permit, a person required to have a WPCF or NPDES permit is subject to a two-part fee consisting of the applicable new permit application fee and annual fee in OAR 340-045-0075.

(a) The amount equal to the new permit application fee and the first year's annual fee must be submitted with any application for a new NPDES or WPCF permit.

(b) No fee is required to be submitted with an application for renewal of a NPDES or WPCF permit, unless the permit is to be modified as described in OAR 340-045-0075. If the permit is to be modified, then the appropriate modification fee in OAR 340-045-0075 must be submitted with the application.

(c) No fee is required for modification of an existing, unexpired permit if the Department initiates the modification and determines the modification does not require re-filing or Department review of an application, plans, or specifications.

(d) When a governmental entity has an agreement with the Department to assist with implementation of a general permit, the Department may in that agreement lower the general permit fees established in OAR 340-045-0075 and allow the governmental entity to collect the fee for the Department and retain a portion of the fee for its services.

(2) The applicable annual fee in OAR 340-045-0075 must be paid for as long as the permit is active.

(a) The annual fee must be paid by the date specified by the Department. Fees adopted after July 1, 2006 but prior to June 30, 2007 will be retroactive to July 1, 2006.

(b) The annual fee submitted as part of an application for a new NPDES or WPCF permit applies to the first 12 months the permitted facility is put into operation.

(c) The Director may alter the due date for the annual fee upon receipt of a justifiable request from a permittee. The Commission may reduce or suspend the annual fee if a hardship is demonstrated.

(3) The new permit application fee submitted with an application may be refunded in whole or in part if the Department determines that:

(a) A permit is not required; or

(b) The wrong application was filed.

(4) All fees must be made payable to the Department of Environmental Quality or the Department's agent.

(5) A person assigned to the 700-PM general permit must pay either an annual fee or an optional 5-year permit registration fee according to the schedule provided in OAR 340-045-0075. The applicable fee must be submitted with the permit application and is non-refundable unless the Department or the Department's agent determines that the permittee cannot be assigned to the general permit. Fees must be made payable to the Department of Environmental Quality. An annual fee must be paid at the time of application, and for each following year that the permit is valid on a date specified by the Department.

Stat. Auth.: ORS 454.625, 454.745, 468.020, 468B.020 & 468B.035

Stats. Implemented: ORS 454.745, 468.065, 468B.015, 468B.035 & 468B.050

Hist.: DEQ 113, f. & ef. 5-10-76; DEQ 129, f. & ef. 3-16-77; DEQ 31-1979, f. & ef. 10-1-79; DEQ 18-1981, f. & ef. 7-13-81; DEQ 12-1983, f. & ef. 6-2-83; DEQ 27-1994, f. & cert. ef. 11-15-94; DEQ 2-2002, f. & cert. ef. 2-12-02; DEQ 7-2004, f. & cert. ef. 8-3-04; DEQ 5-2005, f. & cert. ef. 7-1-05; DEQ 11-2006, f. & cert. ef. 8-15-06

340-045-0075

Permit Fee Schedule

(1) The fee schedule for onsite sewage disposal system permits, including WPCF permits, is found in OAR chapter 340, division 071.

(2) The Department has established fees for various industrial, domestic and general permit categories. The industrial and domestic permit categories and fees are listed in tables 70B and 70C. The general permit categories are defined in OAR 340-045-0033 and the fees are listed in Table 70G.

(3) The Department must consider the following criteria when classifying a facility for determining applicable fees. For industrial sources that discharge to surface waters, discharge flowrate refers to the system design capacity. For industrial sources that do not discharge to surface waters, discharge flow refers to the total annual flow divided by 365.

(a) Tier 1 industry. A facility is classified as a Tier 1 industry if the facility:

(A) Discharges at a flowrate that is greater than or equal to 1 mgd; or

(B) Discharges large biochemical oxygen demand loads; or

(C) Is a large metals facility; or

(D) Has significant toxic discharges; or

(E) Has a treatment system that will have a significant adverse impact on the receiving stream if not operated properly; or

(F) Needs special regulatory control, as determined by the Department.

(b) Tier 1 domestic facility. A facility is classified as a Tier 1 domestic facility if the facility:

(A) Has a dry weather design flow of 1 mgd or greater; or

(B) Serves an industry that can have a significant impact on the treatment system.

(c) Tier 2 industry or domestic facility: does not meet Tier 1 qualifying factors.

(4) New Permit Application Fee. Unless waived by this rule, the applicable new permit application fee listed in Table 70A, 70C or 70G (available on the Department's website or upon request) must be submitted with each application. The amount of the fee is based on the facility category and type of permit (e.g., individual vs. general).

(5) Permit Modification Fee. Permit modification fees are listed in Tables 70A and 70C (available on the Department's website or upon request). They vary with the type of permit, the type of modification and the timing of modification as follows:

(a) Modification at time of permit renewal.

(A) Major Modification — involves an increase in effluent limitations or any other change that involves significant analysis by the Department.

(B) Minor Modification — does not involve significant analysis by the Department.

(b) Modification prior to permit renewal.

(A) Major Modification — involves an increase in effluent limitations or any other change that involves significant analysis by the Department. A permittee requesting a significant modification to their permit may be required by the Department to enter into an agreement to pay for these services according to ORS 468.073. ORS 468.073 allows the Department "to expedite or enhance a regulatory process by contracting for services, hiring additional staff or covering costs of activities not otherwise provided during the ordinary course of Department business."

(B) Minor Modification- does not involve significant analysis by the Department.

(6) Annual fees. Applicable annual fees for General and Industrial permit holders may be found in Tables 70G and 70B (available on the Department's website or upon request). Annual fees for domestic sources may also be found in Table 70C (available on the Department's website or upon request), and consist of the following:

(a) Base annual fee. This is based on the type of treatment system and the dry weather design flow.

(b) Population-based fee. A permit holder with treatment systems other than Type F (septage alkaline stabilization facilities) must pay a population-based fee. The applicable fee may be found in Table 70D (available on the Department's website or upon request).

(c) Pretreatment fee. A source required by the Department to administer a pretreatment program pursuant to federal pretreatment program regulations (40CFR, Part 403; January 29, 1981 and amendments thereto) must pay an additional annual fee plus a fee for each significant industrial user specified in their annual report for the previous year. The applicable fee may be found in Table 70E (available on the Department's website or upon request).

(7) Technical Activities Fee. Technical activity fees are listed in Tables 70F and 70H (available on the Department's website or upon request). They are categorized as follows:

(a) All Permits. A permittee must pay a fee for NPDES and WPCF permit-related technical activities. A fee will be charged for initial submittal of engineering plans and specifications. Fees will not be charged for revisions and re-submittals of engineering plans and specifications or for facilities plans, design studies, reports, change orders, or inspections.

(b) General Permits. A permittee must pay the technical activity fee shown in Table 70H (available on the Department's website or upon request) when the following activities are required for application review:

(A) Disposal system plan review;

(B) Site inspection and evaluation.

(8) For permits administered by the Oregon Department of Agriculture, the following fees are applicable until superseded by a fee schedule established by the Oregon Department of Agriculture.

(a) WPCF and NPDES General Permits #800 for Confined Animal Feeding Operations Filing Fee — \$50.

(b) Individual Permits:

(A) Filing Fee — \$50.

(B) New Applications — \$6,280.

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- (C) Permit Renewals (including request for effluent limit modifications) — \$3,140.
- (D) Permit Renewals (without request for effluent limit modifications) — \$1,416.
- (E) Permit Modifications (involving increase in effluent limit modifications) — \$3,140.
- (F) Permit Modifications (not involving an increase in effluent limitations) — \$500.
- (G) Annual Compliance Determination Fee for dairies and other confined feeding operations — \$705.
- (H) Annual Compliance Determination Fee for facilities not elsewhere classified with disposal of process wastewater — \$1,885.
- (I) Annual Compliance Determination Fee for facilities not elsewhere classified that dispose of non-process wastewater (e.g., small cooling water discharges, boiler blowdown, filter backwash, log ponds) — \$1,180.
- (c) Annual Compliance Determination Fee for facilities that dispose of wastewater only by evaporation from watertight ponds or basins — \$705.

Stat. Auth.: ORS 468.020, 468B.020 & 468B.035
Stats. Implemented: ORS 468.065, 468B.015, 468B.035 & 468B.050
Hist.: DEQ 113, f. & ef. 5-10-76; DEQ 129, f. & ef. 3-16-77; DEQ 31-1979, f. & ef. 10-1-79; DEQ 18-1981, f. & ef. 7-13-81; DEQ 12-1983, f. & ef. 6-2-83; DEQ 9-1987, f. & ef. 6-3-87; DEQ 18-1990, f. & cert. ef. 6-7-90; DEQ 10-1991, f. & cert. ef. 7-1-91; DEQ 9-1992, f. & cert. ef. 6-5-92; DEQ 10-1992, f. & cert. ef. 6-9-92; DEQ 30-1992, f. & cert. ef. 12-18-92; DEQ 20-1994, f. & cert. ef. 10-7-94; DEQ 4-1998, f. & cert. ef. 3-30-98; Administrative correction 10-22-98; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 2-2002, f. & cert. ef. 2-12-02; DEQ 7-2004, f. & cert. ef. 8-3-04; DEQ 5-2005, f. & cert. ef. 7-1-05; DEQ 11-2006, f. & cert. ef. 8-15-06

Rule Caption: Oregon Air Toxics Program: Benchmarks.

Adm. Order No.: DEQ 12-2006

Filed with Sec. of State: 8-15-2006

Certified to be Effective: 8-15-06

Notice Publication Date: 3-1-06

Rules Amended: 340-246-0090

Subject: The Oregon Department of Environmental Quality (DEQ) has adopted ambient benchmarks as administrative rules for a specified group of air toxics. OAR 340-246-0090(2)(e) requires that, once ambient benchmarks for air toxics have been established as defined in OAR 340-246-0090(2)(a-d), they be adopted as administrative rules. Ambient benchmarks are concentrations of air toxics that serve as goals in the Oregon Air Toxics Program. They are based on levels protective of human health considering sensitive populations. Ambient benchmarks are not enforceable regulatory standards, but rather “standard reference values” by which air toxics problems can be identified, addressed and evaluated.

The ambient benchmarks adopted by this rulemaking will function within Oregon’s existing air toxics program (per OAR 340-246) as triggers for, and clean air goals within, other facets (Geographic, Local Air Toxics Emissions Reduction Planning, Source Category Strategy, Safety Net) of the program. As such, they are only a single component of the overall air toxics program. Any specific implementation, compliance, enforcement, financial, land use, or resource issues are expected to be associated with the existing overall program and subsequent community emission reduction planning (per OAR 340-246), and not with adoption of these ambient benchmarks.

Rules Coordinator: Larry McAllister—(503) 229-6412

340-246-0090

Ambient Benchmarks for Air Toxics

(1) Purpose. Ambient benchmarks are concentrations of air toxics that serve as goals in the Oregon Air Toxics Program. They are based on human health risk and hazard levels considering sensitive populations. Ambient benchmarks are not regulatory standards, but reference values by which air toxics problems can be identified, addressed and evaluated. The Department will use ambient benchmarks as indicated in these rules, to implement the Geographic, Source Category, and Safety Net Programs. Ambient benchmarks set by the procedures described in this rule apply throughout Oregon, including that area within the jurisdiction of the Lane Regional Air Protection Agency. Ambient benchmarks are subject to public notice and comment before adoption by the Commission as administrative rules.

- (2) Establishing Ambient Benchmarks

(a) The Department will consult with the ATSAC to prioritize air toxics for ambient benchmark development. Highest priority air toxics are those that pose the greatest risk to public health.

(b) To prioritize air toxics, the Department will apply the criteria described in OAR 340-246-0090(2)(c) to modeling, monitoring, and emissions inventory data.

(c) Ambient benchmark prioritization criteria will include at least the following:

- (A) Toxicity or potency of a pollutant;
 - (B) Exposure and number of people at risk;
 - (C) Impact on sensitive human populations;
 - (D) The number and degree of predicted ambient benchmark exceedances; and
 - (E) Potential to cause harm through persistence and bio-accumulation.
- (d) The Department will develop ambient benchmarks for proposal to the ATSAC based upon a protocol that uses reasonable estimates of plausible upper-bound exposures that neither grossly underestimate nor grossly overestimate risks.

(e) Within three months of the first meeting of the ATSAC, the Department will propose ambient benchmark concentrations for the highest priority air toxics for review by the ATSAC. The Department will propose additional and revised air toxics ambient benchmarks for review by the ATSAC based on the prioritization criteria in OAR 340-246-0090(2)(c). Once the ATSAC has completed review of each set of proposed ambient benchmarks, the Department will, within 60 days, begin the process to propose ambient benchmarks as administrative rules for adoption by the Environmental Quality Commission.

(f) If the Department is unable to propose ambient benchmarks to the ATSAC by the deadlines specified in OAR 340-246-0090(2)(e), the ATSAC will review the most current EPA ambient benchmarks. If EPA ambient benchmarks are not available, the ATSAC will review the best available information from other states and local air authorities.

(g) The ATSAC will consider proposed ambient benchmarks and evaluate their adequacy for meeting risk and hazard levels, considering human health, including sensitive human populations, scientific uncertainties, persistence, bio-accumulation, and, to the extent possible, multiple exposure pathways. The ATSAC will conduct this review consistent with the criteria in OAR 340-246-0090(2)(c) and (d). The ATSAC will report these findings to the Department. If the ATSAC unanimously disagrees with the Department’s recommendation, the Department will re-consider and re-submit its recommendation at a later date.

(h) The ATSAC will complete review of and report findings on each set of ambient benchmarks as expeditiously as possible, but no later than 12 months after the Department has proposed them. If the ATSAC is unable to complete review of ambient benchmarks within 12 months after the Department’s proposal, the Department will initiate rulemaking to propose ambient benchmarks.

(i) The Department will review all ambient benchmarks at least every five years and, if necessary, propose revised or additional ambient benchmarks to the ATSAC. At its discretion, the Department may review and propose a benchmark for review by the ATSAC at any time when new information is available.

(3) Ambient Benchmarks. Benchmark concentrations are in units of micrograms of air toxic per cubic meter of ambient air, on an average annual basis. The Chemical Abstract Service Registry Number (CASRN) is shown in parentheses.

- (a) The ambient benchmark for acetaldehyde (75-07-0) is 0.45 micrograms per cubic meter.
- (b) The ambient benchmark for acrolein (107-02-8) is 0.02 micrograms per cubic meter.
- (c) The ambient benchmark for acrylonitrile (107-13-1) is 0.01 micrograms per cubic meter.
- (d) The ambient benchmark for ammonia (7664-41-7) is 200 micrograms per cubic meter.
- (e) The ambient benchmark for arsenic (7440-38-2) is 0.0002 micrograms per cubic meter.
- (f) The ambient benchmark for benzene (71-43-2) is 0.13 micrograms per cubic meter.
- (g) The ambient benchmark for beryllium (7440-41-7) is 0.0004 micrograms per cubic meter.
- (h) The ambient benchmark for 1,3-butadiene (106-99-0) is 0.03 micrograms per cubic meter.
- (i) The ambient benchmark for cadmium and cadmium compounds (7440-43-9) is 0.0006 micrograms per cubic meter.

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- (j) The ambient benchmark for carbon disulfide (75-15-0) is 800 micrograms per cubic meter.
- (k) The ambient benchmark for carbon tetrachloride (56-23-5) is 0.07 micrograms per cubic meter.
- (l) The ambient benchmark for chlorine (7782-50-5) is 0.2 micrograms per cubic meter.
- (m) The ambient benchmark for chloroform (67-66-3) is 98 micrograms per cubic meter.
- (n) The ambient benchmark for chromium, hexavalent (18540-29-9) is 0.00008 micrograms per cubic meter.
- (o) The ambient benchmark for cobalt and cobalt compounds (7440-48-4) is 0.1 micrograms per cubic meter.
- (p) The ambient benchmark for 1,4-dichlorobenzene (106-46-7) is 0.09 micrograms per cubic meter.
- (q) The ambient benchmark for 1,3-dichloropropene (542-75-6) is 0.25 micrograms per cubic meter.
- (r) Diesel particulate matter (none) is 0.1 micrograms per cubic meter. The benchmark for diesel particulate matter applies only to such material from diesel-fueled internal combustion sources.
- (s) The ambient benchmark for dioxins and furans (1746-01-6) is 0.0000003 micrograms per cubic meter. The benchmark for dioxin is for total chlorinated dioxins and furans expressed as 2,3,7,8-TCDD toxicity equivalents.
- (t) The ambient benchmark for ethylene dibromide (106-93-4) is 0.002 micrograms per cubic meter.
- (u) The ambient benchmark for ethylene dichloride (107-06-2) is 0.04 micrograms per cubic meter.
- (v) The ambient benchmark for ethylene oxide (75-21-8) is 0.01 micrograms per cubic meter.
- (w) The ambient benchmark for formaldehyde (50-00-0) is 3 micrograms per cubic meter.
- (x) The ambient benchmark for n-hexane (110-54-3) is 7000 micrograms per cubic meter.
- (y) The ambient benchmark for hydrogen chloride (7647-01-0) is 20 micrograms per cubic meter.
- (z) The ambient benchmark for hydrogen cyanide (74-90-8) is 9 micrograms per cubic meter.
- (aa) The ambient benchmark for hydrogen fluoride (7664-39-3) is 14 micrograms per cubic meter.
- (bb) The ambient benchmark for lead and lead compounds (7439-92-1) is 0.5 micrograms per cubic meter.
- (cc) The ambient benchmark for manganese and manganese compounds (7439-96-5) is 0.2 micrograms per cubic meter.
- (dd) The ambient benchmark for mercury (7439-97-6) is 0.3 micrograms per cubic meter. The benchmark for mercury applies to all of its inorganic forms.
- (ee) The ambient benchmark for methyl bromide (74-83-9) is 5 micrograms per cubic meter.
- (ff) The ambient benchmark for methyl chloride (74-87-3) is 90 micrograms per cubic meter.
- (gg) The ambient benchmark for methyl chloroform (71-55-6) is 1000 micrograms per cubic meter.
- (hh) The ambient benchmark for methylene chloride (75-09-2) is 2.1 micrograms per cubic meter.
- (ii) The ambient benchmark for naphthalene (91-20-3) is 0.03 micrograms per cubic meter.
- (jj) The ambient benchmark for nickel refinery dust (7440-02-0) is 0.004 micrograms per cubic meter.
- (kk) The ambient benchmark for nickel subsulfide (12035-72-2) is 0.002 micrograms per cubic meter.
- (ll) The ambient benchmark for soluble nickel compounds (various) is 0.05 micrograms per cubic meter, where soluble nickel compounds may include any or all of the following: nickel acetate (373-02-4), nickel chloride (7718-54-9), nickel carbonate (3333-39-3), nickel carbonyl (13463-39-3), nickel hydroxide (12054-48-7), nickelocene (1271-28-9), and nickel sulfate (7786-81-4).
- (mm) The ambient benchmark for phosphine (7803-51-2) is 0.3 micrograms per cubic meter.
- (nn) The ambient benchmark for phosphoric acid (7664-38-2) is 10 micrograms per cubic meter.
- (oo) The ambient benchmark for total (as the sum of congeners) polychlorinated biphenyls (1336-36-3) is 0.01 micrograms per cubic meter.
- (pp) The ambient benchmark for total polycyclic aromatic hydrocarbons (none) is 0.0009 micrograms per cubic meter, where total polycyclic aromatic hydrocarbons are the sum of the toxicity equivalency factor (with

respect to benzo(a)pyrene (50-32-8)) adjusted concentrations for all of the following individual polycyclic aromatic hydrocarbons: benzo(a)anthracene (56-55-3), benzo(a)pyrene (50-32-8), benzo(b)fluoranthene (205-99-2), benzo(k)fluoranthene (207-08-9), carbazole (86-74-8), chrysene (218-01-9), dibenz(a,h)acridine (226-36-8), dibenz(a,h)anthracene (226-36-8), dibenz(a,j)acridine (224-42-0), 7H-dibenzo(c,g)carbazole (194-59-2), dibenzo(a,e)pyrene (192-65-4), dibenzo(a,i)pyrene (189-55-9), dibenzo(a,l)pyrene (191-30-0), 7,12-dimethylbenz(a)anthracene (57-97-6), 1,6-dinitropyrene (42397-64-8), 1,8-dinitropyrene (42397-65-9), indeno(1,2,3-c,d)pyrene (193-39-5), 3-methylcholanthrene (56-49-5), 5-methylchrysene (3697-24-3), 1-nitropyrene (5522-43-0), 2-nitrofluorene (607-57-8), 4-nitropyrene (59865-13-3), 5-nitroacenaphthene (607-87-9) 6-nitrochrysene (7496-02-8), acenaphthene (83-32-9), acenaphthylene (208-96-8), anthracene (120-12-7), benzo(g,h,i)perylene (191-24-2), fluoranthene (206-44-0), fluorene (86-73-7), phenanthrene (85-01-8), and pyrene (129-00-0).

- (qq) The ambient benchmark for tetrachloroethylene (127-18-4) is 35 micrograms per cubic meter.
- (rr) The ambient benchmark for toluene (108-88-3) is 400 micrograms per cubic meter.
- (ss) The ambient benchmark for 2,4- & 2,6 toluene diisocyanate, mixture (26471-62-5) is 0.07 micrograms per cubic meter.
- (tt) The ambient benchmark for trichloroethylene (79-01-6) is 0.5 micrograms per cubic meter.
- (uu) The ambient benchmark for vinyl chloride (75-01-4) is 0.1 micrograms per cubic meter.
- (vv) The ambient benchmark for white phosphorus (7723-14-0) is 0.07 micrograms per cubic meter.
- (ww) The ambient benchmark for xylenes (1330-20-7) is 700 micrograms per cubic meter.
- (xx) The ambient benchmark for hydrogen sulfide (7783-06-4) is 2.0 micrograms per cubic meter.
- (yy) The ambient benchmark for methanol (67-56-1) is 4000 micrograms per cubic meter.

Stat. Auth.: ORS 468.035, 468A.010(1) & 468A.015

Stats. Implemented:

Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03; DEQ 12-2006, f. & cert. ef. 8-15-06

Department of Fish and Wildlife Chapter 635

Rule Caption: Allow retention of radio-tagged fall chinook in Siletz River and Drift Creek (Siletz Basin).

Adm. Order No.: DFW 64-2006(Temp)

Filed with Sec. of State: 7-17-2006

Certified to be Effective: 8-1-06 thru 12-31-06

Notice Publication Date:

Rules Amended: 635-014-0090

Subject: This rule allows radio-tagged fall chinook to be retained in the Siletz River and Drift Creek (Siletz Basin). This would both assist in recovery of the radio-tags and accurate assessment of migration patterns and encounter rates of the study fish by enabling anglers to retain tagged fish.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-014-0090

Inclusions and Modifications

(1) The 2006 *Oregon Sport Fishing Regulations* provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2006 *Oregon Sport Fishing Regulations*.

(2) The Siletz River and Drift Creek (Siletz Basin) are open to retention of radio-tagged fall Chinook from 12:01 a.m. August 1, 2006 through 11:59 p.m. December 31, 2006. The gastrically-implanted radio tags are recognizable by a trailing antenna and radio-tagged fish will be clearly marked with colored external "Floy" tags.

(3) All other specifications and restrictions as specified in the current 2006 *Oregon Sport Fishing Regulations* apply.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert.

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ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. & cert. ef. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06

Rule Caption: Prohibit retention of vermilion rockfish in the recreational ocean boat fishery.

Adm. Order No.: DFW 65-2006(Temp)

Filed with Sec. of State: 7-21-2006

Certified to be Effective: 7-24-06 thru 12-31-06

Notice Publication Date:

Rules Amended: 635-039-0090

Subject: This rule prohibits retention of vermilion rockfish in the recreational ocean boat fishery to slow the progression toward attainment of the 2006 state recreational harvest cap for “other nearshore rockfish” species. Landing of vermilion rockfish and six other rockfish species in the ocean boat fishery are counted toward the harvest cap for “other nearshore rockfish” species.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-039-0090

Inclusions and Modifications

(1) The 2006 *Oregon Sport Fishing Regulations* provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2006 *Oregon Sport Fishing Regulations*.

(2) For the purposes of this rule, a “harvest target” is defined as the Oregon share of the regional recreational harvest guideline for yelloweye rockfish, canary rockfish or lingcod that may be harvested by the Oregon sport fishery in a single calendar year.

(a) The regional recreational harvest guidelines for these species in 2006 are specified in the Pacific Council News, and to the extent they are consistent with these rules, in Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996, as amended to incorporate the standards in the Pacific Council News).

(b) Harvest targets for yelloweye rockfish, canary rockfish and lingcod effective at the start of the Oregon sport fishery in 2006 are:

(A) yelloweye rockfish, 3.2 metric tons.

(B) canary rockfish, 6.8 metric tons.

(C) lingcod, 175 metric tons.

(c) Harvest targets for yelloweye rockfish, canary rockfish and lingcod may be revised inseason following consultation with Washington Department of Fish and Wildlife provided that:

(A) regional recreational harvest guidelines for these species are not projected to be exceeded as a result of any inseason revisions to a harvest target or targets; and

(B) inseason revisions to the harvest target or targets benefit the Oregon sport fishery.

(3) For the purposes of this rule, the Oregon recreational harvest guideline for widow rockfish is 1.4 metric tons.

(4) For the purposes of this rule a “harvest cap” is defined as the total catch for a given species, or species group, that may be taken in a single calendar year by the ocean boat fishery. For 2006 the sport harvest caps are:

(a) Black rockfish and blue rockfish combined of 365 metric tons, of which no more than 324.5 metric tons may be black rockfish.

(b) Other nearshore rockfish, 15.3 metric tons.

(c) Cabezon, 15.8 metric tons.

(d) Greenling, 5.2 metric tons.

(5) In addition to the regulations for Marine Fish in the 2006 *Oregon Sport Fishing Regulations*, the following apply for the sport fishery in the Marine Zone in 2006:

(a) Lingcod (including green colored lingcod): 2 fish daily catch limit.

(b) Rockfish (“sea bass”, “snapper”), greenling (“sea trout”), flounder (excluding Pacific halibut), sole, cabezon and other marine fish species not listed in the 2006 *Oregon Sport Fishing Regulations* in the Marine Zone, located under the category of Species Name, Marine Fish: 6 fish daily catch limit in aggregate (total sum or number). Retention of yelloweye rockfish and canary rockfish is prohibited. Effective 12:01 a.m. July 24, 2006, retention of vermilion rockfish is prohibited in the ocean and estuary boat fisheries. Shore-based angling for and retention of vermilion rockfish is permitted.

(c) Retention of all marine fish, except sablefish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species, is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut north of Humboldt Mountain. North of Cape Falcon, retention of Pacific cod also is allowed when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut. Persons must also consult the Pacific Council Decisions; Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996); and the annual Pacific Halibut Fishery Regulations as published by IPHC to determine all rules applicable to the taking of halibut.

(d) Harvest methods and other specifications for marine fish in subsections (5)(a) and (b) including the following:

(A) Minimum length for lingcod, 24 inches.

(B) Minimum length for cabezon, 16 inches.

(C) Minimum length for greenling, 10 inches.

(D) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.

(E) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(e) Sport fisheries for species in subsections (5)(a) and (b) are open January 1 through December 31, twenty-four hours per day, except that ocean waters are closed for these species during June 1 through September 30, outside of the 40-fathom curve (defined by latitude and longitude) as shown on Title 50 Code of Federal Regulations Part 660 sec. 391 subsection (h). A 20-fathom curve (Table 1) and a 30-fathom curve, as shown on Title 50 Code of Federal Regulations Part 660 sec. 391 subsection (h), may be implemented as the management line as in-season modifications necessitate.

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

[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 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 110-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06

ADMINISTRATIVE RULES

Rule Caption: Amend Rules to expand types of marking acceptable for birds held by private hunting preserves.

Adm. Order No.: DFW 66-2006(Temp)

Filed with Sec. of State: 7-25-2006

Certified to be Effective: 7-25-06 thru 1-15-07

Notice Publication Date:

Rules Amended: 635-047-0025

Subject: This rule amendment would expand the types of marking that are acceptable for birds held by private hunting preserves. Current rule identifies only two types of marking; the amendment would add and define a new type of marking.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-047-0025

Marking of Birds

All privately owned game birds to be released must be premarked in a manner prescribed by the department:

(1) All game birds reared for release upon hunting preserves shall be identified by a healed toe mark or be marked with a plastic poultry band or marked by a nasal scar. A nasal scar is a permanent deformity caused by a blinder or device that partially obstructs the bird's vision. For a healed toe mark, the terminal joint, including the entire toenail, shall be clipped from the outside of the right foot of each chick.

(2) In the event that an operator acquires birds that have not been toe marked, they shall be banded prior to release by the operator with plastic poultry bands or other bands approved by the department.

(3) Any wild game bird incidentally taken upon a hunting preserve at any time other than the general open season therefore shall be immediately marked with a wild bird seal that has been issued by the department. The fee for such seals shall be \$10.00 each. Any unused wild bird seals may be submitted for refund not later than 30 days after the close of business if a preserve discontinues operation.

(4) Operators shall pay for in advance and have on hand not less than 10 wild bird seals at all times.

(5) A wild bird seal shall be securely affixed to any wild bird taken outside the general season or any wild hen pheasant before it leaves the premises of the hunting preserve.

(6) A record of the date of issue and the names and address of persons receiving wild bird seals must be maintained by the operator and available to department personnel or enforcement officers at all times.

Stat. Auth.: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & 497.248
Stats. Implemented: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & 248
Hist.: GC 101, f. 7-9-59, Renumbered from 630-023-0025, Renumbered from 635-007-0025; FWC 115-1992, f. & cert. ef. 10-28-92; DFW 86-1999, f. & cert. ef. 11-1-99; DFW 7-2002, f. & cert. ef. 1-17-02; DFW 66-2006(Temp), f. & cert. ef. 7-25-06 thru 1-15-07

Rule Caption: Expand sport salmon season in the Pacific Ocean.

Adm. Order No.: DFW 67-2006(Temp)

Filed with Sec. of State: 7-25-2006

Certified to be Effective: 8-11-06 thru 12-31-06

Notice Publication Date:

Rules Amended: 635-013-0004

Subject: Amend rule to expand 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 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 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

Rule Caption: Modifications to Commercial Summer Chinook Salmon Gill Net Seasons in the Columbia River.

Adm. Order No.: DFW 68-2006(Temp)

Filed with Sec. of State: 7-28-2006

Certified to be Effective: 7-30-06 thru 7-31-06

Notice Publication Date:

Rules Amended: 635-042-0027

Subject: This rule is needed to add one 12-hour fishing period to the ongoing commercial summer chinook gill net fishery in the mainstem Columbia River (Zones 1-5). Implementation is consistent with action taken July 27, 2006 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0027

Summer Salmon Season

(1) Chinook salmon, coho salmon, white sturgeon and shad may be taken by gill net for commercial purposes 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 (Zones 1-5, as identified in OAR 635-042-0001).

(2) Green sturgeon may be taken by gill net for commercial purposes in the area described above through July 6, 2006 only. Effective 12:01 a.m. July 7, 2006 the retention of green sturgeon is prohibited.

(3) 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)).

(4) The open fishing periods are:

(a) 7:00 p.m. Monday June 26, 2006 to 5:00 a.m. Tuesday June 27, 2006 (10 hours).

(b) 7:00 p.m. Thursday June 29, 2006 to 5:00 a.m. Friday June 30, 2006 (10 hours).

(c) 7:00 p.m. Wednesday July 5, 2006 to 5:00 a.m. Thursday July 6, 2006 (10 hours).

(d) 7:00 p.m. Thursday July 6, 2006 to 7:00 a.m. Friday July 7, 2006 (12 hours).

(e) 7:00 p.m. Monday July 10, 2006 to 7:00 a.m. Tuesday July 11, 2006 (12 hours).

(f) 7:00 p.m. Wednesday July 12, 2006 to 7:00 a.m. Thursday July 13, 2006 (12 hours).

ADMINISTRATIVE RULES

- (g) 7:00 p.m. Sunday July 16, 2006 to 7:00 a.m. Monday July 17, 2006 (12 hours).
- (h) 7:00 p.m. Monday July 17, 2006 to 7:00 a.m. Tuesday July 18, 2006 (12 hours).
- (i) 7:00 p.m. Wednesday July 19, 2006 to 7:00 a.m. Thursday July 20, 2006 (12 hours).
- (j) 7:00 p.m. Sunday July 23, 2006 to 7:00 a.m. Monday July 24, 2006 (12 hours).
- (k) 7:00 p.m. Monday July 24, 2006 to 7:00 a.m. Tuesday July 25, 2006 (12 hours).
- (l) 7:00 p.m. Wednesday July 26, 2006 to 7:00 a.m. Thursday July 27, 2006 (12 hours).
- (m) 7:00 p.m. Sunday July 30, 2006 to 7:00 a.m. Monday July 31, 2006 (12 hours).

(5) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open.

(6) 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.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06; DFW 57-2006(Temp), f. 7-5-06, cert. ef. 7-6-06 thru 7-31-06; DFW 63-2006(Temp), f. 7-14-2006, cert. ef. 7-16-06 thru 7-31-06; DFW 68-2006(Temp), f. 7-28-06, cert. ef. 7-30-06 thru 7-31-06

Rule Caption: Allowable sale of fish caught during Tribal Treaty sturgeon setline fishery in the Columbia River.

Adm. Order No.: DFW 69-2006(Temp)

Filed with Sec. of State: 7-28-2006

Certified to be Effective: 7-31-06 thru 12-31-06

Notice Publication Date:

Rules Amended: 635-041-0063

Subject: This rule allows sales of fish caught during the Tribal Treaty sturgeon setline fishery in the Columbia River. Implementation is consistent with action taken July 27, 2006 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0063

Sturgeon Setline Fishery

(1) Sturgeon may be taken by setline for commercial purposes from 12 Noon January 1 through 12 Noon January 31.

(2) Sturgeon may be taken by setline for commercial purposes from 6:00 a.m. July 31, 2006 through 6:00 p.m. August 15, 2006 or when guidelines are reached, whichever comes first.

(3) Open fishing area includes Bonneville and The Dalles pools only. Closed areas are set forth under OAR 635-041-0045.

(4) During the sturgeon setline season it shall be unlawful to:

(a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;

(b) Operate any setline having more than 100 hooks;

(c) Use other than single hooks size 9/0 or larger;

(d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.

(5) Notwithstanding OAR 635-041-0045(6)-(11), it is lawful during the open season to fish for sturgeon by means of set lines in the Columbia River within areas at and adjacent to the mouths of rivers.

(6) Allowable sales: Sturgeon between 45-60 inches in length from Bonneville Pool and 48-60 inches in length from The Dalles Pool may be sold or kept for subsistence use. Platform hook and line caught sturgeon between 45-60 inches in length from Bonneville Pool and 48-60 inches in length from The Dalles Pool may be sold during the open setline fishery. John Day Pool remains closed, but sturgeon between 48-60 inches in John Day Pool may be kept for subsistence purposes only.

Stat. Auth.: ORS 183.325, 506.119

Stats. Implemented: ORS 506.129, 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0063; FWC 6-1980, f. & ef. 1-28-80; FWC 12-1980, f. & ef. 2-29-80; FWC 64-1980(Temp), f. & ef. 11-7-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 9-1983(Temp), f. & ef. 3-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef.

1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 48-1988, f. & cert. ef. 6-21-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 12-1989(Temp), f. & cert. ef. 3-21-89; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 9-1991, f. & cert. ef. 1-31-91; FWC 37-1991(Temp), f. & cert. ef. 4-3-91; FWC 4-1992, f. 1-30-92, cert. ef. 2-1-92; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 41-1992(Temp), f. 6-30-92, cert. ef. 7-1-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 15-1996(Temp), f. & cert. ef. 4-1-96; FWC 25-1996(Temp), f. 5-14-96, cert. ef. 5-15-96; FWC 23-1997(Temp), f. 4-4-97, cert. ef. 4-7-97; FWC 35-1997(Temp), f. & cert. ef. 6-13-97; FWC 40-1997(Temp), f. 6-20-97, cert. ef. 6-23-97; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 50-1998(Temp), f. 6-25-98, cert. ef. 6-26-98 thru 7-24-98; DFW 57-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 22-1999(Temp), f. & cert. ef. 4-1-99 thru 4-23-99; DFW 28-1999(Temp), f. & cert. ef. 4-23-99 thru 7-31-99; DFW 41-1999(Temp), f. & cert. ef. 6-7-99 thru 7-31-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 14-2000(Temp), f. 3-17-00, cert. ef. 3-20-00 thru 7-31-00; DFW 31-2000(Temp), f. 6-9-00, cert. ef. 6-10-00 thru 7-31-00; DMV 43-2000(Temp), f. 8-7-00, cert. ef. 8-8-00 thru 8-20-00; DFW 66-2000(Temp), f. 9-29-00, cert. ef. 10-2-00 thru 12-31-00; DFW 43-2001(Temp), f. 5-23-01, cert. ef. 5-24-01 thru 11-20-01; DFW 65-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 114-2001(Temp), f. & cert. ef. 12-13-01 thru 12-31-01; DFW 51-2002(Temp), f. & cert. ef. 5-22-02 thru 9-1-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 121-2002(Temp), f. 10-24-02, cert. ef. 10-27-02 thru 12-31-02; DFW 49-2003(Temp), f. & cert. ef. 6-5-03 thru 9-1-03; DFW 58-2003(Temp), f. & cert. ef. 7-9-03 thru 12-31-03; DFW 67-2003(Temp), f. 7-18-03, cert. ef. 7-21-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 69-2006(Temp), f. 7-28-06, cert. ef. 7-31-06 thru 12-31-06

Rule Caption: Inseason change to the Oregon Ocean Commercial Troll Salmon season.

Adm. Order No.: DFW 70-2006(Temp)

Filed with Sec. of State: 7-28-2006

Certified to be Effective: 7-29-06 thru 12-31-06

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 5, 2006 through September 15, 2006 the fishery is open on a cycle of Saturday through Monday with a 60 chinook and 40 adipose fin-clipped coho landing and possession limit per vessel per open period.

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

Rule Caption: Allowable sale of fish caught during tribal treaty fall salmon fishery in the Columbia River.

Adm. Order No.: DFW 71-2006(Temp)

Filed with Sec. of State: 7-31-2006

Certified to be Effective: 8-1-06 thru 12-31-06

Notice Publication Date:

Rules Amended: 635-041-0075

Subject: This rule allows sales of fish caught during the Tribal Treaty fall salmon platform and hook-and-line fisheries in Zone 6 of the

ADMINISTRATIVE RULES

mainstem Columbia River beginning 12:01 a.m. August 1, 2006 until further notice. Implementation is consistent with action taken July 27, 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 for commercial purposes in the Columbia River above Bonneville Dam from 12:01 a.m. August 1, 2006 until further notice.

(2) 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).

(3) 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 except during open sturgeon setline fishing periods in Bonneville and The Dalles pools. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. 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. 9-28-88; 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. 9-10-90; 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. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; 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. 9-17-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-29-95; 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. 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. 9-2-97, 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; FWC 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; FWC 77-1998(Temp), f. & cert. ef. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; FWC 79-1998(Temp), f. & cert. ef. 9-22-98 thru 9-25-98; FWC 80-1998(Temp), f. & cert. ef. 9-23-98; FWC 81-1998 thru 9-25-98; FWC 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; FWC 62-1999(Temp), f. & cert. ef. 9-3-99 thru 9-11-99; FWC 65-1999(Temp), f. & cert. ef. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; FWC 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; FWC 72-1999(Temp), f. & cert. ef. 9-22-99 thru 10-22-99; FWC 74-1999(Temp), f. & cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; FWC 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; FWC 60-2000(Temp), f. & cert. ef. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; FWC 61-2000(Temp), f. & cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; FWC 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; FWC 87-2001(Temp), f. & cert. ef. 9-11-01 thru 9-15-01; FWC 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; FWC 94-2001(Temp), f. & cert. ef. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; FWC 100-2001(Temp), f. & cert. ef. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; FWC 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; FWC 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; FWC 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; FWC 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; FWC 113-2002(Temp), f. & cert. ef. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; FWC 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; FWC 81-2003(Temp), f. & cert. ef. 8-26-03 thru 12-31-03; FWC 91-2003(Temp), f. & cert. ef. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; FWC 97-2003(Temp), f. & cert. ef. 9-24-03

thru 12-31-03; DFW 101-2003(Temp), f. & 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. 10-11-03 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. 9-19-04 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. 10-13-04 thru 12-31-04; FWC 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; FWC 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

Rule Caption: Implementation of the Commercial Fall Chinook Salmon Gill Net Season in the Columbia River.

Adm. Order No.: DFW 72-2006(Temp)

Filed with Sec. of State: 8-1-2006

Certified to be Effective: 8-2-06 thru 12-31-06

Notice Publication Date:

Rules Amended: 635-042-0031

Subject: This rule implements the commercial fall chinook salmon gill net season in the mainstem Columbia River (Zones 1–5). Implementation is consistent with action taken July 27, 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: Zones 1-5, as identified in OAR 635-042-0001. Retention of green sturgeon is prohibited.

(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)).

(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).

(4) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open. Sturgeon possession and sales limit includes both mainstem and Select Area fisheries combined.

(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. & 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. 8-28-89, 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; FWC 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; FWC 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; FWC 75-1999(Temp), f. & cert. ef. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; FWC 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; FWC 52-2000(Temp), f. & cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; FWC 68-2001(Temp), f. & cert. ef. 8-8-01 thru 8-9-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; FWC 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; FWC 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; FWC 81-2002(Temp), f. & cert. ef. 8-4-02 thru 8-9-02; FWC 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; FWC 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; FWC 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; FWC 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; FWC 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; FWC 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; FWC 86-2004(Temp), f. & cert. ef. 8-19-04 thru 12-31-04; FWC 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; FWC 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 88-2005(Temp), f. & cert. ef. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; FWC 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; FWC 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; FWC 98-2005(Temp), f. & cert. ef. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; FWC 72-2006(Temp), f. & cert. ef. 8-2-06 thru 12-31-06

Rule Caption: Implementation of the Youngs Bay Select Area fall commercial gill net fisheries.

Adm. Order No.: DFW 73-2006(Temp)

Filed with Sec. of State: 8-1-2006

Certified to be Effective: 8-2-06 thru 12-31-06

ADMINISTRATIVE RULES

Notice Publication Date:

Rules Amended: 635-042-0145

Subject: Amend rules to implement the commercial gill net fall salmon season in the Youngs Bay Select Area and allows retention and sales of white sturgeon. Revision is consistent with action taken July 27, 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 leadline 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-fathom 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 five 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. & cert. 8-22-79; FWC 28-1980, f. & cert. 6-23-80; FWC 42-1980(Temp), f. & cert. 8-22-80; FWC 30-1981, f. & cert. 8-14-81; FWC 42-1981(Temp), f. & cert. 11-5-81; FWC 54-1982, f. & cert. 8-17-82; FWC 37-1983, f. & cert. 8-18-83; FWC 61-1983(Temp), f. & cert. 10-19-83; FWC 42-1984, f. & cert. 8-20-84; FWC 39-1985, f. & cert. 8-15-85; FWC 37-1986, f. & cert. 8-11-86; FWC 72-1986(Temp), f. & cert. 10-31-86; FWC 64-1987, f. & cert. 8-7-87; FWC 73-1988, f. & cert. 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. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert.

ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; FWC 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; FWC 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; FWC 5-2006, f. & cert. ef. 2-15-06; FWC 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; FWC 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; FWC 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; FWC 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; FWC 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; FWC 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; FWC 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; FWC 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06

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Rule Caption: Amend eligibility requirements for commercial sardine limited entry permits.

Adm. Order No.: DFW 74-2006

Filed with Sec. of State: 8-7-2006

Certified to be Effective: 8-7-06

Notice Publication Date: 7-1-06

Rules Amended: 635-006-1015, 635-006-1035

Subject: Amended rules establishing eligibility requirements for renewal and issuance of commercial sardine limited entry permits as requested by the Oregon Fish and Wildlife Commission in response to petitions submitted by Paul Evich and Stan Schones. House-keeping and technical correction to the regulations to ensure rule consistency.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

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.

ADMINISTRATIVE RULES

(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 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 26 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

635-006-1035

Eligibility Requirements for a Permit

Eligibility for a limited entry permit is as follows:

(1) Gillnet salmon — see ORS 508.784.

(2) Troll salmon — see ORS 508.810.

(3) Shrimp — see ORS 508.886 and 508.895.

(4) Scallop — see ORS 508.852.

(5) Roe-herring — The ODFW shall issue a permit as per ORS 508.765:

(a) By renewal of previous year's permit;

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085.

(6) Sea Urchin — An individual licensed as a commercial fisherman under ORS 508.235 is eligible to obtain the permit required by OAR 635-006-1015:

(a) By renewal of previous year's permit; or

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085; or

(c) Through a duly authorized medical transfer of an existing permit in accordance with OAR 635-006-1095;

(d) By combining three currently renewed permits into one new permit as provided in OAR 635-006-1095.

(7) Ocean Dungeness crab:

(a) See ORS 508.931;

(b) For the purposes of eligibility for the ocean Dungeness crab fishery permit, a boat which received a license waiver issued pursuant to ORS 508.808 shall be considered as having possessed a boat license for that year;

(c) ORS 508.931 and 508.941 require that the vessel be previously licensed in accordance with ORS 508.260 for the purposes of initial eligibility for an ocean Dungeness crab fishery permit. A single delivery license may not be substituted for a boat license for this purpose.

(8) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.947.

(9) Brine Shrimp — A commercial fisherman licensed under ORS 508.235 is eligible to obtain the permit required by OAR 635-006-1015:

(a) By renewal of previous year's permit; or

(b) If issued a brine shrimp permit under the Developmental Fisheries Program prior to 2004.

ADMINISTRATIVE RULES

(10) Bay clam dive fishery — An individual licensed as a commercial harvester under ORS 508.235 or a vessel is eligible to obtain the permit required by OAR 635-006-1015:

(a) For a south coast bay clam dive permit for the year 2006, if a bay clam south-coast dive permit was issued to the individual or vessel under the Developmental Fisheries program (OAR 635-006-0900) in 2005 and lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in 2005; or

(b) For a coast wide bay clam dive permit for the year 2006, if a bay clam coast-wide dive permit was issued to the individual or vessel under the Developmental Fisheries program (OAR 635-006-0900) in 2005 and lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in 2005.

(c) After 2006, by renewal of the previous years' permit and satisfaction of the requirements in OAR 635-006-1075(1)(j).

(11) Sardine fishery:

(a) An individual or entity is eligible to obtain the vessel permit required by OAR 635-006-1015:

(A) If issued a sardine permit under the Developmental Fisheries Program (OAR 635-006-0900) in 2005; and

(B) Lawfully made landings of sardines into Oregon in 2003 and 2004; and

(C) Lawfully landed:

(i) At least 1,500 mt or 35 deliveries in any one year from 2000 through 2004; or

(ii) A total of 100 deliveries of sardines into Oregon in 2000 through 2004.

(b) If the number of permits issued under section (11)(a) of this rule is less than 20, enough permits to reach a total of 20 may be issued under section (11)(c) of this rule to vessels in order of highest total number of deliveries during 2000–2004.

(c) An individual or entity is eligible to obtain the vessel permit under (11)(b) of this rule if the vessel for which applications is made:

(A) Was not issued a permit under section (11)(a) of this rule; and

(B) Lawfully made landings of sardines into Oregon in 2003 and 2004; and

(C) Lawfully landed:

(i) At least 1,500 mt or 35 deliveries in any one year from 2000 through 2004; or

(ii) A total of 100 deliveries of sardines into Oregon in 2000 through 2004

(d) In addition to those Sardine Fishery Permits previously issued by the Department in calendar year 2006, the Oregon Department of Fish and Wildlife shall issue a Sardine Fishery Permit to any individual or entity, if that individual or entity held a legally qualified Oregon Developmental Fisheries Permit for Sardines on August 1, 2005, provided that neither the individual or entity has been previously issued an Oregon Sardine Fishery Permit in 2006.

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 11-2003(Temp), f. & cert. ef. 2-10-03 thru 6-30-03; 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 74-2006, f. & cert. ef. 8-7-06

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Rule Caption: Implementation of the Blind Slough and Knappa Slough Select Area commercial fall salmon fisheries.

Adm. Order No.: DFW 75-2006(Temp)

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

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 July 27, 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)

and (2)(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 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. 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 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).

(3) 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.

(4) 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.

(5) 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;

(6) 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.

(7) 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

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Rule Caption: Implementation of the Tongue Point Basin and South Channel Select Areas commercial fall salmon fisheries.

Adm. Order No.: DFW 76-2006(Temp)

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

Certified to be Effective: 9-5-06 thru 12-31-06

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 635-042-0170

Subject: Amend rule to implement the commercial gill net fall salmon season in the Tongue Point Basin and South Channel select areas and allow retention and sales of white sturgeon. Revision is consistent with action taken July 27, 2006 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

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 five 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. & cert. ef. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. & cert. ef. 5-29-98; DFW 42-1998(Temp), f. & cert. ef. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. & 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. & 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. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative Correction 7-30-04; 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 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

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 76-2006(Temp), f. & cert. ef. 8-8-06, cert. ef. 9-5-06 thru 12-31-06

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Rule Caption: Implementation of the Deep River Select Area commercial fall salmon fisheries.

Adm. Order No.: DFW 77-2006(Temp)

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

Certified to be Effective: 9-4-06 thru 12-31-06

Notice Publication Date:

Rules Amended: 635-042-0180

Subject: Amend rule to implement the commercial gill net fall salmon season in the Deep River Select Area and allow retention and sales of white sturgeon. Revision is consistent with action taken July 27, 2006 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

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 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 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 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. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 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. & 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. 5-5-04, 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

ADMINISTRATIVE RULES

Rule Caption: Extended commercial ocean chinook salmon seasons.

Adm. Order No.: DFW 78-2006(Temp)

Filed with Sec. of State: 8-7-2006

Certified to be Effective: 9-1-06 thru 12-15-06

Notice Publication Date:

Rules Amended: 635-003-0085

Subject: This rule implements new extended commercial ocean Chinook salmon seasons as terminal area fisheries for the Rogue, Coos, Umpqua, Siuslaw, Alsea, Yaquina, Nestucca, and Tillamook Bay/Nehalem rivers. This rule also implements terminal area fisheries which extend the commercial ocean Chinook salmon seasons for three terminal areas: Chetco River, Elk River, and Tillamook Bay.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-003-0085

Extended Commercial Seasons

In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for chinook salmon as follows:

(1) Chetco River Ocean Terminal Area — from October 13 through the earlier of a 1,000 chinook quota or November 3 in the area described in section (1)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of the north shore of Twin Rocks (N. Lat. 42°05'36") to the Oregon/California border (N. Lat. 41°59'47") and seaward three nautical miles offshore;

(b) During the season described in this section (1) it is *unlawful* to take chinook salmon less than 28 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line; it is *unlawful* to make more than one landing of chinook per day; and it is *unlawful* to have in possession or to land more than 25 chinook per day taken in this fishery. Landings are restricted to Brookings.

(2) Elk River Ocean Terminal Area — from September 15 through December 15 in the area described in section (2)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Cape Blanco (42°50'20" N. Lat.) and north of Humbug Mountain (42°40'30" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (2), it is *unlawful* to take chinook salmon less than 28 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line; and landings are restricted to Port Orford.

(3) Tillamook Bay Ocean Terminal Area — from November 1 through November 15 in the area described in section (3)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area between Pyramid Rock (44°29'45" N. Lat.) and Twin Rocks (45°35'49" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (3), it is *unlawful* to take chinook salmon less than 28 inches in total length and it is *unlawful* to use barbed hooks or fish more than four spreads per line.

(4) Rogue River Ocean Terminal Area — from September 1 through the earlier of a 750 chinook quota or September 15 in the area described in section (4)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Nesika Reef (N. Lat. 42°30'00") and north of Cape Sebastian (N. Lat. 42°19'30") within state territorial waters (three nautical miles from land) but more than one nautical mile from the mouth of the Rogue River;

(b) During the season described in this section (4) it is *unlawful* to take chinook salmon less than 28 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line. All chinook taken in this fishery must be landed in Brookings, Gold Beach, or Port Orford.

(5) Coos River Ocean Terminal Area — from September 1 through the earlier of a 1,500 chinook quota or October 16 in the area described in section (5)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of N. Lat. 43°31'00" and north of Cape Arago (N. Lat. 43°18'24") and seaward to the 30 fathom depth contour;

(b) During the season described in this section (5) it is *unlawful* to take chinook salmon less than 28 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line. All chinook taken in this fishery must be landed in Coos Bay.

(6) Umpqua River Ocean Terminal Area — from September 1 through the earlier of a 1,000 chinook quota or September 30 in the area described in section (6)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Tahkenitch Creek (N. Lat. 43°47'55") and north of N. Lat. 43°37'00" and seaward to the 30 fathom depth contour;

(b) During the season described in this section (6) it is *unlawful* to take chinook salmon less than 28 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line. All chinook taken in this fishery must be landed in Coos Bay or Winchester Bay.

(7) Siuslaw River Ocean Terminal Area — from September 1 thru 16 and October 1 thru 16 or 2,000 chinook quota in the area described in section (7)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Heceta Head (N. Lat. 44°08'18") and north of N. Lat. 44°00'00" and within state territorial waters (seaward three nautical miles from land);

(b) During the season described in this section (7) it is *unlawful* to take chinook salmon less than 28 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line. All chinook taken in this fishery must be landed in Coos Bay, Winchester Bay, Florence, or Newport.

(8) Alsea River Ocean Terminal Area — from September 1 thru 16 and October 1 thru 16 or 2,000 chinook quota in the area described in section (8)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of N. Lat. 44°29'00" and north of N. Lat. 44°23'00" and within state territorial waters (seaward three nautical miles from land);

(b) During the season described in this section (8) it is *unlawful* to take chinook salmon less than 28 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line. All chinook taken in this fishery must be landed in Newport or Depoe Bay.

(9) Yaquina River Ocean Terminal Area — from September 1 thru 16 and October 1 thru 16 or 1,000 chinook quota in the area described in section (9)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Yaquina Head (N. Lat. 44°40'35") and north of N. Lat. 44°33'00" and within state territorial waters (seaward three nautical miles from land);

(b) During the season described in this section (9) it is *unlawful* to take chinook salmon less than 28 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line. All chinook taken in this fishery must be landed in Newport or Depoe Bay.

(10) Nestucca River Ocean Terminal Area — from September 1 thru 16 and October 1 thru 16 or 1,000 chinook quota in the area described in section (10)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Cape Kiwanda (N. Lat. 45°13'00") and north of Neskowin Cr. (N. Lat. 45°06'00") and within state territorial waters (seaward three nautical miles from land);

(b) During the season described in this section (10) it is *unlawful* to take chinook salmon less than 28 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line. All chinook taken in this fishery must be landed in Pacific City or Garibaldi.

(11) Tillamook Bay/Nehalem River Ocean Terminal Area — from September 1 thru 16 and October 1 thru 16 or 2,000 chinook quota in the area described in section (11)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Cape Falcon (N. Lat. 45°46'00") and north of Pyramid Rock (N. Lat. 45°29'48") and within state territorial waters (seaward three nautical miles from land);

(b) During the season described in this section (11) it is *unlawful* to take chinook salmon less than 28 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line. All chinook taken in this fishery must be landed in Garibaldi or Nehalem.

(12) It is *unlawful* for a vessel to have in possession or to land more than 50 chinook per calendar week (Sunday thru Saturday) taken in any of the terminal area fisheries authorized in sections (4) through (11) of this rule, combined, during the months of September or October.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 48-1984(Temp), f. & ef. 8-31-84; 57-1984(Temp), f. & ef. 9-15-84; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 106-1992(Temp), f. 10-8-92, cert. ef. 10-24-92; FWC 111-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 80-1994(Temp), f. 10-25-94, cert. ef. 10-26-94; FWC 82-1994(Temp), f. 10-28-94, cert. ef. 10-30-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 85-1995(Temp), f. & cert. ef. 10-20-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 66-1997(Temp), f. 10-24-97, cert. ef. 10-26-97; FWC 67-1997(Temp), f. 10-28-97, cert. ef. 10-29-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 78-2006(Temp), f. 8-7-06, cert. ef. 9-1-06 thru 12-15-06

ADMINISTRATIVE RULES

Rule Caption: Amended rules related to 2007 Oregon sport fishing regulations.

Adm. Order No.: DFW 79-2006

Filed with Sec. of State: 8-11-2006

Certified to be Effective: 1-1-07

Notice Publication Date: 6-1-06

Rules Amended: 635-011-0072, 635-011-0100, 635-014-0080, 635-014-0090, 635-016-0080, 635-016-0090, 635-017-0080, 635-017-0090, 635-017-0095, 635-018-0080, 635-018-0090, 635-019-0080, 635-019-0090, 635-021-0080, 635-021-0090, 635-023-0080, 635-023-0090, 635-023-0095, 635-023-0125, 635-023-0128, 635-023-0130, 635-039-0080

Subject: Amended rules to adopt changes to the sport fishing regulations for finfish, shellfish, and marine invertebrates for 2007. Housekeeping and Technical corrections made to ensure rule consistency.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-011-0072

Bait Restrictions

Stat. Auth.: ORS 496.138, 496.146, 506.119
Stats. Implemented: ORS 496.162, 506.129, 508.306
Hist.: DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-011-0100

General Rule

It is *unlawful* to take any fish, shellfish, or marine invertebrates for personal use except as provided in these rules which include and incorporate the **2007 Oregon Sport Fishing Regulations** by reference. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2007 Oregon Sport Fishing Regulations**.

[Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: FWC 11-1982, f. & ef. 2-9-82; FWC 2-1984, f. & ef. 1-10-84; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-014-0080

Purpose and Scope

(1) The purpose of division 014 is to provide for management of sport fisheries in the Northwest Zone over which the State has jurisdiction.

(2) Division 014 incorporates by reference the **2007 Oregon Sport Fishing Regulations**. Therefore, persons must consult the **2007 Oregon Sport Fishing Regulations** in addition to division 011 and division 014 to determine all applicable sport fishing requirements for the Northwest Zone.

[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 82-1993, f. 12-22-93, cert. ef. 1-1-94; Renumbered from 635-014-0105 - 635-014-0460; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-014-0090

Inclusions and Modifications

The **2007 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2007 Oregon Sport Fishing Regulations**.

[Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-

1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-016-0080

Purpose and Scope

(1) The purpose of division 016 is to provide for management of sport fisheries in the Southwest Zone over which the State has jurisdiction.

(2) Division 016 incorporates by reference the **2007 Oregon Sport Fishing Regulations**. Therefore, persons must consult the **2007 Oregon Sport Fishing Regulations** in addition to division 011 and division 016 to determine all applicable sport fishing requirements for the Southwest Zone.

[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 82-1993, f. 12-22-93, cert. ef. 1-1-94; Renumbered from 635-014-0105 - 635-014-0460; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-016-0090

Inclusions and Modifications

The **2007 Oregon Sport Fishing Regulations** provide requirements for the Southwest 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 **2007 Oregon Sport Fishing Regulations**.

[Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138 & 496.146
Stats. Implemented: ORS 496.162
Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. & cert. ef. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

ADMINISTRATIVE RULES

635-017-0080

Purpose and Scope

(1) The purpose of division 017 is to provide for management of sport fisheries in the Willamette Zone over which the State has jurisdiction.

(2) Division 017 incorporates by reference the **2007 Oregon Sport Fishing Regulations**. Therefore, persons must consult the **2007 Oregon Sport Fishing Regulations** in addition to division 011 and division 017 to determine all applicable sport fishing requirements for the Willamette Zone.

[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 82-1993, f. 12-22-93, cert. ef. 1-1-94; Renumbered from 635-017-0105 - 635-017-0465; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-017-0090

Inclusions and Modifications

(1) The **2007 Oregon Sport Fishing Regulations** provide requirements for the Willamette 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 **2007 Oregon Sport Fishing Regulations**.

(2) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Saturday through Monday each week. All harvest is prohibited Tuesday through Friday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) No permit holder shall harvest more than one hundred (100) lamprey during each lamprey season;

(f) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(g) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

[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 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert.

ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02 cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-017-0095

Sturgeon Season

(1) The **2007 Oregon Sport Fishing Regulations** provide requirements for the Willamette 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 **2007 Oregon Sport Fishing Regulations**.

(2) The Willamette River downstream of Willamette Falls (including Multnomah Channel) is open to the retention of sturgeon three days per week, Thursday, Friday and Saturday, during the following periods:

(a) January 1, 2007 through July 31, 2007 and

(b) October 1, 2007 through December 31, 2007.

(3) The retention of sturgeon in the area identified in subsection (2) is prohibited August 1, 2007 through September 30, 2007.

[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 2-2005(Temp), f. & cert. ef. 1-21-05 thru 7-19-05; DFW 55-2005, f. & cert. ef. 6-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-018-0080

Purpose and Scope

(1) The purpose of division 018 is to provide for management of sport fisheries in the Central Zone over which the State has jurisdiction.

(2) Division 018 incorporates by reference the **2007 Oregon Sport Fishing Regulations**. Therefore, persons must consult the **2007 Oregon Sport Fishing Regulations** in addition to division 011 and division 018 to determine all applicable sport fishing requirements for the Central Zone.

[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 82-1993, f. 12-22-93, cert. ef. 1-1-94; Renumbered from 635-018-0105 - 635-018-0310; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-018-0090

Inclusions and Modifications

The **2007 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2007 Oregon Sport Fishing Regulations**.

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

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp), f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW

ADMINISTRATIVE RULES

3-2-99, cert. ef. 3-11-99 thru 6-15-99; DFW 23-1999(Temp), f. 4-9-99, cert. ef. 4-17-99 thru 4-23-99; DFW 25-1999, f. & cert. ef. 4-16-99 thru 4-23-99; DFW 29-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 42-1999(Temp), f. 6-9-99, cert. ef. 6-12-99 thru 10-20-99; DFW 50-1999(Temp), f. & cert. ef. 7-16-99 thru 12-9-99; DFW 60-1999(Temp), f. 8-27-99, cert. ef. 8-30-99 thru 9-17-99; DFW 64-1999(Temp), f. 9-13-99, cert. ef. 9-14-99 thru 9-17-99; DFW 67-1999(Temp), f. & cert. ef. 9-17-99 thru 12-31-99; DFW 73-1999(Temp), f. 9-28-99 & cert. ef. 9-29-99 thru 10-22-99; DFW 77-1999(Temp), f. & cert. ef. 10-1-99 thru 12-31-99; DFW 78-1999 f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 11-2000(Temp), f. 3-14-00, cert. ef. 3-16-00 thru 3-31-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 18-2000(Temp), f. 4-6-00, cert. ef. 4-8-00 thru 10-5-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 32-2000(Temp), f. 6-14-00, cert. ef. 6-19-00 thru 10-5-00; DFW 35-2000(Temp), f. 6-27-27, cert. ef. 6-28-00 thru 7-31-00; DFW 53-2000(Temp), f. 8-25-00, cert. ef. 8-28-00 thru 12-31-00; DFW 57-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 10-5-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 7-2001(Temp), f. & cert. ef. 2-26-01 thru 4-30-01; DFW 17-2001(Temp), f. 4-4-01, cert. ef. 4-9-01 thru 10-6-01; DFW 18-2001(Temp), f. & cert. ef. 4-12-01 thru 4-30-01; DFW 19-2001(Temp), f. 4-17-01, cert. ef. 4-21-01 thru 8-5-01; DFW 25-2001(Temp), f. 4-24-01, cert. ef. 4-25-01 thru 4-29-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2001(Temp), f. & cert. ef. 5-4-01 thru 5-8-01; DFW 37-2001(Temp), f. & cert. ef. 5-11-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 64-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 82-2001(Temp), f. 8-29-01, cert. ef. 8-30-01 thru 12-31-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 88-2001(Temp), f. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 16-2002(Temp), f. 3-1-02 thru 8-28-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 29-2002(Temp), f. 4-4-02, cert. ef. 4-6-02 thru 10-3-02; DFW 40-2002(Temp), f. 4-25-02, cert. ef. 4-28-02 thru 10-3-02; DFW 43-2002(Temp), f. & cert. ef. 5-3-02 thru 10-3-02; DFW 45-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 46-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 64 2002(Temp), f. 6-27-02, cert. ef. 6-28-02 thru 12-20-02; DFW 69-2002(Temp), f. 7-10-02 cert. ef. 7-11-02 thru 12-31-02; DFW 71-2002(Temp), f. 7-10-02 cert. ef. 7-13-02 thru 12-31-02; DFW 79-2002(Temp), f. 7-29-02, cert. ef. 8-5-02 thru 12-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 94-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 105-2002(Temp), f. 9-20-02, cert. ef. 9-23-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 28-2003(Temp), f. & cert. ef. 4-3-03 thru 7-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 36-2003, f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 46-2003(Temp), f. 5-29-03, cert. ef. 5-30-03 thru 10-1-03; DFW 52-2003(Temp), f. 6-13-03, cert. ef. 6-21-03 thru 12-15-03; DFW 54-2003(Temp), f. 6-23-03, cert. ef. 6-28-03 thru 12-24-03; DFW 55-2003(Temp), f. 6-27-03, cert. ef. 6-30-03 thru 12-26-03; DFW 72 2003(Temp), f. 7-25-03, cert. ef. 7-28-03 thru 12-31-03; DFW 99-2003(Temp), f. 9-24-03, cert. ef. 10-1-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 4-2004(Temp), f. 1-22-04, cert. ef. 2-1-04 thru 7-29-04; DFW 35-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 10-26-04; DFW 52-2004(Temp), f. 6-11-04, cert. ef. 6-25-04 thru 12-21-04; DFW 58-2004(Temp), f. 6-24-04, cert. ef. 6-27-04 thru 12-23-04; DFW 64-2004(Temp), f. 6-30-04, cert. ef. 7-3-04 thru 12-30-04; DFW 65-2004(Temp), f. 7-6-04, cert. ef. 7-11-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 118-2004(Temp), f. 12-13-04, cert. ef. 1-1-05 thru 5-31-05; Administrative correction 6-17-05; DFW 128-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 5-31-05; Administrative correction 6-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-023-0095 Sturgeon Season

The **2007 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 **2007 Oregon Sport Fishing Regulations**.

[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 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-14-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-023-0125 Spring Sport Fishery

The **2007 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 **2007 Oregon Sport Fishing Regulations**.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-

17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-023-0128 Summer Sport Fishery

The **2007 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 **2007 Oregon Sport Fishing Regulations**.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 52-2005(Temp), f. 6-3-05, cert. ef. 6-16-05 thru 7-31-05; DFW 64-2005(Temp), f. 6-30-05, cert. ef. 7-1-05 thru 7-31-05; Administrative correction 8-17-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

635-023-0130 Fall Sport Fishery

The **2007 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 **2007 Oregon Sport Fishing Regulations**.

[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

635-039-0080 Purpose and Scope

(1) The purpose of division 039 is to provide for management of sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches over which the State has jurisdiction.

(2) Division 039 incorporates, by reference:

(a) The sport fishing regulations of the State, included in the document entitled **2007 Oregon Sport Fishing Regulations**. Therefore, persons must consult the **2007 Oregon Sport Fishing Regulations** in addition to division 011 and division 039 to determine all applicable sport fishing requirements for marine fish, shellfish and marine invertebrates.

(b) The Pacific Council Decisions document dated November 2005 (copy available from agency); and to the extent consistent with that document, Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996); Federal Regulations, Vol. 70, No. 74, dated April 19, 2005; and the annual Pacific Halibut Fishery Regulations to determine regulations applicable to this fishery.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; Renumbered from 635-39-105 - 635-39-135; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 25-1997, f. 4-22-97, cert. ef. 5-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 91-1998, f. & cert. ef. 11-25-98; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 81-2000, f. 12-22-00, cert. ef. 1-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 120-2004, f. 6-21-05, cert. ef. 1-1-05; DFW 33-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 54-2005(Temp), f. 6-10-05, cert. ef. 6-12-05 thru 11-30-05; DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 71-2005(Temp), f. & cert. ef. 7-7-05 thru 11-30-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-05-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07

Rule Caption: Tags for Terminally Ill Children.

Adm. Order No.: DFW 80-2006

Filed with Sec. of State: 8-11-2006

Certified to be Effective: 8-11-06

Notice Publication Date: 5-1-06

Rules Adopted: 635-065-0772

Subject: Rule was adopted to provide tags to terminally ill children for the hunting of deer, elk and pronghorn antelope.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

ADMINISTRATIVE RULES

635-065-0772

Tags for Terminally Ill Children

(1) "Organization" means a non-profit organization qualified under Internal Revenue Code section 501(c)(3) with the principle purpose of granting hunting and fishing adventures for children that have been diagnosed with a terminal illness by a licensed physician.

(2) "Qualified child" means a terminally ill child sponsored by an organization who provides to the Department supporting documentation demonstrating compliance with the prerequisites provided in this rule.

(3) Annually upon approval by the Director, the Department may issue no more than 25 big game tags free of charge to organizations for use by qualified children. The 25 tags will be distributed across deer, elk, and pronghorn antelope with no more than 10 tags to hunt either-sex deer, no more than 10 tags to hunt either-sex elk, and no more than five tags to hunt either-sex pronghorn antelope.

(a) Each organization is limited to five tags total for all species per year.

(b) An individual tag entitles the holder to only one deer, or one elk, or one pronghorn antelope.

(c) A qualified child may obtain only one tag pursuant to this rule.

(d) Tags issued under this rule may be used to hunt within any Oregon Wildlife Management Unit (as defined in OAR chapter 635 division 080), except specific area closures as identified in the current Oregon Big Game Regulations, Hart Mountain Antelope Refuge, or Starkey Experimental Forest enclosure.

(4) A qualified child must be between 12 and 21 years of age at the time of the hunt, and must comply with all requirements concerning:

(a) Minimum hunting age (ORS 497.350);

(b) Hunter education (ORS 497.360);

(c) Hunting hours (OAR 635-065-0730);

(d) Holding a valid Oregon hunting license, and

(e) Using legal weapon for hunting the species for which the tag is issued.

(5) A qualified child may be either resident or non-resident.

(6) A qualified child under the age of 18 must hunt in the company of an adult 21 years of age or older.

(7) For tags issued under this rule, open seasons are as follows:

(a) For deer and elk: September 1 through November 30 of the year the tag is issued.

(b) For pronghorn antelope: August 1 through September 30 of the year the tag is issued.

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

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

Hist.: DFW 80-2006, f. & cert. ef. 8-11-06

Rule Caption: Amended rules regarding the harvest of game birds season dates, open areas, and bag limits.

Adm. Order No.: DFW 81-2006

Filed with Sec. of State: 8-11-2006

Certified to be Effective: 8-11-06

Notice Publication Date: 7-1-06

Rules Amended: 635-008-0055, 635-008-0075, 635-008-0085, 635-045-0000, 635-051-0000, 635-052-0000, 635-053-0000, 635-054-0000, 635-060-0000

Subject: Rules where amended regarding the harvest of game birds, including the 2006-2006 season dates, open areas and bag limits.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-008-0055

Bridge Creek Wildlife Area

The Bridge Creek Wildlife Area is open to wildlife-oriented public use unless otherwise excluded or restricted by the following rules:

(1) The area is closed to entry during the period December 1 through April 15, except by permit.

(2) Motor vehicles are prohibited except on parking areas, open roads, and up to 300 feet off open roads for the purpose of moving to and from campsites.

(3) Camping is prohibited except during the period May 1 through November 30, and may not exceed 14 days per stay.

(4) Campfires or open burning is prohibited except at campsites. Open fires are prohibited during designated fire closures.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & cert. ef. 8-11-06

11-4-80; FWC 2-1981(Temp), f. & cert. ef. 1-20-81; FWC 30-1982, f. & cert. ef. 5-18-82, Renumbered from 635-008-0005(1); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 81-2006, f. & cert. ef. 8-11-06

635-008-0075

Crates Point Wildlife Area

The Crates Point Wildlife Area is open to wildlife-oriented public use unless otherwise excluded or restricted by the following rules:

(1) Discharging firearms other than a shotgun is prohibited except as authorized during game bird and game mammal seasons or by a permit issued by the Department.

(2) Camping is prohibited.

(3) Open fires are prohibited.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Hist.: FWC 30-1982, f. & cert. ef. 5-18-82; FWC 53-1994, f. & cert. ef. 8-25-94; DFW 81-2006, f. & cert. ef. 8-11-06

635-008-0085

Elkhorn Wildlife Area

The Elkhorn Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the Elkhorn Wildlife Area Long Range Plan unless otherwise excluded or restricted by the following rules:

(1) The area is closed to entry during the period December 1 through April 10, except by permit.

(2) Camping is prohibited except during the period April 15 through November 30, and may not exceed 14 days per stay.

(3) Campfires or open burning is prohibited except at campsites. Open fires are prohibited during designated fire closures.

(4) Dogs are prohibited from running at large.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & cert. ef. 11-4-80; FWC 2-1981(Temp), f. & cert. ef. 1-20-81; FWC 30-1982, f. & cert. ef. 5-18-82, Renumbered from 635-008-0005(5); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 81-2006, f. & cert. ef. 8-11-06

635-045-0000

Purpose

(1) The purpose of these rules is to list definitions pursuant to hunting seasons for big game and game birds.

(2) The documents entitled "2006-2007 Oregon Game Bird Regulations", and "2006 Oregon Big Game Regulations", are incorporated by reference into these rules. These documents are available at hunting license vendors and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife

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

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

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

Hist.: FWC 36-1988, f. & cert. ef. 6-13-88; FWC 47-1989, f. & cert. ef. 7-25-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 91-1990, f. & cert. ef. 9-4-90; FWC 42-1996, f. & cert. ef. 8-12-96; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. & cert. ef. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. & cert. ef. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06

635-051-0000

Purpose

(1) The purpose of these rules is to establish dates, areas and other restrictions for hunting game birds pursuant to ORS chapter 496.

(2) The document entitled "2006-2007 Oregon Game Bird Regulations," is incorporated by reference into these rules.

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

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

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

Hist.: FWC 8-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2003(Temp), f. & cert. ef. 8-26-03 thru 2-20-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06

635-052-0000

Purpose

(1) The purpose of these rules is to establish season dates, areas and bag limits for migratory upland game birds pursuant to ORS chapter 496.

ADMINISTRATIVE RULES

(2) The document entitled “2006-2007 Oregon Game Bird Regulations,” is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 61-1988, f. & cert. ef. 7-28-88; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06

635-053-0000

Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting upland game birds pursuant to ORS chapter 496.

(2) The document entitled “2006-2007 Oregon Game Bird Regulations,” is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 81-1988, f. & cert. ef. 9-2-88; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 2-2004(Temp), f. 1-13-04, cert. ef. 1-16-04 thru 1-31-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06

635-054-0000

Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting ducks, geese, coots, common snipe and crow pursuant to ORS chapter 496.

(2) The document entitled “2006-2007 Oregon Game Bird Regulations,” is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 82-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 95-1998(Temp), f. & cert. ef. 12-1-98 thru 12-18-98; DFW 98-1998(Temp), f. & cert. ef. 12-18-98 thru 2-28-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 10-12-01 thru 4-10-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 87-2004(Temp), f. & cert. ef. 8-18-04 thru 9-16-04; Administrative correction 10-25-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06

635-060-0000

Purpose and General Information

(1) The purpose of these rules is to describe the requirements and procedures for controlled hunts pursuant to ORS 496.162.

(2) The documents entitled “2006-2007 Oregon Game Bird Regulations,” and “2006 Oregon Big Game Regulations,” are incorporated by reference into these rules. These documents are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 118, f. & cert. ef. 6-3-77; FWC 25-1978, f. & cert. ef. 5-26-78; FWC 32-1978, f. & cert. ef. 6-30-78; FWC 29-1979, f. & cert. ef. 8-2-79; FWC 33-1980, f. & cert. ef. 6-30-80; FWC 7-1981, f. 2-18-81, f. & cert. ef. 6-1-81; FWC 10-1981, f. & cert. ef. 3-31-81; FWC 22-1981, f. & cert. ef. 6-29-81; FWC 21-1982, f. & cert. ef. 3-31-82; FWC 38-1982, f. & cert. ef. 6-25-82; FWC 34-1984, f. & cert. ef. 7-24-84; FWC 16-1985, f. & cert. ef. 4-11-85; FWC 43-1985, f. & cert. ef. 8-22-85; FWC 35-1986, f. & cert. ef. 8-7-86; FWC 11-1987, f. & cert. ef. 3-6-87; FWC 40-1987, f. & cert. ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 28-2002(Temp), f. 4-1-02, cert. ef. 4-2-02 thru 9-28-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06

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Rule Caption: Modifications to commercial Fall Chinook salmon gill net seasons in the mainstem Columbia River.

Adm. Order No.: DFW 82-2006(Temp)

Filed with Sec. of State: 8-11-2006

Certified to be Effective: 8-13-06 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 10, 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 taken for commercial purposes in the waters of the Columbia River: 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. Retention of green sturgeon is prohibited.

(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)). 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).

(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.

(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. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(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. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. ef. 8-13-06 thru 12-31-06

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Rule Caption: Amend rule to increase monthly cumulative landing limits in the commercial nearshore fishery.

Adm. Order No.: DFW 83-2006(Temp)

Filed with Sec. of State: 8-10-2006

Certified to be Effective: 8-11-06 thru 2-6-07

Notice Publication Date:

Rules Amended: 635-004-0033

ADMINISTRATIVE RULES

Subject: Amend rules to increase the cumulative commercial nearshore Limited Entry monthly landing limits for black and blue rockfish in August and September 2006 to 1,400 pounds per month. Previously established black and blue limits for October, November, and December remain unchanged. Amended rule also increases the cumulative monthly landing limits for permittees with a Nearshore endorsement as follows: "other nearshore" rockfish—350 pounds per month for the remainder of 2006; cabezon—2,000 pounds per month for the remainder of 2006; and greenling—400 pounds per month for the remainder of 2006.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-004-0033

Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the following species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

(a) Minor Nearshore Rockfish;
(b) Minor Shelf Rockfish (excluding tiger rockfish and vermilion rockfish);

- (c) Minor Slope Rockfish;
- (d) Black Rockfish;
- (e) Blue Rockfish;
- (f) Cabezon;
- (g) Canary Rockfish;
- (h) Greenling;
- (i) Tiger Rockfish;
- (j) Vermilion Rockfish;
- (k) Widow Rockfish;
- (l) Yelloweye Rockfish;
- (m) Yellowtail Rockfish;
- (n) Darkblotched Rockfish;
- (o) Pacific Ocean Perch;
- (p) Longspine Thornyhead;
- (q) Shortspine Thornyhead;
- (r) Arrowtooth Flounder;
- (s) Dover Sole;
- (t) Petrale Sole;
- (u) Rex Sole;
- (v) Other Flatfish;
- (w) Lingcod;
- (x) Sablefish;
- (y) Pacific Whiting.

(2) For the purpose of this rule a "harvest cap" is defined as the total catch for a given species, or species group, that may be taken in a single calendar year. For 2006, the commercial harvest caps are:

(a) Black rockfish and blue rockfish combined of 106.5 metric tons, of which no more than 102.5 metric tons may be black rockfish;

- (b) Other nearshore rockfish, 13.5 metric tons;
- (c) Cabezon, 31.3 metric tons;
- (d) Greenling, 23.4 metric tons;

(3) In 2006, no vessel may land black rockfish and blue rockfish, combined, more than:

- (a) 300 pounds per month in the months of January and February;
- (b) 700 pounds per month in the months of March, April, May, June,

July;

- (c) 1,400 pounds per month in the months of August and September;
 - (d) 300 pounds per month in the month of October;
 - (e) 250 pounds per month in the months of November and December.
- (4) In 2006, in any month, no vessel may land more than:

- (a) 350 pounds of other nearshore rockfish;
- (b) 2,000 pounds of cabezon;
- (c) 400 pounds of greenling.

Stat. Auth.: ORS 506.109 & 506.119
Stats. Implemented: ORS 506.129

Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f.

11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 60-2003(Temp), f. 7-15-03, cert. ef. 7-16-03 thru 12-31-03; DFW 79-2003(Temp), f. & cert. ef. 8-18-03 thru 12-31-03; DFW 102-2003(Temp), f. 9-30-03, cert. ef. 10-1-03 thru 12-31-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 76-2004(Temp), f. 7-23-04, cert. ef. 7-28-04 thru 12-31-04; DFW 100-2004(Temp), f. & cert. ef. 9-28-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 31-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 82-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 12-31-05; DFW 86-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 119-2005(Temp), f. 10-10-05, cert. ef. 10-11-05 thru 12-31-05; DFW 135-2005(Temp), f. 11-30-05, cert. ef. 12-1-05 thru 12-31-05; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 50-2006(Temp), f. 6-28-06, cert. ef. 7-1-06 thru 12-27-06; DFW 83-2006(Temp), f. 8-10-06, cert. ef. 8-11-06 thru 2-6-07

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Rule Caption: Access and Habitat Program Emergency Seeding.

Adm. Order No.: DFW 84-2006(Temp)

Filed with Sec. of State: 8-9-2006

Certified to be Effective: 8-9-06 thru 12-31-06

Notice Publication Date:

Rules Adopted: 635-090-0191

Subject: This rule allows a special, fast-track review and approval process available to the Board for emergency seeding projects that address recent, wildfire-caused impacts to lands providing wildlife habitat.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-090-0191

Emergency Seeding

(1) This section creates a special, fast-track review and approval process available to the Board for emergency seeding projects that address recent, wildfire-caused impacts to lands providing wildlife habitat. Notwithstanding any other rule, the Board may (at its discretion) process grant applications for such emergency projects using any or all of the special process elements provided by subsection (2) of this rule. However, the substantive standards provided in other rules shall still apply, with the addition of the special criteria specified in subsection (4) below.

(2) When processing an application for an emergency project, the Board may:

(a) Consult with the appropriate Regional Advisory Council in the most expeditious manner available (which may include fax, e-mail or telephone);

(b) Consider and vote on the application during a special meeting of the Board upon shorter notice than required for regular Board meetings; and

(c) Hold such a special Board meeting via telephone conference call.

(3) Any emergency grant application recommended by the Board through the special procedures provided by this rule shall be forwarded to the Director (rather than the Commission) for final funding decision. The Director shall act on such a recommendation within 7 working days of receipt.

(4) The Board shall apply the following special criteria to emergency grant applications, in addition to the general standards provided elsewhere in this division:

(a) The proposed project must be located entirely on private land;

(b) The project site must provide critical habitat for wildlife;

(c) The project must propose emergency seeding to benefit wildlife, and the seed mixture has been approved by the local ODFW district biologist;

(d) All equipment needed to complete the project is available; and

(e) The seeding can be completed in the timeframe required.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.232, 496.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.232, 496.242

Hist.: DFW 84-2006(Temp), f. & cert. ef. 8-9-06 thru 12-31-06

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Department of Human Services, Child Welfare Programs Chapter 413

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 18-2006

Filed with Sec. of State: 8-1-2006

ADMINISTRATIVE RULES

Certified to be Effective: 8-1-06

Notice Publication Date: 6-1-06

Rules Adopted: 413-010-0081, 413-010-0082, 413-010-0083, 413-010-0084, 413-010-0085, 413-010-0086

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

Rules Coordinator: Annette Tesch—(503) 945-6067

413-010-0081

General Principles Regarding Release of Adoption Home Study Reports

(1) These rules (OAR 413-010-0081– 413-010-0086) establish the Department of Human Services (Department) procedures for the release of adoption home study reports prepared by the Department. The Department will make these reports available only as provided in these rules.

(2) Adoption home study reports are needed to ensure that children who are in the legal custody of the Department are placed in the care of families who will provide permanency, safety, attachment, and well being. In addition, adoption home study reports prepared by the Department are sometimes used to assist the persons who are the subject of the report to be considered for the placement of children who are in the custody of a public agency in another state or under the jurisdiction of a juvenile court in another state.

(3) Interpretation of these rules is guided by the following principles:

(a) Children deserve to be placed into adoptive families in a timely manner to meet their needs for permanency, safety, attachment, and well being.

(b) When the Indian Child Welfare Act, 25 USC sections 1901–1935 (1978), applies to a child, the child's tribe will be invited to participate in the selection of the adoptive family. The level of tribal involvement in the selection process may vary from case to case. Tribes that choose to be involved in the selection process need information about the prospective adoptive families.

(c) The Department, CASAs, children's tribes, and children's attorneys, who may have different statutory obligations, work to assure that children in the custody of the Department who have adoption as their permanency plan are placed into adoptive families who can meet their need for permanency, safety, attachment, and well being.

(d) To ensure that the Department can achieve suitable matches with adoptive families for children who are in the legal custody of the Department and have no current caretaker or potential relative adoptive resources, the Department must make recruitment efforts tailored to the individual needs of the child.

(e) The Department values the information contributed about the child by CASAs, children's tribes, and children's attorneys during the process of selecting an adoptive family.

(f) Prospective adoptive families provide sensitive, personal information to the Department while it prepares adoption home study reports. This information and home study reports are confidential and should be released only as outlined in these rules.

(g) The Department must compare the needs of families for privacy with the need for CASAs, children's attorneys, and children's tribes to represent children.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

413-010-0082

Definitions

As used in OAR 413-010-0081–413-010-0086:

(1) An "adoption committee" is a committee responsible for decisions regarding adoptive placement selections. Adoption committees include staff from the Department, licensed adoption agencies, and community partners knowledgeable about the adoptive placement selection for children. Each of the following is considered an adoption committee:

(a) A Central Office Adoption Committee.

(b) A Local Permanency/Adoption Committee.

(c) Preliminary and subsequent Current Caretaker Committees.

(d) A Permanency/Adoption Council.

(2) "CASA" means Court Appointed Special Advocate, a volunteer who is appointed by the court, is a party to the juvenile proceeding, and is an advocate for the child pursuant to ORS 419A.170.

(3) The "adoption home study report" (report) is a document containing an assessment of a family as an adoptive resource, used to determine the suitability of the family to adopt a child in the Department's custody, in the custody of a public child welfare agency in another state, or under the jurisdiction of a juvenile court in another state. The report is used as a tool to determine a match between the family and a child. The requirements for an adoption home study report are found in OAR 413-120-0200.

(4) "Third party information" is information provided to the Department by persons other than immediate household members of the prospective adoptive family and includes information from references, employers, and adult children of the prospective adoptive parents, as well as reports from health and mental health professionals.

(5) "CET" is a DHS employee who provides consultation, education, and training services to DHS child welfare staff.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

413-010-0083

Release and Review of Adoption Home Study Reports

(1) An adoption home study report may be released only to:

(a) A child's CASA, child's tribe, and a child's attorney as provided in these rules (OAR 413-010-0081– 413-010-0086).

(b) A public or private adoption agency:

(A) A report may be released to a public or private adoption agency if the agency is considering the family who is the subject of the report for adoption of a child in the custody of a public child welfare agency or under the jurisdiction of a juvenile court, regardless of whether the child is under the supervision of the public agency or a private agency providing supervision on behalf of the public agency, if the agency submits a written request for the report and the Department has an authorization for disclosure of the report signed by family members who are the subject of the report.

(B) The Department will redact information as provided in OAR 413-010-0084 from the report before releasing the report to a private or public adoption agency if the Department does not have an authorization signed by family members who are the subject of the report for disclosure of the entire report.

(2) Requests by the family who is the subject of a report.

(a) An adoption home study report may be reviewed for accuracy by the family who is the subject of the report if the family makes a written request for the report. Upon written request of the family, the DHS worker, CET, or supervisor will prepare a copy of the report with third party information removed and make that copy of the report available to the family within a reasonable time for the family to review.

(b) The Department may not release a copy of the report to the family who is the subject of the report.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

413-010-0084

Pre-Release Redaction of Adoption Home Study Report

(1) Before releasing an adoption home study report to a child's CASA, child's tribe, or child's attorney, and before releasing a report to a public or private adoption agency without an authorization signed by family members who are the subject of the report, the Department shall redact from the report information that is confidential by federal or state law. Information that must be redacted under this provision includes:

ADMINISTRATIVE RULES

- (a) Protected health information;
- (b) Mental health information;
- (c) Substance abuse information;
- (d) Criminal record check information; and
- (e) Social security numbers.

(2) Before releasing an adoption home study report to a child's CASA, child's tribe, or child's attorney, or releasing a report to a public or private adoption agency without an authorization signed by family members who are the subject of the report, the Department may redact information from the report to ensure that the prospective adoptive family cannot be identified as a result of the release of the report. Personal information about the prospective family, the disclosure of which would be unreasonable, will not be disclosed and sensitive information provided by others will be protected. Information that may be redacted under this provision includes:

- (a) The identity of references for the prospective adoptive family;
- (b) Information obtained from adult children of the prospective adoptive family;
- (c) Names of schools, businesses, or other places or things that could help identify a person named in the report or who provided third party information for the report;
- (d) Dates of birth;
- (e) Last names of persons;
- (f) Addresses;
- (g) Personal identification numbers;
- (h) Telephone numbers;
- (i) Personal information that would likely embarrass members of the prospective adoptive family if the identity of the family became known; and
- (j) Other information that could be used to identify a person, such as a job title, nickname, ceremonial title, a well known achievement or subject of notoriety.

Stat. Auth.: ORS 409.050, 418.005
Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035
Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

413-010-0085 Circumstances in Which Release of an Adoption Home Study Report May be Inappropriate and a Summary Should Be Used

The Department may determine that release of an adoption home study report, even if redacted, is not appropriate. In those circumstances, the Department may instead provide a summary in lieu of the full report. The decision to use a summary will be made on a case-by-case basis by the Department's Central Office Adoptions Manager or designee upon recommendation of the Department's local field office staff. Release of a summary is justified when the Department determines that the interest in protecting information in the report outweighs the benefits to the child of a release of a redacted report, and protection of information cannot be achieved through redaction.

Stat. Auth.: ORS 409.050, 418.005
Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035
Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

413-010-0086 Process for Release of Adoption Home Study Report to CASA, Child's Tribe, and Child's Attorney

The following procedures will be followed to effect the release of an adoption home study report to a child's CASA, child's tribe, and child's attorney:

- (1) The Department will inform the child's CASA or local CASA program director, the child's tribe, and the child's attorney, as applicable, that the Department has selected report(s) to submit to an adoption committee. The information will be provided as soon as practicable after selection of a report that will be considered by an adoption committee but not later than 10 business days before the adoption committee meets to consider the selected families.
- (2) If the child's CASA, child's tribe, or child's attorney want copies of the adoption home study reports on the families that will be considered by the adoption committee, the child's CASA, child's tribe, or child's attorney must make a request to the Department as soon as possible but no later than seven business days prior to the scheduled adoption committee.
- (3) The Department will make the selected reports, which have been redacted as provided in OAR 413-010-0084, or a summary of the report as provided in OAR 413-010-0085, available to the child's CASA through the local CASA program director, to the child's tribe or the child's attorney as

soon as possible but no later than three business days prior to the scheduled adoption committee.

(4) If the child's worker subsequently selects another adoption home study report to submit to the adoption committee, the worker will notify the child's CASA, child's tribe, and child's attorney as soon as possible that the additional report(s) have been selected, even though the three business day requirement in OAR 413-010-0085(3) cannot be met. If the child's CASA, child's tribe, or child's attorney want a copy of the additional home study, the worker will provide a redacted copy or summary of the report, as provided in OAR 413-010-0084 and 413-010-0085, prior to the committee meeting.

(5) Prior to the release of a report under these rules (OAR 413-010-0081-413-010-0086), the Department will redact the report following the standards in OAR 413-010-0084 and will release only the redacted version unless the provisions of OAR 413-010-0085 apply, in which case the Department will release a summary of the report.

(6) The redacted report or summary of the report will be released to the child's CASA through the local CASA program director.

(7) The local CASA program director must retain the report or summary, keep it secure, and allow the child's CASA to review and take notes from the report at the office of the local CASA program.

(8) The local CASA program director, the child's tribe, and the child's attorney are responsible for securing and monitoring the disclosure of information in an adoption home study report or summary, may not make copies of the report or summary and may not disclose the report, summary, or information in the report or summary to any person not authorized by the Department rules to have the report or summary.

(9) The child's CASA, local CASA program director, child's tribe, and child's attorney may not redisclose any information contained in the report for any purpose other than discussing the needs of the child with employees of the Department, the child's CASA, CASA's supervisor, the local CASA program director, the statewide CASA program director, the child's tribe, the child's attorney, the court, or the adoption committee.

(10) The local CASA program director, child's tribe, and child's attorney must return the report or summary to the Department or destroy the report or summary upon completion of the adoption home selection process.

Stat. Auth.: ORS 409.050, 418.005
Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035
Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 7-2006(Temp), f. & cert. ef. 4-13-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 19-2006

Filed with Sec. of State: 8-1-2006

Certified to be Effective: 8-1-06

Notice Publication Date: 7-1-06

Rules Amended: 413-200-0307

Rules Repealed: 413-200-0307(T)

Subject: OAR 413-200-0307, which is part of DHS Child Welfare Policy II-B.1, "Safety Standards for Foster Care, Relative Care and Adoptive Families", is being amended to provide a more detailed description of the assessment process to become a certified family, including a specific requirement that a certifying worker obtain management approval prior to certifying a family if a member of the household has a founded or unable to determine child abuse disposition. This rule has also been changed to reflect new Department terminology and to correct punctuation.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-200-0307

Decisions on Approval and Placement

(1) DHS Child Welfare has the responsibility to assess a family's appropriateness for relative care, foster care, and adoption. This assessment process involves both family members and the family's residence. To complete the assessment, DHS Child Welfare employees gather information about the family, its parenting capabilities, and network of support. They also gather information about the safety and capacity of the residence.

(2) Although certified relative care and foster care families and approved adoptive families meet these safety standards, it is the responsibility of DHS Child Welfare to exercise its discretion and judgement and select the home in which to place a specific child.

(3) A foster parent or relative caregiver who accepts a child for placement from DHS Child Welfare may accept a child for relative care, foster

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care, or adoptive placement from any other source, with the written approval of the branch responsible for the caregiver's certificate of approval or adoption approval. The written approval must be obtained prior to accepting an additional child unless the placement is on an emergency basis such as weekends, holidays or evenings, where as in such cases the written approval must be obtained within two working days after the placement has occurred.

(4) A foster parent or relative caregiver must not provide adult foster care, or day care without the prior written approval of the branch responsible for the caregiver's certificate of approval or adoption approval.

(5) Assessment Process.

(a) The assessment process for receipt and maintenance of a Certificate of Approval will include all persons living with the applicant and at the applicant's or certified family's address. This process requires the applicant and certified family to communicate substantial information as outlined in OAR 413-200-0381 to DHS Child Welfare, which will result in a written home study.

(b) An assessment of the applicant or certified family must include an assessment of the risk for child abuse or neglect:

(A) The certifying worker must ensure that the DHS Child Welfare information system is checked for child welfare history on all adults at the address of the applicant or certified family.

(B) A certifying worker may contact another state's Child Welfare Agency to request information regarding child abuse history in that state.

(C) Any Foundered or Unable to Determine Dispositions from Oregon, or comparable dispositions from another state, must have SDA Manager or Child Welfare Program Manager approval prior to issuing a certificate of approval.

Stat. Auth.: ORS 418.005 & 418.640
Stats. Implemented: ORS 418.005-418.640
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 6-2006(Temp), f. & cert. ef. 3-1-06 thru 8-28-06; CWP 19-2006, f. & cert. ef. 8-1-06

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

Rule Caption: Long Term Care Provider Tax Entities and Determination.

Adm. Order No.: OMAP 31-2006(Temp)

Filed with Sec. of State: 8-7-2006

Certified to be Effective: 8-7-06 thru 2-2-07

Notice Publication Date:

Rules Amended: 410-050-0431

Subject: OAR 410-050-0431, Long Term Care Provider Tax is being amended to provide clear criteria and deadlines for long term care providers to apply and quality for exemption from taxation.

Rules Coordinator: Darlene Nelson—(503) 947-5250

410-050-0431

Entities Subject to the Long Term Care Facility Tax

(1) Each Long Term Care Facility in the State of Oregon is subject to the Long Term Care Facility Tax except the Oregon Veterans' Home, and Long Term Care Facilities that have received written notice from the Department that they are exempt under the terms of a waiver approved by CMS.

(2) The Department will issue by June 15th of each year, a tax exemption notice to facilities eligible for exemption under the Department's Long Term Care Facility tax waiver. The exemption status shall apply for the period of July 1st of that year through June 30th of the following year.

(3) For facilities other than the Oregon Veterans' Home, the Department's determination of a facility's tax-exempt status will be based upon:

(a) Whether the facility is registered as a Continuing Care Retirement Center (CCRC) on June 1st of that year; or

(b) Whether the facility has a Medicaid recipient census that meets or exceeds the percentage of Medicaid utilization approved by CMS, as determined by the most recent Nursing Facility Financial Statement (NFFS) submitted to the Department. In order for a facility to be considered for exemption they must submit a Nursing Facility Financial Statement by the date specified in OAR 411-070-0300(2)(a) or (b), as appropriate, for the filing of the NFFS. For facilities that are not required to submit a Nursing Facility Financial Statement, a census report must be filed by October 30th of each year.

(4) Changes to a facility's CCRC status occurring after the date specified in subsection (3)(a) of this rule, and changes in a facility's Medicaid utilization percentage occurring after the fiscal reporting period covered by the NFFS filed in accordance with subsection (3)(b) of this rule, either of which may affect the facility's status as a tax exempt facility, will not be considered by the Department until the next annual determination of tax exempt status as set forth in subsection (2) of this rule.

(5) Any facility that believes the Department erred in the determination of the facility's tax-exempt status under this rule, may request a re-determination by the Department. Such request must be made within 21 days of the date of the exempt status notice. The Department's decision upon redetermination is subject to a contested case hearing under ORS chapter 183 if requested within 14 days of the date of the Department's decision.

Stat. Auth.: ORS 410 & 411
Stats. Implemented: OL 2003 & ORS 736 sec.18, sec.33
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; OMAP 31-2006(Temp), f. & cert. ef. 8-7-06 thru 2-2-07

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

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

Adm. Order No.: PH 18-2006

Filed with Sec. of State: 8-2-2006

Certified to be Effective: 8-2-06

Notice Publication Date: 6-1-06

Rules Adopted: 333-002-0000, 333-002-0010, 333-002-0020, 333-002-0030, 333-002-0035, 333-002-0040, 333-002-0050, 333-002-0060, 333-002-0070, 333-002-0080, 333-002-0090, 333-002-0100, 333-002-0110, 333-002-0120, 333-002-0130, 333-002-0140, 333-002-0150, 333-002-0160, 333-002-0170, 333-002-0180, 333-002-0190, 333-002-0200, 333-002-0210, 333-002-0220, 333-002-0230

Subject: The Oregon Department of Human Services, Public Health Division, is permanently establishing standards for registry enrollment, qualification and certification of Health Care Interpreters.

Rules Coordinator: Christina Hartman—(971) 673-1291

333-002-0000

Purpose

Title VI of the Civil Rights Act of 1964 mandates that no person in the United States shall, on grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The purpose of these rules is to establish a central registry and procedures for the qualification and certification of health care interpreters for persons with limited English proficiency. A person may not use the title of "Qualified Health Care Interpreter" unless that person has been issued a valid letter of qualification by the Department under the provisions of OAR 333-002-0140. A person may not use the title of "Certified Health Care Interpreter" unless that individual has been issued a valid certificate by the Department under the provisions of OAR 333-002-0150.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0010

Definitions

As used in division 002 of OAR chapter 333:

(1) "Applicant" means any person who has applied under OAR 333-002-0050 for registry enrollment; or qualification; or certification as a Health Care Interpreter for any of the following languages: Cantonese, Korean, Mandarin, Russian, Spanish, or Vietnamese. The state reserves the right to encompass additional languages at a later date.

(2) "Central Registry" means a registry of individuals recognized as Health Care Interpreters and maintained by the Department in accordance with OAR 333-002-0030.

(3) "Certified Health Care Interpreter" means a person who has been issued a valid certificate by the Department under the provisions of OAR 333-002-0150.

(4) "Consecutive Interpreting" means the conversion of a speaker or signer's message into another language after the speaker or signer pauses.

(5) "Department" means the Department of Human Services.

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(6) "Formal Training" means training obtained in a formal academic setting, seminars, in-service trainings, or other distance learning obtained within the seven years preceding the application date.

(7) "Fluency" means ability to interpret the dialect, slang, or specialized vocabulary of a language.

(8) "Health Care" means medical, surgical, clinic, hospital, home health, mental health, public health presentations or any other remedial care recognized by state law.

(9) "Health Care Interpreter" means any person who provides interpreting services in a health care setting whether they are an employee, contractor, volunteer, student, or intern.

(10) "Interpreting Proficiency" means a wide range of interpreting knowledge and skills that includes but may not be limited to: language fluency, ethics, cultural competency, terminology, integrated interpreting skills and translation of simple instructions.

(11) "Interpreting Services" means the process of understanding and analyzing a spoken or signed message and re-expressing that message completely, accurately and objectively in another language, taking the cultural and social context into account.

(12) "Limited English Proficient" or "LEP" means a legal concept referring to a level of English proficiency that is insufficient to ensure equal access to public services without an interpreter.

(13) "Office of Multicultural Health" or "OMH" means the central administrative support office of the Department responsible for implementing and maintaining the requirements of ORS 409.615 to 409.623.

(14) "OMH Health Care Interpreter Advisory Board" means the advisory body of language and health care interpreting subject matter experts comprised of industry professionals, educators and community representatives.

(15) "Qualified Health Care Interpreter" means a person who has been issued a valid letter of qualification by the Department under the provisions of OAR 333-002-0140.

(16) "Remote Interpreting" means interpreting services provided via telephone, video, online or any other electronic means where one of the principal participants (patient or provider), is present in Oregon.

(17) "Sight Translation" means translation of a written document into spoken/signed language.

(18) "Simultaneous Interpreting" means converting a speaker or signer's message into another language while the speaker or signer continues to speak or sign.

(19) "Translation" means the conversion of written text into a corresponding written text in a different language.

(20) "Verifiable Evidence" means documented proof of Health Care Interpreter experience obtained within the 24 months preceding the application date. Such documentation may include: employer endorsement, pay statement, services contract, remittance advice, and/or student practicum/intern time log.

(21) "Written verification" means documented proof of Health Care Interpreter training obtained within the 24 months preceding the application date. Such documentation may include: official transcripts, a certificate of completion and/or an endorsement from an agency or institution whose training curriculum is approved by the Department.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0020

Health Care Interpreter Services

Any individual providing Consecutive Interpreting, Interpreting Services, Remote Interpreting, Sight Translation or Simultaneous Interpreting as defined in this division may:

(1) Voluntarily meet the eligibility standards for registry enrollment established in OAR 333-002-0040 and be added to the central registry under the provisions of OAR 333-002-0130; or

(2) Voluntarily meet the requirements of qualification established in OAR 333-002-0040 and be issued a valid letter of qualification by the Department under the provisions of OAR 333-002-0140; or

(3) Voluntarily meet the requirements of certification established in OAR 333-002-0040 and be issued a valid certificate by the Department under the provisions of OAR 333-002-0150.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0030

Central Registry

The Department will maintain a central registry of individuals providing Health Care Interpreter Services as defined in 333-002-0020.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0035

Fees

In accordance with ORS 409.623 the Department adopts program fees as established in **Table 1**.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0040

Eligibility Standards for Registry Enrollment, Qualification and Certification

(1) Applicants seeking enrollment in the health care interpreter registry must:

- (a) Be at least 18 years of age;
- (b) Submit applicable forms and fees (as established in Table 1);
- (c) Successfully complete the Health Care Interpreter orientation session provided by the Department;

(d) Agree to abide by the National Code of Ethics for Interpreters in Health Care as adopted in Appendix I; and

(e) Agree to abide by the National Standards of Practice for Interpreters in Health Care as adopted in Appendix II.

(2) In addition to complying with the requirements set out in subsection (1) of this rule, applicants seeking qualification must be able to:

- (a) Provide written verification of at least 60 hours of formal training as defined in OAR 333-002-0060;
- (b) Provide verifiable evidence of 30 hours of experience; and
- (c) Demonstrate health care interpreting knowledge in English by passing oral and written qualification examinations offered by the Department as defined in OAR 333-002-0070.

(3) In addition to complying with the requirements set out in subsection (1) of this rule, applicants seeking certification must be able to:

- (a) Provide written verification of at least 60 hours of formal training as defined in OAR 333-002-0060;
- (b) Provide verifiable evidence of 30 hours of experience; and
- (c) Demonstrate health care interpreting proficiency in English and the non-English language for which certification is being requested by passing oral and written certification examinations offered by the Department as defined in OAR 333-002-0070.

(4) The Department will accept formal training from entities outside of Oregon who can demonstrate that their criteria are equal to or exceed Oregon criteria as established by this division and Department policy. Applicants holding written verification from outside entities do not need to retake training however; they must satisfy the requirements as set forth in subsections (1), (2) and (3) of this rule.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0050

Application Procedure

(1) Upon request, the Department will provide an application packet to any individual seeking registry enrollment; qualification; or certification as a Health Care Interpreter.

(2) Applicants must submit standard forms along with required documentation and fees to the Department.

(3) All application materials submitted in a language other than English must be accompanied by:

- (a) An accurate translation of those documents into English;
- (b) A notarized affidavit certifying that the translator is competent in both the language of the document and the English language; or
- (c) A notarized affidavit certifying that the translation is a true and complete translation of the foreign language original.

(4) Any translation costs for documents required by the Department will be at the expense of the applicant.

(5) If the Department determines that the application and submitted documentation are acceptable; examinations and/or a Department approved orientation session will be scheduled, as required.

(6) If the Department determines that the application is not complete or that the required documentation is not acceptable, the applicant will be

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notified within 30 days of receipt. An incomplete application includes, but is not limited to, an application in which:

- (a) Required information or original signatures are not provided; or
- (b) Required forms, documentation or fees are not submitted.
- (7) Applicants may withdraw from the process at any time by submitting written notification to the Department.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0060

Training Requirement

(1) Qualified and Certified Health Care Interpreter applicants must provide written verification of the successful completion of formal training. Required subjects include Medical Terminology, Anatomy, Physiology, Concepts and Modes of Health Care Interpreting and Health Care Interpreting Ethics. Applicants must meet or exceed the minimum training requirement for the credential being sought.

(2) Each Qualified and Certified Health Care Interpreter applicant must complete at least 60 hours of Department approved training, including a minimum of:

- (a) 52 hours of integrated Medical Terminology, Anatomy and Physiology, Introductory Health Care Interpreting Concepts and Modes; and
- (b) Eight hours of Health Care Interpreting Ethics.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0070

Examination

(1) Oral and written examinations will be held at least twice annually in multiple locations state-wide.

(2) Applicants will be notified by mail, postmarked at least two weeks before the scheduled exam, of the time and place of the exam.

(3) Applicants who request an extension in writing to the Department, postmarked two weeks in advance of the oral or written examination, may have their examination fees apply to a subsequent examination date so long as the applicant sits for the examination within one year of the date of extension. Only one extension will be permitted.

(4) Refund of the examination fee will be granted should the applicant request a full refund in writing postmarked at least two weeks prior to the examination date.

(5) Applicants must pass the oral and/or written examination within 18 months of the initial examination with a maximum of three attempts. All applicable fees must be submitted for each examination attempt.

(6) After three failed attempts; applicants must wait one year to re-apply.

(7) The Department may elect to administer examinations at times other than those regularly scheduled. Additional costs associated with the administration of an unscheduled examination will be paid by the applicant.

(8) Government issued photo identification showing the name and address of the applicant must be presented to enter the examination. This identification could be a valid driver's license, valid state identification card, and current U.S. passport or immigration/naturalization papers.

(9) An examinee whose conduct interferes with or disrupts the testing process may be dismissed and disqualified from future examination. Such conduct includes but is not limited to the following behaviors:

- (a) Giving or receiving examination data, either directly or indirectly, during the examination process;
- (b) Failure to follow written or oral instructions relative to conducting the examination, including termination times and procedures;
- (c) Introducing unauthorized materials during any portion of the examination;
- (d) Attempting to remove examination materials or notations from the site; or
- (e) Violating the credentialing process by:
 - (A) Falsifying or misrepresenting educational credentials or other information required for admission to the examination;
 - (B) Having an impersonator take the oral or written examination on one's behalf; or
 - (C) Impersonating an examinee.

(10) Test questions, scoring keys, and other examination data used to administer the oral or written examinations are exempt from disclosure under ORS 192.410 to 192.505.

(11) The Department may release statistical information regarding examination pass/fail rates by group, type of examination, and subject area to any interested party.

(12) All examinations are given in English and the foreign language for which qualification or certification is being sought.

(13) Applicants with special needs may apply to the Department for the provision of accommodations to complete the examination. A request for accommodations must be made to the Department in writing no later than three weeks prior to the date of the examination.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0080

Examination Appeal

(1) Applicants who fail to pass a Department administered oral or written examination may request to review their examination results.

(2) The following appeal process will be utilized to request a review:

- (a) Requests must be submitted on the standard form and received by the Department within 30 days of the Notification of Examination Results sent to the applicant; and

- (b) Applicants must specifically state the reason for the appeal and why they believe the results should be modified. Applicants must identify clear and convincing evidence of error in the examination content, bias, prejudice or discrimination in the examination process that they feel are applicable to the appeal.

- (3) The Department will not consider any challenges to examination scores unless the total of the potentially revised score would result in issuance of a letter of qualification or certificate.

- (4) Examination appeals and all related materials including written results, audio or videotapes, examiner comments, and information provided by the applicant will be referred to the OMH Health Care Interpreter Advisory Board for review and recommendations.

- (5) During the review, the applicants' identity will remain confidential.

- (6) The Department will not consider oral arguments from the applicant regarding an examination appeal unless the Department determines that further information is required

- (7) The Department will make a determination as to whether to grant the appeal and that determination will become part of the public record.

- (8) Granting an appeal may result in the following actions:

- (a) Suspension of a failing score and opportunity for the applicant to retake the oral or written examination at no additional expense; or
 - (b) Reversal of a failing score and issuance of a letter of qualification or certificate.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0090

Orientation Session

Applicants for registry enrollment, qualification and certification must attend a Department approved orientation session. Information provided during orientation sessions will include, but may not be limited to the following topics:

- (1) Presentation of Senate Bill 790 (2001 Legislation), ORS 409.615 to 409.623 and OAR 333-002;

- (2) Review of Department, Health Care Interpreter, Provider and Patient roles and responsibilities; and

- (3) Review of National Code of Ethics and National Standards of Practice for Interpreters in Health Care.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0100

Code of Ethics for Interpreters in Health Care

Health Care Interpreters must adhere to the National Code of Ethics for Interpreters in Health Care as adopted in **Appendix I**.

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

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0110

Standards of Practice for Interpreters in Health Care

Health Care Interpreters must adhere to the National Standards of Practice for Interpreters in Health Care as adopted in **Appendix II**.

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

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Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0120

Continuing Education

The intent of Continuing Education is to protect the public by maintaining and enhancing credential holders' knowledge and skills related to health care interpreting.

(1) At renewal time Certified Health Care Interpreters must:

(a) Have completed 16 hours of continuing education.

(b) Sign and submit a Department supplied Continuing Education form indicating they have completed the required number of hours of continuing education.

(2) Continuing education must be completed within the renewal period. Contact hours taken in excess of the total number required may only be carried over to the next subsequent renewal period.

(3) Continuing education records must be maintained by the health care interpreter for a minimum of five years.

(4) If the Department finds indications of fraud or falsification of records, investigative action will be instituted. Findings may result in disciplinary action including revocation of the letter of qualification or certificate.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0130

Registry Enrollment

(1) If the Department determines that OAR 333-002-0040, 333-002-0050, and 333-002-0090 have been met, the applicant will be added to the central registry of Health Care Interpreters.

(2) Registry enrollment is valid for 12 months from the date of enrollment and is renewable.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0140

Letter of Qualification

(1) If the Department determines that OAR 333-002-0040, 333-002-0050, 333-002-0060, 333-002-0070, and 333-002-0090 have been met, a letter of qualification will be issued.

(2) Letters of Qualification are valid for 24 months from the date of issue and are not renewable.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0150

Certificate

(1) If the Department determines that OAR 333-002-0040, 333-002-0050, 333-002-0060, 333-002-0070, and 333-002-0090 have been met, a certificate will be issued.

(2) Certificates are valid for 24 months from the date of issue and are renewable.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0160

Registry Enrollment Renewal

(1) Applicants for registry enrollment renewal must provide to the Department:

(a) The completed renewal form provided by the Department;

(b) Applicable fees (as established in Table 1);

(c) A current signed copy of the National Code of Ethics for Interpreters in Health Care; and

(d) A current signed copy of the National Standards of Practice for Interpreters in Health Care.

(2) The materials required by subsection (1) of this rule must be submitted to the Department prior to the expiration date of registry enrollment and no less than 30 days in advance of that date. The date of submission of these materials will be considered to be the date postmarked by the US Postal Service, or if not postmarked, by the date they are received by the Department.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0170

Certification Renewal

(1) A Certified Health Care Interpreter must provide to the Department:

(a) The completed renewal form provided by the Department;

(b) Applicable fees (as established in Table 1);

(c) Written verification of a minimum of 16 hours of continuing education as defined in OAR 333-002-0120 during the preceding 24 months;

(d) A current signed copy of the National Code of Ethics for Interpreters in Health Care; and

(e) A current signed copy of the National Standards of Practice for Interpreters in Health Care.

(2) The materials required by subsection (1) of this rule must be submitted to the Department prior to the expiration date of the certificate and no less than 30 days in advance of that date. The date of submission of these materials will be considered to be the date postmarked by the US Postal Service, or if not postmarked, by the date they are received by the Department.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0180

Denial, Revocation, Suspension or Refusal to Renew Registry Enrollment

The Department must deny, revoke, suspend or refuse to renew registry enrollment under the following conditions:

(1) Applicant for initial registry enrollment fails to meet the eligibility standards of OAR 333-002-0040;

(2) Applicant for registry enrollment renewal fails to comply with the requirements of OAR 333-002-0160;

(3) Applicant submits information that cannot be verified; or

(4) Applicant engages in conduct or practices found by the Department to be in violation of the National Code of Ethics for Interpreters in Health Care set out in OAR 333-002-0100 or the National Standards of Practice for Interpreters in Health Care set out in OAR 333-002-0110.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0190

Denial, Revocation, or Suspension of Letters of Qualification

The Department must deny, revoke, or suspend a Letter of Qualification under the following conditions:

(1) Applicant for an initial Letter of Qualification fails to meet the requirements of OAR 333-002-0040;

(2) Applicant submits information that cannot be verified; or

(3) Applicant engages in conduct or practices found by the Department to be in violation of the National Code of Ethics for Interpreters in Health Care set out in OAR 333-002-0100 or the National Standards of Practice for Interpreters in Health Care set out in OAR 333-002-0110.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0200

Denial, Revocation, Suspension or Refusal to Renew Certification

The Department must deny, revoke, suspend or refuse to renew a Certificate under the following conditions:

(1) Applicant for an initial Certification fails to meet the requirements of OAR 333-002-0040;

(2) Applicant for a Certification renewal fails to comply with the requirements of OAR 333-002-0170;

(3) Applicant submits information that cannot be verified; or

(4) Applicant engages in conduct or practices found by the Department to be in violation of the National Code of Ethics for Interpreters in Health Care set out in OAR 333-002-0100 or the National Standards of Practice for Interpreters in Health Care set out in OAR 333-002-0110.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

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333-002-0210

Complaints

Any affected party or witness may submit a complaint against a Health Care Interpreter. Complaints must be submitted on the standard form provided by the Department, signed and dated by the person alleging the complaint. A complaint that does not comply with the requirements of this rule will not be accepted, responded to or acted upon by the Department.

(1) The Department may commence an investigation of a Health Care Interpreter as a result of information received from any party.

(2) Complaint forms received by the Department will be made available to the accused Health Care Interpreter and others involved in the investigation of the allegations.

(3) A preliminary review of the complaint will be made by the Department to assure there is sufficient cause to justify proceeding and that the allegations against the Respondent are such that, if proven, could result in a violation of the National Code of Ethics for Interpreters in Health Care set out in OAR 333-002-0100 or the National Standards of Practice for Interpreters in Health Care set out in OAR 333-002-0110.

(4) If the complaint is considered to be valid, the Department must notify the Respondent of the allegations by mail and request written comments. Written comments must be received by the Department within two weeks after the notification was first mailed, unless an extension is authorized by the Department, or the Department will evaluate the complaint using available evidence.

(5) Complaints and all evidence obtained, including any documents or information received from the Complainant, Respondent, Witnesses, Department investigators or Department staff, will be referred to the OMH Health Care Interpreter Advisory Board for review and recommendations.

(6) During the review, the applicants' identity will remain confidential

(7) The Department will not consider oral arguments from the complainant and/or respondent unless the Department determines that further information is required.

(8) If evidence is insufficient to show cause for action, the Complainant and Respondent will be so notified in writing.

(9) If evidence is sufficient to show cause for action, the Department will determine appropriate disciplinary action, the respondent will be so notified in writing and that determination will become part of the public record.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0220

Discipline

The Department may refuse to issue or renew, suspend or revoke, impose remedial education or corrective actions if an applicant, registry enrollee, Qualified or Certified Health Care Interpreter:

(1) Represents that he or she is a Qualified or Certified Health Care Interpreter without having been issued a valid letter of qualification or certificate by the Department under this division.

(2) Knowingly gives misinformation or a false impression to the Department.

(3) Violates the credentialing process by:

(a) Falsifying or misrepresenting educational credentials or other information required for admission to the examination;

(b) Having an impersonator take the oral or written examination on one's behalf; or

(c) Impersonating an examinee.

(4) Has had a credential to practice health care interpreting in another state, territory or country suspended or revoked based upon acts by the Health Care Interpreter similar to acts described in this rule.

(5) Has been convicted of a crime in this state, or any other state, territory or country, or convicted of a federal crime which demonstrably relates to the practice of health care interpreting.

(6) Has engaged in false, deceptive or misleading advertising, which includes but is not limited to, advertising health care interpreting using the titles of Qualified or Certified Health Care Interpreter in any private or public communication or publication by a person who is not credentialed by the Department. For the purposes of this rule, "advertise" includes telephone directory listings.

(7) Allowed the use of a Department issued credential by a non-credentialed person.

(8) Has presented as one's own credential, the credential of another.

(9) Has practiced health care interpreting services under a false or assumed name without notification to the Department.

(10) Has impersonated another Health Care Interpreter.

(11) Has used or attempted to use a Health Care Interpreter credential that has been revoked or suspended, lapsed or inactive.

(12) Has practiced or offered to practice beyond the scope of the National Code of Ethics or National Standards of Practice for Interpreters in Health Care.

(13) Fails to cooperate with the Department in any credentialing action or disciplinary proceeding. Such acts include but are not limited to:

(a) Failure to furnish requested papers or documents;

(b) Failure to furnish a written response to a matter contained in any complaint filed with the Department; or

(c) Failure to respond to requests for information issued by the Department whether or not the recipient is accused in the proceeding.

(14) Fails to comply with any request issued by the Department or an assurance of discontinuance entered into with the Department.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

333-002-0230

Hearings

Contested Case Hearings: A person who wishes to contest the denial, non-renewal, suspension or revocation of their registry enrollment, qualification or certification will be afforded an opportunity for a hearing by the Department according to ORS chapter 183.

Stat. Auth.: ORS 409.623
Stats. Implemented: ORS 409.621, 409.623
Hist.: PH 18-2006, f. & cert. ef. 8-2-06

Department of Human Services, Vocational Rehabilitation Services Chapter 582

Rule Caption: Adoption of a time standard for completion of the Individualized Plan of Employment.

Adm. Order No.: VRS 2-2006

Filed with Sec. of State: 8-1-2006

Certified to be Effective: 8-1-06

Notice Publication Date: 7-1-06

Rules Amended: 582-050-0000

Subject: Amending OAR 582-050-0000 to add a time standard of 180 days for the number of days between determination of eligibility and the signing of an Individual Plan of Employment by the client and vocational rehabilitation counselor.

The amendment also lists the exceptions under which it can take longer than 180 days for the Individualized Plan of Employment to be signed.

Rules Coordinator: Robert Trachtenberg—(503) 945-6734

582-050-0000

Standards

(1) Referrals to and applications for Vocational Rehabilitation Services provided by OVRS shall be handled equitably and expeditiously, with equitable statewide distribution of available staff and other resources.

(2) OVRS shall process all new referrals and applications promptly.

(3) When an Order of Selection is invoked, emphasis in screening of new referrals and processing of applicants shall be placed upon both a determination of eligibility and the severity of the impairment. Priority for services goes first to eligible individuals with the most significant disabilities. Other priority-of-service groups or sub-groups are added or deleted through amendment to the State Plan.

(4) Except when the record shows that delay is reasonable and mutually acceptable, evaluation (for the purposes of basic eligibility determination) shall begin promptly and to the maximum extent possible will be expedited through use of existing information, especially that from the records of schools, Social Security, personal physicians and family members.

(5) Once OVRS has received an application for vocational rehabilitation services, including applications for vocational rehabilitation services made through common intake procedures in One-Stop centers established under section 121 of the federal Workforce Investment Act of 1998, an eligibility determination must be made within 60 days, unless:

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(a) Exceptional and unforeseen circumstances beyond the control of OVRs preclude making an eligibility determination within 60 days and OVRs and the individual agree to a specific extension of time; or

(b) A trial work experience or exploration of the individual's abilities, capabilities, and capacity to perform in work situations is carried out in accordance with 34 CFR 361.42(e) or, if appropriate, an extended evaluation is carried out in accordance with 34 CFR 361.42(f).

(6) OVRs shall not make a determination of ineligibility on the basis that an individual with a significant disability is too severely impaired unless a trial work experience, community based assessment, or extended evaluation results in clear and convincing evidence that such individual is presently incapable of an employment outcome as result of the provision of further Vocational Rehabilitation Services.

(7) OVRs will not close an applicant's record of services prior to making an eligibility determination unless the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and OVRs has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative to encourage the applicant's participation.

(8) The length of time between eligibility determination and the signing of the Individualized Plan for Employment (IPE) by the VR counselor and client or client's representative as appropriate will not exceed 180 days except under the circumstances listed in (8)(a)-(g). If the State invokes an Order of Selection, the length of time begins once the client is pulled from the waitlist. The counselor must obtain supervisor approval to extend the time beyond 180 days and document in the case record the reason for the extension and a time frame for when the IPE will be signed

(a) Mutual agreement by the client and counselor to extend the time past 180 days taking into consideration the unique needs of the individual such as the cultural and linguistic needs of the individual.

(b) Unforeseen circumstances beyond the control of either the counselor or client, which results in extending the time needed beyond 180 days.

(c) Youth Transition program student will have their IPE signed prior to leaving the school setting.

(d) Client has requested an impartial hearing

(e) Lack of cooperation by the client, which extends the length of time beyond 180 days.

(f) Lack of agreement by either the client or counselor over the proposed IPE, which extends the length of time beyond 180 days.

(g) For clients planning to go into self-employment, the length of time between eligibility determination and signing of the IPE is 365 days.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 344.570

Hist.: VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 2-2006, f. & cert. ef. 8-1-06

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Department of Public Safety Standards and Training Chapter 259

Rule Caption: Amend Mandatory Police Maintenance Training Reporting Process.

Adm. Order No.: DPSST 11-2006(Temp)

Filed with Sec. of State: 8-15-2006

Certified to be Effective: 8-15-06 thru 2-1-07

Notice Publication Date:

Rules Amended: 259-008-0065

Subject: The Department seeks to amend current rules to reflect a more efficient method for reporting maintenance training requirements due December 31, 2006, for all police officers who were certified as of January 1, 2004.

Rules Coordinator: Bonnie Salle—(503) 378-2431

259-008-0065

Maintenance of Certification For Active Police Officers

(1)(a) The Board is responsible for setting the standards for active police officer training and the maintenance of certification. The Department is required to uphold those standards, while each agency determines what training will be provided to meet the standards.

(b) It is recommended that agencies provide training time and training opportunities to enable the active police officer to meet the required maintenance training hours.

(2) In order to maintain certification:

(a) All active police officers must maintain current First Aid/CPR certification.

(b) All active police officers must complete a total of at least eighty-four (84) hours of agency approved training every three (3) years. The eighty-four (84) hours will include:

(A)(i) Eight (8) CORE hours of training annually, from either the "Firearms" or "Use of Force" subject areas:

(ii) This training must be reported to the Department as twenty-four (24) hours of CORE training, once every three years.

(B)(i) Active police officers who hold a Supervision, Mid-Management or Executive certification, must complete at least twenty-four (24) hours of agency approved Leadership/Professional training, every three years:

(ii) This training must be reported to the Department as twenty-four (24) hours of agency approved Leadership/Professional training, once every three (3) years.

(C)(i) In addition to the CORE (A)(i) (required of all officers) and Leadership/Professional (B)(i) training hours (only required of officers with Supervision Certification and above), the remaining hours must be completed from the category of "General Law Enforcement" training in the recommended, but not limited to, subject areas of Law and Legal, Ethics and Communication, Investigations, Survival Skills, Child Abuse, Sex Abuse, and Elder Abuse:

(ii) These remaining training hours must be reported to the Department as "General Law Enforcement" training, once every three (3) years.

(3)(a) The employing agency must maintain documentation of required training on each law enforcement officer;

(b) Any training submitted to the Department on an F-6 Course Roster will be entered into each officer's DPSST training record.

(c) Maintenance training submitted on an F-6 will be credited towards the number of hours required for each maintenance training category in section (2) above.

(d) On or after January 2 of each year, the Department will identify all police officers who are deficient in maintenance training according to Department records and provide notification to the officer and his/her employing agency.

(e) Within 60 days of receipt of the notification in (d) above, the agency must notify the Department of the training status of all police officers identified as deficient in maintenance training by submitting a Form F-15M-Police to the Department, identifying the training completed during the previous three (3) year reporting period.

(A) Maintenance training hours reported to the Department on an F-15M-Police will be used solely to verify completion of maintenance training requirements and will not be added to the officer's DPSST training record.

(B) Failure to notify the Department of completion of the required training for officers with identified training deficiencies will result in a warning notification letter being sent to the agency head and the officer.

(C) A six (6) month extension to complete maintenance training requirements or submit an F-15M-Police will be automatically authorized for officers reporting maintenance requirements due on December 31, 2006.

(4) Failure to complete the training or submit the completed Form F-15M-Police, after the warning notification letter and before the six (6) month extension has expired, will result in the recall of the active police officer's certification.

(a) A police officer with a recalled certification cannot work in a certified position.

(b) Recertification following a recall may be obtained at the approval of the Department by submitting the following:

(A) The employing agency head request certification, along with an explanation of why the training was not completed; and

(B) Verification that the missed training was completed.

(c) After 2 1/2 years in a recalled status the police officer will be required to complete a Career Officer Development Course before s/he can be recertified.

(d) After over 5 years in a recalled status the police officer will be required to complete basic training in the appropriate discipline.

(5) Agency heads of the employing agency may document "excused leave" in extreme circumstances for not completing the annual requirements but must provide documentation as to the reason and indicate when the missed training was completed.

Stat. Auth.: ORS 181.652, 181.653 & 181.667

Stats. Implemented: ORS 181.652, 181.653 & 181.667

Hist.: PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 22-2002, f. & cert. ef. 11-18-02; BPSST 9-2003, f. & cert. ef. 4-22-03; DPSST 11-2006(Temp), f. & cert. ef. 8-15-06 thru 2-1-07

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Department of Revenue Chapter 150

Rule Caption: Renumbering rules; reference to Oregon Law Chapter number changed to ORS cite.

Adm. Order No.: REV 2-2006

Filed with Sec. of State: 7-31-2006

Certified to be Effective: 7-31-06

Notice Publication Date:

Rules Renumbered: 150-18.902(5) to 150-18.855(5), 150-18.902(6) to 150-18.855(6), 150-2005 OL, ch. 387 to 150-314.775

Subject: The Department of Revenue uses administrative rule numbering that corresponds to the relating Oregon Revised Statute. The 2005 legislature renumbered ORS 18.902 to 18.855. Also, 2005 Oregon Laws Chapter 387 has been codified since the related rule was adopted. The department is renumbering the related rule to correspond. No substantive changes were made to the rules.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-18.855(5)

Appeal Period after Garnishment Challenge Denied

If a person makes a challenge to a garnishment, and that challenge is denied in whole or in part by the department, the person may request a contested case hearing before an administrative law judge of the Office of Administrative Hearings established under ORS 183.605. To be valid, the hearing request must be in writing and must be received by the department within 90 days of the date on the face of the Response to Challenge to Garnishment letter issued by the department.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 18.855

Hist: REV 8-2002, f. & cert. ef. 12-31-02; REV 2-2006, f. & cert. ef. 7-31-06, Renumbered from 150-18.902(5)

150-18.855(6)

Garnishment of Wages

Circumstances in which a debtor may be jeopardizing the collection of a tax, and which are considered justification for garnishment of 100% of the debtor's wages under ORS 18.902(6) include, but are not limited to, the following:

(1) The department receives information that, in the judgment of the department, indicates the debtor is attempting to jeopardize collection of the tax. For example: The debtor directs the employer to pay over the debtor's earnings to another entity;

(2) The department receives information that, in the judgment of the department, indicates the debtor may cease employment or change jobs to avoid paying taxes;

(3) The department receives information that, in the judgment of the department, indicates the debtor intends to leave the state to avoid paying taxes;

(4) The department receives information that, in the judgment of the department, indicates that the debtor has changed jobs in the past to avoid garnishment; or

(5) The debtor's failure to comply with Oregon tax laws in an attempt to avoid or evade the tax was the basis for assessment of the tax being collected by garnishment.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 18.855

Hist.: RD 10-1983, f. 12-20-84, cert. ef. 12-31-84; RD 7-1988, f. 12-19-88 cert. ef. 12-31-88; Renumbered from 150-29.375(2)(c), REV 11-2004, f. 12-29-04, cert. ef. 12-31-04; REV 2-2006, f. & cert. ef. 7-31-06, Renumbered from 150-18.902(6)

150-314.775

Oregon Composite Tax Return

(1) Definitions: The following definitions apply for purposes of ORS 314.775–314.784 and this rule:

(a) "Distributive income" means the net amount of income, gain, deduction, or loss of a pass-through entity for the tax year of the entity and includes those items directly related to the entity and that are considered in determining the federal taxable income of the owner or, in the case of an owner that is a corporation, would be included in its federal taxable income had they been an individual.

(b) "Electing owner" means a nonresident owner that elects to participate in an Oregon composite tax return filed by a pass-through entity.

(c) "Modified distributive income" means the distributive income as defined in (1)(a) of this rule, of a pass-through entity, with the modifications provided in ORS chapter 316 and other Oregon law that directly relate to those items of income, gain, loss or deduction of the pass-through entity

that are taken into consideration by the pass-through entity in arriving at its distributive income. Such modifications include, but are not limited to, any Oregon modification necessary for depreciation, depletion, gain or loss difference on the sale of depreciable property, and any modification for federal tax credits, and do not include the federal tax subtraction, itemized deductions, and the Oregon standard deduction. Guaranteed payments are treated as a business income component of the entity's distributive income and attributed directly to the owner receiving the payment.

(d) "Nonelecting owner" means a nonresident owner of a pass-through entity that does not elect to participate in a composite return and who is required to file an Oregon individual income tax return.

(e) "Oregon-source distributive income" means the portion of the entity's modified distributive income that is derived from or connected with Oregon sources. For entities operating in Oregon and one or more other states, Oregon-source distributive income is determined by attributing to Oregon sources that portion of the modified distributive income of the entity, as defined in subsection (1)(c) of this rule, determined in accordance with the allocation and apportionment provisions of ORS 314.280 or 314.625 – 314.675.

(f) "Pass-through entity" means:

(A) A partnership;

(B) An S corporation;

(C) A limited liability company that is treated as a partnership; or

(D) An entity that is not defined as a trust under ORS 128.005, including:

(i) A business trust that provides for certificates to be issued to the beneficiary;

(ii) An investment trust;

(iii) A voting trust;

(iv) A security instrument;

(v) A trust created by the judgment of a court;

(vi) A liquidation trust;

(vii) A trust for the primary purpose of paying dividends, interests, interest coupons, salaries, wages, pensions or profits, or employee benefits of any kind;

(viii) An instrument wherein a person is nominee or escrowee for another;

(ix) A trust created in deposits in any financial institution; or

(x) A resulting trust or constructive trust; or

(xi) Another trust, the nature of which does not admit of general trust administration.

(E) The term "pass-through entity" does not include a trust that is an express trust created by a trust instrument, including a will, whereby a trustee has the duty to administer a trust asset for the benefit of a named or otherwise described income or principal beneficiary, or both, but does include a resulting or constructive trust.

(2) General provisions. A pass-through entity doing business in or deriving income from sources within this state is required to file an Oregon composite tax return if requested by one or more electing owners. Estimated tax payments are required if the total Oregon tax due for any electing owner is expected to be \$1,000 or more.

(a) Computation of tax. Each pass-through entity must calculate the tax for each electing owner of that entity. The composite tax liability for each electing owner, determined without regard to the tax credits allowed under subsection (2)(b) of this rule, is calculated by applying the Oregon tax rates based on the owner's filing status to the difference between the owner's share of the entity's Oregon-source distributive income for the taxable year and the owner's self-employment tax deduction, as provided for in subsection (2)(b) of this rule. The self-employment tax deduction, allowed pursuant to subsection (2)(b), if applicable, must be determined by multiplying the owner's federal deduction for one-half self-employment tax, attributable to the owner's share of the entity's net earnings from self-employment, by the apportionment percentage provided in ORS 314.650 – 314.675. The pass-through entity will report on the Oregon composite nonresident return the tax computed for each electing owner and total amounts for all electing owners.

(b) Credits and deductions. Below is a list of items that may or may not be allowed for electing owners.

Allowed—Item

No—Credits otherwise permitted nonresidents under ORS Chapter 315 or chapter 316.

Yes—State surplus refund provided in ORS 291.349, if applicable.

No—Keogh contribution deductions.

Yes—Self-employment tax deduction.

No—Health insurance paid in connection with the partner's participation in the partnership.

Yes—Credit for taxes paid to another state (ORS 316.131).

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See OAR 150 316.082(2) for instructions on computation of the credit for income taxes paid to another state. A schedule, listing the following items for each qualifying owner, must be attached to the Oregon composite tax return:

- (A) Name, address, and social security number;
- (B) The state of residence; and

(C) Sufficient information to determine the amount of the credit for income taxes paid to another state allowed under ORS 316.131.

(c) Losses.

(A) Net operating losses for Oregon nonresidents are computed under ORS 316.014. A pass-through entity that has filed an Oregon composite tax return on behalf of nonresident individual owners may file amended returns to carry back the Oregon net operating losses incurred by the entity. A schedule must be attached to any return filed under these provisions indicating the taxpayers affected and calculations of the loss amounts. These losses may also be carried forward. The allowed carryback and carryforward periods (including elections to forego the carryback period) are the same as provided under Internal Revenue Code section 172. The election to forego the carryback period must be made by attaching a statement to the Oregon composite return filed on or before the due date (including extensions) of the return for the loss year.

(B) Any refund of tax made pursuant to a return filed under these provisions will be paid to the entity, regardless of changes in ownership or changes in the identity of nonresidents participating in an Oregon composite filing during the carryback or carryforward period.

(3) Election to participate in an Oregon composite tax return. The following provisions apply to electing owners:

(a) The owner must make a separate election for each tax year;

(b) The owner must not have been a resident of Oregon at any time during the owner's tax year;

(c) The owner is considered to have made the election on the date the entity files the composite return that includes the electing owner;

(d) By making the election, the owner elects to have the owner's Oregon tax liability paid and reported by the entity; and

(e) An electing owner is ultimately liable for tax, penalty and interest if the entity fails to file a composite tax return or pay the tax on behalf of the owner.

(4) Filing and payment requirements.

(a) Due date. The Oregon composite tax return is due the 15th day of the fourth month after the close of the tax year of the majority of the electing owners, in accordance with ORS 314.385.

(b) Payment of amounts due. Payment of the amount due is made by the entity on the owner's behalf and must accompany the filing of the Oregon composite tax return in accordance with ORS 314.395. The payment must include the tax due plus any penalty or interest provided by Oregon law.

(c) Extensions of time to file. If the entity is granted a federal extension of time to file the entity's return, the same extension of time applies for filing the Oregon composite return. The entity should attach a copy of the federal extension to the back of the Oregon composite return when it is filed.

(5) Ineligibility or revoking an election to participate in a composite return.

(a) One or more owners may revoke the election to join in the Oregon composite tax return after the Oregon composite tax return is filed. The revocation of the election must be made within three years from the date the Oregon composite tax return was filed. To revoke a previous election, the owner must file a separate return with the department showing all items of income and deduction separately. This separate return will be treated as an original return and, if filed after the due date, any tax liability shown on the return is subject to interest and penalties in the same manner as any other delinquent filed original return. The decision to revoke a previous election by one or more owners has no effect on the election of the remaining owners.

(b) If any of the owners should become ineligible, revoke their election, or decline to participate in filing an Oregon composite tax return and the entity made tax payments on the owner's behalf, the department may transfer the tax payment to the account of the nonresident owner if the entity submits a written request to the department. The request must be received by the department before the entity files the Oregon composite return and before the nonresident owner files a tax return for that tax year, and must contain:

(A) The name and federal employer identification number of the entity that made the tax payment(s);

(B) The name and social security number of the nonresident owner; and

(C) The specific dollar amount to transfer to the account of the owner.

(c) An owner who does not or cannot elect to participate, or who revokes a prior election, is subject to withholding on the owner's share of the Oregon source distributive income under section (7) of this rule.

(6) Payment of tax on behalf of electing owners. An entity may be required to make quarterly tax payments to the department on behalf of all electing owners. The tax liability required to be paid is the sum of each electing owner's estimated tax liability for that quarter that is attributable to each owner's interest in the entity. In determining the electing owner's tax liability, the provisions of ORS 314.505 to 314.525 or 316.579 – 316.589 regarding calculation of estimated tax apply. The entity must remit the tax payments to the department using forms and instructions provided by the department.

(7) Requirement to withhold and remit tax for nonelecting owners.

(a) Withholding requirement. A pass-through entity with Oregon-source distributive income, and one or more nonresident owners that have no other Oregon-source income, is required to withhold tax on behalf of the owner unless that owner makes an election as described in section (3) of this rule or meets an exception described in section (8) of this rule. The entity must withhold tax as follows:

(A) For nonelecting owners subject to tax under ORS Chapter 316, nine percent of each owner's share of Oregon-source distributive income for the taxable year, and

(B) For nonelecting owners subject to tax under ORS chapter 317 or 318, 6.6 percent of each owner's share of Oregon-source distributive income for the taxable year.

(b) Reconciliation requirement. The pass-through entity must file, on or before the due date of its information return, an annual withholding report containing a calculation and reporting of the amount required to be withheld pursuant to this section. This report must be accompanied by a remittance, if any, of the excess of the annual withholding tax liability, as calculated in subsection 7(a), over the aggregate of the quarterly withholding tax amounts required to be remitted under subsection 7(d) of this rule. The annual withholding tax report must also be accompanied by a detailed summary of the nonelecting owner's share of the aggregate estimated withholding tax payments made by the pass-through entity for the taxable year, and, if any, the nonelecting owner's share of the aggregate additional withholding tax liability paid with the annual withholding report.

(c) Information report requirement. The pass-through entity, by the due date of its information return, must provide each applicable nonelecting owner with an information statement, containing the owner's share of the entity's withholding tax payments. The owner will claim the amount of tax payments shown on the statement as estimated tax payments on the tax return the owner files.

(d) Quarterly remittance requirement. The entity must remit amounts withheld to the department, on a quarterly basis, using Oregon estimated tax payment vouchers for each nonelecting owner, or through the use of another method approved by the department. The quarterly withholding tax remittance amounts may be made using the sum of:

(A) Nine percent, multiplied by the product of 25 percent and the sum of the noncorporate nonelecting owner's share of the entity's Oregon-source distributive income for the preceding taxable year, and

(B) 6.6 percent, multiplied by the product of 25 percent and the sum of the corporate nonelecting owner's share of the entity's Oregon-source distributive income for the preceding tax year.

(8) Exceptions to withholding requirement. The entity is not required to withhold income taxes for a nonelecting owner if:

(a) The owner's share of Oregon-source distributive income from the entity is less than \$1,000;

(b) The owner made estimated tax payments the prior tax year based on the owner's share of Oregon-source distributive income from the entity and continues to make estimated tax payments for the current tax year; or

(c) The owner files a signed affidavit with the department stating that the owner agrees to file the owner's Oregon income or excise tax return and make timely payments of all taxes imposed with respect to the owner's share of the Oregon income of the entity and that the owner is subject to the jurisdiction of the State of Oregon for purposes of collection of unpaid income tax, penalties, and interest. The signed affidavit must include the following information:

(A) The owner's name, address, and social security number or tax identification number (i.e. federal employer identification number or Oregon business identification number);

(B) The entity's name and tax identification number; and

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(C) The entity's tax year.

(d) The entity is a publicly traded partnership, as defined in Internal Revenue Code section 7704(b), that:

(A) Is treated as a partnership for federal tax purposes; and

(B) Files an annual information report including the nonresident's name, address, social security number or taxpayer identification number, ownership percentage, and share of the federal income.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.775

Hist.: REV 3-2005, f. 12-30-05, cert. ef. 1-1-06; REV 2-2006, f. & cert. ef. 7-31-06, Renumbered from 150-2005 OL, Ch. 387

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

Adm. Order No.: REV 3-2006

Filed with Sec. of State: 7-31-2006

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Notice Publication Date: 6-1-06

Rules Adopted: 150-315.514, 150-316.778

Rules Amended: 150-183.341(2), 150-314.400(1), 150-314.400(4), 150-316.082(2), 150-316.587(1), 150-316.587(8)-(A)

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

150-315.514 is adopted to clarify the definition of taxpayers eligible for a tax credit based on contributions to the Oregon Production Investment Fund.

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

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

150-316-082(2) is amended to clarify the calculation of mutually taxed income for purposes of determining the credit for taxes paid to another state.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-183.341(2)

Oregon Attorney General's Model Rules of Procedure Under the Administrative Procedure Act

The Department of Revenue, for its rulemaking functions, adopts the following Model Rules of Procedure under the Administrative Procedure Act as those rules were in effect January 1, 2006:

- (1) Definitions, 137-001-0005;
- (2) Public Input Prior to Rulemaking, 137-001-0007;
- (3) Assessment for Use of Collaborative Process in Rulemaking, 137-001-0008;
- (4) Use of Collaborative Dispute Resolution in Rulemaking, 137-001-0009;
- (5) Permanent Rulemaking Notice, 137-001-0011
- (6) Limitation of Economic Effect on Small Businesses, 137-001-0018;
- (7) Conduct of Rulemaking Hearings, 137-001-0030;
- (8) Rulemaking Record, 137-001-0040;
- (9) Agency Rulemaking Action, 137-001-0050;
- (10) Secretary of State Rule Filing, 137-001-0060;
- (11) Petition to Promulgate, Amend, or Repeal Rule, 137-001-0070;
- (12) Temporary Rulemaking Requirements, 137-001-0080;
- (13) Objections to Statements of Fiscal Impact, 137-001-0087;
- (14) Statement of the Objective of Proposed Rules, 137-001-0095.
- (15) Review of New Rules, 137-001-0100.

Stat. Auth.: ORS 183.341, 305.10

Stats. Implemented: ORS 183.341

Hist.: RD 7-1988, f. 12-19-88, cert. ef. 12-31-88; RD 4-1992, f. & cert. ef. 12-29-92; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04; REV 3-2006, f. & cert. ef. 7-31-06

150-314.400(1)

Delinquency Penalty

(1) Although ORS 314.400(1) refers to a delinquency penalty for (A) failure to file a report or return by the due date or (B) failure to pay a tax due by the due date, only one five percent penalty is added, even though there is a failure as to both requirements.

Example 1: Joe did not obtain an extension to file his tax return, which was due on April 15. On July 1, he filed the return and paid \$2,000 of tax plus interest of \$40. Joe will be charged a penalty of \$100 (\$2,000 x 5 percent).

(2)(a) The delinquency penalty is based on the tax required to be shown on the return, reduced by credits claimed on the return and by any amount of the tax that is paid on or before the due date for payment. If the department determines that the tax shown on the return is greater than the tax required to be shown, the lesser amount is used to determine the penalty.

Example 2: Jeanette filed her tax return on time. The tax shown on the return was \$800. Jeanette claimed credits of \$150, withholding of \$150, and showed a balance due of \$500. She did not pay the \$500 with the filing of the return. The department determined in processing the return that the tax required to be shown on the return was \$600. The delinquency penalty of \$15 is based on five percent of \$300 (\$600 tax required to be shown on the return, less credits of \$150 and withholding of \$150).

(b) If a tax return is not filed within three months of the due date (determined with regard to extensions), a 20 percent penalty is charged. This penalty is in addition to the five percent delinquency penalty.

Example 3: Pierre did not request an extension to file his return, which was due on April 15. He filed the return on November 1, showing tax of \$900, credits of \$300, and withholding of \$200. Pierre sent a check for the balance due of \$400 with the tax return. A total penalty of \$100 will be charged; \$20 for failure to pay the tax when due (\$400 x 5 percent), and \$80 for failing to file the return within three months of the due date (\$400 x 20 percent).

Example 4: Same facts as Example 3, except Pierre received an extension to file until October 15. Pierre will be charged a five percent penalty for failure to pay the tax when due. The 20 percent penalty for failure to file the return will not be charged because Pierre filed the return within three months of the extended due date.

(c) If a taxpayer fails to file a return and the department must determine and assess the amount of tax, the penalties are based on the tax required to be shown on the return. The tax required to be shown on the return is reduced by any credits that may be lawfully claimed on the return and by any amount of the tax that is paid on or before the due date for payment.

Example 5: Isabelle filed her 2005 tax return on July 1, 2007. The tax shown on the return was \$800 and Isabelle claimed credits of \$300 and withholding of \$400. She paid the balance due of \$100 when she filed the return. Isabelle will be charged a five percent failure to pay penalty, plus a 20 percent penalty for filing the return more than three months after the due date. The total penalty of \$25 is based on \$100 (\$800 tax shown on the return less credits of \$300 and withholding of \$400).

Example 6: Same facts as Example 5, except that Isabelle did not file her 2005 tax return after being requested to do so by the department. The department determined that the tax required to be shown on the return was \$900, allowable credits were \$150 and withholding was \$400. The penalty will be based on \$350.

(3) Exceptions to the penalty for failure to pay tax when due.

(a) Payment of 90 percent of the tax shown on the return. Income and excise tax returns filed within the period of an extension granted are not considered delinquent with regard to the time of filing. However, an extension of time to file a return does not extend the time for paying the tax. Thus, if the tax is not paid by the original due date of the return, a delinquency penalty of five percent is added to the total unpaid tax unless the taxpayer has met all of the following conditions:

(A) Filed for a federal automatic extension of time to file or filed for a separate Oregon extension, in accordance with current Oregon tax return instructions;

(B) At least 90 percent of the tax after credits as shown on the return was paid on or before the original due date of the return;

(C) The taxpayer's return is filed timely within the extension period;

(D) The balance of the tax as shown on the return is paid when the return is filed and any interest due is either paid when the return is filed or within 30 days of billing by the department.

Example 7: Henry filed an extension request with Oregon on April 15, along with a payment of \$600. He filed his tax return on October 15. The tax shown on the return was \$1,200 and Henry claimed total tax credits on the return of \$200. Henry paid the balance due of \$400 with the return. A five percent delinquency penalty would be charged on the \$400 paid on October 15 because Henry did not pay at least 90 percent of the tax shown on the return, less withholdings and credits, on or before the original due date of the return. Interest on the unpaid balance would be due from April 16 to October 15.

Example 8: Jan was granted an extension to file her federal tax return until October 15. She filed her Oregon return on June 14. The tax shown on the return was \$2,500 and she had made estimated tax payments totaling \$2,300. Jan paid the \$200 tax due with the return. The five percent delinquency penalty will not be charged on the \$200 paid on June 14 if interest from April 16 to June 14 accompanies the \$200 payment or if Jan pays the interest due on the unpaid balance of \$200 within 30 days of billing by the department.

(b) Amended tax returns. If a taxpayer (individual or corporate) files an amended income or excise tax return accompanied by less than full payment of tax and interest, the department must send a billing notice indicat-

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ing the amount of tax plus accrued interest to be paid. If the taxpayer pays the full amount of tax plus interest within 30 days of the date on the billing notice, the five percent penalty for failure to pay the tax with the amended return will not apply.

Example 9: ABC Corporation filed an amended income tax return showing a balance of tax due of \$1,000. A payment of \$1,000 was submitted with the return. The \$1,000 payment is first applied to interest that has accrued from the original due date of the return. The department determines that \$200 of interest has accrued on the \$1,000 of additional tax. Because the corporation has underpaid the tax by \$200, (\$1,000 payment less \$200 applied to interest equals \$800 of tax paid with the return), a five percent penalty applies to the \$200 of tax due. However, if ABC Corporation pays the \$200 of tax plus any additional interest within 30 days of the date on the billing notice, the five percent penalty will not apply.

(c) **Deficiencies.** If the department issues a Notice of Deficiency and the taxpayer pays the full amount of tax plus interest within 30 days of the date on the Notice of Deficiency, the five percent penalty for failure to pay the tax required to be shown on the return will not apply.

Example 10: Hanna filed her original return timely but the department issued a Notice of Deficiency for \$500 plus \$75 interest. Hanna paid \$300 within 30 days of the Notice of Deficiency. However, the five percent penalty will apply to the entire deficiency (\$500) because she did not pay the deficiency plus interest in full within 30 days of the Notice of Deficiency.

(d) **Differences in the amount of prepaid tax.** If a taxpayer (individual or corporate) files an income tax return or an excise tax return and the taxpayer overstates the amount of tax that was paid on or before the due date, the department must send a billing notice indicating the amount of additional tax and interest due. If the taxpayer pays the full amount of tax plus interest within 30 days of the date on the billing notice, the five percent penalty for failure to pay the tax by the due date does not apply.

Example 11: Maria filed her individual income tax return on April 15. The tax shown on the return was \$1,300. She claimed credits of \$300 and state income tax withholding of \$600. The \$400 balance of tax due as shown on the return was paid with the return. During processing of the return, the correct amount of state income tax withholding is determined to be \$350. Because Maria did not pay \$250 of tax by the due date, a five percent penalty applies. If Maria pays the additional tax due of \$250 plus any additional interest within 30 days of the date on the department's notice, the five percent penalty will not be charged.

Example 12: Same facts as Example 11, except Maria did not pay the \$400 balance due when she filed the return. A penalty of \$20 (\$400 x 5 percent) is charged for failure to pay the \$400 of tax when due. The \$250 of additional tax resulting from the error in the amount of withholding will not have a five percent penalty added if Maria pays the \$250 of tax plus additional interest within 30 days of the department's notice.

(4) The penalties provided under ORS 305.265(13) and 314.400(3)(b) are not combined. Only one 100 percent penalty may be assessed on a particular report or return.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 314.400
Hist.: 11-71; 12-19-75; TC 9-1981, f. 12-7-81, cert. ef. 12-31-81; RD 16-1982, f. 12-6-82, cert. ef. 12-31-82; RD 12-1985, f. 12-16-85, cert. ef. 12-31-85; RD 12-1985, f. 12-16-85, cert. ef. 12-31-85; RD 9-1987(Temp), f. & cert. ef. 7-8-87; RD 11-1987, f. & cert. ef. 11-1-87; RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; REV 3-2006, f. & cert. ef. 7-31-06

150-314.400(4)

Interest on Deficiencies and Delinquencies

In general, interest is accrued on the unpaid tax from the due date of the return until paid. When additional tax is due as a result of a refund issued in error, a Notice of Deficiency will be issued for the tax and interest paid to the taxpayer. Interest then accrues on the total amount owed from the day after the check was issued until paid.

Example 1: John and Mary were issued a tax refund of \$585 along with \$11 interest on July 17, 2006. The department later determines that the refund was issued in error, and issues a Notice of Deficiency for \$596 (\$585 tax and \$11 interest) on August 18, 2006. Interest then accrues on the \$596 total amount owed beginning July 18, 2006, until the deficiency is paid.

Example 2: Ron and Nancy were issued a tax refund of \$1,185 along with \$42 interest on October 17, 2006. The department later determines that \$395 of the refund was issued in error, and issues a Notice of Deficiency for \$409 (\$395 tax and \$14 interest received on the improper refund) on December 18, 2006. Interest then accrues on the \$409 total (\$395 tax and \$14 interest) beginning October 18, 2006, until the deficiency is paid.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 314.400
Hist.: 12-19-75, Renumbered see 150-314.400(4); 12-19-75; 12-31-82; 12-31-83; 12-31-86, Renumbered from 150-314.400(3); RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; REV 3-2006, f. & cert. ef. 7-31-06

150-315.514

Sale of a Film Production Development Contribution Credit

(1) For purposes of ORS 315.514 and this rule, a "taxpayer" is an individual subject to tax under ORS chapter 316, or a corporation subject to tax under ORS chapters 317 or 318. It does not include partnerships or other entities not subject to tax.

(2) A taxpayer who has received a certificate from the Oregon Film and Video Office may sell all or part of a certificate received to one other taxpayer.

Example 1: JEM Corporation received a \$100,000 tax credit certificate from the

Oregon Film and Video Office. JEM Corporation sold one-half of the certificate (\$50,000) to WLM Corporation. JEM Corporation may not sell the other one-half of the certificate to anyone else because the certificate may be sold to only one other taxpayer. JEM Corporation must retain the part of the certificate it did not sell to WLM Corporation.

Example 2: Using the same facts as Example 1, except that WLM is a partnership. In this case, WLM cannot purchase the credit because it is not a "taxpayer."

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 315.514

Hist.: REV 3-2006, f. & cert. ef. 7-31-06

150-316.082(2)

Credit for Income Taxes Paid to Another State — Computation

(1) **General:** This rule explains the computation of the credit for taxes paid to another state on mutually taxed income.

(a) **Residents:** An Oregon resident is allowed a credit for taxes paid to another state on mutually taxed income if the other state does not allow the credit. See section (3) of this rule for information on calculating the credit for an Oregon resident.

Example 1: Bob, an Oregon resident, receives partnership income derived from Virginia sources and joins in a multiple nonresident filing with that state. If Virginia does not allow a credit for taxes paid to Oregon on the multiple nonresident tax return, then Bob may claim a credit on the Oregon resident return.

Example 2: Elizabeth, an Oregon resident, receives income from California property. Because California allows Oregon residents to claim a credit for mutually taxed income on the California nonresident return, Elizabeth is not allowed to claim the credit on the Oregon resident return.

(b) **Nonresidents:** Under ORS 316.131, an Oregon nonresident is allowed the credit if the state of residence allows Oregon residents to claim a credit for mutually taxed income on the nonresident return filed with that state. See section (4) of this rule for information on calculating the credit for an Oregon nonresident.

(c) **Part-year residents:** A person who is a resident for a part of the taxable year and a nonresident for the rest of the year figures the credit under section (3) of this rule for the portion of the year the individual was a resident and under section (4) of this rule for the nonresident portion of the year.

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) "Adjusted gross income" means federal adjusted gross income as defined in the Internal Revenue Code section 62 and the corresponding regulations.

(b) "Modified adjusted gross income" means adjusted gross income as modified under ORS Chapter 316, but only as to items related to federal adjusted gross income.

(c) "Items related to federal adjusted gross income" means items of income, gain, loss, exclusion or deduction that are used to arrive at federal adjusted gross income. It does not include items that are unrelated to determining federal adjusted gross income, such as the federal income tax subtraction under ORS 316.695 or the additional medical expense deduction provided by ORS 316.695(1)(d)(B).

Example 3: Jon, an Oregon resident, has \$40,000 of adjusted gross income, including \$10,000 of rental income taxed both by Oregon and another state. Jon also receives a lump-sum distribution of \$8,000 from a private pension plan. Because Jon chooses to use the 5-year averaging method to compute federal tax on the distribution, the \$8,000 is not included in his adjusted gross income of \$40,000. Jon computes modified adjusted gross income as follows:

\$40,000 — Adjusted Gross Income
(5,000) — Less - U.S. Bond Interest
(2,000) — Less - Civil Service Retirement (pre 10/1/1991 service)
17,000 — Add - California Municipal Bond Interest
8,000 — Add - Pension distribution
\$58,000 — Modified Adjusted Gross Income

(d) "Mutually taxed income" means that portion of modified adjusted gross income that is both reported to and taxed by Oregon and another state.

Example 4: Matt, an Oregon resident, reports adjusted gross income of \$21,000, including gain on the sale of Hawaii property of \$5,000. For Hawaii tax purposes, the \$5,000 gain is increased by a basis adjustment of \$250. For Oregon tax purposes, the gain is reduced by a basis adjustment of \$1,000. Matt's modified adjusted gross income is \$20,000, (\$21,000 of adjusted gross income less the \$1,000 Oregon basis adjustment.) The mutually taxed income is \$4,000 (\$5,000 gain on sale of Hawaii property less the \$1,000 Oregon basis adjustment), which is the amount of modified adjusted gross income that is taxed by both Hawaii and Oregon.

Example 5: Assume the same facts as Example 4, except that both Hawaii and Oregon require a basis adjustment that increases the gain by \$1,000. In this case, the mutually taxed income is \$6,000 (\$5,000 gain on sale of Hawaii property plus the \$1,000 basis adjustment for both Oregon and Hawaii.)

Example 6: Verne, an Oregon resident, sold property that he owned in Colorado for a gain of \$128,000. On Verne's Oregon resident return, Oregon allowed \$100,000 of losses against the \$128,000 of income. Colorado did not allow the losses to be offset or deducted because the losses were not Colorado-sourced losses. Thus, Colorado taxed the entire \$128,000 gain. The amount of mutually taxed income is \$28,000 because that is the amount of gain upon which tax is actually calculated by both states.

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(e) "Total income on the return of the other state" means the other state's taxable income plus any amounts subtracted for itemized deductions, a standard deduction, or exemptions.

(f) "Net tax" means state income tax liability (whether Oregon or the other state) after all credits except the credit for taxes paid to another state.

(g) "Oregon tax based on mutually taxed income" means that portion of Oregon net tax that is attributable to mutually taxed income. It is figured using this formula:

$(A \div B) \times C = D$, where
A = mutually taxed income
B = modified adjusted gross income
C = Oregon net tax
D = Oregon tax based on mutually taxed income.

(h) "Other state's tax based on mutually taxed income" means that portion of net tax of the other state that is attributable to mutually taxed income. It is figured using this formula:

$(A \div E) \times F = G$, where
A = mutually taxed income
E = total income on the return of the other state
F = other state's net tax
G = other state's tax based on mutually taxed income.

(3) *Computing the credit for an Oregon resident.* An Oregon resident figures the credit as the lesser of:

- (a) The Oregon tax based on mutually taxed income; or
- (b) The tax actually paid to the other state.

Example 7: Jim's modified adjusted gross income of \$40,000 includes rental income taxed to Idaho and Oregon of \$4,000. His Oregon net tax is \$2,000 and his Idaho net tax (not including the Idaho Building Fund tax) is \$100. Jim figures his allowable credit as follows:

$(\text{Mutually taxed income} \div \text{modified adjusted gross income}) \times \text{net Oregon tax} = \text{Oregon tax based on mutually taxed income.}$
 $(\$4,000 \div 40,000) \times \$2,000 = \$200$

Jim's allowable credit is \$100, which is the lesser of the Oregon tax based on mutually taxed income or the income tax actually paid to Idaho of \$100.

(4) *Computing the credit for a nonresident.* The credit allowed to a nonresident is the lesser of the following amounts:

- (a) Oregon tax based on mutually taxed income (as defined under (2)(g));
- (b) The other state's tax based on mutually taxed income (as defined under (2)(h));
- (c) The tax actually paid to the other state; or
- (d) Oregon net tax.

Example 8: Dieter is a California resident with total income of \$50,000 sourced to Oregon and Idaho. He files an Oregon nonresident return reporting \$20,000 of income and \$1,800 of tax; an Idaho nonresident return reporting \$30,000 of income and \$2,700 of tax; and a California resident return reporting \$50,000 of income and \$4,000 of tax. Dieter figures his allowable credit as follows:

- (a) Oregon tax based on mutually taxed income equals \$1,800 $(\$20,000 \div 20,000) \times 1,800 = \$1,800$.
- (b) California tax based on mutually taxed income equals \$1,600 $(\$20,000 \div 50,000) \times 4,000 = \$1,600$.
- (c) Tax actually paid to California equals \$4,000.
- (d) Oregon net tax equals \$1,800.

Dieter's credit on the Oregon nonresident return is \$1,600, which is the lesser of these amounts.

(5) *Special Filing Status.* Filing status may affect the computation of the credit allowed by ORS 316.082. If a husband and wife file separate returns for Oregon and also file separate returns for another state, the credit is limited. Each spouse may claim only his or her portion of the actual taxes he or she paid to the other state (subject to all other limitations provided under this rule) in computing the allowable credit.

(6) If one spouse is a resident of Oregon and the other is a resident of a community property state and files a separate return in that state, the Oregon resident may be entitled to a credit for taxes paid to the other state on mutually taxed income. For purposes of this rule, the mutually taxed income is that which is earned and reported to the other state by the nonresident but included in the income of the Oregon resident by virtue of the laws of the community property state. The amount of the other state's tax paid on mutually taxed income is determined using the following ratio:

$(\text{Separate spouse's mutually taxed income} \div \text{total income on other state's return}) \times \text{other state's net tax.}$

Example 9: Bruce is an Oregon resident; his wife, Sue, is an Idaho resident. Each files a separate state tax return for Oregon. If Idaho, as a community property state, finds that each spouse has a one-half interest in the earnings of the other spouse, then Bruce is considered to have earned one-half of Sue's earnings. Under Oregon law, Bruce is taxable by Oregon on all of his individual earnings, plus his one-half interest in Sue's earnings. Because Bruce is being taxed by Idaho and Oregon on the same item of income, he is entitled to claim a credit on the Oregon tax return based on the mutually taxed income.

(7) If a husband and wife file a joint return for Oregon, the entire amount of taxes either or both spouse paid to the other state (subject to all other limitations provided under this rule) may be claimed for purposes of computing the credit allowed under this statute. It does not matter which filing status the taxpayers use for the other state.

(8) If a husband and wife file separate returns for Oregon but file a joint return for another state, the allowable credit is limited as follows. Each spouse may claim a credit for taxes paid to another state (subject to all other limitations provided under this rule) based on the following ratio:

$(\text{Separate spouse's mutually taxed income} \div \text{total income on other state's return}) \times \text{other state's net tax.}$

Example 10: Mark and Beth are part-year residents who elect to file separate Oregon returns and a joint Idaho return. Mark has \$2,000 income taxed by both Oregon and Idaho and Beth has \$8,000 income taxed by both Oregon and Idaho. The total income taxed by Idaho is \$40,000 and the total Idaho income tax liability is \$2,400. The amount of Idaho taxes Mark may use in computing his credit is \$120 $(\$2,000 \div \$40,000 \times \$2,400)$. The amount of Idaho taxes Beth may use in computing her credit is \$480 $(\$8,000 \div \$40,000 \times \$2,400)$.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.082

Hist.: 12-31-93; REV 5-2000, f. & cert. ef. 8-3-00; REV 12-2000, f. 12-29-00, cert. ef. 12-31-00; REV 3-2006, f. & cert. ef. 7-31-06

150-316.587(1)

Tax Used to Compute Underpayment of Estimated Tax

Any interest due for underpaying estimated taxes is computed using the total tax shown on the return. If the return is adjusted in initial processing, the recomputed tax must be used for determining any underpayment interest. Prior to October 6, 2001, subsequent amendments to the tax will not affect the underpayment interest amount unless the amended return is received prior to the statutory due date of the original return. Amended returns filed on or after October 6, 2001 will not affect the underpayment interest amount unless the amended return is received by the statutory due date of the original return or within the extension period granted for the original return.

Example 1: Mary files an Oregon income tax return on a calendar year basis. She filed a return for tax year 2000 on February 15, 2001, showing a tax liability of \$1,700. On April 10, 2001, she filed an amended return for tax year 2000 showing a tax liability of \$1,450. The return for the taxable year for purposes of computing any interest on underpayment of estimated tax is the amended return filed on April 10, 2001.

Example 2: Using the same facts as given in Example 1 except that Mary's amended return was filed on May 20, 2001. The original return filed on February 15, 2001, is the return for the taxable year for purposes of computing any interest on underpayment of estimated tax.

Example 3: Mark files an Oregon income tax return on a calendar year basis and had an extension to October 15, 2008 in which to file his 2007 return. He filed his 2007 return on May 1, 2008 showing a tax liability of \$2,150. On October 15, 2008, he filed an amended return for 2007 showing a tax liability of \$1,375. The return for the taxable year for purposes of computing any interest on underpayment of estimated tax is the amended return filed on October 15, 2008.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.587

Hist.: RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; REV 8-2001, f. & cert. ef. 12-31-01; REV 11-2004, f. 12-29-04, cert. ef. 12-31-04; REV 3-2006, f. & cert. ef. 7-31-06

150-316.587(8)-(A)

Required Installments for Estimated Tax

(1) "Required installment" means the amount of the installment that would be due if the estimated tax were equal to the lesser of the amount determined using either Method 1, Method 2, or Method 3.

(2) Method 1: Ninety percent of the tax shown on the return for the taxable year (or, if no return is filed, ninety percent of the tax for such year).

Example 1: Don and Ethel are married and have three children. Don is self-employed. Ethel works part-time. They want to know if they must pay estimated tax for 2006 and how much each required installment would be. Their estimated 2006 adjusted gross income is \$75,000, their estimated net itemized deductions are \$13,500 and they expect to have \$630 withheld from Ethel's wages. They compute their required installment as follows:

\$ 75,000 — Estimated 2006 adjusted gross income
< 4,500 > — less estimated federal tax subtraction
< 13,500 > — less estimated net itemized deductions
\$ 57,000 — Estimated Oregon taxable income
\$ 4,746 — Oregon tax on \$57,000
< 795 > — less exemption credit $(\$159 \times 5)$
< 100 > — less estimated political contribution credit
< 630 > — less estimated withholding
\$ 3,221 — Tax after credits and withholding
Multiply their tax after credits and withholding $(\$3,221)$ by 90 percent
\$ 2,899 — Total 2006 estimated tax

The 2006 estimated tax is more than \$1,000. Don and Ethel must make required installments of \$725 on each estimated payment date.

(3) Method 2: One hundred percent of the tax shown on the previous year's return.

Example 2: Amanda's adjusted gross income in 2006 was \$30,000 and her Oregon tax liability after credits was \$2,000. For 2007, Amanda can use Method 2 and pay 2007 estimated tax payments equal to 100 percent of her 2006 tax liability (\$500 on each installment due date).

(a) Restrictions on the use of Method 2:

(A) If the taxpayer did not file a previous year's return, the taxpayer cannot use Method 2 to calculate the required payment.

(B) The previous year's return must be filed timely, including extensions, and must cover 12 months. A return will not cover 12 months if the

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taxpayer has a change in accounting period during the taxable year. A taxpayer who filed as a part-year resident for the previous year qualifies to use Method 2 if the previous taxable year covers 12 months.

Example 3: Royal moved to Oregon from California on July 1, 2006 and filed as a part-year resident. His 2006 Oregon tax after credits was \$1,500. Even though his 2006 return shows 6 months of Oregon residency, his taxable year for 2006 was 12 full months. He qualifies to use Method 2 to determine his required installment for 2007. His required installment would be \$375 (\$1,500 divided by 4) due on each estimated payment date.

(b) Effect of state surplus refund payments: The tax shown on the previous year's return must be determined without regard to any state surplus refund of personal income tax determined under ORS 291.349.

Example 4: Same facts as Example 3. Royal receives a surplus refund check in November 2007 of \$150.00. That payment is not taken into account in determining the required installments under Method 2.

(c) Amended Return: For amended returns filed on or after October 6, 2001, the tax shown on the previous year's return is the tax on the amended return if the amended return is filed within the extension period. For all other amended returns, the tax shown on the previous year's tax return is determined without regard to any amended return filed after the due date of the return, including extensions.

Example 5: Li's original tax return showed a tax liability after all credits of \$400. In July, the return was amended and the tax liability after credits was \$200. If Li chooses to use Method 2, the required installments must be based on the \$400 tax shown on the original return.

Example 6: Ann's original tax return was filed June 30, 2008 with an approved extension to October 15, 2008 showing a tax liability of \$1,975. On October 14, 2008, the return was amended and the tax liability was reduced to \$1,245. If Ann chooses to use Method 2, the required installments are based on the \$1,245 tax shown on the amended return filed within the extension period.

(4) Method 3: Ninety percent of the tax for the taxable year computed by placing on an annual basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. The tax on the annualized taxable income for each period must be reduced by the allowable income tax credits that apply to that period.

(a) Generally, credits based on income or deductions are figured on the annualized income or deductions for each period.

(b) Credits computed as a percentage of income must be based upon the annualized income for the period.

(c) Credits that use income as a basis for determining an applicable percentage or for otherwise limiting the allowable credit must be based upon the total annualized income before allocation to the installment period.

Example 7: Richard and Debra are married with no dependents. They had adjusted gross income of \$14,000 for the period of January 1, 2006 to March 31, 2006. For the same period, they had itemized deductions of \$2,810. For the period of January 1, 2006 to May 31, 2006, they had adjusted gross income of \$27,000 and itemized deductions of \$4,300. For the period of January 1, 2006 to August 31, 2006, they had adjusted gross income of \$41,000 and itemized deductions of \$6,300. For the period January 1, 2006 to December 31, 2006, they had adjusted gross income of \$69,000 and itemized deductions of \$14,100. For purposes of computing the required installment, the following computations are necessary:

Actual income from January 1 to March 31 x 4
Actual income from January 1 to May 31 x 2.4
Actual income from January 1 to August 31 x 1.5
Actual income from January 1 to December 31 x 1.0

First Estimated Tax Payment

\$ 56,000 — Annualized adjusted gross income (\$14,000 x 4)
< 11,240 > — less annualized itemized deductions (\$2,810 x 4)
< 2,713 > — less federal tax subtraction on annualized income
\$ 42,047 — Annualized taxable income
\$ 3,400 — Oregon tax on \$42,047
< 318 > — less personal exemption credits (\$159 x 2)
\$ 3,082 — Annualized Oregon tax
90 percent of the annualized tax for the period of January 1, 2006 to March 31, 2006 is \$693.50

(((\$3,082 _ 90 percent) x (1 ÷ 4)). Richard and Debra's first required installment would be \$693.50.

Second Estimated Tax Payment

\$ 64,800 — Annualized adjusted gross income (\$27,000 x 2.4)
< 10,320 > — less annualized Itemized Deductions (\$4,300 x 2.4)
< 4,833 > — less federal tax subtraction on annualized income
\$ 49,647 — Annualized taxable income
\$ 4,084 — Oregon tax on \$49,647
< 318 > — less exemption credits (\$159 x 2)
\$ 3,766 — Annualized Oregon tax
90 percent of the annualized tax for the period of January 1, 2006 to May 31, 2006 is \$1,695

(((\$3,766 _ 90 percent) x (2 ÷ 4)). Richard and Debra's second required installment would be \$1,001.50 (\$1,695 less the prior installment of \$693.50).

Third Estimated Tax Payment

\$ 61,500 — Annualized adjusted gross income
< 9,450 > — less annualized itemized deductions
< 4,488 > — federal tax subtraction on annualized income
\$ 47,562 — Annualized taxable income
\$ 3,897 — Oregon tax on \$47,562
< 318 > — less exemption credits (\$159 x 2)
\$ 3,579 — Annualized Oregon tax
90 percent of the annualized tax for the period of January 1, 2006 to August 31, 2006 is \$2,416

(((\$3,579 _ 90 percent) x (3 ÷ 4)). Richard and Debra's third required installment would be \$721 (\$2,416 less the prior installments of \$1,695).

Fourth Estimated Tax Payment

\$ 69,000 — Annualized adjusted gross income
< 14,100 > — less annualized itemized deductions
< 5,000 > — less federal tax subtraction on annualized income
\$ 49,900 — Annualized taxable income
\$ 4,107 — Oregon tax on \$49,900
< 318 > — less exemption credits (\$159 x 2)
\$ 3,789 — Annualized Oregon tax
90 percent of the annualized tax for the period of January 1, 2006 to December 31, 2006 is \$3,410 (\$3,789 x 90 percent). Richard and Debra's fourth required installment would be \$994 (\$3,410 less the prior installments of \$2,416).

(5) Taxpayers may use any of the three methods to determine the required installment for a particular period.

Example 8: Emily used Method 1 to determine her required installment for the period ending March 31. For the period ended May 31, she may use whichever method results in the lowest required installment for that period.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.587

Hist.: RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; REV 9-1999, f. 12-30-99, cert. ef. 12-31-99; REV 8-2001, f. & cert. ef. 12-31-01; REV 3-2006, f. & cert. ef. 7-31-06

150-316.778

Oregon Investment Advantage Business Income Exemption

(1) Definitions. For purposes of ORS 316.778 and this rule, "business firm's income" has the meaning given the term "business income" in ORS 314.610(1) and OAR 150-314.610(1)-(A).

(2) Computing exempt income. Any ratio contained in the formulas outlined in ORS 316.778 may not be greater than 100 percent or less than zero.

(3) Method of determining the business firm's income derived from the activities at the certified facility. A business firm's income derived from the firm's activities at a certified facility is determined by multiplying the total business income of the business firm by a fraction, the numerator of which is the total sales from the certified facility during the tax period, and the denominator of which is the total sales of the business firm everywhere during the tax period.

Example 1: Wee Company had sales of \$2,250,000 from its certified facility. Total sales of Wee Company were \$3,450,000. Business income of Wee Company for the same fiscal year equaled \$500,000. Wee Company computes its income derived from the certified facility as follows: \$2,250,000 (Sales from certified facility) ÷ \$3,450,000 (Total firm sales) = 65.2 percent. \$500,000 (Business income) x 0.652 = \$326,000 (Business firm's income derived from certified facility).

(4) Intra-firm transfers. If a business firm transfers product from a certified facility to a non-certified facility without a sale actually occurring (intra-firm transfer), the business firm must impute sales to the product transferred from the certified facility to use the method prescribed in section 3 of this rule.

(a) Imputing sales value for transferred production when part of total production is transferred. If a business firm transfers some of its production at the certified facility to a non-certified facility without a sale actually occurring (intra-firm transfer), the business firm needs to impute the sales value of the transferred production. This is necessary in order to determine sales from the certified facility. To impute the sales value, the taxpayer must first compute a ratio, the numerator of which is the total sales for all other items sold from the certified facility and the denominator of which is the cost of goods sold (COGS) for all other items sold from the certified facility. This ratio is then multiplied by the COGS of the transferred product to determine its imputed sales value.

Example 2: Zee Company has two facilities in Oregon. One is a tackle box manufacturing facility in the Willamette Valley. The other is a new part-making facility that qualifies as a "certified facility" under ORS 316.778(6)(b). The part-making facility builds parts R, S, T, and U. Zee Company makes the R-Parts for internal use in building the tackle boxes. The part-making facility sold S, T, and U Parts for \$675,000 to companies other than Zee Company. Zee Company's total sales for the fiscal year were \$2,175,000 (\$1,500,000 from tackle box sales and \$675,000 from S, T, and U Parts sales). Zee Company's business income for the same fiscal year was \$1,250,000. To determine sales value derived from R-Parts produced at the certified facility, Zee Company computed the ratio of total sales from parts S, T, and U over the cost of goods sold (COGS) for parts S, T, and U and multiplied the result by the COGS for R-Parts to determine the value of tackle box sales attributable to R-Parts. Zee Company calculated that COGS for R-Parts was \$200,000. COGS for S-Parts was \$100,000 and sales were \$200,000; COGS for T-Parts was \$50,000 and sales were \$75,000; and COGS for U-Parts was \$300,000 and sales were \$400,000. Sales value computed as follows: \$675,000 (Total sales for parts S, T, and U) ÷ \$450,000 (COGS for parts S, T, and U) = 1.5 \$200,000 (COGS for part R) x 1.5 = \$300,000 (Sales value attributed to R-Parts) Zee Company uses \$300,000 of the total sales of the tackle boxes as sales value attributable to the certified facility for R-Parts. Zee Company uses \$975,000 (\$675,000 + \$300,000) as the sales attributed to the certified facility to determine the amount of income that is exempt from tax.

(b) Imputing sales for transferred production when all product is transferred. If a business firm transfers all of its production at the certified

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facility to a non-certified facility without a sale actually occurring (intra-firm transfer), the business firm must impute the sales value attributed to the production transferred in order to determine sales from the certified facility. To impute the sales value for product transferred, the taxpayer uses a ratio of COGS of the transferred production over COGS of all production. This ratio is then multiplied by total sales for the non-certified facility.

Example 3: Tee Company operates a wholesale facility in Southern Oregon. It has a processing plant in Eastern Oregon that is a certified facility. The processing plant transfers all of its output to the wholesale facility. Tee Company's total sales from all activities were \$20,000,000. Cost of production at the processing plant was \$4,000,000. The total cost of all goods sold (COGS) was \$18,000,000. Tee will use \$4,440,000 of total sales from the wholesale facility to determine the business firm's income that is attributable to the certified facility computed as follows: $\frac{\$4,000,000 \text{ (Cost of processing plant output)}}{\$18,000,000 \text{ (Total COGS)}} = 22.2 \text{ percent}$ $\$20,000,000 \text{ (Total sales)} \times 0.222 = \$4,440,000 \text{ (Sales attributed to certified facility)}$.

(c) Alternate approach for imputing sales value. If a taxpayer's circumstances do not substantially meet the standards for imputing sales value in this rule, the taxpayer must consult with the department on an appropriate allocation approach based on that taxpayer's facts and circumstances.

Stat. Auth.: ORS 305.100, 316.778

Stats. Implemented: ORS 316.778

Hist.: REV 3-2006, f. & cert. ef. 7-31-06

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

Adm. Order No.: REV 4-2006

Filed with Sec. of State: 7-31-2006

Certified to be Effective: 7-31-06

Notice Publication Date: 6-1-06

Rules Adopted: 150-307.286, 150-307.289, 150-321.839

Rules Amended: 150-307.475, 150-308.215(1)-(A)

Subject: 150-307.286: Clarify new partial property tax exemption created by legislature as the "Oregon Active Military Service Member's Exemption". Clarifies eligible property and periods of active duty service.

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

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

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

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

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-307.286

Oregon Active Military Service Member's Exemption – Eligibility

For purposes of ORS 307.286:

(1) A qualifying service member's homestead:

(a) Must be the qualifying service member's principal dwelling that is located in Oregon;

(b) Must be owned by the qualifying service member;

(c) May be a personal property manufactured structure or a floating home; and

(d) Includes land under a manufactured structure if the land is owned by the qualifying service member.

(2) A principal dwelling is the primary place the qualifying service member physically occupies for day-to-day living and owns prior to July 1 of the tax year for which the exemption is claimed.

(3) The right to claim the exemption will not be lost if the qualifying service member is temporarily absent from the homestead during the tax year in which the claim for exemption is filed. Temporary absences include absences for vacation, business travel, hospitalization, or military service.

(4) A manufactured structure or other taxable personal property required to be listed on a return under ORS 308.290 does not qualify for the exemption.

(5) The exemption allowed under ORS 307.286 is limited to the lesser of the:

(a) Assessed value of the homestead property owned by the qualifying service member; or

(b) Statutory limitation, which is equal to \$60,000 for the 2005-06 tax year and adjusted annually as described in ORS 307.286(2).

Example 1: A qualified service member owns a homestead that has an assessed value of \$80,000. Because the assessed value of the homestead is more than \$60,000, the exemption allowed is \$60,000 for the 2005-06 tax year.

Example 2: A qualified service member owns a homestead consisting of a manufactured structure and the land upon which it is located. The manufactured structure is assessed as real property and has an assessed value of \$40,000. The land upon which the structure is located has an assessed value of \$15,000. Because the assessed value of the manufactured structure and the land combined is less than \$60,000, the exemption allowed is \$55,000 for the 2005-06 tax year. The amount of the exemption cannot exceed the assessed value of the homestead property.

Example 3: A qualified service member owns a homestead consisting of a manufactured structure, but does not own the land upon which it is located. The manufactured structure is assessed as personal property and has an assessed value of \$50,000. The exemption allowed for the 2005-06 tax year is \$50,000 and only applies to the manufactured structure. The exemption does not apply to the land, because the qualified service member does not own the land.

(6) An Oregon resident is eligible for the exemption provided under ORS 307.286, if at the time of filing a claim for the exemption:

(a) The individual has been ordered to, has begun, or has completed federal active duty under Title 10 United States Code (USC), after a change in status from service under Title 32 USC; and

(b) The period of federal active duty exceeds 178 consecutive days during the tax year for which the exemption is claimed.

(7) The qualifying service member must attach documentation to the claim for exemption that shows proof of federal active duty during the tax year for which exemption is claimed.

(a) Examples of valid documentation include, but are not limited to: military orders, form DD214, a letter on military letterhead, or other military record.

(b) Acceptable documentation for the exemption must show:

(A) Service performed under Title 32 USC;

(B) Change in status from Title 32 USC to performing federal active duty service under Title 10 USC; and

(C) The number of federal active duty service days the service member was ordered to serve under Title 10 USC.

(8) A service member may qualify for the exemption if:

(a) The documentation shows a period of federal active duty service under Title 10 USC for the tax year claimed of more than 178 days, after a change in status from serving under Title 32 USC; but

(b) The service member has not yet performed or completed the federal active duty service period.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 307.286; Sec. 3 Ch. 520, OL 2005

Hist.: REV 4-2006, f. & cert. ef. 7-31-06

150-307.289

Oregon Active Military Service Member's Exemption Claimed By Lawful Occupant

For purposes of ORS 307.289:

(1) A qualifying service member's homestead:

(a) Must be the qualifying service member's principal dwelling that is located in Oregon;

(b) Must be owned by the qualifying service member;

(c) May be a personal property manufactured structure or a floating home; and

(d) Includes land under a manufactured structure if the land is owned by the qualifying service member.

(2) A principal dwelling is the primary place an individual physically occupies for day-to-day living.

(3) A lawful occupant is an individual who is using the qualifying service member's homestead as his or her principal dwelling at the time the claim is filed.

(a) The lawful occupant is not required to hold an ownership interest in the homestead.

(b) A lawful occupant may include, but is not limited to, a qualifying service member's: spouse, parent, adult child, or other relative; domestic

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partner; or roommate. A neighbor or caretaker, who has a key to the qualifying service member's homestead, but for whom the homestead is not a principal dwelling, does not qualify as a lawful occupant.

(4) The lawful occupant may claim the homestead exemption if the service member would otherwise qualify for this exemption but was killed in action before filing a claim.

(a) An individual claiming to be a lawful occupant must attach documentation to the claim for exemption that demonstrates the homestead is his or her principal dwelling at the time claim is made. The county assessor may require more than one piece of documentation.

(b) Documentation may include, but is not limited to, a valid driver's license, passport, election registration card, or the most recent property tax statement for the homestead.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.289
Hist.: REV 4-2006, f. & cert. ef. 7-31-06

150-307.475

Hardship Situations

(1) "Exemption" includes total exemptions, partial exemptions, cancellations of tax due and special assessments including but not limited to those listed in ORS 308A.706(1)(d). Relief under this section does not apply to the provisions of ORS 311.666 to 311.735.

(2) "Good and sufficient cause" is an extraordinary circumstance beyond the control of the taxpayer, or the taxpayer's agent or representative, that causes the taxpayer to file late.

(a) Extraordinary circumstances include, but are not limited to:

(A) Illness, absence, or disability that substantially impairs a taxpayer's ability to make a timely application. The substantial impairment must have existed prior to the filing deadline, and must have been of such a nature that a reasonable and prudent taxpayer could not have been expected to conform to the deadline.

(B) Delayed receipt of Veteran's Administration certification, a death certificate, or other documentary justification necessary for the filing of a claim for exemption, unless the taxpayer, with ordinary prudence, could have obtained the required information in a timely manner.

(C) Reasonable reliance on misinformation provided by county assessment and taxation staff or Department of Revenue personnel.

(b) Extraordinary circumstances do not include:

(A) Late filing due to the taxpayer's inadvertence, oversight, or lack of knowledge regarding the filing requirements.

(B) Financial hardship.

(C) Reliance on misinformation provided by a professional such as a real estate broker, attorney, or CPA.

(3) Notwithstanding ORS 307.475(3), the Servicemembers' Civil Relief Act (SCRA), 50 USC app. 526 suspends the deadline for filing a petition for hardship relief during the period that a service member is in active duty military service with the armed forces.

(4) "Military service," as used in section (3) of this rule, includes the period of time that National Guard members are called into federal service for more than 30 days under 32 USC §502(f), as well as the time members of the Army, Air Force, Navy, Marine Corps or Coast Guard, and military reservists are ordered to report to active duty.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.475
Hist.: RD 8-1983, f. 12-20-83, cert. ef. 12-31-83; RD 9-1984, f. 12-5-84, cert. ef. 12-31-84; REV 4-2006, f. & cert. ef. 7-31-06

150-308.215(1)-(A)

Real Market Value and Property Classification as Part of Assessment Roll

(1) In addition to the assessed value of property, the assessment roll must show:

(a) The real market value (RMV) of the land, excluding all buildings, structures, and improvements thereon;

(b) The RMV of all buildings, structures, and improvements; and

(c) The total RMV for each parcel of real property not required to be assessed as a unit.

(d) For properties subject to ORS Chapter 100, for example, condominiums and time shares that are required to be assessed as a unit, the assessment roll must show the RMV as well as the assessed value of each unit.

(2) The assessment roll must include the property classification code number for each parcel of real property in the county, except for those properties assessed by the department under ORS 308.505 to 308.605. The

assessor must classify and assign a property classification code number to each parcel as provided in section (8) of this rule.

(3) The assessor must maintain the proper classification on each parcel of property.

(4) A county must separately identify and adjust land and improvement values for each property class for each market area to bring real property to RMV. These adjustments to value must be developed from market studies or by any other method approved by the department as provided under ORS 309.200.

(5) The class code numbers that this rule establishes must be used for computing the real property class ratios required by ORS 309.200.

(6) An assessor must obtain written approval from the Department of Revenue before deviating from the basic property classes defined in section (8) of this rule.

(7)(a) All classification must be based upon highest and best use of the property. The term "highest and best use" is defined in OARs 150-308.205-(A) and 150-308.205-(D). The class associated with the property may or may not be its current use.

(b) Unique properties can be classified under the "miscellaneous" category in section (8). The "miscellaneous" category can also be used for property requiring a separate trend.

(c) The property classification system must not be used to categorize market data that is more accurately described by other characteristics, such as the quality class of the improvements, market areas, or neighborhoods.

(d) The property class for mixed-use or transitional properties will be assigned based upon the use that contributes the most to the real market value on the current assessment date.

(A) A mixed-use property is one in which different parts of the property are used differently, such as a commercial use on one part, and a residential use on another part.

(B) A transitional use property is one in which the real market value on the current assessment date, at its current highest and best use, is being influenced in the market by an anticipated change in future use, such as residential property that is likely to sell for a commercial use in the future, but is not in commercial use on the assessment date.

(8) DEFINITIONS FOR PROPERTY CLASSIFICATION SYSTEM. [Classification not included. See ED. NOTE.]

(9) Starting with the 2006-07 tax year, each assessor must prepare an annual plan that outlines how the county will comply with the provisions of this rule no later than the January 1, 2009 assessment date. The plan must be submitted as part of the sales ratio study and accompanying appraisal plan submitted under ORS 309.200 and 309.203. The plan must address how the county complies with, or intends to comply with the provisions of this rule for the initial tax year and all subsequent tax years up to the 2009-2010 tax year.

[ED. NOTE: Classification referenced are available from the agency.]
Stat. Auth.: ORS 305.100, 308.215
Stats. Implemented: ORS 308.215
Hist.: 3-70; 9-71; 11-73; 1-1-77; TC 10-1978, f. 12-5-78, cert. ef. 12-31-78; TC 17-1979, f. 12-20-79, cert. ef. 12-31-79; RD 9-1984, f. 12-5-84, cert. ef. 12-31-84; RD 16-1987, f. 12-10-87, cert. ef. 12-31-87; RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; RD 6-1993, f. 12-30-93, cert. ef. 12-31-93, Renumbered from 150-308.215(1); RD 6-1994, f. 12-15-94, cert. ef. 12-30-94; RD 1-1995, f. 12-29-95, cert. ef. 12-31-95; RD 9-1997, f. & cert. ef. 12-31-97; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 2-2005, f. 6-27-05, cert. ef. 6-30-05; REV 4-2006, f. & cert. ef. 7-31-06

150-321.839

Notation on Tax Roll: "Forestland - Potential Additional Tax Liability"

The county assessor must make the notation "Forestland - Potential Additional Tax Liability" on the tax roll for each parcel of land the assessor approved as designated forestland under ORS 321.839. The notation is not made with respect to parcels classified by the county assessor as highest and best use forestland.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.839
Hist.: REV 4-2006, f. & cert. ef. 7-31-06

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

Adm. Order No.: REV 5-2006

Filed with Sec. of State: 7-31-2006

Certified to be Effective: 7-31-06

Notice Publication Date: 6-1-06

Rules Amended: 150-314.280-(N), 150-317.154, 150-317.710(5)(b)

Rules Ren. & Amend: 150-314.610(4)-(B) to 150-314.610(4)

ADMINISTRATIVE RULES

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

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

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

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

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-314.280-(N)

Modified Factors for Financial Organizations

(1) This rule is based on a model regulation adopted by the Multistate Tax Commission to promote uniform treatment of this item by the states. A financial organization having income from business activity that is taxable both within and without this state must allocate and apportion its net income as provided in this rule for tax years beginning on or after January 1, 1993. All items of nonbusiness income (income that is not includable in the apportionable tax base) must be allocated pursuant to the provisions of ORS 314.610 through 314.645 and the rules thereunder. A financial organization organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or a territory or possession of the United States whose effectively connected income (as defined under the Federal Revenue Code) is taxable both within this state and within another state, other than the state in which it is organized, must allocate and apportion its net income as provided in this rule.

(2)(a) For tax years beginning on or after January 1, 1991 and before May 1, 2003, all business income must be apportioned to this state by multiplying the income by a fraction. The numerator of the fraction is two times the sales factor, as described in section (4) of this rule, plus the property factor, as described in section (5) of this rule, plus the payroll factor, as described in section (6) of this rule. The denominator of the fraction is four. If one of the factors is missing, the remaining factors are added and the sum is divided by three (divide by two if the missing factor is the sales factor). A factor is missing if both its numerator and denominator are zero, but it is not missing merely because its numerator is zero.

(b) For tax years beginning on or after May 1, 2003 and before July 1, 2005, all business income must be apportioned to this state by multiplying the income by a multiplier equal to 80 percent of the sales factor described in section (4) of this rule plus 10 percent of the property factor described in section (5) of this rule plus 10 percent of the payroll factor described in section (6) of this rule.

(c) For tax years beginning on or after July 1, 2005, all business income must be apportioned to this state by multiplying the income by a multiplier equal to 100 percent of the sales factor described in section (4) of this rule.

(d) Each factor must be computed according to the method of accounting (cash or accrual) used by the taxpayer for the taxable year.

(e) See OAR 150-314.280-(M) for other methods of apportionment and allocation or modification of the method in this rule that may be allowable.

(3) Definitions as used in this rule, unless the context otherwise requires:

(a) “Billing address” means the location indicated in the books and records of the taxpayer on the first day of the taxable year (or on such later date in the taxable year when the customer relationship began) as the address where any notice, statement, or bill relating to a customer’s account is mailed.

(b) “Borrower or credit card holder located in this state” means:

(A) A borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state; or

(B) A borrower that is not engaged in a trade or business or a credit card holder whose billing address is in this state.

(c) “Commercial domicile” means:

(A) The headquarters of the trade or business, that is, the place from which the trade or business is principally managed and directed; or

(B) If a taxpayer is organized under the laws of a foreign country, or of the Commonwealth of Puerto Rico, or any territory or possession of the United States, such taxpayer’s commercial domicile is deemed for the purposes of this rule to be the state of the United States or the District of Columbia from which such taxpayer’s trade or business in the United States is principally managed or directed. It is presumed, subject to rebuttal, that the location from which the taxpayer’s trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, no matter where the services of such employees are performed, as of the last day of the taxable year.

(d) “Credit card” means credit, travel or entertainment card.

(e) “Credit card issuer’s reimbursement fee” means the fee a taxpayer receives from a merchant’s bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services provided by the merchant to the credit card.

(f) “Financial corporation” has the same meaning as “financial organization” in subsection (3)(g) of this rule.

(g) “Financial organization” is defined in ORS 314.610(4) and OAR 150-314.610(4).

(h) “Loan” means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans do not include: loans representing property acquired in lieu of or pursuant to a foreclosure under section 595 of the federal Internal Revenue Code; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; noninterest bearing balances due from other depository institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a REMIC, or other mortgage-backed or asset-backed security; and other similar items.

(i) “Loan secured by real property” means that 50 percent or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(j) “Merchant discount” means the fee (or negotiated discount) charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

(k) “Participation” means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(l) “Person” means an individual, estate, trust, partnership, corporation, and any other business entity.

(m) “Principal base of operations” with respect to transportation property means the place of more or less permanent nature from which said property is regularly directed or controlled. With respect to an employee, the “principal base of operations” means the place of more or less permanent nature from which the employee regularly:

(A) Starts his or her work and to which the employee customarily returns in order to receive instructions from the employer, or

(B) Communicates with customers or other persons, or

(C) Performs any other functions necessary to the exercise of the employee’s trade or profession at some other point or points.

(n) “Real property owned” and “tangible personal property owned” means real and tangible personal property, respectively,

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(A) On which the taxpayer may claim depreciation for federal income tax purposes; or

(B) Property to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes (or could claim depreciation if subject to federal income tax). Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(o) "Regular place of business" means an office at which the taxpayer conducts business in a regular and systematic manner and that is continuously maintained, occupied, and used by employees of the taxpayer.

(p) "State" is defined in ORS 314.610(8).

(q) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(r) "Taxable" is defined as "taxable in another state" in ORS 314.620.

(s) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers, or the like.

(4) Sales Factor.

(a) In general. The sales factor is a fraction as provided in ORS 314.665(1). The sales factor includes only those receipts described herein that constitute business income and are included in the computation of the apportionable income base for the taxable year.

(b) Receipts from the lease of real property. See OAR 150-314.665(4).

(c) Receipts from the lease of tangible personal property.

(A) Except as described in paragraph (B) of this subsection, the numerator of the sales factor includes receipts from the lease or rental of tangible personal property owned by the taxpayer if the property is located within this state when it is first placed in service by the lessee.

(B) Receipts from the lease or rental of transportation property owned by the taxpayer are included in the numerator of the sales factor to the extent that the property is used in this state. The extent an aircraft is deemed to be used in this state is determined by multiplying the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the property is deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle is deemed to be used wholly in the state in which it is registered.

(d) Interest from loans secured by real property.

(A) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans secured by real property if the property is located within this state. If the property is located both within this state and one or more other states, the receipts described in this subsection are included in the numerator of the sales factor if more than 50 percent of the fair market value of the real property is located within this state. If more than 50 percent of the fair market value of the real property is not located within any one state, then the receipts described in this subsection must be included in the numerator of the sales factor if the borrower is located in this state.

(B) The determination of whether the real property securing a loan is located within this state is made as of the time the original agreement was made, and any and all subsequent substitutions of collateral are disregarded.

(e) Interest from loans not secured by real property. The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the borrower is located in this state.

(f) Net gains from the sale of loans. The numerator of the sales factor includes net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of section 1286 of the Internal Revenue Code.

(A) The amount of net gains (but not less than zero) from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to subsection (d) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(B) The amount of net gains (but not less than zero) from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction, the numerator of which is the

amount included in the numerator of the sales factor pursuant to subsection (e) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(g) Receipts from credit card receivables. The numerator of the sales factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

(h) Net gains from the sale of credit card receivables. The numerator of the sales factor includes all net gains (but not less than zero) from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to subsection (g) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(i) Credit card issuer's reimbursement fees. The numerator of the sales factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to subsection (g) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(j) Receipts from merchant discount. The numerator of the sales factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. Such receipts are computed net of any card holder charge backs, but are not reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(k) Loan servicing fees.

(A) The numerator of the sales factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to subsection (d) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(B) The numerator of the sales factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to subsection (e) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(C) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the sales factor must include such fees if the borrower is located in this state.

(l) Receipts from services. See OAR 150-314.665(4).

(m) Receipts from investment assets and activities and trading assets and activities.

(A) Interest, dividends (less Oregon dividend deduction), net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities are included in the sales factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities, trading account assets, federal funds; securities purchased and sold under agreements to resell or repurchase, options, future contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions. With respect to the investment and trading assets and activities described in subparagraphs (i) and (ii) of this paragraph, the sales factor includes the amounts described in such subparagraphs.

(i) The sales factor includes the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(ii) The sales factor includes the amount by which interest, dividends (less Oregon dividend deduction), gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities.

(B) The numerator of the sales factor includes interest, dividends (less Oregon dividend deduction), net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities described in paragraph (A) that are attributable to this state.

(i) The amount of interest, dividends (less Oregon dividend deduction), net gains (but not less than zero) and other income from investment

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assets and activities in the investment account to be attributed to this state and included in the numerator of the sales factor is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the average value of such assets that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator of the sales factor is determined by multiplying the amount described in subparagraph (i) of paragraph (A) from such funds and such securities by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such funds and such securities.

(iii) The amount of interest, dividends (less Oregon dividend deduction), gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, (but excluding amounts described in subparagraphs (i) and (ii) of this paragraph), attributable to this state and included in the numerator of the sales factor is determined by multiplying the amount described in subparagraph (ii) of paragraph (A) by a fraction, the numerator of which is the average value of such trading assets that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(iv) For purposes of this paragraph, average value is determined using the rules for determining the average value of tangible personal property set forth in subsections (c) and (d) of section (5).

(C) In lieu of using the method set forth in paragraph (B) of this subsection, the taxpayer may elect, or the department may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in this paragraph.

(i) The amount of interest, dividends (less Oregon dividend deduction), net gains (but not less than zero), and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator of the sales factor is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator of the sales factor is determined by multiplying the amount described in subparagraph (i) of paragraph (A) from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends (less Oregon dividend deduction), gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions (but excluding amounts described in subparagraphs (i) and (ii) of this paragraph) attributable to this state and included in the numerator is determined by multiplying the amount described in subparagraph (ii) of paragraph (A) by a fraction, the numerator of which is the gross income from such trading assets and activities that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(D) If the taxpayer elects or is required by the department to use the method set forth in paragraph (C) of this subsection, it must use this method on all subsequent returns unless the taxpayer receives prior written permission from the department, or the department requires the use of a different method.

(E) The taxpayer has the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business, and one such regular place of business is in this state and one such regular place of business is outside this state, such asset or

activity is considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, such policies and guidelines are presumed to be established at the commercial domicile of the taxpayer.

(n) All other receipts. The numerator of the sales factor includes all other receipts pursuant to the rules set forth under ORS 314.665.

(o) Attribution of certain receipts to commercial domicile. All receipts that would be assigned under this section to a state in which the taxpayer is not taxable are included in the numerator of the sales factor if the taxpayer's commercial domicile is in this state.

(5) Property Factor.

(a) In general. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real property, tangible personal property, loans, and credit card receivables located and used within this state during the taxable year and the denominator of which is the average value of all such property located and used both within and without this state during the taxable year.

(b) Property included. The property factor includes only property the income or expenses of which are included (or would have been included if not fully depreciated or expensed, or depreciated or expensed to a nominal amount) in the computation of the apportionable income base for the taxable year.

(c) Value of property owned by the taxpayer.

(A) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(B) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged off in whole or in part for federal income tax purposes, the portion of the loan charged off is not outstanding. A specifically allocated reserve established pursuant to regulatory or financial accounting guidelines that is treated as charged off for federal income tax purposes is treated as charged off for purposes of this section.

(C) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the receivable charged off is not outstanding.

(d) Average value of property owned by the taxpayer. See OAR 150-314.655(2)-(A) and 150-314.655(3).

(e) Average value of real property and tangible personal property rented to the taxpayer. See OAR 150-314.655(2)-(B).

(f) Location of real property and tangible personal property owned by or rented to the taxpayer.

(A) Except as described in paragraph (B) of this subsection, real property and tangible personal property owned by or rented to the taxpayer is considered to be located within this state if it is physically located, situated, or used within this state.

(B) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft is deemed to be used in this state and the amount of value that is included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this state cannot be determined, then the property is deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle is deemed to be used wholly in the state in which it is registered.

(g) Location of loans.

(A)(i) A loan is considered to be located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state is presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the loan to such regular place of business; and

(III) The taxpayer uses said records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

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(iii) The presumption of proper assignment of a loan provided in subparagraph (A)(ii) of this section may be rebutted upon a showing by the department, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When such presumption has been rebutted, the loan is located within this state if:

(I) The taxpayer had a regular place of business within this state at the time the loan was made; and

(II) The taxpayer fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur within this state.

(B) In the case of a loan that is assigned by the taxpayer to a place without this state that is not a regular place of business, it is presumed, subject to rebuttal by the taxpayer on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the taxpayer's commercial domicile, as defined by subsection (3)(c), was within this state.

(C) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue will be reviewed on a case-by-case basis and consideration will be given to such activities as the solicitation, investigation, negotiation, approval, and administration of the loan. The terms "solicitation," "investigation," "negotiation," "approval," and "administration" are defined as follows:

(i) Solicitation. Solicitation is either active or passive. Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. Such activity is located at the regular place of business that the taxpayer's employee is regularly connected with or working out of, regardless of where the services of such employee were actually performed. Passive solicitation occurs when the customer initiates the contact with the taxpayer. If the customer's initial contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is determined by the facts in each case.

(ii) Investigation. Investigation is the procedure whereby employees of the taxpayer determine the credit-worthiness of the customer as well as the degree of risk involved in making a particular agreement. Such activity is located at the regular place of business that the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(iii) Negotiation. Negotiation is the procedure whereby employees of the taxpayer and its customer determine the terms of the agreement (e.g., the amount, duration, interest rate, frequency of repayment, currency denomination, and security required). Such activity is located at the regular place of business that the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(iv) Approval. Approval is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement. Such activity is located at the regular place of business that the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed. If the board of directors makes the final determination, such activity is located at the commercial domicile of the taxpayer.

(v) Administration. Administration is the process of managing the account. This process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement, and proceeding against the borrower or the security interest if the borrower is in default. Such activity is located at the regular place of business that oversees this activity.

(h) Location of credit card receivables. For purposes of determining the location of credit card receivables, credit card receivables are treated as loans and are subject to the provisions of subsection (g) of this section.

(i) Period for which properly assigned loan remains assigned. A loan that has been properly assigned to a state, absent any change of material fact, remains assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if the loan has a preponderance of substantive contact to a regular place of business there.

(6) Payroll factor. In general. The payroll factor is determined as provided in ORS 314.660 and the rules thereunder.

Stat. Auth.: ORS 305.100 & 314.280

Stats. Implemented: ORS 314.280

Hist.: RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; REV 8-2002, f. & cert. ef. 12-31-02; REV 2-2003, f. & cert. ef. 7-31-03; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04; REV 3-2005, f. 12-30-05, cert. ef. 1-1-06; REV 5-2006, f. & cert. ef. 7-31-06

150-317.154

Research Tax Credit: Alternative Computation

(1) The research credit based on Oregon sales is the lesser of the following:

(a) Five percent of the amount by which the qualified research expenses exceed 10 percent of Oregon sales,

(b) \$10,000 times the number of percentage points by which the qualifying research expenses exceed 10 percent of Oregon sales; or

(c) The taxpayer's liability after other credits.

(2) For tax years beginning on or after January 1, 2006, the credit may not exceed \$2,000,000. The limit applies to the consolidated group when a consolidated Oregon return is filed.

(3) For tax years beginning on or after January 1, 1995 and before January 1, 2006, the credit may not exceed \$500,000. The limit applies to the consolidated group when a consolidated Oregon return is filed.

(4) For tax years beginning before January 1, 1995, the credit may not exceed \$50,000 or one-third of the excise tax liability of the taxpayer before credits, whichever is less. These limits apply to the consolidated group when a consolidated Oregon return is filed.

(5) Credits otherwise allowable for tax years beginning before January 1, 1995 and not used in such years may not be carried forward. Credits otherwise allowable for tax years beginning on or after January 1, 1995 and not used in such years may be carried forward for up to 5 years.

Example: A corporation has 1994 Oregon sales of \$40,000,000, qualified research expenses of \$4,900,000 and Oregon excise tax of \$264,000 before credits. The allowable 1994 credit is calculated as follows:

Credit before limitations:

Qualified research expenses — \$4,900,000

Less: Oregon sales — \$40,000,000 x .10

10% of Oregon sales — (4,000,000)

Excess — \$900,000 x .05

Credit before limitations — \$45,000

Limitations:

Qualified research expenses in

excess of 10% of Oregon sales — \$900,000

Divide by Oregon sales — ÷ 40,000,000

Excess percentage points — 2.25

Multiply by \$10,000 — x \$10,000

\$22,500

Maximum credit amount — \$50,000

One-third of excise tax liability before credits (\$264,000 ÷ 3) \$88,000

The credit allowed is \$22,500.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 317.154

Hist.: 12-31-93; RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; REV 8-2001, f. & cert. ef. 12-31-01; REV 5-2006, f. & cert. ef. 7-31-06

150-317.710(5)(b)

Different Apportionment Factors

(1) An Oregon taxpayer that is permitted or required to use different apportionment factors under Oregon law cannot be included in an Oregon consolidated return with another Oregon taxpayer using the standard apportionment factors provided in ORS 314.650. This restriction only applies when both corporations using different apportionment factors are subject to Oregon tax under ORS Chapters 317 or 318. The only corporations that are permitted or required to use different apportionment factors are:

(a) Insurers required to apportion income as provided in ORS 317.660;

(b) Taxpayers primarily engaged in utilities or telecommunications that elect to have income from business activity apportioned by applying the weightings used in ORS 314.650 (1999 Edition) for tax years beginning on or after May 1, 2003; and

(c) Taxpayers in the Forest Products Industry required to apportion income from business activity as provided in ORS 314.650(2)(a) for tax years beginning on or after July 1, 2005.

(2) Corporations other than those listed in subsections 1(a) through (1)(c) of this rule use specific applications of the standard apportionment factors provided in ORS 314.650. The factors for each corporation in the unitary group of a consolidated Oregon return are computed as provided in:

(a) ORS 314.650 to 314.665 and the rule thereunder for corporations not described in subsections (b) through (1) of this section;

(b) ORS 314.682 through 314.686 and the rules thereunder for interstate broadcasters;

(c) OAR 150-314.280-(G) for carriers of freight or passengers in general;

(d) OAR 150-314.280-(H) for railroads;

(e) OAR 150-314.280-(I) for airlines;

(f) OAR 150-314.280-(J) for trucking companies;

(g) OAR 150-314.280-(K) for companies engaged in sea transportation service;

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- (h) OAR 150-314.280-(L) for companies involved in interstate river transportation service;
- (i) OAR 150-314.280-(N) for financial organizations;
- (j) OAR 150-314.615-(F) for long-term construction contractors;
- (k) OAR 150-314.670-(A) for publishers; or
- (l) OAR 150-314.615-(h) for movie and television production companies.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 317.710
Hist.: RD 12-1985, f. 12-16-85, cert. ef. 12-31-85; RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; REV 7-1998, f. 11-13-98, cert. ef. 12-31-98; REV 5-2006, f. & cert. ef. 7-31-06

150-314.610(4)

Financial Organizations: Definition of "Investment Company"

(1) As used in ORS 314.610(4), the term "investment company" means a corporation that:

(a) Is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities;

(b) Is engaged or proposes to engage in the business of issuing face-amount certificates of the installment type, or has been engaged in such business and has any such certificates outstanding;

(c) Is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of its total assets (exclusive of Government securities and cash items) on an unconsolidated basis; or

(d) Is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of mortgage banking.

(2) As used in this section, the term "investment securities" includes all securities except:

- (a) Government securities,
- (b) Securities issued by employees' securities companies, and
- (c) Securities issued by majority-owned subsidiaries of the owner that are not investment companies.

Stat. Auth.: ORS 305.100, 314.610
Stats. Implemented: ORS 314.610
Hist.: RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; RD 6-1996, f. 12-23-96, cert. ef. 12-31-96, Renumbered from 150-314.610(4); Renumbered from 150-314.610(4)-(B), REV 5-2006, f. & cert. ef. 7-31-06

Department of Transportation Chapter 731

Rule Caption: Clarify wordage to differentiate between bids and proposals regarding availability for public inspection after opening.

Adm. Order No.: DOT 6-2006(Temp)

Filed with Sec. of State: 7-31-2006

Certified to be Effective: 8-1-06 thru 1-27-07

Notice Publication Date:

Rules Amended: 731-005-0600

Subject: This rule relates to receipt, opening and recording of offers. Section (3) specifies when offers are available for public inspection. ODOT identified a difference in the manner in which the public contracting code and ODOT's current administrative rules provide for public inspection of procurement documents. The current ODOT rule refers to Offers, which by definition includes both proposals and bids. However, there is a distinct difference of when bids and proposals are to be made available for public inspection. This rule change will bring ODOT's rule in line with the public contracting code.

Rules Coordinator: Brenda Trump—(503) 945-5278

731-005-0600

Receipt, Opening, and Recording of Offers

(1) Receipt. ODOT shall electronically or mechanically time-stamp or hand-mark each Offer and any modification upon receipt. ODOT shall not open the Offer or modification, but shall store it in a secure place until Opening. If ODOT inadvertently opens an Offer or a modification prior to the Opening, ODOT shall reseal and store the opened Offer or modification for Opening. ODOT shall document the resealing for the solicitation file (e.g. "Agency inadvertently opened the Offer due to improper identification of the Offer").

(2) Opening and recording. ODOT shall publicly open Offers including any modifications made to the Offer pursuant to OAR 731-005-0590.

In the case of Invitations to Bid, to the extent practicable, ODOT shall read aloud the name of each Bidder, the total of each Bid, and such other information as ODOT considers appropriate. In the case of Requests for Proposals, if the Solicitation Document so provides, ODOT will not read Offers aloud.

(3) Availability. After Opening, ODOT shall make Bids available for public inspection. Proposals are not subject to disclosure until after notice of intent to award is issued as specified in ORS 279C.410. In any event, ODOT may withhold from disclosure portions of a Bid or Proposal that the Offeror designates as trade secrets or as confidential proprietary data in accordance with applicable law. See ORS 192.501(2); 646.461 – 646.475. To the extent ODOT determines such designation is not in accordance with applicable law, ODOT shall make those portions available for public inspection. The Offeror shall separate information designated as confidential from other non-confidential information at the time of submitting its Offer. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment are not confidential, and shall be publicly available regardless of an Offeror's designation to the contrary.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065
Stats. Implemented: ORS 279C.365 & 279C.410
Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 6-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 1-27-07

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

Rule Caption: Requirements for Issuance and Retention of Hazardous Materials Endorsement.

Adm. Order No.: DMV 7-2006(Temp)

Filed with Sec. of State: 7-31-2006

Certified to be Effective: 8-1-06 thru 1-27-07

Notice Publication Date:

Rules Amended: 735-062-0190

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 proposes to amend 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. DMV also proposes to amend this rule to 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:

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(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

Department of Veterans' Affairs Chapter 274

Rule Caption: Readmission to the Oregon Veterans' Home.

Adm. Order No.: DVA 8-2006

Filed with Sec. of State: 7-27-2006

Certified to be Effective: 7-27-06

Notice Publication Date: 7-1-06

Rules Amended: 274-040-0015

Subject: OAR 274-040-0015(4) is being amended to establish that former residents of the Home, who are eligible for readmission, have first priority for admission to the Home.

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-040-0015

Eligibility for Admission to the Oregon Veterans' Home

(1) To be eligible for admission to the Oregon Veterans' Home (Home), an applicant must be:

(a) A veteran as defined by United States Code, Title 38, section 101, as currently adopted (This publication is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, and is available for public review Monday through Friday between the hours of 8 a.m. and 5 p.m.); or

(b) Spouse or surviving spouse as defined by United States Code, Title 38, section 3.50, as currently adopted (This publication is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, and is available for public review Monday through Friday between the hours of 8 a.m. and 5 p.m.); or

(c) A parent, all of whose children died while serving in the Armed Forces of the United States.

(2) An applicant must also:

(a) Be able to pay the resident's portion of the cost of care;

(b) Require nursing home care as determined by a physician;

(c) Not require medical care for which the Home is not equipped or staffed to provide;

(d) Not have violent traits which may prove dangerous to the applicant, residents of the Home, staff or others, provided however, that nothing in this section shall be interpreted to prevent the admission of residents diagnosed with Alzheimer's Disease or other dementia for whom the facility is equipped and prepared to provide care for common behavior problems and recommended behavior management, and that no one shall be denied admission on the basis of being a potential danger to self or others unless that condition is documented by the attending physician.

(3) Eligible applicants, as determined by the Director of Veterans' Affairs (Director) will be scheduled for admission to the Home (or placed on a waiting list if no beds are available) based on the date that all of the required application materials have been received and level of care requirements can be satisfied, or in such other order as may be deemed appropriate by the Director.

(4) Priority for admission to the Home is as follows:

(a) Former residents of the Home who are eligible for readmission;

(b) Medal of Honor recipients;

(c) Resident Oregon veterans;

(d) Non-resident veterans;

(e) Other applicants as defined in sections (1)(b) and (1)(c) above.

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

Stat. Auth.: ORS 406.030, 406.050, 408.510, 408.520 & 408.530

Stats. Implemented: ORS 406.030, 406.040 & 406.050

Hist.: DVA 3-1998, f. & cert. ef. 3-13-98; DVA 14-2003(Temp), f. & cert. ef. 11-14-03 thru 2-14-04; DVA 15-2003, f. & cert. ef. 12-31-03; DVA 11-2004, f. & cert. ef. 8-25-04; DVA 8-2006, f. & cert. ef. 7-27-06

Rule Caption: Covered Care Program.

Adm. Order No.: DVA 9-2006

Filed with Sec. of State: 7-27-2006

Certified to be Effective: 7-27-06

Notice Publication Date: 7-1-06

Rules Adopted: 274-040-0031, 274-040-0032, 274-040-0033

Rules Amended: 274-040-0030

Subject: The text of OAR 274-040-0030 is being reorganized for readability and clarity. As a result, several sections of OAR 274-040-

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0030 have been adopted into separate rules. These amended and adopted rules have also been given the subtitle name of "Covered Care Program".

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-040-0030

Purpose and Objective

(1) It is the expressed policy of the Department of Veterans' Affairs (Department) to make the Oregon Veterans' Home (OVH) financially available to current or potential OVH residents by means of the Department's Covered Care Program.

(2) Within the fund established by the Department pursuant to ORS 406.050, an account is designated for donations to be used by the Department consistent with this Covered Care Program. Funds held within this account will be used by the Department exclusively for the purpose of assisting OVH residents whose income, Medicare benefits, Medicaid benefits, and any other assets, as determined by the Department, are insufficient to meet the financial requirements necessary for the cost of OVH care.

Stat. Auth.: ORS 406.050, 408.360, 408.365 & 408.368

Stats. Implemented: ORS 408.365 & 408.368

Hist.: DVA 4-2002(Temp), f. & cert. ef. 4-5-02 thru 10-2-02; DVA 7-2002, f. & cert. ef. 9-24-02; DVA 10-2002(Temp), f. 12-27-02, cert. ef. 1-1-03 thru 6-27-03; DVA 9-2003(Temp), f. & cert. ef. 8-21-03 thru 2-17-03; DVA 12-2003(Temp), f. & cert. ef. 10-1-03 thru 2-17-04; DVA 14-2003(Temp), f. & cert. ef. 11-14-03 thru 2-14-04; DVA 15-2003, f. & cert. ef. 12-31-03; DVA 3-2006(Temp), f. & cert. ef. 3-31-06 thru 9-25-06; DVA 5-2006, f. & cert. ef. 5-30-06; DVA 9-2006, f. & cert. ef. 7-27-06

274-040-0031

Applications

(1) Applications for assistance from the Covered Care Program account shall be made in such manner and detail, and on such forms, as the Department shall determine.

(2) Applications generally will be prioritized for consideration based on the date of completed receipt by the Department. The Department may, however, consider applications in such other order and at such other times as deemed reasonable.

Stat. Auth.: ORS 406.050, 408.360, 408.365 & 408.368

Stats. Implemented: ORS 408.365 & 408.368

Hist.: DVA 9-2006, f. & cert. ef. 7-27-06

274-040-0032

Eligibility Factors

When determining to whom Covered Care Program assistance will be made available, the Department may take into consideration various factors, including but not limited to:

(1) The amount of funds in the Covered Care Program account available for this purpose;

(2) The anticipated future deposits into the Covered Care Program account;

(3) The amount of any present commitments from the Covered Care Program account;

(4) All available sources of revenue or income to a particular resident, including but not limited to:

- (a) United States Department of Veterans Affairs (USDVA) payments;
- (b) Social Security benefits;
- (c) Other pensions;
- (d) Millennium Bill benefits;
- (e) Medicare benefits;
- (f) Medicaid benefits;
- (g) Annuities;
- (h) Savings; and
- (i) Investments.

(5) The amount of funds available to a particular or potential resident from members of his/her family, or others who are willing to provide financial assistance and agree to be legally obligated to meet such financial obligations of the resident;

(6) Whether or not the available Covered Care Program assistance will satisfy the entire gap in necessary funding for OVH care on behalf of the resident or potential resident;

(7) Whether or not the intended beneficiary of the Covered Care Program assistance is a current OVH resident.

Stat. Auth.: ORS 406.050, 408.360, 408.365 & 408.368

Stats. Implemented: ORS 408.365 & 408.368

Hist.: DVA 9-2006, f. & cert. ef. 7-27-06

274-040-0033

Refusing, Terminating or Suspending Funds

(1) The payment of Covered Care Program assistance on behalf of any OVH resident is subject to the sole discretion of the Department. The

Department may refuse, terminate, or suspend Covered Care Program assistance to any OVH resident at any time without notice. The Department shall be under no obligation to provide Covered Care Program assistance to any OVH resident or to solicit funds to meet the financial needs of the OVH resident, his/her family, or others.

(2) When determining to terminate or suspend Covered Care Program assistance to any current recipient, the Department may take into consideration various factors, including but not limited to:

(a) Any reported change in the financial status of the recipient or other OVH care payment provider;

(b) Any misrepresentation or omission of material facts in the application for the Covered Care Program assistance or otherwise;

(c) The behavior of the recipient while in the OVH;

(d) The feasibility of appropriate care for the recipient at the OVH;

(e) The availability of funds in the Covered Care Program account.

(3) If all of the funding of an OVH resident, or potential resident, cannot be met with allowable assistance from the Covered Care Program, no amounts will be committed by the Department or paid from the Covered Care Program account.

Stat. Auth.: ORS 406.050, 408.360, 408.365 & 408.368

Stats. Implemented: ORS 408.365 & 408.368

Hist.: DVA 9-2006, f. & cert. ef. 7-27-06

Rule Caption: Personal Service Contract Amendments.

Adm. Order No.: DVA 10-2006

Filed with Sec. of State: 7-27-2006

Certified to be Effective: 7-27-06

Notice Publication Date: 7-1-06

Rules Amended: 274-005-0060

Subject: Minor changes are needed for accuracy and do not alter the meaning of the Rule.

(1) With the implementation of ORS 406.005, "Director" is being amended to read "Department of Veterans' Affairs".

(2) The reference to OAR "125-020-0520 through 125-020-0540" is amended to the correctly refer to the Department of Administrative Services administrative rule "125-246-0560".

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-005-0060

Contract Amendment

(1) During the course of the contract project deviations, amendments, or needs of change may be encountered. Such deviations will be renegotiated by the Department of Veterans' Affairs.

(2) Any amendments must comply with the provisions of OAR 125-246-0560.

Stat. Auth.: ORS 279A, 291.021, 406.030 & 407.115

Stats. Implemented: ORS 406.410, 407.115, 407.225, 407.377, 407.465 & 408.360

Hist.: DVA 19-1982, f. & cert. ef. 8-16-82; DVA 4-1992(Temp), f. & cert. ef. 4-1-92; DVA 8-1992, f. & cert. ef. 8-3-92, Renumbered from 274-005-0015; DVA 5-1996, f. & cert. ef. 7-22-96; DVA 10-2006, f. & cert. ef. 7-27-06

Employment Department

Chapter 471

Rule Caption: OAR 471-041-0060 Application for Review.

Adm. Order No.: ED 8-2006

Filed with Sec. of State: 7-27-2006

Certified to be Effective: 7-30-06

Notice Publication Date: 7-1-06

Rules Amended: 471-041-0060

Subject: An application for review, under the current rule, must meet unnecessarily technical requirements. The amendments would relax the standard and allow applications that "express a present intent to appeal."

Rules Coordinator: Lynn M. Nelson—(503) 947-1724

471-041-0060

Application for Review

(1) A party, or the party's authorized representative, entitled to receive a Hearing Decision in an unemployment insurance matter over which the Employment Appeals Board (EAB) has jurisdiction, may file an Application for Review. An Application for Review shall:

(2) An Application for Review may be filed on forms provided by the Office of Administrative Hearings or the Employment Department and other similar offices in other states. Use of the form is not required,

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provided the party requests review of a specific Hearing Decision, or otherwise expresses a present intent to appeal a specific Hearing Decision.

(3) An Application for Review may be filed in person, by mail or by fax to the office of the EAB or to any office of the Employment Department. An Application for Review may be filed in person or by mail to any Employment Security Agency in any other state or jurisdiction where the claimant is claiming benefits.

(4) If filed by mail, the application must be properly addressed and bear sufficient postage.

(5) If faxed, the application must be received by 5:00 p.m. The EAB will not accept faxed documents after 5:00 p.m. on any business day, nor will the EAB accept documents faxed on Saturdays, Sundays or legal holidays.

(6) The EAB shall dismiss any application for review which does not conform to the requirements of subsections (a) through (e) of this rule.

(7) Where a party filing an application for review did not appear at the hearing that led to the decision being appealed, the Employment Appeals Board will treat the application for review as a request to reopen the hearing under OAR 471-040-0040, unless the applicant specifically states in the application that the applicant does not wish to have the case reopened. The Employment Appeals Board will forward such application for review to the Office of Administrative Hearings, which will treat the application as a request to reopen the hearing, pursuant to OAR 471-040-0040(4).

(8) Notwithstanding OAR 471-041-0060(6), where a party's failure to appear led to a substantive decision—one that did more than dismiss the case for the failure to appear—and where the Office of Administrative Hearings subsequently denies the request to reopen, the Office of Administrative Hearings shall return the case to the Employment Appeals Board, which will then proceed to review the merits of the substantive decision. The original application for review shall serve as the basis for the Employment Appeals Board's review of the merits of that decision.

(9) This rule is effective for all hearings scheduled under OAR chapter 471, division 041 after the effective date of this rule.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.685

Hist.: EAB 1-1983(Temp), f. & ef. 9-14-83; EAB 1-1984, f. & ef. 3-20-84; ED 3-1993, f. & cert. ef. 10-1-93; ED 4-1993, f. & cert. ef. 11-22-93; Renumbered from 472-010-0005; ED 1-1995, f. & cert. ef. 1-9-95; ED 6-1996, f. 10-15-96, cert. ef. 10-21-96; ED 5-1999, f. 7-28-99, cert. ef. 8-1-99; ED 3-2004(Temp), f. 5-3-04, cert. ef. 5-4-04 thru 10-31-04; ED 5-2004, f. 7-30-04, cert. ef. 8-1-04; ED 8-2006, f. 7-27-06, cert. ef. 7-30-06

Rule Caption: OAR 471-041-0045 Statement of Purpose.

Adm. Order No.: ED 9-2006

Filed with Sec. of State: 7-27-2006

Certified to be Effective: 7-30-06

Notice Publication Date: 7-1-06

Rules Amended: 471-041-0045

Subject: In its present form, OAR 471-041-0045 states that EAB has the authority to adopt procedural rules under ORS 657.685(6), but it is actually the Employment Department that adopts the rules. The amendment brings the rule into conformity with the statute.

Rules Coordinator: Lynn M. Nelson—(503) 947-1724

471-041-0045

Statement of Purpose

These administrative rules establish the procedures that the Employment Appeals Board will follow in discharging its duties. The Employment Department is required to adopt procedural rules proposed by the Employment Appeals Board pursuant to ORS 657.685(6). Rules in this Division become effective upon the effective date set forth in the Certificate and Order filed with the Secretary of State and apply to cases associated with Applications for Review filed on or after that date

Stat. Auth.: ORS 183, 657.610 & 657.685

Stats. Implemented: ORS 657.685(6)

Hist.: ED 1-1995, f. & cert. ef. 1-9-95; ED 5-1999, f. 7-28-99, cert. ef. 8-1-99; ED 9-2006, f. 7-27-06, cert. ef. 7-30-06

Landscape Architect Board Chapter 804

Rule Caption: Adopt current AAG Model Rules; qualify eligibility for Board membership; add three definitions.

Adm. Order No.: LAB 3-2006

Filed with Sec. of State: 8-14-2006

Certified to be Effective: 8-14-06

Notice Publication Date: 6-1-06

Rules Amended: 804-001-0005, 804-001-0014, 804-003-0000

Subject: OAR 804-001-0005 allows the Board to operate using the Attorney General's Model Rules of Procedure under the Administrative Procedures Act, in effect on January 1, 2006, rather than the 1988 Model Rules previously adopted.

OAR 814-001-0014 is revised to require that Board Members must have been registered for a minimum of five years to be appointed to the Board. In addition, any appointee must have lived in Oregon for a minimum of three years preceding appointment to the Board.

OAR 804-003-0000 is the Definition section of the Administrative Rules. The Board is defining the following terms: business entity; Delinquent renewal fee; and Late fee. A business entity includes a sole proprietorship. Delinquent renewal fees are annual registration fees paid in arrears. A late fee is assessed for each year that renewal fees are delinquent.

Rules Coordinator: Susanna R. Knight—(503) 589-0093

804-001-0005

Model Rules of Procedure

The Attorney General's Model Rules of Procedure under the Administrative Procedures Act, in effect on January 1, 2006, are adopted as the rules of procedure for the State Landscape Architect Board.

Stat. Auth.: ORS 183 & 671

Hist.: LAB 2-1982, f. & ef. 6-24-82; LAB 1-1984, f. & ef. 1-5-84; LAB 2-1986, f. & ef. 3-5-86; LAB 1-1989, f. 4-4-89, cert. ef. 4-7-89; LAB 3-2006, f. & cert. ef. 8-14-06

804-001-0014

Selection of Board Members

(1) Appointment of Board Members:

(a) A vacancy exists when a board member completes the term for that position, resigns, becomes incapacitated, or otherwise is incapable of performing the duties of a board member, or is removed from office or is not reappointed by the Governor prior to the expiration of the member's current term.

(b) A vacancy does not exist when an actively sitting board member completes the member's first or second full or partial term, so long as the member is reappointed by the Governor to a second or third term. A member who is eligible for reappointment to a second or third term shall give the board and the Governor written notice of intention to seek reappointment before the expiration of the member's term.

(2) Qualifications for Licensee Membership on the Board:

(a) A licensee is qualified to seek nomination for board membership if the licensee is registered by the board; has practiced as a registered landscape architect for a minimum of five years, and has lived in the State of Oregon for a least three years preceding appointment to the board.

(b) A licensee is not qualified for nomination to board membership if the licensee has been convicted, plead guilty, or plead nolo contendere to any criminal charge if the relationship of the facts which support the charge and all intervening circumstances tend to show that the licensee is not fit to hold the position, in the discretion of the board.

(c) A licensee is not qualified for nomination to board membership if the licensee, within the previous five years, has been disciplined by the board for a violation of ORS Chapter 671 or the rules adopted by the board.

Stat. Auth.: ORS 671.415

Stats. Implemented: 1997 SB 546

Hist.: LAB 3-1998, f. & cert. ef. 5-20-98 Suspended by LAB 1-2001(Temp), f. 12-24-01 cert. ef. 1-1-02 thru 5-1-02; LAB 1-2005, f. & cert. ef. 2-14-05; LAB 3-2006, f. & cert. ef. 8-14-06

804-003-0000

Definitions

The definitions of terms used in ORS 671.310 to 671.459, and the rules of this chapter are:

(1) "Assumed or Fictitious Name" — A false name taken as one's own.

(2) Business entity: an individual and any other association of persons providing landscape architectural design and consulting services.

(3) "Deceit" — An attempt to portray as true or valid something that is untrue or invalid.

(4) Delinquent renewal fee: a fee previously owed and not yet paid covering a specific period of time.

(5) "Emeritus" — Retired but retaining an honorary title corresponding to that held immediately before retirement.

(6) "Employing" — Hiring a person, not an independent contractor, for compensation.

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(7) "Fraud" — Intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right.

(8) "Grossly Negligent" — Reckless and wanton disregard for exercising care and caution.

(9) "Impersonate" — To assume, without authority or with fraudulent intent, the identity of another person.

(10) Late fee: a fee assessed when a payment is received after the date due.

(11) "Material Misrepresentation" — An untrue statement that is significant under the circumstances.

(12) "Renewal of Registration" — To annually maintain the current status of a valid registration or to bring a lapsed or expired registration to current, valid status.

Stat. Auth.: ORS 183 & 671

Hist.: LAB 1-1984, f. & ef. 1-5-84; LAB 1-1985, f. & ef. 7-1-85; LAB 2-1986, f. & ef. 3-5-86; LAB 1-1989, f. 4-4-89, cert. ef. 4-7-89; LAB 1-2005, f. & cert. ef. 2-14-05; LAB 3-2006, f. & cert. ef. 8-14-06

Landscape Contractors Board Chapter 808

Rule Caption: Amends payroll and supervisory requirements for licensed landscape contractors.

Adm. Order No.: LCB 2-2006

Filed with Sec. of State: 8-2-2006

Certified to be Effective: 10-2-06

Notice Publication Date: 7-1-06

Rules Amended: 808-003-0018

Rules Repealed: 808-003-0050

Subject: 808-003-0018 Requires the individual landscape contractor who is the phase basis for the landscaping business license to be on the payroll each hour or meet the salary test for salaried employees when the landscaping business is performing landscape work related to the landscape contractor's phase of license; the landscaping business must require the individual landscape contractor to directly supervise the non-licensed employees; moves requirement for the Verification form to this rule from 808-003-0050, which is being repealed; removes requirement to have verification of employment form notarized, changes name of form to "Verification" and only requires a copy of the licensed landscape contractor's most current pay stub if that individual is a paid employee.

808-003-0050 Is being repealed/moved to 808-003-0018.

Rules Coordinator: Kim Gladwill-Rowley—(503) 986-6570

808-003-0018

Employment, Change of License Phase, Supervisory Responsibilities

(1) If a landscaping business employs only one licensed landscape contractor, that licensed landscape contractor must hold a license covering each phase of landscaping work that the business offers and must be on the payroll each hour or meet the salary test for salaried, exempt employees during the time the landscaping business is performing landscape work related to the landscape contractor's phase of license.

(2) If a landscaping business employs more than one licensed landscape contractor the combined licenses must cover each phase of landscape contracting that the business offers and the landscape contractors must be on the payroll each hour or meet the salary test for salaried, exempt employees during the time the landscaping business is performing landscape work related to each landscape contractor's phase of license.

(3) The licensed landscape contractor who holds part or wholly the phase basis of the landscaping business license must perform the following supervisory services:

(a) Review and initial the landscape plan and written contract for each job; and

(b) Attend all on-site meetings and appear at any hearings that are a consequence of any claims filed against the landscaping business that relate to the landscape contractor's phase of license.

(c) Directly supervise all non-licensed employees employed by the landscaping business as defined in OAR 808-002-0328.

(4) A landscaping business must require a licensed landscape contractor to supervise the landscaping operation of the business and directly supervise the unlicensed employees of the landscaping business who are performing work related to the landscape contractor's phase of license.

(5) Upon application for and before the renewal of a landscaping business license, and at any other time the board requests, a landscaping business must:

(a) Submit a completed, signed and notarized Verification form (provided by the board) for every licensed landscape contractor supervising work for the landscaping business which verifies that licensed landscape contractor:

(A) Is a paid employee of the landscaping business and is on the payroll each hour or meets the salary test for salaried, exempt employees or is an owner of the business as defined in OAR 808-002-0734 during the time the business is performing landscape work related to the landscape contractor's phase of license;

(B) Will directly supervise work based on the landscape contractor's phase of license;

(C) Will attend on site meetings and appear at any hearings that are a consequence of any claims filed against the landscaping business that relate to the landscape contractor's phase of license; and

(D) Understands the requirement to notify the board within ten calendar days after termination of employment from the landscaping business.

(b) Submit a copy of the landscape contractor's current pay stub issued by the landscaping business if the landscape contractor is a paid employee with the social security number and dollar amounts redacted or blackened out.

Stat. Auth.: ORS 183.310-183.500, 670.310 & 671.670

Stats. Implemented: ORS 671.565

Hist.: LCB 2-1998, f. & cert. ef. 4-30-98; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 2-2006, f. 8-2-06, cert. ef. 10-2-06

Rule Caption: Definition of Irrigation System and housekeeping updates.

Adm. Order No.: LCB 3-2006

Filed with Sec. of State: 8-2-2006

Certified to be Effective: 8-2-06

Notice Publication Date: 7-1-06

Rules Amended: 808-001-0005, 808-002-0328, 808-002-0480, 808-002-0500, 808-002-0680, 808-004-0120, 808-004-0240, 808-004-0250, 808-004-0340, 808-004-0450, 808-004-0520, 808-004-0540, 808-004-0550, 808-004-0600

Subject: 808-001-0005 The Attorney General's Model rules of Procedure that became effective January 1, 2006

808-002-0328 This rule currently states the individual landscape contractor is responsible for the landscaping work. The statutes state the landscaping business is responsible for the landscaping work. This amendment removes the incorrect language.

808-002-0480 Clarifies definition of Irrigation Systems to include: assemblies of valves, piping, sprinklers, nozzles, emitters, filters, or controllers and the positioning and piping of pumps that are installed for the purpose of watering lawns, trees, shrubs or nursery stock. Irrigation system do not include systems used to irrigate agricultural products including nursery stock grown for sale or for pasture used for the grazing or raising of animals unless done in conjunction with a landscape job.

808-002-0500 Adds statutory cites and clarifies definition of Landscaping Work to include planning and installing of fences, decks, arbors, patios, landscape edging, driveways, walkways and retaining walls when performed by a licensed landscaping business

808-002-0680 Add "case law that are not normally part of a landscaping claim" to the definition of Nature of Complexity so that those claims may be suspended and adjudicated in court.

808-003-0018 Requires the individual landscape contractor who is the phase basis for the landscaping business license to be on the payroll each hour or meet the salary test for salaried employees when the landscaping business is performing landscape work related to the landscape contractor's phase of license; the landscaping business must require the individual landscape contractor to directly supervise the non-licensed employees; moves requirement for the Verification form to this rule from 808-003-0050, which is being repealed; removes requirement to have verification of employment form notarized, changes name of form to "Verification" and only requires a copy of the licensed landscape contractor's most current pay stub if that individual is a paid employee.

ADMINISTRATIVE RULES

808-004-0120 Adds limited partnership to the rule as a legal entity. 808-004-0240 Clarifies exhaustion of bond or security may be partial or full exhaustion.

808-004-0250 Adds arbitration award as appropriate and includes awards for interest expressly allowed as damages under a contract that is the basis of the claim.

808-004-0340 Removes requirement for claimant to give a brief statement of the nature of the claim and replaces it with an identification of the type of claim as already defined in OAR 808-002-0220 (negligent work, breach of contract, etc.).

808-004-0450 Adds requirement that the individual landscape contractor whose phase of license is the basis for the landscaping business license must attend the on-site meeting for a claim. This is already a requirement as one of the supervisory duties, but this addition makes it clear when reading about the attendance of the on-site meeting.

808-004-0520 Adds that before suspending the processing of a claim because one or both of the parties filed a complaint in court and, if both parties to a claim are in agreement, the agency may hold an on-site meeting if the agency finds that it may help resolve the claim.

808-004-0540 Clarifies that the declaration of damages form submitted by the claimant is limited to the items listed in the statement of claim form.

808-004-0550 Adds arbitration award as appropriate and adopts the dismissal of a claim for failure to be licensed during all or part of the work period, lack of a direct contractual relationship or for work performed outside the state of Oregon.

808-004-0600 Clarifies that the notification to the surety company or deposit holder of claims ready for payment constitutes notice that payment is due and adds the language "irrevocable letter of credit" to comply with the statute.

Rules Coordinator: Kim Gladwill-Rowley—(503) 986-6570

808-001-0005

Model Rules

The Landscape Contractors Board adopts the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act in effect January 1, 2006, with the following exceptions: OAR 137-003-0015, 137-005-0050, 137-005-0060, and 137-005-0070.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Landscape Contractors Board.]

Stat. Auth.: ORS 671

Stats. Implemented: ORS 183.341 & 279

Hist.: LC 2, f. & ef. 5-18-76; LC 3, f. & ef. 2-7-77; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LSCB 1-1995, f. & cert. ef. 2-2-95; LSCB 1-1996, f. & cert. ef. 6-18-96; LCB 2-1999, f. & cert. ef. 5-4-99; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 1-2005, f. & cert. ef. 2-15-05; LCB 3-2006, f. & cert. ef. 8-2-06

808-002-0328

Direct Supervision

"Direct supervision" as used in ORS 671.540(15) and (16), means that a licensed landscape contractor supervises another person who performs landscaping work such that:

(1) The other person works under the instruction of the licensed landscape contractor; and

(2) The licensed landscape contractor is reasonably available to the other person such that, even if not physically on the job site, the licensed landscape contractor can be contacted and is available for consultation and able to provide direction during the time the landscaping work is being performed by such other person.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: Ch. 609, OL 2005

Hist.: LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 3-2006, f. & cert. ef. 8-2-06

808-002-0480

Irrigation Systems

"Irrigation systems" as used in ORS 671.520(1)(c) includes, but are not limited to, assemblies of valves, piping, sprinklers, nozzles, emitters, filters, or controllers and the positioning and piping of pumps that are installed for the purpose of watering lawns, trees, shrubs or nursery stock. Irrigation systems do not include systems used to irrigate agricultural products including nursery stock grown for sale or for pastures used for the grazing or raising of animals unless done in conjunction with a landscape job.

Stat. Auth.: ORS 183.325 - 183.410, 670.310 & 671.670

Stats. Implemented: ORS 671.520

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0010; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 3-1992(Temp), f. & cert. ef. 7-16-92; LCB 1-1993, f. & cert. ef. 1-19-93; LCB 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-1998, f. & cert. ef. 2-6-98; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-002-0010; LCB 1-2001, f. 12-4-01, cert. ef. 1-1-02; LCB 3-2006, f. & cert. ef. 8-2-06

808-002-0500

Landscaping Work

"Landscaping Work," as used in ORS 671.540, 671.570 671.660(5) and 671.690, means the planning or installing of lawns, shrubs, vines, trees, and nursery stock including the preparation of property on which the vegetation is to be installed, the construction or repair of ornamental water features, drainage systems and irrigation systems for lawns, shrubs, vines, trees and nursery stock. For the purposes of this rule, "preparation of property" includes, but is not limited to, the adding and incorporating of soil amendments, importation of topsoil, removal of soil and final grading to the specified aesthetic and drainage needs of a site on which landscaping work is to be performed. "Landscaping work" includes the planning and installing of fences, decks, arbors, patios, landscape edging, driveways, walkway and retaining walls when performed by a licensed landscaping business.

Stat. Auth.: ORS 183.325 - 183.410, 670.310 & 671.670

Stats. Implemented: ORS 671.530, 671.540 & 671.660

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0010; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 3-1992(Temp), f. & cert. ef. 7-16-92; LCB 1-1993, f. & cert. ef. 1-19-93; LCB 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-1998, f. & cert. ef. 2-6-98; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-002-0010; LCB 1-2001, f. 12-4-01, cert. ef. 1-1-02; LCB 3-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 3-2006, f. & cert. ef. 8-2-06

808-002-0680

Nature and Complexity

"Nature or Complexity" as used in ORS 671.703 includes, but is not limited to the following meaning:

(1) Involves issues requiring legal interpretation of statutes and case law that are not normally part of a landscaping claim;

(2) In the interest of fairness and equity, requires rulings against persons or entities outside the jurisdiction of the agency; or

(3) Involves issues and fact determinations that are outside the expertise of the agency.

Stat. Auth.: ORS 183.325 - 183.410, 670.310 & 671.670

Stats. Implemented: ORS 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0010; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 3-1992(Temp), f. & cert. ef. 7-16-92; LCB 1-1993, f. & cert. ef. 1-19-93; LCB 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-1998, f. & cert. ef. 2-6-98; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-002-0010; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 3-2006, f. & cert. ef. 8-2-06

808-004-0120

Liability of Landscaping Business

A licensed landscaping business participating in a corporation wholly-owned by the landscaping business, or a limited liability partnership, limited liability company, joint venture, limited partnership or partnership, may be held liable for claim actions brought under ORS 671.690 to 671.710, whether or not the corporation, limited liability partnership, limited liability company, joint venture, limited partnership or partnership was licensed as required by ORS chapter 671.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 671

Stats. Implemented: ORS 671.

Hist.: LCB 4-2002, f. & cert. ef. 12-4-02; LCB 3-2006, f. & cert. ef. 8-2-06

808-004-0240

Exhaustion of Surety Bond

At any time during the processing of a claim, if the agency becomes aware of partial or full exhaustion of the surety bond or security by prior claims, the agency may notify the claimant and close the claim, or process the claim to a final order and close the claim.

Stat. Auth.: ORS 183, 670.310 & 671.670

ADMINISTRATIVE RULES

Stats. Implemented: ORS 183.415, 183.460, 671.690, 671.703 & 671.710
Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84;
Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-
1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-
95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 3-2006, f. &
cert. ef. 8-2-06

808-004-0250

Exclusion of Certain Damages from Award

(1) Except as provided in section (2) of this rule and subject to OAR 808-008-0420, an order or arbitration award of the board awarding monetary damages in a claim, including but not limited to an order of the Board arising from a court judgment, award or decision by a court, arbitrator or other entity may not include an award for:

- (a) Attorney fees;
- (b) Court costs;
- (c) Interest;
- (d) Costs to pursue litigation or the claim;
- (e) Service charges or fees; or
- (f) Other damages not directly related to negligent or improper work under the contract or breach of the contract that is the basis of the claim.

(2) An order or arbitration award by the board awarding monetary damages that are payable from the respondent's bond required under ORS 671.690 may include an award for attorney fees, costs, interest or other costs as follows:

(a) An order or arbitration award in an owner claim may include interest expressly allowed as damages under a contract that is the basis of the claim.

(b) An order or arbitration award by the board may include attorney fees, court costs, other costs and interest included in a court order or award of a court, arbitrator or other entity that are related to the portion of the order or award of a court, arbitrator or other entity that is within the jurisdiction of the board if the court order or award of the court, arbitrator or other entity arises from litigation, arbitration or other proceedings authorized by law or the parties to effect a resolution to the dispute:

(A) That was initiated by the respondent; or

(B) That the agency required the claimant to initiate under ORS 671.703(12) due to the nature or complexity of the claim.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 183.415 & 183.460

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84;
Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-
1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-
95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 4-2002, f. &
cert. ef. 12-4-02; LCB 1-2005, f. & cert. ef. 2-15-05; LCB 3-2006, f. & cert. ef. 8-2-06

808-004-0340

Form of Claims

(1) A claim must be submitted on a Statement of Claim form provided by the agency. The agency may require the use of the most recent revision of the Statement of Claim form.

(2) The claimant must provide the following information with the Statement of Claim, if applicable:

- (a) The name, address, and telephone number of the claimant;
- (b) The name, address, telephone number and license number of the landscaping business;

(c) The amount, if known at the time the Statement of Claim is filed, that the claimant alleges is due from the landscaping business after crediting payments, offsets, and counterclaims in favor of the landscaping business to which the claimant agrees;

(d) Identification of the type of claim as defined in OAR 808-002-0220;

- (e) The date on which the contract was entered into;
- (f) If the contract was in writing, a copy of the contract with attached material invoices, time sheets, or other relevant attached documents;
- (g) Job site address with driving directions to the job site;
- (h) The beginning and ending date of the work or invoices;
- (i) Payments, offsets, and counterclaims of the landscaping business, if known, to which the claimant does not agree;

(j) A certification by the claimant that the Statement of Claim is true; and

(k) A copy of any court judgment or arbitration award, including the original complaint and any answers or counter-suits related to the work that is the subject of the claim; and

(l) Additional information required under sections (3) through (8) of this rule.

(3) A claim by a subcontractor shall include a copy of each original invoice relating to the claim.

(4) An employee claim shall include copies of time cards or other evidence of the amount of compensation claimed.

(5) A material supplier or equipment claim shall include a copy of each original invoice relating to the claim and a recapitulation of the indebtedness showing the job site address, the date of each invoice, each invoice number, and each invoice amount. Claimant shall include documentation that claim is a minimum of 60 days old and two attempts to collect have been made.

(6) A claim involving negligent or improper work shall include a list of the alleged negligent or improper work.

(7) A claim involving a breach of contract shall describe the nature of the breach of contract.

(8) The Statement of Claim form must be signed by the claimant or an agent of the claimant.

(9) A Statement of Claim that does not comply with the requirements of this rule is subject to OAR 808-004-0350.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84;
Renumbered from 808-010-0040; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LSCB 2-1997, f. &
cert. ef. 11-3-97; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0010; LCB
4-2002, f. & cert. ef. 12-4-02; LCB 5-2003, f. & cert. ef. 8-1-03; LCB 3-2006, f. & cert. ef.
8-2-06

808-004-0450

On-site Meeting and Attendance of Claimant

(1) The agency may schedule an on-site meeting among the parties for the purpose of discussion of a settlement of a claim and investigation of the claim under ORS 671.703. The agency shall mail notice of the meeting no less than 14 days prior to the date scheduled for the meeting. The notice shall include notification of the requirements of section (2) and (3) of this rule and shall comply with the requirements of OAR 808-004-0260.

(2) If the agency schedules an on-site meeting, the following apply:

(a) The claimant must allow access to the property that is the subject of the claim.

(b) The claimant or an agent of the claimant must attend the meeting. An agent of the claimant must have knowledge of all claim items included in the claim and must have authority to enter into a settlement of the claim. The agency may waive the requirement that an agent have authority to enter into a settlement of the claim if there is evidence that the respondent will not attend the on-site meeting.

(c) The claimant must allow the respondent to be present at the on-site meeting as required under ORS 671.703.

(d) The individual landscape contractor whose phase of license is the basis for the landscape business license and who supervised the project must attend the meeting as required by OAR 808-003-0018.

(3) If the claimant fails to comply with the requirements of section (2) of this rule, the agency may close the claim under OAR 808-004-0260.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 4-2002, f. & cert. ef. 12-4-02; LCB 3-2006, f. & cert. ef. 8-2-06

808-004-0520

Processing of Claim Submitted to Court, Arbitrator or Other Entity

(1) "Court, arbitrator or other entity" has the meaning given that phrase in division 2 of this chapter.

(2) The agency may suspend processing a claim if:

(a) The respondent submits a complaint against claimant to a court, arbitrator or other entity that relates to same facts and issues contained in the statement of claim filed against respondent, including but not limited to a breach of contract claim or a suit to foreclose a lien involving the same contract at issue in the claim;

(b) Claimant submits a complaint against respondent to a court, arbitrator or other entity that relates to same facts and issues contained in the statement of claim filed against respondent; or

(c) The agency requires the claimant to submit the claim to a court because the agency determined that a court is the appropriate forum for the adjudication of the claim because of the nature or complexity of the claim.

(3) If the agency suspends processing a claim under subsection (2) of this rule, the agency shall notify the claimant on the date it suspends processing the claim that processing has been suspended. The following provisions apply to the agency and the claimant if processing is suspended:

(a) The notice of suspension of processing shall include notification of the requirements contained in subsections (b) and (d) of this section and shall comply with the requirements of OAR 808-004-0260.

(b) Beginning six months after the date that the agency suspends processing the claim and no less frequently than every sixth month thereafter,

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the claimant shall deliver to the agency a written report describing the current status of the action before the court, arbitrator or other entity.

(c) The agency may, at any time, demand from the claimant a written report describing the current status of any action before a court, arbitrator or other entity. Such demand must be in writing and must comply with the requirements of OAR 808-004-0260. The claimant shall deliver a written response to the agency within 30 days of the date the demand letter is mailed by the agency.

(d) Within 30 days of the date of final action by the court, arbitrator or other entity, the claimant shall deliver to the agency a certified copy of the final judgment; a copy of the arbitration award or decision by another entity and a copy of the complaint or other pleadings on which the judgment, award or decision is based.

(e) If claimant complies with subsections (b), (c) and (d) of this section, the agency may resume processing the claim. If the claimant fails to comply with subsections (b), (c) or (d) of this section, the agency may close the claim under OAR 808-004-0260.

(4) If the agency suspends processing a claim under subsection (2)(a) of this rule, the following provisions apply in addition to the provisions in section (3) of this rule:

(a) The agency shall notify the claimant that the claimant must file the claim as a counter-suit, complaint, or counter-claim in the court, arbitration or other proceeding and submit evidence, including a copy of the counter-suit, complaint or counter-claim, to the agency that the claimant has done so within 30 days of notification. The notice shall comply with the requirements of OAR 808-004-0260.

(b) If the claimant fails to submit the evidence as required under subsection (a) of this section, the agency may close the claim under OAR 808-004-0260.

(5) If the agency suspends processing a claim under subsection (2)(c) of this rule, the following provisions apply in addition to the provisions in section (3) of this rule:

(a) The agency shall notify the claimant, in a notice that complies with the requirements of OAR 808-004-0260, that agency has suspended processing the claim and that the claimant must:

(A) File the claim as a complaint in a court of competent jurisdiction within 90 days of notification that the agency has suspended processing the claim; and

(B) Submit evidence, including a copy of the complaint, to the agency that the claimant complied with paragraph (A) of this subsection within 21 days of filing the complaint.

(b) If the claimant fails to submit the evidence as required under subsection (a) of this section, the agency may close the claim under OAR 808-004-0260.

(6) If the agency resumes processing a claim under section (3) of this rule:

(a) The agency shall accept a final judgment, award or decision of the court, arbitrator or other entity as the final determination of the merits of the claim.

(b) Based on the judgment, award or decision, the agency shall issue a proposed default order to pay damages or to dismiss or refer the claim to the Office of Administrative Hearings for a hearing. The following apply to proceedings under this subsection:

(A) The provisions of OAR 808-004-0560 apply to a proposed default order or a referral for the Office of Administrative Hearings.

(B) A proposed default order to pay damages issued under this section must include a statement of the portion of the final judgment, award or decision of the court, arbitrator or other entity that the agency finds is within the jurisdiction of the agency.

(C) If the agency refers the claim to the Office of Administrative Hearings for a hearing, the administrative law judge shall determine the portion of the final judgment, award or decision if any, that is within the jurisdiction of the agency.

(7) At its discretion and with the agreement of the claimant and respondent, the agency may hold an on-site meeting under OAR 808-004-0450 before suspending claim processing under section (2) of this rule if the agency finds that an on-site meeting may help the parties to resolve the claim.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 183.415, 183.460, 671.703 & 671.575

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 1-2005, f. & cert. ef. 2-15-05; LCB 3-2006, f. & cert. ef. 8-2-06

808-004-0540

Establishing Monetary Damages, Issuing Proposed Default Order or Referring Claim for Hearing

(1) A claimant may seek monetary damages if the agency has not closed the claim and:

(a) The claimant disagrees with the resolution proposed by the agency;

(b) The respondent cannot or will not comply with the resolution proposed by the agency;

(c) The parties signed a settlement agreement proposed by the agency but, through no fault of the claimant, the respondent has not fulfilled the terms of the settlement agreement, and the agency is so advised in writing by the claimant within 30 days of the date the settlement agreement was to have been completed.

(2) If the claimant seeks monetary damages or the agency so requests, the claimant shall file a declaration of damages stating the amount the claimant alleges the respondent owes the claimant, limited to claim items listed in the Statement of Claim. The agency may require the claimant to submit, in support of the amount alleged:

(a) One or more estimates from licensed landscape businesses for the cost of correction of each of the claim items; or

(b) Other basis for monetary award.

(3) If the agency does not hold an on-site meeting, the agency may issue a proposed default order or refer the claim for a hearing under section (4) of this rule after each party to the claim has had an opportunity to provide evidence supporting its position with regard to the claim. The agency may require that the claimant file a declaration of damages and supporting evidence described under section (2) of this rule. The declaration of damages shall be limited to claim items listed in the Statement of Claim.

(4) After documentation required under sections (2) or (3) of this rule is received, the agency may:

(a) Issue a proposed default order proposing dismissal of the claim under OAR 808-004-0550(2) or payment of an amount by the respondent to the claimant; or

(b) Refer the claim to the Office of Administrative Hearings for a hearing to determine the validity of the claim and whether the amount claimed, or some lesser amount, is proper.

(5)(a) The agency may issue a proposed default order that the respondent pay damages to claimant if the record of the claim contains evidence that persuades the agency that:

(A) Claimant suffered damages;

(B) Respondent caused those damages by performing negligent or improper work or a breach of contract in performing work subject to ORS 671.510 to 671.710; and

(C) The monetary value of those damages is substantiated on the record.

(b) The agency may issue a proposed default order that is not described in subsection (a) of this section if the record of the claim contains evidence that persuades the agency of the existence of facts necessary to support the order.

(6) The provisions of OAR 808-004-0560 apply to a proposed default order or a referral to the Office of Administrative Hearings issued under this rule.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 183 & 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 3-2006, f. & cert. ef. 8-2-06

808-004-0550

Proposed Default Order to Dismiss, Other Resolution of Claim by Proposed Default Order

(1) The agency may issue a proposed default order proposing dismissal of a claim if the evidence in the claim record persuades the agency that one of the following grounds for dismissal exists:

(a) The claim is not the type of claim that the agency has jurisdiction to determine under ORS 671.690, 671.703 or OAR 808-004-0320.

(b) The claim was not filed within the time limit specified under ORS 671.710 and OAR 808-004-0320.

(c) The claimant did not permit the respondent to comply with agency recommendations under ORS 671.703.

(d) The claim must be dismissed for lack of jurisdiction under OAR 808-004-0320(3), (4) or (6).

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(e) The respondent breached a contract or performed work negligently or improperly, but the monetary value of damages sustained by the claimant is less than an amount due to the respondent from the claimant under the terms of the contract.

(f) The claimant contends that the respondent failed to fulfill the terms of a settlement that resolved the claim but the agency finds that the respondent fulfilled the respondent's obligation under the settlement agreement.

(2) The agency may issue a proposed default order proposing dismissal of a claim if, after the agency investigates the claim, the record of the claim does not contain evidence that persuades the agency that:

(a) The claimant suffered damages;

(b) Respondent caused those damages by performing negligent or improper work or a breach of contract in performing work subject to ORS 671.510 to 671.710; and

(c) The monetary value of those damages is substantiated on the record.

(3) If the claimant makes a timely request for a hearing after the agency issued a proposed default order under section (1) or (2) of this rule, the agency may:

(a) Refer the claim for an arbitration or contested case hearing solely to determine whether the dismissal was proper; or

(b) Require that the claimant file a declaration of damages stating an amount the claimant alleges the respondent owes the claimant and refer the claim for an arbitration or contested case hearing to determine if the claim should be dismissed and if not, the validity of the claim and whether the amount claimed, or some lesser amount is proper.

(4) The provisions of OAR 808-004-0560 apply to a proposed default order or a referral to the Office of Administrative Hearings issued under this rule.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 183.415, 183.460 & 671.703

Hist.: LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 5-2003, f. & cert. ef. 8-1-03; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 3-2006, f. & cert. ef. 8-2-06

808-004-0600

Payment From Bond, Irrevocable Letter of Credit or Other Security

(1) The board may notify the surety company of claims pending.

(2) The board shall notify the surety company or deposit holder of claims ready for payment. This notice shall constitute notice that payment is due on the claim. Claims are ready for payment when all of the following have occurred:

(a) An arbitration award has been issued and is ready for payment under OAR 808-008-0440 after 30 days have elapsed to allow the respondent time to pay the award or file exceptions with the circuit court or a final order has been issued in a contested case and 30 days have elapsed to allow the respondent time to pay the order;

(b) The board has received no evidence that the respondent has complied with the final order or award;

(c) The board has not granted a stay of enforcement of the final order pending judicial review by the Court of Appeals; and

(d) All other claims filed against the licensee under ORS 671.510 to 671.710 within the same or prior 90-day period under ORS 671.710 have either been resolved, been closed or have reached the same state of processing as the subject claim.

(3) Claims related to jobs that are satisfied from a surety bond, irrevocable letter of credit or deposit shall be paid as follows:

(a) If a surety bond, irrevocable letter of credit or deposit was in effect when the work period began, payment shall be made from that surety bond, irrevocable letter of credit or deposit.

(b) If no surety bond, irrevocable letter of credit or deposit was in effect when the work period began, but a surety bond, irrevocable letter of credit or deposit subsequently became effective during the work period of the contract, payment must be made from the first surety bond, irrevocable letter of credit or deposit to become effective after the beginning of the work period.

(4) If during a landscape job the job charges increase to an amount that requires an increase in the bonding amount for a landscaping business, any claims filed on that specific landscape job and any other landscape jobs contracted for by this business after the effective date of the increased bond amount will have access to the higher bond amount. Landscape jobs that were contracted for before the effective date of a bond increase will only have access to the bond amount in effect at the time of entering into the contract for that job unless the job charges on that contracted job increase to an amount requiring an equal to or greater bond amount for the landscaping business.

(5) The full penal sum of the bond, irrevocable letter of credit or deposit shall be available to pay claims under this rule, notwithstanding that the penal sum may exceed the bond amount required under ORS 671.690.

(6) Unless the order provides otherwise, if an award or a final order provides that two or more respondents are jointly and severally liable for an amount due to a claimant and payment is due from the surety bonds, irrevocable letters of credit or deposits of the respondents, payment shall be made in equal amounts from each bond, irrevocable letter of credit or deposit subject to payment. If one or more of the bonds, irrevocable letters of credit or deposits is or becomes exhausted, payment shall be made from the remaining bond, irrevocable letter of credit or deposit or in equal amounts from the remaining bonds, irrevocable letter of credit or deposits. If one of the respondents liable on the claim makes payment on the claim, that payment shall reduce the payments required from that respondent's bond, irrevocable letter of credit or deposit under this section by an amount equal to the payment made by the respondent.

(7) A surety company or deposit holder may not condition payment of a claim on the execution of a release by claimant.

(8) An expired or terminated status of the license of the respondent does not excuse payment by a surety company or deposit holder required under this rule.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 671.690 & 671.710

Hist.: LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-004-0060; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 5-2003, f. & cert. ef. 8-1-03; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 3-2006, f. & cert. ef. 8-2-06

Oregon Housing and Community Services Chapter 813

Rule Caption: Defines charges relative to applicants or recipients of Low Income Housing Tax Credits.

Adm. Order No.: OHCS 9-2006(Temp)

Filed with Sec. of State: 8-4-2006

Certified to be Effective: 8-4-06 thru 1-30-07

Notice Publication Date:

Rules Amended: 813-090-0031, 813-090-0035, 813-090-0036, 813-090-0070

Subject: 813-090-0031 Defines the charges that the department may include as part of the application process for the allocation of Low Income Housing Credits. Reasonable charges may also be charged for monitoring the project owner's compliance with restrictions established by the Department and IRC Section 42 or applicable law.

813-090-0035 Adds that any applicable charges must accompany the submission of an application form to qualify for an allocation of Low Income Housing Credits.

813-090-0036 Defines the procedure for when housing credits cannot be used in the year of allocation. Removes the requirement for the department to refund the reservation fee if the housing credit is used subsequently to meet requests within the credit authority.

813-090-0070(4) Removes that the department may charge the project owner a reasonable fee for the department's costs of monitoring the project owner's compliance.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-090-0031

Application Requests and Charges

(1) The Department may solicit applications for an allocation of Housing Credit from interested parties when such credit is available.

(2) The Department may require a non-refundable application charge from any applicant requesting Low Income Housing Tax Credits through the Consolidated Funding Cycle or otherwise.

(3) The Department may require a supplemental application charge from applicants requesting additional resources for projects that have already been funded by the Department.

(4) The Department may require a transfer application charge from owners of projects that receive grants or tax credits through the Department, who request the Department's approval of a change in project ownership. The Department may assess a transfer review charge to project owners and transferees who effect a change in project ownership without prior written Department approval.

(5) The Department may require a reservation charge from any applicant prior to the execution of a Reservation and Extended Use Agreement.

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(6) The Department may assess additional late charges to an applicant if its LIHTC final application is received by the Department after established deadlines. The Department also may assess a supplemental charge to an applicant if the Department determines that a re-evaluation of the applicant's final application is necessary or warranted.

(7) If the Housing Credits awarded to a project cannot be used by the end of the calendar year of the tax credit allocation and the owner has expended or incurred 10% of project costs, an application for a Carryover Allocation of Housing Credits must be made by the deadline established by the Department for the credit year or the credits will be lost. The Department may require a supplemental application charge from an applicant who submits an LIHTC carryover application after the deadlines established by the Department. The Department also may assess a supplemental charge to an applicant if the Department determines that a re-evaluation of the applicant's carryover application is necessary or warranted.

(8) The Carryover requirements do not apply to LIHTC projects using tax-exempt bond financing.

(9) The applicant shall submit an Application for final allocation of Housing Credits when the Project is placed in service. The Department shall prescribe the period for submitting a final Application. The Department may assess a late charge for applicants that submit Applications after the prescribed deadline. The Department also may assess a supplemental charge to an applicant if the Department determines that a re-evaluation of the applicant's final application is necessary or warranted.

(10) The Department may charge the Project owner reasonable charges for the Department's costs of monitoring the project owner's compliance with restrictions established by the Department and IRC Section 42 or applicable law.

(11) The Department shall evaluate completed applications based on a ranking system consistent with IRC Section 42(m)(1), established by the Department and set forth in the Department's qualified allocation plan.

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

Stat. Auth.: ORS 456.515 - 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist. HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91; OHCS 9-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-090-0035

Applications for Low-Income Housing Tax Credits

(1) Applicants must submit an application form along with any applicable charges as given in Section 813-090-0031, to qualify for an allocation of Low-Income Housing Credits. The application required by the Department may request, among other information, the following:

(a) The amount of Housing Credit requested;

(b) Building location: state, county, town, street address and legal description;

(c) An initial statement based on waiting list information from the local public housing authority indicating whether or not there is a need for the proposed project;

(d) The qualified basis as defined in IRC Section 42, including the amount of substantial rehabilitation, if any;

(e) What elections under Section 42 the proposed Project owner will be making or has made to qualify for an allocation of Housing Credit, and when the housing units will be/were placed in service;

(f) Complete financial information about the proposed Project showing all sources and uses of funds;

(g) Operating proforma statement on a cash flow basis showing net operating income before debt service;

(h) Evidence of a commitment for financing, federal loan insurance, or other major source of funds;

(i) A detailed summary of the proceeds or receipts expected to be generated by reason of tax benefits; and

(j) Other financial information regarding grants, subsidies, or tax-exempt financing for the proposed Project.

(2) Before the Department makes an offer of a Housing Credit allocation to a proposed Project owner it shall:

(a) Review all applications;

(b) Determine the amount of Housing Credit each proposed Project needs to receive to be financially feasible;

(c) Rank the applications pursuant to the Department's qualified allocation plan and IRC Section 42;

(d) Notify the chief executive officer (or the equivalent) of the local jurisdiction with in which the proposed Project is located and provide such individual a reasonable opportunity to comment on the proposed Project to the Department. When a proposed Project is located outside an incorporat-

ed community, the county commissioners for the county of jurisdiction shall be contacted; and

(e) Notify Applicants whether or not they will receive an offer to execute a Reservation and Extended Use Agreement with the Department.

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

Stat. Auth.: ORS 183 & 456.515 - 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 13-1987(Temp), f. & cert. ef. 9-28-87; HSG 1-1988, f. & cert. ef. 3-8-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 18-1989, f. & cert. ef. 11-3-89; HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91; OHCS 9-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-090-0036

Procedures for Allocation of Low-Income Housing Tax Credit

(1) Applicants selected for an offer under OAR 813-090-0035 must execute with the Department a Reservation and Extended Use Agreement in a form satisfactory to the Department. The Reservation and Extended Use Agreement will include, among other things, a provision for financial evaluation of the Project based on cost certification and will incorporate a Declaration of Land Use Restrictive Covenants to be executed and recorded prior to the Department completing a Form 8609 and delivering a copy thereof to the Applicant.

(2) If the Housing Credit cannot be used in the year of allocation but the proposed Project is over 10 percent completed, a Carryover Allocation may be made. If a Carryover Allocation has been made, the owner shall submit the application for final allocation of Housing Credit when the Project is placed in service. The Department shall limit at the time of the extension of a Carryover Allocation, the maximum credit which the proposed project may receive.

(3) Upon receipt of a certified copy of the recorded Declaration of Land Use Restrictive Covenants in a form satisfactory to the Department, the Department shall complete and issue Part I of Internal Revenue Service Form 8609 to confirm final allocation of Housing Credits.

(4) The Project owner shall be responsible for filing the required IRS Form with his or her tax return.

(5) An allocation may not be rescinded or reduced by the Department except as provided under OAR 813-090-0060. Proposed Project owners may return unneeded Housing Credit by completing and filing with the Department, forms supplied by the Department.

Stat. Auth.: ORS 456.515 - 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91; OHCS 9-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-090-0070

Monitoring

(1) The Department shall notify the Internal Revenue Services (IRS) in writing of the non-compliance of any Project with the provisions of IRC Section 42 as they may apply to such Project and the Department shall not be liable to the Project or Project owner for any adverse consequences resulting from the Department notifying the IRS.

(2) The Department shall send a copy to the Project owner of any notification of non-compliance sent to the IRS regarding the project.

(3) The Department may require annual reports from the Project owner in order to facilitate the Department's monitoring of Project compliance.

(4) The Declaration of Land Use Restrictive Covenants and Reservation and Extended Use Agreement, of which it is a part, may be enforced by the Department or its designee in the event the Owner fails to satisfy any of the requirements therein.

(5) The Declaration of Land Use Restrictive Covenants shall be deemed a contract enforceable by one or more tenants as third-party beneficiaries of the Declaration of Land Use Restrictive Covenants and Reservation and Extended Use Agreement.

(6) In the event the Project owner fails to satisfy the requirements of the Declaration of Land Use Restrictive Covenants and Reservation and Extended Use Agreement and legal costs are incurred by the Department or one or more tenants or beneficiaries, such legal costs, including legal charges and court costs (including costs of an appeal), are the responsibility of and may be recovered from the project owner.

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

Stat. Auth.: ORS 456.515 - 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91; OHCS 9-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

ADMINISTRATIVE RULES

Rule Caption: Defines charges relative to applicants or recipients of funding through the Program.

Adm. Order No.: OHCS 10-2006(Temp)

Filed with Sec. of State: 8-4-2006

Certified to be Effective: 8-4-06 thru 1-30-07

Notice Publication Date:

Rules Amended: 813-120-0080, 813-120-0100

Subject: 813-120-0080 Defines the charges that the department may include as part of the application process for Home Investment Partnerships Program

813-120-0100 Adds that the department may establish charges.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-120-0080

Application Procedure and Requirements

(1) The Department may require a non-refundable application charge from any applicant requesting HOME program funds through the Consolidated Funding Cycle or otherwise.

(2) The Department may require a supplemental application charge from applicants requesting additional resources for projects that have already been funded by the Department.

(3) The Department may require a transfer application charge from owners of projects that receive grants or tax credits through the Department, who request the Department's approval of a change in project ownership. The Department may assess a transfer review charge to project owners and transferees who effect a change in project ownership without prior written Department approval.

(4) The Department may provide funds from the HOME Program subject to availability of funds in the program through a process which may involve but is not limited to a first come — first reviewed, demonstration program, a competitive review process, or as necessary to maintain an ongoing concern.

(a) Applications for HOME funds may include a pre-application and a final application. The completeness of information in pre-applications shall be the basis for inviting final applications.

(b) Each application submitted shall be reviewed by Department staff or their designees according to program requirements and detailed project evaluation criteria.

(5) The Department may provide funds for acquisition, rehabilitation, new construction, tenant-based rental assistance, CHDO operating expenses, and for project-specific CHDO predevelopment, technical assistance, and site control loans. The Department may restrict the availability of Program funds for each such category of funds at the time it solicits applications.

(a) Homeowner Rehabilitation: For rehabilitation of single-family structures owned by Households at 80% of median income or below who occupy the home as their principal residence. Homeowner Rehabilitation programs shall be administered by a local government or a Nonprofit Organization.

(b) Homebuyer Assistance: For acquisition, rehabilitation and/or construction of housing to be owned and occupied by Low and Very Low Income households.

(c) Rental Rehabilitation: For acquisition and/or rehabilitation of existing structures for rental housing affordable to Low and Very Low Income households. The initial and long-term affordability requirements outlined in OAR 813-120-0050 shall apply to rental housing assisted with HOME funds. Rental rehabilitation projects may be sponsored by a local government, nonprofit organization, for-profit organization, individual or CHDO;

(d) New Construction: For the construction of new rental housing or the acquisition of rental housing which is acquired within one year of the date of certificate of initial occupancy. New Construction projects may be sponsored by a local government, nonprofit organization, for-profit organization, individual or CHDO.

(e) Tenant-Based Rental Assistance: For rental assistance to Low and Very Low Income households.

(f) CHDO Predevelopment and Technical Assistance: loans for project-specific predevelopment or technical assistance and site control activities performed by CHDOs may be authorized for up to 10% of the CHDO set-aside pool.

(6) The Department may further restrict the amount and/or type of assistance available, or restrict the type of applicant eligible for assistance.

(7) The Applicant shall submit, in an application form and process prescribed by the Department, project information including but not limited to:

(a) Name, address, and telephone number of the applicant;

(b) Category of assistance requested;

(c) A written description of the project including but not limited to, the number of units, unit mix, proposed rents, site location, project amenities, and any other information required in the application materials, program guidelines, or 24 CFR Part 92;

(d) A statement of project purpose indicating the housing type and tenants to be housed, and the length of time the units will be committed for occupancy by Low and Very Low Income Households;

(e) A description of how the proposed project meets the regional or statewide needs and priorities addressed in Oregon's Consolidated Plan;

(f) A pro forma of project expenses and income;

(g) Amount requested and total project development costs, including a description and documentation of all additional project funding and funding sources.

(h) A narrative of the experience of the sponsor/developer /owner/manager in developing and operating housing projects;

(i) A description of the applicant's readiness to proceed on project activities. Applicants should expect to begin construction activities within six months of HOME agreement execution; and

(j) A schedule for completion of project activities.

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

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97; OHCS 10-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-120-0100

Form of Assistance

(1) The Department shall confirm to the applicant in writing the amount and form of assistance, if any, to be provided from the HOME Program.

(2) The Department may establish fees, charges, interest rates, repayment terms, performance criteria and reporting requirements according to **24 CFR, Part 92**, and as the Department considers appropriate or necessary for the type and use of assistance provided. The Department shall specify such terms and conditions to the applicant in writing before funds are advanced or contractual agreements signed. The Department may require the applicant to execute such documents as the Department considers appropriate or necessary to evidence the type and amount of assistance provided, and any terms and conditions agreed to in connection with such assistance, subject to federal policy or regulatory direction.

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

Stat. Auth.: ORS 456.559(1)(f)

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; OHCS 10-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

Rule Caption: Defines charges relative to applicants or recipients of Oregon Affordable Housing Tax Credits.

Adm. Order No.: OHCS 11-2006(Temp)

Filed with Sec. of State: 8-4-2006

Certified to be Effective: 8-4-06 thru 1-30-07

Notice Publication Date:

Rules Amended: 813-110-0010, 813-110-0015, 813-110-0030, 813-110-0033, 813-110-0035

Subject: 813-110-0010 Provides clarification of common terms and definition within the program. Changes the word 'fee' to more accurately reflect a 'charge.'

813-110-0015 Removes references to a \$100 nonrefundable fee to the Department for reviewing the Sponsor's Application.

813-110-0030 Changes the word 'fee' to more accurately reflect the word 'charge.'

813-110-0033 Defines the charges that the department may request as part of the application process for the Oregon Affordable Housing Tax Credit Program.

813-110-0035 Removes references in 813-110-0035(4) to a fee being required as part of the Application process.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

ADMINISTRATIVE RULES

813-110-0010

Definitions

All terms are used in OAR 813, division 110, as defined in the Act, as provided in OAR 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Application" means a request signed by a Sponsor for Certification of a Project.

(2) "Cap" means the maximum amount of tax credits as set by the Legislature in ORS 317.097(6).

(3) "Certification" means the written verification by the Department to a Lender that a Project is a qualified Project for which the Lending Institution may claim a tax credit under the provisions of the Act.

(4) "Department" means the Oregon Housing and Community Services Department.

(5) "Firm Commitment of Financing" means the Lending Institution's agreement to make a loan to a specific borrower on a specific property and which will contain all of the terms and conditions that the borrower has to satisfy before said loan can be funded. Payment of a commitment charge by the borrower to the Lending Institution may be required as a condition precedent to issuance of such an agreement.

(6) "Housing Payments" as used in the Act means rent or purchase price for a sponsored Project.

(7) "Consolidated Plan" means the plan approved by the US Department of Housing and Urban Development (HUD) which describes the needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs.

(8) "Lending Institution" means any bank, mortgage banking company, federal savings bank, savings bank, stock savings bank, savings and loan association, national bank, credit union or federal savings and loan association maintaining an office in this state. "Lending Institution" also includes any community development corporation, as defined in ORS 708.444(4), that is organized under the Oregon Nonprofit Corporation Law, and that meets the conditions described in ORS 708.444(2)(a) and (e).

(9) "Letter of Intent" means a proposal for financing by a Lending Institution subject to the borrower's compliance with certain terms stipulated by the Lending Institution.

(10) "Median Income" shall be the area median family income, adjusted for family size, as published from time to time by HUD.

(11) "Project" means one or more units of housing, including refinanced housing, which will be rented to or owned by households whose incomes are less than 80 percent of Median Income. The use of a Project for eligible occupants shall be maintained for the term of the credit, in accordance with the Act, unless terminated at the discretion of the Department. If there is a foreclosure, deed-in-lieu, or an involuntary transfer where title transfers to the Lending Institution, that Lending Institution may dispose of the property at its sole discretion.

(12) "Rents Charged at the Market Interest Rate" means the rents that would be required, if the lender charged the market interest rate, in order to make the project financially feasible.

(13) "Rent Reduction" means the amount rents are reduced from the Rents Charged at the Market Interest Rate as a result of the OAHTC subsidy.

(14) "Rent Pass Through" means the amount of Rent Reduction made available to the tenants because of the reduced interest rate attributable to the OAHTC subsidy.

(15) "Sponsor" is a borrower who is a nonprofit corporation, state or local government entity including but not limited to a housing authority, which may be a controlling general partner in a limited partnership.

(16) "Tenant" means a renter who occupies or will occupy a unit in a Project, or a homeowner who is the borrower in an owner-occupied community rehabilitation program.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-110-0015

Application Requirements

(1) The Department may provide tax credits from the OAHTC Program subject to availability of credits in the Program through a process which may include, but is not limited to, a first-come first-reviewed or competitive review process. At the time credits are made available, the Sponsor shall submit a written Application for Certification to the

Department. The Application shall provide information that includes, but is not limited to:

(a) Name, address and telephone number of the Sponsor;

(b) Proof of eligible nonprofit corporation or governmental organizational status, if applicable;

(c) Background and experience of Sponsor and management agent with housing for low-income persons, if applicable;

(d) A firm Commitment of Financing including an estimated comparable market interest rate for the proposed loan, the estimated reduced interest rate, and the estimated amount of savings which will be passed on to Tenants as reduced housing payments;

(e) Name, address and contact person of the eligible Lending Institution making the loan;

(f) A description of the Project, including the type of housing or program involved; number and type of housing units to be provided, including the number of bedrooms; the address where the Project is or will be located; and the federal, state and local agencies or organizations involved in financing or managing the Project; and

(g) A Certification that includes, at a minimum, the statement that all information in the Application is true, complete and accurately the Project.

(2) In addition, the Sponsor shall demonstrate in writing that at the time the Project is initially rented or purchased, and thereafter for the term of the credit, the Sponsor will pass the benefits of the Project's reduced loan interest rate to Tenant households whose earning are less than 80 percent of Median Income at the time of initial occupancy and shall execute restrictive covenants to be recorded at the time of loan closing. The OAHTC Certificate and Declaration of Restrictive Covenants may be processed concurrently at closing.

(3) The Program must be used to lower rents after all other subsidies have been applied. A Project utilizing other department programs must meet the minimum requirements of those programs before the tax credits will be considered. For example, if an applicant applies for LIHTC and indicates they are targeting 60% median income rents, the application must show the Project is feasible at the targeted 60% median rents without the tax credit subsidy. The tax credit subsidy applied to reduce rents below the 60% level. This subsidy, which in effect is the savings generated by the lower interest rate, must be passed through directly to the tenants in its entirety. However, such pass-through need not be distributed evenly among the units. Some units may receive more of a reduction than others, subsequently driving those rents down to even deeper levels.

(4) Rental units covered by Section 8 Project Based Assistance (PBA) are not eligible to be used to demonstrate pass-through savings for the Program. The rent reductions are not passed onto the tenants in the form of a rent reduction from what the tenant would otherwise pay, and therefore, would not achieve pass-through savings. Projects that are partially covered with PBA may choose to use Program tax credits on the remaining units to meet pass-through of interest savings as rent reductions to the tenants.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-110-0030

Reporting Requirements

Lending Institutions claiming the state tax credit shall be sent a report form by the Department annually to assist the lending institution in notifying the Department by May 1 that the Lending Institution has met all requirements imposed by law to qualify for tax credits under the Act. Such notification shall not include any representation as to performance by the Sponsor. Such report shall be signed by an officer of the Lending Institution, and shall include, at a minimum, the name and address of the institution, name and phone number of a contact person, the number of loans for which tax credits will be claimed, the amount of credit claimed, the annual charge payment, the dates the loans were closed, the location of the Projects financed by those loans, the amount loaned for each Project, and the outstanding balances of all loans.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

ADMINISTRATIVE RULES

813-110-0033

Fees

(1) The Department may require a non-refundable application charge from any applicant requesting Oregon Affordable Housing Tax Credits through the Consolidated Funding Cycle or otherwise.

(2) The Department may require a supplemental application charge from applicants requesting additional resources for projects that have already been funded by the Department.

(3) The Department may require a transfer application charge from owners of projects that receive grants or tax credits through the Department, who request the Department's approval of a change in project ownership. The Department may assess a transfer review charge to project owners and transferees who effect a change in project ownership without prior written Department approval.

(4) A base charge of 5 percent of the annual tax credits claimed by an eligible Lending Institution plus \$100 per month for each full month the annual report is delayed shall be paid by the Lending Institution to the Department.

(5) On Projects certified prior to September 29, 1991, all annual charges required in OAR 813-110-0033, except for any charges for delayed reports, shall be waived.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-110-0035

Community Rehabilitation Project Certification

(1) OAR 813-110 does not establish requirements for certifications to households participating in a community rehabilitation program as provided in ORS 317.097(4)(b). The Department does not establish rules for local governments or their designated agents for certifying participants in a community rehabilitation program under their jurisdiction.

(2) A participant in a community rehabilitation program includes both individuals and nonprofit corporations or units of local government which reloan proceeds to individuals participating in a community rehabilitation program. When a local government or its designated agent certifies a participant in a community rehabilitation program, a copy shall be sent to the Department certifying that the loans included in a loan certification fall within the Cap.

(3) The local government entity shall certify to the Department that the local community rehabilitation standards will be met for all loans that will be included in the certified loan.

(4) A separate Application is required to be submitted for each lender certification form requested.

(5) Charges as outlined in Section 813-110-033 will apply for each such Application accompanied by the designated agent's Certification and preferred listing for multiple lenders, if applicable.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

Rule Caption: Clarifies terms, affordability, monitoring and application procedure/requirements; remedies. Adds waivers language.

Adm. Order No.: OHCS 12-2006(Temp)

Filed with Sec. of State: 8-4-2006

Certified to be Effective: 8-4-06 thru 1-30-07

Notice Publication Date:

Rules Adopted: 813-130-0140

Rules Amended: 813-130-0000, 813-130-0010, 813-130-0020, 813-130-0030, 813-130-0040, 813-130-0050, 813-130-0060, 813-130-0070, 813-130-0080, 813-130-0090, 813-130-0100, 813-130-0110, 813-130-0120, 813-130-0130

Subject: 813-130-0000 Clarifies terms and purpose of the program.

813-130-0010 Provides clarification of common terms and definitions within the program.

813-130-0020 Administrative changes. Changed 'Applicants' to 'Recipients'.

813-130-0030 Administrative changes. Restructured language for easier readability.

813-130-0040 Administrative changes. Restructured language for easier readability.

813-130-0050 Removed redundant language

813-130-0060 Administrative changes. Restructured language for easier readability.

813-130-0070 Administrative changes. Capitalization corrections.

813-130-0080 Administrative changes. Restructured language for easier readability. Added language to allow application charges for applicants requesting additional resources to projects previously funded. Added additional language to allow a transfer application charge if a change of ownership occurs.

813-130-0090 Administrative changes. Restructured language for easier readability.

813-130-0100 Added language that that each Recipient shall execute a Use Agreement containing fees, interest rates, repayment terms, performance criteria and reporting requirements as the department or HUD considers appropriate or necessary for the type and use of assistance provided.

813-130-0110 Clarified language for easier readability.

813-130-0120 Clarified language for easier readability.

813-130-0130 Clarified language for easier readability.

813-130-0140 Added a waiver rule as already provided for within statute.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-130-0000

Purpose and Objectives

OAR chapter 813, division 130, is promulgated to ORS 456.555(2) to carry out the provisions of the HELP Program. The Department receives HELP funds from the U.S. Department of Housing and Urban Development (HUD) under Section 1012 of the Steward B. McKinney Homeless Assistance Act ("the Act") of 1988. The HELP Program is funded by monies realized from the HUD-authorized refunding of existing bonds issued by the Department, the proceeds of which were originally used to finance housing projects, pursuant to an agreement between the Department and HUD under HUD's Financing Adjustment Factor (FAF) Program. Under the FAF Program, HUD shares such monies realized from these refundings on an equal basis with bond issuers such as the Department, and attaches certain restrictions and requirements upon the use of funds realized from such refunding. The HELP Program's objective is to provide financial assistance for the construction, acquisition and/or rehabilitation of rental housing for individuals and families of very low income for the purpose of expanding the supply of affordable, decent, safe and sanitary housing in Oregon.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0010

Definitions

All terms used in OAR chapter 813, division 130, are defined in the Act, OAR 813-005-0005 and herein. As used in OAR chapter 813, division 130, unless the context indicates otherwise:

(1) "Affordability Period" means the period during which a project assisted with HELP funds must remain affordable to Very Low Income residents, which period shall be at least 10 years from the date of the Use Agreement.

(2) "Annual Household Income" means the anticipated total income from all sources received by the family head and by each additional member of the family of 18 years of age and over, including all net income derived from assets for the twelve-month period following the effective date of certification of income, in accordance with HUD in 24 C.F.R. 813.

(3) "Applicant" means an applicant for HELP funds.

(4) "Household" means one or more persons occupying a housing unit.

(5) "HUD" means the U.S. Department of Housing and Urban Development.

(6) "Low Income" means annual Household income which does not exceed 80 percent of the median Household income for the area, as determined by HUD, with allowances for family size.

(7) "Nonprofit Organization" means

(a) An organization which has obtained tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and is established under the provisions of ORS chapter 65;

ADMINISTRATIVE RULES

(b) A community development corporation as defined in ORS 458.210;

(c) A housing authority as defined in ORS 456.005;

(d) A community action agency as established pursuant to the federal Economic Opportunity Act of 1964 and which meets the requirements of ORS 458.505(4); or

(e) Other nonprofit entity representing or seeking to serve the housing, human services and community economic revitalization needs of a clearly-defined population and area.

(8) "Program" means the HELP Program.

(9) "Recipient" means a recipient of HELP funds.

(10) "Use Agreement" means the Financing Adjustment Factor Savings Funds Use Agreement between a Recipient and the Department.

(11) "Very Low Income" means annual Household income which does not exceed 50 percent of the median Household income for the area, as determined by HUD, with allowances for family size.

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

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0020

Eligible Applicants for HELP Funds

Eligible Recipients for HELP funds include units of general local government and Nonprofit Organizations which propose to construct, acquire and/or rehabilitate rental housing for Households with Very Low Incomes.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0030

Eligible Activities for HELP Funds

HELP funds provided by the Department shall be used for the construction, acquisition and/or rehabilitation of rental housing to be occupied by Households with Very Low Incomes.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0040

Eligible Costs for HELP Funds

Costs eligible to be paid with HELP funds are costs that promote housing affordability and include but not limited to:

(1) Development hard costs, such as the actual costs of constructing or rehabilitating rental housing;

(2) Costs of acquiring improved or unimproved real property;

(3) Pre-development costs which have been pre-approved by the Department; and

(4) Soft development costs associated with the construction, acquisition, or rehabilitation, including fees and interest studies.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0050

HELP Affordability Requirements

(1) A Use Agreement executed by the Department and a Recipient shall include covenants and restrictions running with land (which will be binding upon the Recipient and any successors in title to the project) that require such project assisted with HELP funds to remain affordable to Very Low Income residents during the Affordability Period. Upon expiration of a Use Agreement, those covenants and restrictions described therein shall also expire.

(2) Use Agreements shall require Recipients to obtain resident income certifications at the time of initial occupancy of the HELP-assisted units and on an annual basis thereafter during the Affordability Period to document to the Department that units assisted with HELP funds continue to serve Very-Low-Income Households.

(3) Use Agreements may provide that a Household with Very-Low Income at the time of initial occupancy shall remain eligible despite the rise of Household income and will not be displaced by reason of ceasing to qualify as a very-low-income family or person if the owner exercises reasonable efforts to lease the next available similar unit to a family or person of very low income.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0060

Program Requirements

The Department shall adopt guidelines for the HELP Program which address application procedures, project eligibility, project selection criteria, financial assistance available, and other applicable information. Program guidelines shall be contained in the HELP application materials.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0070

Distribution of Funds

The Department shall distribute HELP funds according to the Program administrative rules for the targeted clients as endorsed by the Housing Council and in accordance with Program application materials.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0080

Application Procedure and Requirements

(1) The Department may require a non-refundable application charge from any applicant requesting HELP funds through the Consolidated Funding Cycle or otherwise.

(2) The Department may require a supplemental application charge from applicants requesting additional resources for projects that have already been funded by the Department.

(3) The Department may require a transfer application charge from owners of projects that receive grants or tax credits through the Department, who request the Department's approval of a change in project ownership. The Department may assess a transfer review charge to project owners and transferees who effect a change in project ownership without prior written Department approval.

(4) The Department may award HELP funds, subject to availability of funds in the Program, through a process which may include, but is not limited to, a first come-first reviewed or a competitive review process. The application process for HELP funds may include a pre-application and a final application. Upon the basis of its review of the pre-applications, the Department may, in its sole discretion, invite certain Applicants to submit final applications. The Department will not process applications it determines to be incomplete.

(5) An Applicant shall submit to the Department, on the application form and in accordance with the application process prescribed by the Department, such information as the Department may require, including but not limited to:

(a) Name, address and telephone number of Applicant;

(b) Type of assistance requested;

(c) A written description of the project, including the number of units, unit mix, proposed rents, site location, project amenities, and any other information required in the HELP application forms and other application materials and Program guidelines;

(d) A statement of project purpose indicating the housing type and residents to be housed, and the length of the Affordability Period;

(e) A pro forma of project income and expenses;

(f) Amount requested and total project development costs, including a description and documentation of all additional project funding and funding sources;

(g) A narrative of the Applicant's experience in developing affordable housing, including the experience of all members of the project development team;

(h) A narrative of the experience of the Applicant's management agent as it relates to operating affordable housing projects;

(i) A description of the Applicant's readiness to proceed with project activities; and

(j) A schedule for completion of project activities.

(6) The Department may restrict the amount and/or type of assistance available or restrict the type of Applicants eligible for assistance.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

ADMINISTRATIVE RULES

813-130-0090

Application Review

(1) The Department shall approve, deny, or request additional information on applications requesting HELP funds of \$100,000 or less within the time frame set forth in the HELP application materials.

(2) If the Department proposes to award funds for an application requesting more than \$100,000, it shall submit the application request to the Housing Council for review. The Housing Council shall approve or disapprove the application at a public hearing of the Housing Council, pursuant to ORS 456.571(2).

(3) In reviewing applications for financial assistance, the Department and/or the Housing Council, as appropriate, may consider, in addition to any special evaluation criteria, the following:

- (a) Amount of available funds in the HELP Program;
- (b) Availability of other sources of assistance; and
- (c) Applicant's efforts to leverage public or private funds.

(4) The Department shall not fund any project that is not financially feasible.

(5) The Department shall select those projects which, in the judgment of the Department, best achieve the purposes of the HELP Program and any evaluation criteria outlined in the program application materials.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0100

Form of Assistance

(1) The Department may provide HELP funds in the form of a grant or a loan, or a combination of both. Loan rates and terms, if applicable shall be determined by the Department based on a project's needs and cash flow and an Applicant's capacity to repay HELP funds. Preference shall be given to those Applicants requesting loans which show sufficient project cash flow to repay the loan. The Department shall notify an Applicant in writing of the amount and form of assistance, if any, to be provided by the HELP Program.

(2) Each Recipient shall execute a Use Agreement, containing such terms regarding fees, interest rates, repayment terms, performance criteria and reporting requirements as the Department or HUD considers appropriate or necessary for the type and use of assistance provided. Each Use Agreement must be:

(a) (If the Recipient owns the project property at the time of disbursement) recorded as an encumbrance on the project property before any HELP funds are advanced; or

(b) (If the Recipient does not own the project property at the time of disbursement) placed in escrow in an escrow account established by the Recipient, and the Recipient must agree to and make provision for recording the Use Agreement as an encumbrance against the project property immediately upon obtaining title to such project property.

(3) The Department may require a Recipient to execute such documents as the Department considers appropriate or necessary to evidence the type and amount of financial assistance provided and any terms and conditions agreed to in connection with such assistance, subject to state or federal policy or regulatory direction.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0110

General Administrative and Monitoring Requirements

(1) The Department or HUD may perform such reviews or field inspections as it deems necessary to ensure Program compliance. The Department may require that a Recipient take such remedial actions as described in this rule and OAR 813-130-0120.

(2) Financial records, supporting documents, and all other pertinent records shall be retained by a HELP Recipient for five years after the project is complete, or after any litigation or audit claim is resolved, whichever is later. The Department, HUD, the Inspector General, the General Accounting Office, and Oregon Secretary of State and their representatives shall have access to all books, accounts, documents, records and other property belonging to or in use by the Recipient which relate to the use of HELP funds.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0120

Remedies for Noncompliance

At any time before the expiration of the Affordability Period, the Department may find that a Recipient is not in compliance with the requirements of the Program for reasons including but not limited to use of funds for activities not approved in the Use Agreement, failure to complete activities in a timely manner, failure to comply with applicable rules or regulations, or the lack of a continued capacity by the Recipient to carry out the approved activities. Remedies for noncompliance may include penalties imposed by the Department, including but not limited to repayment of HELP funds.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0130

Sanctions

(1) The Department may invoke sanctions against a Recipient that fails to comply with the provisions of its Use Agreement. The following circumstances may warrant sanctions:

(a) HELP funds have not been expended within six months of disbursement by the Department to the Recipient;

(b) There is a material breach of the Use Agreement;

(c) The Use Agreement was not recorded on the property required by OAR 813-130-0100(3) or as agreed; or

(d) The Department finds that significant corrective actions are necessary to protect the integrity of the project funds and those corrective actions are not, or will not be, made within a reasonable time.

(2) One or more of the following sanctions may be imposed by the Department:

(a) Prohibit a Recipient from applying for future HELP assistance or other Department assistance;

(b) Revoke an existing HELP award;

(c) Withhold unexpended HELP funds;

(d) Require return of HELP funds that have been disbursed to the Recipient but not expended by Recipient;

(e) Require repayment of expended HELP funds; and

(f) Invoke other remedies that may be incorporated into the Use Agreement.

(3) Sanctions will not be imposed by the Department until the Recipient has been notified in writing of its deficiencies and given a reasonable time to respond and correct the deficiencies noted. The sanctions and remedies set forth in this OAR 813-130-0130 are cumulative and not exclusive and are in addition to any other rights and remedies provided by law or under the Use Agreement.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-130-0140

Waiver

The Director may waive or modify any requirements of these Program rules, unless such waiver or modification would violate applicable state statute or federal regulations.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

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Rule Caption: Clarifies terms, fund uses, the eligible applicants, projects and activities, and applicable program charges.

Adm. Order No.: OHCS 13-2006(Temp)

Filed with Sec. of State: 8-4-2006

Certified to be Effective: 8-4-06 thru 1-30-07

Notice Publication Date:

Rules Adopted: 813-205-0052, 813-205-0085, 813-205-0100, 813-205-0110, 813-205-0120, 813-205-0130

Rules Amended: 813-205-0000, 813-205-0010, 813-205-0020, 813-205-0030, 813-205-0040, 813-205-0050, 813-205-0051, 813-205-0060, 813-205-0070, 813-205-0080

Subject: 813-205-0000 Clarifies purpose and operation of the program.

813-205-0010 Add terms and definitions applicable to the program. Provides clarification of common terms and definitions within the program.

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813-205-0020 Administrative changes. Clarified that the program's objective. 813-205-0020(2) clarified the funding sources for the program.

813-205-0030 Clarified for easier readability.

813-205-0040(4) Allows the property owner to assign tax credits to the subgrantee providing weatherization services.

813-205-0050 Stipulates that Lead Safe Work Practices will be practiced on all dwellings constructed prior to 1978 unless it can be proven that a lead hazard does not exist.

813-205-0060 Administrative changes.

813-205-0070 (4) A Subgrantee Agency shall receive authorization from the Department for the purchase of a vehicle regardless of cost with grant funds.

813-205-0080 Administrative changes.

813-205-0090 New Rule that stipulates that the department has the responsibility to administer the program through the activities of the Housing Division and funds are available to low-income affordable rental housing development.

813-205-0100 Defines the applicants that are eligible to participate in the program. Establishes that the department may require application charges.

813-205-0110 Defines the eligible projects for participating in the program.

813-205-0120 Defines the eligible activities for the program.

813-205-0130 Defines how funds may be awarded to applicants.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-205-0000

Purpose and Objectives

The rules of OAR chapter 813, division 205, are established to accomplish the general purpose of ORS 456.515 through 456.725, which sets forth the role of the Housing and Community Services Department, and ORS 458.505 to 458.545, specifically 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. These administrative rules describe the Weatherization Programs, which operate at the local level through antipoverty programs in Oregon. These Administrative rules describe the Weatherization Programs which operate at two local levels through:

(1) A network of service-provider agencies (Low Income Weatherization Assistance Program) and

(2) Developers of affordable rental housing (Low-Income Weatherization Program).

Stat Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02; OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0010

Definitions

All terms are used in OAR chapter 813, division 205, as defined in the Act, and as provided in OAR 813-005-0005 and herein. As used in these rules, unless otherwise indicated by the context:

(1) "ACE" means Advisory Committee on Energy.

(2) "Applicant" means project sponsor, developer, borrower or income eligible applicant.

(3) "Client Energy Education" means the activities and instruction designed to help low-income clients make appropriate decisions and lifestyle changes to effectively reduce energy consumption.

(4) "Community Resources Department (CRD) Grant Application" means the biennial planning document approved by the Department that outlines how each Subgrantee Agency determines its community's needs, including what forum is used to solicit input and who participates; summarizes each area's needs, goals and outcome-based objective; and contains a quarterly reporting requirement that lets the Department and the agency determine if benchmarks are being met.

(5) "Consolidated Funding Cycle (CFC)" means any activities, reviews, applications and associated funding in regard to the open, competitive process to distribute grant and tax credit funds for affordable, multi-unit, low-income rental housing development.

(6) "Department" means the Housing and Community Services Department of the State of Oregon.

(7) "Director" means the Director of the Department of Housing and Community Services.

(8) "Disabled" means a physical or mental impairment as outlined in **Section 504 of the Rehabilitation Act of 1973**, as amended.

(9) "DOE" means the state Department of Energy.

(10) "ECHO" means Energy Conservation Helping Oregonians, enacted by the 1999-2001 Oregon Legislature.

(11) "Elderly" means those Persons 60 years of age and over as applied to the Low Income Weatherization Assistance Program.

(12) "Household" means any individual or group of individuals who are living together as one economic unit and purchase residential energy in common.

(13) "Housing Division" means the roles and duties of the Housing Finance Section, Housing Resources Section, Single-Family Finance Section and Department architects.

(14) "Income" means the total Household receipts before taxes from all sources. Income may be reduced by deductions allowed by the Department. Income does not mean assets or funds over which the applicant has no control.

(15) "LIEAP" is Oregon's Low Income Energy Assistance Program funded through the U.S. Department of Health and Human Services (HHS). Federally it is identified as LIHEAP, which refers to the Low Income Home Energy Assistance Program.

(16) "Low-Income" for the purposes of this Rule, means a household or person whose annual gross annual income is at or below 60 percent of an area's median income.

(17) "Low-Income Weatherization Assistance Program" means an energy efficiency update-program available to households whose total household income is at or below 60% of statewide median income. Energy efficient improvements may include shell measures, base-load, health & safety, minor repair and education.

(18) "Low-Income Weatherization Program" means funding program administered by the Housing Finance and Housing Resources Sections awarded to projects for weatherization and energy conservation activities in new construction or rehabilitation of low-income affordable rental housing projects as further described in OAR 813-205-0090 through 813-205-0140.

(19) "Multi-Family Building" means any residential building containing five (5) or more separate living quarters. This applies to Low-Income Weatherization Assistance and CRD only.

(20) "ODOE" means Oregon Department of Energy.

(21) "Oregon State Plan" means the U.S. Department of Energy (DOE) State Plan and/or the U.S. HHS Low-Income Energy Assistance Program (LIEAP) State Plan.

(22) "PVE" means Petroleum Violation Escrow Fund, a funding source resulting from the U.S. Court's decision on oil company overcharges, used in low-income weatherization projects throughout the State of Oregon, based on available funding.

(23) "Recipient" means successful applicant awarded project funding via a CFC funding cycle.

(24) "Special Population Agency" means an organization formed to serve the unique needs of an identified segment of the population.

(25) "Sponsor" means principle lead recipient, for affordable housing, on behalf of a non-profit or for profit entity applying for project funding for new construction or rehabilitation of existing projects in need of funding.

(26) "State Housing Council" means an OHCS policymaking board, appointed by the Governor of the State of Oregon.

(27) "Statewide Median Income" means the "median" family income in the state determined by the Department. In determining median family income in the state, the Department may, in its discretion, use the official standard established by the U.S. Department of HHS or the U.S. Department of Housing and Urban Development, adjusted for family size.

(28) "Subgrantee Agency" means a local agency or organization with whom the Department has contracted to administer Program activities and services at the local level.

(29) "T&TA Activities" means training and technical assistance activities designed to maximize energy savings, minimize production costs, improve program management, and/or reduce the potential for waste, fraud and abuse.

Stat Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02; OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0020

Program Administration, Low-Income Weatherization Assistance Program

(1) The Department has been designated by the Governor of the State of Oregon as the state agency that shall have responsibility to apply for,

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receive and administer federal funds available from the U.S. Department of Energy under the Energy Conservation in Existing Building Act of 1976. The Program's objective is to provide weatherization assistance for lower-income households, with priority given to the elderly, those with disabilities and households with children under six years of age.

(2) The Department receives funding for the Program from a number of sources in addition to the DOE. These include the Low-Income Energy Assistance Act (LIEAP), the Bonneville Power Administration (BPA), Petroleum Violation Escrow (PVE) funds and Energy Conservation Helping Oregonians (ECHO) as established through SB1149 during the 1999-2001 legislative biennium.

(3) The Department intends to utilize the existing network of service-provider agencies to administer Program services and activities at the local level.

(a) For the purpose of the Program, these agencies, which include Community Action Agencies, Limited Purpose Organizations, Area Agencies on Aging and Special Population Organizations, shall be identified as Subgrantee Agencies.

(b) In order to be eligible to administer the Program at the local level, a Subgrantee Agency shall have an approved Refunding Application and/or Biennium Grant Application on file with the Department. A Subgrantee Agency may contract with another organization to provide a Program service or activity in the Subgrantee Agency's service area.

(c) Each Subgrantee Agency shall follow the procedures outlined in the Oregon State Plan unless specific rules exist related to a particular grant that over rides the Oregon State Plan. These procedures include identifying potential applicants, certifying eligibility and providing weatherization services to eligible dwelling units within its geographic service area.

(d) The Department shall fund only one Subgrantee Agency within any geographical area.

(A) The Department may make an exception to this policy for a Special Population Organization.

(B)(i) If the Department makes an exception for a Special Population Organization and allows two Subgrantee Agencies to operate within a common geographical area, a Memorandum of Agreement shall first be negotiated to insure full access to the Program for all persons within the geographical area to prevent duplication of services.

(ii) The Department shall conduct a periodic evaluation of each Subgrantee Agency's Program performance. Factors that may be considered in this evaluation include, but are not limited to, the level of service provided, ease of access to applicants, error rate, and compatibility with other community service programs.

(iii) If an agency is deemed to be deficient and the Department is not assured of improvement in its performance, the Department may contract with another Subgrantee Agency for future Program operation.

Stat Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02; OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0030

Eligible Applicants, Low-Income Weatherization Assistance Program

To be eligible to receive assistance under the Program, a Household shall meet the requirements outlined in the Oregon State Plan, which shall include, but is not limited to:

(1) Income guidelines for the Program, as follows:

(a) A Household whose Income is at or below 60 percent of Statewide Median Income is eligible to participate in the Program.

(b) A Household who has a member receiving Supplemental Security Income (SSI) is eligible regardless of income.

(c) The period for determining eligibility shall not be more than the past 12 months from the date of application or less than the past 30 days from the date of application.

(d) A Person or Household who has applied for and been found eligible for the Low Income Home Energy Assistance Program (LIHEAP) shall be considered eligible for assistance under the Low-Income Weatherization Program. A LIHEAP income certification shall serve as evidence of income eligibility.

(2) Both renters and homeowners shall be eligible and those Households in similar circumstances shall receive similar benefits.

(3)(a) No Person shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any activity funded in whole or in part with funds made available from the Program.

(b) A Subgrantee Agency shall provide assurances to the Department that it complies with any prohibition against discrimination on the basis of

age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973.

(4) Each Subgrantee Agency shall establish a waiting list to receive weatherization services.

(a) The Subgrantee Agency shall identify criteria for determining applicant priority on the waiting list. Priority shall be given to those who are:

(A) Elderly;

(B) Disabled; and

(C) Households with children under six (6) years of age.

(b) Additional applicant priority criteria may be developed and may include, but is not limited to, those that encourage leveraging additional resources or the potential for energy savings.

(c) The criteria must be in writing and on file with the Subgrantee Agency and included in the CRD Plan.

(d) The priority criteria must be used consistently for all applicants unless the Subgrantee Agency is involved in a Department-sanctioned special project.

Stat Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02; OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0040

Eligible Activities, Low-Income Weatherization Assistance Program

(1) Under the Low Income Weatherization Program, a Subgrantee Agency may provide one or more of the following services to an eligible applicant:

(a) General weatherization measures, that include, but are not limited to, general heat waste, insulation, heating system repair and replacement, health and safety inspections and improvements, baseload measures, and Client Energy Education.

(b) Repair measures, which are measures necessary for the effective energy savings performance or preservation of weatherization materials.

(2) The Department shall allocate up to five (5) percent of the Program's funds (unless specified by the Grantor) for T&TA Activities intended to maintain or increase the efficiency, quality and effectiveness of the Program at all levels.

(3) Department staff shall provide technical assistance to a Subgrantee Agency on a variety of issues designed to assist a Subgrantee Agency to improve its management of Program activities and increase the effectiveness of its customer service efforts.

(4) The property owner may sell multifamily Business Energy Tax Credits generated through the weatherization of investment property or assign said tax credits to the subgrantee providing weatherization services.

(5)(a) Buildings (five or more units in one building) and mobile home parks (three or more mobile homes that pay space rent on a single parcel of land) can be weatherized if 66.2/3% of the units are occupied by income eligible households.

(b) Prior to weatherizing a Mobile Home Park, subgrantees must submit a work plan to the Department and have the work plan approved.

(6) Multifamily buildings and Mobile Home Park where the owner pays 25% or more of the total cost of weatherization may qualify buildings where 50% of the occupants meet income eligibility guidelines.

Stat Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02; OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0050

Fund Uses (Federal), Low-Income Weatherization Assistance Program

The Department shall allocate funds received under the Program(s) through an allocation formula.

(1) The Department may set aside up to ten percent of the Program's funds for farmworkers. A Subgrantee Agency may receive an allocation based on the percent of farmworker population measured in the state as a whole.

(2) The Department may set aside up to three percent of the Program's funds for Native American populations:

(a) The Department may provide direct funding to Native American Tribes; or

(b) The Department may allocate funds to a Subgrantee Agency with recognized Native American populations.

(3) Funds remaining after administrative, T&TA and set-aside monies have been removed shall be allocated to Subgrantee Agencies using an

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allocation formula, outlined in the Oregon State Plan, based on percent of poverty low-income households in a service area and heating degree days.

(4)(a) No DOE funds shall be expended for the items or services not listed or do not comply with the standards in 10 CFR part 440.21. The Department may move grant funds from Subgrantee Agencies who are having difficulty spending in a timely manner to Subgrantees who have spent out their funds prior to the end of the grant period.

(b) At least once a year the Department will review the spending patterns of Subgrantee Agencies for the purpose of reallocating funds.

(5) Lead Safe Work Practices shall be practiced on all dwellings constructed prior to 1978 unless it can be proven that a lead hazard does not exist.

Stat Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02; OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0051

Fund Uses (ECHO), Low-Income Weatherization Assistance Program

The Department shall allocate funds received under public purposes.

(1)(a) Allocation shall be based on the number of residential meters of a participating utility within the service territory of a weatherization subgrantee as a percentage of that utility's total residential meters statewide.

(b) Once a year on July 1st the Department will contact each utility and request a residential meter count by county. This information will be used to adjust allocations to participating weatherization agencies.

(2)(a) Households must receive electric service from Pacific Power or Portland General Electric.

(b) Only households that use hard wired electrical systems as their primary heat source are eligible to receive weatherization, baseload and educational services. Households that heat with other fuels may receive baseload measures and energy-education services only.

(3) No Bonneville Power Administration (BPA) funds shall be used in conjunction with ECHO funds.

(4)(a) The Department shall work with Subgrantee Agencies to reallocate funds from agencies unable to spend out within the allotted grant period to agencies who have spent out early.

(b) At least once a year the Department will review the spending patterns of Subgrantee Agencies for the purpose of reallocating funds.

(5) The Department may reallocate funds to programs outside the existing services network (Subgrantee Agencies) for special projects and pilots once all Subgrantee Agencies funding needs have been met.

(6) Lead Safe Work Practices shall be practiced on all dwellings constructed prior to 1978 unless it can be proven that a lead hazard does not exist.

(7)(a) Subgrantees shall follow the approved ECHO Low Income Weatherization Guidelines when delivering ECHO services.

(b) The ECHO Low Income Weatherization Guidelines shall be reviewed yearly. Any changes must be reviewed by the Advisory Committee on Energy (ACE).

Stat Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 19-2002, f. & cert. ef. 12-13-02; OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0052

Fund Uses (Other), Low Income Weatherization Assistance Program

The Department shall allocate funds received as a result of legal settlement or other actions to improve and address the energy needs of low-income households.

Stat Auth.: ORS 456.515 - 456.725, 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0060

Authorizations, Low-Income Weatherization Assistance Program

(1) Prior to weatherizing residential units, the owner or authorized agent shall give written permission for the weatherization assistance. Such written authorization must include:

- (a) Location of dwelling (physical street address);
- (b) Name of eligible tenant, if applicable; and
- (c) Specific work to be done.

(2) If the dwelling to be weatherized is a rental unit, the Subgrantee Agency has the responsibility to:

(a) Insure that no rental dwelling unit shall be weatherized without first obtaining the written permission of the owner or the owner's authorized agent;

(b) Establish procedures to be approved by the Department to insure that:

(A) The benefits of weatherization assistance shall accrue primarily to the low-income residents;

(B) Rents shall not be raised as a result of the weatherization assistance;

(C) No undue or excessive enhancement shall occur to the value of the dwelling unit(s). If a dwelling is sold within one year after being weatherized, the subgrantee may require the seller to reimburse the subgrantee agency for actual cost of weatherization on a prorated basis determined based on the energy cost buyback of measures; and

(D) Weatherization services shall not be provided to eligible clients who pay their energy cost as part of their rent, unless the landlord agrees to make reductions in rent to reflect the reductions in fuel costs associated with the weatherization activities, or there are health or safety reasons which justify weatherization.

Stat Auth.: ORS 456.515 - 456.725, 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02; OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0070

Fiscal Control/Reporting Requirements/Documentation, Low-Income Weatherization Assistance Program

A Subgrantee Agency has a number of responsibilities under the Program. These responsibilities, which are detailed in the Oregon State Plan and the CRD Plan (Refunding Application/Biennium Grant Application) include, but are not limited to, the following:

(1) A Subgrantee Agency shall maintain records that document the receipt and dispersal of all funds provided through the Program.

(2) A Subgrantee Agency shall maintain records that document the clients receiving services through the Program. Such records shall be in a format designated by the Department.

(3) A Subgrantee Agency shall have in place an inventory control system, travel regulations and a financial operations manual.

(4) A Subgrantee Agency shall receive authorization from the Department for purchases or lease of acquisitions in excess of \$5,000 or the purchase of a vehicle regardless of cost with grant funds.

(5) A Subgrantee Agency shall, within 15 working days following the end of each calendar quarter, provide the Department with a report detailing the progress made toward the Program objective(s), and all administrative and Program expenditures. Such reports shall be in a format designated by the Department.

(6) A Subgrantee Agency shall, within 90 days after the close of the agency's fiscal year, provide the Department with an annual audit of weatherization funds. The audit shall be conducted by a Certified Public Accountant.

Stat Auth.: ORS 456.515 - 456.725, 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02; OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0080

Monitoring, Low-Income Weatherization Assistance Program

(1) The Department shall monitor the Subgrantee Agency's annual audit to verify information received on the quarterly reports and clarify questions raised by the Department, the Subgrantee Agency or the auditor.

(2) The Department shall monitor all quarterly reports to determine compliance with program requirements, monitor spending patterns and chart program progresses. Any irregularities or questions raised by the in-house review shall be sufficient reason to schedule an on-site review.

(3) The Department may conduct an on-site review of a Subgrantee Agency on an annual basis and when required in 813-205-0080(2). During an on-site review, the following, at a minimum, shall be reviewed:

- (a) Financial records;
- (b) Inventory system;
- (c) Client files;
- (d) Work completed;
- (e) Subgrantee Agency post-installation inspection;
- (f) Subgrantee Agency review; and
- (g) Provide training and technical assistance.

Stat Auth.: ORS 456.515 - 456.725, 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

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813-205-0085

Program Administration, Low-Income Weatherization Program

The Department has been designated by ORS 757.612 to have the responsibility to administer the Low-Income Weatherization Program through the activities of the Housing Division. The funds are available for low-income, affordable rental housing development.

Stat Auth.: ORS 456.515 - 456.725, 458.505 - 458.545
Stats. Implemented: ORS 458.505 - 458.515
Hist.: OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0100

Eligible Applicants, Low-Income Weatherization Program

(1) Eligible applicants include for-profit businesses, local government entities and not-for-profit organizations including, but not limited to, cities, counties, housing authorities, not-for-profit community organizations, regional or statewide not-for-profit entities and private individuals or corporations.

(2) The sponsor must agree to enter into a financial assistance agreement with the Department and to record against the project's property a restrictive covenant to assure continuing compliance with all affordability requirements of the Program.

(3) The Department may require a non-refundable application charge from any applicant requesting Low-Income Weatherization Assistance funds through the Consolidated Funding Cycle or otherwise.

(4) The Department may require a supplemental application charge from applicants requesting additional resources for projects that have already been funded by the Department.

(5) The Department may require a transfer application charge from owners of projects that receive grants or tax credits through the Department, who request the Department's approval of a change in project ownership. The Department may assess a transfer review charge to project owners and transferees who effect a change in project ownership without prior written Department approval.

Stat Auth.: ORS 456.515 - 456.725, 458.505 - 458.545
Stats. Implemented: ORS 458.505 - 458.515
Hist.: OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0110

Eligible Projects, Low-Income Weatherization Program

The following requirements, as well as the requirements of the Department's bond programs, the Consolidated Funding Cycle (CFC) process and other application processes and charges apply to all projects:

(1) ECHO funding is limited to projects located in the PacifiCorp (PC) and Portland General Electric (PGE) service areas. Projects that use hard wired electrical systems as their primary heat source are eligible to receive ECHO resources for weatherization, and baseload services. Projects in PC and PGE service areas that heat with other fuels may receive baseload measures only.

(2) The Department will accept applications for weatherization funding for projects located outside PC and PGE service areas, only when other than PC and PGE funds are available.

(3) New construction projects which specify higher than code minimums on insulation, windows, appliances and lighting are eligible.

(4) Acquisition/rehabilitation projects that specify upgrades from original levels of insulation, windows, appliances and lighting are eligible.

(5) This program is targeted for households that are low-income. At least one-half of the units in the project must be rented to households whose income is at or below 60 percent of the area median income as defined by the U.S. Department of Housing and Urban Development (HUD).

(6) The project must remain affordable for a minimum of 10 years, unless superseded by other department resources requirements.

(7) Applicants may be subject to prevailing wage requirements with the use of public funds such as the Low-Income Weatherization Program. Applicants should contact the Bureau of Labor and industries for the requirements of the state program or their legal representative.

Stat Auth.: ORS 456.515 - 456.725, 458.505 - 458.545
Stats. Implemented: ORS 458.505 - 458.515
Hist.: OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0120

Eligible Activities, Low-Income Weatherization Program

(1) Under the Low-Income Weatherization Program, an eligible applicant may provide one or more of the following services and/or applications:

(a) General weatherization measures, which include but are not limited to, general heat waste, insulation, heating/cooling system repair, replacement or installation, health and safety improvements, baseload measures, alternative energy applications, and various energy efficient technology.

(b) Repair measures, which are measures deemed necessary for the effective energy savings performance or preservation of energy efficient applications can be utilized.

(2) Eligible activities must demonstrate measurable cost-effective energy conservation. Energy-efficient applications for the Program must show first year savings based on a pre-determined number of kilowatts, therms or other units of power measurements for each conservation dollar invested.

Stat Auth.: ORS 456.515 - 456.725, 458.505 - 458.545
Stats. Implemented: ORS 458.505 - 458.515
Hist.: OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-205-0130

Fund Uses, Low-Income Weatherization Program

(1) Funds are awarded as a grant or a loan, if requested by the applicant (sponsor).

(2) Grants and loans in excess of \$100,000 may be awarded:

(a) On an as needed basis and when maximum power savings can be demonstrated;

(b) If adequate resources are available; and

(c) With State Housing Council approval.

(3) Up to ten percent of the ECHO funds and the Low-Income Weatherization Program award(s) for each project can be used to make general repairs as noted in 813-205-0130(2)(b).

Stat Auth.: ORS 456.515 - 456.725, 458.505 - 458.545
Stats. Implemented: ORS 458.505 - 458.515
Hist.: OHCS 13-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

Rule Caption: Provides grants and loans to construct new, acquire or rehabilitate existing structures for low-income housing.

Adm. Order No.: OHCS 14-2006(Temp)

Filed with Sec. of State: 8-4-2006

Certified to be Effective: 8-4-06 thru 1-30-07

Notice Publication Date:

Rules Adopted: 813-042-0000, 813-042-0010, 813-042-0020, 813-042-0030, 813-042-0040, 813-042-0050, 813-042-0060, 813-042-0070, 813-042-0080, 813-042-0090, 813-042-0100, 813-042-0110

Subject: The rules within 813-042 are established to administer ORS 456.515 to 456.720 and ORS 458.600 to 458.630. These rules describe the Housing Development Grant Program and serves the objective to provide grants and/or low-interest loans to construct new housing or acquire and/or rehabilitate existing structures for housing persons of low and/or very-low income.

813-042-0000 sets out the purpose and the objectives for the Housing Development Grant Program.

813-042-0010 provides clarification of common terms and definitions within the program.

813-042-0020 defines eligibility criteria for organizations, non-profit and/or for profit businesses to participate in the program.

813-042-0030 sets out the distribution formula for grants and/or loans. Clarifies regions in the state.

813-042-0040 identifies the application procedures and requirements as it pertains to the availability of funds.

813-042-0050 identifies the criteria for funding applications.

813-042-0060 sets out the application review process for applications requesting funding under \$100,000, and for those applications requesting funding for amounts over \$100,000. Identifies the specific evaluation criteria.

813-042-0070 sets out the applicable charges that the department may require for applicants to the program.

813-042-0080 identifies the general administrative and monitoring requirements, such as reviews or field inspections to ensure program compliance. Requires an HDGA recipient to retain all financial records, supporting documents and other pertinent records for five years after the project is complete, or after any litigation claim is resolved. Requires accessibility by the department to all books,

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accounts, documents, records, and other property belonging to the recipient which relate to the use of HDGA funds.

813-042-0090 clarifies the remedies and provides examples of reasons indicating noncompliance. Allows the department to seek remedies for noncompliance.

813-042-0100 identifies the sanctions that the department may invoke against a recipient that fails to comply with the provisions of a Use Agreement.

813-042-0110 adds waiver language already provided for within statute.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-042-0000

Purpose and Objectives

The rules of OAR chapter 813, division 042, are established to administer ORS 456.515 to 456.720 and ORS 458.600 to 458.630, which authorize the Department to establish a program to expand the state's supply of housing for low- and very-low-income families and individuals including, but not limited to, persons more than 65 years of age, disabled persons, farmworkers and Native Americans. These rules describe the Housing Development Grant Program and its objective to provide grants and/or low-interest loans to construct new housing or to acquire and/or rehabilitate existing structures for housing persons of low and/or very-low income.

Stat. Auth.: ORS 456.515 – 456.720, 458.600 – 458.630

Stats. Implemented: ORS 456.555

Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-042-0010

Definitions

All terms are used in OAR 813, division 042, as defined in the Act and as provided in OAR 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Account" means the Housing Development and Guarantee Account.

(2) "Consolidated Plan" means the plan approved by the U.S. Department of Housing and Urban Development (HUD) which describes the needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs.

(3) "Council" means the State Housing Council established in ORS 456.567.

(4) "Department" means Oregon Housing and Community Services Department.

(5) "Disabled Person" means a person who has a physical or mental impairment that substantially limits one or more Major Life Activity.

(6) "In-Kind Contribution" means a supportive project contribution other than cash. In-Kind Contributions include, but are not limited to, office equipment, working space, office supplies, staff time, telephone, support staff time, auto use, donated project materials or labor, and nonBoard volunteer time.

(7) "Low-Income" means a household with an adjusted annual household income that is more than 50 percent but less than 80 percent of the area median income, as determined by the Council, based on information from the U.S. Department of Housing and Urban Development, with allowances for family size.

(8) "Major Life Activity" includes, but is not limited to, self-care, ambulation, communication, transportation, education, socialization, employment and ability to acquire, rent or maintain property.

(9) "Organization" means a:

(a) Nonprofit corporation established under ORS Chapter 65;

(b) Housing authority established under ORS 456.055 to 456.230; or

(c) Local government as defined in ORS 197.015.

(10) "Use Agreement" means the Project Use Agreement, which is a legal agreement between the grantee or borrower receiving Housing Development Grant Program funds and the Department.

(11) "Very-Low Income" means a household with an adjusted annual household income that is less than 50 percent of the area median income, as determined by the Council, based on information from the U.S. Department of Housing and Urban Development (HUD), with allowances for family size.

Stat. Auth.: ORS 456.515 – 456.720, 458.600 – 458.630

Stats. Implemented: ORS 456.555

Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-042-0020

Eligibility for Housing Development Grant Program Funds

The Department shall provide grants and/or loans from Account revenue subject to the availability of funds and limitations otherwise prescribed by law for any or all of the following purposes:

(1) To organizations and for-profit business entities to construct new housing or to acquire and/or rehabilitate existing structures for housing low- and/or very-low income households.

(2) To nonprofit organizations, as set forth in ORS 458.210 to 458.240 to provide technical assistance and/or predevelopment costs. Predevelopment costs include, but are not limited to, site acquisition, architectural services and project consultants. Predevelopment costs do not include costs described in subsection (3) of this rule.

(3) For costs to develop, nonprofit organizations that show sufficient evidence of having strong community support and a strong likelihood of producing low- and very-low income housing. No account funds shall be used by an organization for its general operations.

(4) To match public and private moneys available from other sources for the purposes of production of low- and very-low income housing.

Stat. Auth.: ORS 456.515 – 456.720

Stats. Implemented: ORS 456.555

Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-042-0030

Distribution of Funds

(1) The Department shall develop a distribution formula which takes into account the relative housing needs of regions in the state, and shall concentrate funds in those areas of the state with the greatest need for low- and very-low income housing as may be evidenced by factors including, but not limited to, the unmet housing need, extent of overcrowding or number of poverty households.

(2) The distribution formula shall provide for a minimum amount of funds to regions of the state. If there are not enough applications submitted from a particular region to use the minimum regional amount, the funds may be distributed to other regions.

(3) The maximum project award to an organization or for-profit business from the program shall be \$300,000.

Stat. Auth.: ORS 456.515 – 456.720, 458.600 – 458.630

Stats. Implemented: ORS 456.555

Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-042-0040

Application Procedure and Requirements

The Department may provide grant and/or loan funds subject to the availability of funds in the Program through a process which may include, but is not limited to, a first-come, first-reviewed or a competitive review process. The applicant shall submit, in an application form and process prescribed by the Department, project information which includes:

(1) A written description of the project including the number of units, unit mix, proposed rents, site location, the proposed program of services to occupants, project amenities, and any other information pertinent to the project;

(2) A statement of project purpose indicating the housing type and residents to be housed, and the length of time the units will be committed available for low- or very-low income households.

(3) A pro forma of project expenses and income;

(4) Requested amount of grant funds, or requested amount of loan funds including proposed terms of repayment.

(5) Total project development costs, including a description of all additional project funding and funding sources;

(6) A description of the sponsor/developer/owner/manager experience in developing and operating housing projects; and

(7) Such other documentation as the Department may require.

Stat. Auth.: ORS 456.515 – 456.720, 458.600 – 458.630

Stats. Implemented: ORS 456.555

Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-042-0050

Criteria for Funding

(1) A project grant and/or loan shall be given preference based on:

(a) Providing the greatest number of low- and very-low income housing units for the least amount of Account funds expended or committed toward matching fund from other loans, grants or eligible In-Kind Contributions.

(b) Insuring the longest possible use as low- or very-low income housing units;

(c) Including a program of services for residents of proposed housing including, but not limited to, programs that address home health care, men-

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tal health services, alcohol and drug treatment and post-treatment care, child care and case management; and

(d) Other subordinate criteria as determined by the Department including, but not limited to, providing housing for specific populations which have historically faced barriers in finding housing, and which are identified as having a priority in the Consolidated Plan or its successor, or in a state-acknowledged initiative.

(2) Funding to a project shall be conditioned upon the continued use of the project for the targeted tenant group and provision of supportive services for the duration and to the extent indicated in the grant and/or loan application. The Department, at its discretion, may require repayment of the funding if all or part of the commitments to residents, supportive services, or period of use for low- or very-low income housing are withdrawn from the project.

(3) Terms and conditions of the award shall be established in a Project Use Agreement, and recorded against the property. Loan terms and conditions shall be established in an additional Promissory Note, Loan Agreement and secured by a Trust Deed.

(a) The Use Agreement, Trust Deed, Loan Agreement and Promissory Note must be executed and the Use Agreement with the Trust Deed must be recorded before funds are advanced, in whole or in part, unless the Applicant does not own the property at the time of fund disbursement.

(b) If the applicant does not own the property at the time of fund disbursement, the Applicant will be required to open an escrow account and have the Use Agreement with Trust Deed placed in escrow and recorded immediately upon obtaining title to the property.

(4) Loans disbursed from account investment revenue shall bear an interest rate equal to the interest rate paid on U.S. Treasury long-term obligations in effect on the date the loan is negotiated as identified by the Department.

(5) At least 75 percent of the revenue earned from investment of the principal in the Account in any calendar year shall be used to produce housing for very-low income persons, and no more than 25 percent of the revenue earned from investment of the principal in any calendar year shall be used to produce housing for low-income households.

Stat. Auth.: ORS 456.515 – 456.720, 458.600 – 458.630
Stats. Implemented: ORS 456.555
Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-042-0060

Application Review

(1) For applications where the amount requested from the Program does not exceed \$100,000, the Department shall consider the application and make application approval, deny application approval, or request additional information within the timeframe set forth in the application materials.

(2) For applications where the amount requested is in excess of \$100,000, or for requests or applications that would result in a cumulative award of more than \$100,000 to a project, the Department shall consider the proposal and approve, disapprove or request additional information within the timeframe set forth in the application materials. If the Department proposes to award more than \$100,000 to a project, it shall submit the proposal to the State Housing Council for review. The Council shall approve or disapprove the application at a public hearing of the Council, pursuant to ORS 456.571(2).

(3) In reviewing applications for assistance, the Department and the Council, as appropriate, may consider, in addition to any special evaluation criteria, the following:

- (a) Amount of available funds in the Program;
- (b) Ability of the proposed project to meet proposed terms of loan repayment in cases where the awardee has requested funding as a loan;
- (c) Availability of other sources of assistance; and
- (d) Applicant's efforts to leverage public or private funds.

(4) The Department shall select those applications which, in the judgment of the Department, best achieve the purposes of the Program and any evaluation criteria outlined in the Program application forms and handbooks.

Stat. Auth.: ORS 456.515 – 456.720, 458.600 – 458.630
Stats. Implemented: ORS 456.555
Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06

813-042-0070

Charges

(1) The Department may require a non-refundable application charge from any applicant requesting Housing Development Guarantee Account funds through the Consolidated Funding Cycle, or otherwise.

(2) The Department may require a supplemental application charge from applicants requesting additional resources for projects that have already been funded by the Department.

(3) The Department may require a transfer application charge from owners of projects that receive grants, loans, or tax credits through the Department, who request the Department's approval of a change in project ownership. The Department may assess a transfer review charge to project owners and transferees who effect a change in project ownership without prior written Department approval.

Stat. Auth.: ORS 456.515 – 456.720, 458.600 – 458.630
Stats. Implemented: ORS 456.555
Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-042-0080

General Administrative and Monitoring Requirements

(1) The Department may perform such reviews or field inspections as it deems necessary to ensure Program compliance. The Department may require that a Recipient take such remedial actions as described in this rule and OAR 813-042-0090.

(2) Financial records, supporting documents, and all other pertinent records shall be retained by a HDGA Recipient for five years after the project is complete, or after any litigation or audit claim is resolved, whichever is later. The Department shall have access to all books, accounts, documents, records and other property belonging to or in use by the Recipient which relate to the use of HDGA funds.

Stat. Auth.: ORS 456.515 – 456.720, 458.600 – 458.630
Stats. Implemented: ORS 456.555
Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-042-0090

Remedies for Noncompliance

At any time before the expiration of the Affordability Period, the Department may find that a Recipient is not in compliance with the requirements of the Program for reasons including but not limited to use of funds for activities not approved in the Use Agreement, failure to complete activities in a timely manner, failure to comply with applicable rules or regulations, or the lack of a continued capacity by the Recipient to carry out the approved activities. Remedies for noncompliance may include penalties imposed by the Department, including but not limited to, repayment of HDGA funds.

Stat. Auth.: ORS 456.515 – 456.720, 458.600 – 458.630
Stats. Implemented: ORS 456.555
Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-042-0100

Sanctions

(1) The Department may invoke sanctions against a Recipient that fails to comply with the provisions of its Use Agreement. The following circumstances may warrant sanctions:

- (a) HDGA funds have not been expended within one year of award by the Department or the Recipient;
- (b) Any local or private party funding agreements related to the project are not executed within six months of the award of HDGA funds;
- (c) There is a material breach of the Use Agreement;
- (d) The Use Agreement was not recorded on the property required by OAR 813-042-0050(3) or as agreed; or
- (e) The Department finds that significant corrective actions are necessary to protect the integrity of the project funds, and those corrective actions are not, or will not be, made within a reasonable time (the funds were used for costs not eligible under the HDGA program or the project has not served the population stated in the Use Agreement).

(2) One or more of the following sanctions may be imposed by the Department:

- (a) Prohibit a Recipient from applying for future HDGA assistance or other Department assistance;
- (b) Revoke an existing HDGA award;
- (c) Withhold unexpended HDGA funds;
- (d) Require return of HDGA funds that have been disbursed to the Recipient but not expended by the Recipient;
- (e) Require repayment of expended HDGA funds; and
- (f) Invoke other remedies that may be incorporated into the Use Agreement.

(3) Sanctions will not be imposed by the Department until the Recipient has been notified in writing of its deficiencies and given a reasonable time to respond and correct the deficiencies noted. The sanctions and remedies set forth in this OAR 813-042-0100 are cumulative and not exclusive and are in addition to any other rights and remedies provided by law or under the Use Agreement.

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Stat. Auth.: ORS 456.515 – 456.720, 458.600 – 458.630
Stats. Implemented: ORS 456.555
Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

813-042-0110

Waiver

The Director may waive or modify any requirements of these Program rules, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 456.515 – 456.720
Stats. Implemented: ORS 456.555
Hist.: OHCS 14-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

Rule Caption: Renumbering 813-205-0090 to 813-205-0140 — Corrected statutory references.

Adm. Order No.: OHCS 15-2006

Filed with Sec. of State: 8-4-2006

Certified to be Effective: 8-4-06

Notice Publication Date:

Rules Renumbered: 813-205-0090 to 813-205-0140

Subject: Renumbered 813-205-0090 to 813-205-0140. Corrected statutory references.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-205-0140

Waiver

The Director may waive or modify any requirements of these Program rules, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.555
Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02; OHCS 15-2006, f. & cert. ef. 8-4-06, Renumbered from 813-205-0090

Oregon Liquor Control Commission Chapter 845

Rule Caption: Amend rule regulating use of Age Verification Equipment to offset civil penalty for certain violations.

Adm. Order No.: OLCC 9-2006

Filed with Sec. of State: 7-19-2006

Certified to be Effective: 8-1-06

Notice Publication Date: 4-1-06

Rules Amended: 845-009-0140

Subject: This rule describes the Commission's standards and requirements for licensees who choose to purchase age verification equipment to offset (or in lieu of) a civil penalty when there is a violation for sale of alcohol to a minor, or failure to properly verify the age of a minor purchaser. We have amended the rule to simply rule language and standards, and to clarify precisely when age verification equipment may be used to offset civil penalties for violations related to sale of alcohol to minors.

Rules Coordinator: Katie Hilton—(503) 872-5004

845-009-0140

Age Verification Equipment

(1) As used in this rule:

(a) "Retail licensee" and "licensee" mean a retail licensee as defined in ORS 471.392;

(b) "Equipment" and "age verification equipment" mean equipment that verifies the age of customers who purchase alcoholic beverages. The equipment must trigger an age verification process or the equipment itself must verify the age. In either case, the equipment must indicate to the licensee or employee if the customer is of legal age to purchase alcoholic beverages.

(2) For the first or second violation of ORS 471.410(2) or 845-006-0335(1) in a two-year period, the licensee may choose to purchase age verification equipment in lieu of the standard first level Category III sanction, not to exceed 10 days of the suspension or \$1650 of the civil penalty. The licensee is responsible for paying or serving any portion of the sanction charged in excess of the standard sanction.

(3) For the first or second violation of ORS 471.410(2) or 845-006-0335(1) in a two-year period by a member of the Responsible Vendor Program, the licensee may choose to purchase age verification equipment in lieu of the standard Category III(a) sanction. The licensee is responsible

for paying or serving any portion of the sanction charged in excess of the standard sanction.

(4) A licensee may choose this option only one time per license. If the licensee previously purchased equipment, the Commission may allow the licensee to use the purchase of the equipment in lieu of paying up to \$1650 of the civil penalty or serving up to 10 days of the suspension, if the licensee has not previously received this option.

(5) The licensee must notify the Commission within 15 days of receiving the Commission's Notice of Violation of their intention to obtain and use the equipment. The licensee must be using the equipment within 30 days of receiving the Notice of Violation.

(6) The licensee must use the equipment at every point of sale used to sell alcoholic beverages.

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5)
Stats. Implemented: ORS 471.342
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 5-2003, f. 3-31-03 cert. ef. 4-1-03; OLCC 9-2006, f. 7-19-06, cert. ef. 8-1-06

Rule Caption: Amend 10 rules in Division 15 to make minor housekeeping changes.

Adm. Order No.: OLCC 10-2006

Filed with Sec. of State: 7-19-2006

Certified to be Effective: 8-1-06

Notice Publication Date: 5-1-06

Rules Amended: 845-015-0101, 845-015-0118, 845-015-0120, 845-015-0130, 845-015-0135, 845-015-0145, 845-015-0168, 845-015-0170, 845-015-0173, 845-015-0180

Subject: The ten rules in this package need minor amendments to clarify terminology, correct internal inconsistencies, reorganize and rename rules for clarity, and correct outdated references. The amendments are minor in nature.

Rules Coordinator: Katie Hilton—(503) 872-5004

845-015-0101

Definitions

As used in OAR chapter 845, division 015:

(1) "Agency Agreement" is a written contract between the Commission and a retail sales agent that specifies the terms, conditions, and obligations between both parties.

(2) "Commission" includes the 5-member body of Commissioners appointed by the Governor, the administrator (director) and agency staff. Any of the actions or decisions specified in this division may be delegated to the administrator (director) as provided in ORS 471.040(2).

(3) "Disabled Retail Sales Agent" is one who has a physical or mental impairment that has continued more than one year or is permanent that prevents a retail sales agent from properly performing contractual duties. The Commission determines retail sales agent disability after reviewing medical reports from the retail sales agent's physician. The Commission may require additional medical information from a Commission-selected physician.

(4) "Full On-Premises Sales Licensee" means any person or entity holding a Full On-Premises Sales license.

(5) "Retail Liquor Store" is a premises or a specific area in a premises the Commission approves for the sale of packaged distilled spirits for off premises consumption.

(6) "Retail Sales Agent" or "Agent" is an individual person appointed by the Commission who enters into an agency agreement to sell packaged distilled spirits on behalf of the Commission in a retail liquor store.

(7) "Temporary Agent" is an individual person selected by the Commission to temporarily operate a retail liquor store.

Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 471.750 & 471.752
Hist.: LCC 25-1980, f. 9-30-85, ef. 1-1-81; LCC 9-1985, f. 11-6-85, ef. 1-1-86; Renumbered from 845-015-0040; LCC 23-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0007; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0118

Retail Sales Agent Prohibited Interests, ORS 471.710(3)

(1) Definitions: As used in ORS 471.710(3) and this rule:

(a) "Alcoholic beverage licensee" means the holder of a Distillery license, a Full On-Premises Sales license, or a distillery whose products are sold in Oregon.

(b) "Liquor Store Agent" has the same meaning as a retail sales agent, as defined in OAR 845-015-0101(6);

(c) "Financial Interest" means knowingly having an ownership interest, as a sole proprietor, partner, limited partner or stockholder or any direct

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or indirect ownership interest through a device such as a holding company, in a business licensed with a Distillery or Full On-Premises Sales license or any distillery whose products are sold in Oregon;

(d) "Business Connections" include, but are not limited to:

(A) Knowingly providing anything of value to a person or business licensed with a Distillery or Full On-Premises Sales license or to any distillery whose products are sold in Oregon, in return for something of value. This rule does not, however, prohibit persons and licensees from providing commodities and services to each other that they routinely provide to the general public under the same terms;

(B) Partnerships with a person or business licensed with a Distillery or Full On-Premises Sales license, or to any distillery whose products are sold in Oregon, and similar ventures formed for the purpose of making profit,

(e) "Knowingly" means a person actually knew or reasonably should have known;

(f) "Household" means all persons living as a family unit in the same dwelling;

(g) "Immediate Family" means spouse and juvenile dependent children.

(2) Additional Prohibitions:

(a) No retail sales agent or member of the agent's household or immediate family may be employed by a business that is licensed with a Distillery or Full On-Premises Sales license unless:

(A) The person's job duties do not include involvement with that portion of the business that requires an alcoholic beverage license to operate; or

(B) The person exercises no management control over that portion of the business that requires an alcoholic beverage license to operate.

(b) No retail sales agent or member of the agent's household or immediate family may be employed by any distillery whose products are sold in Oregon.

(3) Reporting Requirements:

(a) All retail sales agent applicants must complete and sign a form describing any financial interest or business connection the applicant or any person in the applicant's household or immediate family has, that the applicant would reasonably know of, with a Distiller or Full On-Premises Sales licensee, or with a distillery whose products are sold in Oregon. The Commission will determine whether any prohibited interest or connection exists. An applicant or person in the applicant's household or immediate family who has a prohibited interest or connection must divest the interest or connection before the Commission appoints the applicant;

(b) A retail sales agent must report, to the agent's district manager, any prohibited interest or connection with a Distillery, Full On-Premises Sales licensee or a distillery whose products are sold in Oregon as soon as the agent would reasonably know of the interest or connection. If ORS 471.710(3) or this rule prohibits the interest or connection, the Commission will set a reasonable time period for divestiture. If the retail sales agent, household member or immediate family member fails to divest, the Commission will terminate the agent's contract.

(4) Gifts and Gratuities: No retail sales agent will accept any gift, gratuity or thing of value from any alcoholic beverage licensee or any person representing a distillery, except that a retail sales agent may accept:

(a) Items totaling \$25 or less per year per alcoholic beverage licensee offered to retail sales agents as customers of the licensee as long as the items are offered on an equal basis to all customers irrespective of any connection to the Commission;

(b) Food and beverages provided for immediate consumption at a convention or a business conference or meeting that are offered to all participants irrespective of any connection to the Commission;

(c) A non-alcoholic beverage for immediate consumption that a licensee offers at a business meeting;

(d) Items offered to all participants at a convention irrespective of any connection to the Commission.

(5) Disciplinary Actions: The Commission will appropriately discipline a retail sales agent who:

(a) Fails to report a prohibited interest or connection as section (2) of this rule requires;

(b) Knowingly acquires an interest or establishes a connection that ORS 471.710 or this rule prohibits; and

(c) Accepts a gift or gratuity that section (4) of this rule prohibits.

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

Stats. Implemented: ORS 471.710(3)

Hist.: OLCC 15-1989, f. 10-31-89, cert. ef. 11-1-89; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0028; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0120

Retail Sales Agent Selection Procedure

(1) When the Commission fills a retail sales agent vacancy other than as OAR 845-015-0125(2) describes, the Commission seeks applications from the public.

(2) The Commission advertises to fill a vacancy in at least one daily statewide newspaper, except in remote or rural areas, where the Commission may advertise in the most widely read local newspaper. It may also publish intent to fill a vacancy in other ways.

(3) After an application deadline, all applications will be screened according to selection criteria in OAR 845-015-0125 and qualified applicants will be selected for interview. After reviewing applications and screening results, an interview committee conducts personal interviews. The interview committee scores the applicants and recommends finalists who are most qualified based on the selection criteria in OAR 845-015-0125. From the finalists, the Commission appoints a retail sales agent using the criteria in OAR 845-015-0125. A public presentation at a Commission meeting may be required. Advance notice of the public meeting date will be given to all finalists.

(4) An appointed retail sales agent must submit retail liquor store arrangements for approval, enter into an Agency Agreement, purchase fixtures and equipment at the Commission-established price or provide fixtures and equipment where none are available for purchase, and begin operation of a retail liquor store on the date the Commission specifies. If an appointed retail sales agent cannot purchase, rent or lease, and equip an approved location and begin operation by the required date, the Commission(ers) may select another applicant from the list of finalists.

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

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 20-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0022; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0130

Advertising a Retail Liquor Store

Advertising a Liquor Store:

(1) The Commission allows a retail sales agent to place:

(a) A public notice about a retail liquor store in a general readership local publication, with prior approval;

(b) An exterior sign on a retail liquor store, with prior approval for sign and contents. Subject to prior approval for sign and contents, retail liquor stores located within another retail business or building may place an exterior sign at the immediate entrance to the retail liquor store, and place an exterior sign on the outside of the main building within which the retail business and the retail liquor store are located;

(c) A "mixer shop" sign on an exclusive retail liquor store if it is in smaller size and different color; and

(d) A retail liquor store listing on a shopping center directory, map and roadside tenant reader board.

(2) A retail sales agent may support a local, non-profit community event and receive recognition for that support if the recognition given is the same as the minimum allowed for other supporters.

(3) Agents may not use or refer to specific brand names of distilled spirits in their advertising.

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

Stats. Implemented: ORS 471.750(1) & 471.750(2)

Hist.: LCC 26-1986, f. 11-20-86, ef. 1-1-87; OLCC 16-1990, f. 6-29-90, cert. ef. 7-1-90; OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0090; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0135

Public Opinion on Retail Liquor Store Location

(1) The Commission considers public opinion when it evaluates establishing or relocating a retail liquor store. The Commission seeks public opinion by:

(a) Posting a public notice at the proposed location and at the existing location, if any; and

(b) Providing a written notice to any residence, business, pre-elementary, elementary or secondary school, house of worship or alcoholic treatment facility within a minimum of a 500 foot radius of the proposed location and to the local governing body when the Commission is considering relocating a store to another governing body's jurisdiction, or when it establishes a new retail liquor store in the jurisdiction.

(2) These notices will ask for opinions on the proposed location and identify when, where and how the public can comment.

(3) The Commission will consider liquor-related public opinions. It considers these liquor-related comments together with its criteria for liquor

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store establishment and relocation. OAR 845-015-0110 sets out these criteria.

Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 471.750(1)
Hist.: OLCC 20-1987, f. 9-2-87, ef. 10-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0086; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0145

Solicitation; Incentives

(1) A retail sales agent may seek business from any business or Full On-Premises Sales licensee, including any employee or representative by:

(a) Describing a retail liquor store and its services orally, by flyer, personal letter or business card; and

(b) Inviting a potential business or Full On-Premises Sales licensee customer to visit a retail liquor store.

(2) A retail sales agent must not:

(a) Solicit, ask, suggest or urge anyone except a Full On-Premises Sales licensee or other business to make a purchase at a particular retail liquor store;

(b) Give or offer any gift, gratuity, special individualized discount or other incentive to any person if such can be reasonably construed to be an enticement to obtain, maintain, or increase the recipient's business with the retail sales agent.

(3) An exclusive retail sales agent must charge the same price for related items of identical brand, type, size and number. An exclusive retail sales agent must keep accurate records of purchases and sales of related items and must make those records available for Commission audit as provided in the Agency Agreement. The Commission may inspect the books and records of the associated business of a non-exclusive retail sales agent.

(4) A retail sales agent must sell Commission merchandise at the Commission's established price.

(5) A retail sales agent may deliver alcoholic liquor or related items only to a Full On-Premises Sales licensee's premises as provided in and consistent with the Agency Agreement and the Commission's Retail Operations Manual.

Stat. Auth.: ORS 471.730(5)
Stats. Implemented: ORS 471.750
Hist.: LCC 25-1980, f. 9-30-80, ef. 1-1-81; LCC 6-1983, f. 6-27-83, ef. 7-1-83; LCC 18-1986, f. 10-16-86, ef. 1-1-87; OLCC 9-1996, 5-16-96, cert. ef. 6-1-96; OLCC 15-2000 f. 9-13-00, cert. ef. 10-1-00; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0050; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0168

Full On-Premises Sales Licensee Refund

A Full On-Premises Sales licensee who is going out of business may make a written request to the Commission to return resalable merchandise for a refund. If the Commission approves the request, the Commission will issue a refund after it determines that the merchandise is resalable.

Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 471.740 & 471.750
Hist.: LCC 8-1985, f. 10-9-85, ef. 3-1-86; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0070; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0170

Payment for Distilled Spirits

(1) Timing of Payment for Distilled Spirits Purchases. Payment for distilled spirits must be made at the time of purchase. If the purchaser is a Full On-Premises Sales licensee, and the distilled spirits being purchased are to be delivered, payment must be received at the liquor store not later than the store's close of business on the same day that the product was delivered to the licensee.

(2) A retail sales agent accepts these forms of payment:

(a) United States currency or a United States traveler's check;

(b) A cashier's check or money order;

(c) Canadian currency or a Canadian traveler's check at the current exchange rate;

(d) A licensee's business check for the amount of the purchase only, properly dated, personalized and free of alterations;

(e) A personal check from a customer with a valid check guarantee card and either a valid driver's license with photo or valid DMV Identification card with photo, name, date of birth and physical description. The check must be under \$200, payable to the OLCC, for the amount of purchase only, properly dated, personalized and free of alterations. The retail sales agent must write the number and expiration date of the customer's check guarantee card on the check; and

(f) At the retail sales agent's option, an approved credit or debit card transaction may be accepted from non-licensees for the amount of purchase of distilled spirits and related items.

(3) A retail sales agent must not accept a check for purchases by a licensee who has given the Commission two checks or other instruments that could not be paid upon presentation.

(4) Despite section (2) of this rule, a retail sales agent is not required to accept payment if a sale is contrary to law, if a customer lacks necessary age identification or if there is a reasonable basis to believe a customer is not lawfully presenting payment.

(5) A retail sales agent may elect to not take personal checks only if the retail sales agent accepts debit and credit cards using Commission-approved equipment.

(6) A retail sales agent must pay the Commission for an uncollected check if the retail sales agent does not comply with this rule.

Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 471.740 & 471.750(1)
Hist.: LCC 32-1986, f. 12-4-86, ef. 4-1-87; OLCC 10-1989, f. 10-2-89, cert. ef. 10-1-89; OLCC 2-1993(Temp), f. 6-25-93, cert. ef. 7-1-93; OLCC 4-1995, f. 5-2-95, cert. ef. 6-1-95; OLCC 16-2000, f. 11-9-00, cert. ef. 12-1-00; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0075; OLCC 5-2005, f. 8-16-05, cert. ef. 9-1-05; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0173

Discount for Full On Premises Sales Licensees' Distilled Spirits Purchases

Full On-Premises Sales licensees will purchase distilled spirits from a retail sales agent at a discount of five percent off the listed price fixed by the Commission. Licensees will receive the discount only on distilled spirits purchased for use in their Full On-Premises Sales businesses. The discount will be given at the time of purchase.

Stat. Auth.: ORS 471, 471.030, 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.745 & 471.750(1)
Hist.: OLCC 4-1993, f. 11-1-93, cert. ef. 11-4-93; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0078; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0180

Distilled Spirits Samples Offered to Retail Sales Agents

(1) Distillery representatives may not give samples to retail sales agents, their employees or customers in a retail liquor store.

(2) Despite section (1) of this rule, a retail sales agent may accept samples from distillery representatives or OLCC staff of not more than four 50 ml manufacturer-sealed containers of distilled spirits one time per brand. The sample must be a Commission-approved brand. If a product is not available in a 50 ml container, the retail sales agent may accept a single sample in the next larger available size if the distillery representative has written approval from the Listing Committee of the Commission to offer samples in a larger size. Samples may not be consumed in a retail liquor store or within its immediate vicinity. All samples must be sealed bottles. Samples as described in this rule are not sample tastings as described in OAR 845-015-0155.

(3) Retail sales agents may give samples received according to section (2) of this rule to their employees that are at least 21 years of age.

Stat. Auth.: ORS 471, 471.030, 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.750
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0096; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

Oregon State Marine Board Chapter 250

Rule Caption: Temporarily prohibits recreational boating access to Diamond Lake while ODFW treats with Rotenone to eradicate Tui Chub.

Adm. Order No.: OSMB 7-2006(Temp)

Filed with Sec. of State: 8-15-2006

Certified to be Effective: 9-5-06 thru 9-30-06

Notice Publication Date:

Rules Amended: 250-020-0102

Subject: This rule closes Diamond Lake in Douglas County to all recreational boat operation from Sept. 5, 2006, to Sept. 30, 2006, while the lake is being treated to eradicate an infestation of Tui chub. This closure is necessary to protect the health, safety and security of the boating public and officials applying the biological pesticide Rotenone to the water body. A period of approximately four weeks is needed to allow for mechanical removal of the anticipated quantities of dead fish and the natural reduction in toxicity of the treated water body.

Rules Coordinator: Jill E. Andrick—(503) 378-2617

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250-020-0102

Boat Operations in Douglas County

(1) No person shall operate a motorboat at a speed in excess of 10 MPH in the following areas:

- (a) On Carter Lake;
- (b) On Plat I Reservoir after 6 p.m. or before 11 a.m.

(2) No person shall operate a motorboat at a speed in excess of 5 MPH in the following areas:

- (a) Within the Harbor limits of Salmon Harbor on Winchester Bay;
- (b) On the Umpqua River in the vicinity of River Forks Park from a point 30 yards downstream (North) from the launching ramp to a point upstream 100 yards on each the North Fork and South Fork of the Umpqua River;

(c) On the Umpqua River within 300 feet of the boat launching ramp and designated swimming area at Scottsburg Park.

(3) Lemolo Lake:

(a) No person shall operate a motorboat in excess of a "Slow-No Wake" maximum 5 MPH speed within 150 feet of the shore or pier line in a zone extending from the launch ramp at Lemolo Lake Resort south to Pool Creek Inlet, and from a point 200 feet south of Pool Creek Inlet south to the small unnamed island, and thence south from the south tip of the island across to the nearest peninsula;

(b) Boats shall not exceed a "Slow-No Wake" maximum 5 MPH speed in the area from where U.S. Forest Service Road Number 2666 crosses the North Umpqua River, to a point 2,000 feet westward thereof;

(c) Boats shall not exceed a maximum speed of 40 MPH on all other waters of Lemolo Lake.

(4) No person shall operate a motorboat for any purpose on the following bodies of water:

- (a) Amos and Andy Lakes;
- (b) June Lake;
- (c) Indigo Lake;
- (d) Maidu Lake;
- (e) Wolf Lake;
- (f) Skookum Lake;
- (g) Fish Lake;
- (h) Buckeye Lake;
- (i) Cliff Lake;
- (j) Calamut Lake;
- (k) Lucile Lake;
- (l) Faller Lake;
- (m) Lower Twin Lake;
- (n) Upper Twin Lake;
- (o) Lake in the Woods.

(5) Cooper Creek Reservoir: No person shall operate a motorboat in excess of:

- (a) 40 MPH on the main body of the Reservoir;
- (b) 5 MPH within the buoyed area of Rachele Inlet; Pierce Canyon Inlet; Sutherland Inlet and Douglas Inlet;

(c) 5 MPH within 200 feet of a boat launching ramp or designates swimming area.

(6) Ben Irving Reservoir: No person shall operate a motorboat in excess of:

- (a) 35 MPH from the markers (identified by the letter "A") located where the reservoir narrows, downstream for approximately 1.2 miles to the dam;
- (b) 5 MPH:

(A) From the markers (identified by the letter "A") located where the reservoir narrows, upstream for approximately one mile to the second set of markers (identified by the letter "B");

(B) Within 100 feet of the boat ramp as marked.

(c) No person shall operate a motorboat upstream from the second markers (identified by the letter "B") except that electric motors may be used;

(d) No boats shall be permitted within the log boomed area in the vicinity of the dam spillway.

(7) Galesville Reservoir: No person shall operate a motorboat in excess of:

- (a) 40 MPH on the main body of the lake;
- (b) 5 MPH along the north shore between the launch ramp and log boom, in the buoyed areas;
- (c) 5 MPH between the buoy line at the upper end of the lake to the powerboat deadline as marked;

(d) Above the 5 MPH zone, as marked, no person shall operate a motorboat, except those propelled by electric motors;

(e) Persons operating a motorboat in excess of 5 MPH in the otherwise unrestricted portions of the lake shall proceed about the lake in a counter clockwise direction.

(8) No person shall operate a motorboat on the North Umpqua River between the boat ramp at Lone Rock Camp (approximate RM 32) upstream to Lemolo Lake.

(9) Loon Lake:

(a) Except for safe take-offs and landings, no person shall operate a motorboat in excess of a 5 MPH "Slow-No Wake" speed within 200 feet of the designated swimming area and boat mooring area at the BLM day use area, as marked. Boats towing skiers may exceed 5 MPH to extent necessary to maintain the skier in a skiing position, within 200 feet from the designated swimming area and boat mooring area only under safe conditions as outlined in this section. A safe take-off or landing will not be considered "safe" unless it can be accomplished without risk to any swimmer or craft within 200 feet from designated swimming area and boat mooring area. If a safe landing as thus defined is not possible, skiers must be picked up by the boat before coming within 200 feet from the designated swimming area and boat mooring area and brought to shore under usual speed restrictions (5 MPH with in 200 feet of the designated swimming area and boat mooring area). Take-offs and landings are required to be made following the mandatory counter-clockwise pattern.

(b) Persons operating a motorboat in excess of 10 MPH shall proceed in a counter-clockwise direction in the otherwise unrestricted portions of the lake.

(c) No person shall operate a motorboat in excess of a 5 MPH "Slow-No Wake" speed within the buoyed area extending from the north shore of the cove at Fish Haven Resort in a southwest direction across the lake to the end of the prominent point of land on the south shore of the lake, as marked.

(10) Diamond Lake:

(a) No person shall operate a motorboat in excess of 45 MPH between the hours of 9 a.m. and 6 p.m.;

(b) No person shall operate a motorboat in excess of 10 MPH between 6 p.m. and 9 a.m.;

(c) No person shall operate a motorboat in excess of 10 MPH within 200 yards of any boat ramp, boat dock, swimming area, inlet or outlet of the lake, designated campground or summer home.

(d) No person shall operate a personal watercraft as defined in OAR 250-021-0020 at anytime;

(e) No person shall operate a motorboat that exceeds the noise levels specified in OAR 250-010-0121.

(f) No person shall operate a recreational boat for any purpose on Diamond Lake between September 5 and September 30, 2006.

(11) Hemlock Lake: No person shall operate a motorboat, except those propelled by electric motors.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110, 830.175 & 830.185

Hist.: MB 20, f. 3-20-63; MB 29, f. 6-17-66; MB 32, f. 9-14-66; MB 34, f. & ef. 6-2-67; MB 41, f. 9-18-68; MB 47, f. 7-14-70, ef. 8-11-70; MB 74(Temp), f. 5-18-76, ef. 6-1-76 thru 9-28-76; MB 82, f. & ef. 4-19-77; Renumbered from 250-020-0083; MB 4-1981(Temp), f. & ef. 4-17-81; MB 7-1981, f. & ef. 11-16-81; MB 4-1987, f. 4-20-87, ef. 5-1-87; MB 21-1987, f. 12-31-87, ef. 1-1-88; MB 5-1995, f. & cert. ef. 7-14-95; OSMB 8-2000, f. & cert. ef. 12-1-00; OSMB 7-2002, f. & cert. ef. 10-15-02; OSMB 1-2006, f. & cert. ef. 3-28-06; OSMB 7-2006(Temp), f. 8-15-06, cert. ef. 9-5-06 thru 9-30-06

Oregon State Treasury Chapter 170

Rule Caption: Procedure for Submission, Review, and Approval of an Advance Refunding Plan.

Adm. Order No.: OST 2-2006

Filed with Sec. of State: 8-4-2006

Certified to be Effective: 8-4-06

Notice Publication Date: 7-1-06

Rules Amended: 170-062-0000

Subject: This rule describes the procedures by which the State Treasurer approves refunding of outstanding obligations at least one year prior to their optional call date. There are three permissible purposes for this refunding: 1-a present value savings; 2-favorable reorganization of debt; and 3-fiscal distress. The amendment identifies the maturity requirements for an agreement for exchange of interest rates when used in an advance refunding plan. The maturity of the swap must be fixed to the length of the advance refunding bonds in order to correctly determine the amount of savings. Valid reasons for approval for a reorganization of debt are added, providing clarity of purpose and intent. Additionally, adoption of the rule amendment

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would no longer require that the financial advisor enter into a contract with the issuer which is non-contingent upon the sale of the advance refunding bonds.

Rules Coordinator: Sally Furze—(503) 378-4990

170-062-0000

Procedure for Submission, Review and Approval of an Advance Refunding Plan

(1) An Advance Refunding Plan consists of a:

(a) Written request for approval for an advance refunding bond sale. The request should include the name, phone number, U.S. mailing and e-mail address for the: issuer, bond counsel, financial advisor (FA), escrow verification agent, underwriter and trustee;

(b) Copy of the resolution or ordinance of the governing body authorizing submission of the plan to the Office of the Oregon State Treasurer (OST);

(c) Statement of the primary purpose of the advance refunding sale. Permissible purposes are:

(A) A present value savings. To effect a savings, discounted to present value;

(B) A favorable reorganization of debt. Bonds issued for a favorable reorganization of debt require a detailed written analysis submitted by the issuer elaborating the financial, legal or other benefits of the reorganization to the issuer. Valid reasons for a reorganization of debt may include, but are not limited to:

(i) Replacement of undesirable or overly restrictive bond covenants or terms, such as liquidity covenants and debt service coverage requirements or release of reserve requirements;

(ii) Restructuring of debt payments considered by the governing body to be favorable to the financial health of the jurisdiction or its taxpayers or ratepayers;

(C) Fiscal distress. To pay or discharge all or any part of a bonded obligation or series or issue of bonds, including any interest thereon, in arrears or about to become due and for which sufficient funds are not available.

(d) Description of the bonds to be refunded, including: date and premium, if any, when each is first callable; semi-annual debt service to final maturity for each issue; par amount originally issued, current amount outstanding, proposed amount and maturities to be refunded; the dated date; and the purpose for which the bonds were issued;

(e) Description of the advance refunding issue including the proposed: call date and premium, if any; semi-annual debt service to final maturity; present value of each semi-annual payment; par amount; dated date; sale and closing date; All In True Interest Cost (ATIC); and the federal arbitrage yield limit.

(f) Escrow deposit agreement draft, including a description of the escrow account, listing the type of securities to be used and the redemption date of the account;

(g) Preliminary Net Present Value Savings (NPVS): Present value savings is defined as the present value of the difference in debt service between the proposed refunded debt service and the proposed refunding debt service, discounted at the arbitrage yield of the refunding debt service. Any issuance expenses paid from sources other than bond proceeds and any other cash contributed to the escrow other than from bond proceeds must also be subtracted from proceeds to determine NPVS.

(h) Itemization of all administrative costs, expenses or fees associated with the refunding. The OST will determine if the fees are comparable to similar offerings and if excessive, approval may be withheld;

(i) Copy of the contract between the issuer and the FA;

(j) Completed MDAC Form 1;

(k) Final Official Statement, if the bonds have been publicly offered;

(l) Final Net Present Value Savings as described in subsection (g) of this section;

(m) Copy of the issuer's arbitrage or tax certificate;

(n) Copy of bond counsel's approving legal opinion;

(o) Copy of the escrow verification report demonstrating the ability of the escrow account to meet all future debt service and related costs relative to the refunded bonds;

(p) Copy of the underwriting or bond purchase agreement, if sold on a negotiated basis;

(q) Copy of the letter from the FA to the issuer as described in section (2) of this rule.

(r) Completed MDAC Form 2; and

(s) Completed MDAC Form 3, if using a synthetic fixed rate refunding issue.

(2) Financial advisor required. The issuer must employ a FA whose function is to advocate the interest of and advise the issuer on the refinancing transaction. Prior to closing, the issuer must receive from the FA a letter stating that the FA has reviewed the assumptions included in the plan and that the plan is consistent with this rule. The letter must include a recommendation on the desirability or undesirability of doing the advance refunding and the reasons therefor. The contract between the issuer and FA must reflect the obligations of the parties in the event the sale is not consummated as planned.

(3) Significant Savings Tests. Equating or surpassing any one of the following tests indicates that the present value savings purpose, as required by subsection (1)(c)(A) of this rule, has been met:

(a) Present value savings of \$5 million or more; or

(b) A minimum savings ratio of 3.0 percent for a fixed rate refunding issue or a minimum savings ratio of 5.0 percent for a synthetic fixed rate refunding issue or other interest rate exchange agreement in conjunction with the refunding issue. If using an interest rate exchange agreement to synthetically fix a variable rate issue, the agreement must be for the maturity of the variable rate issue. The savings ratio is the net total present value savings divided by the proceeds of the refunding bonds, expressed as a percent.

(4) OST Approval Procedure:

(a) Preliminary Approval. Items in subsections (1)(a) through (1)(j) of this rule are initial components of an advance refunding plan and are required for preliminary approval. If approved, the OST will notify the issuer of its preliminary approval and state its intention to issue a final approval conditional upon receipt and approval of items in subsections (1)(k) through (1)(s) of this rule;

(b) Preliminary advance refunding plans should be submitted sufficiently in advance to allow 10 working days for review. The 10-day review period begins the working day after all items (1)(a) through (1)(j) of this rule and the application fee identified in OAR 170-061-0015(3)(a) have been received;

(c) Preliminary approval is valid for a period of six months from the date of the preliminary approval letter. After the six month period expires a new application fee and advance refunding plan are required.

(c) Final Approval. Items in subsections (1)(k) through (1)(s) of this rule are the final components of an advance refunding plan and must be received at least five working days prior to final approval. The five-day period begins after receipt of all items required for final approval.

(d) At the discretion of the OST, drafts of preliminary and final components of advance refunding plans may be acceptable with the understanding that finalized documents will be provided within five working days of the bond closing.

(5) Administrative Expenses:

(a) To reimburse the OST for administrative expenses incurred in reviewing proposals, a fee will be charged as identified in OAR 170-061-0015;

(b) When necessary to review complex proposals, the OST may consult recognized experts at the expense of the issuer.

(6) Ongoing Evaluation. The OST evaluates the statewide impact of advance refunding. Adverse trends associated with advance refunding bond sales may result in a review and revision of the savings tests, thereby diminishing any undesirable impact upon the higher priority "new money" bond issues.

(7) Waiver of Certain Provisions. The OST may waive certain provisions of this rule to accommodate unusual circumstances.

(8) If the OST finds that the advance refunding plan is not in substantial compliance with ORS 288.605 to 288.695 and this Administrative Rule, the plan may not be approved. Written notice that the plan does not comply, and the reasons for this finding will be sent to the issuer and its bond counsel.

(9) Submit Advance Refunding Plans to: Office of the State Treasurer, Debt Management Division, 350 Winter Street, N.E. #100, Salem, OR 97301, e-mail: DMD@ost.state.or.us.

[ED. NOTE: Table referenced is available from the Agency.]

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

Stat. Auth.: ORS 178.050

Stats. Implemented: ORS 288

Hist.: TD 2-1986, f. & ef. 6-16-86; TD 2-1990, f. 9-18-90, cert. ef. 9-19-90; TD 2-1994, f. & cert. ef. 9-9-94; OST 5-2004, f. & cert. ef. 6-23-04; OST 2-2006, f. & cert. ef. 8-4-06

Rule Caption: Procedures for the Issuance of State of Oregon Industrial Development Revenue Bonds (IDRB).

Adm. Order No.: OST 3-2006

Filed with Sec. of State: 8-4-2006

Certified to be Effective: 8-4-06

ADMINISTRATIVE RULES

Notice Publication Date: 7-1-06

Rules Amended: 170-061-0100

Subject: This amendment clarifies and simplifies the procedures required for Oregon State Treasury approval for Industrial Development Revenue Bond (IDRB) issuance. Additionally, it changes requirements to qualify as bond counsel for an Oregon IDRB.

Rules Coordinator: Sally Furze—(503) 378-4990

170-061-0100

Procedures for the Issuance of State of Oregon Industrial Development Revenue Bonds (IDRB)

(1) Terms and Conditions of Sale. The sale of Industrial Development Revenue Bonds financing are permitted under the following terms:

(a) Public Offerings. A public offering of industrial development revenue bonds must meet the requirements of both paragraphs (A) and (B) of this subsection:

(A) An applicant for publicly offered bond financing must receive specific approval from the Office of the Oregon State Treasurer (“OST” or “Treasurer”). The proposed bond issuance must receive an investment grade rating from a nationally recognized rating agency (Moody’s Investors Service, Fitch Ratings or Standard and Poor’s Corporation) or receive an equivalent rating through the use of credit enhancement. The investment grade rating requirement may be waived by the Treasurer for applicants who are listed on the New York Stock Exchange (NYSE) or the National Association of Securities Dealers Exchange (NASDAQ).

(B) An official statement or disclosure document must be prepared and available for bond purchasers. The cover page must illustrate the rating.

(b) Limited Public Offerings:

(A) An applicant for a limited publicly offered bond financing must receive specific approval from the Treasurer and demonstrate compliance with the publicly offered requirements of Section 1(a)(A) above or the proposed offering shall be made only to an “Accredited Investor” (AI) as defined under Section 3(a)(2) of the Securities Act of 1933 or a “Qualified Institutional Buyer” (QIB) as defined under Rule 144A of the Securities Act of 1933 or a “Sophisticated Investor” (SI) as the term is defined in Rule 501 Regulation D under the Securities Act and further described in 17 CFR 230.506(b)(2)(ii) as one who has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment. The AI, QIB or SI must agree in writing that the securities are being acquired for investment and are intended to be held for its own account and not with a view to, or for resale in connection with, and distribution or transfer of the bonds, except to another AI, QIB or SI who must enter into a similar written agreement;

(B) An official statement or disclosure document must be made available for bond purchasers. The cover page must illustrate the rating or contain a statement similar to the following: “These securities are to be sold only to “Accredited Investors” as defined under sec. 3(a)(2) of the Securities Act of 1933, or a “Qualified Institutional Buyer” as defined under Rule 144A of the Securities Act of 1933, or a “Sophisticated Investor” as the term is defined in Rule 501 Regulation D under the Securities Act and further described in 17 CFR 230.506(b)(2)(ii) as one who has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment”.

(c) Private Placements. An applicant for a privately placed bond financing must receive specific approval from the Treasurer. The proposed offering must be made only to an AI, QIB or SI. The AI, QIB or SI must agree in writing that the securities are being acquired for investment and are intended to be held for its own account and not with a view to, or for resale in connection with, and distribution or transfer of the bonds, except to another AI, QIB or SI who must enter into a similar written agreement;

(2) Applications Submitted to the OST:

(a) Applications and any additional information or requested supporting materials must be submitted to the OST at a minimum, seven business days prior to the Commission’s meeting at which a proposal is expected to be considered for financing eligibility;

(b) OST will endeavor to give either preliminary approval or disapproval at not later than seven business days after the Commission meeting that approves financing eligibility. Preliminary approval will be based on the nature of the direct economic benefit expected to be produced by the project and in compliance with Oregon Revised Statutes and this rule;

(c) The OST’s review for final approval, as represented by the Certificate of Determination, encompasses:

(A) The bond market for the types of bonds proposed for issuance;

(B) The terms and conditions of the proposed issue; and

(C) Such other relevant factors as the OST considers necessary to protect the financial integrity of the State.

(D) Evidence of the project’s final approval by the Commission.

(d) Notice of final approval or disapproval will be provided within ten business days of the meeting at which the Commission grants final approval.

(3) Appointment of Bond Counsel for IDRB Issues: The State must be represented by its own bond counsel appointed under ORS 285B.344 and 288.523 for all IDRB issues. The applicant will be responsible for all fees and expenses of bond counsel and must retain other counsel, if representation is desired, to represent the applicant in connection with the IDRB issuance. If an applicant wishes to use a particular firm as bond counsel that, at the time, is not under contract with OECD or the OST, it may request that OECD or the OST contract with such firm. The bond counsel engaged by OST or OECD must meet the following requirements;

(a) The law firm must be listed in the most current issue of the **Buyer’s Directory of Municipal Bond Attorneys** (the “Red Book”);

(b) The law firm must have an established residence within the state of Oregon.

(c) The law firm must agree and represent to the OST and OECD that

(A) it understands it has been engaged as counsel to the State of Oregon who is its client,

(B) that the firm will represent solely the interests of the State of Oregon in connection with the IDRB issuance and

(C) and that the firm has all licenses, permits or authorizations necessary to perform such work for the State of Oregon;

(d) The OST is satisfied that the individual(s) performing the work, from the standpoint of experience, work and previous opinions issued, can responsibly represent the interests of the State of Oregon.

(e) The firm has particular knowledge or experience with respect to the applicant, the business activities of the applicant or the purpose for which moneys derived from the sale of the IDRBs will be used.

(4) The OECD shall submit to the OST a completed MDAC Form 2 within five days of the closing of the transaction.

(5) Exceptions. The Treasurer, upon showing sufficient cause, may waive any or all of the provisions of this rule.

Stat. Auth.: ORS 178.050

Stats. Implemented: ORS 183 & 287

Hist.: TD 1-1988(Temp), f. 2-17-88, cert. ef. 2-18-88; TD 2-1988, f. & cert. ef. 4-8-88; OST 3-2006, f. & cert. ef. 8-4-06

Oregon University System Chapter 580

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

Adm. Order No.: OSSHE 5-2006

Filed with Sec. of State: 7-24-2006

Certified to be Effective: 7-24-06

Notice Publication Date: 6-01-06

Rules Adopted: 580-043-0060, 580-043-0065, 580-043-0070, 580-043-0075, 580-043-0080, 580-043-0085, 580-043-0090, 580-043-0095

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

Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-043-0060

Purpose; Definitions

(1) Purpose. Chapter 580, division 043, authorizes each Institution to establish one Venture Development Fund for the purpose of facilitating the commercialization of research and development. The purpose of an Institution’s Fund shall be to provide qualified grant applicants with moneys to facilitate the commercialization of the Institution’s research and development. Within the scope of this purpose and subject to these administrative rules, an Institution may use moneys in its Fund to provide:

(a) Capital for university entrepreneurial programs;

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(b) Opportunities for students to gain experience in applying research to commercial activities;

(c) Proof-of-concept funding for transforming research and development concepts into commercially viable products and services; and

(d) Entrepreneurial opportunities for persons interested in transforming research into viable commercial ventures that create jobs in this state. Contributors to an Institution's Fund are eligible for Oregon income tax credits to the extent set forth in the 2005 Act and these rules.

(2) Definitions

(a) 2005 Act: Oregon Laws 2005, ch. 592.

(b) Entity: any governmental body or agency, association, partnership, corporation, limited liability company, or other organization, however described or named and regardless of legal status, other than a Person.

(c) Person: A natural person or sole proprietorship.

(d) Venture Development Fund or Fund: A fund authorized by the 2005 Act.

(e) Venture Grant Program or Program: A grant program authorized by the 2005 Act.

(f) Institution: An institution of the Oregon University System.

(g) Department of Revenue: the Oregon Department of Revenue.

(h) General Fund: the general fund of the State of Oregon.

(i) Remain in Oregon: maintaining the Entity headquarters in Oregon; or employing a majority of employees (on a full-time equivalent, headcount, or payroll basis) in Oregon.

(j) State Board of Higher Education or Board: the Board created by ORS 351.010.

(k) Tax Credit Certificate: a certificate authorized by the 2005 Act and in a form designated by the Board that evidences a contribution to a Venture Development Fund.

(l) Donor: a person or entity that makes a contribution to a Fund authorized by the 2005 Act and these rules.

(m) Taxpayer: a person or entity that makes a contribution to a Fund authorized by the 2005 Act and these rules and that applies for a tax credit certificate authorized by the 2005 Act and these rules.

(n) Gross Royalty Income: income accruing to the Board on behalf of an Institution as a result of grants made under the Program, including royalty income from licensing and patent agreements, the sale, lease, or licensing of technologies, and cash actually realized from the sale of an equity interest in a corporation or company.

Stat. Auth: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06

580-043-0065

Establishment of a Venture Development Fund by an Institution

(1) An Institution may establish a Fund in accordance with the 2005 Act and these rules.

(2) Each Institution that establishes a Fund shall:

(a) Notify the Board and the Department of Revenue of the establishment of the Fund;

(b) Either directly or through its affiliated foundation solicit contributions to the Fund;

(c) Subject to the 2005 Act and these rules, issue tax credit certificates to contributors to the Fund;

(d) Establish a grant program that meets the requirements for a Venture Grant Program under these rules;

(e) Subject to available moneys from the Fund, provide qualified grant applicants with moneys to transform research and development concepts undertaken by the Institution into commercially viable products and services; and

(f) Report to the Department of Revenue the amounts of tax credit certificates issued by the Institution and maintain records of licensing and royalty revenue received by the Institution as the result of grants made from the Fund and records of amounts paid to the General Fund under the 2005 Act.

(3) An Institution may request that the State Treasurer establish a Fund within the State Treasury for the receipt, management, and disbursement of moneys contributed to the Fund. Interest earned by such moneys shall be credited to the Fund. The State Treasurer may assess a fee for the administration of the Fund as provided by law.

(4) The use of moneys donated under these rules may not be directed by a Donor. Rather, all moneys shall be available for the purposes set forth in the 2005 Act and these rules without regard to specific Donor instructions.

(5) At the election of an Institution, moneys in a Fund may be held in the form of an endowment. An Institution may discontinue endowment treatment at any time.

Stat. Auth: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06

580-043-0070

Allocation of Authority to Institutions to Raise Funds and Issue Tax Credits

(1) The Board will not allocate fund raising or tax credit certificate issuance authority to an Institution until the Institution has established a Venture Development Fund in accordance with the 2005 Act and these rules.

(2) Oregon State University, Portland State University, and University of Oregon: The Board allocates fund raising authority and commensurate authority to issue tax credit certificates among Oregon State University, Portland State University, and the University of Oregon as follows:

Portland State University: \$.88 million

Oregon State University: \$.535 million

University of Oregon: \$.327 million

Such authority shall be contingent on the establishment of a Fund in accordance with the 2005 Act and these rules and subject to the rule on redistribution of authority to raise funds and issue tax credits.

(3) Eastern Oregon University, Oregon Institute of Technology, Southern Oregon University, and Western Oregon University: The Board by order or resolution shall allocate \$500,000 in fund raising authority and commensurate authority to issue tax credit certificates among Eastern Oregon University, Oregon Institute of Technology, Southern Oregon University, and Western Oregon University. An allocation of authority shall be contingent on the establishment of a Fund in accordance with the 2005 Act and these rules and subject to the rule on redistribution of authority to raise funds and issue tax credits.

(4) All Universities, collectively, may issue tax credit certificates evidencing no more than \$10 million in contributions to Institution Venture Development Funds.

Stat. Auth: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06

580-043-0075

Redistribution of Authority to Raise Funds and Issue Tax Credits

No earlier than two years from the effective date of this rule, the Board, by order or resolution, may, to further the purposes of the Act, reallocate unused fund raising authority and commensurate authority to issue tax credit certificates from one Institution to another. An Institution may receive additional authority only if it has exhausted its existing authority or can demonstrate that it would likely do so. Reallocation of authority shall not require amendment of section 0030.

Stat. Auth: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06

580-043-0080

Eligibility to Receive Grants

(1) Subject to compliance with these rules, an Institution may make grants to itself for use by a constituent part of the Institution or to Entities but not to Persons. Each Institution shall establish criteria for the receipt of grants under the Program. Each prospective recipient shall submit an application to the Institution. Each grant shall be documented and implemented through an appropriate grant agreement and each grant agreement shall provide that the recipient, if other than a public agency, remain in Oregon for at least five years following the final disbursement of funds under the agreement or repay the grant plus compound interest at 8 percent per annum. Other criteria shall be as determined by the Institution except for the following:

(a) All grants must be used to facilitate the commercialization of an Institution's research and development;

(b) Priority should be given to applicants who can demonstrate with specificity that their efforts will result in technology with high commercial potential, that they are close to realizing economic development potential, and that proof-of-concept funding will assist them in transforming research and development concepts into commercially viable products or services.

(2) To at least some degree, a Program as a whole, but not each individual grant, must provide:

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- (a) Capital for university entrepreneurial programs;
 - (b) Opportunities for students to gain experience in applying research to commercial activities;
 - (c) Entrepreneurial opportunities for persons interested in transforming research into viable commercial ventures that create jobs in this state; and
 - (d) Proof-of-concept funding for transforming research and development concepts into commercially viable products and services.
- (3) Each institution shall screen potential awards for conflicts of interest. No award shall be made if an identified conflict of interest cannot be eliminated or managed.

Stat. Auth: OL 2005, ch. 592, sec. 2.
Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.
Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06

580-043-0085

Issuance of Tax Credit Certificates

(1) Taxpayers making a contribution to an Institution's Fund and wishing to receive a tax credit certificate evidencing that contribution must submit the contribution, together with an application for tax credit certificate, in a form designated by the Institution, to the Institution.

(2) An Institution may begin accepting contributions and applications after it has established a Fund in accordance with the 2005 Act and these rules and received an allocation of fund raising and tax credit certificate issuance authority from the Board.

(3) An Institution shall consider applications for tax credit certificates in the chronological order in which the applications are received.

(4) An Institution shall act on an application for a tax credit certificate within 60 days of its receipt unless unanticipated or extraordinary circumstances reasonably prevent the Institution from acting within that timeframe, in which case the Institution shall act on the application as soon as reasonably possible thereafter.

(5) Subject to section 6 of this rule, an Institution shall approve an application for a tax credit certificate if the application is complete and the Institution has verified receipt of the contribution. Within 45 days of application approval, an Institution shall issue to the Taxpayer a tax credit certificate that specifies the amount of the contribution.

(6) An Institution shall deny an application for a tax credit certificate and may not issue a tax credit certificate to the Taxpayer if:

(a) The Taxpayer's contribution to the Fund, together with the amounts specified on all tax credit certificates previously issued by the Institution, exceeds the Institution's then-current tax credit certificate issuance authority allocated by the Board;

(b) The Taxpayer's application is incomplete; or

(c) The Institution cannot verify receipt of the Taxpayer's contribution.

(7) If an Institution denies a Taxpayer's application for a tax credit certificate, the Institution shall notify the Taxpayer in writing within 45 days of the denial.

(8) A Taxpayer who receives a notice of denial of an application for a tax credit certificate may request, in writing and within 90 days after the receipt of the notice of denial, a refund of its contribution to the extent the contribution was actually received. The Institution shall ensure that the refund is issued within 60 days after its receipt of the request for the refund.

(9) Eligibility for a tax credit (as distinguished from the receipt of a tax credit certificate from an Institution) shall be subject to Section 5 of the 2005 Act, the rules of the Department of Revenue, and other applicable law.

Stat. Auth: OL 2005, ch. 592, sec. 2.
Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.
Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06

580-043-0090

Tax Credit Certificate and Grant Record-Keeping and Reporting

(1) Each Institution shall retain copies of all tax credit certificates that it issues. Upon every issuance of a tax credit certificate by the Institution and promptly after Board adoption of an order or resolution establishing or modifying the Institution's allocation of tax credit certificate issuance authority, the Institution shall calculate and record in its records the amount, if any, of its fund raising and tax credit certificate issuance authority then remaining unused.

(2) As requested by the Board from time to time but no less often than annually, each Institution shall submit a written report to the Board summarizing its fund raising and issuance of tax credit certificates since its most recent prior report to the Board under this section and specifying its fund raising and tax credit certificate issuance authority and the amount of

that authority remaining unused as of the date of the report. The report shall include the number of tax credit certificates issued and the amount of funds raised by the Institution since its most recent prior report to the Board under this section.

(3) As requested by the Board from time to time but no less often than annually, each Institution shall submit a written report to the Board summarizing the grants made by the Institution under its Program and how they serve the goals of the 2005 Act and these rules.

Stat. Auth: OL 2005, ch. 592, sec. 2.
Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.
Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06

580-043-0095

Recoupment of Tax Credits

An Institution that has established a Fund and has made grants under a Program shall monitor the use of such grants and identify sources of Gross Royalty Income received by the Institution as the result of the use of the grants. Gross Royalty Income results from the use of a grant when it is traceable to the grant. The Institution shall transfer 20 percent of such Gross Royalty Income to the General Fund until the amount transferred to the General Fund equals the amount of tax credits claimed due to contributions to the Fund. This does not preclude transfers from other sources. The Institution shall maintain records of all transfers to the General Fund.

Stat. Auth: OL 2005, ch. 592, sec. 2.
Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.
Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06

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

Rule Caption: Corrects date and rule section references in part of Student Conduct Code.

Adm. Order No.: PSU 3-2006

Filed with Sec. of State: 7-21-2006

Certified to be Effective: 7-21-06

Notice Publication Date: 7-1-06

Rules Amended: 577-031-0131

Subject: The amendment (1) corrects a reference to the date upon which a prior amendment to the Student Conduct Code was adopted and (2) adds a reference to one particular section of OAR 577-031-0140 to limit the retroactive applicability of prior rule changes.
Rules Coordinator: Jeremy Randall Dalton—(503) 725-3701

577-031-0131

Definitions

(1) The term "Code" means this Code of Student Conduct and Responsibility.

(2) For the purpose of enforcing this Code, 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; or

(c) Is enrolled in a special non-credit program approved by the University.

(3) This Code also applies to any student organization or group as defined below. The University's code applies to all students and student organizations or groups for up to six months beyond the date of last enrollment, registration or recognition unless proceedings under the Code have been initiated by notice or interim suspension within that six month period and are not concluded within that period, in which case the proceedings may be noticed or may continue until concluded. This is applicable to all cases except plagiarism or fraudulently obtaining a degree, which have no termination date. The March 10, 2006 amendment and the 7-21-06 amendment to this section apply retroactively to all matters that are pending or incomplete, or for which notice has not been sent as required by OAR 577-031-0140(2).

(4) An "organization or group" is any 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, or Student Development Office.

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(5) The term "faculty member" and "course instructor" means any person hired by the University to conduct classroom activities or who has an official instructional or administrative function with the University.

(6) The term "University official" includes any person employed by the University performing assigned administrative or professional responsibilities.

(7) The term "member of the University community" includes any person who is a student, faculty member, University official or any other person employed or officially recognized as a University associate. A person's status in a particular situation shall be determined by an appropriate University official.

(8) The term "University" means Portland State University, or any part, program, department, or division within Portland State University.

(9) The term "University premises" includes all land, buildings, facilities, and other property owned or in the possession of, and used or controlled by the University.

(10) The term "University sponsored activity" includes 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.

(11) An "individual violation" is a violation of University policy and regulations 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.

(12) An "organization violation" is a violation of University policy and regulations committed by a student organization.

(13) The term "judicial officer" refers to the University official charged with the responsibility of administering the Code and executing the responsibilities outlined in the Code. The Vice Provost for Student Affairs may authorize a judicial officer to serve simultaneously as the sole member or as one of the members of a judicial body.

(14) A "conduct record" includes, but is not limited to incident reports, final reports, notification of allegation, Timely Notice Forms, Conduct-Pending, Conduct-Restitution, and Suspension Lists, Quarterly Security Reports, disciplinary reports, informal discussion notes, formal hearing notes, final summary statements, decision statements, appeals documentation, and related documentation and correspondence as defined in OAR 166-4335-0110(38).

(15) The term "judicial body" means any person(s) authorized by the Vice Provost for Student Affairs to determine whether a student has violated the Code.

(16) The term "shall" is used in the imperative sense.

(17) The term "may" is used in the permissive sense.

(18) The term "day" means any business day in which the University is open and in session. It does not include weekends, federal and state holidays or days in which the University is not open for business.

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

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

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

Adm. Order No.: UO 1-2006

Filed with Sec. of State: 8-15-2006

Certified to be Effective: 9-1-06

Notice Publication Date: 6-1-06

Rules Adopted: 571-040-0010, 571-040-0015, 571-040-0100, 571-040-0400

Rules Amended: 571-040-0380, 571-040-0382, 571-040-0390

Rules Repealed: 571-040-0220, 571-040-0240, 571-040-0253, 571-040-0280

Rules Ren. & Amend: 571-040-0200 to 571-040-0201, 571-040-0210 to 571-040-0020, 571-040-0230 to 571-040-0040, 571-040-0243 to 571-040-0030, 571-040-0250 to 571-040-0251, 571-040-0260 to 571-040-0261, 571-040-0263 to 571-040-0460, 571-040-0270 to 571-040-0050, 571-040-00271 to 571-040-0450, 571-040-0290 to 571-040-0060, 571-040-0310 to 571-040-0070, 571-040-0320 to 571-040-0080, 571-040-0350 to 571-040-0410, 571-040-0352 to 571-040-0420, 571-040-0360 to 571-040-0430,

571-040-0361 to 571-040-0450, 571-040-0370 to 571-040-0440, 571-040-0371 to 571-040-0450

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

Rules Coordinator: Connie Tapp—(541) 346-3082

571-040-0010

Applicability of Chapter 571, Division 40; Policymaking Authority

(1) Except for OAR 571-040-0015 and 0020, the rules set forth in chapter 571, division 40, do not apply to:

(a) Transactions involving an interest in real property, including but not limited to, contracting with persons or entities to operate retail establishments in facilities owned or controlled by the University.

(b) Licenses or permits to use or gain access to real property or improvements thereon, regardless of the purpose for the license or permit.

(c) Public improvement contracts (facilities contracting) and contracts with architects, engineers, and similar consultants where the services are related to a public improvement project.

(d) Material transfer agreements, licenses by the University of inventions, software, trademarks, trade secrets, know-how, or copyrighted materials, confidentiality agreements, and acquisition of an interest in intellectual property for management, licensing, or dissemination by the University.

(e) The provision of services or goods by a University unit.

(f) The conveyance by the University of any interest in personal property, tangible or intangible, or real property.

(g) Grants, sponsored research agreements, and the like.

(h) Academic agreements, including but not limited to, student and faculty exchange agreements, affiliation agreements, internship agreements, clinical practicum agreements, study abroad agreements, dual enrollment agreements, transfer agreements, and consortium agreements.

(i) Employment agreements.

(j) Endowment agreements, gift agreements, and the like.

(k) All other contracting by the University, except to the extent expressly set forth in these rules.

(2) The Vice President for Finance and Administration or designee may promulgate internal management directives and policies necessary or appropriate to implement the rules set forth in chapter 571, division 40.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UO 1-2006, f. 8-15-06, cert.c ef. 9-1-06

571-040-0015

Signature Authority; Execution of Instruments

(1) Except as set forth herein, the Vice President for Finance and Administration has signature authority for all instruments covered by these rules and for those described in OAR 571-040-0010(1)(a)-(h), and (k) and may also delegate such authority pursuant to a written memorandum or policy or as expressly set forth in these rules. Such delegations are limited to specific instrument types and dollar amounts. Except as set forth in these rules or as delegated by the Vice President for Finance and Administration, no one has authority to execute an instrument covered by these rules on behalf of the University. Instruments executed or agreements entered into without authority are voidable at the sole discretion of the University. Failure to follow this rule may result in personal liability and other consequences.

(b) The General Counsel to the Oregon University System or designee has authority to execute all licenses of University-owned or -controlled inventions, software, trade secrets, know-how, or copyrighted materials, material transfer agreements, and related instruments.

(c) The General Counsel to the University or designee has the exclusive authority to execute instruments related to legal services.

(d) Other officers of the University may execute instruments as authorized by law.

ADMINISTRATIVE RULES

(2) Special Rule for “Click-Wrap” Licensing of Computer Software: The University recognizes that much computer software is purchased via Internet download under “click-wrap” or “click-to-agree” licenses, which may include payment and other terms. To the extent that such licenses are not negotiable and are available to the general public on the same terms and conditions, all regular University employees, with the approval of an authorized individual, are authorized to purchase computer software using such licenses. Authority under this provision is limited to \$5000.00 per purchase. The approval of an authorized individual is not required if there is no charge for the software.

(3) Contracts (a) which are entered into by an unauthorized individual or (b) which exceed the authority of an otherwise authorized individual or (c) which are not authorized under these rules shall be voidable at the sole discretion of the University or they may be ratified by the University in its sole discretion. If work is performed or payment made prior to execution, any contract may be voided or ratified by the University in its sole discretion.

(4) Authorized individuals shall be responsible for ensuring that the proper procedures are followed for all institutional purchases or contracts. The University may take appropriate action in response to unauthorized expenditures or actions including, but not limited to, providing educational guidance, imposing disciplinary measures, and holding individuals personally liable for such expenditures or actions.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: UO 1-2006, f. 8-15-06, cert.c ef. 9-1-06

571-040-0020

Code of Ethics

(1) The following Code of Ethics shall apply to University employees in relation to contracting and purchasing. Employees shall:

- (a) Give first consideration to the objectives and policies of the Board of Higher Education, OUS and the University;
- (b) Strive to obtain the best value for expenditures;
- (c) Fairly consider prospective contractors insofar as state or federal statutes and institutional rules and policies require;
- (d) Conduct business in an atmosphere of good faith;
- (e) Demand honesty in representations made by prospective contractors;

(f) Encourage all segments of society to participate by supporting emerging small, disadvantaged, and minority-owned and women-owned businesses, and Qualified Rehabilitation Facilities;

(g) Comply with the applicable provisions of ORS Chapter 244 and other applicable rules and policies on conflict of interest that may be more restrictive;

(h) Refrain from having financial interests incompatible with the impartial, objective, and effective performance of duties. Activities that may create a conflict of interest must be addressed in accordance with the procedures outlined in the Oregon University System’s Internal Management Directives and other applicable rules and policies;

(i) Receive the written consent of the originator of proprietary ideas and designs before using them; and

(j) Foster fair, ethical, and legal trade practices.

(2) This code is for the University’s internal use only and creates no obligations enforceable by contractors, proposers, bidders, or other parties doing business with the University, nor may it be used by contractors, proposers, bidders, or other parties doing business with the University who are challenging actions taken by the University or its officers, employees, or agents. This code may not be the only statement on ethics applicable to an employee.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0210, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0030

Applicable Model Public Contract Rules

The University may use any or all of the Attorney General’s Model Public Contract Rules as guidelines for interpretation of these rules or may incorporate some or all of them into a Solicitation Document, contract, or other document.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0243, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0040

Definitions

The following definitions shall apply to OAR chapter 571, division 40, unless the context requires otherwise or except as stated:

(1) Days: Calendar days unless otherwise specified.

(2) Disadvantaged Business Enterprise (DBE): As defined in ORS 200.005.

(3) Disqualification or Disqualify: The preclusion of a person or entity from contracting with the University, OUS, State Board of Higher Education, or the State of Oregon for a period of time.

(4) Emergency: an unexpected, serious situation requiring prompt action.

(5) Emerging Small Business (ESB): as defined in ORS 200.005
Entity: any governmental body or agency, association, sole proprietorship, partnership, corporation, limited liability company, or other organization, however described or named and regardless of legal status, other than a Person.

(6) Minority Business Enterprise (MBE): As defined in ORS 200.005.
OUS: Oregon University System. Person: A natural person.

(7) Qualified Rehabilitation Facility (QRF): A nonprofit organization that trains and puts Oregonians with disabilities to work.

(8) Qualified Contractor List: A list of persons or entities identified from a Solicitation Document, or other request that are able to provide specific goods or services. Inclusion on a Qualified Contractor List does not indicate that a Person or Entity has entered into a contract with the University.

(9) Responder: A person or entity submitting a bid, proposal or other response to a Solicitation Document.

(10) Response: A bid, proposal or other response to a Solicitation Document.

(11) Responsive Response: A Response that substantially complies with applicable solicitation procedures and requirements in the Solicitation Document.

(12) Request for Information (RFI): a written document soliciting information regarding goods or services. An RFI is not a Solicitation Document.

(13) Request for Qualifications (RFQ): A written document soliciting information regarding the qualifications of providers of goods or services. An RFQ is not a Solicitation Document.

(14) Single Seller or Sole Source: The only provider of a particular good or service reasonably available.

(15) Solicitation Document: An invitation to bid (ITB), request for proposal (RFP) or other document seeking a bid, proposal, or other Response where the University intends that a contract will result.

(16) Used Personal Property: personal property used by a previous owner or user and recognized in the relevant trade or industry as “used” at the time of University purchase. It generally does not include property or equipment if the University was the previous user, whether under a lease, as part of a demonstration, trial or pilot project, or similar arrangement. This definition does not relate to surplus property disposal. Women Business Enterprise (WBE): As defined in ORS 200.005.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0230, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0050

Basis for Awarding of Contracts

The University shall select contractors and award contracts based on such factors as are identified in the Solicitation Document and such other factors as are reasonable under the circumstances. The Vice President for Finance and Administration or designee may prescribe the terms and conditions of contracts and documents required in support of contracts.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0270, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0060

Contract Amendments and Expired Contracts

A contract amendment that is reasonably related to the scope of work under a contract may be entered into with the contractor without application of OAR chapter 571, division 40. Lapsed contracts may be revived and reinstated upon the approval of the Vice President for Finance and Administration or designee.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070

ADMINISTRATIVE RULES

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0290, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0070

Pre-Response Conferences

(1) Pre-Response conferences may be scheduled by the University. Each such conference shall be described in the Solicitation Document as voluntary or mandatory. If such a conference is designated as mandatory, a Responder must attend in order to submit a Response.

(2) A Responder may authorize a representative to attend the pre-Response conference.

(3) The University determines the content of any conference held under this rule.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0310, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0080

Acceptance of Responses and Correspondence

The University may choose to accept Responses and correspondence by any means and on any conditions authorized in the Solicitation Document, including by electronic mail or facsimile machine.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0320, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0100

Screening and Selection for Professional Services Contracts

(1) The University periodically requires an individual or firm to perform professional services. OAR 571-040-0100 sets forth the screening and selection processes to be used for all such contracts and, in the case of the University of Oregon, supersedes OAR 580-040-0100.

(2) The University may contract for professional services when it is desirable or prudent and not prohibited by law.

(3) "Professional Services Contract" means a contract for professional services performed by an independent contractor. Compensation under a Professional Services Contract may be on an hourly basis, a flat fee basis, a not-to-exceed amount, or any other compensation arrangement that serves the University's best interests.

(4) Formal Selection Procedure: This procedure will be used whenever the estimated payment to the contractor during the contract term is \$200,000 or more or when the Vice President for Finance and Administration or designee determines that the formal selection procedure is appropriate. The Vice President for Finance and Administration or designee may grant an exemption from the formal selection procedure for sufficient cause. The amount of a contract may not be manipulated to avoid the formal selection procedure.

(a) Announcement: The University, through the Vice President for Finance and Administration or designee, will give notice of intent to contract for professional services in a trade periodical or newspaper of general circulation or on the University's website. The notice may also be sent to potential contractors and any other interested party. The notice shall include a description of the proposed project, the scope of the services required, project completion dates, if any, a description of special requirements, if any, and any other information deemed appropriate by the University. The notice will invite qualified prospective contractors to request an application. The notice will specify when and where the application may be obtained, to whom it must be returned, and the closing date. The University will provide notices to the Office of Minority, Women and Emerging Small Business.

(b) Application: The application, which is considered a Solicitation Document, will consist of a statement that describes the prospective contractor's credentials, performance data and other information sufficient to establish the contractor's qualification for the project, as well as any other information requested by the University.

(c) Initial Screening: The University will evaluate the qualifications of all Responders and select one or more prospective contractors who will best meet the University's needs.

(d) The Final Selection Procedure:

(A) Interviews: The University may interview, through any appropriate medium, the finalists selected from the initial screening.

(B) Award of Contracts: The University will make the final selection based on such criteria as the University deems appropriate. The University may award more than one contract and may develop a roster of contractors qualified to perform various types of services from which the University

may choose without the need to undertake one of the selection procedures set forth in this rule.

(5) Informal Selection Procedure. This procedure may be used when the estimated payment for the proposed services to be performed by the contractor exceeds \$50,000 but is less than \$200,000 or when the Vice President for Finance and Administration or designee determines that use of the informal selection procedure is appropriate. The Vice President for Finance and Administration or designee may grant an exemption from the informal selection procedure for sufficient cause. The amount of a contract may not be manipulated to avoid the informal selection procedure.

(a) Selection: The University will contact a minimum of three prospective contractors believed to be qualified to offer the sought-after services. If the University determines that fewer than three such contractors are reasonably available, the University need not contact three. An estimated fee or the basis for determining the fee will be requested. The University may award any number of contracts and may develop a roster of contractors qualified to perform various types of services from which the University may choose without the need to undertake one of the selection procedures set forth in this rule.

(6) Professional Services Contracts not exceeding \$50,000: The University may enter into Professional Services Contracts not exceeding \$50,000 without following the procedures identified elsewhere in this rule. The amount of the contract is not to be manipulated to avoid the need for informal or formal procedures. The University may award any number of contracts and may develop a roster of contractors qualified to perform various types of services from which the University may choose without the need to undertake one of the selection procedures set forth in this rule.

(7) The University may negotiate with a Single Seller or Sole Source if the services are available only from one contractor, or the prospective contractor has skills or experience not otherwise readily available and which are required for the performance of the services.

(8) Emergency Appointment Procedure: The University may select a contractor without following any of the procedures set forth in this rule when an unexpected, serious situation requires prompt action. In such an instance, the recommended appointment and a description of the conditions requiring the use of this appointment procedure shall be communicated to the Vice President for Finance and Administration or designee, who will determine if an emergency exists and, if so, the Vice President for Finance and Administration may declare an emergency and approve the appointment. The existence of an emergency and the appointment procedure must be documented in writing.

(9) Alternative Processes. Notwithstanding anything to the contrary in these rules, the University is authorized to develop and use alternative processes for contracting for Professional Services using evaluation criteria that may include, but are not limited to, cost, quality, service, compatibility, operating efficiency, expansion potential, experience and reliability, commitment to support regional business development, and support for innovation.

(10) The Vice President for Finance and Administration or designee may grant an exemption from compliance with this rule for sufficient cause. Documentation of the decision to grant an exemption and the reason therefor must be maintained.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0201

Purpose; Delegation of Authority; Application

(1) The purpose of the rules set forth in OAR 571-040-0201 through 571-040-0390, is to:

(a) Establish procurement procedures that are simple and flexible;

(b) Reduce prior approvals and ensure accountability through auditing;

(c) Generate and retain only necessary documentation;

(d) Allow the University to work cooperatively with other Oregon University System (OUS) institutions and other governmental and non-profit entities; and

(e) Allow the University to do business more easily with local and regional vendors.

(2) These rules have been promulgated pursuant to authority delegated by the State Board of Higher Education (Board) under OAR chapter 580, division 40, and have been approved by the OUS Vice Chancellor for Finance and Administration. With respect to the University, these rules supersede the rules found in OAR 580-040-0200 through 580-040-0295, except that the following rules shall apply to the University: OAR 580-040-0290, 580-040-0292; and 580-040-0295.

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(3) Except as expressly indicated, the rules set forth in OAR 571-040-0201 through 571-040-0390 apply only to the procurement (purchase) of goods and services.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0200, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0251

Processes for Procurement of Goods and Services Other than Professional Services

(1) The University has established several processes for the procurement of goods and services: formal; informal; direct negotiation; emergency; Sole Source; intergovernmental/non-profit; exemption; and alternative. In addition, the University has established several methods by which goods and services may be acquired: procurement cards; price agreements; retainer agreements; requirements contracts; purchase orders; custom contracts; and Qualified Contractor Lists. The University may use other methods in its sole discretion.

(2) For each purchase of goods and services, authorized personnel shall retain documentation, either hard copy or electronic, consistent with the requirements of OAR 571-040-0390. Such documentation shall be subject to audit.

(3) Formal Procurement Process (more than \$200,000). The formal procurement process shall be used, except as otherwise set forth herein, for all purchases of goods and services where the estimated cost exceeds \$200,000. The formal procurement process may be used for purchases where the estimated cost is \$200,000 or less upon the approval of the Vice President for Finance and Administration or designee.

(a) Multiple contracts, purchase orders, or purchasing requisitions shall not be issued separately with the intent to circumvent these rules.

(b) The formal process may be accomplished in either of two ways the University selects:

(A) Invitation to bid. The invitation to bid will be advertised as appropriate (which may be exclusively on the University's website), and, unless the invitation to bid provides otherwise, the contract will be awarded to the lowest responsive and responsible bidder.

(B) Request for proposal. The request for proposal will be advertised as appropriate, and the award process and criteria will be described in the request for proposal.

(c) The Vice President for Finance and Administration or designee may grant a release from the formal procurement process.

(5) Informal Procurement Process, Including Direct Negotiation (\$50,000.01 to \$200,000)

(a) The informal procurement process may be used for all purchases of goods or services where the estimated cost exceeds \$50,000 but is not greater than \$200,000, or where the Vice President for Finance and Administration or designee has approved the use of the informal procurement process. The informal procurement process may include the solicitation of quotes or direct negotiation or a combination thereof. Multiple contracts, purchase orders, or purchasing requisitions shall not be issued separately with the intent to circumvent these rules.

(b) Solicitation of quotes will ordinarily be accomplished through the solicitation of quotes from three potential contractors. However, there may be circumstances where fewer than three are reasonably available. Solicitation may be accomplished by advertisement or by the initiation of a request to the relevant number of potential contractors, or both. When procuring goods or services through the solicitation process, information regarding persons or entities contacted, basis for selection, prices, and other information pertinent to the solicitation must be clearly documented.

(c) Direct negotiation. In lieu of or in addition to the solicitation of quotes, the Vice President for Finance and Administration or designee may authorize direct negotiation with a prospective contractor, as long as the Vice President for Finance and Administration or designee determines that direct negotiation will result in the best value under the circumstances.

(6) Purchases of \$50,000 or less. All purchases of goods or services where the estimated cost is \$50,000 or less may be accomplished through direct negotiation or such other process as will result in good value under the circumstances.

(7) Emergency Purchases. Emergency purchases may be made only pursuant to authorization issued by the Vice President for Finance and Administration or designee upon a finding that an Emergency exists. The amount of the purchase is not a relevant consideration in finding the existence of an Emergency. The procurement process to be used is at the discretion of authorized personnel but must be documented.

(8) Sole Source Purchases. When purchasing goods or services from a Sole Source, the University is not required to follow the competitive procedures set forth in these rules. Sole Source purchases must be approved by the Vice President for Finance and Administration or designee, in his or her sole discretion. Sufficient information shall be gathered to justify the determination that the good or service is reasonably available from only one contractor.

(9) Purchases From or Through Other Governmental or Non-profit Entities. Regardless of the dollar value of the purchase, the University and its departments may contract with, and purchase goods and services from or through, other governmental or non-profit entities such as state agencies, political subdivisions, federal agencies, or any other governmental or non-profit entity, without the use of competitive procedures.

(10) Requests for Information (RFI) and Requests for Qualifications (RFQ). The University may issue an RFI or an RFQ when the University determines, that such issuance is appropriate under the circumstances.

(11) Procurement Cards. Procurement cards, or other methods of direct purchasing, may be used as permitted by the Business Affairs Office.

(12) Qualified Contractor List. The University, through the Business Affairs Office, may negotiate directly with a contractor listed on a Qualified Contractor List if only one person or entity meets the University's needs and if the Solicitation Document or other document informed potential contractors that direct negotiation could occur.

(13) Qualification of Prospective Responders. The University may limit the persons or entities authorized to respond to a Solicitation Document by requiring that such persons or entities demonstrate to the University that the person or entity has: (a) financial, material, equipment, facility and personnel resources and expertise, or ability to obtain such resources and expertise, sufficient for the person or entity to meet all contractual responsibilities; (b) a satisfactory record of performance on projects of similar size and scope; and (c) a satisfactory record of integrity. When the University requires the qualification of prospective responders, it shall not consider a response from a Person or Entity that has not been qualified. If a Person or Entity fails to qualify the University shall notify the Person or Entity and specify the reasons under for such failure. The Person or Entity may protest the University's determination.

(14) Alternative Procurement Processes. Notwithstanding anything to the contrary in these rules, the University is authorized to develop and use alternative procurement processes using evaluation criteria that may include, but are not limited to, cost, quality, service, compatibility, product reliability, operating efficiency, expansion potential, vendor experience and reliability, commitment to support regional business development, and support for innovation.

(15) Procurement Methods. At the University's discretion and subject to the University's direction, all procurement processes and purchases may be accomplished through the use of paper or electronic documents delivered by mail or courier; transmission via facsimile; transmission via electronic means; or a combination thereof.

(16) Bonds, Guaranties, and Security. The University may require payment or performance bonds or such other guaranties or security as the University deems appropriate, in its sole discretion, under the circumstances.

(17) Information Technology. In some cases, the acquisition of information technology and related services may require the prior approval of the Department of Administrative Services.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0250, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0261

Exemptions

(1) The University is exempt from compliance with OAR 571-040-0251 when seeking to acquire or pay for (as applicable) the following:

(a) Educational services.

(b) Brand name goods and services or product prequalification. The University may specify brand names in the procurement of goods and services if the particular good or service has attributes not found in other goods or services or under such other circumstances as the Business Affairs Office deems appropriate. In addition, when specific design or performance specifications must be met for a good or service to be purchased, the University may specify a list of qualified goods or services by reference to the qualified goods or services of a particular contractor or potential contractor.

(c) Advertising and media services.

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(d) Price-regulated goods and services, where the rate or price for the goods or services being purchased is established by a federal, state, or local regulatory authority.

(e) Goods or services under federal contracts. When the price of goods or services has been established by a contract with an agency of the federal government pursuant to a federal contract award, the University may purchase the goods or services in accordance with the federal contract. In addition, the University may purchase specific equipment that is expressly required under the terms of the contract and that is only available from one source.

(f) Copyrighted materials. Copyrighted materials covered by this exemption may include, but are not limited to, textbooks, workbooks, curriculum kits, reference materials, software, periodicals, library books, library materials, and audio, visual, and electronic media.

(g) Investment contracts.

(h) Food and food-related services and products.

(i) Maintenance services directly from the contractor providing the goods.

(j) Used Personal Property.

(k) Goods purchased for resale.

(l) Goods or services related to intercollegiate athletic programs.

(m) Cadaveric organs.

(n) Goods and services related to conferences and workshops.

(o) Dues, registrations, and membership fees.

(p) Gasoline, diesel fuel, heating oil, lubricants, natural gas, electricity, asphalt, and similar commodities and products, and the transportation thereof.

(q) Supplies, maintenance, and services for ocean-going vessels when they are in other than home port.

(r) Repair and overhaul of goods or equipment.

(s) Goods or services purchased in foreign countries.

(2) Other exemptions may be granted by the Vice President for Finance and Administration or designee. Documentation of the decision to grant an exemption and the reason therefor must be maintained.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0260, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0380

Purchasing Policies Governing the Acquisition of Goods and Services from Qualified Rehabilitation Facilities

The University shall purchase goods and services from Qualified Rehabilitation Facilities in accordance with the statutes and regulations governing purchase from such QRFs.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0382

Affirmative Action; General Policy

The following Affirmative Action General Policy shall apply to University purchasing and contracting.

(1) The general policy of the University shall be to expand economic opportunities for Minority Business Enterprises, Women Business Enterprises, and Emerging Small Businesses by offering the contracting and subcontracting opportunities available through the University. Notice of all contract and bid request solicitations using the formal procurement process shall be provided to the Advocate for Minority, Women and Emerging Small Business and the Oregon Department of Administrative Services for the Oregon Opportunity Register and Clearinghouse when any other solicitation is sent.

(2) The University shall not knowingly contract with or procure goods or services from any organization, business entity, or individual that discriminates on the basis of age, disability, national origin, race, color, marital status, religion, sex, status as a veteran, sexual orientation, or transgendered status.

(3) Responders shall certify that they will not discriminate and have not discriminated against minority, women, or emerging small business enterprises in obtaining any required subcontracts.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0390

Recordkeeping Requirements

(1) Documentation of all purchasing and contracting transactions will be made available for inspection by the OUS Internal Audit Division upon request.

(2) Authorized personnel shall maintain documentation, whether written or electronic, regarding all purchasing and contracting transactions in accordance with the requirements of the Secretary of State and OUS.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0400

Applicability

OAR 571-040-0410 through 571-040-0460 shall apply to all transactions covered under chapter 571, division 40.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0410

Responsibility; Responsibility Investigation

(1) A responsible Responder is a Person or Entity that has the ability in all respects to perform fully the contract, the integrity and reliability that will ensure good faith performance, and who has not been Disqualified by the State of Oregon, the State Board of Higher Education, OUS, or the University.

(2) The University may, prior to awarding any contract, make such investigation as is necessary to determine whether a Responder is responsible.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0350, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0420

Responsiveness; Acceptance and Rejection

(1) A responsive Response is one that complies in all material respects with a Solicitation Document and with all prescribed procedures and requirements. A nonresponsive Response is one that does not meet one or more material aspects of a Solicitation Document or that does not comply with one or more prescribed procedures or requirements. The University may waive one or more defects in a Response that provide no material advantage to the Responder or are otherwise immaterial.

(2) Except as set forth in the Solicitation Document or these rules, the University will accept and consider only those Responses that are responsive or Responses with one or more defects that have been waived. Otherwise, nonresponsive Responses will be rejected.

(3) Nothing in this rule limits the ability of the University to monitor contractor performance.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0352, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0430

Rejection of Individual Responses

(1) The University may reject any Response that fails to meet all prescribed procedures or requirements and may reject any Response upon a written finding that it is in the best interest of the University to do so.

(2) Reasons for rejecting a Response include, but are not limited to, finding that:

(a) The Responder has not been qualified as required in a Solicitation Document or these rules, or is disqualified under ORS 200.075, 279A.110, other similar statute, or these rules; or

(b) The Responder, or an entity in which the Responder has a financial interest, has been declared ineligible by the Commissioner of the Bureau of Labor and Industries for failure or refusal to pay or post prevailing wage rates; or

(c) The Response is not responsive; or

(d) The goods or services offered in the Response are unacceptable by reason of their material failure to meet the requirements of the Solicitation Document; or

(e) The Responder is not responsible, i.e., is not likely to be capable of satisfying the terms and conditions of the contract in a timely manner due to financial incapacity, inability to obtain bonding, loss of license, poor performance history, lack of necessary equipment, lack of personnel of sufficient experience, or other objective cause; or

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(f) The Responder within the last five years has been found in a civil, criminal, or administrative proceeding to have committed or engaged in fraud, misrepresentation, price-rigging, unlawful anti-competitive conduct, or similar behavior; or

(g) The Responder has been determined to be responsible (i.e., adjudicated by a court, or as determined in writing by the State of Oregon, the Board of Higher Education, OUS or the University in the case of a public contract) for more than one breach of a public or private contract or contracts in the last three calendar years before the scheduled date of the closing; or

(h) The bond, guaranty, or other required security has not been submitted or properly executed as required by the Solicitation Document; or

(i) The Responder has not met the emerging small business, disadvantaged business, minority business, and women business enterprise requirements, if any, established by the State of Oregon, the Board of Higher Education, OUS or the University, and has not made a good faith effort in accordance with applicable law to comply with the requirements prior to closing; or

(j) The Responder has failed to provide the certification required by OAR 571-040-0382; or

(k) Other circumstances of the particular Response or Responder indicate that acceptance of the Response would impair the integrity of the selection process or result in an imprudent contract.

(3) For purposes of this rule, the business registry of bidders or proposers shall be subject to scrutiny, i.e., confirmation of ownership or identification of officers and directors, in order to identify previously disqualified bidders or proposers, and thus prevent any subterfuge, change of apparent ownership, or other adjustments in formal appearance, to avoid application of this rule or of the disqualification provisions of relevant statutes or rules.

(4) All Responders whose Response is rejected shall be notified in writing by certified mail of the rejection and the reason therefor.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0360, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0440

Disqualification

(1) As used in this rule:

(a) "Disqualification" means the debarment, exclusion, or suspension of a Person or Entity from the right to submit a Response to a Solicitation Document for a reasonable, specified period of time named in the order of disqualification. A Person or Entity so debarred, excluded, or suspended is disqualified.

(b) Disqualification attaches to and follows the Person, so that a Person who, for example, is a partner in a partnership or an officer or principal in a corporation that is disqualified may not reform the business entity as a way of avoiding the disqualification.

(2) A Responder may be disqualified if the Responder is found to have materially breached a contractual obligation to the State of Oregon, the Board of Higher Education, OUS, the University, or a Person or Entity.

(3) A Responder may be disqualified for the reasons set forth in ORS 200.075 and similar statutes and rules.

(4) The University may make such investigation as is necessary to determine whether there are grounds for disqualification. Failure to supply such information promptly as requested by the University is itself grounds for a disqualification.

(5) Notice of contemplated disqualification will be provided in writing by personal service or certified mail. The disqualified Entity or Person shall then be provided with an opportunity to be heard before the Institution President or designee. A Final Agency Order shall thereafter be issued and shall contain the effective date of the disqualification and the effective period of disqualification; the grounds for disqualification; and a statement of the appeal rights and applicable appeal deadlines.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0370, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0450

Protests

(1) The following matters may be protested:

- (a) A determination of responsibility or lack thereof;
- (b) A determination of responsiveness or lack thereof;
- (c) The rejection of a Response;
- (d) The content of a Solicitation Document;

(e) The denial of qualification;

(f) The selection of one or more contractors. A protest may be submitted only by a Person or Entity that can demonstrate that it has been or is being adversely affected by a University decision or the content of a Solicitation Document.

(2) Except for 1(d) above, a protest must be submitted in writing to the Director of Business Affairs or designee no later than ten (10) calendar days after the mailing date of the decision. For 1(d) above, a protest must be submitted to the Director of Business Affairs or designee no later than ten (10) calendar days prior to closing. These time periods may be varied in a Solicitation Document or for sufficient cause as determined in the sole discretion of the Director of Business Affairs or designee.

(3) A protest must fully set forth all grounds for the protest and include all evidence that the protestor wishes the Director of Business Affairs or designee to consider. Failure to include any ground for the protest or any evidence in support of it shall constitute a final, knowing and voluntary waiver of the right to assert such ground or evidence. A protest must include in a conspicuous location a marking identifying the type and nature of the protest. The Solicitation Document number must also be included in a conspicuous location.

(4) A protest of a Solicitation Document may be made only if a term or condition of the Solicitation Document, including but not limited to specifications or contract terms, violates applicable law. The University will (upon altering the Solicitation Document in response to a protest) promptly transmit the revised Solicitation Document to all Responders and extend the closing where appropriate. The University may choose, in its sole discretion, to close the procurement process without making an award and begin a new procurement process.

(5) A protest of the denial of qualification must demonstrate that the University's decision was materially in error or that the University committed a material procedural error and that any such error, alone or in combination with other errors, was a "but for" cause of the denial.

(6) A protest of the selection of one or more contractors requires the Responder to demonstrate, as applicable:

(a) That all higher-ranked Responders were ineligible for selection or that the Responder would have been "next in line" to receive the award and was eligible for selection; and

(b) That the Responder selected was ineligible.

(7) A protest of the rejection of a Response must demonstrate that the University's decision was materially in error or that the University committed a material procedural error and that any such error, alone or in combination with other errors, was a "but for" cause of the rejection.

(8) The Director of Business Affairs or designee shall review protests under sections (4) through (7) above and shall have the authority to make the final determination. The Director of Business Affairs or designee shall also have the authority to settle or resolve a protest. In making a final determination or settling or resolving a protest, the Director or designee shall issue a written Final Agency Order. Contract award may be made prior to issuance of the Final Agency Order if authorized by the Director or designee. Judicial review of the disposition of a written protest submitted in accordance with this rule may be available pursuant to the provisions of ORS 183.480 et seq.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0271, 571-040-0361 571-040-0371, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

571-040-0460

Clarification of Solicitation Documents and Requests for Change

A prospective Responder may submit in writing to the Director of Business Affairs, designee, or other Person identified in a Solicitation Document a request for clarification or change of any Solicitation Document. A request for change must include the specific change sought by the prospective Responder. A request under this rule must be submitted within ten (10) calendar days after the Solicitation Document is issued. This time period may be varied in a Solicitation Document or for sufficient cause as determined in the sole discretion of the Director of Business Affairs or designee.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0263, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06

ADMINISTRATIVE RULES

Oregon University System, Western Oregon University Chapter 574

Rule Caption: Revisions to special course fees and general services fees and updates to access to student housing.

Adm. Order No.: WOU 2-2006

Filed with Sec. of State: 8-7-2006

Certified to be Effective: 8-7-06

Notice Publication Date: 7-1-06

Rules Amended: 574-050-0005, 574-090-0010, 574-090-0020, 574-090-0030, 574-090-0040

Subject: Amendments will allow for increases, additions, and revisions of special course fees and general services fees and updates to access to student housing.

Rules Coordinator: Debra L. Charlton—(503) 838-8175

574-050-0005

Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

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

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. 4-1-87, ef. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert. ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. 3-12-02, cert. ef. 3-15-02; WOU 2-2002, f. 8-2-02, cert. ef. 8-15-02; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 1-2004, f. & cert. ef. 3-24-04; WOU 2-2004, f. & cert. ef. 8-4-04; WOU 1-2005, f. & cert. ef. 3-8-05; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 3-2005, f. & cert. ef. 8-12-05; WOU 1-2006, f. & cert. ef. 3-2-06; WOU 2-2006, f. & cert. ef. 8-7-06

574-090-0010

Family Housing Definitions

(1) "Family Housing" refers to all apartments operated by Western Oregon University which are rented to students and faculty/staff in transition who qualify under these rules to rent such apartments, including all grounds and buildings used by said tenants and/or University Residences staff in the operation and administration of the Family Housing program.

(2) "Family" is a couple recognized as legally married under Oregon law, whether or not with dependent child/children, [or] an unmarried person with legal custody of dependent child/children, or a student/faculty/staff member and his/her domestic partner; the components of the family unit must reside together.

(3) "Dependent" is anyone meeting the dependent definitions as outlined in the Internal Revenue Code.

(4) "Domestic Partnership" is defined as a legal or personal relationship between individuals who live together and share a common domestic life but are not joined in a traditional marriage, a common-law marriage, or a civil union.

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 351.070

Hist.: WOSC 1-1994, f. & cert. ef. 8-12-94; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2006, f. & cert. ef. 8-7-06

574-090-0020

Family Housing Access Qualifications

(1) A student is eligible to apply for and maintain residence in family housing if the student:

(a) Is admitted to Western Oregon University with full time status and in good standing;

(b) Is a member of a "family" as defined in OAR 574-090-0010 and who agrees to supply to the University custody papers, birth certificates, marriage license, letters of admission, proof of domestic partnership, and other relevant documents as required;

(c) Has executed the housing contract.

(2) A faculty/staff member is eligible to apply for residence in family housing if the faculty/staff member is in the first year of a transition to WOU as an employee. Family housing for faculty/staff members is limited to a one-year contract.

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 351.070

Hist.: WOSC 1-1994, f. & cert. ef. 8-12-94; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2006, f. & cert. ef. 8-7-06

574-090-0030

Family Housing Space Assignment

Family housing space is assigned:

(1) On a first-come first-served basis to any student, faculty or staff member meeting the Family Housing Access Qualifications outlined in OAR 574-090-0020;

(2) As vacancies become available.

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 351.070

Hist.: WOSC 1-1994, f. & cert. ef. 8-12-94; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2006, f. & cert. ef. 8-7-06

574-090-0040

Family Housing Access Termination

(1) For student occupants, termination of family housing access will be in accordance with the housing contract.

(2) For faculty/staff occupants, termination of family housing access will be one year from the date of check-in. Exceptions to this guideline must be filed by petition with the Office of University Residences.

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 351.070

Hist.: WOSC 1-1994, f. & cert. ef. 8-12-94; WOU 2-2006, f. & cert. ef. 8-7-06

Oregon Watershed Enhancement Board Chapter 695

Rule Caption: Establishment of OWEB grant application criteria for projects that enhance habitat and employ displaced fishers.

Adm. Order No.: OWEB 1-2006(Temp)

Filed with Sec. of State: 7-24-2006

Certified to be Effective: 7-25-06 thru 1-21-07

Notice Publication Date:

Rules Adopted: 695-005-0100

Subject: The new rule in OAR 695-005-0100 creates award preferences for restoration, inventory and data collection, and project development grants that support priority fish habitat enhancement and that are able to create work opportunities for fishers displaced by the 2006 reduction in fish stocks. These rules are in response to the Governor's Executive Order (No. 06-06) declaring a salmon season state of emergency.

Rules Coordinator: Bonnie Ashford—(503) 986-0181

695-005-0100

2006 Salmon Season State of Emergency Grants

(1) In response to the Governor's Executive Order (No. 06-06) declaring a salmon season state of emergency, the Board may provide grant funding to support fish habitat enhancement and related projects along critical salmon streams in Oregon, for the purpose of accelerating the rebuilding of fish populations and creating work opportunities for displaced workers.

(2) For grant applicants to receive funding, the following award preferences are applicable, in addition to the evaluation criteria set forth in any other applicable rule. Projects must employ displaced fishers in all project labor opportunities to the greatest extent possible over a period of several months, and also must:

(a) Provide benefit to high priority fish habitat along the Oregon coast and the Oregon portion of the Klamath River Basin;

(b) Directly address limiting factors for the recovery of coho in watersheds that drain directly to the ocean, including the Umpqua and Rogue basins;

(c) Directly address the recovery of Klamath River salmon stocks in the Klamath River Basin;

(d) Be identified in an existing watershed-scale assessment and action plan; or,

(e) Address a restoration need identified in the 2003-2005 Oregon Plan Biennial Report, Volume 2 published by the Oregon Watershed Enhancement Board in 2005.

ADMINISTRATIVE RULES

(3) In addition to the preference criteria described in section 2, the following award preferences are applicable to specific types of grant applications:

(a) For Inventory and Data Collection grants, preference will be given to projects that focus on surveys and inventories that document conditions affecting aquatic resources or ground-truth mapping of high priority salmon habitat.

(b) For Restoration grants, preference will be given to projects that focus on restoration in high priority salmon habitat, or have received from OWEB a relevant technical assistance award in an earlier grant cycle.

(c) For Project Development grants, preference will be given to projects that have a high likelihood of being implemented within one year following completion of the project development grant, focus on high priority salmon habitat, or address a specific limiting factor identified in the 2003-2005 Oregon Plan Biennial Report, Volume 2 published by the Oregon Watershed Enhancement Board in 2005.

(4) The preferences identified in section 2 of this rule may also be applied to other OWEB grants, including Restoration Projects described in division 10, Education and Outreach Grants described in division 15, Monitoring Grants described in division 25, and Assessment and Action Plan Grants described in division 30, in addition to the evaluation criteria set forth in rules contained in those divisions.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 541.396
Stats. Implemented: ORS 541.351-541.401
Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 1-2006(Temp), f. 7-24-06, cert. ef. 7-25-06 thru 1-21-07

**Secretary of State,
Archives Division
Chapter 166**

Rule Caption: Amend rules to remove duplicative language.

Adm. Order No.: OSA 2-2006

Filed with Sec. of State: 7-26-2006

Certified to be Effective: 7-26-06

Notice Publication Date: 3-1-06

Rules Amended: 166-400-0040, 166-400-0060

Subject: Amend rules to remove duplicative language.

Rules Coordinator: Julie Yamaka—(503) 378-5199

166-400-0040

School Administration Records

Note: Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only if the retention period is 99 years or less.

(1) **District Boundary Records** Records document the formation, consolidation, and reorganization of school districts and their boundaries. Records may include but are not limited to boundary board meeting minutes; boundary board hearing records; board decisions; maps and plats; land records; boundary descriptions; and related documentation. Minimum retention: Permanent.

(2) **District Clerk's Records** Records document the administration of the school district and the reporting of this general and financial information to the county school superintendent. The district clerk's record books may contain but are not limited to reports of annual school meetings, special school meetings, and district board meetings; financial reports, receipts, and accounts; teacher contracts; annual census of school-aged children; payroll information; summary of subjects taught; records of school boundaries; and related documentation. The school register and record books may contain but are not limited to records of visitors; records of students registration, attendance, and deportment; general school statistics; teacher salary records; program and class records; evaluations of student progress; data on parents and guardians; and related documentation. These records are no longer being created. Minimum retention: Permanent.

(3) **Interscholastic Athletic Activity Program Records** Records document student eligibility and participation in interscholastic competitive sports and athletic activities, athletic event and team publicity, and athletic events scheduling. Records may include but are not limited to team standings; win/loss records; All-Star selections; team member information; statistics; event and practice schedules; and related documentation and correspondence. Minimum retention: 5 years after school year in which records were created.

(4) **Key and Keycard Records** Records document the issuance of keys and keycards to staff to enable access to buildings and sites. Records may include but are not limited to key inventories, key issue forms, key replacement records, and key disposal records. Minimum retention: (a)

Retain access and entry logs 3 years (b) Retain other records 2 years after key is turned in

(5) **Mailing Lists Records** document the compilation of names and addresses of persons and organizations by a school, district, or ESD for mailing purposes. Lists are used to facilitate billing, outreach activities, and other functions of the school, district, or ESD. Minimum retention: Until superseded or obsolete.

(6) **Parking Records** Records document parking provided for the public or school, district, or ESD staff or students. Records include parking permits and applications, special permits, permit receipts, parking citations, appeal petitions, and related correspondence and documentation. Minimum retention: (a) Retain citation records: 3 years after resolved (b) Retain all other records: 3 years.

(7) **Postal Records Records** document transactions with the U.S. Postal Service and private carriers. Records may include but are not limited to postage meter records, receipts for express deliveries, registered and certified mail; insured mail, special delivery receipts and forms, loss reports, and related correspondence. Minimum retention: 3 years after school year in which records were created.

(8) **Press Releases Records** document school, district, or ESD information that is officially released to the media for dissemination to the public. Records may include press or news releases, public service announcements, and related documentation. Minimum retention: (a) Policy and Historic press/news releases: Permanent (b) Routine news/press releases: 2 years

(9) **Publications Records** document publications produced by a school, district, or ESD for educational or informational purposes, or to communicate information about programs, policies, services, and events. Records include publications produced by individual school staff, offices, and students. Types of publications may include but are not limited to catalogs, books, magazines, newsletters, rosters, directories, brochures, pamphlets, media guides, guidebooks, proceedings, programs, schedules, yearbooks, manuals, newspapers, calendars, and flyers. Records may include but are not limited to working papers, mock-ups, drafts, photographs, final publications, and publications on the school, district, or ESD's Internet home page. SEE ALSO Press Releases in this section. Minimum retention: (a) Retain significant publications, official copy: Permanent (b) Retain preparation records: Until published (c) Retain all other publications and records: 2 years

(10) **Scheduling Records** Records document the scheduling and reservations related to in-house participation in and use of various school, district, or ESD activities, events, classes, facilities, and meeting rooms. Records may include but are not limited to schedules, logs, lists, classroom assignments, requests, and related correspondence and documentation. Minimum retention: 2 years after school year in which records were created

(11) **Security Records** Records document security provided for school, district, or ESD building and grounds. Security may be provided by an on-site public safety office and public safety officers. Records may include but are not limited to security logs, sign-in sheets, visitor logs, security activity reports, incident reports, statistical information, and related correspondence and documentation. SEE ALSO Key Issuance Records in this section. Minimum retention: 3 years after school year in which records were created

(12) **Student Handbooks** Records document school rules and regulations and student rights and responsibilities. Information may include but is not limited to general school information, academic requirements, dress codes, rules of student conduct, freedoms, and student grievance procedures. Minimum retention: (a) Retain official copy: Permanent (b) Retain all other copies: Until superseded or obsolete.

(13) **Telecommunications Logs** Records document the tracking and status of telephone, voice mail, and facsimile (FAX) communications called or received. Information may include time and date of call, name of caller, phone number called or received, nature of call, and actions taken and results of the call. Minimum retention: 1 year

(14) **Visitor Logs** Records document visitors to agency buildings. Records name include visitors' names, visitor badges issued, and entrance and exit times. Minimum retention: 1 year

Stat. Auth.: ORS 192 & 357. Other Auth. Code of Federal Regulations Title 34
Stats. Implemented: ORS 192 & 357

Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-405-0010, OSA 1-2006, f. & cert. ef. 4-17-06; OSA 2-2006, f. & cert. ef. 7-26-06

166-400-0060

Student Education Records

Note: Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only if the retention period is 99 years or less.

ADMINISTRATIVE RULES

(1) **Alternative School Referral Records** Records document referrals sent to alternative schools seeking placement of students whose public school attendance and/or disciplinary record has been unsatisfactory. Referral form indicates acceptance or non-acceptance of student in private alternative program; funding source; signatures of referring school principal and alternative program director; student name, age, date of birth, student number; and parent's name and address. Minimum retention: 3 years after school year in which records were created.

(2) **Student Athletic Activity Records** Records document student eligibility and participation in interscholastic competitive sports and athletic activities, athletic event and team publicity, and athletic events scheduling. Records may include but are not limited to parental consent forms; Oregon School Activities Association eligibility forms and reports; and related documentation and correspondence. Minimum retention: 5 years after school year in which records were created.

(3) **Attendance Records** Records document the attendance of students in school. Records may include but are not limited to teacher or school attendance register; classroom daily attendance sheet; weekly attendance and truancy records; excused and unexcused absence records; tardiness records; notes from parents/guardians; and related documentation. The attendance recorded on the Oregon Student Record is a summary of this information. SEE ALSO Oregon Student Record in this section. Minimum retention: 3 years after school year in which records were created.

(4) **Behavioral Records, Major (Class/Group A)** Records document major student behavioral infractions which result in the identification of students for suspensions or expulsions. Records may include but are not limited to psychological tests; personality tests; group or individual intelligence tests; individual education programs; physician statements; state or local government agency reports; and related correspondence and documentation. Minimum retention: Until student turns 21.

(5) **Behavioral Records, Minor (Class/Group B)** Records document minor student behavioral infractions which do not result in the identification of a student for suspension, expulsion, or special education services. Records may include but are not limited to minor behavioral referrals; records of conversations; parent notes regarding student behavior; written behavioral agreements; detention records; bus citations; functional behavior assessments; and related correspondence and documentation. Minimum retention: Until end of school year.

(6) **Child Abuse Reports Records** document suspected child abuse reported by school staff or faculty. Records may include but are not limited to notes and observations of the child, record of contact with the State Office for Services to Children and Families or law enforcement agency, and related documentation. Minimum retention: 3 years after school year in which records were created.

(7) **Child Care Facility Residency Records** Records document students who live or have lived in childcare facilities, which are licensed to provide care for five or more children. Records may include but are not limited to reports filed semi-annually with the Oregon Department of Education. Minimum retention: 3 years after school year in which records were created.

(8) **Certificate of Advanced Mastery (CAM) Records** Records document student progress to fulfilling the State requirements for awarding of a CAM certification. Records may include but are not limited to planning records, test results, work samples, and the CAM award. Minimum retention: Until student reaches age 21 or graduates, whichever is longer

(9) **Certificate of Initial Mastery (CIM) Records** Records document student progress to fulfilling the State requirements for awarding of a CIM certification. Records may include but are not limited to planning records, test results, and the CIM award. Minimum retention: Until student reaches age 21 or graduates, whichever is longer

(10) **Compensatory Education Programs Student Records** Records document the placement and participation of students in compensatory educational programs, which provide a variety of supplemental education services to children. Programs may or may not be all or partially funded from federal sources. Compensatory programs may include but are not limited to Children Living in Poverty, Migratory Children, Neglected and Delinquent Children, Bilingual Education, Native Children, Parent Involvement, and Civil Rights. Records may include but are not limited to background information, grade placement, instructional and cumulative service, student profile forms, placement evaluation forms, withdrawal records and related correspondence and documentation. Minimum retention: (a) Retain records that show compliance with all federal program requirements: 5 years after school year in which records were created (b) Retain all other records: 3 years after school year in which records were created

(11) **Compulsory Attendance Excuse Records** Records document the formal excuse of a student under sixteen years of age from compulsory school attendance. Records may include but are not limited to names and addresses of student and parent or guardian; reason for request; academic information; recommendations and approval of school district; and related correspondence and documentation. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(12) **Educational Programs Student Records** Records document the placement and participation of students in educational programs which provide a variety of education services to children. Programs may or may not be all or partially funded from federal sources. Educational programs may include but are not limited to Talented and Gifted, Alternative Learning, Early Childhood, Professional Technical Education, School-to-Work, Cooperative Work Experience, and Distance Learning. Records may include but are not limited to background information, grade placement, instructional and cumulative service, student profile forms, placement evaluation forms, and related correspondence and documentation. Minimum retention: (a) Records that show compliance with all federal program requirements: 5 years after school year in which records were created (b) Other records: 3 years after school year in which records were created.

(13) **Grade Records** Records document student progress and grades awarded by teachers, and serve as the basis for the student's official academic record. Records may include test, assignment, paper, and homework scores; and final grades for students. Records may include but are not limited to teacher grade books; grade confirmation reports; grade change records; final grade rosters; and related documentation. SEE ALSO Report Cards in this section. Minimum retention: 6 years after school year in which records were created.

(14) **Grade Reports, Administrative Records** document grades received by students in a variety of reports organized by school, class, special program, or other grouping which are used by staff and faculty. Records may include but are not limited to administrative reports, counselors' reports, teachers' reports, grade point average reports, failure reports, honor roll reports, supplemental grade reports, class lists, and other manual or computer produced reports. Minimum retention: 3 years after school year in which records were created

(15) **Grievance Records** Records document grievances or complaints brought forward by students against the school, district, or ESD concerning student conduct and violations of student rights and responsibilities. Records may include but are not limited to notices of grievance; written description of the complaint; informal discussion notes; formal hearing notes (including audio tapes); summary of interviews with witnesses; final summary statements; resolution of grievance; appeals documentation; and related documentation and correspondence. Minimum retention: 3 years after resolution.

(16) **Education Counseling Records** Records document the advice, assistance, evaluation, and educational planning provided for individual students by school guidance counselors. Records may include but are not limited to school performance and attitude; educational planning records; post-high school plans and career goals; college and scholarship applications records; letters of recommendation; list of honors and activities; information necessary for referral to social service agencies; correspondence; and related documentation. Minimum retention: 3 years after school year in which records were created.

(17) **High School Dual Program Student Records** Records document student participation in programs between community colleges and high schools which offer professional, technical, and other college courses to high school students for college credit. Records may include but are not limited to program approval records; application forms; course descriptions; examinations; competency evaluations and profiles; transmittal forms; registration forms; and related documentation and correspondence. Minimum retention: 3 years after school year in which records were created.

(18) **Home Schooling Records** Records document the basic educational career of a student being educated in a home school program. Records may include but are not limited to notification form or letter of intent to educate student at home; testing information; test results; census reports to the Oregon Department of Education; non-compliance notices; and related correspondence and documentation. SEE ALSO Student Permanent Record in this section. Minimum retention: 3 years after school year in which records were created

(19) **Inter-District Transfer Agreement Records** Records document the application process for allowing a non-resident student to attend school out of district through an inter-district transfer agreement. Records may include but are not limited to procedures, administrative guidelines, inter-district transfer agreements, certificates of residency, and related

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correspondence and documentation. Minimum retention: 6 years after expiration.

(20) **Intervention Programs Student Records** Records document the assessment of students considered for referral to district-approved supplemental intervention programs and to determine appropriate follow-up actions. Programs may or may not be all or partially funded from federal sources. Programs may include but are not limited to Teen Parent, Alcohol and Drug Prevention, and Violence Prevention and Intervention. Records may include but are not limited to referrals, reports by assessment providers, consent forms, treatment and other reports, program class and support group attendance records, behavioral/discipline records, and related documentation and correspondence. Minimum retention: (a) Retain records that show compliance with all federal program requirements: 5 years after school year in which records were created (b) Retain all other records: 3 years after school year in which records were created

(21) **Non-Resident Student Records** Records document attendance of non-resident students attending district-financed programs; non-resident dependent children; and other non-resident students for whom the district does not pay tuition. Records are used to report attendance to the Oregon Department of Education and to document reimbursement claims from the Oregon Basic School Support Fund. Records may include but are not limited to attendance reports; basic school support fund reports; and related documentation. Minimum retention: 3 years after school year in which records were created

(22) **Parent-Teacher Conference Records** Records document a teacher's report to parents or guardians of student's progress prior to end of grading period and may indicate problem areas or areas in which student is excelling. Minimum retention: 3 years after school year in which records were created

(23) **Parental/Custodial Delegation Records** Records document who has parental or custodial responsibility for a student. Records may include but are not limited to specification of rights or abridgment of rights for non-custodial parents; restraining orders and other court documents; informal documents signed by natural parent(s); and related correspondence and documentation. Minimum retention: Until student reaches age 21 or graduates, whichever is longer

(24) **Personal/Locker Search Records** Records document searches of a student or student's locker. Records include student name, what was searched, when, what was found, and what report was made. Minimum retention: 3 years after school year in which records were created

(25) **Psychological Guidance and Counseling Records** Records document student psychological health care responsibilities and activities performed by school or district health professionals or non-health staff. Records that are made or maintained separately and solely by a licensed health care professional who is not employed by the educational agency or institution, and are not used for education purposes of planning, are excluded from educational record provisions. See Oregon Department of Education student health record policies for further clarification. Minimum retention: Until student turns 21 or 5 years after last action

(26) **Registration Records** Records document registration or enrollment of students in elementary, middle, and high school. Records may include but are not limited to enrollment applications registration forms completed annually by the parent or guardian for each student at the time of admittance to school. Information contained in the records generally include student name, address, date and place of birth; parent or guardian name and address; student demographic information such as race and language spoken at home; authorization for school to act in behalf of parent or guardian in case of emergency; class scheduling data; student assignments, such as lockers, counselors, and buses; and related correspondence and documentation. Registration information may be used to create student transcripts, attendance records, and to verify or determine residency status. Minimum retention: (a) Retain completed registrations 3 years after school year in which records were created (b) Retain incomplete/withdrawn registration records 3 years after school year in which records were created

(27) **Report Cards Records** document the periodic report by a school about a student's social, emotional, and physical progress. Information includes but is not limited to full legal name of student; teacher's name; name and address of school; indication of attendance during reporting period; grades; and other related information. This information must be recorded on the Oregon Student Record by the beginning of the next school year. SEE ALSO Grade Records and Student Permanent Record in this section. Minimum retention: (a) If information has been recorded on Student Permanent Record: 6 years after school year in which records were created (b) If information has not been recorded on Student Permanent Record: Permanent.

(28) **Special Education Student Records** Records document students participating in special education programs and early intervention special education services. Records may include speech/hearing, academic, motor, occupational and/or physical therapy, vision/hearing, interdisciplinary team, and classroom observation reports; records relating to student behavior including psychological and social work reports; assessments obtained through other agencies; contact sheets; severity rating scales; test result records; physician's statements; parental consent records; educational program meeting records; request for hearing records; eligibility statements; individualized education plans (IEP); individualized family service plans (IFSP); and related correspondence and documentation. Minimum retention: (a) Records documenting speech pathology and physical therapy services: Until student reaches age 21 or 5 years after last seen, whichever is longer (b) ESD copies, if program at district level: Transfer records to home district after end of student participation (c) Readable photocopies of records necessary to document compliance with State and Federal audits retained by the former educational agency or institution when a student transfers out of district: 5 years after end of school year in which original record was created

(29) **Student Health Records** Records document student health care responsibilities and activities performed by school or district health professionals or non-health staff. These records are maintained by the school nurse or another individual designated by the district to maintain confidential health information. Records may include but are not limited to medication administration records; records of nursing assessment and nursing care given in the school setting; School Health Management Plans prepared by the nurse for students with special health needs, medical records from outside health care providers and health care agencies; and psychological diagnostic test reports. Health information provided to Special Education for determining eligibility and IEP activity is maintained in the Special Education record and forwarded upon transfer of the student record. School nurse records are medical records subject to issues of confidentiality and exemption from disclosure per ORS 192.496. Health record information is protected and should be treated as other student records. Records that are made or maintained separately and solely by a licensed health care professional who is not employed by the educational agency or institution, and are not used for education purposes of planning, are excluded from educational record provisions. See Oregon Department of Education student health record policies for further clarification. SEE ALSO Student Health Screening Records and Student Immunization Records in this section. Minimum retention: Until student reaches age 21 or graduates, whichever is longer

(30) **Student Health Screening Records** Records document the health screening status of students and mandated certifications of health. Required health screening records include vision and hearing screening results; Certificate of Immunization Status; and Tuberculosis (TB) Clearance Certificate (if required by law according to the student's birth country). Records may also include but are not limited to communications related to health and safety and directed to the school from the parent/guardian or health care provider regarding the student's attendance, participation, or activities; communications which are directed to the school by health care providers; and documentation of first aid given, and instructions sent to parents/guardians regarding these screening and first aid events. These records are part of the Student Education Record and are transferred if the student transfers to a new district. See Oregon Department of Education student health record policies for further clarification. SEE ALSO Student Health Records and Student Immunization Records in this section. Minimum retention: Until student reaches age 21 or graduates, whichever is longer.

(31) **Student Immunization Records** Records document the immunization status of an individual student. Records include but are not limited to the Certificate of Immunization Status (CIS), which includes student identification information, vaccine history, and medical and religious exemptions, and records tracking susceptible for those students not yet completely immunized. Records must be retained as part of the Student Health Screening Record and are transferred if the student transfers to a new district. SEE ALSO Student Health Screening Records and Student Health Records in this section, and Immunization Records, Administrative in the Administrative Records section. Minimum retention: (a) Retain certificate of Immunization Status (CIS): Until student reaches age 21 or graduates, whichever is longer (b) Retain immunization Status Records - Susceptible (Tracking Cards): Until student attendance ends

(32) **Oregon Student Record** Records document a core set of information about an individual student (including a home-schooled student) and his/her educational career, birth through age 21. Records include name

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and address of the educational agency or institution; full legal name of the student; student's birth date and place of birth; name of parents/guardians; date of entry into the school; name of school previously attended; subjects taken; marks received; credits earned; attendance; date of withdrawal from school; social security number (as provided on a voluntary basis by parent or eligible student); and such additional information as the educational agency or institution may prescribe. Minimum retention: (a) Retain original: 75 years (b) Retain readable photocopy retained by the former educational agency or institution when a student transfers out of district: 1 year.

(33) **Transfer Application Records** Records document the authorization for transfer of students between schools within the district. Records may include but are not limited to applications for transfer which generally contain name and grade of student; reasons for transfer request; name of present school; name of school to which transfer is requested; authorizing signatures; and related correspondence and documentation. Minimum retention: 3 years after school year in which records were created

(34) **Truancy Records** Records document non-attendance or truancy of students in elementary, middle, or high schools. Records may include but are not limited to notices of non-attendance or truancy; staff reports; investigations; hearing records; suspension notifications; and related correspondence and documentation. Minimum retention: 3 years after school year in which records were created

(35) **Tutoring Records** Records document tutoring services provided to students. Records may include but are not limited to registration records, tutor training records, tutor personnel records, tutor class records, tutorial hours, and related documentation. Minimum retention: 3 years after school year in which records were created

(36) **Withdrawal Records** Records document withdrawal from school by students between the ages of sixteen and eighteen by the mutual consent of parent or guardian and the school administration. Records may include but are not limited to withdrawal agreements which generally contain name and address of student and family; reason for request; student agreement not to loiter on school premises; agreement by staff to assist student with educational planning; and related correspondence and documentation. Records may also include withdrawal slips which assess student status at time of withdrawal and may include assessment of fees paid or refunded; status of textbooks, library materials, locks, and other materials used by the student; grades; attendance; and related documentation. Minimum retention: 3 years after school year in which records were created

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34

Stats. Implemented: ORS 192 & 357

Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-414-0010, OSA 1-2006, f. & cert. ef. 4-17-06; OSA 2-2006, f. & cert. ef. 7-26-06

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137-008-0010(T)	1-1-06	Repeal	2-1-06	137-048-0260	1-1-06	Amend	2-1-06
137-010-0030	12-31-05	Amend	1-1-06	137-048-0300	1-1-06	Amend	2-1-06
137-015-0005	5-5-06	Adopt	6-1-06	137-048-0310	1-1-06	Amend	2-1-06
137-015-0010	5-5-06	Adopt	6-1-06	137-048-0320	1-1-06	Amend	2-1-06
137-025-0300	1-4-06	Amend	2-1-06	137-049-0100	1-1-06	Amend	2-1-06
137-045-0010	1-1-06	Amend	2-1-06	137-049-0120	1-1-06	Amend	2-1-06
137-045-0035	1-1-06	Amend	2-1-06	137-049-0130	1-1-06	Amend	2-1-06
137-045-0050	1-1-06	Amend	2-1-06	137-049-0140	1-1-06	Amend	2-1-06
137-045-0070	1-1-06	Amend	2-1-06	137-049-0150	1-1-06	Amend	2-1-06
137-045-0080	1-1-06	Amend	2-1-06	137-049-0160	1-1-06	Amend	2-1-06
137-046-0100	1-1-06	Amend	2-1-06	137-049-0200	1-1-06	Amend	2-1-06
137-046-0110	1-1-06	Amend	2-1-06	137-049-0210	1-1-06	Amend	2-1-06
137-046-0130	1-1-06	Amend	2-1-06	137-049-0220	1-1-06	Amend	2-1-06
137-046-0200	1-1-06	Amend	2-1-06	137-049-0260	1-1-06	Amend	2-1-06
137-046-0210	1-1-06	Amend	2-1-06	137-049-0280	1-1-06	Amend	2-1-06
137-046-0300	1-1-06	Amend	2-1-06	137-049-0290	1-1-06	Amend	2-1-06
137-046-0310	1-1-06	Amend	2-1-06	137-049-0300	1-1-06	Amend	2-1-06
137-046-0320	1-1-06	Amend	2-1-06	137-049-0310	1-1-06	Amend	2-1-06
137-046-0400	1-1-06	Amend	2-1-06	137-049-0320	1-1-06	Amend	2-1-06
137-046-0410	1-1-06	Amend	2-1-06	137-049-0330	1-1-06	Amend	2-1-06
137-046-0440	1-1-06	Amend	2-1-06	137-049-0360	1-1-06	Amend	2-1-06
137-046-0460	1-1-06	Amend	2-1-06	137-049-0370	1-1-06	Amend	2-1-06
137-046-0470	1-1-06	Amend	2-1-06	137-049-0380	1-1-06	Amend	2-1-06
137-046-0480	1-1-06	Amend	2-1-06	137-049-0390	1-1-06	Amend	2-1-06
137-047-0000	1-1-06	Amend	2-1-06	137-049-0395	1-1-06	Adopt	2-1-06
137-047-0100	1-1-06	Amend	2-1-06	137-049-0400	1-1-06	Amend	2-1-06
137-047-0250	1-1-06	Amend	2-1-06	137-049-0420	1-1-06	Amend	2-1-06
137-047-0257	1-1-06	Amend	2-1-06	137-049-0430	1-1-06	Amend	2-1-06
137-047-0260	1-1-06	Amend	2-1-06	137-049-0440	1-1-06	Amend	2-1-06
137-047-0262	1-1-06	Amend	2-1-06	137-049-0450	1-1-06	Amend	2-1-06
137-047-0263	1-1-06	Amend	2-1-06	137-049-0460	1-1-06	Amend	2-1-06
137-047-0265	1-1-06	Amend	2-1-06	137-049-0610	1-1-06	Amend	2-1-06
137-047-0270	1-1-06	Amend	2-1-06	137-049-0620	1-1-06	Amend	2-1-06
137-047-0275	1-1-06	Amend	2-1-06	137-049-0630	1-1-06	Amend	2-1-06
137-047-0280	1-1-06	Amend	2-1-06	137-049-0640	1-1-06	Amend	2-1-06
137-047-0285	1-1-06	Amend	2-1-06	137-049-0645	1-1-06	Adopt	2-1-06
137-047-0300	1-1-06	Amend	2-1-06	137-049-0650	1-1-06	Amend	2-1-06
137-047-0330	1-1-06	Amend	2-1-06	137-049-0660	1-1-06	Amend	2-1-06
137-047-0400	1-1-06	Amend	2-1-06	137-049-0670	1-1-06	Amend	2-1-06
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137-047-0740	1-1-06	Amend	2-1-06	137-049-0820	1-1-06	Amend	2-1-06
137-047-0745	1-1-06	Amend	2-1-06	137-049-0860	1-1-06	Amend	2-1-06
137-047-0800	1-1-06	Amend	2-1-06	137-049-0870	1-1-06	Amend	2-1-06
137-047-0810	1-1-06	Adopt	2-1-06	137-049-0900	1-1-06	Amend	2-1-06
137-048-0100	1-1-06	Amend	2-1-06	137-049-0910	1-1-06	Amend	2-1-06
137-048-0110	1-1-06	Amend	2-1-06	137-055-1020	1-3-06	Amend	2-1-06
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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
137-055-1140(T)	1-3-06	Repeal	2-1-06	137-055-5020(T)	1-3-06	Repeal	2-1-06
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
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137-055-2045	1-3-06	Adopt	2-1-06	137-055-5125	1-3-06	Repeal	2-1-06
137-055-2060	1-3-06	Amend	2-1-06	137-055-5220	7-3-06	Amend	8-1-06
137-055-2140	1-3-06	Amend	2-1-06	137-055-5240	1-3-06	Amend	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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137-055-3020	7-3-06	Amend	8-1-06	137-055-5420	1-3-06	Amend	2-1-06
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137-055-3100	7-3-06	Amend	8-1-06	137-055-5520	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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137-055-3420	1-3-06	Amend	2-1-06	137-055-6200(T)	1-3-06	Repeal	2-1-06
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137-055-3440	1-3-06	Amend	2-1-06	137-055-6280	1-3-06	Amend	2-1-06
137-055-3440(T)	1-3-06	Repeal	2-1-06	137-087-0000	1-1-06	Adopt	1-1-06
137-055-3480	1-3-06	Amend	2-1-06	137-087-0005	1-1-06	Adopt	1-1-06
137-055-3490	1-3-06	Amend	2-1-06	137-087-0010	1-1-06	Adopt	1-1-06
137-055-3490(T)	1-3-06	Repeal	2-1-06	137-087-0015	1-1-06	Adopt	1-1-06
137-055-3500(T)	1-3-06	Repeal	2-1-06	137-087-0020	1-1-06	Adopt	1-1-06
137-055-3640	1-3-06	Amend	2-1-06	137-087-0025	1-1-06	Adopt	1-1-06
137-055-3660	1-3-06	Amend	2-1-06	137-087-0030	1-1-06	Adopt	1-1-06
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137-055-4320	1-3-06	Amend	2-1-06	137-087-0080	1-1-06	Adopt	1-1-06
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141-085-0066	3-27-06	Amend	5-1-06	141-095-0015	7-13-06	Adopt	8-1-06
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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
141-089-0170	1-3-06	Amend	2-1-06	150-305.145(3)-(H)	1-1-06	Repeal	2-1-06
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141-089-0180	1-3-06	Amend	2-1-06	150-305.145(4)(b)	1-1-06	Adopt	2-1-06
141-089-0185	1-3-06	Amend	2-1-06	150-305.145(4)(c)	1-1-06	Am. & Ren.	2-1-06
141-089-0190	1-3-06	Amend	2-1-06	150-305.220(1)	1-1-06	Amend	2-1-06
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141-089-0225	1-3-06	Amend	2-1-06	150-305.230(1)	1-1-06	Repeal	2-1-06
141-089-0230	1-3-06	Amend	2-1-06	150-305.230(2)	1-1-06	Repeal	2-1-06
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141-089-0255	1-3-06	Amend	2-1-06	150-306.135	1-1-06	Adopt	2-1-06
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150-314.415(1)(b)-(A)	1-1-06	Renumber	2-1-06	160-100-1110	6-19-06	Adopt	8-1-06
150-314.415(1)(b)-(B)	1-1-06	Renumber	2-1-06	160-100-1120	6-19-06	Adopt	8-1-06
150-314.415(1)(e)-(A)	1-1-06	Renumber	2-1-06	160-100-1130	6-19-06	Adopt	8-1-06
150-314.415(1)(e)-(B)	1-1-06	Renumber	2-1-06	160-100-1140	6-19-06	Adopt	8-1-06
150-314.415(4)(a)	1-1-06	Renumber	2-1-06	160-100-1150	6-19-06	Adopt	8-1-06
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150-314.415(7)	1-1-06	Renumber	2-1-06	161-002-0000	7-26-06	Amend	9-1-06
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150-314.650	1-1-06	Amend	2-1-06	161-015-0090	7-26-06	Amend	9-1-06
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150-314.752	1-1-06	Amend	2-1-06	161-020-0110	7-26-06	Amend	9-1-06
150-315.204-(A)	1-1-06	Amend	2-1-06	161-020-0150	7-26-06	Amend	9-1-06
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150-316.099	1-1-06	Amend	2-1-06	161-050-0030	7-26-06	Amend	9-1-06
150-316.127-(A)	1-20-06	Amend	3-1-06	165-001-0000	12-14-05	Amend	1-1-06
150-316.127-(D)	1-20-06	Amend	3-1-06	165-001-0000	4-18-06	Amend	6-1-06
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150-321.839	7-31-06	Adopt	9-1-06	165-012-1010	12-30-05	Suspend	2-1-06
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166-400-0040	7-26-06	Amend	9-1-06	177-036-0120	12-31-05	Adopt	2-1-06
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166-400-0050	4-17-06	Am. & Ren.	6-1-06	177-036-0130	12-31-05	Adopt	2-1-06
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220-040-0035	12-30-05	Amend(T)	2-1-06	257-050-0125	11-18-05	Adopt	1-1-06
220-040-0035	5-15-06	Repeal	6-1-06	257-050-0125	3-31-06	Amend	5-1-06
220-040-0045	12-30-05	Amend(T)	2-1-06	257-050-0140	11-18-05	Amend	1-1-06
220-040-0045	5-15-06	Repeal	6-1-06	257-050-0140	3-31-06	Amend	5-1-06
220-040-0050	12-30-05	Amend(T)	2-1-06	257-050-0145	11-18-05	Adopt	1-1-06
220-040-0050	5-15-06	Repeal	6-1-06	257-050-0145	3-31-06	Amend	5-1-06
220-050-0105	12-30-05	Suspend	2-1-06	257-050-0150	11-18-05	Amend	1-1-06
220-050-0105	5-15-06	Repeal	6-1-06	257-050-0150	3-31-06	Amend	5-1-06
220-050-0110	12-30-05	Amend(T)	2-1-06	257-050-0155	3-31-06	Adopt	5-1-06
220-050-0110	5-15-06	Repeal	6-1-06	257-050-0157	11-18-05	Adopt	1-1-06
220-050-0140	12-30-05	Amend(T)	2-1-06	257-050-0157	3-31-06	Amend	5-1-06
220-050-0140	5-15-06	Repeal	6-1-06	257-050-0160	11-18-05	Repeal	1-1-06
220-050-0150	12-30-05	Suspend	2-1-06	257-050-0170	11-18-05	Adopt	1-1-06
220-050-0150	5-15-06	Repeal	6-1-06	257-050-0170	3-31-06	Amend	5-1-06
220-050-0300	12-30-05	Amend(T)	2-1-06	257-050-0180	3-31-06	Adopt	5-1-06
220-050-0300	5-15-06	Repeal	6-1-06	257-050-0200	11-18-05	Adopt	1-1-06
250-010-0055	7-3-06	Amend	8-1-06	257-050-0200	3-31-06	Amend	5-1-06
250-016-0012	1-1-06	Adopt	2-1-06	259-008-0010	2-28-06	Amend	4-1-06
250-020-0013	7-3-06	Amend	8-1-06	259-008-0045	2-28-06	Amend	4-1-06
250-020-0102	3-28-06	Amend	5-1-06	259-008-0065	8-15-06	Amend(T)	9-1-06
250-020-0102	9-5-06	Amend(T)	9-1-06	259-008-0070	7-6-06	Amend	8-1-06
250-020-0161	7-3-06	Amend	8-1-06	259-008-0076	12-7-05	Adopt	1-1-06
250-020-0266	3-28-06	Amend	5-1-06	259-009-0005	1-24-06	Amend	3-1-06
250-020-0350	3-28-06	Amend	5-1-06	259-009-0005	7-7-06	Amend	8-1-06
255-015-0003	4-5-06	Amend	5-1-06	259-009-0059	1-23-06	Adopt(T)	3-1-06
255-036-0010	4-5-06	Amend	5-1-06	259-009-0059	5-3-06	Adopt	6-1-06
255-037-0010	4-5-06	Amend	5-1-06	259-009-0059(T)	5-3-06	Repeal	6-1-06
255-060-0011	3-20-06	Amend(T)	5-1-06	259-009-0062	1-24-06	Amend	3-1-06
255-060-0011	6-14-06	Amend	7-1-06	259-009-0062	7-7-06	Amend	8-1-06
255-060-0011	6-15-06	Amend(T)	7-1-06	259-009-0065	1-24-06	Amend	3-1-06
255-060-0016	8-7-06	Adopt(T)	9-1-06	259-012-0005	6-9-06	Amend	7-1-06
255-070-0001	4-5-06	Amend	5-1-06	259-012-0010	6-9-06	Amend	7-1-06
255-075-0035	12-29-05	Amend	2-1-06	259-012-0015	6-9-06	Amend	7-1-06
257-030-0060	7-5-06	Amend(T)	8-1-06	259-012-0035	6-9-06	Amend	7-1-06
257-030-0070	7-5-06	Amend(T)	8-1-06	259-060-0005	5-15-06	Amend	6-1-06
257-030-0075	7-5-06	Suspend	8-1-06	259-060-0010	5-15-06	Amend	6-1-06
257-030-0105	7-5-06	Adopt(T)	8-1-06	259-060-0015	5-15-06	Amend	6-1-06
257-030-0110	7-5-06	Adopt(T)	8-1-06	259-060-0020	5-15-06	Amend	6-1-06
257-030-0120	7-5-06	Adopt(T)	8-1-06	259-060-0060	5-15-06	Amend	6-1-06
257-030-0130	7-5-06	Adopt(T)	8-1-06	259-060-0065	5-15-06	Amend	6-1-06
257-030-0140	7-5-06	Adopt(T)	8-1-06	259-060-0070	5-15-06	Amend	6-1-06
257-030-0150	7-5-06	Adopt(T)	8-1-06	259-060-0075	5-15-06	Amend	6-1-06
257-030-0160	7-5-06	Adopt(T)	8-1-06	259-060-0080	5-15-06	Amend	6-1-06
257-030-0170	7-5-06	Adopt(T)	8-1-06	259-060-0085	5-15-06	Amend	6-1-06
257-050-0020	11-18-05	Adopt	1-1-06	259-060-0090	5-15-06	Amend	6-1-06
257-050-0040	11-18-05	Amend	1-1-06	259-060-0095	5-15-06	Amend	6-1-06
257-050-0050	3-31-06	Amend	5-1-06	259-060-0115	5-15-06	Amend	6-1-06
257-050-0070	11-18-05	Amend	1-1-06	259-060-0120	5-15-06	Amend	6-1-06
257-050-0070	3-31-06	Amend	5-1-06	259-060-0130	5-15-06	Amend	6-1-06

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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
259-061-0190	5-15-06	Adopt	6-1-06	274-030-0610	6-16-06	Adopt	8-1-06
259-061-0200	5-15-06	Adopt	6-1-06	274-030-0610(T)	6-16-06	Repeal	8-1-06
259-061-0210	5-15-06	Adopt	6-1-06	274-030-0615	12-23-05	Adopt(T)	2-1-06
259-061-0220	5-15-06	Adopt	6-1-06	274-030-0615	6-16-06	Adopt	8-1-06
259-061-0230	5-15-06	Adopt	6-1-06	274-030-0615(T)	6-16-06	Repeal	8-1-06
259-061-0240	5-15-06	Adopt	6-1-06	274-030-0620	12-23-05	Adopt(T)	2-1-06
259-061-0250	5-15-06	Adopt	6-1-06	274-030-0620	6-16-06	Adopt	8-1-06
259-061-0260	5-15-06	Adopt	6-1-06	274-030-0620(T)	6-16-06	Repeal	8-1-06
274-001-0005	6-27-06	Amend	8-1-06	274-030-0621	12-23-05	Adopt(T)	2-1-06
274-005-0060	7-27-06	Amend	9-1-06	274-030-0621	6-16-06	Adopt	8-1-06
274-010-0100	1-27-06	Amend	3-1-06	274-030-0621(T)	6-16-06	Repeal	8-1-06
274-010-0115	1-27-06	Amend	3-1-06	274-030-0630	12-23-05	Adopt(T)	2-1-06
274-010-0120	1-27-06	Amend	3-1-06	274-030-0630	6-16-06	Adopt	8-1-06
274-010-0135	1-27-06	Amend	3-1-06	274-030-0630(T)	6-16-06	Repeal	8-1-06
274-010-0140	1-27-06	Repeal	3-1-06	274-030-0640	12-23-05	Adopt(T)	2-1-06
274-010-0145	1-27-06	Amend	3-1-06	274-030-0640	6-16-06	Adopt	8-1-06
274-010-0150	1-27-06	Repeal	3-1-06	274-030-0640(T)	6-16-06	Repeal	8-1-06
274-010-0155	1-27-06	Amend	3-1-06	274-040-0015	7-27-06	Amend	9-1-06
274-010-0160	1-27-06	Amend	3-1-06	274-040-0030	3-31-06	Amend(T)	5-1-06
274-010-0170	1-27-06	Amend	3-1-06	274-040-0030	5-30-06	Amend	7-1-06
274-010-0175	1-27-06	Amend	3-1-06	274-040-0030	7-27-06	Amend	9-1-06
274-012-0001	2-23-06	Adopt(T)	4-1-06	274-040-0030(T)	5-30-06	Repeal	7-1-06
274-012-0001	4-25-06	Adopt	6-1-06	274-040-0031	7-27-06	Adopt	9-1-06
274-012-0001(T)	4-25-06	Repeal	6-1-06	274-040-0032	7-27-06	Adopt	9-1-06
274-012-0100	2-23-06	Adopt(T)	4-1-06	274-040-0033	7-27-06	Adopt	9-1-06
274-012-0100	4-25-06	Adopt	6-1-06	274-045-0060	12-27-05	Amend	2-1-06
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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
291-047-0140	1-1-06	Am. & Ren.	2-1-06	309-120-0075(T)	1-1-06	Repeal	2-1-06
291-063-0010	1-1-06	Amend	2-1-06	309-120-0080	1-1-06	Adopt	2-1-06
291-063-0016	1-1-06	Amend	2-1-06	309-120-0080(T)	1-1-06	Repeal	2-1-06
291-063-0030	1-1-06	Amend	2-1-06	309-120-0200	1-1-06	Am. & Ren.	2-1-06
291-063-0050	1-1-06	Amend	2-1-06	309-120-0205	1-1-06	Am. & Ren.	2-1-06
291-065-0005	7-24-06	Amend	9-1-06	309-120-0210	1-1-06	Adopt	2-1-06
291-065-0006	7-24-06	Amend	9-1-06	309-120-0215	1-1-06	Adopt	2-1-06
291-065-0007	7-24-06	Amend	9-1-06	309-120-0220	1-1-06	Adopt	2-1-06
291-065-0010	7-24-06	Repeal	9-1-06	309-120-0225	1-1-06	Adopt	2-1-06
291-077-0020	2-15-06	Amend	3-1-06	309-120-0230	1-1-06	Adopt	2-1-06
291-077-0030	2-15-06	Amend	3-1-06	309-120-0235	1-1-06	Adopt	2-1-06
291-077-0033	2-15-06	Amend	3-1-06	309-120-0240	1-1-06	Adopt	2-1-06
291-077-0035	2-15-06	Amend	3-1-06	309-120-0245	1-1-06	Adopt	2-1-06
291-100-0008	8-7-06	Amend(T)	9-1-06	309-120-0250	1-1-06	Adopt	2-1-06
291-100-0130	8-7-06	Amend(T)	9-1-06	309-120-0255	1-1-06	Adopt	2-1-06
291-104-0005	6-1-06	Amend	7-1-06	309-120-0260	1-1-06	Adopt	2-1-06
291-104-0010	12-7-05	Amend	1-1-06	309-120-0265	1-1-06	Adopt	2-1-06
291-104-0010	6-1-06	Amend	7-1-06	309-120-0270	1-1-06	Am. & Ren.	2-1-06
291-104-0015	12-7-05	Amend	1-1-06	309-120-0275	1-1-06	Am. & Ren.	2-1-06
291-104-0030	12-7-05	Amend	1-1-06	309-120-0280	1-1-06	Am. & Ren.	2-1-06
291-104-0035	12-7-05	Amend	1-1-06	309-120-0285	1-1-06	Am. & Ren.	2-1-06
291-104-0111	6-1-06	Adopt	7-1-06	309-120-0290	1-1-06	Am. & Ren.	2-1-06
291-104-0116	6-1-06	Adopt	7-1-06	309-120-0295	1-1-06	Am. & Ren.	2-1-06
291-104-0125	6-1-06	Adopt	7-1-06	325-005-0015	2-6-06	Adopt	3-1-06
291-104-0130	6-1-06	Adopt	7-1-06	325-010-0001	2-6-06	Adopt	3-1-06
291-104-0135	6-1-06	Adopt	7-1-06	325-010-0005	2-6-06	Adopt	3-1-06
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325-010-0020	2-6-06	Adopt	3-1-06	333-002-0070	8-2-06	Adopt	9-1-06
325-010-0025	2-6-06	Adopt	3-1-06	333-002-0080	8-2-06	Adopt	9-1-06
325-010-0030	2-6-06	Adopt	3-1-06	333-002-0090	8-2-06	Adopt	9-1-06
325-010-0035	2-6-06	Adopt	3-1-06	333-002-0100	8-2-06	Adopt	9-1-06
325-010-0040	2-6-06	Adopt	3-1-06	333-002-0110	8-2-06	Adopt	9-1-06
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325-010-0050	2-6-06	Adopt	3-1-06	333-002-0130	8-2-06	Adopt	9-1-06
325-010-0055	2-6-06	Adopt	3-1-06	333-002-0140	8-2-06	Adopt	9-1-06
325-010-0060	2-6-06	Adopt	3-1-06	333-002-0150	8-2-06	Adopt	9-1-06
330-070-0010	1-1-06	Amend	2-1-06	333-002-0160	8-2-06	Adopt	9-1-06
330-070-0013	1-1-06	Amend	2-1-06	333-002-0170	8-2-06	Adopt	9-1-06
330-070-0014	1-1-06	Amend	2-1-06	333-002-0180	8-2-06	Adopt	9-1-06
330-070-0020	1-1-06	Amend	2-1-06	333-002-0190	8-2-06	Adopt	9-1-06
330-070-0021	1-1-06	Amend	2-1-06	333-002-0200	8-2-06	Adopt	9-1-06
330-070-0022	1-1-06	Amend	2-1-06	333-002-0210	8-2-06	Adopt	9-1-06
330-070-0025	1-1-06	Amend	2-1-06	333-002-0220	8-2-06	Adopt	9-1-06
330-070-0026	1-1-06	Amend	2-1-06	333-002-0230	8-2-06	Adopt	9-1-06
330-070-0040	1-1-06	Amend	2-1-06	333-008-0000	1-1-06	Amend	2-1-06
330-070-0045	1-1-06	Amend	2-1-06	333-008-0010	1-1-06	Amend	2-1-06
330-070-0048	1-1-06	Amend	2-1-06	333-008-0020	12-1-05	Amend	1-1-06
330-070-0055	1-1-06	Amend	2-1-06	333-008-0020	1-1-06	Amend	2-1-06
330-070-0059	1-1-06	Amend	2-1-06	333-008-0025	1-1-06	Adopt	2-1-06
330-070-0060	1-1-06	Amend	2-1-06	333-008-0030	1-1-06	Amend	2-1-06
330-070-0062	1-1-06	Amend	2-1-06	333-008-0040	1-1-06	Amend	2-1-06
330-070-0063	1-1-06	Amend	2-1-06	333-008-0050	1-1-06	Amend	2-1-06
330-070-0064	1-1-06	Amend	2-1-06	333-008-0060	1-1-06	Amend	2-1-06
330-070-0073	1-1-06	Amend	2-1-06	333-008-0070	1-1-06	Amend	2-1-06
330-070-0089	1-1-06	Amend	2-1-06	333-008-0080	1-1-06	Amend	2-1-06
330-070-0097	1-1-06	Amend	2-1-06	333-008-0090	1-1-06	Amend	2-1-06
330-090-0105	1-1-06	Amend	2-1-06	333-008-0110	1-1-06	Adopt	2-1-06
330-090-0110	1-1-06	Amend	2-1-06	333-008-0120	1-1-06	Adopt	2-1-06
330-090-0120	1-1-06	Amend	2-1-06	333-012-0053	7-1-06	Amend	8-1-06
330-090-0130	1-1-06	Amend	2-1-06	333-012-0061	7-1-06	Amend	8-1-06
330-110-0010	4-3-06	Amend	5-1-06	333-012-0070	7-1-06	Amend	8-1-06
330-110-0016	4-3-06	Amend	5-1-06	333-012-0260	4-17-06	Amend	6-1-06
330-110-0042	4-3-06	Amend	5-1-06	333-012-0265	1-1-06	Amend(T)	2-1-06
330-110-0050	4-3-06	Amend	5-1-06	333-012-0265	4-17-06	Amend	6-1-06
330-110-0055	4-3-06	Amend	5-1-06	333-012-0265(T)	4-17-06	Repeal	6-1-06
331-405-0020	1-1-06	Amend	1-1-06	333-018-0015	4-17-06	Amend	6-1-06
331-405-0030	1-1-06	Amend	1-1-06	333-018-0015	7-1-06	Amend	8-1-06
331-405-0045	1-1-06	Adopt	1-1-06	333-018-0030	1-1-06	Amend(T)	2-1-06
331-410-0000	1-1-06	Amend	1-1-06	333-018-0030	4-17-06	Amend	6-1-06
331-410-0010	1-1-06	Amend	1-1-06	333-018-0030(T)	4-17-06	Repeal	6-1-06
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331-410-0040	1-1-06	Amend	1-1-06	333-025-0100	1-1-06	Amend	2-1-06
333-001-0000	6-1-06	Repeal	6-1-06	333-025-0105	1-1-06	Amend	2-1-06
333-001-0005	6-1-06	Repeal	6-1-06	333-025-0110	1-1-06	Amend	2-1-06
333-002-0000	8-2-06	Adopt	9-1-06	333-025-0115	1-1-06	Amend	2-1-06
333-002-0010	8-2-06	Adopt	9-1-06	333-025-0120	1-1-06	Amend	2-1-06
333-002-0020	8-2-06	Adopt	9-1-06	333-025-0135	1-1-06	Amend	2-1-06
333-002-0030	8-2-06	Adopt	9-1-06	333-025-0140	1-1-06	Amend	2-1-06
333-002-0035	8-2-06	Adopt	9-1-06	333-025-0160	1-1-06	Amend	2-1-06
333-002-0040	8-2-06	Adopt	9-1-06	333-025-0165	1-1-06	Adopt	2-1-06
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333-050-0040	1-27-06	Amend	3-1-06	333-061-0235	1-31-06	Amend	3-1-06
333-050-0050	1-27-06	Amend	3-1-06	333-061-0245	1-31-06	Amend	3-1-06
333-050-0060	1-27-06	Amend	3-1-06	333-061-0250	1-31-06	Amend	3-1-06
333-050-0080	1-27-06	Amend	3-1-06	333-061-0260	1-31-06	Amend	3-1-06
333-050-0090	1-27-06	Amend	3-1-06	333-061-0265	1-31-06	Amend	3-1-06
333-050-0100	1-27-06	Amend	3-1-06	333-061-0270	1-31-06	Amend	3-1-06
333-050-0130	1-27-06	Amend	3-1-06	333-061-0290	1-31-06	Amend	3-1-06
333-052-0030	6-5-06	Adopt	7-1-06	333-064-0060	2-8-06	Amend(T)	3-1-06
333-052-0040	6-5-06	Adopt	7-1-06	333-064-0060	4-6-06	Amend	5-1-06
333-052-0050	6-5-06	Adopt	7-1-06	333-076-0101	3-2-06	Amend(T)	4-1-06
333-052-0060	6-5-06	Adopt	7-1-06	333-076-0125	3-2-06	Amend(T)	4-1-06
333-052-0065	6-5-06	Adopt	7-1-06	333-076-0130	3-2-06	Amend(T)	4-1-06
333-052-0070	6-5-06	Adopt	7-1-06	333-076-0135	3-2-06	Amend(T)	4-1-06
333-052-0075	6-5-06	Adopt	7-1-06	333-076-0450	6-27-06	Amend	8-1-06
333-052-0080	6-5-06	Adopt	7-1-06	333-076-0470	6-27-06	Amend	8-1-06
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333-060-0075	7-1-06	Amend	8-1-06	333-100-0055	6-16-06	Amend	8-1-06
333-060-0110	7-1-06	Amend	8-1-06	333-100-0057	6-16-06	Amend	8-1-06
333-060-0120	7-1-06	Amend	8-1-06	333-100-0060	6-16-06	Amend	8-1-06
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333-061-0070	1-31-06	Amend	3-1-06	333-101-0090	6-16-06	Amend	8-1-06
333-061-0071	1-31-06	Amend	3-1-06	333-101-0200	6-16-06	Amend	8-1-06
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333-061-0097	1-31-06	Amend	3-1-06	333-101-0240	6-16-06	Amend	8-1-06
333-061-0215	1-31-06	Amend	3-1-06	333-101-0260	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
333-102-0020	6-16-06	Amend	8-1-06	333-105-0520	6-16-06	Amend	8-1-06
333-102-0025	6-16-06	Amend	8-1-06	333-105-0530	6-16-06	Amend	8-1-06
333-102-0030	6-16-06	Amend	8-1-06	333-105-0540	6-16-06	Amend	8-1-06
333-102-0040	6-16-06	Amend	8-1-06	333-105-0550	6-16-06	Amend	8-1-06
333-102-0075	6-16-06	Amend	8-1-06	333-105-0560	6-16-06	Amend	8-1-06
333-102-0101	6-16-06	Amend	8-1-06	333-105-0570	6-16-06	Amend	8-1-06
333-102-0103	6-16-06	Amend	8-1-06	333-105-0580	6-16-06	Amend	8-1-06
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333-102-0235	6-16-06	Amend	8-1-06	333-105-0680	6-16-06	Amend	8-1-06
333-102-0245	6-16-06	Amend	8-1-06	333-105-0690	6-16-06	Amend	8-1-06
333-102-0247	6-16-06	Amend	8-1-06	333-105-0700	6-16-06	Amend	8-1-06
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333-102-0260	6-16-06	Amend	8-1-06	333-105-0720	6-16-06	Amend	8-1-06
333-102-0285	6-16-06	Amend	8-1-06	333-105-0730	6-16-06	Amend	8-1-06
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333-102-0293	6-16-06	Amend	8-1-06	333-105-0750	6-16-06	Amend	8-1-06
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333-102-0305	6-16-06	Amend	8-1-06	333-106-0005	6-16-06	Amend	8-1-06
333-102-0310	6-16-06	Amend	8-1-06	333-106-0015	6-16-06	Amend	8-1-06
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333-102-0327	6-16-06	Amend	8-1-06	333-106-0030	6-16-06	Amend	8-1-06
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333-106-0410	6-16-06	Repeal	8-1-06	333-113-0125	6-16-06	Amend	8-1-06
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333-106-0420	6-16-06	Repeal	8-1-06	333-113-0135	6-16-06	Amend	8-1-06
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333-106-0560	6-16-06	Repeal	8-1-06	333-116-0045	6-16-06	Adopt	8-1-06
333-106-0565	6-16-06	Repeal	8-1-06	333-116-0050	6-16-06	Amend	8-1-06
333-106-0570	6-16-06	Repeal	8-1-06	333-116-0057	6-16-06	Amend	8-1-06
333-106-0575	6-16-06	Repeal	8-1-06	333-116-0060	6-16-06	Repeal	8-1-06
333-106-0580	6-16-06	Repeal	8-1-06	333-116-0070	6-16-06	Repeal	8-1-06
333-106-0585	6-16-06	Repeal	8-1-06	333-116-0080	6-16-06	Repeal	8-1-06
333-106-0601	6-16-06	Amend	8-1-06	333-116-0090	6-16-06	Amend	8-1-06
333-106-0700	6-16-06	Amend	8-1-06	333-116-0100	6-16-06	Amend	8-1-06
333-106-0710	6-16-06	Amend	8-1-06	333-116-0105	6-16-06	Amend	8-1-06
333-106-0720	6-16-06	Amend	8-1-06	333-116-0107	6-16-06	Amend	8-1-06
333-106-0730	6-16-06	Amend	8-1-06	333-116-0110	6-16-06	Amend	8-1-06
333-106-0750	6-16-06	Amend	8-1-06	333-116-0120	6-16-06	Amend	8-1-06
333-109-0001	6-16-06	Amend	8-1-06	333-116-0123	6-16-06	Amend	8-1-06
333-109-0002	6-16-06	Adopt	8-1-06	333-116-0125	6-16-06	Amend	8-1-06
333-109-0003	6-16-06	Amend	8-1-06	333-116-0130	6-16-06	Amend	8-1-06
333-109-0005	6-16-06	Amend	8-1-06	333-116-0150	6-16-06	Amend	8-1-06
333-109-0010	6-16-06	Amend	8-1-06	333-116-0160	6-16-06	Amend	8-1-06
333-109-0015	6-16-06	Amend	8-1-06	333-116-0165	6-16-06	Amend	8-1-06
333-109-0020	6-16-06	Repeal	8-1-06	333-116-0170	6-16-06	Amend	8-1-06
333-109-0025	6-16-06	Amend	8-1-06	333-116-0180	6-16-06	Amend	8-1-06
333-109-0030	6-16-06	Amend	8-1-06	333-116-0190	6-16-06	Amend	8-1-06
333-109-0035	6-16-06	Amend	8-1-06	333-116-0200	6-16-06	Amend	8-1-06
333-109-0040	6-16-06	Amend	8-1-06	333-116-0210	6-16-06	Repeal	8-1-06
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333-113-0001	6-16-06	Amend	8-1-06	333-116-0230	6-16-06	Repeal	8-1-06
333-113-0005	6-16-06	Amend	8-1-06	333-116-0240	6-16-06	Repeal	8-1-06
333-113-0007	6-16-06	Adopt	8-1-06	333-116-0250	6-16-06	Amend	8-1-06
333-113-0010	6-16-06	Amend	8-1-06	333-116-0255	6-16-06	Adopt	8-1-06
333-113-0101	6-16-06	Amend	8-1-06	333-116-0260	6-16-06	Amend	8-1-06
333-113-0105	6-16-06	Amend	8-1-06	333-116-0265	6-16-06	Repeal	8-1-06
333-113-0110	6-16-06	Amend	8-1-06	333-116-0270	6-16-06	Repeal	8-1-06

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333-116-0300	6-16-06	Amend	8-1-06	333-116-0710	6-16-06	Amend	8-1-06
333-116-0310	6-16-06	Amend	8-1-06	333-116-0715	6-16-06	Adopt	8-1-06
333-116-0320	6-16-06	Amend	8-1-06	333-116-0720	6-16-06	Amend	8-1-06
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333-116-0370	6-16-06	Amend	8-1-06	333-116-0800	6-16-06	Amend	8-1-06
333-116-0380	6-16-06	Amend	8-1-06	333-116-0810	6-16-06	Amend	8-1-06
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333-116-0410	6-16-06	Amend	8-1-06	333-116-0850	6-16-06	Amend	8-1-06
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333-116-0425	6-16-06	Adopt	8-1-06	333-116-0880	6-16-06	Amend	8-1-06
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333-116-0450	6-16-06	Amend	8-1-06	333-116-1010	6-16-06	Adopt	8-1-06
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333-116-0490	6-16-06	Amend	8-1-06	333-120-0020	6-16-06	Amend	8-1-06
333-116-0495	6-16-06	Amend	8-1-06	333-120-0100	6-16-06	Amend	8-1-06
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333-116-0515	6-16-06	Repeal	8-1-06	333-120-0120	6-16-06	Amend	8-1-06
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333-120-0700	6-16-06	Amend	8-1-06	333-158-0000	7-1-06	Amend	8-1-06
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333-121-0110	6-16-06	Amend	8-1-06	333-162-0040	7-1-06	Amend	8-1-06
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333-162-0540	7-1-06	Repeal	8-1-06	333-175-0081	7-1-06	Amend	8-1-06
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333-162-0720	7-1-06	Repeal	8-1-06	333-670-0140	4-17-06	Suspend	6-1-06
333-162-0730	7-1-06	Repeal	8-1-06	333-670-0150	4-17-06	Suspend	6-1-06
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333-162-0750	7-1-06	Repeal	8-1-06	333-670-0170	4-17-06	Suspend	6-1-06
333-162-0760	7-1-06	Repeal	8-1-06	333-670-0180	4-17-06	Suspend	6-1-06
333-162-0770	7-1-06	Repeal	8-1-06	333-670-0190	4-17-06	Suspend	6-1-06
333-162-0780	7-1-06	Repeal	8-1-06	333-670-0200	4-17-06	Suspend	6-1-06
333-162-0790	7-1-06	Repeal	8-1-06	333-670-0210	4-17-06	Suspend	6-1-06
333-162-0800	7-1-06	Repeal	8-1-06	333-670-0220	4-17-06	Suspend	6-1-06
333-162-0810	7-1-06	Repeal	8-1-06	333-670-0230	4-17-06	Suspend	6-1-06
333-162-0820	7-1-06	Repeal	8-1-06	333-670-0240	4-17-06	Suspend	6-1-06
333-162-0830	7-1-06	Repeal	8-1-06	333-670-0250	4-17-06	Suspend	6-1-06
333-162-0840	7-1-06	Repeal	8-1-06	333-670-0260	4-17-06	Suspend	6-1-06
333-162-0850	7-1-06	Repeal	8-1-06	333-670-0270	4-17-06	Suspend	6-1-06
333-162-0860	7-1-06	Repeal	8-1-06	333-670-0280	4-17-06	Suspend	6-1-06
333-162-0870	7-1-06	Repeal	8-1-06	334-010-0010	1-5-06	Amend	2-1-06
333-162-0880	7-1-06	Amend	8-1-06	334-010-0015	1-5-06	Amend	2-1-06
333-162-0890	7-1-06	Amend	8-1-06	334-010-0015	2-16-06	Amend(T)	4-1-06
333-162-0910	7-1-06	Amend	8-1-06	334-010-0017	1-5-06	Amend	2-1-06
333-162-0920	7-1-06	Amend	8-1-06	334-010-0033	1-5-06	Amend	2-1-06
333-162-0940	7-1-06	Amend	8-1-06	334-010-0050	1-5-06	Amend	2-1-06
333-162-0940	7-1-06	Amend	8-1-06	335-005-0025	5-8-06	Amend	6-1-06
333-162-0960	7-1-06	Repeal	8-1-06	335-005-0030	5-8-06	Adopt	6-1-06
333-162-0970	7-1-06	Repeal	8-1-06	335-005-0035	5-8-06	Adopt	6-1-06
333-162-0980	7-1-06	Repeal	8-1-06	335-070-0040	5-8-06	Amend	6-1-06
333-162-0990	7-1-06	Repeal	8-1-06	335-070-0060	5-8-06	Amend	6-1-06
333-162-1000	7-1-06	Repeal	8-1-06	335-070-0065	5-8-06	Amend	6-1-06
333-162-1005	7-1-06	Amend	8-1-06	335-080-0005	5-8-06	Amend	6-1-06

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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
340-012-0055	3-31-06	Amend	5-1-06	340-238-0050	3-14-06	Amend	4-1-06
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
340-012-0068	3-31-06	Amend	5-1-06	340-246-0090	8-15-06	Amend	9-1-06
340-012-0071	3-31-06	Amend	5-1-06	340-256-0220	6-29-06	Adopt	8-1-06
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
340-012-0083	3-31-06	Amend	5-1-06	340-257-0020(T)	6-29-06	Repeal	8-1-06
340-012-0097	3-31-06	Amend	5-1-06	340-257-0030	1-1-06	Adopt(T)	2-1-06
340-012-0125	6-29-06	Amend	8-1-06	340-257-0030	6-29-06	Adopt	8-1-06
340-012-0130	3-31-06	Amend	5-1-06	340-257-0030(T)	6-29-06	Repeal	8-1-06
340-012-0135	3-31-06	Amend	5-1-06	340-257-0040	1-1-06	Adopt(T)	2-1-06
340-012-0135	6-29-06	Amend	8-1-06	340-257-0040	6-29-06	Adopt	8-1-06
340-012-0140	3-31-06	Amend	5-1-06	340-257-0040(T)	6-29-06	Repeal	8-1-06
340-012-0140	6-29-06	Amend	8-1-06	340-257-0050	1-1-06	Adopt(T)	2-1-06
340-012-0155	3-31-06	Amend	5-1-06	340-257-0050	6-29-06	Adopt	8-1-06
340-045-0033	12-28-05	Amend	2-1-06	340-257-0050(T)	6-29-06	Repeal	8-1-06
340-045-0033	9-1-06	Amend	9-1-06	340-257-0060	1-1-06	Adopt(T)	2-1-06
340-045-0070	8-15-06	Amend	9-1-06	340-257-0060	6-29-06	Adopt	8-1-06
340-045-0075	8-15-06	Amend	9-1-06	340-257-0060(T)	6-29-06	Repeal	8-1-06
340-110-0001	3-15-06	Amend	4-1-06	340-257-0070	1-1-06	Adopt(T)	2-1-06
340-110-0020	3-15-06	Amend	4-1-06	340-257-0070	6-29-06	Adopt	8-1-06
340-110-0061	3-15-06	Amend	4-1-06	340-257-0070(T)	6-29-06	Repeal	8-1-06
340-122-0040	3-17-06	Amend	5-1-06	340-257-0080	1-1-06	Adopt(T)	2-1-06
340-122-0045	3-17-06	Repeal	5-1-06	340-257-0080	6-29-06	Adopt	8-1-06
340-122-0115	3-17-06	Amend	5-1-06	340-257-0080(T)	6-29-06	Repeal	8-1-06
340-135-0000	8-15-06	Amend	9-1-06	340-257-0090	1-1-06	Adopt(T)	2-1-06
340-135-0010	8-15-06	Amend	9-1-06	340-257-0090	6-29-06	Adopt	8-1-06
340-135-0020	8-15-06	Amend	9-1-06	340-257-0090(T)	6-29-06	Repeal	8-1-06
340-135-0030	8-15-06	Amend	9-1-06	340-257-0100	1-1-06	Adopt(T)	2-1-06
340-135-0040	8-15-06	Amend	9-1-06	340-257-0100	6-29-06	Adopt	8-1-06
340-135-0042	8-15-06	Repeal	9-1-06	340-257-0100(T)	6-29-06	Repeal	8-1-06
340-135-0044	8-15-06	Repeal	9-1-06	340-257-0110	1-1-06	Adopt(T)	2-1-06
340-135-0046	8-15-06	Repeal	9-1-06	340-257-0110	6-29-06	Adopt	8-1-06
340-135-0050	8-15-06	Amend	9-1-06	340-257-0110(T)	6-29-06	Repeal	8-1-06
340-135-0055	8-15-06	Adopt	9-1-06	340-257-0120	1-1-06	Adopt(T)	2-1-06
340-135-0070	8-15-06	Repeal	9-1-06	340-257-0120	6-29-06	Adopt	8-1-06
340-135-0080	8-15-06	Repeal	9-1-06	340-257-0120(T)	6-29-06	Repeal	8-1-06
340-135-0090	8-15-06	Amend	9-1-06	340-257-0130	1-1-06	Adopt(T)	2-1-06
340-135-0100	8-15-06	Repeal	9-1-06	340-257-0130	6-29-06	Adopt	8-1-06
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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
350-050-0080	5-1-06	Amend	5-1-06	410-011-0080	1-1-06	Am. & Ren.	1-1-06
350-050-0085	5-1-06	Amend	5-1-06	410-011-0090	1-1-06	Am. & Ren.	1-1-06
350-050-0090	5-1-06	Amend	5-1-06	410-011-0100	1-1-06	Am. & Ren.	1-1-06
350-050-0100	5-1-06	Amend	5-1-06	410-011-0110	1-1-06	Am. & Ren.	1-1-06
350-050-0110	5-1-06	Repeal	5-1-06	410-011-0120	1-1-06	Am. & Ren.	1-1-06
350-081-0108	8-1-06	Amend	8-1-06	410-015-0000	7-14-06	ReNUMBER	8-1-06
350-081-0114	8-1-06	Adopt	8-1-06	410-015-0010	7-14-06	ReNUMBER	8-1-06
350-081-0190	8-1-06	Amend	8-1-06	410-015-0020	7-14-06	ReNUMBER	8-1-06
350-081-0270	8-1-06	Amend	8-1-06	410-015-0030	7-14-06	ReNUMBER	8-1-06
350-081-0370	8-1-06	Amend	8-1-06	410-015-0040	7-14-06	ReNUMBER	8-1-06
350-081-0450	8-1-06	Amend	8-1-06	410-050-0431	8-7-06	Amend(T)	9-1-06
350-081-0490	8-1-06	Amend	8-1-06	410-050-0861	7-1-06	Amend	7-1-06
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407-001-0005	6-1-06	Adopt	6-1-06	410-120-0000	7-1-06	Amend	7-1-06
407-001-0010	6-1-06	Adopt	6-1-06	410-120-0250	1-1-06	Amend	2-1-06
407-005-0000	3-1-06	Adopt	4-1-06	410-120-1180	7-1-06	Amend	7-1-06
407-005-0005	3-1-06	Adopt	4-1-06	410-120-1200	1-1-06	Amend	1-1-06
407-005-0010	3-1-06	Adopt	4-1-06	410-120-1200	7-1-06	Amend	7-1-06
407-005-0015	3-1-06	Adopt	4-1-06	410-120-1210	1-1-06	Amend	1-1-06
407-005-0020	3-1-06	Adopt	4-1-06	410-120-1210	7-1-06	Amend	7-1-06
407-005-0025	3-1-06	Adopt	4-1-06	410-120-1230	7-1-06	Amend	7-1-06
407-005-0030	3-1-06	Adopt	4-1-06	410-120-1260	7-1-06	Amend	7-1-06
407-010-0001	3-1-06	Adopt	4-1-06	410-120-1280	1-1-06	Amend	2-1-06
407-045-0000	6-1-06	Adopt	7-1-06	410-120-1280	7-1-06	Amend	7-1-06
407-045-0010	6-1-06	Adopt	7-1-06	410-120-1295	1-1-06	Amend	1-1-06
407-045-0020	6-1-06	Adopt	7-1-06	410-120-1295	1-1-06	Amend(T)	1-1-06
407-045-0030	6-1-06	Adopt	7-1-06	410-120-1295	1-1-06	Amend(T)	2-1-06
407-045-0040	6-1-06	Adopt	7-1-06	410-120-1295	6-23-06	Amend	8-1-06
407-045-0050	6-1-06	Adopt	7-1-06	410-120-1295(T)	1-1-06	Repeal	1-1-06
407-045-0060	6-1-06	Adopt	7-1-06	410-120-1295(T)	6-23-06	Repeal	8-1-06
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407-045-0080	6-1-06	Adopt	7-1-06	410-120-1400	7-1-06	Amend	7-1-06
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410-121-0030	7-1-06	Amend	7-1-06	410-125-2080	7-1-06	Amend	7-1-06
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410-121-0060	7-1-06	Amend	7-1-06	410-129-0240	7-1-06	Amend	7-1-06
410-121-0100	7-1-06	Amend	7-1-06	410-129-0260	7-1-06	Amend	7-1-06
410-121-0140	7-1-06	Amend	7-1-06	410-129-0280	7-1-06	Amend	7-1-06
410-121-0147	1-1-06	Amend	1-1-06	410-130-0180	7-1-06	Amend	7-1-06
410-121-0147	7-1-06	Amend	7-1-06	410-130-0190	7-1-06	Amend	7-1-06
410-121-0149	1-18-06	Adopt(T)	3-1-06	410-130-0200	7-1-06	Amend	7-1-06
410-121-0149	6-29-06	Adopt	8-1-06	410-130-0220	7-1-06	Amend	7-1-06
410-121-0150	7-1-06	Amend	7-1-06	410-130-0225	7-1-06	Amend	7-1-06
410-121-0155	7-1-06	Amend	7-1-06	410-130-0240	7-1-06	Amend	7-1-06
410-121-0157	4-1-06	Amend	5-1-06	410-130-0255	7-1-06	Amend	7-1-06
410-121-0157	4-1-06	Amend(T)	5-1-06	410-130-0580	7-1-06	Amend	7-1-06
410-121-0157	6-1-06	Amend	7-1-06	410-130-0585	7-1-06	Amend	7-1-06
410-121-0160	7-1-06	Amend	7-1-06	410-130-0587	7-1-06	Amend	7-1-06
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410-121-0300	6-1-06	Amend	7-1-06	410-130-0700	7-1-06	Amend	7-1-06
410-121-0320	1-1-06	Amend	2-1-06	410-131-0280	7-1-06	Amend	7-1-06
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410-122-0040	7-1-06	Amend	7-1-06	410-136-0320	7-1-06	Amend	7-1-06
410-122-0080	7-1-06	Amend	7-1-06	410-136-0340	7-1-06	Amend	7-1-06
410-122-0180	7-1-06	Amend	7-1-06	410-136-0350	7-1-06	Amend	7-1-06
410-122-0190	12-1-05	Amend	1-1-06	410-136-0360	7-1-06	Amend	7-1-06
410-122-0204	7-1-06	Amend	7-1-06	410-136-0420	12-1-05	Amend	1-1-06
410-122-0240	7-1-06	Amend	7-1-06	410-136-0420	7-1-06	Amend	7-1-06
410-122-0300	7-1-06	Amend	7-1-06	410-138-0600	2-7-06	Adopt(T)	3-1-06
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410-122-0400	7-1-06	Amend	7-1-06	410-138-0620	7-1-06	Adopt	7-1-06
410-122-0510	7-1-06	Amend	7-1-06	410-138-0640	2-7-06	Adopt(T)	3-1-06
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410-122-0525	7-1-06	Amend	7-1-06	410-138-0660	2-7-06	Adopt(T)	3-1-06
410-122-0700	7-1-06	Amend	7-1-06	410-138-0660	7-1-06	Adopt	7-1-06
410-125-0090	1-1-06	Amend	2-1-06	410-138-0680	2-7-06	Adopt(T)	3-1-06
410-125-0141	1-1-06	Amend	2-1-06	410-138-0680	7-1-06	Adopt	7-1-06
410-125-0141	7-1-06	Amend	7-1-06	410-138-0700	2-7-06	Adopt(T)	3-1-06
410-125-0142	7-1-06	Amend	7-1-06	410-138-0700	7-1-06	Adopt	7-1-06
410-125-0155	7-1-06	Amend	7-1-06	410-138-0710	2-7-06	Adopt(T)	3-1-06
410-125-0181	1-1-06	Amend	2-1-06	410-138-0710	7-1-06	Adopt	7-1-06
410-125-0181	7-1-06	Amend	7-1-06	410-138-0720	2-7-06	Adopt(T)	3-1-06
410-125-0190	1-1-06	Amend	2-1-06	410-138-0720	7-1-06	Adopt	7-1-06
410-125-0190	7-1-06	Amend	7-1-06	410-138-0740	2-7-06	Adopt(T)	3-1-06
410-125-0195	1-1-06	Amend	2-1-06	410-138-0740	7-1-06	Adopt	7-1-06
410-125-0195	7-1-06	Amend	7-1-06	410-138-0760	2-7-06	Adopt(T)	3-1-06
410-125-0201	1-1-06	Amend	2-1-06	410-138-0760	7-1-06	Adopt	7-1-06
410-125-0210	1-1-06	Amend	2-1-06	410-138-0780	2-7-06	Adopt(T)	3-1-06
410-125-0220	7-1-06	Amend	7-1-06	410-138-0780	7-1-06	Adopt	7-1-06
410-125-0221	7-1-06	Amend	7-1-06	410-140-0080	7-1-06	Amend	7-1-06
410-125-0600	7-1-06	Amend	7-1-06	410-140-0180	7-1-06	Amend	7-1-06
410-125-0720	7-1-06	Amend	7-1-06	410-140-0320	12-1-05	Amend	1-1-06

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410-141-0000	1-1-06	Amend	1-1-06	411-001-0100	6-1-06	Amend	6-1-06
410-141-0000	7-1-06	Amend	7-1-06	411-001-0110	6-1-06	Amend	6-1-06
410-141-0010	3-1-06	Adopt	3-1-06	411-001-0120	6-1-06	Amend	6-1-06
410-141-0010(T)	3-1-06	Repeal	3-1-06	411-005-0000	7-1-06	Repeal	8-1-06
410-141-0050	6-1-06	Adopt(T)	8-1-06	411-005-0005	7-1-06	Repeal	8-1-06
410-141-0060	1-1-06	Amend	1-1-06	411-005-0010	7-1-06	Amend	8-1-06
410-141-0060	5-4-06	Amend(T)	6-1-06	411-005-0015	7-1-06	Amend	8-1-06
410-141-0060	7-1-06	Amend	7-1-06	411-005-0020	7-1-06	Amend	8-1-06
410-141-0070	1-1-06	Amend	1-1-06	411-005-0025	7-1-06	Repeal	8-1-06
410-141-0070	7-1-06	Amend	7-1-06	411-005-0030	7-1-06	Repeal	8-1-06
410-141-0080	1-1-06	Amend	1-1-06	411-005-0035	7-1-06	Amend	8-1-06
410-141-0085	7-1-06	Amend	7-1-06	411-005-0040	7-1-06	Repeal	8-1-06
410-141-0115	7-1-06	Amend	7-1-06	411-005-0045	7-1-06	Amend	8-1-06
410-141-0120	1-1-06	Amend	1-1-06	411-005-0050	7-1-06	Repeal	8-1-06
410-141-0160	1-1-06	Amend	1-1-06	411-005-0055	7-1-06	Repeal	8-1-06
410-141-0180	7-1-06	Amend	7-1-06	411-005-0060	7-1-06	Repeal	8-1-06
410-141-0220	1-1-06	Amend	1-1-06	411-005-0065	7-1-06	Repeal	8-1-06
410-141-0300	7-1-06	Amend	7-1-06	411-005-0100	7-1-06	Adopt	8-1-06
410-141-0320	7-1-06	Amend	7-1-06	411-015-0000	6-1-06	Amend	7-1-06
410-141-0400	7-1-06	Amend	7-1-06	411-015-0005	12-29-05	Amend	2-1-06
410-141-0405	7-1-06	Amend	7-1-06	411-015-0005	6-1-06	Amend	7-1-06
410-141-0410	7-1-06	Amend	7-1-06	411-015-0006	6-1-06	Adopt	7-1-06
410-141-0420	7-1-06	Amend	7-1-06	411-015-0007	5-1-06	Adopt	6-1-06
410-141-0480	7-1-06	Amend	7-1-06	411-015-0008	6-1-06	Adopt	7-1-06
410-141-0520	12-1-05	Amend	1-1-06	411-015-0010	6-1-06	Amend	7-1-06
410-141-0520	1-1-06	Amend	2-1-06	411-015-0015	2-1-06	Amend	3-1-06
410-141-0520	4-1-06	Amend	5-1-06	411-015-0015	6-1-06	Amend	7-1-06
410-141-0860	7-1-06	Amend	7-1-06	411-015-0100	12-29-05	Amend	2-1-06
410-146-0100	12-1-05	Amend	1-1-06	411-015-0100	6-1-06	Amend	7-1-06
410-147-0020	7-1-06	Amend	7-1-06	411-018-0000	12-12-05	Amend	1-1-06
410-147-0040	7-1-06	Amend	7-1-06	411-018-0010	12-12-05	Amend	1-1-06
410-147-0060	7-1-06	Amend	7-1-06	411-018-0020	12-12-05	Amend	1-1-06
410-147-0080	7-1-06	Amend	7-1-06	411-020-0002	4-1-06	Amend	5-1-06
410-147-0085	7-1-06	Amend	7-1-06	411-020-0010	4-1-06	Amend	5-1-06
410-147-0120	7-1-06	Amend	7-1-06	411-020-0015	4-1-06	Amend	5-1-06
410-147-0125	7-1-06	Amend	7-1-06	411-020-0020	4-1-06	Amend	5-1-06
410-147-0140	7-1-06	Amend	7-1-06	411-020-0030	4-1-06	Amend	5-1-06
410-147-0160	7-1-06	Amend	7-1-06	411-021-0000	4-1-06	Amend	5-1-06
410-147-0180	7-1-06	Amend	7-1-06	411-021-0005	4-1-06	Amend	5-1-06
410-147-0200	7-1-06	Amend	7-1-06	411-021-0010	4-1-06	Amend	5-1-06
410-147-0220	7-1-06	Amend	7-1-06	411-021-0015	4-1-06	Amend	5-1-06
410-147-0240	7-1-06	Amend	7-1-06	411-021-0020	4-1-06	Amend	5-1-06
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410-147-0365	1-1-06	Amend	1-1-06	411-030-0033	12-21-05	Amend(T)	2-1-06
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410-147-0460	7-1-06	Amend	7-1-06	411-030-0040	12-21-05	Amend(T)	2-1-06
410-147-0480	7-1-06	Amend	7-1-06	411-030-0040	1-13-06	Amend(T)	2-1-06
410-147-0500	7-1-06	Amend	7-1-06	411-030-0040	6-1-06	Amend	7-1-06
410-147-0540	7-1-06	Amend	7-1-06	411-030-0050	12-21-05	Amend(T)	2-1-06
410-147-0610	7-1-06	Amend	7-1-06	411-030-0050	6-1-06	Amend	7-1-06
410-147-0620	7-1-06	Amend	7-1-06	411-030-0055	12-21-05	Adopt(T)	2-1-06
410-150-0120	7-1-06	Amend	7-1-06	411-030-0055	6-1-06	Adopt	7-1-06
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411-030-0070	6-1-06	Amend	7-1-06	411-070-0370	2-1-06	Amend	3-1-06
411-030-0080	6-1-06	Amend	7-1-06	411-070-0375	2-1-06	Amend	3-1-06
411-030-0090	6-1-06	Amend	7-1-06	411-070-0385	2-1-06	Amend	3-1-06
411-031-0020	11-16-05	Amend(T)	1-1-06	411-070-0400	2-1-06	Amend	3-1-06
411-031-0020	5-1-06	Amend	6-1-06	411-070-0415	2-1-06	Amend	3-1-06
411-031-0020(T)	5-1-06	Repeal	6-1-06	411-070-0420	2-1-06	Amend	3-1-06
411-031-0040	5-1-06	Amend	6-1-06	411-070-0425	2-1-06	Amend	3-1-06
411-031-0050	11-16-05	Amend(T)	1-1-06	411-070-0428	2-1-06	Amend	3-1-06
411-031-0050	5-1-06	Amend	6-1-06	411-070-0430	2-1-06	Amend	3-1-06
411-031-0050(T)	5-1-06	Repeal	6-1-06	411-070-0435	2-1-06	Amend	3-1-06
411-055-0003	2-1-06	Amend	3-1-06	411-070-0452	2-1-06	Amend	3-1-06
411-055-0003(T)	2-1-06	Repeal	3-1-06	411-070-0458	2-1-06	Repeal	3-1-06
411-055-0190	1-18-06	Amend(T)	3-1-06	411-070-0462	2-1-06	Amend	3-1-06
411-055-0190	7-1-06	Amend	8-1-06	411-070-0464	2-1-06	Amend	3-1-06
411-055-0190(T)	7-1-06	Repeal	8-1-06	411-070-0465	2-1-06	Amend	3-1-06
411-056-0007	2-1-06	Amend	3-1-06	411-070-0470	2-1-06	Amend	3-1-06
411-056-0007(T)	2-1-06	Repeal	3-1-06	411-088-0020	1-18-06	Amend(T)	3-1-06
411-056-0020	1-18-06	Amend(T)	3-1-06	411-088-0020	7-1-06	Amend	8-1-06
411-056-0020	7-1-06	Amend	8-1-06	411-088-0020(T)	7-1-06	Repeal	8-1-06
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411-070-0005	2-1-06	Amend	3-1-06	411-200-0020	4-1-06	Amend	5-1-06
411-070-0010	2-1-06	Amend	3-1-06	411-200-0030	4-1-06	Amend	5-1-06
411-070-0015	2-1-06	Amend	3-1-06	411-200-0040	4-1-06	Amend	5-1-06
411-070-0020	2-1-06	Amend	3-1-06	411-310-0010	4-5-06	Amend	5-1-06
411-070-0025	2-1-06	Amend	3-1-06	411-310-0020	4-5-06	Amend	5-1-06
411-070-0027	2-1-06	Amend	3-1-06	411-310-0030	4-5-06	Amend	5-1-06
411-070-0029	2-1-06	Amend	3-1-06	411-310-0040	4-5-06	Amend	5-1-06
411-070-0035	2-1-06	Amend	3-1-06	411-310-0050	4-5-06	Amend	5-1-06
411-070-0040	2-1-06	Amend	3-1-06	411-310-0060	4-5-06	Amend	5-1-06
411-070-0043	2-1-06	Amend	3-1-06	411-310-0070	4-5-06	Amend	5-1-06
411-070-0045	2-1-06	Amend	3-1-06	411-315-0010	4-5-06	Amend	5-1-06
411-070-0050	2-1-06	Amend	3-1-06	411-315-0020	4-5-06	Amend	5-1-06
411-070-0080	2-1-06	Amend	3-1-06	411-315-0030	4-5-06	Amend	5-1-06
411-070-0085	2-1-06	Amend	3-1-06	411-315-0050	4-5-06	Amend	5-1-06
411-070-0091	2-1-06	Amend	3-1-06	411-315-0060	4-5-06	Amend	5-1-06
411-070-0095	2-1-06	Amend	3-1-06	411-315-0070	4-5-06	Amend	5-1-06
411-070-0100	2-1-06	Amend	3-1-06	411-315-0080	4-5-06	Amend	5-1-06
411-070-0105	2-1-06	Amend	3-1-06	411-315-0090	4-5-06	Amend	5-1-06
411-070-0110	2-1-06	Amend	3-1-06	411-320-0020	11-23-05	Amend(T)	1-1-06
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411-070-0120	2-1-06	Amend	3-1-06	411-320-0020(T)	2-1-06	Repeal	3-1-06
411-070-0125	2-1-06	Amend	3-1-06	411-320-0030	11-23-05	Amend(T)	1-1-06
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411-070-0140	2-1-06	Amend	3-1-06	411-320-0030(T)	2-1-06	Repeal	3-1-06
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411-070-0302	2-1-06	Amend	3-1-06	411-320-0040	2-1-06	Amend	3-1-06
411-070-0305	2-1-06	Amend	3-1-06	411-320-0040(T)	2-1-06	Repeal	3-1-06
411-070-0310	2-1-06	Amend	3-1-06	411-320-0050	11-23-05	Amend(T)	1-1-06
411-070-0315	2-1-06	Amend	3-1-06	411-320-0050	2-1-06	Amend	3-1-06
411-070-0330	2-1-06	Amend	3-1-06	411-320-0050(T)	2-1-06	Repeal	3-1-06
411-070-0335	2-1-06	Amend	3-1-06	411-320-0060	2-1-06	Amend	3-1-06
411-070-0340	2-1-06	Amend	3-1-06	411-320-0070	11-23-05	Amend(T)	1-1-06
411-070-0345	2-1-06	Amend	3-1-06	411-320-0070	2-1-06	Amend	3-1-06
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411-320-0090	11-23-05	Amend(T)	1-1-06	413-015-0210	12-1-05	Amend	1-1-06
411-320-0090	2-1-06	Amend	3-1-06	413-015-0211	12-1-05	Adopt	1-1-06
411-320-0090(T)	2-1-06	Repeal	3-1-06	413-015-0212	12-1-05	Adopt	1-1-06
411-320-0100	11-23-05	Amend(T)	1-1-06	413-015-0213	12-1-05	Adopt	1-1-06
411-320-0100	2-1-06	Amend	3-1-06	413-015-0215	12-1-05	Amend	1-1-06
411-320-0100(T)	2-1-06	Repeal	3-1-06	413-015-0220	12-1-05	Amend	1-1-06
411-320-0110	11-23-05	Amend(T)	1-1-06	413-015-0300	1-1-06	Amend(T)	2-1-06
411-320-0110	2-1-06	Amend	3-1-06	413-015-0300	7-1-06	Amend	8-1-06
411-320-0110(T)	2-1-06	Repeal	3-1-06	413-015-0302	1-1-06	Adopt(T)	2-1-06
411-320-0120	11-23-05	Amend(T)	1-1-06	413-015-0302	7-1-06	Adopt	8-1-06
411-320-0120	2-1-06	Amend	3-1-06	413-015-0305	1-1-06	Amend(T)	2-1-06
411-320-0120(T)	2-1-06	Repeal	3-1-06	413-015-0305	7-1-06	Amend	8-1-06
411-320-0130	11-23-05	Amend(T)	1-1-06	413-015-0310	1-1-06	Amend(T)	2-1-06
411-320-0130	2-1-06	Amend	3-1-06	413-015-0310	7-1-06	Amend	8-1-06
411-320-0130(T)	2-1-06	Repeal	3-1-06	413-015-0405	1-1-06	Amend(T)	2-1-06
411-320-0140	11-23-05	Amend(T)	1-1-06	413-015-0405	2-1-06	Amend	3-1-06
411-320-0140	2-1-06	Amend	3-1-06	413-015-0405	2-1-06	Amend(T)	3-1-06
411-320-0140(T)	2-1-06	Repeal	3-1-06	413-015-0405	7-1-06	Amend	8-1-06
411-320-0160	11-23-05	Amend(T)	1-1-06	413-015-0405(T)	2-1-06	Suspend	3-1-06
411-320-0160	2-1-06	Amend	3-1-06	413-015-0505	3-1-06	Amend	4-1-06
411-320-0160(T)	2-1-06	Repeal	3-1-06	413-015-0505(T)	3-1-06	Repeal	4-1-06
411-320-0170	11-23-05	Amend(T)	1-1-06	413-015-0510	3-1-06	Amend	4-1-06
411-320-0170	2-1-06	Amend	3-1-06	413-015-0510(T)	3-1-06	Repeal	4-1-06
411-320-0170(T)	2-1-06	Repeal	3-1-06	413-015-0511	3-1-06	Amend	4-1-06
411-340-0020	5-1-06	Amend	6-1-06	413-015-0511(T)	3-1-06	Repeal	4-1-06
411-340-0030	5-1-06	Amend	6-1-06	413-015-0512	3-1-06	Amend	4-1-06
411-340-0040	5-1-06	Amend	6-1-06	413-015-0512(T)	3-1-06	Repeal	4-1-06
411-340-0050	5-1-06	Amend	6-1-06	413-015-0513	3-1-06	Amend	4-1-06
411-340-0060	5-1-06	Amend	6-1-06	413-015-0513(T)	3-1-06	Repeal	4-1-06
411-340-0110	5-1-06	Amend	6-1-06	413-015-0514	3-1-06	Amend	4-1-06
411-340-0120	5-1-06	Amend	6-1-06	413-015-0514(T)	3-1-06	Repeal	4-1-06
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411-340-0140	5-1-06	Amend	6-1-06	413-015-0720	1-1-06	Amend(T)	2-1-06
411-340-0150	5-1-06	Amend	6-1-06	413-015-0720	7-1-06	Amend	8-1-06
411-340-0160	5-1-06	Amend	6-1-06	413-015-0900	1-1-06	Amend(T)	2-1-06
411-340-0170	5-1-06	Amend	6-1-06	413-015-0900	7-1-06	Amend	8-1-06
411-340-0180	5-1-06	Amend	6-1-06	413-015-1000	1-1-06	Amend(T)	2-1-06
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413-010-0081	8-1-06	Adopt	9-1-06	413-040-0135	2-1-06	Amend	3-1-06
413-010-0082	2-6-06	Adopt(T)	3-1-06	413-040-0140	2-1-06	Amend	3-1-06
413-010-0082	8-1-06	Adopt	9-1-06	413-050-0100	1-1-06	Repeal	2-1-06
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413-010-0083	8-1-06	Adopt	9-1-06	413-050-0120	1-1-06	Repeal	2-1-06
413-010-0084	2-6-06	Adopt(T)	3-1-06	413-050-0130	1-1-06	Repeal	2-1-06
413-010-0084	8-1-06	Adopt	9-1-06	413-050-0140	1-1-06	Repeal	2-1-06
413-010-0085	2-6-06	Adopt(T)	3-1-06	413-070-0520	7-1-06	Adopt	8-1-06
413-010-0085	8-1-06	Adopt	9-1-06	413-070-0524	7-1-06	Adopt	8-1-06
413-010-0086	2-6-06	Adopt(T)	3-1-06	413-070-0528	7-1-06	Adopt	8-1-06
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413-010-0086	8-1-06	Adopt	9-1-06	413-070-0536	7-1-06	Adopt	8-1-06
413-015-0115	1-1-06	Amend(T)	2-1-06	413-070-0540	7-1-06	Adopt	8-1-06
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413-070-0556	7-1-06	Adopt	8-1-06	414-350-0120	6-13-06	Amend	7-1-06
413-070-0560	7-1-06	Adopt	8-1-06	414-350-0140	1-1-06	Amend(T)	2-1-06
413-080-0100	1-1-06	Repeal	2-1-06	414-350-0140	6-13-06	Amend	7-1-06
413-080-0110	1-1-06	Repeal	2-1-06	414-350-0160	1-1-06	Amend(T)	2-1-06
413-080-0120	1-1-06	Repeal	2-1-06	414-350-0160	6-13-06	Amend	7-1-06
413-080-0130	1-1-06	Repeal	2-1-06	414-350-0170	1-1-06	Amend(T)	2-1-06
413-080-0140	1-1-06	Repeal	2-1-06	414-350-0170	6-13-06	Amend	7-1-06
413-080-0150	1-1-06	Repeal	2-1-06	414-350-0220	1-1-06	Amend(T)	2-1-06
413-090-0300	2-1-06	Amend	3-1-06	414-350-0220	6-13-06	Amend	7-1-06
413-090-0310	2-1-06	Amend	3-1-06	414-350-0235	1-1-06	Amend(T)	2-1-06
413-090-0380	2-1-06	Amend	3-1-06	414-350-0235	6-13-06	Amend	7-1-06
413-110-0100	5-1-06	Amend	6-1-06	414-350-0250	1-1-06	Amend(T)	2-1-06
413-110-0110	5-1-06	Amend	6-1-06	414-350-0250	6-13-06	Amend	7-1-06
413-110-0120	5-1-06	Amend	6-1-06	414-700-0060	12-15-05	Amend(T)	1-1-06
413-110-0130	5-1-06	Amend	6-1-06	414-700-0060	4-23-06	Amend	6-1-06
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413-130-0010	7-1-06	Amend	8-1-06	415-001-0010	6-1-06	Repeal	6-1-06
413-130-0080	1-1-06	Amend(T)	2-1-06	416-310-0000	2-7-06	Repeal	3-1-06
413-130-0080	7-1-06	Amend	8-1-06	416-310-0010	2-7-06	Repeal	3-1-06
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436-009-0025	4-1-06	Amend	4-1-06	436-035-0005	1-1-06	Amend	1-1-06
436-009-0030	4-1-06	Amend	4-1-06	436-035-0007	1-1-06	Amend	1-1-06
436-009-0035	4-1-06	Amend	4-1-06	436-035-0008	1-1-06	Amend	1-1-06
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436-009-0070	4-1-06	Amend	4-1-06	436-035-0016	1-1-06	Amend	1-1-06
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436-010-0210	7-1-06	Amend	7-1-06	436-035-0340	1-1-06	Amend	1-1-06
436-010-0220	1-1-06	Amend	1-1-06	436-035-0350	1-1-06	Amend	1-1-06
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436-010-0280	7-1-06	Amend	7-1-06	436-050-0008	1-1-06	Amend	1-1-06
436-010-0290	1-1-06	Amend	1-1-06	436-050-0100	1-1-06	Amend	1-1-06
436-010-0300	1-1-06	Amend	1-1-06	436-050-0110	1-1-06	Amend	1-1-06
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436-060-0105	1-1-06	Amend	1-1-06	441-780-0010	1-9-06	Repeal	2-1-06
436-060-0135	1-1-06	Amend	1-1-06	441-780-0020	1-9-06	Repeal	2-1-06
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436-060-0147	1-1-06	Amend	1-1-06	441-780-0050	1-9-06	Repeal	2-1-06
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436-060-0155	1-1-06	Amend	1-1-06	441-780-0070	1-9-06	Repeal	2-1-06
436-060-0180	1-1-06	Amend	1-1-06	441-780-0080	1-9-06	Repeal	2-1-06
436-060-0190	1-1-06	Amend	1-1-06	441-780-0090	1-9-06	Repeal	2-1-06
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436-110-0005	1-1-06	Amend	1-1-06	441-910-0070	1-1-06	Repeal	1-1-06
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436-120-0900	1-1-06	Amend	1-1-06	441-930-0030	2-22-06	Amend	4-1-06
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441-750-0020	1-9-06	Repeal	2-1-06	441-950-0030	1-9-06	Repeal	2-1-06

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441-950-0050	1-9-06	Repeal	2-1-06	442-005-0270	6-1-06	Adopt	7-1-06
442-004-0000	6-1-06	Repeal	7-1-06	442-005-0275	6-1-06	Adopt	7-1-06
442-004-0010	1-17-06	Amend(T)	3-1-06	442-005-0280	6-1-06	Adopt	7-1-06
442-004-0010	6-1-06	Repeal	7-1-06	442-005-0290	6-1-06	Adopt	7-1-06
442-004-0020	6-1-06	Repeal	7-1-06	442-005-0300	6-1-06	Adopt	7-1-06
442-004-0030	6-1-06	Repeal	7-1-06	442-005-0310	6-1-06	Adopt	7-1-06
442-004-0040	6-1-06	Repeal	7-1-06	442-005-0320	6-1-06	Adopt	7-1-06
442-004-0050	6-1-06	Repeal	7-1-06	442-005-0330	6-1-06	Adopt	7-1-06
442-004-0060	6-1-06	Repeal	7-1-06	442-005-0340	6-1-06	Adopt	7-1-06
442-004-0070	6-1-06	Repeal	7-1-06	442-005-0350	6-1-06	Adopt	7-1-06
442-004-0080	1-17-06	Amend(T)	3-1-06	443-002-0010	1-1-06	Amend	2-1-06
442-004-0080	6-1-06	Repeal	7-1-06	443-002-0030	1-1-06	Amend	2-1-06
442-004-0085	1-17-06	Amend(T)	3-1-06	443-002-0060	1-1-06	Amend	2-1-06
442-004-0085	6-1-06	Repeal	7-1-06	443-002-0070	1-1-06	Amend	2-1-06
442-004-0090	6-1-06	Repeal	7-1-06	443-002-0080	1-1-06	Amend	2-1-06
442-004-0100	6-1-06	Repeal	7-1-06	443-002-0090	1-1-06	Amend	2-1-06
442-004-0110	6-1-06	Repeal	7-1-06	443-002-0095	1-1-06	Adopt	2-1-06
442-004-0115	6-1-06	Repeal	7-1-06	443-002-0110	1-1-06	Amend	2-1-06
442-004-0117	6-1-06	Repeal	7-1-06	443-002-0120	1-1-06	Amend	2-1-06
442-004-0120	6-1-06	Repeal	7-1-06	445-050-0115	12-29-05	Amend(T)	2-1-06
442-004-0130	1-17-06	Amend(T)	3-1-06	445-050-0115	6-15-06	Amend	7-1-06
442-004-0130	6-1-06	Repeal	7-1-06	445-050-0125	12-29-05	Amend(T)	2-1-06
442-004-0140	6-1-06	Repeal	7-1-06	445-050-0125	6-15-06	Amend	7-1-06
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
442-004-0160	1-17-06	Amend(T)	3-1-06	459-001-0005	6-26-06	Amend	8-1-06
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
442-004-0170	6-1-06	Repeal	7-1-06	459-005-0001	4-5-06	Amend	5-1-06
442-005-0000	6-1-06	Adopt	7-1-06	459-005-0610	2-1-06	Amend	3-1-06
442-005-0010	6-1-06	Adopt	7-1-06	459-007-0001	2-1-06	Amend	3-1-06
442-005-0020	6-1-06	Adopt	7-1-06	459-007-0001(T)	2-1-06	Repeal	3-1-06
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
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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
442-005-0090	6-1-06	Adopt	7-1-06	459-007-0090(T)	2-1-06	Repeal	3-1-06
442-005-0100	6-1-06	Adopt	7-1-06	459-007-0095	2-1-06	Repeal	3-1-06
442-005-0110	6-1-06	Adopt	7-1-06	459-009-0200	6-26-06	Amend	8-1-06
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442-005-0190	6-1-06	Adopt	7-1-06	459-050-0060	4-5-06	Amend	5-1-06
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442-005-0230	6-1-06	Adopt	7-1-06	459-075-0030	4-5-06	Amend	5-1-06
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461-101-0010	1-1-06	Amend	2-1-06	461-135-0832	4-1-06	Amend	5-1-06
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461-105-0050	4-1-06	Repeal	5-1-06	461-135-0950	4-1-06	Amend	5-1-06
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461-155-0250	7-1-06	Amend	8-1-06	461-195-0310	1-1-06	Amend	2-1-06
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543-060-0030	2-14-06	Amend	3-1-06	575-071-0070	3-1-06	Amend	4-1-06
543-070-0000	2-14-06	Amend	3-1-06	575-074-0000	3-1-06	Adopt	4-1-06
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571-040-0050	9-1-06	Am. & Ren.	9-1-06	575-074-0030	3-1-06	Adopt	4-1-06
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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
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571-040-0261	9-1-06	Am. & Ren.	9-1-06	577-031-0131	7-21-06	Amend	9-1-06
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571-040-0380	9-1-06	Amend	9-1-06	577-060-0020	6-30-06	Amend	8-1-06
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571-040-0410	9-1-06	Am. & Ren.	9-1-06	580-022-0030	6-27-06	Amend	8-1-06
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629-023-0430	1-3-06	Amend(T)	2-1-06	629-623-0450	1-1-06	Amend	1-1-06
629-023-0430	6-1-06	Amend	6-1-06	629-623-0450(T)	1-1-06	Repeal	1-1-06
629-023-0430(T)	6-1-06	Repeal	6-1-06	629-623-0550	1-1-06	Amend	1-1-06
629-023-0440	1-3-06	Amend(T)	2-1-06	629-623-0550(T)	1-1-06	Repeal	1-1-06
629-023-0440	6-1-06	Amend	6-1-06	629-623-0700	1-1-06	Amend	1-1-06
629-023-0440(T)	6-1-06	Repeal	6-1-06	629-623-0700(T)	1-1-06	Repeal	1-1-06
629-023-0450	1-3-06	Amend(T)	2-1-06	629-625-0100	1-1-06	Amend	1-1-06
629-023-0450	6-1-06	Amend	6-1-06	629-625-0100(T)	1-1-06	Repeal	1-1-06
629-023-0450(T)	6-1-06	Repeal	6-1-06	629-625-0320	1-1-06	Amend	1-1-06
629-023-0460	1-3-06	Amend(T)	2-1-06	629-625-0320(T)	1-1-06	Repeal	1-1-06
629-023-0460	6-1-06	Amend	6-1-06	629-625-0430	1-1-06	Amend	1-1-06
629-023-0460(T)	6-1-06	Repeal	6-1-06	629-625-0430(T)	1-1-06	Repeal	1-1-06
629-023-0490	1-3-06	Amend(T)	2-1-06	629-630-0200	1-1-06	Amend	1-1-06
629-023-0490	6-1-06	Amend	6-1-06	629-630-0200(T)	1-1-06	Repeal	1-1-06
629-023-0490(T)	6-1-06	Repeal	6-1-06	629-630-0600	1-1-06	Amend	1-1-06
629-041-0520	7-1-06	Repeal	1-1-06	629-630-0600(T)	1-1-06	Repeal	1-1-06
629-041-0535	7-1-06	Repeal	1-1-06	629-630-0700	1-1-06	Amend	1-1-06
629-041-0545	7-1-06	Repeal	1-1-06	629-630-0700(T)	1-1-06	Repeal	1-1-06
629-041-0547	7-1-06	Adopt	1-1-06	629-630-0800	1-1-06	Amend	1-1-06
629-041-0557	7-1-06	Adopt	1-1-06	629-630-0800(T)	1-1-06	Repeal	1-1-06
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629-600-0100	1-1-06	Amend	1-1-06	629-635-0130(T)	1-1-06	Repeal	1-1-06
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629-600-0100(T)	1-1-06	Repeal	1-1-06	629-640-0100	6-27-06	Amend	8-1-06
629-605-0100	1-1-06	Amend	1-1-06	629-640-0100(T)	1-1-06	Repeal	1-1-06
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629-605-0150	1-1-06	Amend	1-1-06	629-640-0110(T)	1-1-06	Repeal	1-1-06
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629-605-0175	1-1-06	Amend	1-1-06	629-645-0000(T)	1-1-06	Repeal	1-1-06
629-605-0175(T)	1-1-06	Repeal	1-1-06	629-645-0020	1-1-06	Amend	1-1-06
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629-605-0500	1-1-06	Amend	1-1-06	629-645-0050(T)	1-1-06	Repeal	1-1-06
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635-042-0133	2-15-06	Amend	3-1-06	635-054-0000	8-11-06	Amend	9-1-06
635-042-0135	1-1-06	Amend(T)	2-1-06	635-060-0000	1-1-06	Amend	1-1-06
635-042-0135	1-27-06	Amend(T)	3-1-06	635-060-0000	8-11-06	Amend	9-1-06
635-042-0135	2-15-06	Amend	3-1-06	635-060-0055	4-1-06	Amend	1-1-06
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635-042-0145	2-15-06	Amend	3-1-06	635-065-0015	1-1-06	Amend	1-1-06
635-042-0145	3-16-06	Amend(T)	4-1-06	635-065-0090	12-16-05	Amend	2-1-06
635-042-0145	3-23-06	Amend(T)	5-1-06	635-065-0090	6-14-06	Amend	7-1-06
635-042-0145	3-30-06	Amend(T)	5-1-06	635-065-0401	1-1-06	Amend	1-1-06
635-042-0145	5-16-06	Amend(T)	7-1-06	635-065-0625	1-1-06	Amend	1-1-06
635-042-0145	5-23-06	Amend(T)	7-1-06	635-065-0635	1-1-06	Amend	1-1-06
635-042-0145	5-30-06	Amend(T)	7-1-06	635-065-0720	1-1-06	Amend	1-1-06
635-042-0145	6-28-06	Amend(T)	8-1-06	635-065-0735	12-16-05	Amend	2-1-06
635-042-0145	8-2-06	Amend(T)	9-1-06	635-065-0740	1-1-06	Amend	1-1-06
635-042-0145(T)	5-16-06	Suspend	7-1-06	635-065-0760	6-1-06	Amend	1-1-06
635-042-0145(T)	5-23-06	Suspend	7-1-06	635-065-0765	1-1-06	Amend	1-1-06
635-042-0145(T)	5-30-06	Suspend	7-1-06	635-065-0772	8-11-06	Adopt	9-1-06
635-042-0160	2-15-06	Amend	3-1-06	635-066-0000	1-1-06	Amend	1-1-06
635-042-0160	3-16-06	Amend(T)	4-1-06	635-067-0000	1-1-06	Amend	1-1-06
635-042-0160	3-26-06	Amend(T)	5-1-06	635-067-0000	6-14-06	Amend	7-1-06
635-042-0160	4-2-06	Amend(T)	5-1-06	635-067-0004	1-1-06	Amend	1-1-06
635-042-0160	4-9-06	Amend(T)	5-1-06	635-067-0004	6-14-06	Amend	7-1-06
635-042-0160	5-23-06	Amend(T)	7-1-06	635-067-0015	1-1-06	Amend	1-1-06
635-042-0160	5-30-06	Amend(T)	7-1-06	635-067-0015	6-14-06	Amend	7-1-06
635-042-0160	9-5-06	Amend(T)	9-1-06	635-068-0000	3-1-06	Amend	1-1-06
635-042-0160(T)	5-23-06	Suspend	7-1-06	635-068-0000	6-14-06	Amend	7-1-06
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635-042-0170	9-5-06	Amend(T)	9-1-06	635-069-0000	6-14-06	Amend	7-1-06
635-042-0180	2-15-06	Amend	3-1-06	635-070-0000	4-1-06	Amend	1-1-06
635-042-0180	5-23-06	Amend(T)	7-1-06	635-070-0000	6-14-06	Amend	7-1-06
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635-050-0090	7-12-06	Amend	8-1-06	635-073-0070	6-14-06	Amend	7-1-06
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635-080-0070	1-1-06	Amend	1-1-06	660-025-0020	5-15-06	Amend	6-1-06
635-080-0071	1-1-06	Amend	1-1-06	660-025-0030	5-15-06	Amend	6-1-06
635-090-0140	6-21-06	Amend	8-1-06	660-025-0035	5-15-06	Adopt	6-1-06
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735-024-0080(T)	5-25-06	Repeal	7-1-06	735-062-0135(T)	11-18-05	Repeal	1-1-06
735-024-0120	1-1-06	Amend(T)	1-1-06	735-062-0190	12-14-05	Amend	1-1-06
735-024-0120	5-25-06	Amend	7-1-06	735-062-0190	8-1-06	Amend(T)	9-1-06
735-024-0120(T)	5-25-06	Repeal	7-1-06	735-062-0190(T)	12-14-05	Repeal	1-1-06
735-024-0130	1-1-06	Amend(T)	1-1-06	735-062-0320	12-14-05	Amend	1-1-06
735-024-0130	5-25-06	Amend	7-1-06	735-064-0005	2-15-06	Amend	3-1-06
735-024-0130(T)	5-25-06	Repeal	7-1-06	735-064-0040	2-15-06	Amend	3-1-06
735-024-0170	1-1-06	Amend(T)	1-1-06	735-064-0090	2-15-06	Amend	3-1-06
735-024-0170	5-25-06	Amend	7-1-06	735-064-0100	2-15-06	Amend	3-1-06
735-024-0170(T)	5-25-06	Repeal	7-1-06	735-064-0110	2-15-06	Amend	3-1-06
735-028-0010	1-1-06	Amend(T)	1-1-06	735-064-0220	12-14-05	Amend	1-1-06
735-028-0010	5-25-06	Amend	7-1-06	735-064-0220(T)	12-14-05	Repeal	1-1-06
735-028-0010(T)	5-25-06	Repeal	7-1-06	735-064-0235	12-14-05	Amend	1-1-06
735-028-0090	1-1-06	Amend(T)	1-1-06	735-070-0010	11-18-05	Amend	1-1-06
735-028-0090	5-25-06	Amend	7-1-06	735-070-0010	1-1-06	Amend	1-1-06
735-028-0090(T)	5-25-06	Repeal	7-1-06	735-070-0010(T)	11-18-05	Repeal	1-1-06
735-028-0110	1-1-06	Amend(T)	1-1-06	735-070-0020	12-14-05	Amend	1-1-06
735-028-0110	5-25-06	Amend	7-1-06	735-070-0020(T)	12-14-05	Repeal	1-1-06
735-028-0110(T)	5-25-06	Repeal	7-1-06	735-070-0030	12-14-05	Amend	1-1-06
735-032-0020	1-1-06	Amend(T)	1-1-06	735-070-0037	12-14-05	Amend	1-1-06
735-032-0020	5-25-06	Amend	7-1-06	735-070-0054	12-14-05	Amend	1-1-06
735-032-0020(T)	5-25-06	Repeal	7-1-06	735-070-0180	12-14-05	Repeal	1-1-06
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735-042-0020	5-25-06	Amend	7-1-06	735-074-0060	5-25-06	Amend	7-1-06
735-046-0080	1-1-06	Suspend	1-1-06	735-074-0080	5-25-06	Amend	7-1-06
735-046-0080	5-25-06	Repeal	7-1-06	735-074-0110	5-25-06	Amend	7-1-06
735-060-0000	12-14-05	Amend	1-1-06	735-074-0120	5-25-06	Amend	7-1-06
735-060-0030	12-14-05	Amend	1-1-06	735-074-0140	5-25-06	Amend	7-1-06
735-060-0040	12-14-05	Amend	1-1-06	735-074-0150	5-25-06	Repeal	7-1-06
735-060-0050	12-14-05	Amend	1-1-06	735-074-0180	5-25-06	Amend	7-1-06
735-060-0055	12-14-05	Amend	1-1-06	735-074-0200	5-25-06	Amend	7-1-06
735-060-0057	12-14-05	Amend	1-1-06	735-074-0210	5-25-06	Amend	7-1-06
735-060-0060	12-14-05	Amend	1-1-06	735-074-0212	5-25-06	Adopt	7-1-06
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735-060-0110	12-14-05	Amend	1-1-06	735-076-0002	5-25-06	Adopt	7-1-06
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735-060-0130	12-14-05	Amend	1-1-06	735-076-0007	5-25-06	Repeal	7-1-06
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735-062-0030	11-18-05	Amend	1-1-06	735-076-0015	5-25-06	Adopt	7-1-06
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735-076-0050	5-25-06	Amend	7-1-06	735-152-0070	5-25-06	Adopt	7-1-06
735-076-0052	5-25-06	Adopt	7-1-06	735-152-0070(T)	5-25-06	Repeal	7-1-06
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735-150-0005	5-25-06	Amend	7-1-06	735-152-0080	5-25-06	Adopt	7-1-06
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735-150-0010	1-1-06	Amend	1-1-06	735-152-0090	1-1-06	Adopt(T)	1-1-06
735-150-0010	1-1-06	Amend(T)	1-1-06	735-152-0090	5-25-06	Adopt	7-1-06
735-150-0010	5-25-06	Amend	7-1-06	735-152-0090(T)	5-25-06	Repeal	7-1-06
735-150-0010(T)	5-25-06	Repeal	7-1-06	735-154-0010	5-25-06	Amend	7-1-06
735-150-0033	1-1-06	Adopt	1-1-06	735-154-0020	5-25-06	Repeal	7-1-06
735-150-0040	1-1-06	Amend	1-1-06	735-154-0030	5-25-06	Repeal	7-1-06
735-150-0050	1-1-06	Amend	1-1-06	735-160-0003	1-1-06	Adopt	1-1-06
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735-152-0005	5-25-06	Amend	7-1-06	736-050-0135	5-8-06	Amend	6-1-06
735-152-0005(T)	5-25-06	Repeal	7-1-06	736-050-0140	5-8-06	Amend	6-1-06
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735-152-0030	5-25-06	Repeal	7-1-06	738-014-0010	7-1-06	Adopt	8-1-06
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801-001-0035	1-1-06	Amend	1-1-06	808-002-0455	1-1-06	Adopt	2-1-06
801-001-0055	1-1-06	Adopt	1-1-06	808-002-0460	1-1-06	Repeal	2-1-06
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801-010-0050	1-1-06	Amend	1-1-06	808-002-0490	1-1-06	Adopt	2-1-06
801-010-0080	1-1-06	Amend	1-1-06	808-002-0495	1-1-06	Adopt	2-1-06
801-020-0720	1-1-06	Amend	1-1-06	808-002-0500	1-1-06	Amend	2-1-06
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812-001-0160	6-1-06	Amend	7-1-06	812-004-0250	1-1-06	Amend	1-1-06
812-001-0180	6-1-06	Adopt	7-1-06	812-004-0260	1-1-06	Amend	1-1-06
812-001-0200	1-1-06	Am. & Ren.	1-1-06	812-004-0300	1-1-06	Amend	1-1-06
812-001-0200	1-11-06	Amend(T)	2-1-06	812-004-0320	1-1-06	Amend	1-1-06
812-001-0200	3-30-06	Amend	5-1-06	812-004-0325	1-1-06	Repeal	1-1-06
812-001-0200(T)	3-30-06	Repeal	5-1-06	812-004-0340	1-1-06	Amend	1-1-06
812-001-0300	1-1-06	Am. & Ren.	1-1-06	812-004-0360	1-1-06	Amend	1-1-06
812-001-0305	1-1-06	Am. & Ren.	1-1-06	812-004-0420	1-1-06	Amend	1-1-06
812-001-0310	1-1-06	Am. & Ren.	1-1-06	812-004-0440	1-1-06	Amend	1-1-06
812-001-0500	1-1-06	Am. & Ren.	1-1-06	812-004-0450	1-1-06	Amend	1-1-06
812-001-0510	1-1-06	Am. & Ren.	1-1-06	812-004-0460	1-1-06	Amend	1-1-06
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812-002-0060	1-1-06	Amend	1-1-06	812-004-0480	1-1-06	Amend	1-1-06
812-002-0100	1-1-06	Amend	1-1-06	812-004-0500	1-1-06	Amend	1-1-06
812-002-0160	1-1-06	Amend	1-1-06	812-004-0530	1-1-06	Amend	1-1-06
812-002-0190	1-1-06	Amend	1-1-06	812-004-0590	1-1-06	Amend	1-1-06
812-002-0260	1-1-06	Amend	1-1-06	812-005-0100	1-1-06	Am. & Ren.	1-1-06
812-002-0260	6-1-06	Amend	7-1-06	812-005-0110	1-1-06	Am. & Ren.	1-1-06
812-002-0325	1-1-06	Amend	1-1-06	812-005-0120	1-1-06	Am. & Ren.	1-1-06
812-002-0340	1-1-06	Repeal	1-1-06	812-005-0130	1-1-06	Am. & Ren.	1-1-06
812-002-0350	1-1-06	Adopt	1-1-06	812-005-0140	1-1-06	Am. & Ren.	1-1-06
812-002-0360	1-1-06	Amend	1-1-06	812-005-0150	1-1-06	Am. & Ren.	1-1-06
812-002-0420	1-1-06	Amend	1-1-06	812-005-0160	1-1-06	Am. & Ren.	1-1-06
812-002-0430	1-1-06	Amend	1-1-06	812-005-0170	1-1-06	Am. & Ren.	1-1-06
812-002-0443	1-1-06	Amend	1-1-06	812-005-0180	1-1-06	Am. & Ren.	1-1-06
812-002-0520	1-1-06	Amend	1-1-06	812-005-0200	1-1-06	Am. & Ren.	1-1-06
812-002-0533	1-1-06	Adopt	1-1-06	812-005-0210	1-1-06	Am. & Ren.	1-1-06
812-002-0533	6-1-06	Amend	7-1-06	812-005-0500	1-1-06	Am. & Ren.	1-1-06
812-002-0537	1-1-06	Adopt	1-1-06	812-005-0800	1-1-06	Am. & Ren.	1-1-06
812-002-0537	6-23-06	Amend	8-1-06	812-005-0800	1-26-06	Amend	3-1-06
812-002-0540	1-1-06	Amend	1-1-06	812-005-210	6-23-06	Amend	8-1-06
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812-002-0700	1-1-06	Amend	1-1-06	812-006-0012	6-23-06	Amend	8-1-06
812-002-0720	1-1-06	Amend	1-1-06	812-006-0015	1-1-06	Adopt	1-1-06
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812-006-0050	6-1-06	Amend	7-1-06	813-013-0010(T)	6-28-06	Repeal	8-1-06
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812-008-0070	1-26-06	Amend	3-1-06	813-013-0015(T)	6-28-06	Repeal	8-1-06
812-008-0072	1-26-06	Amend	3-1-06	813-013-0020	1-5-06	Adopt(T)	2-1-06
812-008-0074	6-1-06	Amend	7-1-06	813-013-0020	6-28-06	Adopt	8-1-06
812-008-0078	1-26-06	Repeal	3-1-06	813-013-0020(T)	6-28-06	Repeal	8-1-06
812-008-0090	3-2-06	Amend	4-1-06	813-013-0025	1-5-06	Adopt(T)	2-1-06
812-008-0110	1-1-06	Amend	1-1-06	813-013-0025	6-28-06	Adopt	8-1-06
812-008-0202	3-2-06	Amend	4-1-06	813-013-0025(T)	6-28-06	Repeal	8-1-06
812-009-0160	1-1-06	Amend	1-1-06	813-013-0030	1-5-06	Adopt(T)	2-1-06
812-009-0320	1-1-06	Amend	1-1-06	813-013-0030	6-28-06	Adopt	8-1-06
812-009-0400	1-1-06	Amend	1-1-06	813-013-0030(T)	6-28-06	Repeal	8-1-06
812-009-0420	1-1-06	Amend	1-1-06	813-013-0035	1-5-06	Adopt(T)	2-1-06
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813-001-0003(T)	1-31-06	Repeal	3-1-06	813-013-0045	1-5-06	Adopt(T)	2-1-06
813-001-0005	1-31-06	Repeal	3-1-06	813-013-0045	6-28-06	Adopt	8-1-06
813-001-0007	1-31-06	Adopt	3-1-06	813-013-0045(T)	6-28-06	Repeal	8-1-06
813-001-0007(T)	1-31-06	Repeal	3-1-06	813-013-0050	1-5-06	Adopt(T)	2-1-06
813-001-0008	1-31-06	Repeal	3-1-06	813-013-0050	6-28-06	Adopt	8-1-06
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836-014- 0280	7-27-06	Amend	9-1-06	836-024-0100	8-7-06	Adopt	9-1-06
836-014-0200	7-27-06	Amend	9-1-06	836-024-0105	8-7-06	Adopt	9-1-06
836-014-0210	7-27-06	Amend	9-1-06	836-024-0110	8-7-06	Adopt	9-1-06
836-014-0220	7-27-06	Amend	9-1-06	836-024-0115	8-7-06	Adopt	9-1-06
836-014-0230	7-27-06	Amend	9-1-06	836-024-0120	8-7-06	Adopt	9-1-06
836-014-0240	7-27-06	Amend	9-1-06	836-024-0125	8-7-06	Adopt	9-1-06
836-014-0250	7-27-06	Amend	9-1-06	836-024-0130	8-7-06	Adopt	9-1-06
836-014-0260	7-27-06	Amend	9-1-06	836-024-0135	8-7-06	Adopt	9-1-06
836-014-0265	7-27-06	Amend	9-1-06	836-024-0140	8-7-06	Adopt	9-1-06
836-014-0270	7-27-06	Amend	9-1-06	836-024-0145	8-7-06	Adopt	9-1-06
836-014-0290	7-27-06	Amend	9-1-06	836-024-0150	8-7-06	Adopt	9-1-06
836-014-0300	7-27-06	Amend	9-1-06	836-024-0155	8-7-06	Adopt	9-1-06
836-014-0310	7-27-06	Amend	9-1-06	836-024-0160	8-7-06	Adopt	9-1-06
836-014-0320	7-27-06	Amend	9-1-06	836-024-0165	8-7-06	Adopt	9-1-06
836-020-0700	7-20-06	Repeal	9-1-06	836-024-0170	8-7-06	Adopt	9-1-06
836-020-0705	7-20-06	Repeal	9-1-06	836-024-0175	8-7-06	Adopt	9-1-06
836-020-0710	7-20-06	Repeal	9-1-06	836-024-0180	8-7-06	Adopt	9-1-06
836-020-0715	7-20-06	Repeal	9-1-06	836-024-0185	8-7-06	Adopt	9-1-06
836-020-0720	7-20-06	Repeal	9-1-06	836-024-0190	8-7-06	Adopt	9-1-06
836-020-0725	7-20-06	Repeal	9-1-06	836-024-0200	8-7-06	Adopt	9-1-06
836-020-0730	7-20-06	Repeal	9-1-06	836-024-0205	8-7-06	Adopt	9-1-06
836-020-0735	7-20-06	Repeal	9-1-06	836-024-0210	8-7-06	Adopt	9-1-06
836-020-0740	7-20-06	Repeal	9-1-06	836-024-0215	8-7-06	Adopt	9-1-06
836-020-0745	7-20-06	Repeal	9-1-06	836-024-0220	8-7-06	Adopt	9-1-06
836-020-0750	7-20-06	Repeal	9-1-06	836-027-0200	2-13-06	Amend	3-1-06
836-020-0755	7-20-06	Repeal	9-1-06	836-031-0855	6-26-06	Amend	8-1-06
836-020-0760	7-20-06	Repeal	9-1-06	836-042-0015	6-9-06	Amend	7-1-06
836-020-0765	7-20-06	Repeal	9-1-06	836-042-0045	6-9-06	Amend	7-1-06
836-020-0770	7-20-06	Adopt	9-1-06	836-050-0000	7-27-06	Amend	9-1-06
836-020-0775	7-20-06	Adopt	9-1-06	836-050-0010	7-27-06	Amend	9-1-06
836-020-0780	7-20-06	Adopt	9-1-06	836-050-0020	7-27-06	Amend	9-1-06
836-020-0785	7-20-06	Adopt	9-1-06	836-051-0400	6-26-06	Repeal	8-1-06
836-020-0791	7-20-06	Adopt	9-1-06	836-052-0220	1-1-07	Repeal	8-1-06
836-020-0796	7-20-06	Adopt	9-1-06	836-052-0225	1-1-07	Repeal	8-1-06
836-020-0801	7-20-06	Adopt	9-1-06	836-052-0230	1-1-07	Repeal	8-1-06

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836-052-0240	1-1-07	Repeal	8-1-06	837-039-0110	5-22-06	Amend	7-1-06
836-052-0245	1-1-07	Repeal	8-1-06	837-040-0001	2-1-06	Amend(T)	2-1-06
836-052-0676	3-20-06	Amend	4-1-06	837-040-0001	6-12-06	Amend	7-1-06
836-052-0696	3-20-06	Amend	4-1-06	837-040-0001(T)	6-12-06	Repeal	7-1-06
836-053-0003	5-1-06	Adopt	6-1-06	837-040-0010	2-1-06	Amend(T)	2-1-06
836-053-0460	5-1-06	Amend	6-1-06	837-040-0010	6-12-06	Amend	7-1-06
836-053-1325	1-1-07	Amend	8-1-06	837-040-0010(T)	6-12-06	Repeal	7-1-06
836-053-1330	1-1-07	Amend	8-1-06	837-040-0020	2-1-06	Adopt(T)	2-1-06
836-053-1400	4-14-06	Adopt	5-1-06	837-040-0020	6-12-06	Adopt	7-1-06
836-053-1404	1-1-07	Adopt	8-1-06	837-040-0020(T)	6-12-06	Repeal	7-1-06
836-053-1405	1-1-07	Adopt	8-1-06	837-040-0140	2-1-06	Amend(T)	2-1-06
836-071-0180	1-31-06	Amend	3-1-06	837-040-0140	6-12-06	Amend	7-1-06
836-071-0263	1-15-06	Adopt	2-1-06	837-040-0140(T)	6-12-06	Repeal	7-1-06
836-071-0277	1-15-06	Amend	2-1-06	839-001-0420	1-1-06	Amend	2-1-06
836-080-0430	3-10-06	Amend	4-1-06	839-001-0470	1-1-06	Amend	2-1-06
836-080-0438	3-10-06	Amend	4-1-06	839-002-0002	3-20-06	Amend	5-1-06
836-080-0501	6-26-06	Amend	8-1-06	839-002-0005	3-20-06	Amend	5-1-06
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837-012-0510	3-10-06	Amend	4-1-06	839-003-0090	3-20-06	Amend	5-1-06
837-012-0555	3-10-06	Amend	4-1-06	839-006-0131	3-17-06	Amend(T)	5-1-06
837-012-0620	3-10-06	Amend	4-1-06	839-006-0136	3-20-06	Amend	5-1-06
837-012-0625	2-13-06	Amend(T)	2-1-06	839-006-0136(T)	3-20-06	Repeal	5-1-06
837-012-0625	3-10-06	Amend	4-1-06	839-006-0145	3-20-06	Amend	5-1-06
837-012-0750	2-13-06	Amend(T)	2-1-06	839-006-0205	3-20-06	Amend	5-1-06
837-012-0750	3-10-06	Amend	4-1-06	839-006-0305	3-20-06	Amend	5-1-06
837-012-0855	3-10-06	Amend	4-1-06	839-006-0405	3-20-06	Amend	5-1-06
837-012-0900	3-10-06	Amend	4-1-06	839-009-0260	3-24-06	Amend	5-1-06
837-012-0910	3-10-06	Amend	4-1-06	839-009-0320	3-24-06	Amend	5-1-06
837-012-1200	6-15-06	Amend(T)	7-1-06	839-011-0084	4-18-06	Amend	6-1-06
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837-012-1220	6-15-06	Amend(T)	7-1-06	839-014-0060	1-1-06	Amend	2-1-06
837-012-1230	6-15-06	Amend(T)	7-1-06	839-014-0100	1-1-06	Amend	2-1-06
837-012-1240	6-15-06	Amend(T)	7-1-06	839-014-0105	1-1-06	Amend	2-1-06
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837-012-1260	6-15-06	Amend(T)	7-1-06	839-014-0380	1-1-06	Amend	2-1-06
837-012-1270	6-15-06	Amend(T)	7-1-06	839-014-0630	1-1-06	Amend	2-1-06
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837-012-1290	6-15-06	Amend(T)	7-1-06	839-015-0130	3-1-06	Amend	4-1-06
837-012-1300	6-15-06	Amend(T)	7-1-06	839-015-0145	3-1-06	Amend	4-1-06
837-012-1310	6-15-06	Amend(T)	7-1-06	839-015-0155	1-1-06	Amend	2-1-06
837-012-1320	5-5-06	Amend	6-1-06	839-015-0157	1-1-06	Amend	2-1-06
837-012-1320	6-15-06	Amend(T)	7-1-06	839-015-0160	1-1-06	Amend	2-1-06
837-012-1330	6-15-06	Amend(T)	7-1-06	839-015-0165	1-1-06	Amend	2-1-06
837-012-1340	6-15-06	Amend(T)	7-1-06	839-015-0200	1-1-06	Amend	2-1-06
837-012-1350	6-15-06	Amend(T)	7-1-06	839-015-0230	1-1-06	Amend	2-1-06
837-012-1360	6-15-06	Amend(T)	7-1-06	839-015-0260	1-1-06	Amend	2-1-06
837-012-1370	6-15-06	Amend(T)	7-1-06	839-015-0300	1-1-06	Amend	2-1-06
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837-012-1400	6-15-06	Amend(T)	7-1-06	839-015-0500	1-1-06	Amend	2-1-06
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837-012-1420	6-15-06	Amend(T)	7-1-06	839-015-0600	1-1-06	Amend	2-1-06
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839-021-0102	5-15-06	Amend	6-1-06	845-015-0135	8-1-06	Amend	9-1-06
839-021-0104	5-15-06	Amend	6-1-06	845-015-0145	8-1-06	Amend	9-1-06
839-021-0220	5-15-06	Amend	6-1-06	845-015-0165	3-1-06	Amend	4-1-06
839-025-0002	3-7-06	Repeal	4-1-06	845-015-0168	8-1-06	Amend	9-1-06
839-025-0003	1-1-06	Amend	2-1-06	845-015-0170	8-1-06	Amend	9-1-06
839-025-0004	1-1-06	Amend	2-1-06	845-015-0173	8-1-06	Amend	9-1-06
839-025-0004	5-15-06	Amend(T)	6-1-06	845-015-0180	8-1-06	Amend	9-1-06
839-025-0010	1-1-06	Amend	2-1-06	847-001-0000	7-25-06	Amend	9-1-06
839-025-0015	1-1-06	Adopt	2-1-06	847-001-0005	7-25-06	Amend	9-1-06
839-025-0020	1-1-06	Amend	2-1-06	847-001-0015	7-25-06	Amend	9-1-06
839-025-0020	5-15-06	Amend(T)	6-1-06	847-001-0020	7-25-06	Amend	9-1-06
839-025-0035	1-1-06	Amend	2-1-06	847-001-0025	7-25-06	Amend	9-1-06
839-025-0037	5-15-06	Adopt(T)	6-1-06	847-005-0005	7-25-06	Amend	9-1-06
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839-025-0100	5-15-06	Amend	6-1-06	847-008-0023	2-8-06	Adopt(T)	3-1-06
839-025-0220	1-1-06	Amend	2-1-06	847-008-0023	5-8-06	Adopt	6-1-06
839-025-0230	1-1-06	Amend	2-1-06	847-010-0052	2-8-06	Amend	3-1-06
839-025-0240	1-1-06	Repeal	2-1-06	847-010-0073	5-8-06	Amend	6-1-06
839-025-0530	1-1-06	Amend	2-1-06	847-020-0130	2-8-06	Amend(T)	3-1-06
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839-025-0700	1-25-06	Amend	3-1-06	847-020-0140	2-8-06	Amend	3-1-06
839-025-0700	2-9-06	Amend	3-1-06	847-020-0150	2-8-06	Amend	3-1-06
839-025-0700	2-24-06	Amend	4-1-06	847-020-0170	2-8-06	Amend	3-1-06
839-025-0700	4-1-06	Amend	5-1-06	847-020-0170	2-8-06	Amend(T)	3-1-06
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839-025-0700	7-1-06	Amend	8-1-06	847-020-0185	5-8-06	Adopt	6-1-06
839-025-0700	7-11-06	Amend	8-1-06	847-023-0000	7-25-06	Adopt	9-1-06
839-025-0700	7-13-06	Amend	8-1-06	847-023-0005	7-25-06	Adopt	9-1-06
839-025-0700	7-24-06	Amend	9-1-06	847-031-0020	2-8-06	Amend	3-1-06
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839-025-0750	7-18-06	Amend	9-1-06	847-050-0041	2-8-06	Amend	3-1-06
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839-050-0010	3-20-06	Amend	5-1-06	847-065-0000	7-25-06	Adopt	9-1-06
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848-035-0040	4-14-06	Adopt	5-1-06	855-025-0035	6-9-06	Adopt	7-1-06
848-040-0105	1-1-06	Amend	2-1-06	855-025-0040	6-9-06	Adopt	7-1-06
848-040-0110	1-1-06	Amend	2-1-06	855-025-0050	12-14-05	Adopt	1-1-06
848-040-0115	1-1-06	Repeal	2-1-06	855-025-0050	6-9-06	Amend	7-1-06
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848-040-0120	1-1-06	Amend	2-1-06	855-041-0063	12-15-05	Amend	1-1-06
848-040-0147	1-1-06	Adopt	2-1-06	855-041-0080	6-9-06	Amend	7-1-06
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851-050-0131	12-21-05	Amend	2-1-06	855-050-0043	7-1-06	Repeal	7-1-06
851-050-0131	2-22-06	Amend	4-1-06	855-050-0070	7-1-06	Amend	7-1-06
851-050-0131	5-8-06	Amend	6-1-06	855-080-0022	7-1-06	Amend	7-1-06
851-050-0131	6-29-06	Amend	8-1-06	855-080-0023	7-1-06	Amend	7-1-06
851-054-0040	5-8-06	Amend	6-1-06	855-080-0028	7-1-06	Amend	7-1-06
851-061-0030	5-8-06	Amend	6-1-06	855-080-0031	7-1-06	Amend	7-1-06
851-061-0080	5-8-06	Amend	6-1-06	855-080-0065	7-1-06	Amend	7-1-06
851-061-0090	12-21-05	Amend	2-1-06	855-080-0070	7-1-06	Amend	7-1-06
851-061-0090	5-8-06	Amend	6-1-06	855-080-0075	7-1-06	Amend	7-1-06
851-061-0100	5-8-06	Amend	6-1-06	855-080-0095	7-1-06	Amend	7-1-06
851-062-0010	12-21-05	Amend	2-1-06	855-080-0105	7-1-06	Amend	7-1-06
851-063-0040	2-22-06	Amend	4-1-06	855-110-0005	6-9-06	Amend	7-1-06
852-010-0080	7-1-06	Amend	5-1-06	856-010-0012	11-29-05	Amend	1-1-06
852-020-0070	4-1-06	Amend	5-1-06	856-010-0026	1-30-06	Adopt	3-1-06
852-050-0006	4-1-06	Amend	5-1-06	860-011-0001	4-14-06	Amend	5-1-06
852-050-0006	7-1-06	Amend	5-1-06	860-011-0036	11-28-05	Adopt	1-1-06
852-050-0012	4-1-06	Amend	5-1-06	860-011-0080	11-30-05	Amend	1-1-06
852-050-0014	4-1-06	Amend	5-1-06	860-011-0080	12-21-05	Amend	2-1-06
852-060-0025	12-8-05	Am. & Ren.	1-1-06	860-012-0040	11-30-05	Amend	1-1-06
852-060-0027	12-8-05	Am. & Ren.	1-1-06	860-021-0008	11-30-05	Amend	1-1-06
852-060-0028	12-8-05	Am. & Ren.	1-1-06	860-021-0010	11-30-05	Amend	1-1-06
852-060-0075	3-8-06	Amend	4-1-06	860-021-0033	11-30-05	Amend	1-1-06
852-080-0030	4-1-06	Amend	5-1-06	860-021-0045	11-30-05	Amend	1-1-06
852-080-0040	4-1-06	Amend	5-1-06	860-021-0057	7-6-06	Adopt	8-1-06
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855-006-0005	6-9-06	Amend	7-1-06	860-021-0328	7-6-06	Adopt	8-1-06
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855-025-0001	6-9-06	Amend	7-1-06	860-021-0405	11-30-05	Amend	1-1-06
855-025-0005	6-9-06	Adopt	7-1-06	860-021-0405	2-27-06	Amend	4-1-06
855-025-0010	6-9-06	Adopt	7-1-06	860-021-0410	11-30-05	Amend	1-1-06

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860-021-0415	11-30-05	Amend	1-1-06	863-015-0186	1-1-06	Adopt(T)	2-1-06
860-021-0420	11-30-05	Amend	1-1-06	863-015-0186	6-30-06	Adopt	8-1-06
860-021-0510	2-27-06	Amend	4-1-06	863-015-0225	1-1-06	Adopt(T)	2-1-06
860-021-0550	2-27-06	Adopt	4-1-06	863-015-0225	6-30-06	Adopt	8-1-06
860-021-0550(T)	2-27-06	Repeal	4-1-06	863-015-0230	1-1-06	Adopt(T)	2-1-06
860-021-0575	2-27-06	Adopt	4-1-06	863-015-0230	6-30-06	Adopt	8-1-06
860-022-0001	11-30-05	Amend	1-1-06	875-001-0000	2-8-06	Amend	3-1-06
860-022-0017	11-30-05	Amend	1-1-06	875-001-0005	2-8-06	Amend	3-1-06
860-022-0040	11-30-05	Amend	1-1-06	875-001-0005	5-11-06	Amend	6-1-06
860-022-0046	11-30-05	Amend	1-1-06	875-001-0010	2-8-06	Repeal	3-1-06
860-022-0075	11-30-05	Adopt	1-1-06	875-001-0015	2-8-06	Adopt	3-1-06
860-023-0000	12-23-05	Amend	2-1-06	875-001-0020	2-8-06	Repeal	3-1-06
860-023-0001	11-30-05	Amend	1-1-06	875-001-0030	2-8-06	Repeal	3-1-06
860-023-0001	12-23-05	Amend	2-1-06	875-005-0000	2-8-06	Adopt	3-1-06
860-023-0005	11-30-05	Amend	1-1-06	875-005-0005	2-8-06	Adopt	3-1-06
860-023-0005	12-23-05	Amend	2-1-06	875-005-0005	5-11-06	Amend	6-1-06
860-023-0020	11-30-05	Amend	1-1-06	875-005-0010	2-8-06	Adopt	3-1-06
860-023-0054	12-23-05	Adopt	2-1-06	875-005-0010	5-11-06	Amend	6-1-06
860-023-0055	12-27-05	Amend	2-1-06	875-010-0000	2-8-06	Adopt	3-1-06
860-023-0080	11-30-05	Amend	1-1-06	875-010-0000	5-11-06	Amend	6-1-06
860-023-0090	11-30-05	Amend	1-1-06	875-010-0006	2-8-06	Adopt	3-1-06
860-023-0100	11-30-05	Amend	1-1-06	875-010-0006	5-11-06	Amend	6-1-06
860-023-0110	11-30-05	Amend	1-1-06	875-010-0010	2-8-06	Repeal	3-1-06
860-023-0120	11-30-05	Amend	1-1-06	875-010-0016	2-8-06	Adopt	3-1-06
860-023-0130	11-30-05	Amend	1-1-06	875-010-0021	2-8-06	Adopt	3-1-06
860-023-0140	11-30-05	Amend	1-1-06	875-010-0026	2-8-06	Adopt	3-1-06
860-023-0150	11-30-05	Amend	1-1-06	875-010-0030	2-8-06	Repeal	3-1-06
860-023-0160	11-30-05	Amend	1-1-06	875-010-0045	2-8-06	Amend	3-1-06
860-025-0001	11-30-05	Amend	1-1-06	875-010-0050	2-8-06	Amend	3-1-06
860-026-0005	11-30-05	Amend	1-1-06	875-010-0055	2-8-06	Repeal	3-1-06
860-027-0001	11-30-05	Amend	1-1-06	875-010-0060	2-8-06	Repeal	3-1-06
860-027-0045	11-30-05	Amend	1-1-06	875-010-0065	2-8-06	Amend	3-1-06
860-027-0120	11-30-05	Amend	1-1-06	875-010-0065	5-11-06	Amend	6-1-06
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860-030-0015	11-30-05	Amend	1-1-06	875-010-0085	2-8-06	Repeal	3-1-06
860-030-0018	11-30-05	Amend	1-1-06	875-010-0090	2-8-06	Adopt	3-1-06
860-032-0012	12-27-05	Amend	2-1-06	875-010-0090	5-11-06	Amend	6-1-06
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875-030-0025	5-11-06	Amend	6-1-06	918-008-0090	1-1-06	Adopt	2-1-06
875-030-0040	2-8-06	Amend	3-1-06	918-008-0095	1-1-06	Adopt	2-1-06
875-030-0040	5-11-06	Amend	6-1-06	918-008-0110	1-1-06	Adopt	2-1-06
877-001-0000	12-22-05	Amend	2-1-06	918-008-0115	1-1-06	Adopt	2-1-06
877-010-0025	12-22-05	Amend	2-1-06	918-008-0120	1-1-06	Adopt	2-1-06
877-020-0000	12-22-05	Amend	2-1-06	918-020-0090	1-1-06	Amend	2-1-06
877-020-0009	12-22-05	Amend	2-1-06	918-030-0000	7-1-06	Adopt	8-1-06
877-020-0010	12-22-05	Amend	2-1-06	918-030-0010	7-1-06	Adopt	8-1-06
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877-020-0013	12-22-05	Amend	2-1-06	918-030-0030	7-1-06	Amend	8-1-06
877-020-0015	12-22-05	Amend	2-1-06	918-030-0040	7-1-06	Adopt	8-1-06
877-020-0016	12-22-05	Amend	2-1-06	918-030-0050	7-1-06	Adopt	8-1-06
877-020-0020	12-22-05	Amend	2-1-06	918-030-0060	7-1-06	Adopt	8-1-06
877-020-0030	12-22-05	Amend	2-1-06	918-030-0100	7-1-06	Amend	8-1-06
877-020-0031	12-22-05	Amend	2-1-06	918-030-0120	7-1-06	Adopt	8-1-06
877-020-0046	12-22-05	Amend	2-1-06	918-030-0125	7-1-06	Adopt	8-1-06
877-020-0050	12-22-05	Repeal	2-1-06	918-030-0130	7-1-06	Adopt	8-1-06
877-020-0055	12-22-05	Adopt	2-1-06	918-030-0135	7-1-06	Adopt	8-1-06
877-025-0000	12-22-05	Amend	2-1-06	918-030-0150	7-1-06	Adopt	8-1-06
877-025-0005	12-22-05	Amend	2-1-06	918-030-0200	7-1-06	Adopt	8-1-06
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877-030-0070	12-22-05	Amend	2-1-06	918-030-0230	7-1-06	Adopt	8-1-06
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918-098-1005	4-1-06	Amend	5-1-06	918-283-0060	7-1-06	Suspend	8-1-06
918-098-1010	4-1-06	Amend	5-1-06	918-283-0070	7-1-06	Suspend	8-1-06
918-098-1012	4-1-06	Amend	5-1-06	918-305-0030	1-1-06	Amend	2-1-06
918-098-1015	4-1-06	Amend	5-1-06	918-305-0110	1-1-06	Amend	2-1-06
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918-098-1210	4-1-06	Amend	5-1-06	918-305-0130	1-1-06	Amend	2-1-06
918-098-1215	4-1-06	Amend	5-1-06	918-305-0150	1-1-06	Amend	2-1-06
918-098-1300	4-1-06	Amend	5-1-06	918-305-0160	1-1-06	Amend	2-1-06
918-098-1410	4-1-06	Amend	5-1-06	918-305-0180	1-1-06	Amend	2-1-06
918-098-1450	4-1-06	Amend	5-1-06	918-311-0030	10-1-06	Amend	7-1-06
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918-225-0920	7-1-06	Suspend	8-1-06	918-525-0310	1-1-06	Amend	2-1-06
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918-225-0940	7-1-06	Suspend	8-1-06	918-525-0420	1-1-06	Amend	2-1-06
918-225-0950	7-1-06	Suspend	8-1-06	918-525-0520	1-1-06	Amend	2-1-06
918-225-0960	7-1-06	Suspend	8-1-06	918-685-0360	7-1-06	Suspend	8-1-06
918-225-0970	7-1-06	Suspend	8-1-06	918-690-0340	1-1-06	Repeal	2-1-06
918-251-0030	1-1-06	Repeal	2-1-06	918-690-0350	1-1-06	Repeal	2-1-06
918-251-0040	1-1-06	Repeal	2-1-06	918-695-0040	7-1-06	Amend	8-1-06
918-261-0025	1-1-06	Adopt	2-1-06	918-695-0200	7-1-06	Suspend	8-1-06
918-281-0000	4-1-06	Amend	5-1-06	918-695-0300	7-1-06	Suspend	8-1-06
918-281-0010	4-1-06	Amend	5-1-06	918-695-0310	7-1-06	Suspend	8-1-06
918-281-0020	4-1-06	Amend	5-1-06	918-695-0320	7-1-06	Suspend	8-1-06
918-282-0100	7-1-06	Amend	8-1-06	918-695-0330	7-1-06	Suspend	8-1-06
918-282-0110	7-1-06	Amend	8-1-06	918-695-0340	7-1-06	Suspend	8-1-06
918-282-0335	7-1-06	Suspend	8-1-06	918-695-0350	7-1-06	Suspend	8-1-06
918-282-0355	7-1-06	Amend	8-1-06	918-695-0370	7-1-06	Suspend	8-1-06
918-282-0365	7-1-06	Amend	8-1-06	918-695-0380	7-1-06	Suspend	8-1-06
918-283-0000	7-1-06	Suspend	8-1-06	918-695-0390	7-1-06	Suspend	8-1-06
918-283-0010	4-3-06	Amend(T)	5-1-06	918-695-0400	4-1-06	Amend	5-1-06
918-283-0010	7-1-06	Suspend	8-1-06	918-780-0035	4-4-06	Amend	5-1-06
918-283-0020	7-1-06	Suspend	8-1-06	918-780-0040	10-1-06	Amend	7-1-06
918-283-0030	7-1-06	Suspend	8-1-06				